



COASTAL RESOURCES DIVISION
ONE CONSERVATION WAY • BRUNSWICK, GA 31520 • 912.264.7218
COASTALGADNR.ORG

MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

May 28, 2019

NOTICE OF PROPOSED REGULATION CHANGES

TO: All Interested Persons and Parties

FROM: Doug Haymans

SUBJECT: Notice of Rule Making for Coastal Marshland Protection and Boating Regulations

Notice is hereby given that, pursuant to authority set forth below, the Georgia Department of Natural Resources proposes an amendment to the Rules of Georgia Department of Natural Resources Coastal Resources Division, Chapter 391-2-3, Coastal Marshlands Protection Regulations and Wildlife Resources Division, Chapter 391-4-5, Boating Regulations. This is a notice of proposed amendments to the rules to reflect the deliberations of the Coastal Committee of the Board of Natural Resources at its May 21, 2019 meeting.

These amendments are being promulgated under the authority of Title 52, Section 52-7-8.4 of the Official Code of Georgia, Annotated. In addition to the removal of the term ‘live-aboard’ and all associated rules from the Coastal Marshlands Protection Regulations, the proposed amendments would create rules for over-night and long-term anchoring in the estuarine area of the state and establish an anchorage permit.

A public hearing on the proposed amendments will be held in Brunswick, Georgia on Monday, June 17, 2019, 5:30p.m. at the Coastal Regional Headquarters of the Georgia Department of Natural Resources. Written public comment will be received through Monday July 15, 2019. Comments should be legible, concise and limited to the proposed rule change. Following the comment period, the Board of Natural Resources will consider the proposed rule on August 27, 2019 at 9:00 AM at its Board Room located at 2 Martin Luther King Jr. Drive, SE, Suite 1252, Atlanta, Georgia.

Mail or email comments to: Kelly Hill, Coastal Resources Division, One Conservation Way, Brunswick, GA 31520. Kelly.Hill@dnr.ga.gov

Additional information is available at www.CoastalGaDNR.org. Click on the “News and Notices” tab.

BACKGROUND AND SYNOPSIS OF
PROPOSED AMENDMENTS TO THE RULES OF THE
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
RELATING TO
CHAPTER 391-2-3, COASTAL MARSHLANDS PROTECTION REGULATIONS
AND
WILDLIFE RESOURCES DIVISION
RELATING TO
CHAPTER 391-4-5, BOATING REGULATIONS

Background:

Live-aboard vessel owners who do not operate their vessel according to existing law remain a consistent point of contention for coastal residents. Numerous, frequent complaints are fielded by DNR regarding vessels anchored in the estuarine area that are proving to be public nuisances as well as health hazards because of waste discharge. HB201, which becomes effective January 1, 2020, streamlined requirements for living on a vessel while providing a more enforceable code.

Current live-aboard vessel law resides in the Coastal Marshlands Protection Act (CMPA, 12-5-280 et. seq.), which is enforced primarily through civil penalty. As vessels, live-aboards are more appropriately regulated via Title 52, Chapter 7 (Registration, Operation, and Sale of Watercraft) where a violation would carry a criminal penalty. In addition to removing live-aboard vessels from the CMPA, HB201 transferred their oversight to Title 52 and directs the Board to create an anchorage permit which would reside with boating regulations, 391-4-5. HB201 also allows vessel owners who use eligible facilities (marinas with waste pump-out services) to live-aboard their vessel with no further interaction with the department.

Current law requires registration with the Department and doesn't allow a live-aboard outside of an eligible marina. HB201 provides opportunity for those who wish to use their vessel as a place of abode in the estuarine area to register with the Department and pay a modest fee while accepting the requirement to not discharge waste from their vessel. It exempts those vessels owners who live aboard their vessel while in an eligible facility (marina with waste pump-out equipment) from registering or paying the fee. HB 201 also reinforced the department's ability to establish anchorages in the estuarine area and to prohibit areas where overnight anchoring may occur.

Purpose:

The purpose of the proposed amendments is to implement HB201 by establishing a use permit for overnight or long-term anchoring in the estuarine areas of the state.

Main Features:

The primary feature of the proposed amendment is the creation of 391-4-5-.23 Overnight and Long-term Anchorage Permits, a new Boating Regulation that establishes anchorage permits in estuarine areas.

Differences:

- 1) 391-2-3-.03 Regulation of Marinas, Community Docks and Commercial Docks. Removes the reference to live-aboard vessels from the definition, tier two and three community docks, and marinas.
- 2) 391-2-3-.05 Extension of Live-Aboard Privileges. Repeals in its entirety this code section as HB201 removed all references to live-aboard vessels from the Coastal Marshlands Protection Act (O.C.G.A. sections 12-5-282 and 12-5-288.)
- 3) 391-4-5-.23 Overnight and Long-term Anchorage Permits. Creates a new section in Boating Regulations that establishes a permit fee for vessels anchoring in Department approved anchorage areas.

