

***MARINE CONTRACTORS LICENSING BOARD***

***c/o Maryland Department of the Environment***

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**MARINE CONTRACTORS LICENSING BOARD**

**DRAFT Meeting Minutes – MARCH 13, 2023**

**Location:** Virtual Meeting via Google Meet

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| **BOARD MEMBERS PRESENT**  Milton Rehbein, Chairman, Northern MD Rep  Chris McCabe, Vice Chairman  Tammy Roberson, MDE Rep  Bob Murtha, SoMD Rep  Josh Schleupner, Eastern Shore Rep  Doug Suess, At Large Rep  Lester ‘Kelly’ Wright, DNR Rep | **OTHERS PRESENT**  Mike Eisner, Board Administrator  Brandon Weems, Director/President of the Maryland Marine Contractors Association (M.M.C.A.)  , |

**CALL TO ORDER**

The meeting was called to order by the Board’s Chairman at 10:01 am using the virtual platform Google Meet. All Board members were present, as well as the Board’s administrator, Board Counsel and Brandon Weems, Director of the Maryland Marine Contractors Association.

**AGENDA REVIEW**

The Board reviewed and approved the agenda for the meeting which included: an update of licensing activities and finances, update on training Module 2 and discussion of draft regulations (dated March 3, 2023).

**REVIEW OF PRIOR MEETING MINUTES**

Board Members reviewed and approved the draft meeting minutes from January 9, 2023.

**OLD BUSINESS**

**Board Activities and Financial/Budget Report**

The Board Administrator gave an overview of licensing activities. There were 99 Annual renewal notices sent for licenses expiring December 31, 2022. Of these 84 licenses were renewed, and 10 did not renew. Four of these ten did not respond to renewal notices and six gave notice that they would not renew. It was found that five of these 99 had the wrong expiration date and expire December 31, 2023.

In 2023 there are 36 licenses, termed ‘Periodic’, that will renew throughout 2023. To date, applications have been mailed to 17 licensees. Of these 4 renewals have been issued, and 2 need to correct their Certificate of Insurance.

We continue to receive about 1-2 new license applications per month. Testing for new license applicants continues to be virtual. The test is emailed to the applicant on the day and at the time requested. They then have 24 hours to email their exam back to the Board’s Administrator.

Board Finances: The Board’s Administrator gave an update of the Board’s present income/expense status. The Administrator had not received a financial update since September 30, 2022. To summarize, the fund balance at the beginning of Fiscal year 2023 was $187,824. The total adjusted fund balance through September 30, 2022, was $174,138. It can be stated revenue accrued to date from the 84 Annual licenses renewed and the 6 Periodic renewal licenses at $550/license, equates to an additional $49,500 since the September 30, 2022 financial statement. In summary, the Board’s financial status is sound.

Module 2 Update: Funding in the amount of $5000 has been allocated for a second training module and maintenance of the existing MCLB ‘Safety Training.’ This money is allocated for the second half of FY2023 (January - June 2023). The intention is to finish this project by June 30, 2023. However, it should be noted that money not used will be rolled over into the next fiscal year. One important enhancement planned with this funding is a ‘password reset’ for the current MCLB training modules. MES is contracted to do this work.

There was follow-up discussion of potential topics for Module 2. In earlier Board meetings the idea suggested was that Module 2 be in essence a continuation of the recently completed Tidal Wetlands Authorization training module. Specifically, it would be a detailed presentation on the specifics of Tidal Wetlands authorizations for selected activities. For example, activities such as living shoreline creation, revetments, dredging and pier work will each have a detailed look at what is needed in their application, plans, and is involved in their review. The Board voted and approved this topic for training Module 2.

The work creating the power point for the Module 2 training will be done by MDE Tidal Wetland staff in cooperation with the Board’s Administrator. It is likely that MDE’s professional staff videographer will be able to assist in design and production aspects of this project. MES will then be contracted to put the training online.

There was a follow up discussion of other potential training topics that would be useful for licensees. In January’s meeting barge safety and an exploration of materials used in marine construction were suggested. Since that time the Board’s Administrator learned that OSHA has courses online in general construction and barge safety. There are about 40 courses in construction providing one to six hours of credit. The barge safety class credits 6 hours of education. The barge safety course is geared towards larger scale projects. Training certificates can be printed after taking these classes. The list of suggested classes available to marine contractors will be updated with this information. Other suggested topics for training include updates on regulation changes and on emergency marine construction repairs. These activities need to move forward quicky but must be done properly.

The Board Chairman asked if there will be in person opportunities for classes. MDE’s representative stated that they are planning to partner with DNR and the Chesapeake and Coastal Service (CCS) unit of DNR to develop a workshop. This is projected for early May, with the agenda still to be developed. It was stated that workshops are great, but not everyone who could benefit can attend. Hence the usefulness of online class development.

**NEW BUSINESS**

**Review and Discussion of Draft Regulations dated March 3, 2023**

1. **Definitions**. **(26.08.01.01)**

‘Marine contractor services.’ As now drafted, means work done ‘in, on, or under State or private tidal wetlands.’ It was stated that the Board was told that ‘over’ could be put back in when the regulations were drafted. The context of removing the requirement for licensing for work ‘over’ the water was specific to large commercial projects like bridge work. It was suggested that a marine contractor license should be required for all residential projects above the mean high water line.

