



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Sent via Electronic Mail (*Dated as shown on electronic signature*)

Susanne Duquette, President
Lakeview Marine
311 Thompson Rd.
Webster, MA 01570
susan@lakeviewwebster.com

Subject: April 30, 2024, EPA Inspection

Dear Ms. Duquette:

On April 30, 2024, the U.S. Environmental Protection Agency ("EPA") performed an inspection at Lakeview Marine ("Facility" or "site") regarding compliance with the National Pollutant Discharge Elimination System program of the Clean Water Act.

Attached is the inspection report and copies of pictures taken during the inspection.

The inspector observed industrial materials and activities occurring not undercover and not within a storm-resistant shelter that were exposed to rain. The inspector observed certain drums and bins with cleaning chemicals stored outside and not sealed. Some of these drums and bins had liquid spills around them. The inspector's observations verified that the Facility is not in compliance with its No Exposure Certificate ("NEC") and therefore continues to discharge stormwater without a permit in violation of the Clean Water Act.

EPA's NEC guidance states containers can only be stored, not otherwise worked with, outdoors; any addition or withdrawal of material to / from containers while outdoors will not allow you to certify no exposure. Simply moving containers while outside does not create exposure. EPA recommends inspection of all outdoor containers to ensure they are not open, deteriorated, or leaking. Any time external containers are open, deteriorated, or leaking, they must immediately be closed, replaced, or sheltered. Containers, racks, and other transport platforms (e.g., wooden pallets) used with the drums, barrels, etc., can be stored outside providing they are contaminant-free.

Provide a response to each of the sections below by the deadlines identified in each section. Communicate your decision as to which action the Facility has taken and proof of completion of that action in an electronic format to Eleanor Horvath at horvath.eleanor@epa.gov.

1. The industrial activities taking place at the Facility are classified under the Standard Industrial Classification ("SIC") code 4493 (Marinas) which is an applicable code under the Multi-Sector General Permit for Stormwater Discharges Associated

with Industrial Activity (“MSGP”) Sector Q - Water Transportation Facilities with Vehicle Maintenance Shops and/or Equipment Cleaning Operations. Stormwater discharges from the Facility are not authorized unless and until the Facility obtains coverage under the MSGP, or the Facility removes all industrial activities from being exposed to stormwater.

- a. **Within 30 days of receipt of this letter**, submit an estimate of the date by which you expect the Facility to submit a Notice of Intent (“NOI”) to discharge under the MSGP. The NOI must be submitted via the Central Data Exchange (“CDX”). General information on e-reporting can be found here <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-e-reporting#accessingmsgp>. Steps for obtaining coverage under the MSGP include:
- i. Signing-up for an account on CDX – see attachment (#1), also available at: <https://cdx.epa.gov/about/userguide>;
 - ii. Adding Net-MSGP program service within CDX – see attachment (#2);
 - iii. Submitting an NOI – see attachment (#3); and
 - iv. Adding NeTDMR account for monitoring data submission – see attachment (#4).

Upon submission of your Facility’s NOI, notify Ms. Horvath by email, indicating the date of such submission.

- b. **Within 60 days of receipt this letter**, submit a copy of the Facility’s Stormwater Pollution Prevention Plan (“SWPPP”). A SWPPP template can be found on the national MSGP website.¹

OR

- c. **Within 30 days of receipt this letter**, submit evidence proving that all requirements under a No Exposure Certificate have been met (i.e., no open liquid storage containers outside, cover over the boat washing area).

2. The Facility pressure washes and cleans boats with detergents in front of the garage maintenance bays. Discharge of these washwaters is not permitted, even with coverage under the MSGP or NEC.

Within 30 days of receipt of this letter, provide an explanation of what measures the company has taken to ensure that boat washwater does not discharge off-site.

The questions in section #3 relate to the presence of oil storage containers at the Facility and compliance with the Oil Pollution Prevention regulations found at 40 C.F.R. Part 112.

¹ <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-fact-sheets-and-guidance#guidance>

3. Based on EPA's on-site compliance evaluation of the Facility, it appears an oil discharge from the site could reasonably be expected to enter nearby surface waters as described in 40 C.F.R. § 112.1.

