

TITLE 9-A SPECIAL PERMITS AND CERTIFICATION FOR COMMERCIAL APPLICATION OF
AQUATIC ANTIFOULING PAINTS
(Revised April 1, 2009 - Effective April 1, 2009)

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§ 33-0920. Definitions

For the purposes of this title:

1. "Aquatic antifouling paint application business" shall mean a business that commercially applies aquatic antifouling paints.
2. "Aquatic antifouling paints" are pesticide products used on vessel hulls, boat bottoms, structures and other marine surfaces to inhibit the growth of aquatic organisms.
3. "Application of aquatic antifouling paint" shall mean the commercial application of aquatic antifouling paints.
4. "Aquatic antifouling paint applicator" shall be a person certified by the department pursuant to section 33-0921 of this title.

§ 33-0921. Aquatic antifouling paint applicator certification

1. Notwithstanding any other provision of law or regulation pursuant to this title, a person who is certified by the commissioner as an aquatic antifouling paint applicator may engage in the commercial application of aquatic antifouling paint.
2. Application for aquatic antifouling paint applicator certification shall be made to the commissioner. The application shall be on a form prescribed by the commissioner and shall be accompanied by the fee or fees provided in section 33-0911 of this article.
3. An applicant for aquatic antifouling paint applicator certification shall successfully complete a comprehensive twenty-hour training course approved by the department including eight hours of category-specific training which includes topics related to the safe and proper use, handling, storage and disposal of aquatic antifouling paints and/or satisfy the commissioner as to the applicant's knowledge and experience concerning the proper use and application of aquatic antifouling paint and application equipment through examination prior to initial certification. The commissioner may consider appropriate experience of the applicant as specified in regulations when determining eligibility for examination.

4. Aquatic antifouling paint applicator certification shall be valid for three years after which every applicator shall recertify. Recertification shall require no more than five hours of course work by training, workbook, or examination as required by the commissioner.

5. No certification shall be valid unless the certified person also holds a valid identification card issued by the commissioner. Certification identification cards shall be valid for three years.

6. Certified aquatic antifouling paint applicators shall maintain such records and shall furnish such reports concerning the application of aquatic antifouling paints as the commissioner shall require. All records required to be kept under this section shall be available for inspection by the commissioner.

§ 33-0922. Aquatic antifouling paint business registration

1. Notwithstanding any other provision of law or regulation pursuant to this title, an aquatic antifouling paint application business as defined in this title shall register with the commissioner.

2. Applications for aquatic antifouling paint application business registration shall be made to the commissioner and applicants shall provide such information as the commissioner shall require. The application shall be on a form prescribed by the commissioner and shall be accompanied by the fee or fees provided in section 33-0911 of this article.

3. An applicant for aquatic antifouling paint application business shall satisfy standards, as determined by the commissioner to be appropriate, with respect to knowledge and experience concerning the proper use and application of aquatic antifouling paint application and equipment. In addition to any other standards determined by the commissioner to be appropriate, an applicant shall:

(a) employ at least one person who is a certified commercial pesticide applicator or technician certified in the application of aquatic antifouling paint or an aquatic antifouling paint applicator at each location required to be registered; or

(b) have entered into a contract with another registered business that employs a person who is a certified commercial pesticide applicator or technician certified in the application of aquatic antifouling paint or an aquatic antifouling paint applicator, pursuant to which contract such registered business has agreed to apply aquatic antifouling paint at each such location for such applicant.

4. Business registration shall be valid for three years.

5. When engaged in the commercial application of aquatic antifouling paints, an aquatic antifouling paint application business shall ensure that such aquatic antifouling paints are only applied by an employee who is a certified commercial pesticide applicator or technician certified in the application of aquatic antifouling paint or an aquatic antifouling paint applicator, or a person who is a certified commercial pesticide applicator or technician certified in the application of aquatic antifouling paint or an aquatic antifouling paint applicator employed by another registered business with which such business has contracted to apply aquatic antifouling paints; provided, however, that until such time as authorization for pesticide application by pesticide apprentices is repealed, aquatic antifouling paint registered as a general use pesticide may be applied by a commercial pesticide apprentice who is

at least seventeen years of age and employed by such business

(a) working under the direct supervision of a certified commercial pesticide applicator,
or

(b) working under the supervision of a certified pesticide technician qualified in aquatic antifouling paints, if such application is otherwise done in compliance with the rules and regulations of the department, and who, during the handling and application of such paint, utilizes appropriate safety equipment including but not limited to a respirator, eye protection and skin protection.

6. Such aquatic antifouling paint application business shall, for a period of five years, maintain for inspection by the department an annual report listing the names and certification numbers of all employees or contractors engaged in the application of aquatic antifouling paints on behalf of such business during the prior twelve months.

§ 33-0923. Denial or revocation of certification or registration

The commissioner, after due notice and opportunity of hearing to an applicant, certified applicator, or registered pesticide business or agency, may deny an application or revoke a certificate or registration pursuant to section 33-0909 of this article.

§ 33-0924. Certification and registration fees

All fees established by the commissioner for certification and registration pursuant to this title shall be the same as those established by section 33-0911 of this article.

§ 33-0925. Sanctions

Notwithstanding any other provision of law or regulation pursuant to this title, and/or any provision of this article as it relates to the application of aquatic antifouling paints, any person who violates any provision of this title or any rule, regulation or order issued thereunder shall be liable to the people of this state for a civil penalty of up to one thousand dollars for a first violation to be assessed by the commissioner after a hearing or opportunity to be heard. In determining the amount of the penalty, the commissioner shall take into account whether the violation posed an immediate threat to the environment or the health and safety of the public. Any subsequent violation of this title and/or any provision of this article as it relates to the application of aquatic antifouling paints would be subject to the appropriate sanctions pursuant to sections 71-2907 and 71-2911 of this chapter.

This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2009.