



UNITED STATES DEPARTMENT OF COMMERCE
 National Oceanic and Atmospheric Administration
 NATIONAL OCEAN SERVICE
 OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
 Silver Spring, Maryland 20910

A.G. "Spud" Woodward, Director
 Coastal Resources Division
 Department of Natural Resources
 One Conservation Way
 Brunswick, GA 31520-8687

DEC 10 2012

Dear Mr. Woodward:

Thank you for the Georgia Department of Natural Resources' November 7, 2012, request that organizational, regulatory, and statutory changes be incorporated into the Georgia Coastal Management Program (CMP). You requested that the changes described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the request on November 14, 2012, and OCRM's decision deadline is December 12, 2012.

Based on our review of your submission, we concur that the changes are RPCs and we approve the incorporation of the changes as enforceable policies of the Georgia CMP. Federal Consistency will apply to the approved changes to enforceable policies only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4). Please include in the public notice the list of changes provided in this letter, and please send a copy of the notice to OCRM.

OCRM also acknowledges the Georgia CMP's notice that requirements established pursuant to the Clean Water Act have been incorporated into the program, as provided for in section 307(f) of the CZMA. Specifically, the Georgia CMP has incorporated the Coastal Stormwater Supplement to the Georgia Stormwater Management Manual, 1st Edition, April 2009 and the enforceable policies contained in Chapters 4 and 5 into the program.

CHANGES APPROVED

Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Date Adopted by State	Date Effective in State
ADDED:			
Compliance and Enforcement Program	n/a	n/a	n/a
Regulation of Marinas, Community Docks and Commercial Docks	DNR Rules and Regulations, Chapter 391-2-3-.03	11/17/2009; 6/27/2012	12/7/2009; 7/22/2012
Annual Lease Rate Adjustment for marinas	DNR Rules and Regulations, Chapter 391-2-3-.04	1/29/2010	2/18/2010
Extension of Live-Aboard Privileges	DNR Rules and Regulations, Chapter 391-2-3-.05	9/28/2011; 6/27/2012	10/19/2011; 7/22/2012



Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Date Adopted by State	Date Effective in State
MODIFIED:			
Regulation of an upland component of a project: exception to the buffer requirements	DNR Rules and Regulations, Chapter 391-2-3-.02(4)(b)(1)(g)	7/25/2007	8/14/2007
Regulation of an upland component of a project: manage in accordance with Coastal Stormwater Supplement to the Georgia Stormwater Management Manual, 1 st Edition, April 2009	DNR Rules and Regulations, Chapter 391-2-3-.02(4)(e), (4)(g)(2), (5)(b), and (5)(d)	4/27/2012	5/22/2012
Rules for water quality control pertaining to shellfish waters	DNR Rules and Regulations, Chapter 391-3-6-.03(6) and (16)	11/4/2011	11/4/2011
Coastal Marshland Protections Act - live-aboard definition and when occupying live-aboard contrary to public interest	O.C.G.A. 12-5-282(8) and 12-5-288(b)(8)	5/2/2012	7/1/2012
Protection of Tidewaters Act – definition of structure revised to reference live-aboard definition	O.C.G.A. 52-1-3(3)	5/2/2012	7/1/2012
Right of Passage Act – definition of structure revised to reference live-aboard definition	O.C.G.A. 52-1-32(4)	5/2/2012	7/1/2012

PUBLIC AND FEDERAL AGENCY COMMENTS

OCRM received no comments on this RPC submission.

Thank you for your cooperation in this review. Please contact Carleigh Rodriguez at (301) 563-1165 or carleigh.rodriguez@noaa.gov, if you have any questions.

Sincerely,



Joelle Gore, Acting Chief
Coastal Programs Division

**Routine Program Changes
to
State of Georgia Coastal Management Program**

**Request for Concurrence
November 7, 2012**

Official Code of Georgia Annotated, Title 12-5-282 and 12-5-288

Official Code of Georgia Annotated, Title 52-1-2

Official Code of Georgia Annotated, Title 52-1-32

Georgia Department of Natural Resources Rules and Regulation, Chapter 391-2-3-.02

Georgia Department of Natural Resources Rules and Regulation, Chapter 391-2-3-.03

Georgia Department of Natural Resources Rules and Regulation, Chapter 391-2-3-.04

Georgia Department of Natural Resources Rules and Regulation, Chapter 391-2-3-.05

Georgia Department of Natural Resources Rules and Regulation, Chapter 391-3-6-.03

Organizational Change of Compliance and Enforcement Program

Notification of Changes Pursuant to the Clean Water Act

Submitted by: The Georgia Department of Natural Resources
Coastal Resources Division
Coastal Management Program
One Conservation Way
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INTRODUCTION

The following constitutes a request by the Georgia Department of Natural Resources, Coastal Resources Division to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resources Management (OCRM) to concur that the following changes to the Coastal Management Program (CMP or Program) are Routine Program Changes (RPCs) and not amendments.

An RPC is defined in federal regulations (15 C.F.R. Section 923.84) as, "Further detailing of a state's program that is the result of implementing provisions approved as part of the state's approved management program that does not result in (an amendment)." An amendment is defined (15 C.F.R. Section 923.80(d)) as "Substantial changes in one or more of the following five coastal management program areas:

1. Uses Subject to Management (15 C.F.R. Part 923, Subpart B) (i.e., permissible land and water uses within a coastal zone which have a direct and significant impact in coastal waters),
2. Special Management Areas (15 C.F.R. Part 923, Subpart C) (i.e., criteria or procedures for designating or managing geographical areas of particular concern, or areas for preservation or restoration),
3. Boundaries (15 C.F.R. Part 923, Subpart D),
4. Authorities and Organization (15 C.F.R. Part 923, Subpart E) (i.e., the state regulations and organizational structure on which a state will rely to administer its coastal management program), and
5. Coordination, Public Involvement, and National Interest (15 C.F.R. Part 923, Subpart F) (i.e., coordination with governmental agencies having interest and responsibilities affecting the coastal zone; the involvement of interest groups as well as the general public; and the provision for adequate consideration of the national interest involved in planning for and managing the coastal zone, including the siting of facilities (such as energy facilities) which are of greater than local significance)."

PROPOSED CHANGES

Several regulatory and organizational changes have occurred since 2007. The following are proposed RPCs to the CMP, and Final Environmental Impact Statement (FEIS) (December 1997). These changes are to Authorities and Organization (15 C.F.R. Part 923, Subpart E) and involve changes affecting the Program's enforceable authorities, as well as the reorganization of a Compliance and Enforcement Program to enhance activities performed directly by the Program.

GENERAL REGULATORY CHANGES

CMP's enforceable policies are based on State regulations and were incorporated into the Program's enforceable policies at the time of the Program approval in 1997. However, over time these regulations are amended. Before these regulatory changes become part of Georgia's CMP, they must first be approved by OCRM through the RPC process. The following section discusses changes to regulations currently in the Georgia CMP, as well as any new authorities or regulations proposed to be added.

Descriptions of each Program Change are included in the analyses below which identify the enforceable policies to be modified, describe the nature of the program change, and identify impacts the change will have on the existing Program. The analyses demonstrate that the submitted Program Changes are not substantial in nature and are therefore not considered Program Amendments.

Changes to State Legislation

During the 2012 session, the Georgia legislature, through Senate Bill 319, amended the Protection of Tidewaters Act (PTA) (O.C.G.A. 52-1-1 thru 10), the Right of Passage Act (RPA) (O.C.G.A. 52-1-30 thru 39) and the Coastal Marshlands Protection Act (CMPA) (O.C.G.A. 12-5-280 thru 297) as each relates to live-aboard vessels. The PTA and RPA both declare that structures located upon tidewaters which are used as places of habitation, dwelling, sojournment, or residence are a public nuisance and unlawful and that such structures interfere with the state's proprietary interest, the public trust, or both. However, both acts allow for exceptions based on the Coastal Marshlands Protection Act of 1970 as amended in 1992.

Senate Bill 319 changed the definition of a live-aboard in the CMPA by including the requirement for such vessels to be capable of safe, mechanically propelled navigation under average Georgia coastal wind and current conditions and to limit a live-aboard to marinas or mooring areas as established by the Department. The amendment also extended the time during which a live-aboard can be occupied before requesting an extension from the Commissioner of Natural Resources from 30 days to 90 days.

Specifically, Senate Bill 319 made the following amendments to existing state legislation:

1. Coastal Marshlands Protection Act, O.C.G.A. 12-5-280 thru 297: Modified Code Section 12-5-282 paragraph (8) to revise the definition of a live-aboard as described above.
2. Coastal Marshlands Protection Act, O.C.G.A. 12-5-280 thru 297: Modified Code Section 12-5-288 paragraph (8) to extend the time a live-aboard may be occupied without an extension from 30 to 90 days as described above.
3. Protection of Tidewaters Act, O.C.G.A. 52-1-1 thru 10: Modified Code Section 12-1-3, paragraph (3) to reference the CMPA definition of Live-Aboard (12-5-282).
4. Right of Passage Act, O.C.G.A. 52-1-30 thru 39: Modified Code Section 52-1-32, paragraph (4) to reference the CMPA definition of Live-Aboard (12-5-282).

Changes to the Rules and Regulations of the Coastal Marshlands Protection Act (CMPA) O.C.G.A. 12-5-280 *et seq.*

Rules of the CMPA: Regulation of Upland Component of a Project - Exception to Buffer Requirements (Chapter 391-2-3-.02(4)(b)(1)(g) MODIFIED)

This routine change describes amendments to the Rules of the Georgia Department of Natural Resources, Coastal Marshlands Protection, Chapter 391-2-3-.02(4)(b)(1)(g). This rule was amended to allow exceptions to a 50-foot marshland buffer requirement which may be granted by the Coastal Marshlands Protection Committee upon demonstration of specific conditions. This exception to the rules of the CMPA does not change any other procedures or rules of the Act. This exception does not add any additional enforceable policies on resources not previously managed, nor does it change any of the five program areas described in 15 C.F.R. Part 923. It

does not affect uses subject to management (subpart B) or special management areas (subpart C); results in no changes to program boundaries (subpart D) or authorities and organization (subpart E); and does not affect coordination, public involvement and national interest (subpart F).

Rules of the CMPA: Regulation of Upland Component of a Project – Stormwater Manual Effective Date (Chapter 391-2-3-.02(4)(e), (4)(g)(2), (5)(b), and (5)(d) MODIFIED)

This routine change describes amendments to the Rules of the Georgia Department of Natural Resources, Coastal Marshlands Protection, Chapter 391-2-3-.02(4)(e), (4)(g)(2), (5)(b), and (5)(d). The purpose of the amended Rule is to update the regulation in order to reflect an effective date and reference to the Coastal Stormwater Supplement to the Georgia Stormwater Management Manual, 1st Edition, April 2009. This amendment to the rules of the CMPA does not change any other procedures or rules of the Act. This exception does not add any additional enforceable policies on resources not previously managed, nor does it change any of the five program areas described in 15 C.F.R. Part 923. It does not affect uses subject to management (subpart B) or special management areas (subpart C); results in no changes to program boundaries (subpart D) or authorities and organization (subpart E); and does not affect coordination, public involvement and national interest (subpart F).

