

This chart is a side by side comparison of a proposed redraft of the BPW's State Tidal Wetland Regulations to the current regulations.

Questions and Comments regarding this proposed redraft may be submitted by email to:
bill.morgante@maryland.gov

Please include "WETLAND REGS" in the subject line of the email.

The deadline to submit coments is February 14, 2020.

KEY to Draft (Compares Draft to Current)
Unchanged Line Compared to Current Regs
Lines Differ
New Line (ie, Line not in Current Regs)

Key to Current Regs
Line Removed from Current Regs in Proposed Redraft
Original Text

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
.01				Purpose.	.01				Purpose.
.01	A			The purpose of this chapter is to advance the best interest of the State with respect to State tidal wetlands, including preserving the rights of riparian owners.	.01	A			This chapter describes the procedures used by the Board of Public Works to serve the rights of riparian landowners and the interests and rights of the general public in State tidal wetlands. The instrument used, a wetlands license, is the authorization issued by the Board of Public Works under Environment Article, Title 16, Annotated Code of Maryland, for the performance of dredging, filling, the construction of structures, or the conduct of certain other activities on land and waters of the State which are tidal wetlands. It is the legal and binding instrument through which a riparian landowner may exercise riparian rights over, on, in, or under State wetlands, including obtaining access to tidal waters and protecting upland from shore erosion. A license authorizes construction during a specified period and sanctions the licensed use of State lands and waters. A license does not convey ownership of lands below the mean high water line or tidal waters of the State or the affected air space, or diminish the full and free use and enjoyment of the tidal waters of the State by the public.
.01	B			The State holds State tidal wetlands in both a proprietary capacity and in sovereign trust for the benefit of the people of Maryland. In determining whether to issue a State tidal wetlands license, the Board of Public Works has the same discretion that any owner has in deciding whether to grant to another an interest in the owner's property.					
				[see IWG Draft .01C]	.01	B	(1)		Public interests are the demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action or activity involving State wetlands, and which would exceed all demonstrable environmental, social, and economic costs of the proposed action or activity.
				[see IWG Draft .01C]	.01	B	(2)		In determining the public interest in a request for a private use, structure, or activity over, on, in, or under State wetlands or severance of materials from State wetlands, the Board of Public Works shall consider the ultimate project and beneficial purposes to be served.
				[see IWG Draft .01C]	.01	B	(3)		Public interests include, among others:
				[see IWG Draft .01C]	.01	B	(3) (a)		The preservation of tidal wetlands;
				[see IWG Draft .01C]	.01	B	(3) (b)		The conservation of natural values and living resources;
				[see IWG Draft .01C]	.01	B	(3) (c)		Fishing and crabbing;
				[see IWG Draft .01C]	.01	B	(3) (d)		Navigational needs;
				[see IWG Draft .01C]	.01	B	(3) (e)		Water access and related recreation; and
				[see IWG Draft .01C]	.01	B	(3) (f)		Maritime commerce.
					.01	C			The regulations of the Department of the Environment pertaining to tidal wetlands are found under COMAR 26.24.
.02				Scope.	.02				Scope.
.02	A			This Chapter sets forth the procedures of the Board of Public Works for the licensing of all dredging, filling, or altering of State tidal wetlands. This includes the construction, reconstruction, or repair of structures, or of nonstructural shoreline stabilization measures, on State tidal wetlands.	.02	A			This chapter sets forth the State tidal wetlands licensing procedures of the Board of Public Works and applies to all dredging, filling, or altering of State wetlands, and to the construction, reconstruction, or repair of structures on State wetlands, except:
.02	B			A license issued under this Chapter does not convey ownership of lands, the affected air space, or diminish the full and free use and enjoyment by the public of the tidal waters of the State.					[see Current .01A]

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
.01	C			This Chapter does not change the title to submerged lands conveyed to private owners by the State or its predecessors	.02	C			Provisions of this chapter do not change the title to submerged lands conveyed to private owners by the State or its legal predecessors.
.01	D			This Chapter does not set forth the complete range of Board of Public Works fiduciary and proprietary responsibilities relating to private uses of State wetlands. The Board of Public Works may, among other things, address these matters through easement, lease, deed, or other instrument to protect the State's interests or to convey an interest in State wetlands.	.01	D			It is not the intent of this chapter to address fully the range of fiduciary and proprietary responsibilities of the Board of Public Works relating to private uses of State wetlands. These matters may be considered by the Board of Public Works through easement, lease, quit-claim deed, or other instrument to protect the State's interests or to convey an interest in State wetlands.
.03				Definitions.	.03				Definitions.
.03	A			In this Chapter, the following words have the meanings indicated.	.03	A			Terms defined in Environment Article, §16-101, Annotated Code of Maryland, and under COMAR 26.24, have the same meaning in these regulations. If not defined in this chapter, in the Environment Article, or under COMAR 26.24, a term has the meaning attributed by common use.
.03	B			Terms Defined.	.03	B			Terms Defined.
.03	B	(1)		"Administrator" means the Wetlands Administrator for the Board of Public Works.	.03	B	(1)		"Administrator" means the State Wetlands Administrator for the Board of Public Works having ministerial duties prescribed by the Board and in this chapter.
.03	B	(2)		"Board" means the Maryland Board of Public Works.	.03	B	(2)		"Board" means the State Board of Public Works.
.03	B	(3)		"Critical area" means the Chesapeake Bay Critical Area, including all waters and lands designated under Natural Resources Article, §8-1807, Annotated Code of Maryland, consisting of waters of and lands under the Chesapeake Bay and its tributaries to the head of the tide as indicated on the State wetland boundary maps, and all State and private wetland designated under Environment Article, Title 16, and all land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands, and the heads of tides designated under Environment Article, Title 16, except developed, urban areas excluded by a local jurisdiction under a State-approved local critical area program.	.03	B	(3)		"Critical area" means the Chesapeake Bay Critical Area, including all waters and lands designated under Natural Resources Article, §8-1807, Annotated Code of Maryland, consisting of waters of and lands under the Chesapeake Bay and its tributaries to the head of the tide as indicated on the State wetland boundary maps, and all State and private wetland designated under Environment Article, Title 16, and all land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands, and the heads of tides designated under Environment Article, Title 16, except developed, urban areas excluded by a local jurisdiction under a State-approved local critical area program.
.03	B	(4)		"Department" means the Maryland Department of the Environment.	.03	B	(4)		"Department" means the Department of the Environment.
.03	B	(5)		"Dredging" means the removal or displacement by any means of soil, sand, gravel, shells, or other materials, whether or not of intrinsic value, from any State or private tidal wetlands.	.03	B	(5)		"Dredging" means the removal or displacement by any means of soil, sand, gravel, shells, or other materials, whether or not of intrinsic value, from any State or private tidal wetlands.
.03	B	(6)		"Enhancement" means the rehabilitation of a degraded wetland site by manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve a specific function(s) or for a purpose such as water quality improvement, flood water retention or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland function, but does not result in a gain in wetland acres.					
.03	B	(7)		Filling.	.03	B	(7)		Filling.
.03	B	(7)	(a)	"Filling" means the:	.03	B	(7)	(a)	"Filling" means the:
.03	B	(7)	(a)	(i) Displacement of tidal water by depositing into State or private wetlands soil, sand, gravel, shells, or other materials, including pilings, piers, and other structures;	.03	B	(7)	(a)	(i) Displacement of tidal water by the depositing into State or private wetlands of soil, sand, gravel, shells, or other materials, including pilings, piers, boathouses, deadweights, stone, or broken concrete;
.03	B	(7)	(a)	(ii) Artificial alteration of tidal water levels by any physical structure, drainage ditch, or otherwise; or	.03	B	(7)	(a)	(ii) Artificial alteration of tidal water levels by any physical structure, drainage ditch, or otherwise; or
.03	B	(7)	(a)	(iii) Storm drainage projects that flow directly into tidal waters of the State.	.03	B	(7)	(a)	(iii) Storm drainage projects which flow directly into tidal waters of the State.

Proposed Draft Regulation					Current Regulation						
Reference		Language			Reference		Language				
.03	B	(7)	(b)		"Filling" does not include:	.03	B	(7)	(b)		"Filling" does not include:
.03	B	(7)	(b)	(i)	Drainage of agricultural land;	.03	B	(7)	(b)	(i)	Drainage of agricultural land;
.03	B	(7)	(b)	(ii)	In-place replacement or repair of functional shore erosion control structures using substantially similar materials and construction design; or	.03	B	(7)	(b)	(ii)	In-place replacement or repair of functional shore erosion control structures using substantially similar materials and construction design;
.03	B	(7)	(b)	(iii)	Planting of wetlands vegetation when no grading or fill in State or private wetlands is necessary.	.03	B	(7)	(b)	(iii)	Planting of wetlands vegetation when no grading or fill in State or private wetlands is necessary; or
					[see Draft .04E(8)]	.03	B	(7)	(b)	(iv)	Marking channels and harbors and establishing aids to navigation if approval has been granted by the U. S. Coast Guard.
.03	B	(8)			"Interested Person" means an owner of a riparian property contiguous to a parcel for which there is a licensing proceeding, or an individual that comments on, requests hearings, or makes inquiries about the licensing proceeding.						
.03	B	(9)			"License" means written authorization by the Board under Environment Article, §16-202, Annotated Code of Maryland, to dredge, fill, construct structures, or conduct certain other activities involving State tidal wetlands.	.03	B	(8)			"License" means written authorization by the Board of Public Works under Environment Article, §16-202, Annotated Code of Maryland, to dredge, fill, construct structures, or conduct certain other activities involving State tidal wetlands.
.03	B	(10)			"Licensee" means a person to whom the Department issues a general wetlands license or the Board issues an individual or emergency State tidal wetlands license.	.03	B	(9)			"Licensee" means a person to whom the Department issues a general wetlands license or the board issues an individual or expedited State wetlands license.
.03	B	(11)			"Living shoreline" means an approach that uses plants and sand, rock, or other natural materials to protect the shoreline and to create, maintain, or enhance habitat.						
.03	B	(12)			"Maintenance dredging" means dredging an area previously dredged under a Board- or Department-issued license for the purpose of maintaining the area's functional navigation channel, marina, or mooring basin.						
.03	B	(13)			"Mean high water" means the average of all the high water levels observed over the national tidal datum epoch.						
						.03	B	(10)			Mean High Water Line.
.03	B	(14)			"Mean high water line" means the line where the land meets the water surface at the elevation of mean high water.	.03	B	(10)	(a)		"Mean high water line" means the line where the land meets the water surface at the elevation of mean high water.
						.03	B	(10)	(b)		"Mean high water line" along the shore of land immediately bordering on State wetlands means the boundary between the tidal wetlands owned by the State in its sovereign capacity and the upland or private tidal wetlands subject to private ownership.
.03	B	(15)			"Mean low water" means the average of all the low water levels observed over the national tidal datum epoch.						
.03	B	(16)			"Mitigation" means offsetting loss or damage to State tidal wetlands due to licensed activity by creating new State tidal wetlands or restoring or enhancing existing State tidal wetlands.	.03	B	(11)			"Mitigation" means the creation, restoration, or enhancement of tidal wetlands lost or damaged due to dredging or filling.
.03	B	(16)	(a)		"In-kind" means having characteristics closely approximating the original characteristics, including those of a vegetated tidal wetland before that wetland was adversely impacted.						
.03	B	(16)	(b)		"Out-of-kind" means having characteristics not closely approximating those of a tidal wetland before that wetland was adversely impacted.						
.03	B	(17)			"Nonstructural shoreline stabilization measure" means an erosion control measure that is dominated by tidal wetland vegetation and is designed to preserve the natural shoreline, minimize erosion, and establish aquatic habitat; it includes a living shoreline.						

