



COASTAL RESOURCES DIVISION
ONE CONSERVATION WAY · BRUNSWICK, GA 31520 · 912-264-7218

WALTER RABON
COMMISSIONER

DOUG HAYMANS
DIRECTOR

January 23, 2024

MEMORANDUM

TO: Board of Natural Resources

FROM: Doug Haymans

SUBJECT: Briefing on proposed amendment of Subject 391-2-1 of the Rules of the Department of Natural Resources to establish rules for private docks

Included for your consideration is a proposed amendment of Subject 391-2-1 of the Rules of the Department of Natural Resources to establish rules for private docks located over state-owned tidal water bottoms by amending Rules 391-2-1-.01 through 391-2-1-.08 and creating new Rule 391-2-1-.09. A version of these rules was submitted for your consideration in 2016 and 2017 but final action was postponed. This package resumes the process, taking into consideration public comment at the time and a plan for additional comment moving forward.

Specifically, amendments to Subject 391-2-1, Rules 391-2-1-.01 through 391-2-1-.09 will codify the standards and conditions for issuance of a revocable license authorizing construction, reconstruction, maintenance, or modification of private docks located over state-owned tidal water bottoms. The proposed standards and conditions will be consistent with those formerly required in a programmatic general permit for private docks (PGP0083) as was issued to the State of Georgia by the United States Army Corps of Engineers pursuant to the Rivers and Harbors Act. The PGP0083 expired in July 2022 and was not renewed by the Corps. Therefore, these rules carry forth and codify the standards of the most recent PGP0083 such that the affected public understands what is expected regarding the construction, maintenance, reconstruction or modification of private docks in tidal areas.

I respectfully submit the following information in support of a request for approval to initiate rulemaking:

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DH/ja

Attachments



COASTAL RESOURCES DIVISION

ONE CONSERVATION WAY · BRUNSWICK, GA 31520 · 912-264-7218

WALTER RABON
COMMISSIONER

DOUG HAYMANS
DIRECTOR

January 24, 2024

NOTICE OF PROPOSED REGULATION CHANGES

TO: All Interested Persons and Parties

FROM: Doug Haymans

SUBJECT: Notice of proposed amendments to Subject 391-2-1 of the Rules of the Department of Natural Resources to establish rules for private docks located over state-owned tidal water bottoms.

Notice is hereby given that, pursuant to authority set forth below, the Georgia Department of Natural Resources proposes to amend Subject 391-2-1 of the Rules of the Department of Natural Resources to establish rules for private docks located over state-owned tidal water bottoms by amending Rules 391-2-1-.01 through 391-2-1-.08 and creating new Rule 391-2-1-.09. This is a notice of the proposed amended rules to reflect the deliberations of the Coastal Committee of the Board of Natural Resources at its meeting on January 23, 2024.

The amended and new rules are being promulgated under the authority of the Official Code of Georgia, Annotated Title 12-2-4, 12-2-24 and 12-3-32. Subject 391-2-1 is being amended to codify the standards and conditions for issuance of a revocable license authorizing construction, maintenance, reconstruction, or modification of private docks located over state-owned tidal water bottoms. The proposed standards and conditions will be consistent with those previously required in a general permit for private docks located over state-owned tidal water bottoms as issued to the State of Georgia by the United States Army Corps of Engineers pursuant to the Rivers and Harbors Act. The general permit expired in 2022 and was not renewed by the Corps. Therefore, these rules codify the standards of the most recent general permit so the affected public understands what is expected with regard to the construction, maintenance, reconstruction, or modification of private docks in tidal areas.

A public hearing will be held Thursday, February 15, 2024, at 5:30PM at the College of Coastal Georgia, Stempler Auditorium, 1 Mariner Way, Brunswick, GA 31520.

Written public comment will be received through March 15, 2024. 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 Wednesday, April 24, 2024, at 9:00 AM at the Jekyll Island Convention Center, 75 Beachview Drive N, Jekyll Island, Georgia 31527.

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

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

BACKGROUND AND SYNOPSIS
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
RELATING TO
PRIVATE DOCKS, SUBJECT 391-2-1

Background

The Georgia General Assembly has repeatedly recognized that coastal marshlands and tidewaters are a vital area of the state essential to maintain the health, safety, and welfare of all citizens. In the Coastal Marshlands Protection Act (CMPA) and the Protection of Tidewaters Act (PTA), the General Assembly declared that the management of the coastal marshlands and tidal waterways is of more than local significance, is of equal importance to all citizens of the state, is of state-wide concern, and consequently is properly a matter for regulation under the police power of the state. The PTA also reiterates that the State of Georgia became the owner of the beds of all tidewaters within the jurisdiction of the State of Georgia as successor to the Crown of England and by the common law. The State of Georgia continues to hold title to the beds of all tidewaters within the state, except where title in a private party can be traced to a valid Crown or state grant which explicitly conveyed the beds of such tidewaters. In the Coastal Zone Management Act (CZMA), the Georgia General Assembly declared that activities and structures in the coastal area must be regulated to ensure that the values and functions of coastal waters and natural habitats are not impaired.