Rules of the CMPA: Regulation of Marinas, Community Docks and Commercial Docks (Chapter 391-2-3-.03 NEW)

This routine change describes amendments to the Rules of the Georgia Department of Natural Resources, Coastal Marshlands Protection, Chapter 391-2-3.03, which set standards and procedures for permitting marinas, commercial docks, or community docks under the Coastal Marshlands Protection Act. A new rule establishes a tiered system of review and timelines for processing permit applications for dock projects of different sizes, designs, scope of services, and facility uses. These rules do not apply to private docks that are exempted from the CMPA. Under 15 C.F.R Part 923 and OCRM's Guidance, this change is routine in nature as it does not substantially affect the five program areas. Specifically, the change has no effect on special management areas (subpart C), boundaries (subpart D), authorities and organization (subpart E), or coordination, public involvement and national interest (subpart F). The change affects Uses Subject to Management (subpart B) and enforceable policies of the program but it affects only permitting procedures and makes no changes to the types of uses currently subject to management. This change is not substantial and is therefore considered routine.

Rules of the CMPA: Annual Lease Rate Agreement (Chapter 391-2-3-.04 NEW)

House Bill 170 was passed by the Georgia Assembly in the 2009 Legislative Session and signed by the Governor on May 5, 2009. This legislation set an annual rental (lease) rate for for-profit marinas in the jurisdiction of the Coastal Marshlands Protection Act at \$1,000 per acre and specified the method for lease areas to be calculated. Further, House Bill 170 directed that the Coastal Marshlands Protection Committee "shall in each calendar year thereafter adjust the amount of the annual rental fee per acre to reflect the effect of annual inflation or deflation for the immediately preceding calendar year in accordance with Rules and Regulations adopted by the board, which Rules and Regulations may use for this purpose the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor or any other similar index established by the federal government, if the board determines that such index reflects the effect of inflation and deflation on the lessees."

Rules of the Georgia Department of Natural Resources, Coastal Marshlands Protection, Chapter 391-2-3 were amended by inserting new Rule 391-2-3-.04 to establish standards and procedures to be applied by the Committee when adjusting the annual lease rate for marinas consistent with the amendments to the Coastal Marshland Protection Act. Waterbottom leasing for marinas is an annual effort conducted by GCMP. Under 15 C.F.R Part 923 and OCRM's Guidance, this change is routine in nature as it does not substantially affect the five program areas. Specifically, the change has no effect on special management areas (subpart C), boundaries (subpart D), authorities and organization (subpart E), or coordination, public involvement and national interest (subpart F). The change does affect Uses Subject to Management (subpart B) and enforceable policies of the program but it only affects annual lease rates and does not affect current uses subject to management. This change is not substantial and is therefore considered routine.

Rules of the CMPA: Extension of Live-Aboard Privileges (Chapter 391-2-3-.05 MODIFIED)

The Coastal Marshland Protection Act O.C.G.A.12-5-288(b)(8) authorizes the Commissioner of Natural Resources to grant extensions authorizing individuals to occupy live-aboard vessels in state waters for more than the 30-day-per-calendar-year limit otherwise required by the CMPA. Rules of the Georgia Department of Natural Resources, Coastal Marshlands Protection, Chapter 391-2-3-.05 were amended in September 2011 by the Board of Natural Resources to provide guidance to the Commissioner in granting such live-aboard extension requests.

During the 2012 Georgia Legislature, Senate Bill 319 was passed to amend the Coastal Marshlands Protection Act to change the definition of a live-aboard vessel by including the requirement for such vessels to be capable of safe, mechanically propelled navigation under average Georgia coastal wind and current conditions and to limit a live-aboard to marinas or mooring areas as established by the Department. The amendment also extended the time during which a live-aboard can be occupied before requesting an extension from the Commissioner of Natural Resources from 30 days to 90 days.

Rules 391-2-3-.03 and 391-2-3-.05 were subsequently amended by the Board of Natural Resources to be consistent with statutory changes resulting from Senate Bill 319. The following rules changes were made:

1. In Rule 391-2-3-.03 Regulation of Marinas, Community Docks and Commercial Docks, subparagraphs (4)(a)4., (5)(a)5., and (6)(a)12. were amended to change 30 days to 90 days;
2. In Rule 391-2-3-.05 Extension of Live-Aboard Privileges, subparagraphs (2)(a), (3)(a), (4), (4)(c), and (5)(b)2 were amended to change 30 days to 90 days;
3. In Rule 391-2-3-.05 Extension of Live-Aboard Privileges, subparagraph (2)(h), the definition of a "Live-aboard" was amended to match statute.

The primary difference between previous Rules and approved amendments is the change in the period of time that someone may occupy a live-aboard vessel before applying for an extension; 30-days will be increased to 90 days. Additionally, the definition of a live-aboard vessel Rule was changed to be the same as found in statute.

Under 15 C.F.R Part 923 and OCRM's Guidance, this change is routine in nature as it does not substantially affect the five program areas. The change does affect Uses Subject to Management

(subpart B) and enforceable policies of the program related to live-aboard vessels. However, these changes are minor alterations to the definitions and terms of live-aboard vessels which were already in place and do not add any new enforceable policies. The changes have no effects on special management areas (subpart C), boundaries (subpart D), authorities and organization (subpart E), or coordination, public involvement and national interest (subpart F).

Changes to the Rules and Regulations of the Georgia Water Quality Control Act (WCA) O.C.G.A. 12-9-1 et seq.

Rules of the WCA: Water Use Classifications and Water Quality Standards (Chapter 391-3-6 MODIFIED)

Through a 2006-2010 Section 309 Strategy for Aquaculture, GCMP began working with DNR Environmental Protection Division to identify gaps in the State's Rules for Water Use Classifications and Water Quality Standards (Chapter 391-3-6) related to the classification of Shellfish Growing Areas and waters supporting shellfish. Analyses of existing Rules revealed inconsistencies between how the waters were currently being managed by the CRD for shellfish growth and harvest and how they were being managed by EPD for water quality. Specifically, CRD manages shellfish "growing areas," under O.C.G.A 27-4-193, but the WCA rules spoke to shellfish "harvest areas" which are undefined in statute. This simple lack of consistency in terminology made it very difficult for EPD to enforce water quality standards in the areas most critical for shellfish growth and harvest. The water quality standard for shellfish is spelled out clearly in the National Shellfish Sanitation Program (Source: NSSP Model Ordinance, 2007). Failure to meet that standard can result in the temporary or permanent closure of shellfish beds in a particular area.

In recognition of these inconsistencies in rule, the following changes were proposed and adopted:

Rule 391-3-6-.03(6) Specific Criteria for Classified Water Usage. This rule change revised subparagraph (c)(iii) to clarify language where specific bacteria criteria apply along the coast where shellfish may be harvested. The reference to the National Shellfish Sanitation Program's Model Ordinance was also updated to acknowledge that a more current version is available.

Rule 391-3-6-.03(16) Waters Generally Supporting Shellfish. This rule change clarified language that the waters listed in the rule either support or have the potential to support shellfish, but does not necessarily mean that it is legal to harvest shellfish from these areas.

The result of these changes is that EPD can now clearly enforce water quality standards for shellfish growing areas as designated by CRD. These changes do not add any additional enforceable policies on resources not previously managed, nor do they substantially change any of the five program areas described in 15 C.F.R. Part 923. They do not affect uses subject to management (subpart B), program boundaries (subpart D) or authorities and organization (subpart E); nor do they affect coordination, public involvement and national interest (subpart F). These changes do serve to strengthen the State's enforcement of water quality standards in a Rivers and Adjacent Wetlands which are designated GCMP Special Management Areas (subpart C), and are inclusive of shellfish resources.

ORGANIZATIONAL CHANGES

The following describes an addition and modification to the direct activities of the GCMP. This change does not change any of the enforceable policies of the program, nor does it adversely affect the Program's ability to enforce its policies. Rather, this change is minor in nature and only strengthens the Program's capacity to enforce program policies.

Compliance and Enforcement Program

The GCMP implements the authorities of the Coastal Marshlands Protection Act (CMPA), Shore Protection Act (SPA), Protection of Tidewaters Act, and Georgia's Revocable License for the use of state waterbottoms, and reviews permit applications for alterations to the salt marsh, including private docks and piers, shoreline stabilization, and marinas. Permit decisions are made by the 5-member Coastal Marshland Protection and Shore Protection Committees who regularly issues permits with standard and special "conditions" designed to minimize the impact of the permitted activity on the surrounding environment. The authority to enforce provisions of the Acts has been granted to the DNR, through provisions in the Coastal Marshlands Protection Act (O.C.G.A. 12-5-284.)

Prior to the creation of a dedicated compliance and enforcement program, staff enforced permits on a case-by-case basis. The Coastal Marshlands Protection Act, Section 12-5-289, requires that staff make reasonable inspections of the marshlands to ascertain whether the requirements of the Act are being complied with. Prior to the establishment of the Compliance and Enforcement Program, permitting staff conducted these inspections and any enforcement actions as an additional duty, attempting to visit permitted sites once every 5-years. However, there were no procedures or protocols established to ensure consistency and standardization. Eventually, an excessive numbers of violations, some of which involved multiple agencies and were very complicated, became burdensome to the permitting program; the effort was an inefficient use of resources and also a potential legal liability to the GCMP. Thus, staff identified the need for a new program through its Section 309 assessment, recognizing that our obligations to the State in protecting coastal marshlands, in particular, were not being realized effectively. As a result, the GCMP proposed a 5-year strategy under Section 309 to develop a new program with staff dedicated to compliance and enforcement issues. The new program would fill in gaps in the GCMP's capacity to enforce violations to the Acts, and would develop standardized inspection and monitoring procedures, standardized notices of violation, consent and unilateral orders, and other correspondences to guide enforcement actions and remedies. The Strategy was implemented beginning in 2006; final activities under this strategy are scheduled to conclude in September 2012 following several years of implementation and refinement.

Specifically, this new Program developed under Section 309 is based on existing authorities under the CMPA and SPA and has developed legally-vetted monitoring and enforcement protocols. This effort has resulted in the development of new internal processes, standard operating procedures and schedules, and is overseen by a new Compliance and Enforcement Program Manager. Additional staff was also hired to implement internal protocols. The addition of a stand-alone Compliance and Enforcement Program to direct activities of the GCMP does not add or change any of the existing authorities of the Program. Rather, it serves to strengthen an identified gap in the Program's effectiveness in ensuring compliance of local agencies, project applicants, and contractors with the GCMP's existing direct permitting authorities.

The Compliance and Enforcement Program is currently fully-staffed and funded to continue implementation and refinement of the protocols developed under the scope of Section 309. The addition of this Program to the GCMP does not add any additional enforceable policies on resources not previously managed, nor does it affect uses subject to management (15 C.F.R. Part 923, subpart B), special management areas (subpart C); program boundaries (subpart D) or coordination, public involvement and national interest (subpart F). This routine program change does affect one of the five program areas, authorities and organization (subpart E), to the extent that a new Program exists under the direct activities under the GCMP. See Figure 1 (next page) for previous and new GCMP organization charts to demonstrate how compliance and enforcement activities were previously conducted under the Habitat Management Program and (Figure 1.a), and as a result of this change will be conducted under their own program within the GCMP's organization (Figure 1.b).