Proposed Draft Regulation					Current Regulation				
Reference			Language		Reference			Language	
.03	B	(18)							
.03	B	(18)	(a)						
.03	B	(18)	(a)	(i)					
.03	B	(18)	(a)	(ii)					
.03	B	(18)	(a)	(iii)					
.03	B	(18)	(a)	(iv)					
.03	B	(18)	(a)	(v)					
.03	B	(18)	(b)						
.03	B	(18)	(b)	(i)					
.03	B	(18)	(b)	(ii)					
.03	B	(18)	(b)	(iii)					
.03	B	(19)			.03	B	(12)		
.03	B	(20)							
.03	B	(20)	(a)						
.03	B	(20)	(b)						
.03	B	(20)	(c)						
.03	B	(20)	(d)						
.03	B	(21)			.03	B	(13)		
.03	B	(22)							
.03	B	(23)							
.03	B	(24)			.03	B	(14)		
.03	B	(24)	(a)		.03	B	(14)	(a)	
.03	B	(24)	(b)		.03	B	(14)	(b)	

Proposed Draft Regulation					Current Regulation					
Reference			Language		Reference			Language		
.03	B	(24)	(c)		Tidal waters created by the excavation of fast land unless conveyed to the State.	.03	B	(14)	(c)	Tidal waters created by the excavation of upland unless conveyed to the State.
						.03	B	(15)		Residential Spur Dredging Project.
						.03	B	(15)	(b)	"Residential spur dredging project" includes a project in which the license application is submitted after the authorization of the main channel dredging project.
.03	B	(25)			"Restoration" means reestablishment of tidal wetlands on former tidal wetland sites by manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions. Restoration results in rebuilding a former wetland and in a gain in wetland acres.					
						.03	B	(16)		"Revetment" means an assemblage of stones or broken concrete placed to prevent shore erosion, fortify a bulkhead, or stabilize an embankment.
						.03	B	(17)		"Riparian landowner" means a property owner whose land borders on tidal wetlands or waters of the State.
.03	B	(26)			"Riparian rights" means a bundle of rights that derive from the physical relationship of a body of water to the land abutting it.	.03	B	(18)		"Riparian rights" means the rights of an owner of land bordering on tidal wetlands or waters of the State as recognized by Environment Article, Title 16, Annotated Code of Maryland.
.03	B	(27)			"Riprap" means intentionally placed rock or other durable materials such as rubble or pre-formed concrete shapes, used to armor both shorelines, channels, and other natural features as well as pilings and other structures, against scour, and water or ice erosion. Structures that may be constructed of riprap include revetments, embankments, groins, and breakwaters.					
.03	B	(28)			"State tidal 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 that have been transferred by the State by valid grant, lease, patent or grant confirmed by Article 5 of the Maryland Declaration of Rights are "private wetlands" to the extent of the interest transferred. The landward boundary of State tidal wetlands is coterminous with the mean high water line; the seaward boundary is 3 miles from the low water mark of the Atlantic coast.	.03	B	(19)		"State tidal 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. Tidal wetlands of this category which have been transferred by the State by valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights are considered "private tidal wetlands" to the extent of the interest transferred.
.03	B	(29)			"Structure" means something that is built or constructed, temporarily or permanently, including a boathouse, breakwater, bulkhead, drainage ditch, groin, pier, revetment, sills, tidal impoundment dike, transmission facility, or water control structure.					
						.03	B	(20)		"Substantial destruction" means works beyond those reasonably necessary for the exercise of riparian rights and adversely affecting State wetlands.
						.03	B	(21)		"Substantial reconfiguration" means works including, but not limited to, new or maintenance dredging or repositioning of structures, intended to upgrade or refurbish a marina when the works affect more than 1/3 the available boat slips or water area at a marina, whether the works are intended to or would permit a change in the number of slips.
.03	B	(30)			"Trenchless Technology" means subsurface construction work including horizontal directional drilling, microtunneling, and other similar technologies, used to install underground infrastructure, such as below-ground pipelines and cables.					
.03	B	(31)			"Upland" means any area that does not qualify as a tidal or nontidal wetland.					
.04					License Requirement.	.04				Delegation and License Requirements.

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
.04	A			A person may not conduct the following activities over, on, in or under State tidal wetlands without a license except as provided for in Section E of this regulation:	.04	B			Exceptions. Except as provided in Regulation .02A of this chapter, in COMAR 26.24, and under the delegation granted to the Department under §A of this regulation, a person may not:
.04	A	(1)		Dredge;	.04	B	(1)		Dredge;
.04	A	(2)		Fill;	.04	B	(2)		Fill;
				[see Draft .04A(3)]	.04	B	(3)		Construct, reconstruct, or repair structures;
					.04	B	(4)		Conduct certain other activities over, on, in, or under State tidal wetlands; or
.04	A	(3)		Construct, reconstruct, repair, or altering structures, trestles, conduit, cables, pipelines, intake or discharge pipes, or similar devices or apparatuses;	.04	C			The construction, reconstruction, alteration, or addition to any conduit, cable, pipeline, intake or discharge pipe, trestle, or other similar device, structure, or apparatus, over, on, in, or under tidal wetlands or waters of the State requires a license.
.04	A	(4)		Construct a shore erosion control project, including a living shoreline; or					
.04	A	(5)		Otherwise alter State Tidal Wetlands.	.04	B	(5)		Alter State tidal wetlands without a license issued by the Board.
.04	B			The Board may issue a State tidal wetlands license to:	.04	D			A person applying for a license shall be the riparian landowner of upland adjoining the affected area of State wetlands, an agent of the riparian landowner, the State, any unit of the State, a public service company, a municipality, or a political subdivision.
.04	B	(1)		The owner of the riparian rights associated with the affected State tidal wetlands;					[see Current .04D]
.04	B	(2)		the State, any unit of the State, or the federal government;					[see Current .04D]
.04	B	(3)		a political subdivision;					[see Current .04D]
.04	B	(4)		a public service company; or					[see Current .04D]
.04	B	(5)		an individual who seeks to obtain soil borings, sediment borings or samples for research purposes.					
				[no general provision; rather, specific provisions for specific license types]	.04	E			Application for a license shall be filed in accordance with COMAR 26.24 on a form and with supportive information prescribed by the Department.
					.04	F			A proposed structure or activity within a critical area shall comply with the local critical area program as approved by the State Critical Area Commission and with any applicable criteria.
					.04	G			Obtaining Approval.
.04	C			Any person eligible to apply for a license under Section B above may do so through the use of an agent. Any reference to "applicant" or "licensee" in this Chapter includes an agent of the eligible person.					
.04	D			The issuance of a State tidal wetlands license does not relieve the licensee from obtaining other approvals and permits that may be required including, a U.S. Army Corps of Engineers permit, water quality certification, coastal zone consistency certification, and other State and local approvals and permits.	.04	G	(1)		Obtaining approval under this chapter and Environment Article, §16-202, Annotated Code of Maryland, does not relieve the licensee from obtaining other approvals and permits that may be required including, but not limited to, a U.S. Army Corps of Engineers permit, water quality certification, coastal zone consistency certification, other State approvals and permits, and county or municipal building permit.
					.04	G	(2)		Whenever possible, an applicant should obtain approvals according to the following order:
					.04	G	(2)	(a)	Obtain county or municipal approvals up to the building permit stage;
					.04	G	(2)	(b)	Apply concurrently to the U. S. Army Corps of Engineers and the Department using a joint federal and State application form;
					.04	G	(2)	(c)	Obtain the general tidal wetlands license from the Department or the State wetlands license from the Board;

