

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

**CHAPTER 391-2-3**

**COASTAL MARSHLANDS PROTECTION**

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**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 U.S. Environmental Protection Agency by the Georgia **Chapter 391-2-3 Coastal Marshlands Protection** 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 O.C.G.A. 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 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.

(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 (1).

(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 3,000 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 wainscoting 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, 1,000 feet in length, and not exceed 3,000 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 1,000 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 1,000 feet in length and shall not exceed 3,000 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 discharge d 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 U.S. 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 storage and dispensing areas, and locations of safety equipment,

(IV) 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 affect 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.

### **391-2-3-.05 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 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 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.

(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 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 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.

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

(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 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 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.