

Chapter 286

(Senate Bill 382)

AN ACT concerning

Marine Contractors – Licensure and Regulation – ~~Wetland Permits and Authorizations~~ – Tidal Wetlands Licenses

FOR the purpose of exempting certain licensed marine contractors from certain home improvement contractor licensing requirements; requiring the Department of the Environment to make certain notifications regarding certain wetlands license applications and delineations on or before a certain length of time; requiring the Department to grant, deny, or condition certain tidal wetlands licenses on or before a certain length of time under certain circumstances; requiring the Department to issue a certain public notice and provide an opportunity to submit certain comments or request a certain hearing under certain circumstances; establishing a Marine Contractors Licensing Board; providing for the membership of the Board; requiring certain persons to be licensed as marine contractors by the Department of the Environment Board before performing certain work in this State; ~~authorizing the Secretary of the Environment to exercise certain powers to carry out the Secretary's duties~~ *establishing a certain exception to a certain licensing requirement*; establishing certain powers and duties of the Board with respect to the licensing and regulation of marine contractors; requiring the Board to recommend certain regulations for adoption by the Secretary to adopt certain regulations and of the Environment and to keep a certain ~~roster~~ record containing certain information relating to licensed marine contractors; providing that an applicant for a marine contractor's license must meet certain criteria; requiring an applicant for a marine contractor's license to submit certain documents and pay a certain fee; requiring that the application form provided by the Secretary Board require certain information from the applicant; requiring that the application form provided by the Secretary Board contain a certain statement; requiring the applicant to sign the application form under oath; prohibiting the Secretary Board from issuing a license under certain circumstances; requiring the Secretary Board to issue a license of a certain duration to certain applicants; requiring the Secretary Board to include certain information on the license; ~~providing that a license is void under certain circumstances~~; providing that while a license is in effect, it authorizes the licensee to take certain actions; requiring a licensed marine contractor to include the contractor's license number in certain advertising and to display it on certain equipment; requiring the Secretary to adopt regulations to stagger the terms of licenses; providing for the expiration and renewal of certain licenses; requiring the Secretary Board to mail a renewal form and notice containing certain information to the applicant at a certain address by a certain time; authorizing a licensed marine contractor

to renew ~~the~~ a license under certain circumstances, including payment of ~~a certain fee~~ certain fees; requiring the ~~Secretary Board~~ Secretary Board to renew the license of a licensed marine contractor under certain circumstances; requiring a licensee that is ~~a firm~~ an entity to provide written notice to the ~~Secretary Board~~ Secretary Board under certain circumstances; authorizing the ~~Secretary Board~~ Secretary Board to deny, suspend, or revoke the license under certain circumstances; requiring the ~~Secretary Board~~ Secretary Board to follow certain notice procedures and hold a certain hearing before taking final action to deny, refuse to renew, revoke, or suspend the license; providing that acts or omissions by certain parties may be attributed to certain applicants or licensees; providing for certain penalties for knowingly violating certain provisions of law; establishing a civil penalty for certain violations; requiring certain penalties that are collected to be paid into the Wetlands and Waterways Program Fund for administration of the Board; ~~requiring the Department to grant, deny, or condition certain nontidal wetlands permits on or before a certain length of time under certain circumstances~~; ~~exempting a certain project from a certain permit application fee~~; requiring a flat application fee for certain wetlands permits or authorizations under certain circumstances; ~~providing licensed marine contractors with immunity from civil suit under certain circumstances~~; ~~requiring the Department to provide certain information on the Department's website and make a final decision on a certain permit application by a certain time under certain circumstances~~; ~~requiring the Department to exempt licensed marine contractors from certain permitting requirements for certain projects~~; ~~requiring the Department to adopt by regulation certain criteria to identify the projects qualifying for exemption in consultation with a certain association~~; requiring a person to hire or consult a licensed marine contractor under certain circumstances; providing that certain property owners are not required to hire a licensed marine contractor under certain circumstances; establishing a certain administrative fines fine for failing to hire or consult a licensee as required; establishing a certain notification requirement applicable to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays; providing for certain processing times for certain tidal wetlands license applications; requiring the Department to adopt certain regulations for certain purposes; defining certain terms and altering the definition of a certain term; requiring all marine contractors performing certain services to register with the Department and pay a certain fee on or before a certain date; prohibiting a marine contractor that fails to register from performing or soliciting to perform certain services after a certain date; requiring the Department, for certain initial recommendations of appointments to the Board, to select marine contractors from a certain list; and generally relating to the licensure and regulation of marine contractors ~~and the wetlands permitting and authorization process~~.

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 8-301

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 16–101(h) through (n) and 16–202

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY adding to

Article – ~~Business Occupations and Professions~~ Environment

Section ~~22–101 through 22–401~~ 16–101(h) and 16–106; and 17–101 through 17–403 to be under the new title “Title ~~22~~ 17. Marine Contractors”

Annotated Code of Maryland

~~(2004~~ 2007 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Environment~~

~~Section 1–607(b), 5–101, 5–203.1(a)(3), (b), (d), and (e), and 16–101~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2009 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – Environment~~

~~Section 5–203.1(a)(1)~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2009 Supplement)~~

~~BY adding to~~

~~Article – Environment~~

~~Section 5–203.1(d), 16–106, 16–107, and 16–108~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2009 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Regulation

8–301.

(a) Except as otherwise provided in this title, a person must have a contractor license whenever the person acts as a contractor in the State.

(b) Except as otherwise provided in this title, a person must have a subcontractor license or contractor license whenever the person acts as a subcontractor in the State.

(c) Except as otherwise provided in this title, a person must have a salesperson license or contractor license whenever the person sells a home improvement in the State.

(d) This section does not apply to:

(1) an individual who works for a contractor or subcontractor for a salary or wages but who is not a salesperson for the contractor;

(2) a clerical employee, retail clerk, or other employee of a licensed contractor who is not a salesperson, as to a transaction on the premises of the licensed contractor;

(3) a solicitor for a contractor who calls an owner by telephone only;

(4) an architect, electrician, plumber, heating, ventilation, air-conditioning, or refrigeration contractor, or other person who:

(i) is required by State or local law to meet standards of competency or experience before engaging in an occupation or profession;

(ii) currently is licensed in that occupation or profession under State or local law; and

(iii) is:

1. acting only within the scope of that occupation or profession; or

2. installing a central heating or air-conditioning system;

(5) a security systems technician licensed under Title 18 of the Business Occupations and Professions Article; [or]

(6) A MARINE CONTRACTOR LICENSED UNDER TITLE 17, SUBTITLE 3 OF THE ENVIRONMENT ARTICLE; OR

[(6)] (7) a person who is selling a home improvement to be performed by a person described in item (4) of this subsection.

Article – Environment

(h) “LICENSED MARINE CONTRACTOR” HAS THE MEANING STATED IN TITLE 17, SUBTITLE 3 OF THIS ARTICLE.

(I) (1) “Pier” means any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure.

(2) “Pier” does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

[(i)] (J) “Person” means any natural person, partnership, joint-stock company, unincorporated association or society, the federal government, the State, any unit of the State, a political subdivision, or other corporation of any type.

[(i)] (K) (1) “Private wetlands” means any land not considered “State wetland” bordering on or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth.

(2) “Private wetlands” includes wetlands, transferred by the State by a valid grant, lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights, to the extent of the interest transferred.

[(k)] (L) (1) “Public notice” means the public notice and public informational hearing procedures established in § 5–204(b) through (e) of this article.

(2) “Public notice” does not mean notice as provided for in § 16–303 of this title.

[(l)] (M) “Regular or periodic tidal action” means the rise and fall of the sea produced by the attraction of the sun and moon uninfluenced by wind or any other circumstance.

[(m)] (N) “Secretary” means the Secretary of the Environment.

[(n)] (O) “State wetlands” means any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. Wetlands of this category which have been transferred by the State by valid grant, lease, patent or grant confirmed by Article 5 of the Maryland Declaration of Rights shall be considered “private wetland” to the extent of the interest transferred.