The General Assembly categorically exempted single- and multi-family private docks from the CMPA permitting process. However, it is still necessary for the State of Georgia to grant permission for such private docks to be located over tidal water bottoms owned by the State of Georgia. The mechanism for granting this permission is a revocable license issued by the Department of Natural Resources. As a condition of granting a revocable license, the Department of Natural Resources sets forth specific standards and conditions that allow reasonable access to tidal waterways while also protecting public trust resources from harm consistent with the spirit and intent of the CMPA, PTA, and CZMA.

Prior to July 2022, standards and conditions for private docks were required in a programmatic general permit for private docks (PGP0083) as was issued to the State of Georgia by the United States Army Corps of Engineers pursuant to the Rivers and Harbors Act every five years, whereby the State would issue a dock permit on behalf of the Corps in addition to a State revocable license. The most recent PGP0083 expired in July 2022 and was not renewed at the discretion of the Corps. Applicants for private docks are now required to get individual authorizations from the Corps as well as the State.

These rules are now proposed to carry forward and codify the standards of the most recent PGP0083 so the public understands what is expected by the State with regard to the construction, maintenance, reconstruction, or modification of private docks in tidal areas.

Purpose

The proposed rules codify standards and conditions for the issuance of a revocable license for construction, maintenance, reconstruction, or modification of private docks over state-owned tidal water bottoms.

Main Features

The rules will establish the following:

1. Eligibility to receive a revocable license for construction, maintenance, reconstruction, or modification of a private dock; and
2. Standards and conditions for the construction, maintenance, reconstruction, or modification of a private dock.

Differences

Subject 391-2-1, Rules 391-2-1-.01 through 391-2-1-.08 were previously repealed in May 2013. The proposed amendments provide for definitions, eligibility, and construction, reconstruction, modification, or maintenance of private docks located over state owned tidal water bottoms.

Subject 391-2-1, Rule 391-2-1-.09 is a new rule and there are no differences.

Date, Time, and Place of Board Action:

Board Action: Wednesday, April 24, 2024, 9:00 AM, Jekyll Island Convention Center, 75 Beachview Drive North, Jekyll Island, Georgia 31527.

Targeted Public Participation Plan

Subject 391-2-1, Private docks. A targeted participation plan was chosen as the universe of affected persons is coast-wide and could potentially impact many waterfront property owners in coastal Georgia.

- January 23, 2024 – Brief the Board of Natural Resources on proposed Rules.
- February 15, 2024 – Public Hearing in Brunswick.
- March 15, 2024 – Public comment period closes.
- April 24, 2024 - DNR Board considers final action on proposed Rules.



COASTAL RESOURCES DIVISION
ONE CONSERVATION WAY · BRUNSWICK, GA 31520 · 912-264-7218

WALTER RABON
COMMISSIONER

DOUG HAYMANS
DIRECTOR

January 23, 2024

MEMORANDUM

TO: Board of Natural Resources

FROM: Doug Haymans

SUBJECT: Economic Impact of Proposed Amendments to Subject 391-2-1, Private docks, on Small Businesses

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.

The Coastal Resources Division has determined that the proposed subject will have no negative economic impact on small businesses. This subject codifies standards and conditions that are consistent with what is currently required by the Department of Natural Resources regarding private docks located over state-owned tidal water bottoms.

DH/ja

**STRIKETHROUGH COPY
ADDITIONS ARE UNDERLINED AND DELETIONS ARE
~~STRIKETHROUGH~~**

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

**SUBJECT 391-2-1
PRIVATE DOCKS**

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391-2-1-.01 ~~Repealed~~ Purpose.

To implement the authority of the Board of Natural Resources, as provided for by O.C.G.A. 12-2-4, 12-2-24 and 12-3-32, to promulgate rules and regulations relative to the issuance of revocable licenses by the department for private docks located over state-owned tidal water bottoms of the eleven (11) coastal counties of Chatham, Bryan, Liberty, McIntosh, Glynn, Camden, Effingham, Long, Brantley, Wayne and Charlton for water-dependent recreational uses.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.02 Repealed Definitions.

For the purpose of Subject 391-2-1 of these rules and regulations, the following definitions shall apply:

(a) "Applicant" means any person who files application for issuance of a revocable license for a private dock located over state-owned tidal water bottoms.

(b) "Catwalk" means a pile supported platform used exclusively to serve a boat hoist.

(c) "Dock corridor" means the equitable apportionment of state-owned tidal water bottoms utilized to provide reasonable access to a waterway when the application of extended property lines creates inequitable results for riparian property owners, as determined by the department.

(d) "Extended property line" means the straight-line extension of an upland side lot line toward a body of navigable water.

(e) "Fixed deck" means a platform constructed on pilings seaward of a fixed walkway.

(f) "Fixed walkway" means a pile supported platform leading from the upland toward a body of water and terminates at a pierhead, fixed deck or gangway.

(g) "Floating dock" means a floating platform that is used for mooring vessels.

(h) "Floating watercraft lift" means a dock feature that is used primarily for the on-top storage of watercraft (e.g., above waterline) and is not used as a fixed deck, fixed walkway, wave attenuator, or

for additional mooring space. Floating watercraft lifts may also be commonly referred to as drive-on docks, run-up floats, modular floats, and boat lifts.