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
					.04	G	(2)	(d)	Obtain the U. S. Army Corps of Engineers permit; and
					.04	G	(2)	(e)	Obtain the building permit from the county or municipality.
.04	E			Activities Not Requiring a License. A person may conduct the following activities over, on, in, or under State tidal wetlands without a license issued by the Board:					[see Current .02A]
.04	E	(1)		Private noncommercial piers when the property owner provides 10-day notice to the Department on a Department-approved form and meets the following criteria:	.02	A	(7)		Private piers that meet the criteria in COMAR 26.24;
.04	E	(1)	(a)	Only one pier per property;					
.04	E	(1)	(b)	Pier is not wider than 6 feet;					
.04	E	(1)	(c)	Piers over vegetated tidal wetlands are at least 3 feet above the wetlands;					
.04	E	(1)	(d)	Fixed or floating platforms, including Ts, Ls, and step-down platforms that:					
.04	E	(1)	(d)	(i) Do not exceed 200 square feet, excluding the segment of the main pier section to which the platform is attached;					
.04	E	(1)	(d)	(ii) Are not located over vegetated tidal wetlands or submerged aquatic vegetation; and					
.04	E	(1)	(d)	(iii) Are located in at least 2 feet at mean low water.					
.04	E	(1)	(e)	No more than two 3-foot wide finger piers may be constructed on the landward side of the end of a private pier;					
.04	E	(1)	(f)	Pier does not extend within 100 feet of a Department-approved water-ski course;					
.04	E	(1)	(g)	Pier does not extend beyond the lesser of 100 feet channelward of the mean high water line or a distance of 25 percent of the waterway width;					
.04	E	(1)	(h)	Meets property line setback requirements established by the political subdivision;					
.04	E	(1)	(i)	Pier does not impede navigation or block adjoining properties from ingress and egress;					
.04	E	(1)	(j)	Pier does not obstruct the tidal flow;					
.04	E	(1)	(k)	Pier does not include more than four slips, lifts or hoists; and					
.04	E	(1)	(l)	Pier does not extend within 500 feet of an approved aquaculture lease site.					
.04	E	(2)		Maintaining, repairing, or replacing an existing functional structure by a licensed marine contractor or property owner when there is no increase in the original length, width, height, or channelward encroachment	.02	A	(5)		Routine maintenance, repair, or replacement of a highway structure, pier, boathouse, a structure on a pier, bulkhead, revetment, tidal impoundment dike, water control structure, aboveground transmission facility, agricultural drainage ditch, or highway drainage ditch when the existing structure is functional and there is no increase in the original length, width, height, or channelward encroachment;
.04	E	(3)		Dredging seafood products by a licensed aquaculture operator, harvesting submerged aquatic vegetation if the root system is not affected, and harvesting of seaweed.	.02	A	(1)		Dredging of seafood products by any licensed operator including normal leased bottom activities permitted under Natural Resources Article, Title 4, Subtitle 11A, Annotated Code of Maryland, and COMAR 08.02.08.12, or the harvesting of submerged aquatic vegetation if the root system is not affected;
.04	E	(4)		Trapping, hunting, fishing, cultivating or harvesting shellfish when legally permitted.	.02	A	(2)		Trapping, hunting, fishing, and catching shellfish, if legally permitted;
.04	E	(5)		Aquaculture activities occurring under a Department of Natural Resources lease.					
.04	E	(6)		Mosquito control and abatement projects approved by the Department of Agriculture.	.02	A	(3)		Mosquito control and abatement projects as approved by the Department of Agriculture;
.04	E	(7)		Improving wildlife habitat or agricultural drainage ditches if approved by the appropriate State agency.	.02	A	(4)		Improvement of agricultural drainage ditches as approved by the Department of Agriculture;
.04	E	(8)		Marking channels and harbors and establishing navigation aids approved by the U. S. Coast Guard and the Department of Natural Resources.	.02	A	(6)		Channel and harbor navigation aids, if approval has been granted by the U. S. Coast Guard;

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Reference			Language	
.04	E	(9)		Controlling invasive plant species through the application of pesticides when authorized by a toxic materials permit under COMAR 26.08.03.02.
.04	E	(10)		Installing bass spawning boxes outside of marked navigation channels.
				[See Draft .03B(28)]
.05				Delegation to the Department.
.05	A			The Board delegates to the Department the authority to grant, deny, or grant with conditions a State tidal wetlands general license for the following activities:
.05	A	(1)		Except for applications for nonwater-dependent projects under ENV §16-104, constructing pilings, fixed or floating private, non-commercial piers and platforms that are not exempt from licensure under Regulation .04E(1),
.05	A	(2)		Constructing a revetment by placing riprap for shore erosion control only when it is no more than:
.05	A	(2)	(a)	500 feet in length parallel to the shoreline, and
.05	A	(2)	(b)	10 feet channelward of the mean high water line;
.05	A	(3)		Filling or constructing a non-riprap shore erosion control structure when the fill area is no more than:
.05	A	(3)	(a)	300 feet in length parallel to the shoreline,
.05	A	(3)	(b)	10 feet channelward of the mean high water line;
.05	A	(4)		Bulkhead repair or replacement where the repair or replacement does not extend more than 18 inches channelward of the existing bulkhead. A general license for repair or replacement may authorize riprap placed as a revetment along the base of the bulkhead, if the riprap does not extend more than 10' channelward of the bulkhead;
				[see Draft .05A(4)]
.05	A	(5)		Filling of nearshore shallow water not more than 35 feet channelward of the mean high water line when the fill area is:
.05	A	(5)	(a)	less than 500 feet in length,
.05	A	(5)	(b)	parallel to the shoreline, and
.05	A	(5)	(c)	for the purpose of shore erosion control by vegetated tidal wetland creation;
.05	A	(6)		Maintenance dredging 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, and no submerged aquatic vegetation is present;
.05	A	(7)		Reconfiguring an existing marina when there is no dredging or increase in channelward encroachment beyond existing piers and associated structures;

Current Regulation				
Reference			Language	
.02	A	(8)		Control of exotic plant species such as phragmites australis, if a toxic materials permit under COMAR 26.08.03.02 is obtained; and
.02	A	(9)		Temporary installation of bass spawning boxes from March 1 through June 15 annually outside of marked navigation channels.
.02	B			For the purposes of this chapter, the landward boundary of State tidal wetlands is coterminous with the mean high water line. The seaward boundary is 3 miles from the low water mark of the Atlantic coast.
				[see Current .04]
.04	A			Delegation. Except for applications that meet the criteria of Environment Article, §16-104(b), Annotated Code of Maryland, the Board delegates to the Department the authority to reject, authorize, modify, condition, or deny applications for construction or replacement of pilings, fixed or floating piers, decks, walkways, boathouses, and related structures on piers in accordance with COMAR 26.24.
				[see Current .04A]
.05	A	(3)	(b)	Emplace a revetment for shore erosion control only if it is less than 500 feet in length and it is aligned not more than 10 feet channelward of the mean high water line;
				[see Current .05A(3)(b)]
				[see Current .05A(3)(b)]
.05	A	(3)	(k)	Construct a replacement bulkhead within a maximum of 18 inches channelward of a functional bulkhead.
				[see Current .05A(3)(a)]
.05	A	(3)	(a)	Add stone or broken concrete to a revetment or channelward of a bulkhead if the stone or broken concrete extends not more than 10 feet channelward of the existing structure;
.05	A	(3)	(c)	Fill nearshore shallow water not more than 35 feet channelward of the mean high water line only if the fill area is less than 500 feet in length and parallel to the upland for the purpose of shore erosion control by tidal vegetated wetland creation;
				[see Current .05A(3)(c)]
				[see Current .05A(3)(c)]
				[see Current .05A(3)(c)]
.05	A	(3)	(d)	Maintenance dredge a mooring, boat ramp, or travel lift slip with an area of 1,500 square feet or less and remove 100 cubic yards or less of material, if the licensee complies with the water quality certification required under COMAR 26.08.02;
.05	A	(3)	(e)	Reconfigure an existing marina if there is no dredging or no increase in channelward encroachment beyond existing piers and associated structures;

Proposed Draft Regulation					Current Regulation					
Reference		Language			Reference		Language			
.05	A	(8)		Constructing a private non-commercial boat ramp not more than 12 feet wide and 30 feet channelward of the mean high water line;	.05	A	(3)	(f)	Construct a boat ramp no more than 12 feet wide and 30 feet channelward of the mean high water line;	
.05	A	(9)		Reinforcing bridges or causeways when it extends less than 10 feet from the existing structure, requires no dredging, and does not impede the flow of the waterway	.05	A	(3)	(g)	Armor or strengthen bridges or causeways when the activity extends not more than 10 feet from the existing structure, requires no dredging, and does not impede the flow of the waterway;	
.05	A	(10)		Creating a new discharge of stormwater runoff when the project directly discharges to tidal waters if the drainage system extends no more than 10 feet channelward of the mean high water line and complies with stormwater regulations;	.05	A	(3)	(h)	Create a new discharge of stormwater runoff within 1,000 feet landward of the tidal wetlands boundary, if the drainage system directly discharges to tidal waters and employs stormwater control measures to manage runoff for rate and water quality according to State and local standards which include measures:	
				[see Draft .05A(10)]	.05	A	(3)	(h)	(i)	Designed to control erosive velocities to tidal waters or wetlands,
				[see Draft .05A(10)]	.05	A	(3)	(h)	(ii)	Required under COMAR 27.01 and 27.02 and a State-approved critical area program of a local jurisdiction;
.05	A	(11)		Clearing debris and windfalls from shorelines without dredging State tidal wetlands;	.05	A	(3)	(i)	Clear debris and windfalls from shorelines without dredging State tidal wetlands;	
.05	A	(12)		Installing temporary (not to exceed three years) sampling, surveying, or monitoring equipment solely for research or educational purposes where the impacted area does not exceed 10,000 square feet;	.05	A	(3)	(j)	Install temporary monitoring or research devices; and	
.05	A	(13)		Performing scientific sampling, soil borings, sediment borings, archaeological surveys, or similar activities in a total area not to exceed 10,000 square feet or exceed 10 cubic yards;						
.05	A	(14)		Installing temporary site access measures, such as wooden mats, so long as there are no changes to hydrology or grading and the impacted area does not exceed 10,000 square feet and provided the area is restored to original conditions; and						
.05	A	(15)		Intake and discharge structures associated with aquaculture activities that are not exempt from licensure under Regulation .04E(5).						
.05	B			The Department may not grant or deny a State tidal wetlands general license for a nonwater-dependent project on a pier under Regulation .07.						
.05	C			The Department may not grant or deny a State tidal wetlands general license if the activity listed in subsection A of this Regulation requires compensation under Regulation .12 or if the activity listed in subsection A of this Regulation is part of a larger project that requires an individual license under Regulation .06B(4).						
.05	D			The Board, through the Executive Secretary, may, after consultation with the Wetlands Administrator, require any project delegated to the Department to obtain an individual license.						
.05	E			The Department shall provide to the Board such reports and information as the Board may request.	.23				Reports. The Department shall provide to the Board an annual report documenting the cumulative licensed activities, and other reports and information the Board may request.	
.06				Types of Licenses.	.05				Types of Licenses.	
.06	A			General License.	.05	A			General License.	
.06	A	(1)		A general license is an authorization for the activities identified in Regulation .05A involving State tidal wetlands.	.05	A	(1)		A general license is a standing authorization, subject to periodic review and readoption by the Board, for the recurrent or minimally disruptive activities described in this regulation involving State tidal wetlands.	
.06	A	(2)		To obtain a general license, a person shall apply to the Department in accordance with the procedures in COMAR 26.24.02.04.	.05	A	(2)		To obtain a general license, a person shall apply to the Department in accordance with the procedures in COMAR 26.24.	