- a. Identify the total oil storage capacity of the Facility.
- b. If the Facility's total oil storage capacity is above the thresholds set forth in 40 C.F.R. § 112.1 (d)(1) (i.e., the Spill Prevention Control and Countermeasures "SPCC"-regulated underground oil storage capacity of the Facility is greater than 42,000 gallons—or—the aboveground oil storage capacity of the Facility is greater than 1,320 gallons (including, at a minimum volume, 55-gallon drums), provide a copy of the SPCC Plan to EPA.
- c. If your Facility must create an SPCC Plan or revise its existing SPCC Plan, submit a copy of such new or revised SPCC Plan **within 30 days of receipt of this letter**. If completion of the SPCC Plan is not feasible within 30 calendar days, submit a detailed schedule of when it will be completed and fully implemented.
- d. If you believe that your Facility is not subject to the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112 and is therefore not required to have an SPCC Plan, explain that basis for your belief, including appropriate documentation within **30 days of receipt of this letter**.

If you have technical questions related to this letter please contact Alex Rosenberg. Legal issues may be directed to Jeff Kopf, Senior Enforcement Counsel, at (617) 918-1796.

Sincerely,



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Alex Rosenberg, Inspector
Water Compliance Section 1
Enforcement and Compliance Assurance Division

Enclosures:

- Inspection Report for April 30, 2024, EPA Inspection
- Photo Album
- Signing-up for an account on CDX – attachment (#1)
- Adding Net-MSGP program service within CDX – attachment (#2)
- Submitting an NOI – attachment (#3)
- Adding NeTDMR account for monitoring data submission – attachment (#4)

CCs (electronic only):
Dan Kurpaska, MASS DEP
Jeff Kopf, US EPA
Alex Rosenberg, US EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

Date: *Dated as shown on electronic signature(s)*

Subj: Inspection Report
Clean Water Act - National Pollutant Discharge Elimination
System ("NPDES")
Lakeview Marine

From: Alex Rosenberg, Inspector & CWA Compliance Engineer
Enforcement & Compliance Assurance Division
Water Compliance Section 1

Thru: Eleanor Horvath

To: File

Digitally signed
by ALEX
ROSENBERG
Date:
2024.05.06
16:53:04 -04'00'

I. Facility Information

- A. *Facility Name:* Lakeview Marine
- B. *Facility Location:* 311 Thompson Rd.
Webster, MA 01570
- C. *Facility Contacts:* Susanne Duquette, President

5084616020, susan@lakeviewwebster.com
- D. *NPDES ID No(s):* MANOEJ0CT

II. Background Information

- A. *Date(s) of inspection:* April 30, 2024
- B. *Weather Conditions:* 55, cloudy
- C. *US EPA Representative(s):* Alex Rosenberg
- D. *Federally Enforceable Requirements Covered During the Inspection:*
- 40 C.F.R. Part 112, Oil Pollution Prevention Regulations
 - 40 C.F.R. Part 122, NPDES Regulations, specifically EPA's Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity ("MSGP")

III. Type and Purpose of Inspection

The purpose of the site inspection is to view Facility marina and boatyard operations, non-stormwater/process wastewater collection and transfer systems, industrial material and activities, and oil storage and transfer operations. EPA's inspector also reviews chemical storage/evaluates for potential slug load discharge/s into the surface waters.

IV. Facility Description

The Facility, based on its location, has reasonable potential to discharge stormwaters, non-stormwaters, oils, and chemicals to surface waters directly. Surface flow overland from the Facility yard enters Webster Lake.

On May 22, 2023, EPA electronically mailed the Facility a Request for Information letter¹ asking for certain information to aide with determining whether the Facility may be subject to EPA's NPDES regulations for the discharge of industrial stormwater at 40 C.F.R. § 122.26. EPA responded to the Facility's response, dated July 7, 2023, with a second Request for Information² that asked for further technical clarifications regarding wash water discharge. The response to the second request, received on September 14, 2023, states that if there is wash water it will make its way into the gravel area off the pavement.