(i) "Licensee" means a person or persons who has received a revocable license from the department for a private dock.

(j) "Maintenance" means any work other than modification or reconstruction on or over state-owned tidal water bottoms within the physical footprint of an existing, serviceable private dock, as determined by the department.

(k) "Mean high water" means the average of all the high water heights observed over the National Tidal Datum Epoch.

(l) "Mean low water" means the average of all the low water heights observed over the National Tidal Datum Epoch.

(m) "Modification" means a change to a private dock that is existing or licensed but not yet constructed.

(n) "Multi-family dock" means a private dock shared by the owners of up to four adjoining riparian lots meeting the exemption in O.C.G.A. 12-5-295(7.1).

(o) "Person" means any individual, partnership, firm, corporation, association, or other entity.

(p) "Pierhead" means a fixed, pile supported platform that is parallel to a waterway.

(q) "Private dock" means a structure built onto or over the marsh and submerged lands which is used for recreational fishing and other water-dependent recreational activities, is not available to the

public, does not have enclosures, and does not create a navigation hazard; provided, however, that a private dock may be covered and screened with wainscotting not higher than three feet and may be equipped with a hoist.

(r) “Reconstruction” means the removal of a structure or portion of a structure and replacement with new materials in the same physical footprint.

(s) “Revocable License” means permission granted by the department authorizing the construction, maintenance, reconstruction or modification of a private dock located over state-owned tidal water bottoms.

(t) “Riparian” means upland property adjacent to state-owned waters.

(u) “Scaled drawing” means a drawing that shows a real object with accurate sizes reduced or enlarged by a certain amount.

(v) “Serviceable” means usable as is or with only minor maintenance, but not so degraded as to essentially require reconstruction, as determined by the department.

(w) “Upland” means lands that are neither coastal marshlands nor tidal water bottoms.

(x) “Walkway extension” means a pile supported platform leading from an existing fixed walkway or fixed deck seaward toward a body of water.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.03 Repealed Eligibility for a Revocable License for a Private Dock.

To be eligible for a revocable license for a private dock located over state-owned tidal water bottoms:

(1) The applicant must provide satisfactory evidence of ownership of the subject upland property or properties through deed or other legal instrument;

(2) The subject upland property or properties must be riparian in nature; and

(3) The applicant is exempt from the permitting requirements of the Coastal Marshlands Protection Act per O.C.G.A. 12-5-295(7)-(7.1).

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.04 Repealed Requirements of a Revocable License Application.

The construction, maintenance, reconstruction or modification of a private dock, whether single family or multi-family, located over state-owned tidal water bottoms requires a valid revocable license. A complete application for a revocable license must contain the following items:

(a) Proof of ownership of the subject upland riparian property or properties via warranty deed or other legal instrument acceptable to the department. All persons listed as owners of the property or properties must sign the revocable license application;

(b) A copy of subject parcel plat(s);

(c) An “Adjacent Property Owner Notification Form”, as provided by the department, signed by all adjacent riparian property owners. Should such forms not be returned from the adjacent riparian property owners, the applicant must submit date stamped Certified Mail receipts addressed to the adjacent riparian property owners; and

(d) A scaled drawing that shall contain the following:

(1.) The exact location, configuration and dimensions of all existing and proposed structural components of the private dock;

(2.) Waterway width at both Mean Low Water (MLW) and Mean High Water (MHW) with vegetated marsh to vegetated marsh measurement if waterway is dry or mostly dry at MLW;

(3.) Distance the proposed dock extends past the MLW line;

(4.) Distance from each side of the proposed dock to extended property lines or department-approved dock corridors;

(5.) Any characteristics of the area of state-owned tidal water bottoms to be impacted shall be identified with the proposed structure in place (i.e. a bend in the waterway, a tidal creek or slough in proximity to or to be crossed by the proposed structure, dock corridors that have been approved by the department); and

(6.) Any other site-specific characteristics as requested by the department in order to properly evaluate the application, including those which may be required to be shown on professional drawings stamped by a registered land surveyor, professional engineer or licensed architect.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.05 Repealed Standards and Conditions of New Private Docks.

To qualify for a revocable license for the construction of a new single family or multi-family private dock, a proposed private dock must comply with the following standards and conditions:

(a) The dock facility must be for water-dependent activities that access a waterway with defined banks and not ponded areas or mudflats;

(b) No fixed decks, floating docks, floating watercraft lifts or boat hoists shall be approved in waterways having a width of less than 20 feet at MHW. However, one “L” or “T” shaped pierhead, up to 6 feet wide by 14 feet long, parallel to the waterway is allowable. If there is a vessel associated with the dock facility, it must be stored over the pierhead; and

(c) All components of the structure must be 10 feet or more from the extended property lines or department-approved dock corridor lines on both sides of the proposed structure and from the nearest adjacent dock; and

(d) The fixed walkway:

(1.) The fixed walkway maximum width is 6 feet, and the maximum length is 1,000 linear feet. The fixed walkway width shall be measured as the width of the decking. All handrails and support bracing must be clearly indicated on the drawing but will not count towards the total square footage of the fixed walkway;

(2.) The fixed walkway maximum area may not exceed 3,000 square feet;

(3.) The fixed walkway shall terminate at the landward side of a fixed deck or pierhead;

(4.) Fixed walkways must be built at such a height as to clear all vegetation, but not more than six feet above MHW;

(5.) Fixed walkways across tributaries that can be spanned (those that are less than 20 feet wide at MHW) must be spanned and have a minimum clearance of 6 feet above MHW to the bottom of the walkway span and be clearly described on the drawing. Fixed walkway height and piling spacing must provide for safe navigation in the channel of the spanned tributary, as determined by the department; and

(6.) Walkways extensions are not permitted for new private docks.