Figure 1.a: GCMP Organizational Chart Before RPC Approval

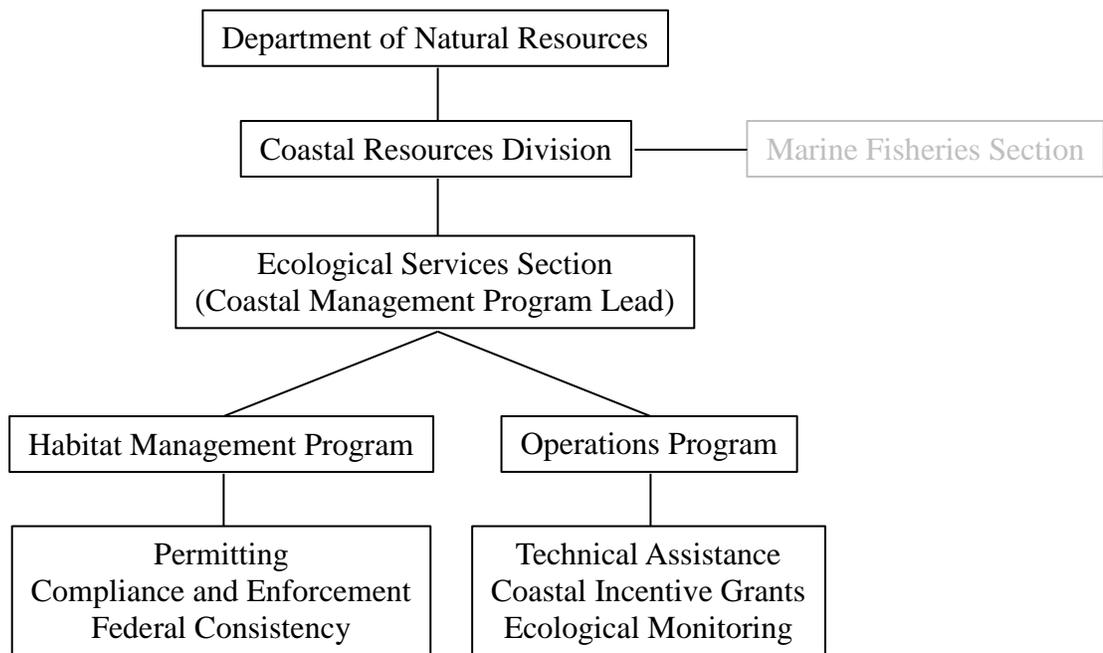
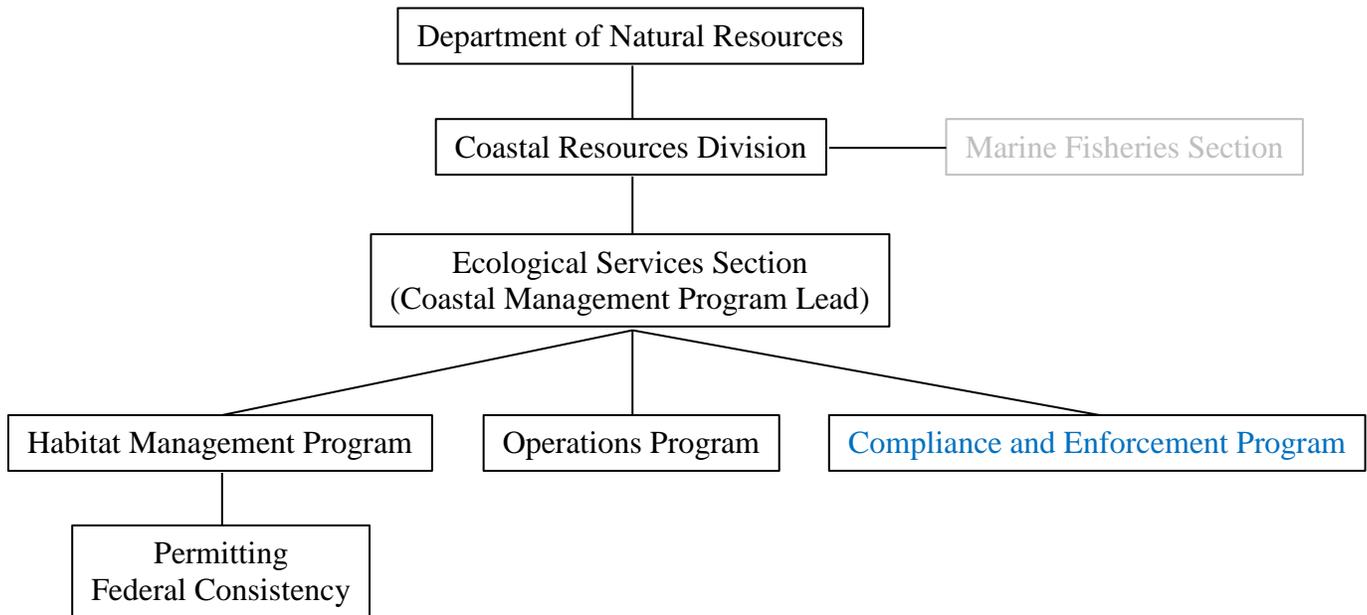


Figure 1.b: GCMP Organizational Chart After RPC Approval



NOTICE OF CHANGES PURSUANT TO THE CLEAN WATER ACT

Provisions of the Coastal Zone Management Act (16 U.S.C. §1451 *et seq.*) do not require NOAA concurrence on changes to enforceable policies established pursuant to the Clean Water Act (33 U.S.C. § 1251 *et seq.*). The DNR Coastal Management Program is hereby notifying NOAA of recent amendments to the Rules of the Georgia Department of Natural Resources, Coastal Marshlands Protection, Chapter 391-2-3-.02(4)(e), (4)(g)(2), (5)(b), and (5)(d). The purpose of the amended Rule is to update the regulation in order to reflect an effective date and reference to the Coastal Stormwater Supplement to the Georgia Stormwater Management Manual, 1st Edition, April 2009. The Coastal Stormwater Supplement (CSS) is a document of the Georgia Stormwater Management Manual and was developed to meet state responsibilities under the Clean Water Act. The adoption and implementation of the CSS in Georgia’s coastal zone is required through National Pollutant Discharge Elimination Systems (NPDES) permits issued to specified communities (Phase I currently; Phase II pending) by DNR under authority of state enforceable policies enacted pursuant to the Clean Water Act. Enforceable sections of the Coastal Stormwater Supplement include:

- Chapter 4 – Stormwater Management and Site Planning and Design Criteria describing post-construction stormwater management criteria that promote an integrated approach of natural resource protection and stormwater management.
- Chapter 5 – Calculating the Stormwater Runoff Volumes Associated with the Stormwater Management Criteria describing acceptable hydrologic methods to calculate stormwater runoff volumes associated with the design criteria described in Chapter 4, and also describing how these calculations can be used to plan and design post-construction stormwater management systems to satisfy the Coastal Stormwater Supplement.

This amendment to the rules of the CMPA does not change any other procedures or rules of the Act.

CONCLUSION

The Georgia Department of Natural Resources, Coastal Resources Division has reviewed the regulatory and organizational changes submitted for incorporation into the State CMP according to the Coastal Zone Management Act §306(e) and 15 C.F.R. 923.80. The GADNR concludes that the submitted routine changes will not substantially change the enforceable authorities of the CMP, uses subject to management under the State CMP, or national interests in the State's coastal zone and, therefore, do not meet the definition of Program Amendment. The submitted changes increase the ability of the State to manage and protect the coastal resources of the State of Georgia. The submitted changes will ensure the continuation of the State's program and further the quality and protection of Georgia's coastal marshlands. As outlined in 15 C.F.R. §923.80(d), 15 C.F.R. §923.84, and the OCRM's Program Change Guidance from July 1996, the State of Georgia submits these Routine Program Changes and requests the OCRM's concurrence for incorporation into the State CMP.

Table 1: Summary of Proposed Changes to the Coastal Management Program

Changes to the GEORGIA COASTAL MANAGEMENT PROGRAM				
Name/Description of State or Local Law/Regulation/Policy/Program Authority or Change	State/Local Legal Citation	Enforcement Mechanism(s)	Date Adopted by State	Date Effective in State
ADDED:				
Regulation of Marinas, Community Docks and Commercial Docks	DNR Rules and Regulations, Chapter 391-2-3-.03	CMPA permitting	November 17, 2009 and June 27, 2012	December 7, 2009 and July 22, 2012
Annual Lease Rate Agreement	DNR Rules and Regulations, Chapter 391-2-3-.04	Marina Lease	January 29, 2010	February 18, 2010
Rules for Extension of Live-Aboard Privileges	DNR Rules and Regulations, Chapter 391-2-3-.05	Written Extension of Time	September 28, 2011 and June 27, 2012	October 19, 2011 and July 22, 2012
Compliance and Enforcement Program				
MODIFIED:				
Regulation of an Upland Component of a Project: Exception to buffer requirements	DNR Rules and Regulations, Chapter 391-2-3-.02(4) and (5)	CMPA Permitting	July 25, 2007	August 14, 2007
Regulation of an Upland Component of a Project: CSS Effective Date	DNR Rules and Regulations, Chapter 391-2-3-.02(4)	CMPA Permitting	April 27, 2011	May 22, 2011
Rules for Water Quality Control pertaining to Triennial Review of Water Quality Standards for Shellfish	DNR Rules and Regulations, Chapter 391-3-6-.03(6) and .03(16)	EPD permits; 401 Water Quality Certification	November 4, 2011	November 4, 2011
Coastal Marshlands Protection Act (SB319)	O.C.G.A. 12-5-282, 12-5-288	CMPA Permitting	May 2, 2012	July 1, 2012
Protection of Tidewaters Act (SB319)	O.C.G.A 52-1-3	GCMP Permitting	May 2, 2012	July 1, 2012
Right of Passage Act (SB319)	O.C.G.A. 52-1-32	GCMP Permitting	May 2, 2012	July 1, 2012

APPENDIX A - TEXT OF REGULATIONS

Senate Bill 319, 2012 Georgia State Legislature (Only relevant sections are included)

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 12 of the Official Code of Georgia Annotated, relating to conservation, so
2 as to revise certain provisions relating to the use of boats in the waters of state parks, historic
3 areas, and recreational areas; to revise certain provisions relating to the use of live-aboard
4 boats at marinas or docking stations; to amend Chapter 1 of Title 52 of the Official Code of
5 Georgia Annotated, relating to general provisions relative to waters of the state, ports, and
6 watercraft, so as to revise certain provisions relating to boats considered public nuisances;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

68 SECTION 2.

69 Said title is further amended by revising paragraph (8) of Code Section 12-5-282, relating
70 to definitions, as follows:

71 " (8) 'Live-aboard' means a floating vessel or other ~~water-craft~~ watercraft capable of safe,
72 mechanically propelled navigation under average Georgia coastal wind and current
73 conditions which is ~~moored to a dock, tree, or piling or anchored in the estuarine waters~~
74 ~~of the state and is~~ utilized as a human or animal abode and is located at a marina or a
75 mooring area established by the department. ~~Live-aboards include but are not limited to~~
76 ~~monohulls, multihulls, houseboats, floating homes, and other floating structures which~~
77 ~~are used for human or animal habitation."~~

78 SECTION 3.

79 Said title is further amended by revising paragraph (8) of subsection (b) of Code Section
80 12-5-288, relating to activities and structures considered to be contrary to the public interest
81 for purposes of issuing permits allowing alteration of coastal marshlands, as follows:

82 " (8) Occupying a live-aboard for more than ~~30~~ 90 days during any calendar year;
83 provided, however, that the commissioner may grant extensions of time beyond ~~30~~ 90
84 days to persons making a request in writing stating the reasons for such extension.
85 Owners of docks where live-aboards are moored as well as owners and occupants of
86 live-aboards are responsible under this part."