EPA sent a letter dated September 26, 2023 to the Facility clarifying the need to apply for an MSGP permit, and to cease all discharges of process waste water (i.e. wash water and engine maintenance rinsate). The Facility responded via electronic mail on October 3, 2023, asking whether the Facility would still need a permit if all activities were conducted under cover and process water was not discharged. EPA responded to this question via email stating a No Exposure Certification ("NEC") is an option if the Facility can attest that a storm-resistant shelter has been constructed to ensure that there is no exposure of industrial materials and activities to rain, snow, snowmelt or runoff. EPA also explained that we do not typically see marinas or boat yards that conduct boat washing operations that are able to satisfy the requirements of the no exposure exclusion. EPA also clarified in this correspondence that any washing of a boat is considered an industrial activity independent of whether it is done with a power-washer or simply a garden hose.

The Facility sent an email on October 26, 2024 asking for clarification of the fact that the stormwater control measures required to be eligible for an NEC must be installed and functional before an application is submitted. The Facility also noted that their intention is "to add a cover to the building in the form of an awning and invest in several water reclamation units to contain any water coming from a hose."

¹ Docket No. CWA-308-R01-FY23-29

² Docket No. CWA-308-R01-FY23-36

EPA replied to the October 26, 2024 email with another email dated November 21, 2023. In this email EPA clarified that permanent covering/awning over all Industrial activities (including but not limited to boat washing) would be necessary for the Facility to be eligible for an NEC, and that rinsing and non-pressuring washing boats with a hose where detergents/chemicals are not used and whose discharge concentrations are not in violation of Water Quality Standard is not an industrial activity under the stormwater regulations (i.e., not considered “equipment cleaning operations” under 40 CFR 122.26(b)(14)(viii)). The correspondence ended with EPA requesting from the Facility a plan for whether a permit application for MSGP coverage or an NEC would be submitted, and to include in the plan an updated construction implementation schedules for any selected stormwater control measures. EPA followed-up on December 5, 2024 with an additional email re-requesting a plan and construction schedule be submitted within 7-days. No response from the Facility was ever received.

According to EPA’s records, on March 29, 2024, the Facility submitted into EPA’s electronic NPDES eReporting tool (“NeT”) a NEC form³, i.e., Exclusion from the MSGP. The Facility reported on the form a primary standard industrial classification code (“SIC”) of 4493, Marinas. The Facility reported and certified within the form industrial materials or activities are not exposed to precipitation, now or in the foreseeable future.

EPA’s Guidance Manual for Conditional Exclusion from Storm Water Permitting Based On “No Exposure” of Industrial Activities to Storm Water, indicates that if the Facility determines industrial materials and activities are exposed to rain and runoff from the Facility/property flows into the municipal separate stormwater sewer system or directly into the lake, then the Facility shall develop and implement a Stormwater Pollution Prevention Plan (“SWPPP”) and electronically submit a Notice of Intent (“NOI”) to be covered by the 2021-MSGP⁴.

On April 23, 2024 EPA received a tip from the public of photos showing boats being pressure-washed not under-cover at the Facility.

IV. In-Briefing

The inspector arrived at the site at ~11:45 a.m. and was greeted by Ms. Duquette. The inspection was unannounced. The inspector presented credentials and requested permission to enter the Facility and conduct the site inspection. Ms. Duquette (“Facility representative”) agreed. The inspector reviewed logistics for conducting the inspection and the purpose of the inspection. The inspector informs the Facility representative the site inspection will include, but is not limited to, a review of industrial material and activities, material storage/stockpile areas, oil and/or liquid chemical storage and transfer operations, warehouse building and runoff discharge points/outfalls.

³ Form 3510-11.

⁴ 2021-MSGP reissued March 1, 2021.

The inspector informs Facility representative photographs were recently taken by a member of the public of pressure washing boats without an awning above the activity.

Inspector asks Ms. Duquette if there is currently a permanent cover over the area of boat washing and if the facility has installed a wash water collection system. Ms. Duquette answered no awning is present and that they have purchased (but it has not yet arrived) a wash water collection filter and boom system to allow the collection of wash-water and the cessation of wash-water discharges.

Inspector noted that without an awning and a wash-water collection system it appears the Facility may not meet the NEC criteria, and discharges of process wastewater (boat wash water) are not permitted. Ms. Duquette stated that they do not routinely wash boats that are coming out of storage but would only wash down a brand-new boat before launching.