(e) Fixed deck:

(1.) Only one fixed deck with a maximum area (including screened and/or roofed sections) of 300 square feet is permissible. Gangway landings used for the sole purpose of gangway placement count towards the total maximum area. All handrails and support bracing must be clearly indicated on the drawing. All cantilevered components, including sinks and benches, count toward the total maximum area and must be clearly indicated on the drawing;

(2.) A fixed deck may be open-sided, partially or totally covered, and enclosed with screen. The covered portions may be constructed either with walls of a single layer of woven screen wire or wainscot

(lower 3 feet of the wall finished with wood, upper section finished in woven screen wire). The fixed deck shall not be fully enclosed with wood, glass, fiberglass, metal, or any other solid type of material; and

(3.) No fixed deck may be located over marsh vegetation.

(f) The floating dock:

(1.) The floating dock maximum area is 600 square feet for a single-family dock and 1,000 square feet for a multi-family dock shared by the owners of up to four adjoining, riparian lots; and

(2.) Floating docks may not lie less than two feet above the water bottom at mean low water or cradles must be used to support the floating dock at least two feet above the water bottom; and

(3.) No floating dock shall be located over marsh vegetation; and

(4.) Floating watercraft lifts do not count towards the allowable square footage of floating docks, but must be clearly indicated on the drawing, if it:

(i) Does not extend further channelward than any portion of the approved dock;

(ii) Does not encroach within 10 feet of an extended property line or department-approved dock corridor and does not encroach within 20 feet of an existing adjacent dock;

(iii) Does not rest on water bottom at MLW;

(iv) Is not located over marsh vegetation; and

(v) Is not pile supported but may be tied off to piles supporting the dock. No piles may be placed for the specific purpose of installing a floating watercraft lift.

(5.) Mooring piles or dolphins that are associated with a floating dock to be used exclusively for the mooring of vessels shall be located no further channelward than the end of the dock structure, are ten feet or more from the extended property line or department approved dock corridor and are marked in accordance with US Coast Guard regulations.

(g) Boat hoist:

(1.) One boat hoist (roofed or open) with a maximum dimension of 16 feet by 30 feet, measured piling to piling, is permissible. A larger hoist may be approved at the discretion of the department if reasonable justification is provided. Over-dock storage systems, such as davits, and floating watercraft lifts are not considered boat hoists but must be indicated on the drawing;

(2.) Additional boat hoists (roofed or open) may be approved at the discretion of the department if sufficient justification is provided; and

(3.) One catwalk per hoist is permissible where applicable which may not exceed 3 feet x 30 feet unless sufficient justification is provided and approved at the discretion of the department.

(h) Only the fixed deck and boat hoist(s) may be roofed. Roofs must be indicated on the drawing, and do not count towards total

square footage of structures. No portion of the dock facility may exceed a height of 12 feet above the decking at the lowest deck height. Roof overhang (eaves) may not extend more than 18 inches.

(i) Any other portion of the structure(s) may be located channelward from the MLW line a maximum distance of 40 feet or 1/4 of the waterway width, whichever is less. If the waterway goes dry, vegetation lines shall be used instead of MLW, provided the proximity to MLW is clearly indicated on the drawing. If justification is provided, the department may approve further extensions into the waterway not to exceed one-third of the waterway width, provided navigation will not be impeded.

(j) The use of utilities to service the dock facility (such as water and electricity) must be noted and identified on the drawing. Lighting for non-navigation purposes must be minimal in nature with light source capped and shielded. Freshwater outlets are permissible so long as they are maintained monthly by the owner.

(k) The dock facility may be subject to damage by natural forces and by wave wash from passing vessels. The issuance of a revocable license does not relieve the licensee from taking all proper steps to ensure the integrity of the structure and the safety of boats moored thereto from damage and the State of Georgia shall not be responsible for any such damage.

(l) The private dock shall not be used for human habitation and there shall be no fuel or sewage discharge from the dock. Toilets or fueling facilities are not allowed on the structures.

(m) The Licensee shall not moor a vessel(s) at the private dock in such a manner as to cause an unreasonable encroachment into the navigation channel or to interfere with navigation.

(n) The Licensee must install and maintain, at their expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on the private dock.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391.2-1-.06 Repealed Modification to Existing Private docks.