87 SECTION 4.

88 Chapter 1 of Title 52 of the Official Code of Georgia Annotated, relating to general
89 provisions relative to waters of the state, ports, and watercraft, is amended by revising
90 paragraph (3) of Code Section 52-1-3, relating to definitions relative to the protection of
91 tidewaters, as follows:

92 " (3) 'Structure' means any structure located upon any tidewaters of this state, whether
93 such structure is floating upon such tidewaters and is made fast by the use of lines, cables,

94 anchors, or pilings, or any combination thereof, or is built upon pilings embedded in the
95 beds of such tidewaters when such structure is being or has been used or is capable of
96 being used as a place of habitation, dwelling, sojournment, or residence for any length
97 of time; is not being used or is not capable of being used as a means of transportation
98 upon such tidewaters; and is not owned, occupied, or possessed pursuant to a permit
99 issued by the commissioner pursuant to Code Section 52-1-10. Such structures may
100 include, but are not limited to, vessels not being used in navigation; provided, however,
101 that structures do not include ~~vessels which are capable of navigation and are tied up at~~
102 ~~marinas~~ live-aboards, as defined in Code Section 12-5-282. Structures shall also not
103 include fishing camps, bait shops, restaurants, or other commercial establishments
104 permitted under Part 4 of Article 4 of Chapter 5 of Title 12, the 'Coastal Marshlands
105 Protection Act of 1970,' as amended, which do not discharge sewage into the waters of
106 the state and are operated in conformance with the zoning ordinances, if any, of the
107 municipality or county in which they are located."

108 **SECTION 5.**

109 Said chapter is further amended by revising paragraph (4) of Code Section 52-1-32, relating
110 to definitions relative to right of passage, as follows:

111 "(4) 'Structure' means any structure located upon any navigable stream or river of this
112 state, whether such structure is floating upon such navigable stream or river and is made
113 fast by the use of lines, cables, anchors, or pilings, or any combination thereof, or is built
114 upon pilings embedded in the beds of such navigable stream or river when such structure
115 is being, has been, or is capable of being used as a place of habitation, dwelling,
116 sojournment, or residence for any length of time; is not being used or is not capable of
117 being used as a means of transportation upon such navigable stream or river; and is not
118 owned, occupied, or possessed pursuant to a permit issued by the commissioner pursuant
119 to Code Section 52-1-39. Such structures may include, but are not limited to, vessels not
120 being used in navigation; provided, however, that structures do not include ~~vessels which~~
121 ~~are capable of navigation and are tied up at marinas~~ live-aboards, as defined in Code
122 Section 12-5-282. Structures shall also not include fishing camps, bait shops, restaurants,
123 or other commercial establishments permitted under Part 4 of Article 4 of Chapter 5 of
124 Title 12, the 'Coastal Marshlands Protection Act of 1970,' as amended, which do not
125 discharge sewage into the waters of the state and are operated in conformance with the
126 zoning ordinances, if any, of the municipality or county in which they are located."

127 **SECTION 6.**

128 All laws and parts of laws in conflict with this Act are repealed.

**RULES OF
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION**

**CHAPTER 391-2-3
COASTAL MARSHLANDS PROTECTION**

391-2-3-.02 Regulation of Upland Component of a Project

(4) Marshlands Buffers for Upland Component of the Project.

(b) The applicant for a permit under the Coastal Marshlands Protection Act and these rules shall certify adherence to soil and erosion control responsibilities, which, for purposes of the Coastal Marshlands Protection Act shall include recognition of and compliance with the following requirements unless in conflict with a criterion or exception established by the Environmental Protection Division of the Department of Natural Resources.

1. Except as provided in subparagraph 2. of this paragraph and paragraphs (d) and (g) below, no land-disturbing activities within the project boundaries shall be conducted within the 50-foot marshlands buffer, and such marshlands buffer shall remain in its natural, undisturbed state of vegetation, so as to naturally treat stormwater during both construction and post construction phases of the upland component of the project.

(g) The Coastal Marshlands Protection Committee, in its sole discretion, is authorized to grant a permit that includes an exception to the 50-foot marshlands buffer if the Committee finds that three conditions are met:

1. Application of the marshlands buffer requirement will create a substantial hardship on the applicant; and
2. The purpose, function and treatment capabilities of the marshlands buffer can be or has been achieved by alternative means, such that the stormwater discharge to coastal marshlands from the marshlands buffer is managed according to the policy, criteria, and information including technical specifications and standards in the latest edition of the Georgia Stormwater Management Manual, and as amended to address coastal specific issues, and is protective of water quality; and
3. Consistent with the purpose and reasonable use of the proposed project, the smallest practicable encroachment into the marshlands buffer is being utilized.
4. For purposes of this part, substantial hardship means a significant, site-specific and demonstrable condition exists that precludes the project from being constructed. The Coastal Marshlands Protection Committee shall consider the following factors in their evaluation of whether a substantial hardship exists:

- i. If the applicant complies with the required marshlands buffer width, the property cannot practicably be used for the proposed project. Merely proving that the exception would permit a greater profit from the property shall not be considered adequate justification for an exception; and
- ii. The substantial hardship results from application of the marshlands buffer width to the property separately or in conjunction with other factors such as unrelated deed restrictions, other state, federal or local government restrictions or ordinances; and
- iii. The substantial hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography; and
- iv. The applicant or predecessor in title did not, by deed, covenant, or other voluntary act after March 26, 2007, create a situation where the application of the marshlands buffer would create a substantial hardship on the applicant.

Authority O.C.G.A. Title 12; O.C.G.A. 12-5-285

**RULES OF THE
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
RELATING TO
COASTAL MARSHLANDS PROTECTION, CHAPTER 391-2-3**

The Rules of the Georgia Department of Natural Resources, Coastal Marshlands Protection, Chapter 391-2-3, are hereby amended, added to, repealed in part, revised, as hereinafter explicitly set forth in the attached amendments, additions, partial repeals, and revisions for specific rules, or such subdivisions thereof as may be indicated.

391-2-3-.02, Regulation of Upland Component of a Project is hereby amended by striking in its entirety subparagraphs (4)(e), (4)(g)(2), (5)(b), and (5)(d) and inserting in lieu thereof new subparagraphs (4)(e), (4)(g)(2), (5)(b), and (5)(d) to read as follows:

(4) Marshlands Buffers for Upland Component of the Project

(e) Marshlands buffers shall be designed, installed and/or maintained sufficiently such that stormwater discharge to coastal marshlands from the marshlands buffer is managed according to the policy, criteria, and information including technical specifications and standards in the ~~latest edition of the Georgia Stormwater Management Manual, and as amended to address coastal specific issues~~ Coastal Stormwater Supplement to the Georgia Stormwater Management Manual, 1st Edition, April 2009.

(g) The Coastal Marshlands Protection Committee, in its sole discretion, is authorized to grant a permit that includes an exception to the 50-foot marshlands buffer if the Committee finds that three conditions are met:

2. The purpose, function and treatment capabilities of the marshlands buffer can be or has been achieved by alternative means, such that the stormwater discharge to coastal marshlands from the marshlands buffer is managed according to the policy, criteria, and information including technical specifications and standards in the ~~latest edition of the Georgia Stormwater Management Manual, and as amended to address coastal specific issues~~ Coastal Stormwater Supplement to the Georgia Stormwater Management Manual, 1st Edition, April 2009, and is protective of water quality; and

(5) Stormwater Management Standards for the Upland Component of the Project

(b) In addition to the requirements of Section (5)(a) above, discharged stormwater from the upland component of the project shall be managed according to the policy, criteria, and information including technical specifications and standards in the ~~latest edition of the Georgia Stormwater Management Manual, and as amended to address coastal specific issues~~ Coastal Stormwater Supplement to the Georgia Stormwater Management Manual, 1st Edition, April 2009.

(d) The use of non-structural stormwater management and stormwater better site design practices, such as those listed in the ~~latest edition of the Georgia Stormwater Management Manual, and as amended to address coastal specific issues~~ Coastal Stormwater Supplement to the Georgia Stormwater Management Manual, 1st Edition, April 2009, shall be utilized to the maximum extent practicable.

**AMENDMENTS TO THE RULES OF THE
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
RELATING TO
COASTAL MARSHLANDS PROTECTION, CHAPTER 391-2-3**

The Rules of the Department of Natural Resources, Chapter 391-2-3, Coastal Marshlands Protection, are hereby amended and added to, as hereinafter explicitly set forth in the attached amendments and additions for specific rules, or such subdivisions thereof as may be indicated.

391-2-3-.03 Regulation of Marinas, Community Docks and Commercial Docks

(1) **Purpose.** The purpose of these Rules is to implement the authority of the Board of Natural Resources to promulgate rules and regulations for permitting under and enforcement of the Coastal Marshlands Protection Act. This Chapter establishes standards and procedures to be applied by the Coastal Marshlands Protection Committee when reviewing applications for a permit to construct or modify a marina, commercial dock, or community dock on or over marshlands within the estuarine area of the state.

(2) **Definitions used in this Rule.**

(a) “303(d) listed stream” means a stream, stream segment, or other surface waterbody identified on a list submitted biannually to the US Environmental Protection Agency by the Georgia Environmental Protection Division, known as the 303(d) list. Inclusion on the 303(d) list denotes the waterbody segment as impaired because it does not meet one or more designated uses (i.e. Fishing, Recreation, etc.) and for which one or more total maximum daily loads needs to be developed.

(b) “Approved Disposal System” means an on-site wastewater disposal system suitable for domestic or other sewage approved by the Georgia Environmental Protection Division and/or local sanitation regulatory authority, as applicable.

(c) “Commercial Dock” means a dock providing 500 linear feet or less of docking space for vessels inclusive of commercial vessels.

(d) “Committee” means Coastal Marshlands Protection Committee.

(e) “Community dock” means a dock providing 500 linear feet or less of docking space which is a subdivision or community recreational amenity providing water access for residents, and which may or may not entail a fee. A dock meeting this definition, but providing more than 500 feet of docking space shall be treated as a marina, as defined in these rules.

(f) "Department" means the Georgia Department of Natural Resources.

(g) "Effective shading" means the amount of shading realized by utilizing alternative walkway decking material or alternative walkway design when compared to shading associated with traditional planking construction.

(h) "Fixed dock," means a dock, constructed on pilings, that is fixed in elevation, i.e., that does not float on the water.

(i) "Fixed terminal platform," means the platform constructed on pilings at the terminal, waterward end of a dock.

(j) "Floating dock" means a dock that floats on the water to which watercraft are tied for mooring.

(k) "Heritage preserve marshlands" means those marshlands that have been dedicated as a heritage preserve by the Governor pursuant to OCGA 12-3-75.

(l) "Impaired water" means a stream, stream segment, or other surface waterbody that does not meet water quality standards and that is identified in the most recent 303(d) list as an "Impaired Water."

(m) "Improvements" means additions to or enhancements of raw land or structures that normally increase its usefulness and/or value, which are constructed in accordance with applicable legal requirements at the time of such construction and are intended to remain attached to or associated with the project. "

(n) "Live-aboard" means a floating vessel or other watercraft which is moored to a dock, tree, or piling or anchored in the estuarine waters of the state and is utilized as a human or animal abode. Live-aboards include but are not limited to monohulls, multihulls, houseboats, floating homes, and other floating structures, which are used for human or animal habitation.

(o) "Manatee Basics for Boaters" means a 3' by 4' manatee educational display sign referenced in certain leases or permits, which contains standardized content pre-approved by the Wildlife Resources Division Nongame Conservation Section.

(p) "Manatee Travel Corridor" means channel(s) or waterway(s) that manatees are known to frequent and/or travel through, as determined by telemetry studies, aerial surveys and the Wildlife Resources Division's Nongame Conservation Section's public sightings database.

