

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Land and Water Quality
17 State House Station
Augusta, Maine 04333
Telephone: (207) 287-3901

FOR DEP USE

#L- _____
Fees Paid _____
Date Fees Received _____

**APPLICATION FOR GENERAL PERMIT UNDER THE
MAINE WATERWAY DEVELOPMENT AND CONSERVATION ACT
(38 M.R.S.A. SECTIONS 630-637)
AND
WATER QUALITY CERTIFICATION
(U.S. P.L. 92-500 SECTION 401)
FOR
TIDAL ENERGY DEMONSTRATION PROJECT**

This form shall be used to request a State general permit and water quality certification for the proposed construction and operation of a tidal energy demonstration project.

All required fees must be paid before application processing will begin. Please contact the Department for current fee schedule information. Fees are payable to Treasurer, State of Maine.

(Please Type or Print)

APPLICANT INFORMATION

Name of Applicant: _____

Mailing Address: _____

Name of Contact or Agent: _____

Telephone: _____

PROJECT INFORMATION

Name of Project: _____ FERC No. _____

Address (use "911 address, if available): _____

Name of Waterbody Affected: _____

Municipality or Township: _____ County: _____

GPS Coordinates, if known: _____

REQUIRED INFORMATION

1. Provide all the information requested by this application form.
2. If applicant is a registered corporation, provide either a *Certificate of Good Standing* (available from the Secretary of State) or a statement signed by a corporate officer affirming that the corporation is in good standing.
3. A signed Certification of Publication and a completed Notice of Intent to File an application for a Maine Waterway Development and Conservation Act permit and Water Quality Certification.

NOTE: All supporting documents summarized above must be attached to this form and sent to the DEP Office listed below:

Department of Environmental Protection Bureau of Land and Water Quality 17 State House Station Augusta, ME 04333 Tel: (207) 287-3901
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"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

DATE: _____

SIGNATURE OF APPLICANT

(IF SIGNATURE IS OTHER THAN APPLICANT,
ATTACH LETTER OF AGENT AUTHORIZATION
SIGNED BY APPLICANT)

PRINTED NAME & TITLE

GENERAL PERMIT FOR TIDAL ENERGY DEMONSTRATION PROJECT

GENERAL INFORMATION

1. By submitting this application, an applicant requests approval under the Maine Waterway Development and Conservation Act and the Federal Clean Water Act to undertake the construction and operation of a tidal energy demonstration project.

As defined in Title 38 M.R.S.A. § 636-A(1), a “tidal energy demonstration project” is a hydropower project that uses tidal action as a source of electrical power and that:

- (1) Has a total installed generating capacity of 5 megawatts or less; and
- (2) Is proposed for the primary purpose of testing tidal energy generation technology, which may include a mooring or anchoring system and transmission line, and collecting and assessing information on the environmental and other effects of the technology.

Any project not fulfilling all aspects of this definition will not qualify for a general permit.

2. The purpose of this application form is to obtain from the applicant the information required pursuant to Title 38 M.R.S.A. § 636-A, enacted as part of Public Law 2009 Chapter 270, An Act To Facilitate Testing and Demonstration of Renewable Ocean Energy Technology, with an effective date of June 4, 2009. This law was enacted to streamline and coordinate State permitting and submerged lands leasing requirements for renewable ocean energy demonstration projects so that the State of Maine can become an international proving ground for testing promising new technologies in State waters in specific locations along the coast in an environmentally responsible manner.
3. The general permit process for tidal energy demonstration projects is designed to dovetail with the hydrokinetic pilot project licensing procedures that have been developed by the Federal Energy Regulatory Commission (FERC). The purposes of licensing hydrokinetic pilot projects, including projects that generate electricity from the motion of waves or the unimpounded flow of tides or ocean currents, are to test new hydrokinetic technologies, to determine appropriate sites for hydrokinetic projects, and to gather information on environmental and other effects of the technologies. In general, pilot projects will be small; the licenses will be short term; the projects will avoid sensitive locations; the projects will be subject to strict safeguards for the public and environmental resources, potentially leading to project modification, shutdown, or complete removal; the licenses will require that the project be removed and the site restored before the end of the license, unless the applicant is pursuing a standard license for a commercial project covering the pilot project site; and the pilot project license application must be submitted in a form sufficient to support environmental analysis pursuant to the National Environmental Policy Act.
4. The DEP shall notify an applicant for a general permit for a tidal energy demonstration project within 60 days of its acceptance of the application for processing if the DEP determines that the requirements of Title 38 M.R.S.A. § 636-A have not been met. The notification must specifically cite the requirements of the law that have not been met. If the DEP has not notified the applicant within the specified time period, a general permit is deemed to have been granted.

5. Unless surrendered by the applicant or terminated by the DEP, a general permit for a tidal energy demonstration project is valid for the term of the pilot project license issued for the project by FERC. The DEP may grant one or more extensions of the general permit term to coincide with any approved extension of the term of the pilot project licensed or any related annual license issued by FERC.
6. A lease will be required for use of state-owned submerged lands in connection with the placement of a tidal energy demonstration project, including any mooring or anchoring system and transmission line. Pursuant to 12 M.R.S.A. § 1862(2)(F), within 30 days of receiving a copy of a general permit for a tidal energy demonstration project, the Director of Public Lands shall issue a submerged lands lease for the project, subject to such conditions that the Director determines reasonable. The term of the lease must be consistent with that of the permit, including any extensions of the permit and the period of time needed to fully implement the approved project removal plan.

