Proposed New Rule, Chapter 391-2-1: Private Docks

Jill Andrews, Chief of Coastal Management
Regulation of Private Docks in Tidal Waters: 1996-2022

Programmatic General Permit (PGP)

- Delegated permit authority from Army Corps of Engineers
- Set size standards for private docks
- Reviewed every 5 years
- Expired in 2022

State Revocable License (RL)

- Private docks exempt from CMPA
- RL issued by CRD for docks meeting PGP criteria
- Remains current practice
Regulation of Private Docks

Private Dock Licenses Issued: 2012-2022

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Challenges:

State standards not codified
- Confusion within regulated community related to state versus Army Corps requirements

Managing resource impacts
- Shading of vegetated marsh
- Impacts to navigation
- Marsh wrack accumulation
- Dock proliferation

Enforcement capacity
- Responsibility for improper construction
- Limited to impacts to vegetated marsh
Private Docks
Chapter 391-2-1

- .01: Purpose
- .02: Definitions
- .03: Eligibility for a Revocable License
- .04: Requirements of a Revocable License
- .05: Standards and Conditions of New Private Docks
- .06: Modification to Existing Private Docks
- .07: Maintenance or Reconstruction of Existing Private Docks
- .08: General Conditions of Revocable Licenses for Private Docks
- .09: Revocation, Suspension, or Modification of Authorizations; Penalties
Chapter 391-2-1-.05 New Docks

(a) Docks must be water-dependent

(b) Docks to waterways less than 20 feet wide

(c) Must be 10 feet or more from property lines or corridors

(d) Fixed Walkways

(e) Fixed Deck

(f) Floating Dock

(g) Boat Hoist

(h) Fixed deck and hoists may be roofed 12 ft. above deck

(i) Extension into waterway may not exceed 40 ft. or ¼ waterway width, unless justified and approved
Chapter 391-2-1-.06
Modifications to Existing Docks

1. Existing, serviceable docks may be modified
2. Modified components must be consistent with standards for new docks
3. One walkway extension may be allowed as a result of changes in the waterway; maximum 6 ft. wide; maximum length is only what is needed to reach intended water depth
Chapter 391-2-1-.07
Maintenance or Reconstruction of Existing Docks

1. Existing, serviceable docks may be maintained or reconstructed in the same footprint
2. Existing, unserviceable docks or components must be consistent with standards for new docks; does not extend to docks rendered unserviceable as a result of forces of nature, provided proof of a serviceable dock is provided
Chapter 391-2-1-.09
Revocation, Suspension, or Modification of Authorization; Penalties

1. Department may suspend, revoke, modify or deny a Revocable License for failure or refusal to comply with any provision of 391-2-1.
2. Any person who causes or permits the construction, modification, reconstruction or maintenance of a dock without approval is subject to enforcement.
3. Enforcement may include revocation, suspension, or modification of a license, removal of the unauthorized structure, restoration of marshlands, and a consent order/agreement.
4. Any person who violates 391-2-1 shall be guilty of a misdemeanor.
Targeted Public Participation Plan

- January 23, 2024  Board briefing on proposed rule
- January 24, 2024  Notice of public comment period
- February 15, 2024  Public Hearing, Brunswick
- March 15, 2024    Public comment period closes
- April 24, 2024    Proposed final action by Board
Thank you
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