

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Bureau of Land Resources  
17 State House Station  
Augusta, Maine 04333  
Telephone: (207) 287-7688

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 Resources  
17 State House Station  
Augusta, ME 04333  
Tel: (207) 287-7688

"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: \_\_\_\_\_

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

\_\_\_\_\_  
SIGNATURE OF 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 FILING AND CERTIFICATION

Department Rules, Chapter 2, require an applicant to provide public notice for Water Quality Certification projects within 30 days prior to filing the application. In the notice, the applicant must provide the information included in the attached Notice of Intent to File form. "Abutter" for the purposes of the notice provision means any person who owns property that is contiguous with the property on which the project requiring a license from the Department is proposed.

1. **Newspaper:** You must publish the Notice of Intent to File in a newspaper circulated in the area where the activity is located. The notice must appear in the newspaper within 30 days prior to the filing of the application with the Department. You may use the attached Notice of Intent to File form, or one containing identical information, for newspaper publication.
2. **Abutters and Others Owning Land Within 1,000 Feet:** You must mail a copy of the Notice of Intent to File to abutters and all persons owning land within 1,000 feet of the proposed project. Their names and addresses can be obtained from the town tax maps or local officials. They must receive notice within 30 days prior to the filing of the application with the Department.
3. **Municipal Office or County Commissioner(s):** You must mail a copy of the Notice of Intent to File and a duplicate of the entire application to the Municipal Office or, if the proposed project is located in an unorganized or deorganized area of the State, to the county commissioner(s). The Municipal Office or county commissioner(s) must receive notice within 30 days prior to the filing of the application with the Department.

**ATTACH a copy of the published notice and a list of persons to whom notice was provided.**

### CERTIFICATION

By signing below, the applicant or authorized agent certifies that:

1. A Notice of Intent to File was published in a newspaper circulated in the area where the project site is located within 30 days prior to filing the application;
2. A mailing of the Notice of Intent to File was sent to all abutters and all other persons owning land within 1,000 feet of the proposed project within 30 days prior to filing of the application;
3. A mailing of the Notice of Intent to File, and a duplicate copy of the application was sent to the town office of the municipality in which the project is located or, if applicable, to the county commissioner(s); and
4. Provided notice of and held a public informational meeting, if required, in accordance with the Department's Chapter 2 rules, Processing of Applications and Other Administrative Matters, Section 12, prior to filing the application. Notice of the meeting was sent to abutters and all other persons owning land within 1,000 feet of the proposed project and to the town office of the municipality in which the project is located or to the county commissioner(s), as applicable, at least at least ten days prior to the meeting. Notice of the meeting was also published once in a newspaper circulated in the area where the project site is located at least seven days prior to the meeting.

The Public Informational Meeting was held on \_\_\_\_\_.  
(Date)

Approximately \_\_\_\_\_ members of the public attended the Public Informational Meeting.

\_\_\_\_\_  
*Signature of Applicant or Authorized Agent*

\_\_\_\_\_  
*Date*

**PUBLIC NOTICE:  
NOTICE OF INTENT TO FILE**

Please take notice that:

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*(Name and Mailing Address of Applicant)*

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*(Phone Number and Email Address of Applicant)*

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

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*(Anticipated Filing Date)*

The application is for:

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*(Description of the Project)*

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at the following location:

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*(Project Location)*

A request for a public hearing 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. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the application processing period.

**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, 16 U.S.C. § 1456. (Delete if not applicable.)**

The application will be filed for public inspection at the Department of Environmental Protection's office in ☐ Portland, ☐ Augusta, ☐ Bangor, or ☐ Presque Isle during normal working hours. A copy of the application may also be seen at the municipal offices in \_\_\_\_\_, Maine.  
*(City/Town)*

Written public comments may be sent by email to [LandOnCall@maine.gov](mailto:LandOnCall@maine.gov) or by mail to the regional office in Portland, Augusta, Bangor, or Presque Isle where the application is filed for public inspection:

MDEP, Southern Maine Regional Office, 312 Canco Road, Portland, Maine 04103  
MDEP, Central Maine Regional Office, 17 State House Station, Augusta, Maine 04333  
MDEP, Eastern Maine Regional Office, 106 Hogan Road, Bangor, Maine 04401  
MDEP, Northern Maine Regional Office, 1235 Central Drive, Presque Isle, Maine 04769

*For more information on how to submit public comment with the DEP, please go to our website:  
[Public Participation in the Licensing Process \(Information Sheet\) Maine DEP](#)*