16–106.

(A) (1) A PERSON THAT UNDERTAKES OR AUTHORIZES AN ACTIVITY THAT REQUIRES A LICENSE OR PERMIT UNDER THIS TITLE SHALL:

(I) HIRE A LICENSED MARINE CONTRACTOR TO DO THE WORK; OR

(II) BE A LICENSED MARINE CONTRACTOR.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A ~~HOMEOWNER~~ RESIDENTIAL OR COMMERCIAL PROPERTY OWNER SHALL BE EXEMPT FROM THE REQUIREMENT TO BE OR TO HIRE A LICENSED MARINE CONTRACTOR UNDER SUBSECTION (A) OF THIS SECTION IF:

(I) THE ~~HOMEOWNER~~ PROPERTY OWNER PERFORMS MARINE CONTRACTOR SERVICES ON THE ~~HOMEOWNER'S~~ PROPERTY OWNER'S OWN PROPERTY; AND

(II) THE ~~HOMEOWNER~~ PROPERTY OWNER OBTAINS THE NECESSARY TIDAL WETLANDS LICENSES OR PERMITS REQUIRED UNDER THIS TITLE.

(B) (1) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(2) EACH DAY THAT A PERSON CONDUCTS MARINE CONTRACTOR SERVICES WITHOUT A LICENSE CONSTITUTES A SEPARATE OFFENSE.

(C) (1) IN ADDITION TO ANY OTHER SANCTION UNDER THIS SECTION, A CIVIL ACTION MAY BE BROUGHT AGAINST A PERSON FOR A VIOLATION OF SUBSECTION (A) OF THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION.

(2) A PERSON MAY BE LIABLE FOR A CIVIL PENALTY UNDER THIS SUBSECTION NOT TO EXCEED \$10,000 FOR EACH VIOLATION.

(D) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE WETLANDS AND WATERWAYS PROGRAM FUND ESTABLISHED UNDER § 5-203.1 OF THIS ARTICLE, FOR THE ADMINISTRATION OF THE MARINE CONTRACTORS LICENSING BOARD ESTABLISHED UNDER TITLE 17 OF THIS ARTICLE.

(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS SECTION.

16-202.

(a) A person may not dredge or fill on State wetlands without a license.

(B) TO APPLY FOR A LICENSE, THE APPLICANT SHALL SUBMIT A DELINEATION OF THE AFFECTED TIDAL WETLANDS AND ALL OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

(C) (1) ~~WITHIN~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 45 DAYS FROM RECEIPT OF THE APPLICATION, THE DEPARTMENT SHALL NOTIFY THE APPLICANT WHETHER THE APPLICATION IS COMPLETE AND WHETHER THE DELINEATION IS CORRECT.

(2) ~~IF~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF THE DEPARTMENT FAILS TO NOTIFY THE APPLICANT ABOUT THE APPLICATION OR DELINEATION WITHIN 45 DAYS, THE DELINEATION SHALL BE TREATED BY THE DEPARTMENT AS CORRECT, AND THE APPLICATION SHALL BE TREATED AS COMPLETE.

(3) UPON WRITTEN NOTICE TO THE APPLICANT, THE DEPARTMENT MAY PROVIDE FOR AN EXTENSION OF THE DEADLINE UNDER THIS SUBSECTION IF THE FOLLOWING EXTENUATING CIRCUMSTANCES PREVENT CONSIDERATION OF THE APPLICATION:

(I) INCLEMENT WEATHER CONDITIONS;

(II) A REVIEW IS REQUIRED BY A FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY; OR

(III) A REQUEST IS MADE BY AN APPLICANT.

(D) (1) ~~ONCE~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ONCE THE APPLICATION IS COMPLETE IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL GRANT, DENY, OR CONDITION A LICENSE WITHIN 45 DAYS IF:

~~(1)~~ (I) THE APPLICATION IS NOT SUBJECT TO PUBLIC NOTICE AND HEARING REQUIREMENTS UNDER SUBSECTION (G) OF THIS SECTION; OR

~~(2)~~ (II) THE APPLICATION DOES NOT REQUIRE AN ACTION BY THE BOARD.

(2) UPON WRITTEN NOTICE TO THE APPLICANT, THE DEPARTMENT MAY PROVIDE FOR A 30-DAY EXTENSION OF THE DEADLINE UNDER THIS SUBSECTION FOR THE FOLLOWING EXTENUATING CIRCUMSTANCES:

(I) A REVIEW IS REQUIRED BY A FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY; OR

(II) A REQUEST IS MADE BY AN APPLICANT.

(E) (1) ONCE THE APPLICATION IS COMPLETE UNDER SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL ISSUE PUBLIC NOTICE OF AN OPPORTUNITY TO SUBMIT WRITTEN COMMENTS OR TO REQUEST A HEARING IN ACCORDANCE WITH § 5-204(B) THROUGH (E) OF THIS ARTICLE.

(2) A HEARING REQUESTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE HELD WITHIN 45 DAYS OF THE HEARING REQUEST, UNLESS EXTENUATING CIRCUMSTANCES JUSTIFY AN EXTENSION OF TIME.

(3) THE HEARING THAT MAY BE REQUESTED UNDER THIS SUBSECTION IS NOT A CONTESTED CASE HEARING UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

[(b)] (F) The Secretary shall assist the Board in determining whether to issue a license to dredge or fill State wetlands. The Secretary shall submit a report indicating whether the license should be granted and, if so, the terms, conditions, and consideration required after consultation with any interested federal, State, and local unit, and after issuing public notice, holding any requested hearing, and taking any evidence the Secretary thinks advisable.

[(c)] (G) (1) Upon receipt of a report by the Secretary, the Board shall decide if issuance of the license is in the best interest of the State, taking into account the varying ecological, economic, developmental, recreational, and aesthetic values each application presents. If the Board decides to issue the license, the issuance of the license shall be for consideration and on terms and conditions the Board determines. Every license shall be in writing.

(2) With respect to an application for a license to fill or construct a shore erosion control structure other than riprap on State wetlands, the Board may issue the license without public notice if the fill area is less than 300 feet in length parallel to the fast land as close to the fast land as structurally feasible but not more than 10 feet channelward of the mean high water line and if after a site visit the report of the Secretary recommends that the license be granted. The Board may issue a license without public notice where an emergency exists caused by act of God, natural disaster, catastrophe, or other similar natural event when the health, safety, or welfare of the citizens of the State would be jeopardized by a delay caused by time

requirements for public notice. However, the license may be granted by the Board only with the concurrence of the Secretary. The Secretary shall provide prompt public notice of the emergency license issuance and the opportunity to submit written comments or to request a hearing to determine whether the emergency license shall be revoked or made permanent. If a hearing is requested, the hearing shall be scheduled within 30 days of the emergency issuance of the license.

(3) If the report of the Secretary recommends that a license be granted, the Board may issue the license without public notice:

(i) To fill or construct a shore erosion control structure of riprap on State wetlands if the fill area is less than 500 feet in length parallel to the fast land as close to the fast land as structurally feasible but not more than 10 feet channelward of the mean high water line;

(ii) To repair or replace a bulkhead for the purpose of shore erosion control where the bulkhead is presently functional, but is deteriorating or damaged, provided that the repair or replacement structure does not extend more than 18 inches channelward of the existing structure. Repair or replacement may include riprap placed along the base of the bulkhead, provided that the riprap shall not extend more than 10 feet channelward of the bulkhead;

(iii) To fill near shore shallow water bottom extending no more than 35 feet channelward of the mean high water line provided the fill area is less than 500 feet in length parallel to the fast land for the purpose of shore erosion control by landscaping and wetland plant establishment;

(iv) To construct or repair a private noncommercial boat ramp provided the ramp does not exceed 12 feet in width and extend more than 30 feet channelward of the mean high water line; or

(v) To maintenance dredge a mooring, private or commercial boat ramp, mobile boat hoist slip, or marine railway when no more than 100 cubic yards of material nor an area greater than 1,500 square feet need to be dredged.