To qualify for a revocable license for the modification of an existing private dock, the proposed modified components must comply with standards and conditions of new private docks provided for in Rule 391-2-1-.05, and meet one of the following criteria:

(a) The existing serviceable private dock in its present configuration has been confirmed by the department to have been constructed prior to the department's regulatory involvement and no unauthorized additions or modifications have been made; or

(b) The existing serviceable private dock is determined by the department to be compliant with previous state authorizations and/or licenses; or

(c) The owner of an existing non-compliant private dock has entered into a compliance agreement with the department.

(d) One walkway extension leading from the seaward portion of the existing private dock for the purposes of extending further into a waterway because of a seaward shift in the location of MLW is allowed, provided the walkway extension shall not exceed six feet in width, must be of a minimum length to achieve the intended water

depth, and may have handrails that must be clearly indicated on the drawing.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1.07 Repealed Maintenance or Reconstruction of Existing Private docks.

(a) Maintenance and/or reconstruction of any portion of an existing, serviceable private dock requires a revocable license from the department. Routine maintenance involving the board for board replacement of decking or handrails does not require a new license.

(b) Maintenance and/or reconstruction of any portion of an existing private dock for which any portion is deemed unserviceable by the department requires a revocable license from the department. Such maintenance or reconstruction of unserviceable components shall comply with standards and conditions of new private docks provided for in Rule 391-2-1-.05. Docks rendered unserviceable by force of nature such as tropical storms, fire or boat strikes may be repaired in their original footprint upon proof acceptable to the department that the original dock was serviceable and in compliance with any previous authorizations and with a new revocable license.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.08 Repealed General Conditions of Revocable Licenses for Private docks.

(a) All equipment used within vegetated marshlands for the construction, maintenance, reconstruction or modification of a private dock shall be operated from a single row of construction

mats located in immediate proximity to the structure being constructed, maintained, reconstructed or modified.

(b) All information and supporting documents contained in an application for a revocable license required by these rules shall be made a part of the revocable license, if granted, and conformance to such information and supporting documents shall be a condition of the revocable license. No change or deviation from any such information and supporting documents shall be permitted without prior notification and written approval of the department.

(c) The revocable license is not transferable with the change of ownership interests in the riparian property at which the private dock will be or has been constructed, maintained, reconstructed or modified. Transfer of riparian ownership or assignment of riparian rights requires issuance of a new revocable license.

(d) The issuance of a revocable license does not resolve actual or potential disputes regarding ownership of, rights in or over the property at which the proposed dock is to be built and shall not be construed as recognizing or denying any such rights or interests.

(e) The issuance of a revocable license does not relieve an applicant from the responsibility to obtain any other federal, state, or local permits or authorizations which may be required for the private dock or any of its components, including without limitation any required county or municipal building permit, prior to beginning construction, maintenance, reconstruction or modification.

(f) At least 10 days prior to construction, maintenance, reconstruction or modification, the licensee shall submit to the department a construction notification form, as provided by the department.

(g) A copy of the revocable license issued to an applicant shall be prominently displayed on the upland site of the proposed or existing private dock during construction, maintenance, reconstruction or modification.

(h) Any portion of a private dock that has been constructed, maintained, reconstructed or modified without a valid revocable license may be subject to removal without further notice or remedy.

(i) The licensee shall maintain the private dock in a serviceable condition after construction, maintenance, reconstruction or modification.

(j) The private dock shall not be used at any time for business or commercial purposes. Prohibited uses include, but are not limited to, leasing of dock space, mooring a commercial vessel of any type, or utilization of the private dock in any tour boat or charter fishing boat activities.

(k) Private docks are subject to compliance inspections by department staff without prior notice.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.09 Revocation, Suspension or Modification of authorization; penalties.

(a) The department may revoke, suspend, modify or deny any revocable license for failure or refusal to comply with any provision of Subject 391-2-1 of these rules and regulations or the specific conditions and requirements of the revocable license. Any person who causes or permits violation of the aforementioned rules that results in construction, maintenance, reconstruction or modification of a private dock without first obtaining written approval and/or a

revocable license, as applicable, from the department is subject to enforcement action by the State. Said enforcement action may include revocation, suspension or modification of the revocable license, removal of the subject unauthorized structure, restoration of jurisdictional coastal marshlands, and implementation of a consent order/agreement.

(b) Any person violating any provision of Subject 391-2-1 of these rules and regulations shall be guilty of a misdemeanor.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

EXACT COPY

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

**SUBJECT 391-2-1
PRIVATE DOCKS**

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391-2-1-.01 Purpose.

To implement the authority of the Board of Natural Resources, as provided for by O.C.G.A. 12-2-4, 12-2-24 and 12-3-32, to promulgate rules and regulations relative to the issuance of revocable licenses by the department for private docks located over state-owned tidal water bottoms of the eleven (11) coastal counties of Chatham, Bryan, Liberty, McIntosh, Glynn, Camden, Effingham, Long, Brantley, Wayne and Charlton for water-dependent recreational uses.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24 ,12-3-32.

391-2-1-.02 Definitions.

For the purpose of Subject 391-2-1 of these rules and regulations, the following definitions shall apply:

(a) "Applicant" means any person who files application for issuance of a revocable license for a private dock located over state-owned tidal water bottoms.

(b) "Catwalk" means a pile supported platform used exclusively to serve a boat hoist.

