



MARINE CONTRACTORS LICENSING BOARD

c/o Maryland Department of the Environment

1800 WASHINGTON BLVD., SUITE 430, BALTIMORE, MD 21230
(800) 633-6101, EXT. 3249

MARINE CONTRACTORS LICENSING BOARD

DRAFT Meeting Minutes –May 8, 2023

Location: Virtual via Google Meet

BOARD MEMBERS PRESENT

Milton Rehbein, Chairman, Northern MD Rep
Chris McCabe, Vice Chairman
Tammy Roberson, MDE Rep
Josh Schlepner, Eastern Shore Rep

OTHERS PRESENT

Matthew Standeven, **Board Counsel**
Mike Eisner, Board Administrator
Brandon Weems, Director/President of the
Maryland Marine Contractors Association

CALL TO ORDER

The meeting was called to order by the Board’s Chairman at 10:03 am. Four Board members as well as the Board’s Counsel and Administrator, and Brandon Weems, Director of the Maryland Marine Contractors Association were in attendance.

AGENDA REVIEW

The Board reviewed and approved the agenda for the meeting which included: an update of licensing activities and finances, update on Gene Benton (Encompass Enterprises, Inc.) and discussion of draft regulations with a focus on license categories. Also on the Agenda was proposed next steps for regulation development.

REVIEW OF PRIOR MEETING MINUTES

Board Members chose to delay review and approval of the April 10, 2023 meeting minutes.

OLD BUSINESS

Board Activities and Financial/Budget Report

The Board Administrator gave an overview of licensing activities. In 2023 there are 36 licenses, termed ‘Periodic’ that will renew throughout 2023. To date, applications have been mailed to 25 licensees. Of these 13 renewals have been issued. We continue to receive about 1-2 new license applications per month. Testing for new license applicants continues to be virtual. The test is emailed to the applicant on the day and at the time requested. They then have 24 hours to email their exam back to the Board’s Administrator.

Board Finances: The Board’s Administrator gave an update of the Board’s present income/expense status. Since September 30, 2022, the Board has received license renewal revenue totaling \$53,350

from 84 licenses that expired December 31, 2022 and 13 licenses that expired periodically in 2023. The Board's financial status is sound.

Board Counsel updated the Board on the Gene Benton/Encompass Enterprises, Inc. challenge to the Board's determination and MDE's Director of the Water and Science Administrations approval of the Board's determination that Mr. Benton does not meet the minimum work experience requirements for a Marine Contractors license. Board Counsel shared that there have been internal MDE discussions about an alternate interpretation of Title 17 in which not meeting the minimum work requirements for licensure would be a 'violation' under Title 17-310 and cause for 'denial' of the license. With this interpretation there would be a hearing in accordance with the Administrative Procedures Act instead of a Civil Complaint from Encompass Enterprises, Inc. against MDE seeking relief via a Writ of Mandamus to compel MDE to approve the application for a Marine Contractors License.

Regulation Development: Discussion of Proposed License Categories.

At the April 10, 2023 MCLB Board Meeting a Workgroup was proposed to refine the draft license categories. This Workgroup included Board members Milton Rehbein, Tammy Roberson and Josh Schlepner, along with the Board's Counsel and Administrator. This Workgroup met virtually April 24, 2023.

The April 24 workgroup revised the draft license categories to the following:

Category 4: Reserved for future category, for ex. Heavy Marine.

Category 3: Mixed Marine

Category 2: Light Marine (No pile installation)

Category 1: Other/Activity Specific Marine

These revised categories were discussed at length at this May 8 Board Meeting. Most of the conversation was about how to license Boat Lifts if piles are installed, compared to building Boat Lifts onto existing piles. A decision was NOT made on this issue.

Following is a summary of this discussion including suggested revisions to the License Categories, as well as related comments by Board members, Board Counsel, the Maryland Marine Contractor's Association representative.