(4) With respect to the maintenance dredging of projects in State wetlands for which a license is to be issued, the license may include provision for periodic maintenance dredging if recommended by the report of the Secretary provided that the maintenance dredging be effected:

(i) Within the area, depth, and in conformity with other limitations contained in the license;

(ii) That no more than 500 cubic yards of material be dredged at each maintenance dredging to restore licensed works;

(iii) That the material from maintenance dredging be deposited upon the designated or other upland site approved by the Secretary; and

(iv) That the Secretary be notified and approve of each maintenance dredging operation.

(5) The provisions for periodic maintenance dredging under paragraph (4) of this subsection shall be effective for no more than 6 years beyond the date of issuance of the license.

(6) If the licensee desires to continue maintenance dredging beyond the expiration date authorized in paragraph (5) of this subsection, the licensee must obtain a new license by submitting an application to the Board for review in accordance with the procedures of this section.

[(d) (H)] The provisions of this section do not apply to any operation for:

(1) Dredging and filling being conducted as of July 1, 1970, as authorized under the terms of an appropriate permit or license granted under the provisions of existing State and federal law;

(2) Dredging of seafood products by any licensed operator, harvesting of seaweed, or mosquito control and abatement as approved by the Department of Agriculture;

(3) Improvement of wildlife habitat or agricultural drainage ditches as approved by an appropriate unit;

(4) Routine maintenance or repair of existing bulkheads, provided that there is no addition or channelward encroachment; or

(5) Aquaculture activities occurring in Aquaculture Enterprise Zones established under Title 4, Subtitle 11A of the Natural Resources Article under an aquaculture lease issued by the Department of Natural Resources.

[(e) (I)] (1) The Board may not approve a license or an amendment to a license authorizing the dredge material deposited in the Hart–Miller Island Dredged Material Containment Facility to exceed an elevation of:

(i) 44 feet above the mean low water mark in the north cell; and

(ii) 28 feet above the mean low water mark in the south cell.

(2) On or after January 1, 2010, the Board may not approve a license or an amendment to a license authorizing the deposit of dredge material at the Hart–Miller Dredged Material Containment Facility.

~~Article Business Occupations and Professions~~

TITLE ~~22~~ 17. MARINE CONTRACTORS.

SUBTITLE 1. DEFINITIONS; ~~GENERAL PROVISIONS.~~

~~22-101.~~ 17-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “~~DEPARTMENT BOARD~~” MEANS THE ~~DEPARTMENT OF THE ENVIRONMENT~~ MARINE CONTRACTORS LICENSING BOARD.

(C) “~~FIRM ENTITY~~” MEANS A BUSINESS WITH ITS PRINCIPAL OFFICE IN THE STATE THAT EMPLOYS MORE THAN ONE INDIVIDUAL TO PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE.

(D) ~~(1)~~ “LICENSE” MEANS A PROFESSIONAL LICENSE ISSUED BY THE SECRETARY BOARD TO AN INDIVIDUAL OR ENTITY TO PROVIDE PERFORM MARINE CONTRACTOR SERVICES IN THE STATE.

~~(2) “LICENSE” MEANS A MARINE CONTRACTOR LICENSE.~~

(E) “LICENSED MARINE CONTRACTOR” MEANS ~~A PERSON WHO IS LICENSED BY THE SECRETARY TO PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE~~ AN INDIVIDUAL OR ENTITY THAT HAS RECEIVED A LICENSE FROM THE BOARD TO PERFORM MARINE CONTRACTOR SERVICES.

(F) (1) “MARINE CONTRACTOR SERVICES” MEANS ~~THE CONSTRUCTION, DEMOLITION, INSTALLATION, ALTERATION, REPAIR, SALE, OR SALVAGE OF STRUCTURES ACTIVITIES LOCATED IN THE STATE’S, ON, OVER, OR UNDER STATE OR PRIVATE TIDAL AND NONTIDAL WETLANDS, INCLUDING BOATHOUSES, BOAT OR OTHER PERSONAL WATERCRAFT LIFTS OR RAMPS, DOCKS, FLOATING PLATFORMS, MOORINGS, PIERS, PIER ACCESS STRUCTURES, PILINGS, WETLAND OBSERVATION PLATFORMS, WETLAND WALKWAYS, AND WHARFS.~~

(2) “MARINE CONTRACTOR SERVICES” INCLUDES ~~THE:~~

(I) DREDGING AND FILLING;

(II) THE CONSTRUCTION, DEMOLITION, INSTALLATION, ALTERATION, REPAIR, OR SALVAGE OF STRUCTURES, INCLUDING BOATHOUSES, BOAT OR OTHER PERSONAL WATERCRAFT ~~LIFTS OR LIFTS OR~~ RAMPS, SLIPS, DOCKS, FLOATING PLATFORMS, MOORINGS, PIERS, PIER ACCESS STRUCTURES, PILINGS, WETLAND OBSERVATION PLATFORMS, WETLAND WALKWAYS, AND WHARFS; AND

(III) THE CONSTRUCTION, DEMOLITION, INSTALLATION, ALTERATION, REPAIR, ~~SALE,~~ OR SALVAGE OF STABILIZATION AND EROSION CONTROL ~~MECHANISMS~~ MEASURES, INCLUDING REVETMENTS, BREAKWATERS, BULKHEADS, GROINS, JETTIES, ~~AND~~ STONE SILLS, MARSH ESTABLISHMENTS, AND BEACH NOURISHMENT OR OTHER SIMILAR PROJECTS.

~~(3) "MARINE CONTRACTOR SERVICES" DOES NOT INCLUDE THE INSTALLATION OR REPAIR OF BOAT LIFTS.~~

~~(C) "SECRETARY" MEANS THE SECRETARY OF THE ENVIRONMENT.~~

SUBTITLE 2. ~~SECRETARY~~ MARINE CONTRACTORS LICENSING BOARD.

~~22-201.~~ 17-201.

(A) THERE IS A MARINE CONTRACTORS LICENSING BOARD.

(B) SUBJECT TO THE PROVISIONS OF THIS TITLE, THE ~~SECRETARY~~ BOARD IS RESPONSIBLE FOR THE LICENSING AND REGULATION OF ~~PERSONS~~ INDIVIDUALS AND ENTITIES THAT PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE.

17-202.

(A) (1) THE BOARD CONSISTS OF SEVEN MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE OF THE SECRETARY, AND WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) OF THE SEVEN MEMBERS:

(I) ONE SHALL BE EMPLOYED BY THE DEPARTMENT;

(II) ONE SHALL BE EMPLOYED BY THE DEPARTMENT OF NATURAL RESOURCES;

(III) THREE SHALL BE LICENSED MARINE CONTRACTORS AND SHALL INCLUDE:

1. ONE FROM ANNE ARUNDEL, CALVERT, CHARLES, PRINCE GEORGE'S, OR ST. MARY'S COUNTIES;

2. ONE FROM BALTIMORE CITY, OR BALTIMORE, CECIL, HARFORD, KENT, OR QUEEN ANNE'S COUNTIES; AND

3. ONE FROM CAROLINE, DORCHESTER, SOMERSET, TALBOT, WICOMICO, OR WORCESTER COUNTIES; AND

(IV) TWO SHALL BE PRIVATE CITIZENS, APPOINTED AT LARGE, WHO REPRESENT DIVERSE INTERESTS, AND SHALL INCLUDE:

1. ONE FROM BALTIMORE CITY, OR ANNE ARUNDEL, BALTIMORE, CALVERT, CHARLES, HARFORD, PRINCE GEORGE'S, OR ST. MARY'S COUNTIES; AND

2. ONE FROM CAROLINE, CECIL, DORCHESTER, KENT, QUEEN ANNE'S, SOMERSET, TALBOT, WICOMICO, OR WORCESTER COUNTIES.

(B) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(C) (1) THE TERM OF A MEMBER OF THE BOARD IS 3 YEARS.