FILING INSTRUCTIONS AND PROCEDURES

1. When filing, send an original plus two (2) copies of a completed application, along with three (3) copies of an application for a pilot project license for the proposed tidal energy demonstration project as filed with FERC, to the DEP. All maps and plans must be folded to 8 1/2" X 11" or equivalent size.
2. The DEP is required by law to assess fees for processing applications and for monitoring permit compliance. Application processing will not begin until all required fees have been paid. When filing, submit full fee payment (checks payable to: Treasurer, State of Maine).
3. The DEP shall determine whether the application as filed is acceptable for processing within 15 days following receipt of a completed application, including all required fees, and an Environmental Assessment issued by the Federal Energy Regulatory Commission for the proposed tidal energy demonstration project that includes a finding of "no significant environmental impact" (FONSI) pursuant to the National Environmental Policy Act (NEPA).
4. Additional information may be required during the review process on any aspect of the project relating to compliance with applicable statutory criteria.

GENERAL PERMIT FOR TIDAL ENERGY DEMONSTRATION PROJECT

APPLICATION REQUIREMENTS

PROJECT INFORMATION

Pursuant to Title 38, M.R.S.A. § 636-A, an applicant for a general permit for a tidal energy demonstration project must file an application that contains the following:

- A. Written acknowledgement that the applicant has filed an application with the Federal Energy Regulatory Commission (FERC) for a pilot project license for a proposed tidal energy demonstration project, along with a copy of that application as filed with FERC. The application must contain such information as is required by FERC, including but not limited to:
 - (1) A description of the waters of the State in which the proposed project will be located;
 - (2) A description of proposed project facilities and operation;
 - (3) Site-specific information regarding the physical environment in which the project is proposed to be located and the anticipated environmental effects of the proposed project;
 - (4) A plan for monitoring the environmental effects of the project through the term of the general permit;
 - (5) A plan for safeguarding the public and environmental resources through the term of the general permit;
 - (6) A plan for removing the project after the termination of the general permit unless the applicant is pursuing a license for a commercial tidal power project at the site; and
 - (7) Documentation that, in developing the application, the applicant has consulted with the appropriate local, state and federal resource agencies, as well as local governments, Indian tribes, nongovernmental organizations and members of the public likely to be interested in the project.
- B. Documentation, including certificates of insurance, that the applicant has and will maintain a current general liability policy for the project that covers bodily injury, property damages and environmental damages in an amount considered reasonable by the DEP in consideration of the scope, scale and location of the project.
- C. Documentation that the applicant has the financial and technical capacity to construct and operate the project as proposed.

- D. A copy of an environmental assessment (EA) issued by FERC for the proposed tidal energy demonstration project that includes a finding of “no significant environmental impact” pursuant to the National Environmental Policy Act.

[Note: To fulfill FERC’s requirements, the general permit application should be filed concurrently with the filing of the pilot project license application with FERC. The EA should then be filed with DEP as soon as it becomes available in the FERC process.]

- E. Written acknowledgement that, in accordance with Title 38 M.R.S.A. § 636-A(9), the DEP may require the applicant to take remedial action, at the applicant’s expense, including but not limited to removal of the generating facilities and submerged utility line and termination of the project.

PUBLIC NOTICE

The DEP requires that an applicant provide public notice describing the location and nature of the activity proposed for approval. The public notice requirements that apply to this application are described in the attached Certification of Publication, which must be signed and dated by the applicant or authorized agent.

The following information must be submitted with this form:

- A copy of a completed Notice of Intent to File.
- A list of abutters to whom notice was provided. [For the purposes of public notice of this application, an “abutter” is any person who owns property that is both (1) adjoining and (2) within 1 mile of the delineated project boundary, including owners of property directly across a public or private right of way.]

CERTIFICATION OF PUBLICATION

By signing below, the applicant (or authorized agent) certifies that he or she has:

1. Published a Notice of Intent to File once in a newspaper circulated in the area where the project site is located, within 30 days prior to filing the application;
2. Sent a completed copy of the Notice of Intent to File by certified mail or Certificate of Mailing to abutters, as determined by local tax records or other means, within 30 days prior to filing the application; and
3. Sent a copy of the Notice of Intent to File by certified mail or Certificate of Mailing and filed a duplicate of this application with the town clerk of the municipality(ies) where the project is located, within 30 days prior to filing the application.

Signature of Applicant

Date

Name and title of applicant

If signature is other than that of the applicant, attach letter of agent authorization signed by the applicant.

NOTICE OF INTENT TO FILE

MAINE WATERWAY DEVELOPMENT AND CONSERVATION ACT APPLICATION

Please take notice that _____
(applicant)
of _____
(address and telephone number)

is intending to file an application with the Maine Department of Environmental Protection for a permit and Water Quality Certification pursuant to the provisions of the Maine Waterway Development and Conservation Act and the Federal Clean Water Act, Section 401. The application is for

(summary of the activity)

in the town/city of _____
(municipality, tax map or numbers)

The application will be filed on or about _____ for public
(anticipated filing date)

inspection at the DEP's offices in Augusta during normal working hours. A copy of the application may also be seen at the municipal offices in

_____, Maine.
(town/city)

A request for a public hearing or a request that the Board of Environmental Protection assume jurisdiction over this application must be received by the Department, in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. Public comment on the application will be accepted throughout the processing of the application.

For Federally licensed, permitted, or funded activities in the Coastal Zone, review of this application shall also constitute the State's consistency review in accordance with the Maine Coastal Program pursuant to Section 307 of the federal Coastal Zone Management Act.

Written public comments may be sent to the Department of Environmental Protection, Bureau of Land and Water Quality, 17 State House Station, Augusta, Maine 04333.