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
.06	A	(3)							
.06	A	(3)	(a)						
.06	A	(3)	(b)						
.06	A	(3)	(b)	(i)					
.06	A	(3)	(b)	(ii)					
.06	A	(3)	(b)	(iii)					
.06	A	(4)			.05	A	(3)		
.06	A	(4)	(a)						
.06	A	(4)	(b)						
.06	A	(4)	(b)	(i)					
.06	A	(4)	(b)	(ii)					
.06	A	(5)			.18	C			
.06	B				.05	B			
.06	B	(1)			.05	B	(1)		
.06	B	(1)	(a)						
.06	B	(1)	(b)						
.06	B	(1)	(c)						
.06	B	(2)							
					.05	B	(2)		
					.05	B	(2)	(a)	
					.05	B	(2)	(a)	(i)
					.05	B	(2)	(a)	(ii)
					.05	B	(2)	(a)	(iii)
					.05	B	(2)	(a)	(iv)
					.05	B	(2)	(a)	(v)

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
					.05	B	(2)	(b)	Extraordinary cases, as defined in Regulation .08B of this chapter, and their related information and written recommendations, which shall be presented to the Board as separate agenda items.
.06	B	(3)		An individual license is subject to public notice and an opportunity to request a public informational hearing in accordance with COMAR 26.24.01.04 and .05.					[see general provision at Current .06A]
.06	B	(4)		If any aspect of a project requires an individual license from the Board, the entire project must come to the Board, including those activities that are delegated under Regulation .05A.					[see Current .05B(1)]
.06	C			Emergency License.	.05	C			Expedited License.
.06	C	(1)		Without prior public notice, the Administrator may issue an emergency license when an emergency exists caused by an 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.	.03	B	(6)		[see Current .05C(2)] "Emergency condition" means a sudden, unforeseen occurrence caused by act of God, natural disaster, or other similar natural event or catastrophe when the health, safety, or welfare of the citizens of the State would be jeopardized by a delay in issuance of a license.
					.05	C	(1)		For the purposes of this section, "undue hardship" means an extreme financial or other hardship involving an actual, sudden loss of, or imminent danger to, real or personal riparian property, buildings, or riparian livelihood.
.06	C	(1)	(a)	The emergency license, including its period, is limited to only those activities necessary to abate or mitigate the emergency.					
.06	C	(1)	(b)	Any additional activities beyond those necessary to abate or mitigate the emergency require either a general or individual license under Sections A or B of this Regulation.					
.06	C	(2)		To obtain an emergency license a person shall apply through the Department. The initial request may be made orally. The applicant shall provide the following written information to the Department within 3 days:	.05	C	(2)		Upon assertion by the riparian landowner or applicant that an emergency condition or undue hardship exists and with a concurring written recommendation by the Department, the Administrator may issue an expedited license including all terms and conditions normally associated with the particular type of construction or activity, with subsequent public notice by the Department and affirmation or revocation by the Board in accordance with Environment Article, §16-202(c)(2), Annotated Code of Maryland.
.06	C	(2)	(a)	Applicant's name;					
.06	C	(2)	(b)	Location of the emergency activity;					
.06	C	(2)	(c)	Site photographs;					
.06	C	(2)	(d)	Extent of work to be done;					
.06	C	(2)	(e)	Anticipated impact on tidal wetlands; and					
.06	C	(2)	(f)	Nature of the emergency					
.06	C	(3)		Promptly upon receipt of the written information, the Department shall notify the Department of Natural Resources and the Maryland Historical Trust.					
.06	C	(4)		If the Department determines an emergency license is appropriate, the Department shall issue a written summary to the Administrator within 10 days of the initial request containing:					[see Current .05C(2) and .07]
.06	C	(4)	(a)	A description of the emergency;					[see Current .05C(2) and .07]
.06	C	(4)	(b)	Terms and conditions under which the emergency license should be granted;					[see Current .05C(2) and .07]
.06	C	(4)	(c)	Comments received from the Department of Natural Resources and Maryland Historical Trust; and					[see Current .05C(2) and .07]

Proposed Draft Regulation				Current Regulation			
Reference		Language		Reference		Language	
.06	C	(4)	(d)				[see Current .05C(2) and .07]
.06	C	(5)					
.06	C	(6)					
.06	C	(6)	(a)				
.06	C	(6)	(a)	(i)			[see Current .05C(2)]
.06	C	(6)	(a)	(ii)			
.06	C	(6)	(b)				[see general provision at Current .11B(1)]
.06	C	(6)	(c)				[see general provision at Current .11B(3)]
.06	C	(6)	(d)				[see general provision at Current .11C] [Current Regs do not give affirmative effective date, but do give negative guidance see Current .11(A)]
.06	C	(6)	(e)				[see general provision at Current .11D]
.06	C	(7)					
.06	C	(7)	(a)				[see statutory referene in Current .05C(2)]
.06	C	(7)	(b)				[see statutory referene in Current .05C(2)]
.06	C	(7)	(c)				[see general provisions at Current .07A(4) and (5)]
.06	C	(7)	(c)	(i)			
.06	C	(6)	(c)	(ii)			
.06	C	(6)	(c)	(iii)			
.06	C	(6)	(c)	(iv)			
.06	C	(6)	(d)				[see statutory referene in Current .05C(2)]
.07							
.07	A						
.07	B						

Proposed Draft Regulation					Current Regulation				
Reference			Language		Reference			Language	
.07	B	(1)							
.07	B	(1)	(a)						
.07	B	(1)	(b)						
.07	B	(1)	(c)						
.07	B	(1)	(d)						
.07	B	(1)	(d)	(i)					
.07	B	(1)	(d)	(ii)					
.07	B	(1)	(e)						
.07	B	(1)	(f)						
.07	B	(1)	(g)						
.07	B	(1)	(h)						
.07	B	(1)	(i)						
.07	B	(1)	(j)						
.07	B	(1)	(k)						
.07	B	(2)							
.07	B	(2)	(a)						
.07	B	(2)	(b)						
.07	B	(3)							
.07	B	(3)	(a)						
.07	B	(3)	(b)						
.07	B	(3)	(c)						
.07	B	(3)	(c)	(i)					
.07	B	(3)	(c)	(ii)					
.07	B	(3)	(d)						

Proposed Draft Regulation					Current Regulation				
Reference				Language	Reference				Language
.07	B	(3)	(e)	Is not located in, on, or over vegetated tidal wetlands, submerged aquatic vegetation, a natural oyster bar, a public shellfish fishery area, a Yates Bar, or an area with rare, threatened, or endangered species or species in need of conservation; and					
.07	B	(3)	(f)	Does not adversely impact a fish spawning or nursery area or a historic waterfowl staging area.					
.07	C			A license issued under Section B(3) of this Regulation may include installing or placing a:					
.07	C	(1)		Solar energy system attached to a pier if the device or equipment associated with that system does not extend more than:					
.07	C	(1)	(a)	4 feet above or 18 inches below the deck of the pier; or					
.07	C	(1)	(b)	1 foot beyond the length or width of the pier;					
.07	C	(2)		Solar energy system attached to a piling if there is only one solar panel per boat slip;					
.07	C	(3)		Solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width, or height of the boathouse roof;					
.07	C	(4)		Closed-loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not:					
.07	C	(4)	(a)	Extend beyond the length, width, or channelward encroachment of the pier;					
.07	C	(4)	(b)	Deleteriously alter long shore drift; or					
.07	C	(4)	(c)	Cause significant individual or cumulative thermal impacts to aquatic resources; or					
.07	C	(5)		Wind energy system attached to a pier if there is only one wind energy system per pier for which:					
.07	C	(5)	(a)	The height from the deck of the pier to the blade extended at its highest point is 12 feet or less;					
.07	C	(5)	(b)	The rotor diameter of the wind turbine is 4 feet or less; and					
.07	C	(5)	(c)	The setbacks of the wind energy system from the nearest property line and from the channelward edge of the pier to which that system is attached are at least 1.5 times the total height of the system from its base to the blade extended at its highest point.					
.07	D			Existing Nonwater-Dependent Projects on a Pier.					
.07	D	(1)		A nonwater-dependent project on a pier, where the project was in existence on or before June 30, 1989 may continue to be used.					
.07	D	(2)		A nonwater-dependent project added to a pier on or after July 1, 1989 may continue to be used if it was added in compliance with a wetlands license issued under the law applicable at the time.					
.07	D	(3)		The Board may issue an individual license authorizing an alteration or expansion of an existing nonwater-dependent project on a pier if the final project complies with the requirements of Section B of this regulation.					
					.06				Public Informational Hearing.
				[see Draft .06B(3)]	.06	A			The Department shall schedule a public informational hearing on an application for an individual license upon:
					.06	A	(1)		Written request to the Department by any person in accordance with COMAR 26.24; or
					.06	A	(2)		A determination by the Department that a hearing is in the best interest of the State.

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
									A hearing shall be conducted by the Administrator or Department designee, serving as hearing officer.
					.06	B			An applicant and any interested person shall be given an opportunity at a hearing to present facts and make statements for or against granting of an individual license. Questions may be asked of the applicant, the Department's representative, or the hearing officer, but cross-examination may not be conducted. A public informational hearing under this chapter is not a contested case proceeding under State Government Article, 10-201-----10-227, Annotated Code of Maryland.
					.06	C			The order of presentation is determined by the hearing officer and may be conducted in the following order:
					.06	D	(1)		Introduction of the activity and participants by the hearing officer;
					.06	D	(2)		Statement of legal authorities, public policy, and procedures by the hearing officer;
					.06	D	(3)		Presentation by the applicant;
					.06	D	(4)		Questions about the activity;
					.06	D	(5)		Statements by public officials;
					.06	D	(6)		Statements in opposition;
					.06	D	(7)		Statements in support; and
					.06	D	(8)		Closing of the hearing by the hearing officer.
					.06	E			The hearing officer has the authority and duty to:
					.06	E	(1)		Conduct a full and fair public informational hearing;
					.06	E	(2)		Act to avoid unnecessary delay and to maintain order;
					.06	E	(3)		Regulate the course of a hearing and the conduct of the participants;
					.06	E	(4)		Extend the time period for providing supplemental written comment or information for inclusion in a hearing record; and
					.06	E	(5)		Rule upon a valid request for a continuance of a hearing.
					.06	F			Grounds for continuance of a hearing include:
					.06	F	(1)		The need for additional field investigation, or technical or design information;
					.06	F	(2)		A riparian ownership dispute;
					.06	F	(3)		A request by the county or municipal government;
					.06	F	(4)		Failure of the applicant to appear or be represented;
					.06	F	(5)		Improper notice of the hearing; or
					.06	F	(6)		The need to accommodate larger than anticipated attendance.
					.06	G			Transcription of a hearing, if any, may be requested in accordance with COMAR 26.24.
.08				Department's Report and Recommendation.	.07				Department's Report and Recommendation.
.08	A			The Department shall submit a written Report and Recommendation for each application for an individual license to the Administrator that includes the following:	.07	A			The Department shall forward a written report and recommendation for each application for an individual or expedited license to the Administrator based on the following: [see Current .07B]
.08	A	(1)		Name and complete contact information for the applicant, and its agent, if any;					[see Current .05B(2)(a)]
.08	A	(2)		Location of the project including the name of the impacted waterbody;					[see Current .05B(2)(a)]
				[see Draft .08A]	.07	B			The Department's report and recommendation shall: [see Current .07A]
.08	A	(3)		Whether the license should be granted;	.07	B	(1)		State whether the license should be granted;

