

9-305.

(a) [If the person is dissatisfied with the decision of the Board of Review, pursuant to § 9-304 of this subtitle, the person may petition]

(1) ANY PERSON WHO HAS A RECORDED INTEREST IN LAND AFFECTED BY ANY REGULATION ADOPTED UNDER THIS SUBTITLE MAY APPEAL THE REGULATION OR DESIGNATION OF THE PERSON'S LAND AS WETLAND TO the circuit court in the county where the land is located[,].

(2) THE APPEAL SHALL BE FILED within 30 days after [receiving the Board's decision] THE LATER TO OCCUR:

(I) NOTICE THAT THE DEPARTMENT'S FINAL ADOPTION OF THE REGULATION HAS BEEN PUBLISHED IN THE MARYLAND REGISTER UNDER § 10-114 OF THE STATE GOVERNMENT ARTICLE; OR

(II) NOTICE THAT THE DEPARTMENT'S FINAL ADOPTION OF THE REGULATION OR DESIGNATION OF THE PERSON'S LAND AS WETLAND HAS BEEN FILED AMONG THE LAND RECORDS UNDER § 9-302.1 OF THIS SUBTITLE. [, to determine whether the regulation restricts the use of the person's property so as to deprive the person of its practical use and is an unreasonable exercise of the police power so as to constitute a taking of property without compensation.

(b) The appeal is not subject to the provisions of the Administrative Procedure Act. The court shall hear the case de novo. Either party may elect a jury trial. There is no right of removal.

(c) In weighing the appropriate exercise of the police power, the court shall consider the importance of the land to marine life, shellfish, wildlife, and the prevention of siltation, floods, and other natural disasters, the public health and welfare, and the public policy set forth in this title.]

(B) (1) THE COURT SHALL REVIEW THE ADMINISTRATIVE RECORD OF THE DEPARTMENT'S PROMULGATION OF THE REGULATION OR DESIGNATION OF THE PERSON'S LAND AS WETLAND.

(2) THE COURT SHALL DECLARE THE REGULATION OR DESIGNATION INVALID IF THE COURT FINDS THAT:

(I) THE REGULATION OR DESIGNATION VIOLATES ANY PROVISION OF THE UNITED STATES OR MARYLAND CONSTITUTION;

(II) THE REGULATION OR DESIGNATION EXCEEDS THE STATUTORY AUTHORITY OF THE DEPARTMENT; OR

(III) THE DEPARTMENT FAILED TO COMPLY WITH STATUTORY REQUIREMENTS FOR ADOPTION OF THE REGULATION OR DESIGNATION OF THE PERSON'S LAND AS WETLAND.