(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(D) THE GOVERNOR MAY REMOVE A MEMBER FROM THE BOARD FOR INCOMPETENCE, MISCONDUCT, NEGLIGENCE OF DUTY, OR OTHER SUFFICIENT CAUSE.

17-203.

(A) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, VICE CHAIR, AND SECRETARY ANNUALLY.

(B) THE BOARD SHALL DETERMINE THE MANNER OF THE ELECTION OF OFFICERS.

17-204.

(A) THE BOARD SHALL MEET AT LEAST TWICE A YEAR, AT THE TIMES AND PLACES THAT THE BOARD DETERMINES.

(B) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(C) THE BOARD MAY EMPLOY STAFF IN ACCORDANCE WITH THE STATE BUDGET.

~~22-202.~~ 17-205.

~~(A) IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE SECRETARY~~ THE BOARD MAY:

~~(1) ADOPT~~ RECOMMEND REGULATIONS FOR ADOPTION BY THE SECRETARY TO CARRY OUT THE PROVISIONS OF THIS TITLE; AND

~~(2) USE ANY MEMBER OF THE DEPARTMENT, AS NECESSARY, TO CARRY OUT AND ENFORCE THIS TITLE; AND~~

~~(3) MAKE~~ MAKE INQUIRIES AND CONDUCT AN INVESTIGATION REGARDING ANY APPLICANT FOR A LICENSE.

~~(B) IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE SECRETARY~~ THE BOARD SHALL:

~~(1) ADOPT REGULATIONS THAT SET STANDARDS FOR THE LICENSING OF A PERSON AS A MARINE CONTRACTOR; AND~~ CARRY OUT THE PROVISIONS OF THIS TITLE;

(2) COLLECT AND ACCOUNT FOR THE FEES PROVIDED FOR UNDER THIS TITLE; AND

~~(2) (3) KEEP~~ KEEP A ROSTER CURRENT RECORD OF THE ALL INDIVIDUALS AND FIRMS WITH LICENSES ENTITIES LICENSED UNDER THIS TITLE, INCLUDING ON THE ROSTER:

- (I) ~~THE~~ THE NAMES OF INDIVIDUALS AND FIRMS ENTITIES THAT ARE LICENSED;
- (II) ~~THE LICENSE~~ THE ISSUANCE AND EXPIRATION DATES OF THE LICENSES; AND
- (III) ~~ANY ANY~~ OTHER INFORMATION THAT THE SECRETARY BOARD CONSIDERS APPROPRIATE.

17-206.

(A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND OTHER SERVICES THAT THE BOARD PROVIDES.

(2) THE FEES IMPOSED BY THE BOARD SHALL BE SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COSTS OF MAINTAINING THE BOARD.

(B) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS TITLE INTO THE WETLANDS AND WATERWAYS PROGRAM FUND UNDER § 5-203.1 OF THIS ARTICLE FOR THE ADMINISTRATION OF THE BOARD.

SUBTITLE 3. ~~MARINE CONTRACTOR LICENSES~~ LICENSING.

~~22-301.~~ 17-301.

(A) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON SHALL BE LICENSED BY THE SECRETARY BOARD AS A MARINE CONTRACTOR OR BE EMPLOYED BY AN INDIVIDUAL OR FIRM ENTITY THAT IS LICENSED AS A MARINE CONTRACTOR BEFORE THE PERSON MAY:

(1) ~~PROVIDE~~ PERFORM MARINE CONTRACTOR SERVICES IN THE STATE; OR

(2) ~~SOLICIT~~ SOLICIT TO ~~PROVIDE~~ PERFORM MARINE CONTRACTOR SERVICES IN THE STATE.

(B) AN INDIVIDUAL OR ~~A FIRM~~ AN ENTITY MAY QUALIFY FOR A LICENSE.

(C) AN INDIVIDUAL WHO IS EMPLOYED BY AN AGENCY OF THE FEDERAL GOVERNMENT OR THE STATE MAY PERFORM MARINE CONTRACTOR SERVICES WHILE IN THE PERFORMANCE OF THE DUTIES OF THEIR EMPLOYMENT WITHOUT HAVING TO OBTAIN A LICENSE FROM THE BOARD UNDER THIS TITLE.

(D) A RESIDENTIAL OR COMMERCIAL PROPERTY OWNER MAY PERFORM MARINE CONTRACTOR SERVICES ON THE PROPERTY OWNER'S OWN PROPERTY WITHOUT HAVING TO OBTAIN A LICENSE FROM THE BOARD UNDER THIS TITLE.

~~22-302.~~ 17-302.

(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL MEET THE REQUIREMENTS OF THIS SECTION AND ANY REGULATIONS ADOPTED UNDER THIS SECTION.

(B) IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, THE ~~FIRM~~ ENTITY SHALL APPOINT A MEMBER OF THE ~~FIRM~~ ENTITY AS THE REPRESENTATIVE MEMBER TO MAKE THE APPLICATION ON BEHALF OF THE ~~FIRM~~ ENTITY.

(C) AN INDIVIDUAL APPLICANT OR, IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, THE REPRESENTATIVE MEMBER SHALL:

(1) ~~HAVE~~ HAVE AT LEAST 2 YEARS OF EXPERIENCE AS A FULL-TIME MARINE CONTRACTOR OR DEMONSTRATE SIMILAR CONTRACTOR EXPERIENCE;

(2) ~~PASS~~ PASS A WRITTEN MARINE CONTRACTOR TEST RECOGNIZED BY THE ~~SECRETARY AND PREPARED IN CONSULTATION WITH THE MARYLAND MARINE CONTRACTORS ASSOCIATION~~ BOARD;

(3) ~~HAVE~~ HAVE A FEDERAL TAX IDENTIFICATION NUMBER; AND

(4) ~~BE REGISTERED AND IN GOOD STANDING WITH THE MARYLAND HOME IMPROVEMENT COMMISSION; AND~~

(5) ~~CARRY~~ CARRY:

(I) ~~COMMERCIAL~~ COMMERCIAL GENERAL LIABILITY INSURANCE WITH A \$300,000 TOTAL AGGREGATE MINIMUM; AND

(II) ~~WORKERS'~~ WORKERS' COMPENSATION INSURANCE, UNLESS EXEMPT BY LAW.

~~22-303.~~ 17-303.

(A) (1) ~~AN~~ TO APPLY FOR A LICENSE, AN APPLICANT ~~FOR A LICENSE~~ SHALL:

(I) ~~SUBMIT~~ SUBMIT TO THE ~~SECRETARY~~ BOARD AN APPLICATION ON THE FORM THAT THE ~~SECRETARY~~ BOARD PROVIDES;

(II) ~~SUBMIT~~ SUBMIT THE DOCUMENTS REQUIRED UNDER THIS SECTION; AND

(III) ~~PAY~~ PAY TO THE ~~SECRETARY~~ BOARD THE REQUIRED APPLICATION FEE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SET BY THE BOARD.

(2) IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, THE REPRESENTATIVE MEMBER SHALL COMPLETE THE APPLICATION FORM AND OTHERWISE BE RESPONSIBLE FOR THE ~~FIRM'S~~ ENTITY'S COMPLIANCE WITH THIS SECTION.

(B) ~~AN APPLICANT FOR A LICENSE SHALL PAY TO THE SECRETARY AN APPLICATION FEE OF \$500.~~

~~(C)~~ (1) IF THE APPLICANT IS AN INDIVIDUAL, THE APPLICATION FORM PROVIDED BY THE ~~SECRETARY~~ BOARD SHALL REQUIRE:

(I) ~~THE~~ THE NAME OF THE APPLICANT;

(II) ~~THE~~ THE ADDRESS OF THE APPLICANT; AND

(III) ~~THE~~ THE CURRENT AND PREVIOUS EMPLOYMENT OF THE APPLICANT RELEVANT TO THE FIELD OF MARINE CONTRACTING.