Proposed Draft Regulation				
Reference		Language		
.08	A	(4)		Any conditions under which the license should be granted;
.08	A	(5)		Information compiled during site visits, if any;
.08	A	(6)		Whether a public information hearing was required, when it was held, a summary of the public information hearing, and copies of any documents submitted to the Department;
.08	A	(7)		A statement where applicable, that the Department has coordinated review of the application with the Department of Natural Resources, the Maryland Historical Trust, and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.
.08	A	(8)		Comments submitted by the public or State, federal, or local agencies;
.08	A	(9)		List of interested persons;
.08	A	(10)		For trenchless technology projects, design plans and justification for the bore depth; and if the trenchless technology project involves a bore greater than 12 inches in diameter, the design plans shall be signed, sealed and dated by a Professional Engineer licensed in the State of Maryland under Business Occupations and Professions Article § 14-301, who prepared or approved the design plans; and
.08	A	(11)		For any recommendation authorizing improvements to protect a person's property against erosion using any measures other than a nonstructural shoreline stabilization measure, an explanation of why MDE granted a waiver under Environment Article §16-201(c).
				[see Draft .08A(1)-(11)]
.08	B			If the Department has suspended processing an application under COMAR 26.24.02.02H, it shall notify the Board, and, upon request from the Board through its Administrator, cease that suspension and complete its report.
.09				[1] Board Action on Applications for Individual Licenses. [2 - see Draft .09A] [3 - see Draft .09B] [4 - see Draft .09B(1)] [5 - see Draft .09B(2)]
.09	A			The Board shall approve, conditionally approve, or deny an individual license upon determining that issuance of the license is:
.09	A	(1)		Sufficient to the attainment of riparian rights, and
.09	A	(2)		Reasonable in accordance with the best interests of the State.
.09	B			In making its determination, the Board shall:
.09	B	(1)		Consider the recommendations of the Department, the report of the Board's Administrator, any public testimony at an informational hearing, any documents submitted, and any other relevant information in the record, including any additional oral testimony the Board may elect to hear; and.
.09	B	(2)		Take into account:

Current Regulation				
Reference		Language		
.07	B	(2)		State any terms and conditions under which the license should be granted; and
.07	A	(1)		Requirements of law and regulations;
.07	A	(2)		Information compiled during site visits, if any;
.07	A	(4)		Evidence admitted during a public informational hearing; and
.07	A	(3)		Consultations with involved governmental units;
.07	A	(5)		Comments submitted by the public or governmental units.
.07	B	(3)		Include all relevant findings and documentation.
.07	C			Processing of an application by the Department may be suspended, and recommendation to the Board may be withheld until a structure or activity is consistent with appropriate federal, State, and local requirements.
.10				[1] Board Actions. [2] The Board shall approve, conditionally approve, or deny any individual or expedited license sufficient to the attainment of riparian rights the Board determines to be reasonable in accordance with the best interests of the State. [3] In making its determination with respect to each application, the Board shall consider the recommendations of the Department and the Administrator, public testimony at any hearing, and information available in the public record, [4] and shall take into account the varying ecological, economic, developmental, recreational, and aesthetic values to preserve the wetlands and prevent their despoliation and destruction.
				[see Current .10]
				[see Current .10]
				[see Current .10]
				[see Current .10]
				[see Current .10 and .09]
				[see Current .10]

Proposed Draft Regulation					Current Regulation				
Reference			Language		Reference			Language	
.09	B	(2)	(a)	the varying ecological, economic, developmental, recreational, and aesthetic values that the project presents; and					[see Current .10]
.09	B	(2)	(b)	the State's public policy to preserve the wetlands, and prevent their despoliation and destruction.					[see Current .10]
.09	C			Review of Application	.08				Administrator's Recommendation.
.09	C	(1)		The Board, through its Administrator, may request the Department to supplement its Report and Recommendation to address specific concerns relevant to determining either the sufficiency of the proposed project, or the best interests of the State.					
.09	C	(2)		[1] For any application with interested persons who expressed opposition to the proposed license either in writing to the Department or the Board, or at the public informational hearing, the Board, through its Administrator, shall: [2 - see Draft .09C(3) and .09C(4)(b)]	.08	B	(3)		[1] The Administrator shall provide a copy of the Department's report and recommendation, if opposition is expressed at a hearing, to the interested persons and parties of record. [2] The interested persons and parties shall be asked by the Administrator to state any continued exception to the recommendations before the case is scheduled for consideration by the Board.
.09	C	(2)	(a)	Publish the Department's Report and Recommendation, including any supplement, on the Board's website, and					
.09	C	(2)	(b)	Provide notice of that publication to any interested persons.					[see Current .08B(3)]
.09	C	(3)		Interested persons may submit written comments to the Board after publication of the Department's Report and Recommendation on the Board's website under Paragraph C(2)(a) of this Regulation.					[see Current .08B(3)]
.09	C	(4)		The Administrator shall :					[see Current .08B(3)]
.09	C	(4)	(a)	Review the Department's Report and Recommendation, including any supplement;					[see Current .08A and Current .08B(1)]
.09	C	(4)	(b)	Review any comments received within 21 days under subsection (3) of this Regulation, and may review comments received thereafter;					[see Current .08B(1) and Current .08B(3)]
.09	C	(4)	(c)	Submit a written recommendation to the Board members stating whether an individual license should be granted, and specifying any appropriate terms and conditions; and	.08	A			Concurrence Cases. The Administrator shall receive the Department's report and recommendation and make a concurring recommendation to the Board in cases which: [see also Current .08B(1)]
					.08	A	(1)		Are within the rights of a riparian landowner;
					.08	A	(2)		Are recommended for approval by the Department;
				[see Draft .09C(4)(c)]	.08	A	(3)		Are recommended for approval by the Administrator under the same terms and conditions, if any, specified in the Department's report and recommendation; and
					.08	A	(4)		Have no substantial or long term adverse effect on State wetlands.
					.08	B			Extraordinary Cases.
				[see Draft .09C(4)(c)]	.08	B	(1)		The Administrator shall receive the report and recommendation of the Department involving extraordinary cases and shall prepare a written recommendation to the Board indicating whether a license should be granted and specifying the appropriate terms and conditions.
					.08	B	(2)		The Administrator may withhold recommendation to the Board until investigation determines that an application is consistent with appropriate federal, State, and local requirements.
					.08	B	(4)		Extraordinary cases are cases meeting one or more of the following criteria:
					.08	B	(4)	(a)	A public informational hearing is held;

Proposed Draft Regulation					Current Regulation									
Reference		Language			Reference		Language							
										.08	B	(4)	(b)	The recommendations of the Department and of the Administrator or hearing officer are inconsistent;
										.08	B	(4)	(c)	Denial of a license is recommended by the Department or the Administrator or hearing officer;
										.08	B	(4)	(d)	A proposed structure or activity involves substantial destruction or loss of State wetlands;
										.08	B	(4)	(e)	A proposed structure or activity involves substantial public interest or public works;
										.08	B	(4)	(f)	The case involves a recommendation that compensation be assessed;
										.08	B	(4)	(g)	The case involves a recommendation that a bond be posted;
										.08	B	(4)	(h)	Request has been made for release of a bond; or
										.08	B	(4)	(i)	Substantial objection to a proposed structure or activity has been made involving a request for personal appearance before the Board.
.09	C	(4)	(d)	Make available to Board member's all records and documents reviewed and considered in preparing the recommendation submitted under paragraph (c) above.										
										.09				Personal Appearance Before the Board.
				[see Draft .09C(2) and .09C(3); and Draft .09B(1)]						.09	A			An applicant or aggrieved persons may take exception to a recommendation, or to the recommended conditions for a license. The Administrator shall review any exception and attempt to resolve the issues raised by the applicant or aggrieved persons. After consultation with the Department and completion of a review, the Administrator shall notify an applicant or aggrieved persons of any findings or resolution and the right to request, as a final administrative remedy, a personal appearance before the Board.
				[see Draft .09C(2) and .09C(3); and Draft .09B(1)]						.09	B			A personal appearance by an applicant because of an unfavorable recommendation, or by aggrieved persons for the purpose of opposing the issuance of a license, shall be arranged with the Administrator at least 21 days in advance of the Board meeting at which the request for license would be considered. Aggrieved persons shall specify the items of contention, any wetlands-related concerns, and reasons for opposing the issuance of a license. The Administrator shall inform the Board of any request for personal appearance. The Board reserves the right to decline to hear personal appearance testimony based upon the merits of the information before it. When appearing before the Board, an applicant, aggrieved person, or a representative of an aggrieved organization shall make their positions concisely within a reasonable time limit.
.10				Terms and Conditions.										
.10	A			All conditions take effect upon license issuance, unless specifically stated otherwise.										
.10	B			Standard Conditions.						.13				Standard Conditions.
.10	B	(1)		A State tidal wetlands license shall carry standard conditions.						.13	A			A license issued by the Board shall carry standard conditions as set out in this regulation or as specified from time to time and in certain instances by the Board.
.10	B	(2)		The Board shall approve a template for licenses, including standard terms and conditions, and publish the template on its website.										
				[see Draft .10B(2)]						.13	B			Under the standard conditions of a license, a licensee may not:
				[see Draft .10B(2)]						.13	B	(1)		Cause injury to private property;
				[see Draft .10B(2)]						.13	B	(2)		Invade the rights of others;
				[see Draft .10B(2)]						.13	B	(3)		Infringe any federal, State, or local laws or regulations