(c) "Dock corridor" means the equitable apportionment of state-owned tidal water bottoms utilized to provide reasonable access to a waterway when the application of extended property lines creates inequitable results for riparian property owners, as determined by the department.

(d) "Extended property line" means the straight-line extension of an upland side lot line toward a body of navigable water.

(e) "Fixed deck" means a platform constructed on pilings seaward of a fixed walkway.

(f) "Fixed walkway" means a pile supported platform leading from the upland toward a body of water and terminates at a pierhead, fixed deck or gangway.

(g) "Floating dock" means a floating platform that is used for mooring vessels.

(h) "Floating watercraft lift" means a dock feature that is used primarily for the on-top storage of watercraft (e.g., above waterline) and is not used as a fixed deck, fixed walkway, wave attenuator, or

for additional mooring space. Floating watercraft lifts may also be commonly referred to as drive-on docks, run-up floats, modular floats, and boat lifts.

(i) "Licensee" means a person or persons who has received a revocable license from the department for a private dock.

(j) "Maintenance" means any work other than modification or reconstruction on or over state-owned tidal water bottoms within the physical footprint of an existing, serviceable private dock, as determined by the department.

(k) "Mean high water" means the average of all the high water heights observed over the National Tidal Datum Epoch.

(l) "Mean low water" means the average of all the low water heights observed over the National Tidal Datum Epoch.

(m) "Modification" means a change to a private dock that is existing or licensed but not yet constructed.

(n) "Multi-family dock" means a private dock shared by the owners of up to four adjoining riparian lots meeting the exemption in O.C.G.A. 12-5-295(7.1).

(o) "Person" means any individual, partnership, firm, corporation, association, or other entity.

(p) "Pierhead" means a fixed, pile supported platform that is parallel to a waterway.

(q) "Private dock" means a structure built onto or over the marsh and submerged lands which is used for recreational fishing and other water-dependent recreational activities, is not available to the

public, does not have enclosures, and does not create a navigation hazard; provided, however, that a private dock may be covered and screened with wainscotting not higher than three feet and may be equipped with a hoist.

(r) “Reconstruction” means the removal of a structure or portion of a structure and replacement with new materials in the same physical footprint.

(s) “Revocable License” means permission granted by the department authorizing the construction, maintenance, reconstruction or modification of a private dock located over state-owned tidal water bottoms.

(t) “Riparian” means upland property adjacent to state-owned waters.

(u) “Scaled drawing” means a drawing that shows a real object with accurate sizes reduced or enlarged by a certain amount.

(v) “Serviceable” means usable as is or with only minor maintenance, but not so degraded as to essentially require reconstruction, as determined by the department.

(w) “Upland” means lands that are neither coastal marshlands nor tidal water bottoms.

(x) “Walkway extension” means a pile supported platform leading from an existing fixed walkway or fixed deck seaward toward a body of water.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.03 Eligibility for a Revocable License for a Private Dock.

To be eligible for a revocable license for a private dock located over state-owned tidal water bottoms:

- (1) The applicant must provide satisfactory evidence of ownership of the subject upland property or properties through deed or other legal instrument;
- (2) The subject upland property or properties must be riparian in nature; and
- (3) The applicant is exempt from the permitting requirements of the Coastal Marshlands Protection Act per O.C.G.A. 12-5-295(7)-(7.1).

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.04 Requirements of a Revocable License Application.

The construction, maintenance, reconstruction or modification of a private dock, whether single family or multi-family, located over state-owned tidal water bottoms requires a valid revocable license. A complete application for a revocable license must contain the following items:

- (a) Proof of ownership of the subject upland riparian property or properties via warranty deed or other legal instrument acceptable to the department. All persons listed as owners of the property or properties must sign the revocable license application;
- (b) A copy of subject parcel plat(s);

(c) An “Adjacent Property Owner Notification Form”, as provided by the department, signed by all adjacent riparian property owners. Should such forms not be returned from the adjacent riparian property owners, the applicant must submit date stamped Certified Mail receipts addressed to the adjacent riparian property owners; and

(d) A scaled drawing that shall contain the following:

(1.) The exact location, configuration and dimensions of all existing and proposed structural components of the private dock;

(2.) Waterway width at both Mean Low Water (MLW) and Mean High Water (MHW) with vegetated marsh to vegetated marsh measurement if waterway is dry or mostly dry at MLW;

(3.) Distance the proposed dock extends past the MLW line;

(4.) Distance from each side of the proposed dock to extended property lines or department-approved dock corridors;

(5.) Any characteristics of the area of state-owned tidal water bottoms to be impacted shall be identified with the proposed structure in place (i.e. a bend in the waterway, a tidal creek or slough in proximity to or to be crossed by the proposed structure, dock corridors that have been approved by the department); and

(6.) Any other site-specific characteristics as requested by the department in order to properly evaluate the application, including those which may be required to be shown on professional drawings stamped by a registered land surveyor, professional engineer or licensed architect.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.05 Standards and Conditions of New Private Docks.