‘Similar contractor experience.’ It was stated there is nothing ‘similar’ to the type of work performed on the water, to work done on land. For example, a contractor building a concrete bulkhead on land doesn’t have to worry about a high tide overrunning the project. It was suggested that work in saturated soils in non-tidal environments can be ‘similar’ to work done in tidal environments. There was agreement on this point.

1. **Exemptions.**  (26.08.01.02)

Within this, # (2) allows a residential or commercial property owner to do the marine contractor construction work, on their property, without a license. It was suggested that the language needs to be tightened so that a property owner can’t think that a general contractor can be hired to do the work instead of a licensed marine contractor.

1. **License Categories.**  **(26.28.01.04)**

Many activities are missing from the work activities listed in the three categories. For example, common activities like beach nourishment and soil boring need Board consensus on the appropriate category.

License Categories need to be better defined. There was a discussion of Category 1 (Heavy Marine) and Category 2 (Medium Marine). Specifically, revetments and Sills can be similar in scale of work. The type of equipment needed for a project is related to the size of stone. The size of stone is then related to the tidal environment. For example, backwaters versus projects facing Chesapeake Bay. Residential revetments don’t necessarily use large scale stone, and revetments are in Category 1. Suggestion was made to base the Category on the size of stone used. A concern raised: What if a contractor quotes a job with smaller material so that they would qualify to do the work? Related issue is neither the size of stone, nor an engineered plan specifying the size of stone is required for MDE authorizations. It was stated that local jurisdictions may require information such as size of stone. It was shared that in Baltimore County an engineered plan is only required for commercial projects. The question was raised as to where to put groins.

Suggestion: Can type of equipment be a factor in category designation?

Suggestion: Can the cost of the project be a factor in category designation?

Suggestion: Have activity specific (specialty) licenses for work such as installing boat lifts, and geotechnical work such as directional boring, and soil boring.

The DNR representative stated that they see mostly larger projects. They typically don’t see living shorelines. This is typically handled by the Chesapeake and Coastal Service (CCS) unit of DNR. The DNR representative further stated that they want to see every type of marine contractor work activity - required to have a marine contractor license.

1. **Application Procedures. (26.08.02.01**)

There was a discussion on the need to have more specifics of an applicant’s work history/qualifications with application submission. Potential types of documentation was discussed. In addition to W-2’s, submission of letters of recommendation and documentation from their employer(s) with specifics of work performed. It was stated a person can submit a W-2 showing employment from a licensed contractor, without having performed hands-on construction.

A person applying needs certain qualifications. Information needed is specifics of the actual work they did on jobs they list on their application. An employer checkoff form was suggested that would directly list work done by the applicant. The practical issue was raised of the ability of an applicant to go back to an employer to gather such documentation.

Documentation of experience an applicant has with equipment used in marine construction was also suggested. It was stated that equipment used is based on scale of work activity performed.

It was stated and agreed that an apprenticeship program is an appropriate model for getting experience and then having the documentation.

There was a discussion of license category and required experience. Should the requirements for licensure be based on license category? Could the two year minimum marine contractor work experience be the minimum for Category 3, and more requirements for a higher license category? Ideas suggested were more education required for an applicant, and recommendations and evaluation from peers and PE’s.

It was suggested that tests be developed specific to the license category.

It was stated that we are moving in the right direction with these regulations. However, more specificity is needed in the license categories, and in the method of determining from an application, if an applicant is deemed qualified to perform the work of a specific license category. When someone leaves an employer, they may or not be qualified even though they have W-2’s documenting the years of employment. Are they knowledgeable on types of materials used in marine construction, types of equipment to use, and have practical experience to know when they get failure or refusal on piles or sheet piles.

It was stated that getting a MHIC License is accompanied with learning basic business skills including requirements for a contract. It was suggested that a MHIC license be required for marine contractors. However, it was suggested that the Board does not have a mandate to train applicants, but to evaluate their merits for licensure. The goal is to have skilled marine contractors able to service homeowners using appropriate materials and construction techniques so that jobs can withstand the dynamics of water currents, and issues such as scour and fetch in the tidal environment.

**Comments by (M.M.C.A.) President on Draft Regulations**. The focus of this trade association is on residential marine projects such as revetments, piers and living shorelines at the residential level. It was suggested that focus on Category 3 is most important and the lines of distinction between the categories is clear. There are work activities appropriate for Category 3 that aren’t listed. The M.M.C.A. is willing to help with activity and category assignment. The M.M.C.A. agrees with the value of credentials and this message is given to their members. The association agrees with having MHIC be a prerequisite for having a Marine Contractor License, and that maintaining a MHIC is a recommendation given to their members.

**Other New Business**

No new business was brought up.

**ADJOURNMENT**

The Board voted and approved adjournment at 11:03 am. The next monthly Board meeting is scheduled for April 10, 2023, at 10 AM. The intention is to have the next meeting in person.