

**Minutes
Coastal Committee
2 Martin Luther King, Jr. Drive, S. E.
Suite 1252 East Tower
Atlanta, GA 30334**

**Tuesday, January 23, 2024
9:00 a.m.**

Committee Members

Nancy Addison, Chair
Bill Jones, Vice Chair
Joe Hatfield
Mark Hennessy
Kevin Jackson
Tim Lowe
Paul Shailendra
Gary Vowell
Dwight Davis, Board Chair, Ex-officio

Board Members

Patrick Denney
Dan Garcia
Penn Hodge
Duncan Johnson
Ray Lambert
Lesley Reynolds
Bodine Sinyard
Harley Yancey

Guests

Bryan Tolar, GA Urban Ag Council
Rena Peck, Georgia River Network
Dave Williams, Capitol Beat News Service
Mark Woodall, Sierra Club
Nic Matthews, Office of Planning and Budget
Jud Turner, Gilbert Harrell Law Firm

Staff Members

Walter Rabon, Commissioner
Thomas Barnard
Trevor Santos
Kyle Pearson
Kate Iannuzzi
Artica Gaston
Cathy Barnette
Alexus Thompson
Mike England
Steve Friedman
Doug Haymans
Angie Johnson
Ted Will
Jill Andrews
Ouicia Jolly
Soheila Naji

Jeff Cown, Director
James Boylan
Chuck Mueller
Anna Truszczynski

The January 23, 2024 meeting of the Coastal Resources Committee was called to order by Dwight Davis, Chairman of the Board of Natural Resources.

Chairman Davis called on Nancy Addison, Chair of the Coastal Resources Committee. Ms. Addison called on Jill Andrews, Chief of Coastal Management Section, Coastal Resources Division, for a briefing on the proposed new chapter to the Rules of the Department of Natural Resources Coastal Resources Division, Private Recreational Docks, Chapter 391-2-1.

Ms. Andrews stated the briefing is on the proposed new rule, 391-2-1, related to private docks. She further stated that this is their third time bringing this rule before the board. She added the previous attempts were in 2016 and 2017, after which efforts were paused to work on particular aspects related to developing marine contractor licenses – which will not be found in the current proposal.

Ms. Andrews stated the proposed new rule will establish standards and criteria for the regulation of private docks for recreational purposes in tidal waters, provided the applicant qualifies for the private dock exemption under the Coastal Marshlands Protection Act, under part 12-5-291 7 and 7.1 because they are being constructed for noncommercial purposes by owners of up to four individual lots each upon which a single family residence is located or which have at least 50 feet of frontage along coastal marshlands and a single family residence could be constructed.

Ms. Andrews stated that while generally not regulated under the CMPA, docks in coastal Georgia have been regulated by the US Army Corps of Engineers since at least 1979. She further stated that the Coastal Resource Division became involved in regulating docks around 1996 when the Army Corps delegated its permitting authority to CRD through a mechanism called a programmatic general permit, or PGP. She added that this PGP set size limits and conditions under which CRD could issue a dock permit on the Corps' behalf. She further added that along with the PGP joint permit, CRD, as trustee of state owned tidal waterbottoms, also issued a Revocable License to grant permission to the riparian property owner to construct the dock on state tidelands. She stated that the Revocable License was generally only issued to docks that qualified for the PGP by meeting those criteria.

Ms. Andrews stated that CRD regulated docks through the PGP, which was reviewed and reissued every 5 years and sometimes with changes in size criteria, up until 2022 when the Corps took back their permitting authority. She further stated that in the absence of the PGP and having no other rule in place, CRD developed a standard operation procedure for when and how we

would continue to issue Revocable Licenses for private docks that is based on the most recent 2017 PGP.

Ms. Andrews stated that many dock projects CRD processes are not all new docks and in fact, many projects are repairs or modifications to existing docks. She further stated that nevertheless, it looks that CRD might continue to see well over 200 projects a year and this gives a sense of how important it is that CRD has mechanisms in place to consistently and effectively manage this use of coastal resources.

Ms. Andrews stated that when looking at private docks, they are ensuring that the proposed structure is minimizing the impacts to salt marsh vegetation and important coastal habitats while also ensuring that one person's dock does not impede the ability of the next person to have or use their own dock and/or the public's ability to use our waterways for their own enjoyment.

Ms. Andrews stated that right now they are working from an internal policy document as there is nothing codified in state rules or law to guide how they manage private docks in tidal waterways. She further stated they are attempting to uphold standards which have been in place for over a decade, but some are calling to question their ability to enforce the standards of the SOP. She added that now that the Army Corps of engineers has done away with the PGP, they no longer have any standards and are happy to permit large docks so long as navigation of the waterway is maintained. She further added that this is leading to confusion with applicants, and they currently do not have any regulations to point them to.

Ms. Andrews stated that for those reasons, and because they are reviewing over 200 projects a year over such a small space, they feel this is the best time to propose rules for private docks.

Ms. Andrews stated that Chapter 391-2-1 is, for all intents and purposes, a new rule. She further stated in the strikethrough version that .01-.08 were previously repealed back in 2014. She added that they propose adding the following rules and that she will describe just a couple of those in more depth.