(2) IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, THE APPLICATION FORM PROVIDED BY THE ~~SECRETARY~~ BOARD SHALL REQUIRE:

(I) ~~A~~ A LIST OF THE ~~FIRM'S~~ ENTITY'S OWNERS; AND

(II) ~~FOR~~ FOR EACH ~~FIRM~~ ENTITY OWNER, THE SAME INFORMATION REQUIRED REGARDING AN INDIVIDUAL APPLICANT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) FOR ALL APPLICANTS, THE APPLICATION FORM SHALL REQUIRE:

(I) ~~THE~~ THE ADDRESS OF THE APPLICANT'S PROPOSED PRINCIPAL PLACE OF BUSINESS AND OF EACH PROPOSED BRANCH OFFICE;

(II) ~~ANY~~ ALL TRADE OR FICTITIOUS ~~NAME~~ NAMES THAT THE APPLICANT INTENDS TO USE WHILE ~~CONDUCTING THE BUSINESS OF MARINE CONTRACTING~~ PERFORMING MARINE CONTRACTOR SERVICES; AND

(III) ~~AS~~ AS THE ~~SECRETARY~~ BOARD CONSIDERS APPROPRIATE, ANY OTHER INFORMATION TO ASSIST IN THE EVALUATION OF:

1. ~~AN~~ AN INDIVIDUAL APPLICANT; OR
2. ~~IF~~ IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, ANY ~~FIRM~~ ENTITY MEMBER.

~~(D)~~ (C) THE APPLICATION FORM PROVIDED BY THE ~~SECRETARY~~ BOARD SHALL CONTAIN A STATEMENT ADVISING THE APPLICANT OF THE PENALTIES FOR VIOLATION OF THIS TITLE PROVIDED UNDER ~~§ 22-401~~ § 17-403 OF THIS TITLE.

~~(E)~~ (D) (1) IF THE APPLICANT IS AN INDIVIDUAL, THE ~~APPLICATION~~ INDIVIDUAL SHALL SIGN THE APPLICATION FORM ~~SHALL BE SIGNED,~~ UNDER OATH, ~~BY THE INDIVIDUAL.~~

(2) IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, ~~THE APPLICATION FORM SHALL BE SIGNED,~~ UNDER OATH, ~~BY THE REPRESENTATIVE MEMBER,~~ AS THE REPRESENTATIVE MEMBER OF THE ENTITY SHALL SIGN THE APPLICATION FORM UNDER OATH, AND SHALL PROVIDE PROOF TO THE ~~SECRETARY~~ BOARD THAT THE REPRESENTATIVE MEMBER IS A MEMBER OF THE ~~FIRM~~ ENTITY.

~~(F)~~ (E) AN APPLICANT FOR A LICENSE SHALL SUBMIT WITH THE APPLICATION PROOF OF THE INSURANCE REQUIRED UNDER ~~§ 22-302(c)(5)~~ § 17-302(c)(4) OF THIS SUBTITLE.

~~22-304.~~ 17-304.

THE ~~SECRETARY~~ BOARD MAY NOT ISSUE A LICENSE TO AN APPLICANT WHOSE TRADE OR FICTITIOUS NAME OR TRADEMARK IS SO SIMILAR TO THAT USED BY ANOTHER LICENSEE THAT THE PUBLIC MAY BE CONFUSED OR MISLED BY THE SIMILARITY.

~~22-305.~~ 17-305.

(A) THE ~~SECRETARY~~ BOARD SHALL ISSUE A LICENSE THAT IS VALID FOR 2 YEARS TO ~~EACH~~ ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS ~~SUBTITLE~~ TITLE AND ANY REGULATION ADOPTED UNDER THIS TITLE.

(B) ~~THE SECRETARY BOARD~~ SHALL INCLUDE ON EACH LICENSE THAT THE ~~SECRETARY BOARD~~ ISSUES:

- (1) ~~THE~~ THE FULL NAME OF THE LICENSEE;
- (2) ~~THE~~ THE LICENSE NUMBER;
- (3) ~~THE~~ THE LOCATION OF THE PRINCIPAL OFFICE AND OF EACH BRANCH OFFICE IF THE LICENSEE IS ~~A FIRM~~ AN ENTITY;
- (4) ~~THE~~ THE DATE OF ISSUANCE OF THE LICENSE;
- (5) ~~THE~~ THE DATE ON WHICH THE LICENSE EXPIRES; AND
- (6) ~~THE~~ THE NAME OF THE REPRESENTATIVE MEMBER IF THE LICENSEE IS ~~A FIRM~~ AN ENTITY.

~~(C) A LICENSE ISSUED UNDER THIS TITLE IS VOID:~~

~~(1) ON THE LAPSE OF INSURANCE REQUIRED UNDER § 22-302(C)(5) OF THIS SUBTITLE; OR~~

~~(2) ON THE ISSUANCE OF THREE VIOLATION NOTICES BY THE DEPARTMENT TO THE LICENSEE.~~

~~22-306.~~ 17-306.

WHILE A LICENSE TO ~~A FIRM~~ AN ENTITY IS IN EFFECT, THE LICENSE AUTHORIZES THE ~~FIRM~~ ENTITY TO:

(1) ~~EMPLOY~~ EMPLOY AS MARINE CONTRACTORS INDIVIDUALS WHO ARE NOT LICENSED MARINE CONTRACTORS TO PROVIDE MARINE CONTRACTOR SERVICES TO THE PUBLIC ON BEHALF OF THE LICENSEE; AND

(2) ~~REPRESENT~~ REPRESENT ITSELF TO THE PUBLIC AS A LICENSED MARINE CONTRACTOR ~~FIRM~~ ENTITY.

~~22-307.~~ 17-307.

A LICENSED MARINE CONTRACTOR SHALL:

(1) ~~INCLUDE~~ INCLUDE THE CONTRACTOR'S MARINE CONTRACTOR LICENSE NUMBER IN ALL ADVERTISING RELATED TO THE PROVISION OF MARINE CONTRACTOR SERVICES; AND

(2) ~~PROMINENTLY~~ PROMINENTLY DISPLAY THE CONTRACTOR'S MARINE CONTRACTOR LICENSE NUMBER ON ALL LARGE EQUIPMENT USED IN THE COURSE OF THE LICENSEE'S WORK AS A MARINE CONTRACTOR.

~~22-308.~~ 17-308.

(A) ~~BY REGULATION, THE~~ THE SECRETARY SHALL ADOPT REGULATIONS TO STAGGER THE TERMS OF THE LICENSES.

(B) ~~THE~~ A LICENSE EXPIRES ON THE DATE THE SECRETARY SETS, IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(C) AT LEAST ~~1 MONTH~~ 2 MONTHS BEFORE A LICENSE EXPIRES, THE ~~SECRETARY BOARD~~ SHALL MAIL SEND TO THE LICENSEE AT, BY FIRST-CLASS MAIL OR ELECTRONICALLY, TO THE LAST KNOWN ADDRESS OF THE LICENSEE:

(1) ~~A~~ A RENEWAL APPLICATION FORM; AND

(2) ~~A~~ A NOTICE THAT STATES:

(I) ~~THE~~ THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

(II) ~~THAT THE SECRETARY~~ THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL APPLICATION AT LEAST 15 DAYS BEFORE THE LICENSE EXPIRATION DATE FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND

(III) ~~THE~~ THE AMOUNT OF THE RENEWAL FEE.