To qualify for a revocable license for the construction of a new single family or multi-family private dock, a proposed private dock must comply with the following standards and conditions:

(a) The dock facility must be for water-dependent activities that access a waterway with defined banks and not ponded areas or mudflats;

(b) No fixed decks, floating docks, floating watercraft lifts or boat hoists shall be approved in waterways having a width of less than 20 feet at MHW. However, one “L” or “T” shaped pierhead, up to 6 feet wide by 14 feet long, parallel to the waterway is allowable. If there is a vessel associated with the dock facility, it must be stored over the pierhead; and

(c) All components of the structure must be 10 feet or more from the extended property lines or department-approved dock corridor lines on both sides of the proposed structure and from the nearest adjacent dock; and

(d) The fixed walkway:

(1.) The fixed walkway maximum width is 6 feet, and the maximum length is 1,000 linear feet. The fixed walkway width shall be measured as the width of the decking. All handrails and support bracing must be clearly indicated on the drawing but will not count towards the total square footage of the fixed walkway;

(2.) The fixed walkway maximum area may not exceed 3,000 square feet;

(3.) The fixed walkway shall terminate at the landward side of a fixed deck or pierhead;

(4.) Fixed walkways must be built at such a height as to clear all vegetation, but not more than six feet above MHW;

(5.) Fixed walkways across tributaries that can be spanned (those that are less than 20 feet wide at MHW) must be spanned and have a minimum clearance of 6 feet above MHW to the bottom of the walkway span and be clearly described on the drawing. Fixed walkway height and piling spacing must provide for safe navigation in the channel of the spanned tributary, as determined by the department; and

(6.) Walkways extensions are not permitted for new private docks.

(e) Fixed deck:

(1.) Only one fixed deck with a maximum area (including screened and/or roofed sections) of 300 square feet is permissible. Gangway landings used for the sole purpose of gangway placement count towards the total maximum area. All handrails and support bracing must be clearly indicated on the drawing. All cantilevered components, including sinks and benches, count toward the total maximum area and must be clearly indicated on the drawing;

(2.) A fixed deck may be open-sided, partially or totally covered, and enclosed with screen. The covered portions may be constructed either with walls of a single layer of woven screen wire or wainscot

(lower 3 feet of the wall finished with wood, upper section finished in woven screen wire). The fixed deck shall not be fully enclosed with wood, glass, fiberglass, metal, or any other solid type of material; and

(3.) No fixed deck may be located over marsh vegetation.

(f) The floating dock:

(1.) The floating dock maximum area is 600 square feet for a single-family dock and 1,000 square feet for a multi-family dock shared by the owners of up to four adjoining, riparian lots; and

(2.) Floating docks may not lie less than two feet above the water bottom at mean low water or cradles must be used to support the floating dock at least two feet above the water bottom; and

(3.) No floating dock shall be located over marsh vegetation; and

(4.) Floating watercraft lifts do not count towards the allowable square footage of floating docks, but must be clearly indicated on the drawing, if it:

(i) Does not extend further channelward than any portion of the approved dock;

(ii) Does not encroach within 10 feet of an extended property line or department-approved dock corridor and does not encroach within 20 feet of an existing adjacent dock;

(iii) Does not rest on water bottom at MLW;

(iv) Is not located over marsh vegetation; and

(v) Is not pile supported but may be tied off to piles supporting the dock. No piles may be placed for the specific purpose of installing a floating watercraft lift.

(5.) Mooring piles or dolphins that are associated with a floating dock to be used exclusively for the mooring of vessels shall be located no further channelward than the end of the dock structure, are ten feet or more from the extended property line or department approved dock corridor and are marked in accordance with US Coast Guard regulations.

(g) Boat hoist:

(1.) One boat hoist (roofed or open) with a maximum dimension of 16 feet by 30 feet, measured piling to piling, is permissible. A larger hoist may be approved at the discretion of the department if reasonable justification is provided. Over-dock storage systems, such as davits, and floating watercraft lifts are not considered boat hoists but must be indicated on the drawing;

(2.) Additional boat hoists (roofed or open) may be approved at the discretion of the department if sufficient justification is provided; and

(3.) One catwalk per hoist is permissible where applicable which may not exceed 3 feet x 30 feet unless sufficient justification is provided and approved at the discretion of the department.

(h) Only the fixed deck and boat hoist(s) may be roofed. Roofs must be indicated on the drawing, and do not count towards total

square footage of structures. No portion of the dock facility may exceed a height of 12 feet above the decking at the lowest deck height. Roof overhang (eaves) may not extend more than 18 inches.

(i) Any other portion of the structure(s) may be located channelward from the MLW line a maximum distance of 40 feet or 1/4 of the waterway width, whichever is less. If the waterway goes dry, vegetation lines shall be used instead of MLW, provided the proximity to MLW is clearly indicated on the drawing. If justification is provided, the department may approve further extensions into the waterway not to exceed one-third of the waterway width, provided navigation will not be impeded.

(j) The use of utilities to service the dock facility (such as water and electricity) must be noted and identified on the drawing. Lighting for non-navigation purposes must be minimal in nature with light source capped and shielded. Freshwater outlets are permissible so long as they are maintained monthly by the owner.