(q) "Marina" means any dock facility which has any one or more of the following:

1. Includes fueling, maintenance or repair services (regardless of dock length);
2. Is greater than 500 linear feet of dock space; or
3. Has dry storage for boats in an upland storage yard or vertical rack system.

(r) "Minor alteration" means any change in the marshlands which, taken singularly or in combination with other changes, involves less than 0.10 acres.

(s) “Model Ordinance within the Guide for Molluscan Shellfish Control in the National Shellfish Sanitation Program” means the requirements which are minimally necessary for the sanitary control of molluscan shellfish, as established by the National Shellfish Sanitation Program, a voluntary and cooperative program established in 1925 and comprised of federal, state and municipal authorities and representatives of the shellfish industry.

(t) “Modification” means a structural change to a community dock, commercial dock, or marina facility, whether existing but not permitted, existing and permitted, or permitted and yet to be constructed.

(u) “Project” means the proposed construction or maintenance activity identified in an application for a marshlands permit within the contemplation of the Coastal Marshlands Protection Act. A project may consist of two components: a marshlands component and an upland component, as defined in Rule 391-2-3-.02 (l).

(v) “Serviceability” means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

(w) “Tier One Community Crab Dock” means a community dock consisting of a single fixed walkway and an “L” or “T” shaped fixed terminal platform, supported on pilings, lacking floats, and from which water dependent activities such as fishing may be conducted.

(x) “Tier Two Community Dock” means a community dock consisting of a single fixed walkway and terminal fixed platform, supported on pilings, connecting ramp(s), and floating dock(s), and from which water dependent activities such as boating and fishing may be conducted.

(y) “Tier Three Community Dock” means a community dock consisting of a single fixed walkway and terminal fixed platform, supported on pilings, connecting ramp(s), and floating dock(s), and which does not qualify under a Tier One Community Crab Dock or a Tier Two Community Dock, and from which water dependent activities such as boating and fishing may be conducted.

(3) Tier One Community Crab Dock.

(a) To qualify for the permitting procedures as set out in paragraph (c) below, a proposed Tier One Community Crab Dock project must comply with the following standards or conditions:

1. There shall be no improvements on the upland component of the project, other than for pedestrian access to the marsh component and driveways and parking area landward of the 50’ marshlands buffer, all of which must be pervious.
2. The community dock must be for water-dependent activities that access a channel with defined banks and not ponded areas or mudflats.
3. The community dock must terminate at the first channel that is 10 feet wide grass to grass.

4. If the community dock walkway spans a tributary that can be bridged (a tributary less than 10 feet wide), it must have a minimum clearance of six feet above the mean high water line to the bottom of the walkway bridge. Piling spacing must provide for safe navigation in the channel.
5. A single "L" or "T" shaped fixed terminal platform up to 180 square feet is allowed.
6. The width of the fixed terminal platform may not exceed 6 feet.
7. The fixed terminal platform may not extend more than one-third of the width of the creek at mean high water.
8. The fixed terminal platform may not be enclosed but may be covered and screened with wainscoting not higher than three feet.
9. The fixed terminal platform may be roofed; provided, however, the roof may not exceed a maximum height of 12 feet above the fixed terminal platform decking at the lowest deck height.
10. A second deck, attic, or ceiling storage is not allowed on any roofed section of the fixed terminal platform.
11. The community dock walkway may not exceed 4 feet in width and may not exceed 500 feet maximum length. The walkway is measured from the delineated marshlands jurisdiction line as determined or verified by the Department, channelward to the fixed terminal platform.
12. The community dock walkway decking shall be of same material for its entire length, and standardized materials must be used when grating is used.
13. The community dock walkway must be constructed at a height above all vegetation, but not more than six feet above grade.
14. No floating dock or docks are allowed as part of the marshland component of the project.
15. No hoists or lift davits are allowed as part of the marshland component of the project.
16. No boats are allowed except for kayaks and canoes.
17. The community dock may not have fish cleaning stations, restrooms, retail or commercial activity.
18. Lighting if used must be shielded and on a timer.
19. No dredging is allowed in association with the community dock project.
20. The community dock may not be located in heritage preserve marshlands.
21. The applicant must operate and maintain the dock in a manner that will not unreasonably obstruct navigation to and from neighboring properties.

(b) Professional drawings of the project are required to be submitted as a part of the application. The drawings must be stamped by a Registered Land Surveyor, Professional Engineer, or Architect licensed to do business in Georgia.

(c) Upon receipt of a substantially complete project application and application fee, an abbreviated review and processing period shall apply.

1. Staff to the Committee shall have 21 days to review the project permit application.
2. The Committee shall provide Public Notice of the application for 15 days.

3. Upon a determination that the project application is complete (including staff review and public notice) and the project meets all requirements of the Coastal Marshlands Protection Act and these rules, the Commissioner may issue a Coastal Marshlands Protection Act permit unless a Committee member requests the application be brought to a Coastal Marshlands Protection Committee meeting for broader consideration.
4. Provided the project application is not called to a Coastal Marshlands Protection Committee meeting, total processing time of a Tier One Community Crab Dock shall not exceed 45 days following a preliminary determination by staff of completeness.

(d) No construction or alteration of a Tier One Community Crab Dock may commence until the expiration of 30 days following the date on which the application is approved; provided, however, that if a timely appeal is filed, no construction or alteration may commence until all administrative and judicial proceedings are terminated.

(e) The applicant/permittee must demonstrate the capacity to establish sufficient power and authority to enforce the conditions of the permit.

(f) Any modification to a Tier One Community Crab Dock is subject to review pursuant to the appropriate Tier criteria.

(g) If a proposed project does not qualify as a Tier One Community Crab Dock the application will be processed using the review and processing protocol for a Tier Two Community Dock, Tier Three Community Dock and Commercial Dock, or Marinas, using the lowest tier review and processing protocol for which the proposed project meets the standards. An application for multiple dock structures automatically defaults to the review and processing protocol for a Tier Three Community Dock and Commercial Dock.

(h) Permittee must provide a post-construction survey that locates the Tier One Community Crab Dock as indicated in the application materials. Such survey shall comply with the Georgia Plat Act, O.C.G.A. § 15-6-67 et. seq.

(4) Tier Two Community Dock.

(a) To qualify for the permitting procedures as set out in subparagraph (c) below, a proposed Tier Two Community Dock project must comply with the following standards or conditions:

1. The upland component of the project is limited to pedestrian access and pervious parking landward of the 50' marshland buffer.
2. There shall be no commercial activity at the community dock.
3. The community dock shall provide mooring space on a first come, first served basis and is open to all in the community served by the dock.
4. Live-aboard vessels may not be occupied for more than 90 days during any calendar year, without the grant of an extension by the Commissioner. The permittee is responsible for precluding from the dock anyone occupying a vessel

- for more than 90 days during any calendar year. Floating homes, abodes, or dwellings are specifically prohibited.
5. The community dock does not require a water bottoms lease, i.e., the dock has 500 linear feet or less of mooring space.
 6. The community dock walkway shall not exceed 6 feet in width, 750 feet in length, and 3000 square feet of effective shading impact. The walkway is measured from the delineated marshlands jurisdiction line as determined or verified by the Department, channelward to the fixed terminal platform.
 7. The community dock walkway decking shall be of same material for its entire length, and standardized materials must be used when grating is used.
 8. The community dock walkway must be constructed at a height above all vegetation, but not more than six feet above grade.
 9. The community dock must be for water-dependent activities that access the first channel with defined banks and not ponded areas or mudflats.
 10. The creek on which the community dock is located must be a minimum of 25 feet in width mean low water to mean low water.
 11. A community dock located in a creek 25 feet to 39 feet width mean low water to mean low water may occupy a maximum of one-fourth of the creek width mean low water to mean low water.
 12. A community dock located in a creek 40 feet wide or greater mean low water to mean low water may occupy a maximum of one-third of the creek width mean low water to mean low water.
 13. If the community dock walkway spans a tributary that can be bridged (a tributary less than 10 feet wide, grass to grass), it must have a minimum clearance of six feet above the mean high water line to the bottom of the walkway bridge. Piling spacing must provide for safe navigation in the channel.
 14. The community dock may have a single fixed terminal platform at the end of the walkway, which is limited to a maximum of 400 square feet, including screened and/or roofed sections.
 15. The fixed terminal platform or floating docks shall not be constructed over vegetation.
 16. The fixed terminal platform may not be enclosed but may be covered and screened with wainscotting not higher than three feet.
 17. The fixed terminal platform may be roofed; provided, however, the roof may not exceed a maximum height of 12 feet above the fixed terminal platform decking at the lowest deck height.
 18. A second deck, attic, or ceiling storage is not allowed on any roofed section of the fixed terminal platform.
 19. The community dock may have floating docks, which shall be limited in size to that which is reasonable for the documented, intended use, not to exceed 800 sq. feet maximum floating dock structure. Documentation of need must be submitted to justify the size of the proposed floating dock.
 20. Floating docks may not rest on the waterbottom at low tide and must be supported on pilings or by cradle at least two feet above the mud.
 21. No fish cleaning station, fueling, restrooms, pump out, or retail activities are allowed.
 22. No dredging is allowed in association with the community dock project.
 23. Lighting if used must be shielded and on a timer.

24. The community dock may not be located in heritage preserve marshlands.
25. The community dock or its operation shall not cause or create a measurable adverse water quality impact to the waterbody in which it is built, as measured by dissolved oxygen, fecal bacteria, or nutrient enrichment. At a minimum, the community dock must not be in a body of water listed on Georgia EPD's most recent 303(d) list as an "Impaired Water."
26. If the Department determines through its own water quality sampling or other resource analyses that there are environmental impacts of concern associated with the project, the Department may require the applicant/permittee at the applicant/permittee's expense, to have water, substrate, and/or tissue samples collected and analyzed for metals, petroleum hydrocarbons, or other constituents.
 - (i.) Sample collection and analyses must be according to methods approved by the Department.
 - (ii.) All results from such sampling results must be provided to the Department as obtained and may be used by the Department to further restrict the dock to reduce water quality impacts.
27. The permittee must operate and maintain the dock in a manner that will not unreasonably obstruct navigation to and from neighboring properties.
28. The applicant/permittee must post temporary manatee awareness signage during construction of the facility and permanent posting and maintenance of the informational display signage, "Manatee Basics for Boaters" post-construction.

(b) Professional drawings of the project are required to be submitted as a part of the application. The drawings must be stamped by a Registered Land Surveyor, Professional Engineer, or Architect licensed to do business in Georgia.

(c) Upon receipt of a substantially complete Tier Two Community Dock project application and application fee, an abbreviated review and processing period shall apply.

1. Staff to the Coastal Marshlands Protection Committee shall have 60 days to review the project permit application.
2. The Committee shall provide Public Notice of the application for 15 days, which period shall be concurrent with the staff review.
3. Staff to the Coastal Marshlands Protection Committee shall have 15 days to review the public comment received.
4. If the Tier Two Community Dock project is a minor alteration, Committee members shall have 10 days to request broader consideration of the project at a meeting of the Coastal Marshlands Protection Committee.
 - (i.) Upon a determination that the project application is complete (including staff review and public notice) and the project meets all requirements of the Coastal Marshlands Protection Act and these rules, the Commissioner may issue a Coastal Marshlands Protection Act permit for a Tier Two Community Dock which is a minor alteration unless a Coastal Marshlands Protection Committee member requests that the project be heard at a Coastal Marshlands Protection Committee meeting for broader consideration.
 - (ii.) If no Committee member requests the application receive broader consideration at a Coastal Marshlands Protection Committee meeting, the

application shall be processed to the Commissioner of Natural Resources for his review and action within 15 days.