(D) ~~A~~ BEFORE A LICENSE EXPIRES, THE LICENSEE MAY RENEW THE LICENSE FOR AN ADDITIONAL 2-YEAR TERM IF THE LICENSEE:

(1) ~~IS~~ IS OTHERWISE ENTITLED TO BE LICENSED;

(2) ~~(I)~~ ~~PAYS TO THE SECRETARY~~ PAYS TO THE BOARD:

(I) THE REQUIRED RENEWAL FEE OF \$300 SET BY THE BOARD; AND

(II) ~~PAYS TO THE SECRETARY ANY~~ ANY OUTSTANDING FEES;
AND

(3) ~~SUBMITS~~ SUBMITS TO THE ~~SECRETARY~~ SECRETARY ~~PROOF THAT THE LICENSEE HAS COMPLETED A MINIMUM OF 16 HOURS OF CONTINUING EDUCATION PROVIDED BY A SOURCE APPROVED BY THE SECRETARY; AND~~ BOARD:

(I) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS ESTABLISHED UNDER SUBSECTION (E) OF THIS SECTION;

(II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE INSURANCE REQUIREMENTS ESTABLISHED UNDER § 17-302 OF THIS SUBTITLE;

(III) SATISFACTORY EVIDENCE OF THE RESOLUTION OF ANY LICENSE VIOLATIONS, SUSPENSIONS, DENIALS, REVOCATIONS, OR OTHER BOARD ACTIONS TAKEN UNDER THIS TITLE; AND

~~(4)~~ (IV) ~~SUBMITS TO THE SECRETARY A~~ A RENEWAL APPLICATION ON THE FORM THAT THE ~~SECRETARY~~ BOARD PROVIDES.

(E) (1) A LICENSEE SHALL COMPLETE 12 HOURS OF CONTINUING EDUCATION INSTRUCTION COVERING MARINE CONTRACTOR SUBJECT MATTER APPROVED BY THE BOARD.

(2) (I) THE BOARD SHALL APPROVE THE SUBSTANCE AND FORM OF A CONTINUING EDUCATION COURSE IF THE COURSE IS:

1. OFFERED BY A QUALIFIED INSTRUCTOR; OR
2. CONDUCTED BY AN EDUCATIONAL INSTITUTION APPROVED BY THE BOARD.

(II) THE LICENSEE IS RESPONSIBLE FOR THE COST OF ANY CONTINUING EDUCATION COURSE.

~~(E)~~ (F) THE SECRETARY BOARD SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

~~22-309.~~ 17-309.

WITHIN 5 DAYS AFTER THE CHANGE, A LICENSEE ~~THAT IS A FIRM~~ SHALL SUBMIT TO THE ~~SECRETARY~~ BOARD WRITTEN NOTICE OF:

(1) ~~THE ADDITION OF A BRANCH OFFICE~~ IF THE LICENSEE IS AN INDIVIDUAL OR ENTITY, ANY CHANGE IN THE ADDRESS OR TELEPHONE NUMBER OF AN EXISTING OFFICE OR PRINCIPAL PLACE OF BUSINESS; AND

(2) ~~ANY CHANGE IN THE ADDRESS OR TELEPHONE NUMBER OF AN EXISTING OFFICE~~ IF THE LICENSEE IS AN ENTITY, THE ADDITION OF A BRANCH OFFICE.

~~22-310.~~ 17-310.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE GOVERNMENT ARTICLE, AND SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS IN SUBSECTION ~~(B)~~ (C) OF THIS SECTION, THE ~~SECRETARY BOARD~~ MAY DENY, REFUSE TO RENEW, SUSPEND, OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE ~~VIOLATES~~:

(1) VIOLATES ANY PROVISION OF THIS TITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE;

(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE LICENSEE OR FOR ANOTHER PERSON;

(3) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(4) COMMITS ANY GROSS NEGLIGENCE, INCOMPETENCE, OR MISCONDUCT WHILE PRACTICING MARINE CONTRACTOR SERVICES;

(5) FAILS TO COMPLY WITH THE TERMS OF A TIDAL WETLANDS AUTHORIZATION ISSUED UNDER § 16-202 OR § 16-307 OF THIS ARTICLE;

(6) VIOLATES ANY PROVISION OF, OR REGULATIONS ADOPTED UNDER, § 16-202 OR § 16-307 OF THIS ARTICLE; OR

(7) IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AS DEFINED UNDER § 8-1802 OF THE NATURAL RESOURCES ARTICLE, FAILS TO COMPLY WITH:

(I) THE TERMS OF A STATE OR LOCAL PERMIT, LICENSE, OR APPROVAL; OR

(II) ANY STATE OR LOCAL LAW, AN APPROVED PLAN, OR OTHER LEGAL REQUIREMENT.

(B) THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS, ESTABLISHED UNDER TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE, SHALL NOTIFY THE BOARD OF ANY LICENSED MARINE CONTRACTOR OR APPLICANT FOR A LICENSE THAT FAILS TO COMPLY WITH ANY REQUIREMENT UNDER SUBSECTION (A)(7) OF THIS SECTION.

(C) (1) BEFORE THE ~~SECRETARY~~ BOARD TAKES ANY FINAL ACTION UNDER SUBSECTION (A) OF THIS SECTION, THE ~~SECRETARY~~ BOARD SHALL GIVE THE APPLICANT OR LICENSEE AGAINST WHOM THE ACTION IS CONTEMPLATED NOTICE AND ~~HOLD A HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE~~ THE OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

(2) THE BOARD SHALL PROVIDE NOTICE AND HOLD A HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(3) AT LEAST 30 DAYS BEFORE THE HEARING, THE HEARING NOTICE SHALL BE:

(I) SERVED PERSONALLY ON THE INDIVIDUAL; OR

(II) SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE, TO THE LAST KNOWN ADDRESS OF THE INDIVIDUAL OR ENTITY.

~~(2)~~ (4) IF, AFTER DUE NOTICE, THE APPLICANT OR LICENSEE AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE ~~SECRETARY~~ BOARD MAY HEAR AND DETERMINE THE MATTER.

(D) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD MAY TAKE AN APPEAL AS AUTHORIZED UNDER §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

~~(e)~~ (E) FOR PURPOSES OF THIS SECTION, AN ACT OR OMISSION OF ANY PRINCIPAL, AGENT, OR EMPLOYEE OF AN APPLICANT OR LICENSEE MAY BE CONSTRUED TO BE THE ACT OR OMISSION OF THE APPLICANT OR LICENSEE, AS WELL AS OF THE PRINCIPAL, AGENT, OR EMPLOYEE.

SUBTITLE 4. PROHIBITED ACTS; PENALTIES.

17-401.

AN INDIVIDUAL OR ENTITY MAY NOT CONDUCT, ATTEMPT TO CONDUCT, OR OFFER TO CONDUCT MARINE CONTRACTOR SERVICES UNLESS THE INDIVIDUAL OR ENTITY IS LICENSED BY THE BOARD.

17-402.

UNLESS AUTHORIZED TO PERFORM MARINE CONTRACTOR SERVICES UNDER THIS TITLE, AN INDIVIDUAL OR ENTITY MAY NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL OR ENTITY IS AUTHORIZED TO PERFORM MARINE CONTRACTOR SERVICES IN THE STATE.

~~22-401.~~ 17-403.

(A) (1) A PERSON WHO ~~KNOWINGLY~~ VIOLATES ANY PROVISION OF THIS TITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING ~~\$1,000~~ \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(2) EACH DAY THAT A PERSON CONDUCTS MARINE CONTRACTOR SERVICES WITHOUT A LICENSE CONSTITUTES A SEPARATE OFFENSE.

(B) (1) IN ADDITION TO ANY OTHER SANCTION UNDER THIS SUBTITLE, A CIVIL ACTION MAY BE BROUGHT AGAINST A PERSON FOR A VIOLATION OF THIS TITLE, OR ANY REGULATION ADOPTED UNDER THIS TITLE.

(2) A PERSON MAY BE LIABLE FOR A CIVIL PENALTY UNDER THIS SUBSECTION NOT TO EXCEED \$10,000 FOR EACH VIOLATION.

(C) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE WETLANDS AND WATERWAYS PROGRAM FUND, ESTABLISHED UNDER § 5-203.1 OF THIS ARTICLE, TO BE USED FOR THE ADMINISTRATION OF THE BOARD.

