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Public Comments Solicitation
State Tidal Wetland Regulations
COMAR 23.02.04
12/20/19

- The Wetlands Administration, a unit of the Board of Public Works (BPW), is undertaking Regulatory Review, a process anticipated to lead to a proposal to refresh State Tidal Wetlands regulations in their entirety.
- Before the draft is submitted to the BPW, the Wetlands Administration is requesting stakeholders to review the draft and submit comments.

What: BPW staff has engaged in a comprehensive internal review of current BPW State Tidal Wetlands regulations, including working with key State agencies – the Maryland Department of the Environment (MDE), the Department of Natural Resources, and the Critical Area Commission. Based on that review process, the Wetlands Administration has prepared for public comment a draft proposal to update COMAR 23.02.04.

The **DRAFT PROPOSAL** is available on the BPW Wetlands web page at [link](#)¹ -- scroll down the left side of the page under *Laws and Regulations*.

Stakeholders Comments Solicited: Input is now being solicited from stakeholders: federal and local agencies, wetlands license agents, scientists, engineers, licensed marine contractors, marina representatives, environmental advocates, waterfront community associations, and concerned Marylanders. Your comments now will be helpful in crafting the working draft to be submitted to BPW at the outset of the formal regulatory process.

Please review the draft and submit your comments to:

bill.morgante@maryland.gov – please include “WETLAND REGS” in the subject line of the email. The deadline is January 31, 2020.

Why: State Tidal Wetlands Regulations are substantially unchanged from when originally adopted by the BPW in the 1980s. However, the ensuing three-plus decades have produced changes in best practices, a deeper understanding of the critical nature of tidal wetlands to sustaining our Bay, and a finer focus on customer service. This is an appropriate time to restate in a clear, positive, and efficient manner policies and procedures for licensing structures and activities in the State tidal wetlands in the 21st

¹ <https://bpw.maryland.gov/wetlands/Pages/default.aspx>

century.

Proposal: For the most part, the draft proposal is a restatement of current regulations. Changes were made where necessary to address current issues and practices.

Notable topics include:

- *Fees.* Eliminates BPW fees for tidal wetland license issuance. MDE, mitigation, and compensation fees will still apply.
- *Emergency licenses.* Explains a clear process to follow for emergencies in tidal wetlands.
- *Shoreline stabilization and living shorelines.* For the first time explains the techniques and how license issuance supports the 2012 living shorelines law.
- *Horizontal Directional Drilling.* Defines and explains the process for obtaining wetland licenses for these projects.
- *Mitigation.* Describes mitigation; aligns mitigation ratios with MDE regulations.

Next Steps: The Wetlands Administration will review all comments received in response to this solicitation and take them into consideration when preparing a final draft of the proposal. After the draft is finalized, the State Administrative Procedure Act requires the following steps:

1. Wetlands Administrator recommends the proposal to BPW at an open meeting.
2. BPW votes to formally propose the draft.
3. The proposal is submitted to the General Assembly (AELR Committee) for review.
4. The proposal is published in the *Maryland Register*.
5. A formal Public Comment period ensues.
6. After publication and public comment, BPW may adopt the proposal as final at a second open meeting.