Ms. Andrews stated that to start, .01 is to set standards and conditions for private docks in state-owned tidal waters. She further stated that .02 are the definitions, of which there are 24 that cover a number of the terms they use when referring to private docks that could possibly have different meanings or uses outside of these rules. She added that Rule .05 is the main substance as this is where they set the size standards for new docks. She reminded everyone that

these standards have been in place since 2012, are based on research on the impact of docks to the coastal environment and are consistent with dock sizes from other southeastern states, which they learned through a fairly involved dock study conducted by NOAA.

Ms. Andrews stated that to start, this rule will address docks accessing small waterways less than 20 ft. wide. She further stated that these docks are limited to small pierheads as there is no room to put floats in the water and still maintain safe navigation. She added that all docks must be 10 ft. off an extended property line or dock corridor. She further added that this preserves navigation between adjacent docks but also prevents one riparian property owner from wharfing out in front of a neighboring property, possibly affecting the neighbor's ability to construct or use a dock.

Ms. Andrews stated that fixed walkways are limited to a maximum of 6 ft. width and may not exceed 1,000 ft. in length provided that the total square footage of the walkway does not exceed 3,000 sq. ft. She further stated that importantly, walkways must be built above the marsh vegetation and must span tributaries less than 20 ft. wide to maintain navigation under the walkway.

Ms. Andrews stated the fixed deck is a pile supported platform located over the waterway to facilitate access to a floating dock. She further stated that the size here is capped at 300 sq. ft. which, again, has been the standard since 2012.

Ms. Andrews stated that floating docks for a private dock supporting a single residence may be up to 600 sq. ft., and a dock supporting up to 4 adjoining residences may have a float of up to 1,000 sq. ft. She further stated that they currently have a policy on what we call floating watercraft lifts, but which may be known more commonly as a jet dock or drive on dock. She added that they're seeking to codify that policy here such that if it meets the criteria of a jet dock, among which it cannot be supported by pilings, then it will not count toward the total square footage of the floating dock.

Ms. Andrews stated that something new they would like to consider in rule is the ability to install mooring piles or mooring dolphins at private docks, following certain conditions.

Ms. Andrews stated the rule on boat hoists is that one hoist, 16 x 30 ft. with one associated catwalk, is guaranteed. She further stated that additional or larger hoists, with one associated catwalk, can be approved with proof of boat registration or other sufficient documentation that the additional structure is needed.

Ms. Andrews stated that they codify that only fixed decks and hoists may be roofed and specify the height of that roof cannot exceed 12 ft. above the decking. She further added that this is intended to preserve aesthetics for the public and other users of the resource.

Ms. Andrews stated that finally, they codify how far into a waterway a dock may extend. She further stated that smaller waterways, the dock is limited to one-quarter of the width, and larger waterways, the extension is up to 40 ft., whichever is less. She added that exceptions to that can be justified by a property owner provided it will not impede navigation. She further added that one-third of the waterway is generally the maximum distance that the Army Corps of Engineers would grant.

Ms. Andrews stated this is what is proposed for new docks, and, except for floating watercraft lifts and mooring piles, it mirrors the previous PGP. She further stated that they also issue new revocable licenses for modifications to existing docks.

Ms. Andrews stated that Rule .06 will also mirror the former PGP and require that the proposed modified components meet the same criteria as for a new dock. She further stated that in other words, a property owner won't be able to construct a new dock to the standards and then request a modification of their recently built, say fixed deck, to be 800 sq. ft. instead of 300 sq. ft.

Ms. Andrews stated that Rule .07 addresses maintenance or reconstruction of existing docks as well. She further stated that if the dock is in good usable or serviceable condition, you can maintain it and/or reconstruct all or portions of it in the same footprint. She added that they would issue a new revocable license as some of the maintenance requires equipment in the marsh.

Ms. Andrews stated what is also important here is if a serviceable dock is damaged by a storm, collision, fire, it can also be reconstructed in the original footprint.

Ms. Andrews stated that Rule .09 relates to enforcement of private docks. She further stated that, again, a codified regulation, or enforcement of unauthorized or improperly built structures, is very limited. She added that most often, enforcement is based on impacts to marsh vegetation or trespass on state property.

Ms. Andrews stated this will provide the authority to enforce against either the property owner and/or the dock builder, which is important because they do see "rogue" dockbuilders who are not considerate of either an existing authorization or the need for a state license to construct a dock. She further stated that they receive complaints about structures and are

currently forced to only address the violation with the homeowner. She added that this became most apparent following the back-to-back hurricanes in 2016-2017 where dockbuilders were coming to Georgia from other states.

Ms. Andrews stated that this rule also provides that those who are responsible for the violation are guilty of a misdemeanor.

Ms. Andrews stated that as this is a new rule with the potential to affect so many coastal property owners, they are proposing to provide notice of a 7-week public comment period with a public hearing to be held in Brunswick on February 15, 2024, and a request for final action at the April Board meeting.

There being no further business, the meeting was adjourned.