~~Article Environment~~

~~1-607.~~

- ~~(b) (1) This subsection applies to permits which are:~~
- ~~(i) Identified in § 1-601(a) of this subtitle; or~~
 - ~~(ii) Issued under Title 5, Subtitle 9 of this article.~~

~~(2) The Department shall provide to the applicant:~~

~~(i) A notice of completed application; or~~

~~(ii) If the Department determines that the application is incomplete, the reasons, in writing, that the application was determined to be incomplete.~~

~~(3) (i) For permits identified in § 1-601(a) of this subtitle, the notice of completed application shall include an estimated time for issuance of the tentative determination if requested by the applicant.~~

~~(ii) [For] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, FOR permits issued under Title 5, Subtitle 9 of this article, the notice of completed application shall include an estimate of the date by which the Department will grant, deny, or condition the permit.~~

~~(III) FOR PERMITS ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE, THE DEPARTMENT SHALL GRANT, DENY, OR CONDITION THE PERMIT ON OR BEFORE 60 DAYS AFTER THE DEPARTMENT RECEIVES THE APPLICATION IF:~~

~~1. THE APPLICANT IS A LICENSED MARINE CONTRACTOR UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; OR~~

~~2. THE APPLICANT DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT A LICENSED MARINE CONTRACTOR UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE WILL CONDUCT THE ACTIVITY FOR WHICH THE PERMIT IS SOUGHT.~~

~~(4) A permit applicant may apply to the Department for a refund of all or a portion of the application fee if:~~

~~(i) 1. For permits identified in § 1-601(a) of this subtitle, the Department fails to issue a tentative determination regarding the application within the estimated time provided in the notice of completed application; or~~

~~2. For permits issued under Title 5, Subtitle 9 of this article, the Department fails to grant, deny, or condition a permit within the time periods provided under § 5-906 of this article;~~

~~(ii) The applicant demonstrates that the delay was caused solely by the Department and was not the result of procedures or requirements outside the control of the Department, including:~~

- ~~1. Reviews by federal, local, or other State government agencies;~~
- ~~2. Procedures for public participation; or~~
- ~~3. The failure of the applicant to submit information to the Department in a timely manner; and~~

~~(iii) 1. For permits identified in § 1-601(a) of this subtitle, the applicant applies to the Department within 60 days after the estimated time for issuance of a tentative determination; or~~

~~2. For permits issued under Title 5, Subtitle 9 of this article, the applicant applies to the Department within 60 days after the date by which the Department was to have granted, denied, or conditioned a permit under the time periods provided under § 5-906 of this article.~~

~~(5) The Secretary, or the Secretary's designee, shall review the refund request and determine if a refund of any amount is appropriate.~~

~~(6) If the Secretary denies the refund request, the Department shall provide the applicant a written explanation of the denial and of the procedures and requirements outside the control of the Department on which the denial was based within 60 days.~~

~~5-101.~~

- ~~(a) In this title the following words have the meanings indicated.~~
- ~~(b) "Administration" means the Water Management Administration.~~
- ~~(c) "Appropriate county governing body" means the county commissioners of any nonchartered county or the county council of any chartered county in which a portion of the watershed is located.~~
- ~~(d) "County" includes Baltimore City unless otherwise indicated.~~
- ~~(e) "Department" means the Department of the Environment.~~
- ~~(f) "Director" means the Director of the Water Management Administration.~~

~~(g) "LICENSED MARINE CONTRACTOR" MEANS A PERSON WHO IS LICENSED TO PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.~~

~~(H) "Person" includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.~~

~~[(h)](I) (1) "Pollution" means every contamination or other alteration of the physical, chemical, or biological properties of any waters of the State.~~

~~(2) "Pollution" includes change in temperature, taste, color, turbidity, or odor of the waters of the State or the discharge or deposit of any organic matter, harmful organism, or liquid, gaseous, solid, radioactive, or other substance into any waters of the State as will render the waters of the State harmful, detrimental, or injurious to public health, safety, or welfare, domestic, commercial, industrial, agricultural, recreational, other legitimate beneficial uses, or livestock, wild animals, birds or fish or other aquatic life.~~

~~[(i)](J) "Public water system" has the meaning stated in § 9-401 of this article.~~

~~[(j)](K) "Secretary" means the Secretary of the Environment.~~

~~[(k)](L) "Water management strategy area" means an area designated by the Department in which a specific water resource problem has been identified and for which the Department has adopted specific water use restrictions or criteria for permit approval in order to protect the water resource or existing water users.~~

~~[(l)](M) "Waters of the State" includes:~~

~~(1) Both surface and underground waters within the boundaries of the State subject to its jurisdiction;~~

~~(2) That portion of the Atlantic Ocean within the boundaries of the State;~~

~~(3) The Chesapeake Bay and its tributaries;~~

~~(4) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and~~

~~(5) The floodplain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency.~~

~~5-203.1.~~

~~(a) (1) In this section the following words have the meanings indicated.~~

~~(3) "Minor project" means a project that:~~

~~(i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100-year floodplain; [and]~~

~~(ii) HAS NOT BEEN DESIGNATED BY THE DEPARTMENT FOR EXCLUSION UNDER § 16-106 OF THIS ARTICLE; AND~~

~~[(ii)] (iii) Does not meet the definition of a major project.~~

~~(b) (1) Except as provided under [paragraph] PARAGRAPHS (2) AND (3) of this subsection, all applications for wetlands and waterways authorizations issued by the Department under §§ 5-503, 5-906, 16-202, 16-302, and 16-307 of this article or wetlands licenses issued by the Board of Public Works under § 16-202 of this article shall be accompanied by an application fee as follows:~~

~~(i) For an application for a minor project or general permit.....\$750;~~

~~(ii) For an application for a minor modification \$500;~~

~~(iii) For an application for a major project or major modification with a proposed permanent impact of:~~

~~1. Less than 1/4 acre.....\$1,500;~~

~~2. At least 1/4 acre, but less than 1/2 acre.....\$3,000;~~

~~3. At least 1/2 acre, but less than 3/4 acre.....\$4,500;~~

~~4. At least 3/4 acre, but less than 1 acre.....\$6,000; and~~

~~5. 1 acre or more.....the impact area in acres multiplied by \$7,500.~~

~~(2) The following are exempt from the application fees established under paragraph (1) of this subsection:~~

~~(i) Regulated activities conducted by the State, a municipal corporation, county, bicounty or multicounty agency under Article 28 or Article 29 of the Code, or a unit of the State, a municipal corporation, or a county;~~

~~(ii) Performance of agricultural best management practices contained in a soil conservation and water quality plan approved by the appropriate soil conservation district;~~

~~(iii) Performance of forestry best management practices contained in an erosion and sediment control plan:~~

~~1. Prepared by a registered forester; and~~

~~2. Approved by the appropriate soil conservation district;~~

~~[and]~~

~~(iv) Stream restoration, vegetative shoreline stabilization, wetland creation, or other project in which the primary effect is to enhance the State's wetland or water resources; AND~~

~~(V) PERFORMANCE OF A PROJECT THAT THE DEPARTMENT HAS DESIGNATED FOR EXEMPTION UNDER § 16-106 OF THIS ARTICLE.~~

~~(3) IF AN APPLICANT FOR A WETLANDS AND WATERWAYS AUTHORIZATION ISSUED BY THE DEPARTMENT UNDER §§ 5-906, 16-202, 16-302, AND 16-307 OF THIS ARTICLE OR WETLANDS LICENSE ISSUED BY THE BOARD OF PUBLIC WORKS UNDER § 16-202 OF THIS ARTICLE IS A LICENSED MARINE CONTRACTOR, THE DEPARTMENT SHALL CHARGE A SINGLE, FLAT APPLICATION FEE OF \$750, DUE ONLY IF AND AT THE TIME THE DEPARTMENT APPROVES THE APPLICATION.~~

~~(4) For purposes of this subsection, a mining activity undertaken on affected land as identified in a permit issued under Title 15 of this article shall be:~~

~~(i) Deemed to be a minor project; and~~

~~(ii) Subject to the appropriate application fee under paragraph (1)(i) and (ii) of this subsection.~~

~~[(4)] (5) Except as provided in paragraph [(5)] (6) of this subsection, the fees imposed under this subsection may not be modified prior to January 1, 2012.~~