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
				[see Draft .10B(2)]	.13	B	(4)		Obviate obtaining assent from and meeting the requirements of federal, State, or local agencies required by law; or
				[see Draft .10B(2)]	.13	C			Under the standard conditions of a license, a licensee or the licensee's representative shall:
				[see Draft .10B(2)]	.13	C	(1)		Promptly sign and return the license indicating acceptance of its terms and conditions;
				[see Draft .10B(2)]	.13	C	(2)		Except for an expedited license, notify the Department at least 10 calendar days in advance of beginning the construction or activity;
				[see Draft .10B(2)]	.13	C	(3)		Maintain a copy of the license and plans at the site of the construction or activity;
				[see Draft .10B(2)]	.13	C	(4)		Construct the structure or perform the activity in accordance with the plans, or any approved revisions, attached to the license;
				[see Draft .10B(2)]	.13	B	(5)		Forbid or impede the full and free use by the public of tidal waters.
				[see Draft .10B(2)]	.13	C	(5)		Allow inspection at reasonable times by the Department;
				[see Draft .10B(2)]	.13	C	(6)		Eliminate or minimize adverse effects on fish, wildlife, and natural environmental values;
				[see Draft .10B(2)]	.13	C	(7)		Comply promptly with any regulations, conditions, or instructions issued by the Department;
				[see Draft .10B(2)]	.13	C	(8)		Comply promptly with any notice of license modification directed by the Board or by its designee; and
				[see Draft .10B(2)]	.13	C	(9)		Maintain the structure in good condition or perform the activity in a reasonable workmanlike manner in accordance with the license and plans, or any modification of them.
				[see Draft .10B(2)]	.13	D			Under standard conditions a license:
.10	B	(3)		The Department and the Administrator may recommend to the Board revisions to the license template.					
.10	C			Special Conditions.	.14				Special Conditions.
.10	C	(1)		[1] The Department or the Administrator may recommend to the Board special conditions, or other amendments to the license template, for inclusion in a specific State tidal wetlands license. [2 - see Draft .09A]	.14	A			[1] The Department or the Administrator may recommend to the Board special conditions for inclusion in a license. [2] The Board shall include special conditions in a license it determines necessary to preserve and protect State wetlands and to serve the public interest.
.10	C	(2)		Examples of issues that may warrant special conditions include:					
.10	C	(2)	(a)	Marina facility					
.10	C	(2)	(b)	Trenchless Technology.					
.10	C	(2)	(c)	Maintenance Dredging.					
.10	C	(2)	(d)	Cultural Resources.					
.10	C	(3)		Examples of special conditions include:	.14	B			Examples of special conditions include but are not limited to the conditions in C----I of this regulation.
.10	C	(3)	(a)	Mitigation in accordance with Regulation .11.					
.10	C	(3)	(b)	Compensation in accordance with Regulation .12.					
					.14	C			Financial Assurance.

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
									When a special condition for approval of a license requires a bond, the Administrator shall advise the applicant of the appropriate bond amount and license fee required under Regulation .22 of this chapter, receive the bond and license fee from the applicant, and determine the acceptability of the bond before instituting the procedure prescribed in Regulation .11B(3) of this chapter.
					.14	C	(1)		
					.14	C	(2)		Determination of a bond amount is based:
					.14	C	(2)	(a)	On estimated costs of performing environmental mitigation;
					.14	C	(2)	(b)	On providing environmental safeguards; or
					.14	C	(2)	(c)	In the case of stormwater drainage systems, on the size of a drainage system, number and diameter of the outfalls, and estimated costs for mobilizing excavation or dredging equipment to the site to maintain or clean the system or to remove sediment conveyed from the site into receiving waters.
					.14	C	(3)		Bond.
					.14	C	(3)	(a)	A bond names the Board as beneficiary.
					.14	C	(3)	(b)	The form of a bond is:
					.14	C	(3)	(b) (i)	A notarized commitment of funds certificate;
					.14	C	(3)	(b) (ii)	A surety bond issued by an insurance institution authorized to do business in the State;
					.14	C	(3)	(b) (iii)	A standing or irrevocable letter of credit;
					.14	C	(3)	(b) (iv)	A certificate of deposit; or
					.14	C	(3)	(b) (v)	An assigned savings account issued by a financial institution authorized to do business in the State.
					.14	E			Pumpout Facility. The Board may require provision for, or the installation, operation, and maintenance of, pumpout facilities under licenses authorizing the construction, expansion, new or maintenance dredging, or substantial reconfiguration of marinas.
.10	C	(3)	(c)	Water Quality Certification in compliance with COMAR 26.24.04	.14	F			Water Quality Certification. A licensee shall comply with any certification of water quality required under COMAR 26.08.02.
.10	C	(3)	(d)	Soil Erosion and Sediment Control Plans as required and approved by the Department, applicable soil conservation district, or other approving authority.	.14	G			Grading and Sediment Control Plan. A licensee shall comply with any grading and sediment control plan reviewed and approved by the Department of the Environment, applicable soil conservation district, or other local approving authority.
.10	C	(3)	(e)	Time of Year Restrictions requiring that a licensed structure be constructed or activity be performed only during certain time periods to assure protection of fish spawning and nursery habitat, shellfish habitat, or submerged aquatic vegetation, or to avoid public recreational conflicts.	.14	H			Time of Year Restriction. The Department may recommend and the Board may require that a licensed structure be constructed or activity be performed only during certain time periods to assure protection of fish spawning and nursery habitat, shellfish habitat, or submerged aquatic vegetation, or to avoid public recreational conflicts.
				[see Draft .10B(2)]	.14	I			Critical Area Compliance. A licensed structure or activity shall be permissible under, and performed in accordance with, local and State critical area program regulations.
.11				Mitigation.	.14	D			Mitigation.
.11	A			The Department or the Administrator may recommend:	.14	D	(1)		The Department may recommend and the Board may require mitigation for unavoidable adverse environmental effects or loss of State wetlands caused by a licensed structure or activity.
.11	B	(1)		Mitigation designed to replace the values and functions associated with the wetlands to be impacted as set forth in this Regulation and COMAR 26.24.05.01; or	.14	D	(2)		Mitigation plans shall be prepared and implemented as set out in COMAR 26.24.
.11	B	(2)		When mitigation is not feasible, monetary compensation in lieu of mitigation.					

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
.11	B	(3)		To make the recommendation, the Department or the Administrator shall follow the process in COMAR 26.24, including multiplying the acreage of the adversely impacted State tidal wetlands using the following ratios:					
.11	B	(3)	(a)	[insertion of a table using the numbers and categories from COMAR 26.24 -- see WORD document]					
.11	C			If a licensed structure or activity will cause an unavoidable adverse environmental impact or loss of State tidal wetlands, the Board may require:					[see Current .14D(1)]
.11	C	(1)		Mitigation by conditioning the license on restoring, creating in-kind new tidal wetlands, creating out-of-kind new tidal wetlands, or enhancing existing tidal wetlands, or a combination; or					[see Current .14D(1)]
.11	C	(2)		Monetary compensation in lieu of mitigation in an amount the Board determines appropriate.					[see Current .15A]
.11	C	(2)	(a)	Compensation in lieu of mitigation received under this subsection is deposited into the Tidal Wetlands Compensation Fund.					
.12				Compensation.	.15				Compensation.
.12	A			Except for any license issued to a governmental unit, the Board may require as a license condition that the licensee pay compensation to the State in an amount the Board deems appropriate for the following activities:	.15	A			Except for any license issued to a governmental unit, the Board may require, as a special condition of any license, that compensation be made to the State for filling to make upland, dredging unrelated to navigational need, or similar use of State wetlands of a kind and in an amount considered appropriate, with advice from the Department and the Administrator.
.12	A	(1)		Filling to make upland;					[see Current .15A]
.12	A	(2)		Dredging or severance of material unrelated to navigational need; or					[see Current .15A]
.12	A	(3)		Similar non-riparian use.					[see Current .15A]
.12	B			Except for any license issued to a governmental unit, the Board shall require as a license condition that the licensee pay compensation to the State in an amount deemed appropriate by the Board for the following:					
.12	B	(1)		Cables, pipelines or other structures over, on, in or under State tidal wetlands; and					
.12	B	(2)		Nonwater-dependent projects.					
.12	C			Compensation for Filling to Make Upland.	.15	B			Compensation for Licensed Fill or Other Encroachment.
.12	C	(1)		When the Board requires compensation for filling to make fast land, the licensee shall pay a one-time amount equivalent to the fair market value of upland created or other amount specified by the Board.	.15	B	(1)		If compensation is required for a licensed fill or other encroachment, the licensee shall pay a sum equivalent to the fair market value of the wetlands affected or upland created, or an amount specified by the Board.
.12	C	(2)		The Administrator shall:	.15	B	(2)		The Administrator:
.12	C	(2)	(a)	Determine the fair market value of the upland created based on the higher of two appraisals obtained by the licensee;	.15	B	(2)	(a)	Shall determine the fair market value of the licensed area based on the higher of two appraisals obtained by the licensee;
.12	C	(2)	(b)	Make a recommendation to the Board on the compensation amount.					
					.15	B	(2)	(b)	May disapprove of the appraisers chosen by the licensee and may challenge an appraisal which is inconsistent with State tax records;
					.15	B	(2)	(c)	Shall notify the licensee of the amount due and manner of payment to the Department with a copy of the notice being forwarded to the Department for invoicing.
.12	D			Compensation for Dredging or Severance of Materials.	.15	C			Compensation for Dredging.