Date, Time, and Place of Board Action:

Board Action: August 27, 2019, 9:00 AM, DNR Board Room, 2 Martin Luther King, Jr. Drive, S.E., Suite 1252 East, Atlanta, Georgia 30334.

Targeted Public Participation Plan:

Amendments to the Coastal Marshlands Protection Regulations, Chapter 391-2-3, and Boating Regulations, 391-4-5. A targeted public participation plan was chosen as there are many affected persons, namely vessel owners and marinas.

- May 2019 – CRD/LED drafts proposed amendments
- May 21, 2019 – Brief the Board of Natural Resources on proposed amended Rule.
- May 22, 2019 – Public Notice of proposed rule-making issued.
- June 17, 2019 – Public meeting in Brunswick, CRD headquarters.
- July 15, 2019 - Public comment period closes.
- August 27, 2019 - CRD presents the final draft of proposed amended Rule, considering public comment, to the Coastal Committee of the Board of Natural Resources. Assuming affirmative vote by the Coastal Committee, Board adopts amended Rules.
- December 1, 2019 - Commissioner's office files amended Rule with Secretary of State to be effective January 1, 2020. (also the effective date for HB 201).



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MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

May 7, 2019

MEMORANDUM

TO: Board of Natural Resources

FROM: Doug Haymans

SUBJECT: Economic Impact of Proposed Amended Rule on Small Businesses: Chapter 391-2-3, Coastal Marshlands Protection Regulations and Chapter 391-4-5, Boating Regulations

The Administrative Procedures Act requires that during the formation and adoption of any rules, attempts shall be made to reduce the economic impact of the rules on small businesses. This applies to businesses that are independently owned and operated, are not dominant in the field and employ 100 employees or less.

All the businesses possibly affected by this rule employ less than 100 persons. There are no additional costs to businesses, such as marinas, and if anything, these rules may direct additional customers to eligible facilities. For many years, Georgia has been viewed by transient boaters as unfriendly to their activities. The proposed amended rules should have the added benefit of opening Georgia estuarine waters to more transient boaters and therefore more business for coastal marinas.

DH

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

CHAPTER 391-2-3

COASTAL MARSHLANDS PROTECTION REGULATIONS

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391-2-3-.03 Regulation of Marinas, Community Docks and Commercial Docks
391-2-3-.05 Repealed

**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.

~~(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.~~
Reserved

(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:

~~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. Reserved.~~

(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:

~~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. Reserved.~~

(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:

~~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. Reserved.~~

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

~~—(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.~~

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

CHAPTER 391-4-5

BOATING REGULATIONS

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391-4-5-.23 Overnight and Long-term Anchorage Permits

391-4-5-.23 Overnight and Long-term Anchorage Permits

(1) Anchoring or Docking Vessels at Night.

No person shall anchor or dock a vessel at night in the estuarine area of the state unless it is at an eligible facility, as defined in O.C.G.A. 52-7-8.4, or in an anchorage area established by the Department and with an anchorage permit as outlined in paragraph (2), below. This rule does not apply to the following:

(a) A vessel docked at a private recreational dock or a non-eligible facility so long as such vessel is not utilized as a live-aboard vessel, as defined in O.C.G.A. 52-7-8.4;

(b) A vessel seeking safe harbor from dangerous weather or in the event of mechanical failure for up to 7 days; or

(c) A vessel anchored while actively engaged in fishing.

(2) Anchorage Permits.

(a) Persons anchoring a vessel at night in the estuarine area and within an anchorage area established by the Department, must purchase and be in possession of an anchorage permit, except as provided herein.

(b) Permit Fee.

1. A daily anchorage permit is valid for one (1) overnight period and is available at a cost of \$5.00.

2. A weekly anchorage permit is valid for seven (7) days and is available at a cost of \$20.00.

3. A monthly anchorage permit is valid for 30 days and is available at a cost of \$40.

4. An annual anchorage permit is valid for 365 days and is available at a cost of \$240.00.

5. Senior citizens (65 years of age or older), active duty military and veterans may purchase a daily, weekly, monthly, or annual anchorage permit at a fifty percent discount.

(c) Anchorage permits shall be available at all sites that sell hunting and fishing licenses, by phone and online.

(d) Anchorage permits may be printed or held electronically, but must be onboard the vessel at all times and available for inspection upon request. When a vessel is unoccupied at night, any monthly or annual anchorage permit must be prominently displayed and visible from the water.

(e) Any person applying for an anchorage permit for a live-aboard vessel must certify to no discharge of sewage, treated or untreated, into the estuarine area of the state.

(f) Exemptions to this rule may be granted by the Department for unique circumstances. Conditional permission must be requested in writing to the Commissioner.

(3) **Public Notice.** The Department shall post anchorage areas on it's website.