(iii.) Provided the project application is not called to a Coastal Marshlands Protection Committee meeting, total processing time of a Tier Two Community Dock shall not exceed 115 days following a preliminary determination by staff of completeness.

5. Upon determination that a Tier Two Community Dock project application that is not a minor alteration is complete (including staff review and public notice), the project application shall be placed on the meeting agenda of the Coastal Marshlands Protection Committee.

6. If a second public notice is issued, an additional 15 days would be added to the processing time.

(d) No construction or alteration of a Tier Two Community Dock may commence until the expiration of 30 days following the date on which the application is approved; provided, however, that if a timely appeal is filed, no construction or alteration may commence until all administrative and judicial proceedings are terminated.

(e) The “Minor Alteration” acreage provision of the Coastal Marshlands Protection Act shall not take into consideration any reduction in acreage calculation for the effective shading impact reduction attributable to alternative walkway decking material or alternative walkway design.

(f) The applicant/permittee must demonstrate the capacity to establish sufficient power and authority to enforce the conditions of the permit.

(g) Any modification to a Tier Two Community Dock is subject to review pursuant to the appropriate Tier criteria.

(h) If a proposed project does not qualify as a Tier Two Community Dock the application will be processed using the review and processing protocol for a Tier Three Community Dock and Commercial Dock, or Marinas, using the lowest tier review and processing protocol for which the proposed project meets the standards. An application for multiple dock structures automatically defaults to the review and processing protocol for a Tier Three Community Dock and Commercial Dock.

(i) Permittee must provide a post-construction survey that locates the Tier Two Community Dock as indicated in the application materials. Such survey shall comply with the Georgia Plat Act, O.C.G.A. § 15-6-67 et. seq.

(5) Tier Three Community Dock or Commercial Dock.

(a) To qualify for the permitting procedures as set out in subparagraph (d) below, a proposed Tier Three Community Dock or Commercial Dock project must comply with the following standards or conditions:

1. The community dock walkway or commercial dock walkway shall not exceed 6 feet in width, 1000 feet in length, and not exceed 3000 square feet of effective shading impact. The walkway is measured from the delineated marshlands jurisdiction line as determined or verified by the Department, channelward to the fixed terminal platform.
2. The Coastal Marshlands Protection Committee may provide for an exception to the limitations on maximum walkway length and square footage. Documentation of need must be submitted to justify an exception, which shall be granted or denied in the sole discretion of the Committee.
3. The community dock or commercial dock walkway decking shall be of same material for its entire length, and standardized materials must be used when grating is used.
4. The community dock or commercial dock walkway must be constructed at a height above all vegetation, but not more than six feet above grade.
5. Live-aboard vessels may not be occupied for more than 90 days during any calendar year, without the grant of an extension by the Commissioner. The permittee is responsible for precluding from the dock anyone occupying a vessel for more than 90 days during any calendar year. Floating homes, abodes, or dwellings are specifically prohibited.
6. If the community or commercial dock walkway spans a tributary that can be bridged (a tributary less than 10 feet wide, grass to grass), it must have a minimum clearance of six feet above the mean high water line to the bottom of the walkway bridge.
7. The fixed terminal platform may not be enclosed but may be covered and screened with wainscoting not higher than three feet.
8. A second story or deck is not allowed on any roofed section of the fixed terminal platform.
9. Floating docks may not rest on the waterbottom at low tide and must be supported on pilings or by cradle at least two feet above the mud.
10. No dredging is allowed in association with the initial community or commercial dock project.
11. The applicant must operate and maintain the dock in a manner that will not unreasonably obstruct navigation to and from neighboring properties.
12. The community dock or its operation shall not cause or create a measurable adverse water quality impact to the waterbody in which it is built, as measured by dissolved oxygen, fecal bacteria, or nutrient enrichment.
13. If the Department determines through its own water quality sampling or other resource analyses that there are environmental impacts of concern associated with the project, the Department may require the applicant/permittee at applicant/permittee's expense, to have water, substrate, and/or tissue samples collected and analyzed for metals, petroleum hydrocarbons, or other constituents.
 - (i) Sample collection and analyses must be according to methods approved by the Department.
 - (ii) All results from such sampling results must be provided to the Department as obtained and may be used by the Department to further restrict the dock to reduce water quality impacts.

14. The applicant/permittee must post temporary manatee awareness signage during construction of the facility and permanent posting and maintenance of the informational display signage, "Manatee Basics for Boaters" post-construction.

(b) Professional drawings of the project are required to be submitted as a part of the application. The drawings must be stamped by a Registered Land Surveyor, Professional Engineer, or Architect licensed to do business in Georgia.

(c) A needs assessment must be submitted to justify the size of the proposed community dock or commercial dock. The Coastal Marshlands Protection Committee may opt for phased build out based on demonstrated need. If the permit requires a phased build out based on demonstrated need, the permit may be extended for an additional five years upon a showing that all due efforts and diligence have been made toward completion of the phases authorized to date based on demonstrated need.

(d) Upon receipt of a substantially complete Tier Three Community Dock or Commercial Dock project application and application fee, the application shall be reviewed and processed subject to a higher degree of examination and scrutiny and longer review times than a Tier One Community Crab Dock or a Tier Two Community Dock.

1. The Coastal Marshlands Protection Committee shall provide Public Notice of the application for 30 days.
2. An application is complete when it contains substantially all of the written information, documents, forms, fees, and materials required by the Coastal Marshlands Protection Act, and such additional information as is required by the Committee to properly evaluate the application.
3. The Coastal Marshlands Protection Committee shall act upon an application for a permit within 90 days after the application is complete; provided, however, that this provision may be waived upon the written request of the applicant.

(e) No construction or alteration of a Tier Three Community Dock or Commercial Dock may commence until the expiration of 30 days following the date on which the application is approved; provided, however, that if a timely appeal is filed, no construction or alteration may commence until all administrative and judicial proceedings are terminated.

(f) The "Minor Alteration" acreage provision of the Coastal Marshlands Protection Act shall not take into consideration any reduction in acreage calculation for the effective shading impact reduction attributable to alternative walkway decking material or alternative walkway design.

(g) The applicant/permittee must demonstrate the capacity to establish sufficient power and authority to enforce the conditions of the permit.

(h) Permittee must provide a post-construction survey that locates the Tier Three Community Dock or Commercial Dock as indicated in the application materials. Such survey shall comply with the Georgia Plat Act, O.C.G.A. § 15-6-67 et. seq.

(6) Marinas.

(a) The Coastal Marshlands Protection Committee may issue a permit for a marina in accordance with the requirements of the Coastal Marshlands Protection Act. Unless otherwise determined by the Committee in accordance with subparagraph (h) below, a marina must comply with the following standards or conditions:

1. The marina launch pier shall not exceed 1000 feet in length. The marina launch pier is measured from the delineated marshlands jurisdiction line as determined or verified by the Department, channelward to the boat launching area.
2. The marina pedestrian walkway shall not exceed 1000 feet in length and shall not exceed 3000 square feet of effective shading impact. The walkway is measured from the delineated marshlands jurisdiction line as determined or verified by the Department, channelward to the fixed terminal platform.
3. The Coastal Marshlands Protection Committee may provide for an exception to the limitations on maximum marina launch pier length, and to the limitations on marina pedestrian walkway length and square footage. Documentation of need must be submitted to justify an exception, which shall be granted or denied in the sole discretion of the Committee.
4. The marina may not be sited within 1,000 feet of waters classified as approved for shellfish harvesting by the Coastal Resources Division, or located where its presence or operation would cause a closing of waters classified for shellfish harvest based on the Model Ordinance within the Guide for Molluscan Shellfish Control in the National Shellfish Sanitation Program.
5. A marina to be located on open water must be sited at the first navigable creek that has a defined channel, adequate width and depth for the intended use, and established history of navigational access or use.
6. Any marina component proposed to be constructed on or over coastal marshlands must be for water dependent activities. No restaurants or structures for non-water dependent uses may be constructed on or over coastal marshlands.
7. Floating docks may not rest on the waterbottom at low tide and must be supported on pilings or by cradle at least two feet above the mud.
8. A marina proposed to be located in a manatee travel corridor or on a waterway where manatees may be found must have protective measures to minimize manatee/boat interactions to include:
 - (i.) An education plan for boaters using the marina;
 - (ii.) Regular monthly maintenance of dock facilities' hoses, faucets, or any apparatus or equipment capable of producing a stream of fresh water in close proximity to the access of the facility;
 - (iii.) A contingency plan for emergency repair of freshwater sources;
 - (iv.) Temporary manatee awareness signage during construction of the facility and permanent posting and maintenance of the informational display sign, "Manatee Basics for Boaters" post-construction; and
 - (v.) Speed zones may be required if the marina is in a manatee travel corridor.
9. No dredging of tidal waterbottoms or vegetated coastal marshlands is allowed in association with the initial marina project.

10. If the marina could require maintenance dredging in the future, a permanent, dedicated spoil site with the capacity for the initial dredge volume and anticipated maintenance needs must be identified at the time of application.
11. Dry boat storage is encouraged as a supplement or alternative to in-water mooring, to the extent feasible.
12. Live-aboard vessels may not be occupied for more than 90 days during any calendar year, without the grant of an extension by the Commissioner. The permittee is responsible for precluding from the dock anyone occupying a vessel for more than 90 days during any calendar year. Floating homes, abodes, or dwellings are specifically prohibited.
13. The marina should provide onshore restrooms, shower and laundry facilities in the upland component of the project. The applicant/permittee must take specific measures (such as, but not limited to, signs or dock regulations) to encourage boaters to use the washrooms, laundromat and restrooms onshore, if any.
14. A marina must have an approved disposal system for disposal of wastewater generated by boats and upland facilities at the marina.
15. A marina must install, for collection of solid wastes, trashcans, dumpsters or other suitable containers in compliance with The Act to Prevent Pollution from Ships (33 USCA 1901 and 33 CFR 158). Adequate separate containers for toxic substances shall be available.
16. A marina shall not allow any person to operate a marine toilet at a marina at any time so as to cause or permit to pass or to be discharged into the waters adjacent to the marina any untreated sewage or other waste matter or contaminant of any kind.
 - (i.) A marina must have a working pump-out facility and dockside wastewater collection system for sanitary wastes from vessels, adequate for the capacity of the marina (number and size of vessels) and require their use by boats using the marina, unless specific exceptions are allowed by the Coastal Marshlands Protection Committee.
 - (ii.) Pump-out facility maintenance logs must be kept.
 - (iii.) The marina must prominently display signage showing the location of the nearest pump out facility.
17. The Coastal Marshlands Protection Committee may permit marina fueling facilities which conform to US Environmental Protection Agency and GADNR Environmental Protection Division laws and regulations, and which meet the following requirements:
 - (i.) Fuel storage tanks and fuel lines between tank, dock, and vessels shall be equipped with emergency shut off valves.
 - (ii.) Dispensing nozzles shall be the automatic closing type without a hold-open latch.
 - (iii.) A marina must have adequate booms available either on-site or under contract to contain any oil spill.
 - (iv.) The marina shall have a current 'Operations Manual' containing the following:
 - (I.) Description of how the applicant meets the conditions of this permit,
 - (II.) The geographic location of the dock,
 - (III.) A physical description of the facility showing mooring areas, fuel

- (IV.) storage and dispensing areas, and locations of safety equipment,
 - (V.) A description and the location of each emergency shut-off system,
 - (V.) The names and telephone numbers of the facility, U.S. Coast Guard Marine Safety Office, Environmental Protection Division Emergency Response Center, and other personnel who may be called by employees of the facility in an emergency, including fire and police, and
 - (VI.) The names and telephone numbers of available hazardous spill clean-up contractors nearest the dock.
18. All components of a marina must be designed, installed, operated and maintained in a manner that will not unreasonably obstruct navigation to and from neighboring properties.
19. The marina or its operation shall not cause or create a measurable adverse water quality impact to the waterbody in which it is built, as measured by dissolved oxygen, fecal bacteria, or nutrient enrichment.
20. If the Department determines through its own water quality sampling or other resource analyses that there are environmental impacts of concern associated with the marina project, the marina may be required to have at applicant's/permittee's expense, water, substrate, and/or tissue samples collected and analyzed for metals, petroleum hydrocarbons, or other constituents.
- (i.) Sample collection and analyses must be according to methods approved by the Department.
 - (ii.) All results from such sampling must be provided to the Department as obtained and may be used by the Department to further restrict the dock to reduce water quality impacts.