1. Create a new Category between Category 2 (Light Marine) and Category 3 (Mixed Marine). The reason is that someone having 2 years of experience with a licensed contractor may be skilled to perform common residential type projects. However, to give them a Category 3 (Mixed Marine) License is not appropriate because they likely won't have experience and skills for the long list of work activities in current Category 3.

The Category name proposed was 'Residential (Pier) Marine Construction, including pile installation.' In addition, it was suggested to change the language from 'pile driving' to 'pile installation.'

Additional related comments were:

a) Concern about the term Residential – some folks work on small marinas that are similar in scale to Residential work.

b) Suggestion, call it 'Residential and Light Commercial.'

However, there was concern that adding the term 'Light Commercial' may capture too much and make the distinction between this new proposed Category and current Category 3 challenging. In this scenario, current Category 3 becomes Cat 4.

2. Make Boat Lifts with Pile installation its own category.

The opinion was expressed that they don't have a problem with giving a license to a Boat Lift installer that has not installed pilings. Even if a boat lift installer does not do the pile installation, through the work of contracting out the pile installation, they will have relevant knowledge for this activity. With this, the concern raised is that the goal is to protect the resource. Just because somebody is 'book smart,' doesn't mean they have the expertise to install pilings and shouldn't have a license to allow them to do so.

3. Create 2 new Categories. Create a new Category 3 for Boat Lifts with pile installation, and New Category 4 for Residential and Light Marine. New Category 5 would then be for everything else.

With suggestions 2 and 3 above, Boat Lifts with pile installation would be removed from current Category 3.

4. Make Boat Lifts on existing piles a 'standalone' authorization within Category 1 – 'Other/Activity Specific.' With this suggestion, Boat lifts would be taken out of current Category 2.

A concern/question was raised: is there a difference between installing piles for boat lifts, compared with installation for mooring and piers?

A related concern is that having Boat lifts in more than one category will be confusing. Pile installation should be in a single category.

5. The suggestion was made to keep the Categories as drafted by the April 24 Workgroup, i.e. Boat Lifts with Pile Installation is in current Category 3, and Boat lifts installed on existing piles is in current Category 2.
6. Suggestion – Rename current Category 1 from 'Other/Activity Specific Marine' to 'Affiliated and Incidental Marine Construction.' This category would give 'Standalone' licenses for specific activities such as directional boring, SAV planting, and boat lifts without pile installation.

A general Suggestion made was to keep the categories 'neat and clean' and have a minimum number of categories. It was further suggested that the name of the Category should communicate the 'meaning' of what is in the Category. Naming the category is an opportunity to as clearly as possible communicate what the licensed contractor is indeed authorized to do. Counsel agreed and stated that clarity makes the categories more defensible.

It was suggested to change the name of the Category 3 License from 'Mixed Marine' to 'Heavy Marine.' It was stated that all work of the current Category 3 involves both 'heavy' equipment and materials, i.e. there is nothing about this work that is 'light' in nature.

The following are miscellaneous comments:

Salvage Activities are currently in Category 3. They should be moved into Category 1 and make it a 'Standalone' license.

Timber Piles are currently in Category 3. If Boat lifts with pile installation are made into its own category, then remove timber piles from Category 3.

It was asked, if a person only does pile driving, should this be in current Category 3, or would the Board have discretion to make it an 'Affiliated and Incidental (Standalone)' Category 1 License?

Counsel stated that if the Board is not comfortable with giving a full endorsement for a current Category 3 license, then the Board could give a Category 1 'Affiliated and Incidental (Standalone)' License.

NEW BUSINESS

Proposed Next Steps for Regulation Development.

The Board agreed to finalize the license categories at the next Board meeting (June 12) and provide their finalized Categories to Board Counsel by June 15.

Other New Business

The Board discussed the application for a new Entity license for Monumental Paving & Excavating, Inc. with Jeffery Hatfield as applicant for Representative. All Board members present agreed that he meets the minimum work experience requirements for a Marine Contractor License.

ADJOURNMENT

The Board voted and approved adjournment at 12 noon. The next monthly Board meeting is scheduled for June 12, 2023 at 10 AM.