(k) The dock facility may be subject to damage by natural forces and by wave wash from passing vessels. The issuance of a revocable license does not relieve the licensee from taking all proper steps to ensure the integrity of the structure and the safety of boats moored thereto from damage and the State of Georgia shall not be responsible for any such damage.

(l) The private dock shall not be used for human habitation and there shall be no fuel or sewage discharge from the dock. Toilets or fueling facilities are not allowed on the structures.

(m) The Licensee shall not moor a vessel(s) at the private dock in such a manner as to cause an unreasonable encroachment into the navigation channel or to interfere with navigation.

(n) The Licensee must install and maintain, at their expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on the private dock.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391.2-1-.06 Modification to Existing Private docks.

To qualify for a revocable license for the modification of an existing private dock, the proposed modified components must comply with standards and conditions of new private docks provided for in Rule 391-2-1-.05, and meet one of the following criteria:

(a) The existing serviceable private dock in its present configuration has been confirmed by the department to have been constructed prior to the department's regulatory involvement and no unauthorized additions or modifications have been made; or

(b) The existing serviceable private dock is determined by the department to be compliant with previous state authorizations and/or licenses; or

(c) The owner of an existing non-compliant private dock has entered into a compliance agreement with the department.

(d) One walkway extension leading from the seaward portion of the existing private dock for the purposes of extending further into a waterway because of a seaward shift in the location of MLW is allowed, provided the walkway extension shall not exceed six feet in width, must be of a minimum length to achieve the intended water

depth, and may have handrails that must be clearly indicated on the drawing.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1.07 Maintenance or Reconstruction of Existing Private docks.

(a) Maintenance and/or reconstruction of any portion of an existing, serviceable private dock requires a revocable license from the department. Routine maintenance involving the board for board replacement of decking or handrails does not require a new license.

(b) Maintenance and/or reconstruction of any portion of an existing private dock for which any portion is deemed unserviceable by the department requires a revocable license from the department. Such maintenance or reconstruction of unserviceable components shall comply with standards and conditions of new private docks provided for in Rule 391-2-1-.05. Docks rendered unserviceable by force of nature such as tropical storms, fire or boat strikes may be repaired in their original footprint upon proof acceptable to the department that the original dock was serviceable and in compliance with any previous authorizations and with a new revocable license.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.08 General Conditions of Revocable Licenses for Private docks.

(a) All equipment used within vegetated marshlands for the construction, maintenance, reconstruction or modification of a private dock shall be operated from a single row of construction

mats located in immediate proximity to the structure being constructed, maintained, reconstructed or modified.

(b) All information and supporting documents contained in an application for a revocable license required by these rules shall be made a part of the revocable license, if granted, and conformance to such information and supporting documents shall be a condition of the revocable license. No change or deviation from any such information and supporting documents shall be permitted without prior notification and written approval of the department.

(c) The revocable license is not transferable with the change of ownership interests in the riparian property at which the private dock will be or has been constructed, maintained, reconstructed or modified. Transfer of riparian ownership or assignment of riparian rights requires issuance of a new revocable license.

(d) The issuance of a revocable license does not resolve actual or potential disputes regarding ownership of, rights in or over the property at which the proposed dock is to be built and shall not be construed as recognizing or denying any such rights or interests.

(e) The issuance of a revocable license does not relieve an applicant from the responsibility to obtain any other federal, state, or local permits or authorizations which may be required for the private dock or any of its components, including without limitation any required county or municipal building permit, prior to beginning construction, maintenance, reconstruction or modification.

(f) At least 10 days prior to construction, maintenance, reconstruction or modification, the licensee shall submit to the department a construction notification form, as provided by the department.

(g) A copy of the revocable license issued to an applicant shall be prominently displayed on the upland site of the proposed or existing private dock during construction, maintenance, reconstruction or modification.

(h) Any portion of a private dock that has been constructed, maintained, reconstructed or modified without a valid revocable license may be subject to removal without further notice or remedy.

(i) The licensee shall maintain the private dock in a serviceable condition after construction, maintenance, reconstruction or modification.

(j) The private dock shall not be used at any time for business or commercial purposes. Prohibited uses include, but are not limited to, leasing of dock space, mooring a commercial vessel of any type, or utilization of the private dock in any tour boat or charter fishing boat activities.

(k) Private docks are subject to compliance inspections by department staff without prior notice.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.

391-2-1-.09 Revocation, Suspension or Modification of authorization; penalties.

(a) The department may revoke, suspend, modify or deny any revocable license for failure or refusal to comply with any provision of Subject 391-2-1 of these rules and regulations or the specific conditions and requirements of the revocable license. Any person who causes or permits violation of the aforementioned rules that results in construction, maintenance, reconstruction or modification of a private dock without first obtaining written approval and/or a

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revocable license, as applicable, from the department is subject to enforcement action by the State. Said enforcement action may include revocation, suspension or modification of the revocable license, removal of the subject unauthorized structure, restoration of jurisdictional coastal marshlands, and implementation of a consent order/agreement.

(b) Any person violating any provision of Subject 391-2-1 of these rules and regulations shall be guilty of a misdemeanor.

Authority O.C.G.A. Secs. 12-2-4, 12-2-24, 12-3-32.