(b) Professional drawings of the marina project are required to be submitted as a part of the application. The drawings must be stamped by a Registered Land Surveyor, Professional Engineer, or Architect licensed to do business in Georgia.

(c) A needs assessment must be submitted to justify the size of the proposed marina. The Coastal Marshlands Protection Committee may opt for phased build out based on demonstrated need. If the permit requires a phased build out based on demonstrated need, the permit may be extended for an additional five years upon a showing that all due efforts and diligence have been made toward completion of the phases authorized to date based on demonstrated need.

(d) Upon receipt of a substantially complete marina project application and application fee, the application shall be reviewed and processed subject to a higher degree of examination and scrutiny and longer review times than a Tier One Community Crab Dock or a Tier Two Community Dock.

1. The Coastal Marshlands Protection Committee shall provide Public Notice of the application for 30 days.
2. An application is complete when it contains substantially all of the written information, documents, forms, fees, and materials required by the Coastal Marshlands Protection Act, and such additional information as is required by the Committee to properly evaluate the application.

3. The Coastal Marshlands Protection Committee shall act upon an application for a permit within 90 days after the application is complete; provided, however, that this provision may be waived upon the written request of the applicant.

(e) No construction or alteration of a marina may commence until the expiration of 30 days following the date on which the application is approved; provided, however, that if a timely appeal is filed, no construction or alteration may commence until all administrative and judicial proceedings are terminated.

(f) The applicant/permittee must demonstrate the capacity to establish sufficient power and authority to enforce the conditions of the permit.

(g) Permittee must provide a post-construction survey that locates the marina as indicated in the application materials. Such survey shall comply with the Georgia Plat Act, O.C.G.A. § 15-6-67 et. seq.

(h) Nothing in these rules shall be construed to preclude the Committee from developing or issuing permits suitable to the circumstances of a particular application.

(7) Community Dock, Commercial Dock, or Marina Modification.

(a) A permit modification may be issued by the Committee in accordance with subparagraph (c) below for a community dock, commercial dock, or marina modification that complies with all the following standards or conditions:

1. The project modification entails no improvements to the upland component of the project; and
2. The project is a modification or addition to an existing dock facility permitted by the Coastal Marshlands Protection Committee for water-dependent activities; and
3. The project modification involves less than 0.1 acre of new impacts to coastal marshlands; and
4. The project modification will not effect a change in use of the originally permitted community dock or marina; and
5. The project modification does not necessitate the issuance of an initial marina lease for the facility undergoing modification; and
6. No fueling is allowed in association with the community dock, commercial dock, or marina modification; and
7. No fish cleaning station may be located on or over coastal marshlands in association with the community dock, commercial dock, or marina modification; and
8. No dredging is allowed in association with the community dock, commercial dock, or marina modification.

(b) Professional drawings of the project are required to be submitted as a part of the application. The drawings must be stamped by a Registered Land Surveyor, Professional Engineer, or Architect licensed to do business in Georgia.

(c) Upon receipt of a substantially complete Community Dock, Commercial Dock, or Marina Modification project application and application fee that meets the standards of subparagraph (a), above, an abbreviated review and processing period shall apply.

1. Staff to the Committee shall have 21 days to review the project permit application.
2. The Committee shall provide Public Notice of the application for 15 days.
3. Upon a determination that the project application is complete (including staff review and public notice), the Commissioner may issue a Coastal Marshlands Protection Act permit unless a Committee member requests the application be brought to a Coastal Marshlands Protection Committee meeting for broader consideration.
4. Provided the project application is not called to a Coastal Marshlands Protection Committee meeting, total processing time of a community dock modification, commercial dock modification, or marina modification meeting the standards of subparagraph (a), above, shall not exceed 45 days following a preliminary determination by staff of completeness.

(d) No construction or alteration of a community dock or marina modification may commence until the expiration of 30 days following the date on which the application is approved; provided, however, that if a timely appeal is filed, no construction or alteration may commence until all administrative and judicial proceedings are terminated.

(e) The applicant/permittee must demonstrate the capacity to establish sufficient power and authority to enforce the conditions of the permit.

(f) Any modification not meeting the standards of subparagraph (a) above, shall be reviewed and processed subject to a higher degree of examination and scrutiny applying the standards and review times of the tier that would apply if it were a new project.

(g) Permittee must provide a post-construction survey that locates the Community Dock, Commercial Dock, or Marina Modification indicated in the application materials. Such survey shall comply with the Georgia Plat Act, O.C.G.A. § 15-6-67 et. seq.

Authority O.C.G.A. Title 12; O.C.G.A. 12-5-285

391-2-3-.04 Annual Lease Rate Adjustment

**AMENDMENTS TO THE RULES OF THE
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
RELATING TO
COASTAL MARSHLANDS PROTECTION, CHAPTER 391-2-3**

The Rules of the Department of Natural Resources, Chapter 391-2-3, Coastal Marshlands Protection, are hereby amended and added to, as hereinafter explicitly set forth in the attached amendments and additions for specific rules, or such subdivisions thereof as may be indicated.

391-2-3-.04 Annual Lease Rate Adjustment

(1) Purpose. The purpose of this rule is to establish the procedure pursuant to which the Coastal Marshlands Protection Committee will adjust the annual rental fee per acre for leasing state owned marshland and waterbottoms.

(2) Procedures for Adjusting Marina Lease Rate

- (a) The annual rental fee per acre for leasing state owned marshland and waterbottoms for 2009 is one thousand dollars (\$1,000.00).
- (b) Beginning in 2010 and using the 2009 annual rental fee per acre as a base, the Coastal Marshlands Protection Committee shall annually adjust the amount of the annual rental fee per acre for leasing state owned marshland and waterbottoms by the rate of change (inflation or deflation) in the Consumer Price Index – All Urban Consumers Less Food and Energy as reported by the Bureau of Labor Statistics of the United States Department of Labor for the most recent calendar year.
- (c) The Coastal Marshlands Protection Committee shall determine the adjustment to the annual rental fee per acre for state owned marshland and waterbottoms on or before May 1 of each calendar year.

Authority O.C.G.A. Title 12; O.C.G.A. 12-5-287.

391-2-3-.05 Extension of Live-Aboard Privileges

**RULES
OF
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION**

CHAPTER 391-2-3

COASTAL MARSHLANDS PROTECTION

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391-2-3-.05 Extension of Live-Aboard Privileges.

The Rules of the Georgia Department of Natural Resources, Coastal Marshlands Protection, Chapter 391-2-3, are hereby amended, added to, repealed in part, revised, as hereinafter explicitly set forth in the attached amendments, additions, partial repeals, and revisions for specific rules, or such subdivisions thereof as may be indicated.

391-2-3-.05, “Repealed” is hereby amended by striking in its entirety and inserting in lieu thereof new subparagraphs to read as follows:

391-2-3-.05 Repealed Extension of Live-Aboard Privileges.

(1) Scope. The Rules in this Chapter will guide the Commissioner in considering requests for extensions of time to occupy a live-aboard under O.C.G.A. § 12-5-288(b) (8).

(2) Definitions used in this Rule.

(a) "Applicant" means any owner of a live-aboard who requests the Commissioner grant an extension of time beyond 30-90 days in any calendar year to permit persons to occupy a live-aboard.

(b) “Approved Disposal System” means an on-site wastewater disposal system suitable for domestic or other sewage approved by the Georgia Environmental Protection Division and/or local sanitation regulatory authority, as applicable.

(c) "Commissioner" means the Commissioner of Natural Resources of the State of Georgia or designee.

(d) “CMPA” means the Coastal Marshlands Protection Act of 1970 as amended, O.C.G.A. § 12-5-280 et seq.

(e) "Department" means the Department of Natural Resources of the State of Georgia.

(f) "Discharge" means, and shall include, spilled, leaked, pumped, poured, emitted or dumped.

(g) "Eligible marina" means any marina that meets the criteria set forth in Rule 391-2-3-.05(4).

(h) "Live-aboard" means a floating vessel or other water craft which is moored to a dock, tree, or piling or anchored in the estuarine waters of the state and watercraft capable of safe, mechanically propelled navigation under average Georgia coastal wind and current conditions which is utilized as a human or animal abode and is located at a marina or a mooring area established by the department. Live-aboards include but are not limited to monohulls, multihulls, houseboats, floating homes, and other floating structures which are used for human or animal habitation.

(i) "Live-aboard operator" means the owner of a live-aboard or any person other than the owner who occupies, operates or has charge of the navigation or use of a live-aboard.

(j) "Marina" means any dock facility that has one or more of the following:

1. Includes fueling, maintenance or repair services (regardless of dock length);

2. Is greater than 500 linear feet of dock space; or

3. Has dry storage for boats in an upland storage yard or vertical rack system.

(k) "Marina operator" means the owner of an eligible marina or any person who operates or has charge of an eligible marina.

(l) "Sewage" means human or animal body wastes and the waste from toilets and other receptacles intended to receive or retain body wastes.

(3) Extension Eligibility.

(a) No live-aboard may be occupied in Georgia coastal waters subject to the jurisdiction of the CMPA for more than 30 90 days during any calendar year unless the live-aboard owner has been granted an extension of time in writing by the Commissioner.

(b) The applicant shall submit a written request for an extension to the Commissioner.

(c) The Commissioner shall promptly consider any written request that meets the following requirements:

1. The applicant submits the request on the application form provided by the Department to the Commissioner, c/o the Coastal Resources Division, One Conservation Way, Brunswick, Georgia 31520;

2. The Coastal Resources Division receives the request at least 15 calendar days prior to the requested extension start date;

3. The applicant certifies that the live-aboard has a secured mechanism to prevent discharge of treated and untreated sewage. Examples of secured mechanisms considered to be effective at

preventing discharges include, but are not limited to, closing the seacock and padlocking, using a non-releasable wire tie, or removing the seacock handle (with the seacock closed).

4. The applicant certifies that they will not discharge any sewage, treated or untreated, into Georgia coastal waters subject to the jurisdiction of the CMPA.

5. The applicant certifies that the live-aboard is capable of being used as a means of transportation on the water and is capable of safe, mechanically-propelled, navigation under average Georgia coastal wind and current conditions.

6. The applicant identifies the eligible marina at which the live-aboard operator will moor the live-aboard.

7. The applicant provides written documentation of a slip rental agreement with an eligible marina.

8. The applicant states the reasons for requesting the extension and the period of time for which the extension is requested.

