

March 11, 2024

Sent via electronic mail to: Jill.Andrews@dnr.ga.gov

Ms. Jill Andrews
Coastal Marshlands Protection Committee
Department of Natural Resources
Coastal Resources Division
One Conservation Way
Brunswick, Georgia 31520



7 Glynn Avenue
Brunswick, GA 31520
www.OneHundredMiles.org
912.264.4111

RE: Comments on proposed amendments to the Rules of the Department of Natural Resources regarding regulations for private docks, Rule 391-2-1

Dear Ms. Andrews,

Thank you for the opportunity to submit comments regarding the Coastal Resources Division's (CRD) efforts to establish regulations for private docks - Georgia Rules and Regulations, 391-2-1. **This letter is submitted to recommend adjustments and clarifications to the proposed rule governing the agency's authority to issue revokable licenses for private docks located over state owned tidal water bottoms.** Our intent is to ensure no loopholes are inadvertently included in new rules that will lead to harm of our coastal wildlife, historic sites, and public marshlands. Please accept these comments on behalf of the 1,200 members of One Hundred Miles, Inc., (OHM), a non-profit organization dedicated to protecting and preserving Georgia's 100-mile coast through education, advocacy, and civic engagement.

We appreciate the information shared during the public hearing hosted by CRD staff in February 2024. Although we understand and appreciate the regulatory changes that have led to the agency's efforts to codify these rules, we recommend the agency not wholly eliminate reference to federal regulatory responsibilities. A great deal of pride and care must be taken to ensure the wildlife and historic or economically valuable places are recognized through both state and federal permitting processes.

First, we want to recognize federal and state responsibility to protect West Indian manatees, *Trichechus manatus*. This species is found in waterways throughout the Georgia coast. The West Indian manatees that migrate here and feed in Georgia waters are listed as an endangered species subject to the federal protections of the Endangered Species Act and the Marine Mammal Protection Act. The species is also protected statewide under provisions of the Georgia Endangered Wildlife Act. Manatees are often found at marshes edge or in deeper water, but during flood tide/high tide events, they also are found in the marshlands.

The former Programmatic General Permit 83 (PGP 83) included extensive special conditions designed to protect manatees during construction of private/recreational docks, and several conditions to discourage manatees from coming to areas where boats will be concentrated. Carrying forward the former PGP 83 conditions for manatee protection into the new rules will accomplish many state objectives. It will continue the long-standing need

to educate residents and contractors about these magnificent animals and the rules surrounding their survival. And including these conditions will help the CRD avoid sanctioning activities that could temporarily jeopardize the well-being of an endangered species.

1. We recommend that CRD include the following in the new rules to ensure the West Indian manatees are not harmed during or after construction of private docks:

- a) Section 391-2-1-.05 - Add a new provision of the rule covering "Manatee special conditions" as a standard condition for construction of a new or modified private dock. The former PGP 83 includes ten best practices that relate primarily to activities and use of equipment during construction that could harm, endanger, or threaten the well-being of a manatee. (See special condition #24 of the former PGP 83).

If manatee protections are not included in the new rule, CRD should include them as conditions of the revokable license and describe them in the standard operating procedures to be implemented during the construction of new or modified private docks. Detailed information can be made available to applicants in a rule addendum or guidance document that is supported and updated with input from Georgia's Wildlife Resources Division.

- b) Section 391-2-1-.05(j) – Add the following provision to this condition: "Any unattended free running fresh water is prohibited." This will help prevent unnatural freshwater sources from encouraging manatees to travel to areas where docks, boats, and other activities could threaten the animal's safety. (See special condition #10 of the former PGP 83).

Second, we want to acknowledge that coastal Georgia is home to significant, federally protected waterbodies and federally recognized historic places that have been afforded special regulations. We recommend that CRD's new rules recognize the federal significance of some of these areas and urge any applicant to seek additional permissions through the appropriate federal agency.

2. We recommend that CRD include a statement that references the need for an applicant to seek additional permissions for projects located in/around the environmentally, economically, or culturally sensitive locations that were listed in the former PGP 83. Those include, but are not limited to but not limited to:
 - a. The Atlantic Ocean, Altamaha River, Atlantic Intercoastal Waterway, Brunswick Harbor, Darien Harbor, St. Marys River, Sapelo Harbor, Savannah Harbor, and the Savannah River.
 - b. Within 1,000 feet of properties registered in or properties eligible for inclusion in the National Register of Historic Places, including the Town of Vernonberg (Chatham County), Hog Hummock Community on Sapelo Island (McIntosh County) and others.
 - c. Within 1,000 feet of areas listed in the Register of Natural Landmarks, and

- d. Areas placed on the Wild and Scenic River Study List, including Ebenezer Creek, and others.
- e. Within 1000 feet of National Wildlife Refuges, National Monuments, and National Seashore including: Fort Pulaski National Monument, Fort Frederica National Monument, Cumberland Island National Seashore, Savannah National Wildlife Refuge, Wassaw National Wildlife Refuge, Harris Neck National Wildlife Refuge, Blackbeard Island National Wildlife Refuge, and Wolf Island National Wildlife Refuge. (See "Excluded Locations" listed in the former PGP 83).

The following recommendations are not in reference to shared federal and state resources or assets but are offered to ensure the new rule includes all practices in the PGP 83 that were protective of coastal marshlands and access to public waterways.

- 3. Section 391-2-1-.05(l) – Add the following statement to standard (l), "The use of the roof as a second story and/or storage and stairs to access a second story are prohibited." (See special condition #8 of the former PGP 83).
- 4. Section 391.2-1-.06 – Correct the code section to include a hyphen after 391, and not a period.
- 5. Section 391-2-1-.06(b) – Change component (b) to add the condition that a revokable license will be considered if the existing structure was appropriately permitted, if it was built after the Coastal Marshlands Protection Act (CMPA) was adopted. We recommend the following revision for this condition: "The existing serviceable private dock has a permit history with the department and is found to be compliant with previous state authorizations and/or licenses."
- 6. Section 391-2-1-.06(d) – Eliminate or significantly adjust criterion (d) for modification to existing private dock. Criterion (d) allows for the use of walkway extensions to an existing private dock if the waterway has shifted seaward. This criterion should only allow an extension if the extension does not result in the walkway exceeding the mandatory requirements for a new dock – including the maximum of 1,000 linear feet and the floating dock maximum area of 600 square feet. Should the extension result in an exceedance of the maximum standards for a private dock, the applicant would be ineligible. Alternatively, the applicant should be required to demonstrate a real hardship and should only be eligible for one extension over the remaining life of the dock.
- 7. Section 391-2-1-.08(a) – Add the following statement to section (a) of the general conditions of revokable license to include: "Equipment must only be operated on one side of the structure." This best practice will minimize the compaction of marsh and marsh grass that occurs during dock construction and/or maintenance reducing the likelihood of lasting impacts to the public marshes. (See special condition #11 of the former PGP 83).
- 8. Add a section clarifying that any proposed private dock that exceeds the standards of this rule does not qualify for the private dock exemption under the Coastal

Marshlands Protection Act and is therefore not eligible for a revokable license under this rule.

To conclude, we appreciate the opportunity to comment on these new rules and we look forward to working with you to finalize them with the minor adjustments described in this letter.

Thank you for your consideration. Contact me at any time should you have questions or need additional information – alice@onehundredmiles.org or 912-230-6494.

Sincerely,

Alice M. Keyes

Alice M. Keyes
VP of Coastal Conservation
One Hundred Miles