~~[(5)] (6)~~ (i) ~~The Department may adjust the fees established under paragraph (1) of this subsection to reflect changes in the consumer price index for all “urban consumers” for the expenditure category “All items not seasonally adjusted”, and for all regions.~~

(ii) ~~The Annual Consumer Price Index for the period ending each December, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, shall be used to adjust the fees established under paragraph (1) of this subsection.~~

~~(D) A LICENSED MARINE CONTRACTOR SHALL BE IMMUNE FROM CIVIL LIABILITY ARISING FROM A PROJECT TO STABILIZE NATURAL SHORELINE IF THE PROJECT WAS ISSUED A PERMIT UNDER § 5-906 OF THIS TITLE.~~

~~[(d)] (E)~~ ~~On or before December 31 of each year, in accordance with § 2-1246 of the State Government Article, the Department shall prepare and submit an annual report to the House Environmental Matters Committee, the House Appropriations Committee, the Senate Education, Health, and Environmental Affairs Committee, and the Senate Budget and Taxation Committee on the Wetlands and Waterways Program Fund, including an accounting of financial receipts deposited into the Fund and expenditures from the Fund.~~

~~[(e)] (F)~~ ~~The Department shall:~~

(1) ~~Prioritize the use of the Wetlands and Waterways Program Fund to improve the level of service to the regulated community; and~~

(2) ~~Identify and implement measures that will reduce delays and duplication in the administration of the wetlands and waterways permit process, including the processing of applications for wetlands and waterways permits in accordance with § 1-607 of this article.~~

~~16-101.~~

(a) ~~In this title the following words have the meanings indicated.~~

(b) ~~“Board” means the Board of Public Works.~~

(c) ~~“County” includes Baltimore City unless otherwise indicated.~~

(d) ~~“Department” means the Department of the Environment.~~

(e) ~~“Dredging” means the removal or displacement by any means of soil, sand, gravel, shells, or other material, whether or not of intrinsic value, from any State or private wetlands.~~

~~(f)~~ (1) ~~“Filling” means:~~

~~(i) The displacement of navigable water by the depositing into State or private wetlands of soil, sand, gravel, shells, or other materials; or~~

~~(ii) The artificial alteration of navigable water levels by any physical structure, drainage ditch, or otherwise.~~

~~(2) “Filling” includes storm drain projects which flow directly into tidal waters of the State.~~

~~(3) “Filling” does not include:~~

~~(i) Drainage of agricultural land;~~

~~(ii) In-place replacement or repair of shore erosion control structures using substantially similar materials and construction design; or~~

~~(iii) Planting of wetlands vegetation when no grading or fill in State or private wetlands is necessary.~~

~~(g) “Landward boundary of wetlands” means the common boundary between wetlands, as defined in this section, and lands not included within the definitions of wetlands appearing in this section.~~

~~(h) **“LICENSED MARINE CONTRACTOR” MEANS A PERSON LICENSED AS A MARINE CONTRACTOR UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**~~

~~(I) (1) “Pier” means any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure.~~

~~(2) “Pier” does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.~~

~~[(i)] (J) “Person” means any natural person, partnership, joint stock company, unincorporated association or society, the federal government, the State, any unit of the State, a political subdivision, or other corporation of any type.~~

~~[(j)] (K) (1) “Private wetlands” means any land not considered “State wetland” bordering on or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth.~~

~~(2) “Private wetlands” includes wetlands, transferred by the State by a valid grant, lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights, to the extent of the interest transferred.~~

~~[(k)](L)~~ (1) ~~“Public notice” means the public notice and public informational hearing procedures established in § 5-204(b) through (e) of this article.~~

~~(2) “Public notice” does not mean notice as provided for in § 16-303 of this title.~~

~~[(l)](M)~~ ~~“Regular or periodic tidal action” means the rise and fall of the sea produced by the attraction of the sun and moon uninfluenced by wind or any other circumstance.~~

~~[(m)](N)~~ ~~“Secretary” means the Secretary of the Environment.~~

~~[(n)](O)~~ ~~“State wetlands” means any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. Wetlands of this category which have been transferred by the State by valid grant, lease, patent or grant confirmed by Article 5 of the Maryland Declaration of Rights shall be considered “private wetland” to the extent of the interest transferred.~~

~~16-106.~~

~~(A) FOR ALL PERMITS ISSUED UNDER THIS TITLE, IF A PERMIT APPLICANT IS A LICENSED MARINE CONTRACTOR, THE DEPARTMENT SHALL:~~

~~(1) PROVIDE A MECHANISM TO TRACK THE STATUS OF THE DEPARTMENT’S REVIEW OF THE PERMIT APPLICATION ON THE DEPARTMENT’S WEBSITE; AND~~

~~(2) ON OR BEFORE 30 DAYS AFTER RECEIVING THE APPLICATION, MAKE A FINAL DECISION ON THE PERMIT APPLICATION.~~

~~(B) (1) THE DEPARTMENT SHALL EXEMPT A LICENSED MARINE CONTRACTOR FROM THE PERMITTING REQUIREMENTS UNDER THIS TITLE FOR A PROJECT THAT THE DEPARTMENT DESIGNATES FOR EXEMPTION BASED ON THE NEGLIGIBLE IMPACT THE PROJECT WILL HAVE ON THE WETLANDS IN WHICH THE PROJECT IS LOCATED.~~

~~(2) TO CARRY OUT THE REQUIREMENT IN PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL ADOPT EVALUATION CRITERIA BY REGULATION AFTER CONSULTATION WITH THE MARYLAND MARINE CONTRACTORS ASSOCIATION THAT THE DEPARTMENT WILL USE TO DETERMINE WHETHER OR NOT A PARTICULAR PROJECT WILL HAVE A NEGLIGIBLE IMPACT ON THE WETLANDS IN WHICH THE PROJECT IS LOCATED.~~

~~16-107.~~

~~A LICENSED MARINE CONTRACTOR SHALL BE IMMUNE FROM CIVIL LIABILITY ARISING FROM A PROJECT TO STABILIZE NATURAL SHORELINE IF THE PROJECT WAS ISSUED A PERMIT BY THE DEPARTMENT UNDER THIS TITLE.~~

~~16-108.~~

~~(A) A PERSON THAT UNDERTAKES OR AUTHORIZES AN ACTIVITY THAT REQUIRES A PERMIT UNDER THIS TITLE SHALL:~~

~~(1) HIRE A LICENSED MARINE CONTRACTOR TO DO THE WORK;~~
~~OR~~

~~(2) CONSULT WITH A LICENSED MARINE CONTRACTOR BEFORE DOING THE WORK.~~

~~(B) A PERSON THAT VIOLATES SUBSECTION (A) OF THIS SECTION SHALL BE SUBJECT TO AN ADMINISTRATIVE FINE NOT EXCEEDING:~~

- ~~(1) \$500 FOR A FIRST VIOLATION;~~
- ~~(2) \$1,000 FOR A SECOND VIOLATION; AND~~
- ~~(3) \$5,000 FOR A THIRD OR SUBSEQUENT VIOLATION, NOT EXCEEDING \$25,000 TOTAL.~~

~~(C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) On or before December 31, 2010, all marine contractors performing marine contractor services in the State or soliciting to perform marine contractor services in the State shall:

- (i) Register with the Department of the Environment; and
- (ii) Pay a \$300 registration fee.

(2) The registration required under paragraph (1) of this subsection shall expire on December 31, 2011, unless extended by an action of the Board.

(b) After December 31, 2010, any marine contractor that fails to register with the Department may not perform or solicit to perform marine contractor services in

the State and shall be subject to the penalties established in § 17-403 of the Environment Article, as enacted by Section 1 of this Act.

(c) For the initial three licensed marine contractor members required to be appointed to the Marine Contractors Licensing Board in accordance with § 17-202 of the Environment Article, as enacted by Section 1 of this Act, the Department shall select marine contractors from the list of the registrants compiled under subsection (a) of this section for recommendation to the Governor for appointment to the Board.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.