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
.12	D	(1)		The Board may not require compensation for dredging projects involving navigational purposes, beach nourishment, removal of bottom contaminants, or displacement of the bottom during archeological investigations.	.15	C	(1)		Compensation is not required for dredging for navigational purposes, beach nourishment, removal of bottom contaminants, or displacement of the bottom during archeological investigations.
.12	D	(2)		When the Board requires compensation for dredging or severance of materials from State Tidal Wetlands, the licensee shall pay an amount specified by the Board.	.15	C	(2)		Compensation is required for dredging or severance of materials from State wetlands for commercial use to obtain borrow material, to make upland, to extract minerals or perform mining, or for any other beneficial private use, and the following procedures apply:
.12	D	(3)		The Administrator shall:	.15	C	(2)	(a)	The Administrator determines the compensation due the State according to the following rate schedule, subject to periodic update, based on the prevailing fair market value of landsource severance material, or an amount specified by the Board, before proceeding with the procedure in §B(2)(c) of this regulation:
.12	D	(3)	(a)	Determine an amount based on					[see Current .15C(2)(a)]
.12	D	(3)	(a)	(i) a nonrecurring, nonrefundable fee of \$1,000, and a minimum of \$250 or \$1.75 per cubic yard of dredged or severed material, whichever is greater; or	.15	C	(2)	(a)	(i) [see Current .15C(2)(a)] A nonrecurring, nonrefundable fee of \$1,000, and a minimum amount of \$250 or \$1.75 per cubic yard of severed material, whichever is greater; or
.12	D	(3)	(a)	(ii) any other rates specified by the Board; and	.15	C	(2)	(a)	(ii) Other rates from time to time and in certain instances specified by the Board;
					.15	C	(2)	(b)	Quantities dredged or severed may be determined by the Department and the licensee shall cooperate in relevant record keeping.
.12	D	(3)	(b)	Make a recommendation to the Board on the amount of compensation.					[see Current .15C(2)(a)]
.12	E			Compensation for Cables, Pipelines, or Other Structures.	.15	D			Compensation for Installation of Cables, Pipelines, or Other Structures.
.12	E	(1)		The Board shall require compensation for cables, pipelines, or other similar structures over, on, in, or under State tidal wetlands.	.15	D	(1)		Compensation is required for the placement of a cable, pipeline, or other structure stated in Regulation .04C of this chapter over, on, in, or under State wetlands.
.12	E	(2)		The licensee shall pay	.15	D	(3)	(a)	For the first 5-year period, an annual fee of \$2.50 per linear foot shall be charged; and
.12	E	(2)	(a)	a nonrecurring, nonrefundable charge of \$1,000, and	.15	D	(3)		A nonrecurring, nonrefundable fee of \$1,000 shall be charged, and:
.12	E	(2)	(b)	a minimum annual compensation rate of \$2.50 per linear foot or an amount specified by the Board.					[see Current .15D(3)(a)]
.12	E	(3)		Each individual cable, pipeline, or similar structure is subject to the annual compensation requirement.	.15	D	(4)		Each cable, pipeline, or similar structure is individually subject to the compensation requirement.
.12	E	(4)		The Administrator shall make a recommendation to the Board on the amount of the annual compensation by multiplying \$2.50 by each linear foot by each individual cable, pipeline or other similar structure.	.15	D	(2)		The Administrator shall calculate the amount of compensation according to the rate schedule in §D(3) of this regulation, or an amount or rate specified by the Board, before proceeding with the procedure described in §B(2)(c) of this regulation.
.12	E	(5)		Five years after issuing the license and every five years thereafter, the Board may adjust the per linear foot annual compensation rate to reflect changes in the Consumer Price Index as published by the U.S. Department of Labor, Bureau of Labor Statistics.	.15	D	(3)	(b)	At the end of the first 5-year period and at the end of each additional 5-year period, the amount of the per linear foot annual fee may be adjusted to reflect the change for that period in the Consumer Price Index as published by the U. S. Department of Labor, Bureau of Labor Statistics, or by an appropriate index selected by the Board.
.12	F			Annual Compensation for Nonwater-Dependent Projects on a Pier.					
.12	F	(1)		Except for small-scale renewable energy system projects as authorized by Regulation .07B(3), the Board shall require annual compensation for:					
.12	F	(1)	(a)	nonwater-dependent projects; and,					
.12	F	(1)	(b)	projects that materially alter or expand the footprint of an existing nonwater-dependent project.					

Proposed Draft Regulation						Current Regulation					
Reference			Language			Reference			Language		
.12	F	(2)			The Administrator shall make a recommendation to the Board on the annual compensation amount that is based on the most recent data provided by the State Department of Assessments and Taxation in the assessment record for the real property to which the nonwater-dependent project is attached.						
.12	F	(2)	(a)		The annual compensation is computed by:						
.12	F	(2)	(a)	(i)	Multiplying the total square footage of the nonwater-dependent project by a fraction, the denominator of which is the total square footage of the land area of the real property to which the nonwater-dependent project is attached, and the numerator of which is the assessed land value of the real property to which the nonwater-dependent project is attached; and						
.12	F	(2)	(a)	(ii)	Multiplying the rate calculated under subsection (2)(a)(i) by a percentage considered appropriate by the Board not to exceed 100%.						
.12	F	(2)	(b)		In determining the appropriate percentage under paragraph (a)(ii) of this subsection, the Board may consider:						
.12	F	(2)	(b)	(i)	The extent to which the nonwater-dependent project is used on a seasonal or year-round basis;						
.12	F	(2)	(b)	(ii)	The extent of the economic impact of the nonwater-dependent project on the local jurisdiction;						
.12	F	(2)	(b)	(iii)	The nature and extent of the environmental impact of the nonwater-dependent project;						
.12	F	(2)	(b)	(iv)	The extent to which the nonwater-dependent project and, if applicable, its roof or covering, are permanent or temporary;						
.12	F	(2)	(b)	(v)	Any history of violation of the State Tidal Wetlands Law by the licensee;						
.12	F	(2)	(b)	(vi)	Any real property lease rates for the area for a commercial activity similar to the licensee's or any real property appraisals obtained by the licensee; and						
.12	F	(2)	(b)	(vii)	Any other factor that the Board considers relevant.						
.12	G				Compensation received under this Regulation is deposited into the Department's Wetlands and Waterways Program Fund.	.15	E				Compensation received under the terms and conditions of any State wetlands license is credited to the Department's Wetlands and Waterways Program Fund.
.13					Individual License Issuance.	.11					License Issuance.
.13	A				Before the Board's action on an individual license, the Administrator shall inform the applicant in writing of the following:	.11	B	(1)			Advise the applicant of the license fee required to be paid before release of the license;
.13	A	(1)			Any monetary compensation in lieu of mitigation recommended under Regulation .11; and						
.13	A	(2)			Any compensation recommended under Regulation .12.						
.13	B				Upon the Board's favorable action, the Administrator shall:	.11	B				Except as provided in Regulation .14C of this chapter, before or upon the Board's favorable action, the Administrator shall:
.13	B	(1)			Prepare the individual license in accordance with the Board's action;	.11	B	(2)			Prepare the individual or expedited license, including the effective and expiration dates, all relevant standard and special conditions, and the Board's Executive Secretary's execution of the license;
.13	B	(2)			Transmit the license to the applicant for signature; and	.11	B	(3)			Mail the original and a copy of the license to the licensee promptly upon receipt of the license fee, advising the licensee or the licensee's representative to:
.13	B	(3)			Advise the applicant in writing to sign and return the license to the Administrator indicating acceptance of the terms and conditions.	.11	B	(3)	(a)		Sign and return the original license to the Administrator indicating acceptance of the terms and conditions and validating the license, and
					[see Draft .10B(2)]	.11	B	(3)	(b)		Notify the Department before beginning any work under the license.

Proposed Draft Regulation						Current Regulation					
Reference		Language				Reference		Language			
.13	C				If an applicant fails within 90 days of transmittal to sign and return an individual license to the Administrator, the Administrator shall notify the applicant in writing that the license is void.	.11	D				If a licensee or a licensee's representative fails to sign and return an individual license to the Administrator indicating acceptance within 90 days of issuance, the Administrator shall notify the licensee or the licensee's representative in writing that the license is not valid and continued failure to sign and return the license will result in revocation.
.13	D				Upon receipt of the signed original license, the Administrator shall sign and promptly transmit a copy of the fully-signed license to the licensee and the Department.	.11	C				The Administrator shall notify the Department of the Board's favorable action by providing a copy of the license so that the Department's inspections for compliance may begin.
.13	E				The license is effective when fully signed.	.11	A				Except for expedited licenses issued under Environment Article, §16-202(c)(2), Annotated Code of Maryland, a license shall state the effective date as the date on which the Board's favorable action occurs.
.13	F				Once issued, the license may be modified, suspended, or revoked by the Board in accordance with Regulations .15, .16 and .18.	.13	D	(1)			May be modified, suspended, or revoked by the authority of the Board and according to this chapter, when this action is recommended by the Department or the Administrator and determined to be in the best interest of the State; and
.13	G				Except for dredging or maintenance dredging, a license authorizes continuing use or structural occupation on State lands and waters if all conditions of the license are met.						[see Current .16B]
						.22					Fees.
						.22	A				License Fee. A nonrecurring, nonrefundable fee shall be charged for licenses, whether granted to a person, community, company, or governmental unit, unless the fees as set out in Regulation .15C and D of this chapter apply. The license fees are:
						.22	A	(1)			\$50 for any individual license authorizing residential spur dredging projects in accordance with Regulation .08A of this chapter;
						.22	A	(2)			\$250 for any individual license authorized in accordance with Regulation .08A of this chapter except as provided in §A(1) of this regulation;
						.22	A	(3)			\$500 for any individual license authorized in accordance with Regulation .08B or .16A(2) of this chapter; or
						.22	A	(4)			\$1,000 for any individual license authorizing a riparian commercial structure or activity when this structure or riparian community structure or activity:
						.22	A	(4)	(a)		Aids the expansion or operation and is intended to increase the revenue of the riparian commercial enterprise; or
						.22	A	(4)	(b)		Is an improvement to navigation.
											[see Current .22A(1)]
						.03	B	(15)	(a)		"Residential spur dredging project" means a dredging project that is designed to provide access from a main channel dredging project sponsored by a political subdivision to a single family residential lot.
						.22	B				The Department shall advise each applicant of the license fee requirement at the earliest opportunity. Within 3 working days of the Administrator's receipt of the Department's recommendation, the Administrator shall inform the applicant, in writing, of the following:
						.22	B	(1)			Amount of the license fee; and
						.22	B	(2)			Requirement that the license fee be paid to the Board of Public Works before release of the license.