9. The Commissioner, in his or her sole discretion, may grant or deny any request for an extension of time to occupy a live-aboard.

10. The Commissioner, in his or her sole discretion, may consider requests for extensions that do not meet this Rule if the applicant shows extraordinary and extenuating circumstances.

11. An extension may be granted for a specific live-aboard and cannot be transferred to a different live-aboard.

(4) Eligible Marina. No marina may permit a live-aboard to moor at its dock facility for more than 30 90 days in any calendar year unless the marina meets the following criteria:

(a) The marina has an approved disposal system with a minimum holding tank size as listed below or a direct connection to a municipal or private sewage treatment facility; provided; however, that nothing in this Rule shall preclude a marina from owning or contracting with a mobile sewage pump-out service so long as said service provides documentation of proper disposal of sewage compliant with local, state or federal ordinances, regulations and laws.

<u>Total # of Live-aboards</u>	<u>Minimum Holding Tank Size</u>
<u>1. 1 to 20</u>	<u>300 gallons</u>
<u>2. 21 to 40</u>	<u>600 gallons</u>
<u>3. 41 to 60</u>	<u>900 gallons</u>
<u>4. 61 to 80</u>	<u>1,200 gallons</u>
<u>5. 81 to 100</u>	<u>1,500 gallons</u>
<u>6. More than 100</u>	<u>2,000 gallons</u>

(b) The marina is in good standing with its CMPA permit and its Department waterbottoms lease.

(c) The marina requires proof that each live-aboard mooring at its dock facility that has been occupied in Georgia coastal waters subject to the jurisdiction of the CMPA for more than 30 90 days during any calendar year has been granted an extension by the Commissioner pursuant to O.C.G.A. § 12-5-288(b)(8).

(5) Record Keeping.

(a) Live-aboard operators granted an extension shall keep on the live-aboard records or receipts describing the location and date of sewage pump-out for the duration of the extension.

(b) Each eligible marina shall keep at its office, in an organized and recoverable fashion, and for the duration of the extension:

1. all records or receipts describing the date of each sewage pump-out inclusive of a live-aboard identifier; and

2. A copy of the document authorizing the extension for each live-aboard moored at its dock facility that has been occupied in Georgia coastal waters subject to the jurisdiction of the CMPA for more than 30 90 days in any calendar year.

(c) A copy of the document authorizing the extension shall be kept onboard the live-aboard for the duration of the extension.

(6) Extension Term. The Commissioner may grant extensions for up to one calendar year at a time, beginning January 1 and ending December 31. Extensions can be requested for additional years, subject to the same requirements.

(7) Live-aboard and Marina Inspection. Live-aboard owners granted an extension and eligible marinas are subject to inspections by Department personnel to verify compliance with this rule.

(8) Amendment and Termination of Extensions.

(a) The live-aboard operator shall notify the Department using the Department provided form prior to re-locating the live-aboard to a new eligible marina.

(b) A marina operator shall notify the Department if any live-aboard with an extension moored at its dock facility terminates its agreement with the marina operator.

(c) An extension may be terminated if the Commissioner determines that the conditions of the extension have been violated by the live-aboard operator after 10 days notice to the live-aboard owner.

(d) Any live-aboard owner who believes that the Commissioner erroneously terminated an extension may file an appeal with the Commissioner within 10 days of the date of the decision. The appeal must be in writing and set forth in detail the reasons for the appeal. The appeal must be postmarked or delivered to the Commissioner at the Commissioner's official address on or before the 10th day; provided that if the 10th day falls on a Saturday, Sunday or state holiday,

then the 10th day is deemed to be the first business day after said Saturday, Sunday or state holiday.

Authority O.C.G.A. Sec. 12-5-285

**AMENDMENTS TO THE
RULES AND REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
RELATING TO WATER QUALITY CONTROL, CHAPTER 391-3-6**

391-3-6-.03 Water Use Classifications and Water Quality Standards.

- (6) **Specific Criteria for Classified Water Usage.** In addition to the general criteria, the following criteria are deemed necessary and shall be required for the specific water usage as shown:
- (c) Fishing: Propagation of Fish, Shellfish, Game and Other Aquatic Life; secondary contact recreation in and on the water; or for any other use requiring water of a lower quality:
- (iii) Bacteria: For the months of May through October, when water contact recreation activities are expected to occur, fecal coliform not to exceed a geometric mean of 200 per 100 mL based on at least four samples collected from a given sampling site over a 30-day period at intervals not less than 24 hours. Should water quality and sanitary studies show fecal coliform levels from non-human sources exceed 200/100 mL (geometric mean) occasionally, then the allowable geometric mean fecal coliform shall not exceed 300 per 100 mL in lakes and reservoirs and 500 per 100 mL in free flowing freshwater streams. For the months of November through April, fecal coliform not to exceed a geometric mean of 1,000 per 100 mL based on at least four samples collected from a given sampling site over a 30-day period at intervals not less than 24 hours and not to exceed a maximum of 4,000 per 100 mL for any sample. The State does not encourage swimming in surface waters since a number of factors which are beyond the control of any State regulatory agency contribute to elevated levels of fecal coliform. For waters designated as ~~approved shellfish harvesting waters~~ shellfish growing areas by the ~~appropriate State agencies~~ Georgia DNR Coastal Resources Division, the requirements will be consistent with those established by the State and Federal agencies responsible for the National Shellfish Sanitation Program. The requirements are found in the ~~National Shellfish Sanitation Program Manual of Operation, Revised 1988, Interstate Shellfish Sanitation Conference, U.S. Department of Health and Human Services (PHS/FDA), and the Center for Food Safety and Applied Nutrition. Streams designated as generally supporting shellfish are listed in Paragraph 391-3-6-.03(14)~~ National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, 2007 Revision (or most recent version), Interstate Shellfish Sanitation Conference, U.S. Food and Drug Administration.
- (16) **Waters Generally Supporting Shellfish.** ~~Waters designated by the Coastal Resources Division as productive shellfish waters (currently producing or with the potential to produce shellfish) are opened and closed according to State Law and the requirements of the National Shellfish Sanitation Program Manual of Operations. For a current listing of open productive shellfish waters, contact the Coastal Resources Division. Specific water reaches generally supporting shellfish are as follows:~~
The waters listed below are either productive shellfish waters or have the potential to support shellfish. However, it may not be lawful to harvest shellfish from all of the waters

listed below. Shellfish may only be harvested from waters approved for harvest by the Georgia DNR Coastal Resources Division. For a current list of approved waters for harvesting, contact the Coastal Resources Division.

CHATHAM COUNTY

1. Savannah River South Channel at Fort Pulaski to confluence with Lazaretto Creek.
2. Tybee River at confluence with Bates Creek and eastward, including Bates Creek.
3. Wilmington River at confluence with Herb River and eastward.
4. Herb River at confluence with Wilmington River to County Road 890.
5. All waters surrounding Skidaway Island including Moon River North to Skidaway Island Road.
6. Vernon River at Vernonburg and eastward.
7. Little Ogeechee River from Rose Dhu Island and eastward excluding Harvey Creek on Harvey's Island.
8. Ogeechee River below Shad Island and eastward (north of center line).
9. All waters surrounding Ossabaw Island and Wassaw Island to the center line of the intracoastal waterway.

BRYAN COUNTY

1. Ogeechee River below Shad Island and eastward (south of center line).
2. Redbird Creek at Cottonham and eastward.
3. All waters west of main channel center line of intracoastal waterway to confluence of Medway River.
4. Medway River at south confluence of Sunbury Channel and East Channel and eastward (north of center line).

LIBERTY COUNTY

1. Medway River at south confluence of Sunbury Channel and East Channel and eastward (south of center line).
2. Dickinson Creek at Latitude 31° 44.2' to confluence with Medway River.
3. Johns Creek at end of County Road 3 and eastward to confluence with Medway River.
4. All other waters east and north of Colonels Island.
5. North Newport River System at confluence with Carrs Neck Creek and eastward, including Cross Tide Creek.

6. South Newport River System north of center line and eastward from confluence with South Hampton Creek.

MCINTOSH COUNTY

1. South Newport River System south of centerline and eastward from confluence with South Hampton Creek.
2. Julienton River at Latitude 31° 36.8' and eastward to confluence with Sapelo River, including Broad River near Shellman Bluff.
3. Sapelo River from end of County Road 127 eastward excluding White Chimney River and Savannah Cut.
4. All waters surrounding Creighton Island.
5. Atwood Creek at Latitude 31° 28.3' and eastward.
6. Hudson Creek at Latitude 31° 27.2' and eastward.
7. Carnigan River at Latitude 31° 26.2' and eastward.
8. All waters surrounding Sapelo Island to the center line of Sapelo Sound, including New Teakettle Creek, Old Teakettle Creek and Dark Creek.
9. Dead River at Longitude 81° 21.5' to confluence with Folly River.
10. Folly River at Longitude 81° 21.2' to confluence with intracoastal waterways including Fox Creek tributary.
11. North River from confluence with Old Darien River to confluence with intracoastal waterway, including Old Darien River.
12. Darien River from confluence with Three Mile Cut to intracoastal waterway.
13. Rockdedundy River from confluence with Darien River to intracoastal waterway.
14. All waters surrounding Doboy Island, Commodore Island, Wolf Island, and Rockdedundy Island.
15. South River at confluence of intracoastal waterway to Doboy Sound.
16. Altamaha River from confluence with Three Mile Cut and Mackay River and eastward, including Buttermilk Sound, but excluding South Altamaha River.
17. Dog Hammock to confluence with Sapelo River.
18. Eagle Creek to confluence with Mud River.

GLYNN COUNTY

1. Mackay River water system from confluence with South Altamaha River to confluence with Brunswick River, excluding Wally's Leg.

2. All waters surrounding St. Simons Island and Little St. Simons Island.
3. All waters surrounding Andrews Island excluding Academy Creek.
4. Turtle River from confluence with Buffalo River to confluence with South Brunswick River, excluding Cowpen Creek, Yellow Bluff Creek, and Gibson Creek.
5. South Brunswick River and drainage system to confluence of Brunswick River.
6. Fancy Bluff Creek from confluence with South Brunswick River to the Little Satilla River.
7. Brunswick River from confluence of Turtle River and South Brunswick River to St. Simons Sound.
8. Little Satilla River from confluence with Fancy Bluff Creek to St. Andrews Sound (north of center line).
9. All waters surrounding Jekyll Island, Jointer Island, and Colonels Island.

CAMDEN COUNTY

1. Little Satilla River from confluence with Fancy Bluff Creek to St. Andrews Sound (south of center line), excluding Maiden Creek.
2. Umbrella Creek from confluence with Dover Creek below Dover Bluff.
3. Dover Creek from confluence with Umbrella Creek to confluence with Satilla River.
4. Satilla River near Floyd Basin and unnamed cut over to Dover Creek to St. Andrews Sound.
5. Floyd Basin at confluence with Todd Creek to confluence with Satilla River.
6. Floyd Basin at confluence with Todd Creek to confluence with Cumberland River.
7. Black Point Creek south of Latitude 30° 52.0' south to Crooked River.
8. Crooked River from Crooked River State Park to Cumberland River.
9. Cumberland River from confluence of St. Andrews Sound to confluence with St. Marys River (north of center line).
10. North River from County Road 75 to confluence with St. Marys River.
11. All waters surrounding Cumberland Island.
12. St. Marys River (north of center line) from end of State Road 40 to Cumberland Sound.

APPENDIX B – PUBLIC NOTICES