V. Inspection

Inspector observed approximately 25 empty metal 55-gallon drums in the area in front of the maintenance bays (slides 3-4, 10-12). Most were open. Facility representatives said that they were in the process of cleaning out empty drums and that a company would be coming to collect them this week, leaving only a couple for continued use. The drums are used for gasoline storage when doing maintenance on Engines.

One blue plastic tote had a funnel in its top, and engine oil spills at and around its base (slides 10-11). Oil absorbant rags were placed on top of the spills. Regarding the blue barrel with oil spills around it, the Facility representative stated that workers have most likely been working on that today. Inspector stated that if it began to rain immediately, the likelihood of workers looking to clean that up before going inside is very low. Inspector explained further that this is the main point of the stormwater permit, it's education in order to identify and prioritize how to minimize pollution potential, as well as implementation of passive and active pollution prevention control measures.

Two blue plastic totes contained antifreeze according to the facility representative (slide 3).

Approximately five 2-gallon pump-spray applicators (slide 9) were observed in front of the garage bays. Facility representative explained that the Facility utilizes a cleaning product named MaryKate Marine Hull Cleaner in the fall. The pump applicators are used to apply the detergent to boats before washing it off. Inspector noted that the discharge of wash water with detergents was prohibited.

Post-inspection the safety data sheet for MaryKate On & Off Hull and Bottom Cleaner (Product No. MK20128 (Item# 1007567)) was reviewed by the inspector. The datasheet states the release of this product to the environment should be avoided due to it containing the following chemicals: hydrochloric acid, phosphoric acid, alcohols, and oxalic acid.

Inspectors observed oil storage containers within the two garage bays. The used oil heater tank has a capacity of approximately 250 gallons (7). The two other tanks had approximate capacities of 275 and 250 gallons (slides 5 and 6) respectively.

Approximately 4 additional 55-gallon drums containing oil were stored on top of a containment pallet inside the garage (slide 8). The inspector explained the applicability threshold for the oil regulations (Spill Prevention Controls and Countermeasures “SPCC”) after asking if the Facility has an SPCC plan. Representatives said that there is no SPCC plan. Inspector mentioned that with the aggregate capacity of all of the drums on site the Facility is currently above the applicability threshold of 1,320 gallons.

The facility has two boat ramps (slides 13, 17-18). The more easterly ramp is not used often except to launch paddleboards and kayaks. The ramp closer to the street is where boats are hauled and launched.

Stormwater would flow from the garage bays downgradient (slides 14 to 15) into a small berm of gravel just east of the main boat ramp (slide 15). The gravel appeared to have collected fine sediments. A small amount (approximately 5 square inches) of oil sheen was seen to the east of the boat ramp in the lake (slide 16).

C. Records Review

There were no records to review.

D. Closing Conference

The entire exposure checklist of elements (see below) that were certified by Ms. Duquette on the Facility’s NEC were reviewed out loud by the inspector. Ms. Duquette said that many of them are difficultly worded. The prohibition regarding open containers and vehicle (boat) maintenance (washing) were highlighted by the inspector. Ms. Duquette stressed that the Facility had made significant changes to their practices such as now doing all engine testing in the water rather than in front of their garage bays, thereby preventing the discharge of the test water.

Inspector re-stated the fact that EPA has pictures of an employee utilizing a sprayer power washer. Ms. Duquette responded that she had told her employees not to power-wash and that she can’t be everywhere all the time.

Inspector requested a purchase order for the wash water retention boom as well as pictures from the end of the date of inspection showing the clean-up efforts of the used oil blue barrel.

Inspector requested the following items:

- Photo of blue oil drum clean-up;
- Photo of removal of used oil storage containers (i.e. empty drums); and
- Purchase order of wash-water collection boom.

Inspector departed at approximately 12:45 pm.

VI. Disclaimer:

Unless otherwise noted, this report describes conditions at the Facility/property as observed by EPA inspector/s, and/or through records provided to and/or information reported to EPA by Facility and as understood by EPA. This report may not capture all operations and activities ongoing at the Facility and at the time of the inspection. This report does not make final determinations on potential areas of concern. Nothing in this report affects EPA's authorities under federal statutes and regulations to pursue further investigation or action/s.

VII. Photos

See attached Photo Album.