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
					.22	C			License fees obtained under this regulation shall be credited to the Department's wetlands compensation fund for acquisition of wetlands and conservation purposes. The Administrator shall collect and keep account of the license fees paid.
					.22	D			Other Administrative Costs. The Administrator may seek reimbursement for reasonable administrative costs, such as copying and certifying copies of records, in accordance with the procedures in COMAR 23.01.04.09.
.14				License Expiration.	.16				License Term.
.14	A			Duration.	.16	A			Term.
.14	A	(1)		A general license issued by the Department expires after 3 years	.16	A	(1)		Any general license issued by the Department has a term of 3 years.
.14	A	(2)		An individual license expires after 3 years unless:	.16	A	(2)		Individual and expedited licenses have terms of 3 years, except an individual or expedited license authorizing periodic maintenance dredging is valid for a maximum term of 6 years, if the provisions of Environment Article, §16-202(c)(4), Annotated Code of Maryland, are satisfied.
.14	A	(2)	(a)	the Board authorizes a longer initial period for an individual license; or					
.14	A	(2)	(b)	the license is extended under Regulation .15.					
.14	A	(2)	(a)	Licenses authorizing periodic maintenance dredging are valid for a maximum period of 6 years.					[see Current .16A(2)]
					.16	A	(3)		In certain instances such as large public works or highway projects, the Board may determine a longer term for an individual license to be appropriate.
.14	A	(3)		An emergency license has a period not to exceed the amount of time necessary to abate or mitigate the emergency.					[see Current .16A(2)]
.14	B			Expiration.					
.14	B	(1)		When the license expires, the licensee	.16	B			For construction purposes, a license expires on the date indicated on the license unless extended in accordance with Regulation .18 of this chapter. Except for dredging or maintenance dredging, a license authorizes continuing use or structural occupation on State lands and waters if all conditions of the license are met.
.14	B	(1)	(a)	Shall stop any incomplete activities authorized under the license; and					
.14	B	(1)	(b)	Except for dredging or maintenance dredging, may continue use or structural occupation on State lands and waters, if all conditions of the license are met..					[see Current .16B]
.15				License Extension.	.18				License Extension.
.15	A			The Administrator may extend an individual or an emergency license upon receipt of the licensee's request under Section D and a favorable written recommendation by the Department, except for the following licenses:	.18	A			A license may be extended for a valid reason as determined by the Department and the Administrator, except as set out in §C of this Regulation.
.15	A	(1)		A license for maintenance dredging under Regulation .14A(3); or	.18	D			For construction purposes, the Administrator may extend an individual or expedited license for valid reason upon receipt of a favorable written recommendation by the Department. Extension of an individual or expedited license not involving maintenance dredging may be granted for a period up to 3 years. An individual or expedited license may not be extended beyond a total term of 6 years, unless the original term of a license, specifically prescribed by the Board, exceeded 6 years.
.15	A	(2)		Individual licenses in which the Board granted a longer initial period under Regulation .14A(2)(a).					[see Current .18D]

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
.15	B			The Board may extend an individual license for public works projects licensed under Regulation .14A(2)(a) upon receipt of the licensee's request under Section D of this regulation and a favorable written recommendation from the Administrator and the Department.					
.15	C			Extension Period					
.15	C	(1)		The Administrator may grant a one-time extension of an individual or emergency license for a period up to 3 years.					[see Current .18D]
.15	C	(2)		Any additional extensions, beyond the one-time extension and extensions under Section B of this regulation must be approved by the Board after a recommendation by the Administrator.					
.15	D			A licensee shall request an extension in writing to the Department stating the following:	.18	B			A licensee shall request an extension from the Department in writing stating the:
.15	D	(1)		Reason the structure or activity could not be constructed or performed within the license period;	.18	B	(1)		Reason the structure or activity could not be constructed or performed within the time stipulated in the license; and
.15	D	(2)		Revised schedule for completion of the structure or activity; and	.18	B	(2)		Revised schedule for start and completion of the structure or activity.
.15	D	(3)		Assurances that all other State, federal and local approval have either not expired or have been authorized or extended.					
.15	E			An expired license may not be extended but requires reapplication under Regulation .06.	.18	E			An expired license or license revoked for other than failure to execute the license may not be reinstated, extended, or transferred, but requires reapplication under Regulation .04E of this chapter. If a written request for extension is received at least 2 weeks before a license expires, the license does not automatically expire.
.15	F			If a written request for extension is received at least 2 weeks before a license expires, the license will continue to be valid until a final decision is issued by either the Administrator or the Board, whichever is applicable.					[see Current .18E]
.16				License Modification.	.17				License Modification.
.16	A			A licensee or the Department may request in writing that the description of the authorized structure or activity or the conditions of an individual or emergency license be modified, and shall state the reason for the request.	.17	A			A licensee, the licensee's representative, or the Department may request in writing that the Administrator modify the description of the authorized structure or activity, or the conditions of a license, and shall state the reason for the request.
.16	B			The Administrator may modify an individual or emergency license if the Department provides a favorable written recommendation and:	.17	B			A license may be modified if:
.16	B	(1)		The modification is minor. A minor modification means:	.17	B	(1)		The modification is minor as defined in COMAR 26.24 and involves:
				[see Draft .17]	.17	B	(1)	(a)	A change in the riparian land ownership,
.16	B	(1)	(a)	A reduction in the scope of the originally authorized work,	.17	B	(1)	(b)	A reduction in the scope of originally authorized work, or
.16	B	(1)	(b)	Revisions to the project plans or specifications that are nominal and would otherwise be approved, and conditions at the site have not changed since the previous review, or	.17	B	(1)	(c)	Revision to the project plans or specifications that is nominal and would otherwise be approved, and conditions at the site have not changed since the previous review; or
.16	B	(1)	(c)	Waiving or modifying time of year restrictions after consultation with Department of Natural Resources; or					
.16	B	(2)		The Department determines that the structure or activity or the license conditions require modification to correct adverse environmental impacts.	.17	B	(2)		The Department determines that the structure or activity, or the conditions of a license, require modification to correct adverse environmental effects.
.16	C			After consulting with the Department, the Administrator shall either:	.17	C			After consulting with the Department, the Administrator shall advise the licensee in writing of the disposition of the request and, if denied, the reason for the denial and the procedure for appealing a denial.

Proposed Draft Regulation					Current Regulation				
Reference		Language			Reference		Language		
.16	C	(1)		Grant the modification request by revising the original license, or					
.16	C	(2)		Deny the modification request in writing, including the reason for the denial and the procedure for appealing.					[see Current .17C]
.16	D			After consulting with the Department, the Administrator may recommend approval to the Board of a license modification not qualifying for consideration under Section B, or require the modification to be submitted as a reapplication under Regulation .06. A new license issued after reapplication and approval supersedes the original license.	.17	D			A request for license modification not qualifying for consideration under §B of this regulation requires reapplication under Regulation .04E of this chapter.
.17				License Transfer.	.19				License Transfer. The Administrator may transfer a license upon receipt of a written request from the new riparian landowner. The Administrator shall forward transferred licenses for acceptance in accordance with Regulation .11B(3) of this chapter, except a fee is not required for transferred licenses, and provide the Department with a copy of all transferred licenses.
.17	A			The Administrator may transfer a license upon receipt of a written request, with supporting documentation, from the new riparian landowner, the licensee's successor in interest, or the new holder of the riparian rights.					[see Current .19]
.17	B			The Administrator shall mail the new license to the licensee for signature.					[see Current .19]
.17	C			Upon receipt of the signed license, the Administrator shall sign and promptly transmit a copy of the fully-signed license to the licensee or the licensee's representative and the Department.					[see Current .19]
.17	D			Terms and conditions of the transferred license remain the same as the original license.	.13	D	(2)		Is binding on any assignee or successor in interest to a license transferred under Regulation .19 of this chapter.
.18				License Suspension or Revocation.	.20				License Suspension or Revocation.
.18	A			The Board or its designee may suspend or permanently revoke a license when the action is considered to be in the State's interest, and after consulting with the Administrator and the Department.	.20	A			The Board or its designee may suspend or revoke a license when this action is considered to be in the State's interest and is recommended by the Department.
.18	B			Grounds for suspension or revocation include:	.20	B			Grounds for suspension or revocation include:
.18	B	(1)		Violation of:	.20	B	(1)		Violation of the provisions of:
.18	B	(1)	(a)	Environment Article, Title 16, Annotated Code of Maryland,	.20	B	(1)	(a)	Environment Article, Title 16, Annotated Code of Maryland,
.18	B	(1)	(b)	COMAR 26.24, or	.20	B	(1)	(b)	COMAR 26.24, or
.18	B	(1)	(c)	This Chapter;	.20	B	(1)	(c)	This chapter;
.18	B	(2)		Failure of a licensee to comply with the requirements of an administrative action or order of the Department issued under COMAR 26.24 or 26.08.02, when appropriate;	.20	B	(2)		Failure of a licensee to comply with the requirements of an administrative action or order of the Department issued under COMAR 26.24 or 26.08.02, when appropriate;
					.20	B	(3)		Failure of a licensee to post any required financial assurance in accordance with Regulation .14C of this chapter;
.18	B	(3)		Failure of a licensee to pay compensation imposed in accordance with Regulation .12;	.20	B	(4)		Failure of a licensee to pay compensation imposed under the terms and conditions of a license in accordance with Regulation .15 of this chapter;
				[general condition gone, but see Draft .06C(6)(e) and .13C]	.20	B	(5)		Failure of a licensee or the licensee's representative to sign and return an individual license as required by Regulation .11B(3) of this chapter;
.18	B	(4)		Violation of the license;	.20	B	(6)		Violation of the terms and conditions of a license;
.18	B	(5)		Misrepresentation in the application or failure to disclose a relevant and material fact;	.20	B	(7)		Misrepresentation in an application for a license or failure to disclose a relevant and material fact;

Proposed Draft Regulation					Current Regulation				
Reference			Language		Reference			Language	
.18	B	(6)		Substantial deviation from the plans, specifications, or terms and conditions of a license;	.20	B	(8)		Substantial deviation from the plans, specifications, or terms and conditions of a license;
.18	B	(7)		Failure of the licensee to permit a representative of the Department to enter the site to make reasonable inspection at a reasonable hour; or	.20	B	(9)		Failure of the licensee to permit a representative of the Department to enter the site to make reasonable inspection; or
.18	B	(8)		Circumstances when the licensee's rights under a license have not vested and receipt of new information, changed site conditions, or amended regulatory requirements necessitate suspension or revocation.	.20	B	(10)		Circumstances when the licensee's rights under a license have not vested and receipt of new information, changed site conditions, or amended regulatory requirements necessitate suspension or revocation.
				[see Draft .19A and B]	.20	C			An appeal from a license suspension or revocation shall conform with the procedure in Regulation .12B of this chapter.
					.21				Repealed.
.19				Appeals.	.12				Appeals.
.19	A			The Administrator shall promptly notify, by certified mail, the applicant and all other interested persons who provided written or oral comments to the Board of the Board's action to grant, deny, modify, suspend, or revoke a license.	.12	A			If a license is denied, the Administrator promptly shall notify the applicant by certified mail of the Board's unfavorable action, stating the appeal procedure as set out in Environment Article, §16-204, Annotated Code of Maryland.
.19	B			Within 30 days after receiving the Board's decision, any person with standing may petition the circuit court in the county where the land is located.	.12	B			An aggrieved party may petition the circuit court in the county where the land is located within 30 days after receiving the Board's decision.
.19	C			A person has standing to file a petition under Section B if the person:					
.19	C	(1)		Meets the threshold standing requirements under federal law; and					
.19	C	(2)		Is the applicant or participated in the public process through the submission of written or oral comments, unless an opportunity for public participation was not provided					
.19	D			The Board shall compile the record that was before them and submit it to the circuit court where the petition was filed.					
.19	E			An appeal is a petition for judicial review and shall be conducted in accordance with Title 1, Subtitle 6 of the Environment Article, and not a contested case hearing under Title 10, Subtitle 2 of the State Government Article.					