



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
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PUBLIC NOTICE

Pursuant to the provisions of R.I. Gen. Laws Chapter 46-23, as amended, and in accordance with the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, the Rhode Island Coastal Resources Management Council (CRMC) hereby gives notice of its intention to afford the public an opportunity to offer written comment and to request a public hearing at which oral and written comments may be offered concerning the CRMC's intention to repeal the following regulations:

CRMC Pre-existing Recreational Boating Facilities Program

ERLID # 4352

The CRMC has determined that small businesses should not be adversely impacted by the proposed repeal of the above regulations. The public comment period is being afforded to solicit comment on the proposed repeal of the above regulations and to allow public input from small businesses, any cities or towns, or any affected parties which may nevertheless believe that they may be adversely affected. Small businesses are requested to comment on the proposed repeal of the above regulations as to how such proposed action can be changed to minimize the impact on those small businesses affected.

The CRMC does not plan to hold a public hearing in this matter. An electronic copy of the subject regulations are available by clicking on the above link. Further information may be obtained by contacting the Coastal Resources Management Council offices at 783-3370.

Signed this 21th day of November, 2017.

A handwritten signature in blue ink that reads "Jeffrey M. Willis". The signature is written in a cursive style and is positioned above a horizontal line.

Jeffrey M. Willis, Deputy Director
Coastal Resources Management Council

Rhode Island Coastal Resources Management Council

Pre-existing Recreational Boating Facilities Program

ERLID # 4352

Concise Summary of Proposed Action

The subject regulations were adopted by the Council on September 13, 1994 and were developed in accordance with Chapter 153 of the Public Laws to address recreational boating facilities that did not have a valid CRMC Assent and were constructed prior to January 1, 1985. The CRMC adopted the subject regulations to formally permit these pre-existing structures provided the facilities: (1) existed in substantially the same configuration as it did prior to January 1, 1985; (2) were intact and functional; and (3) presented no significant threat to coastal resources nor to human safety.

Desirable elements of the Pre-existing Recreational Boating Facilities Program have now been integrated into the amended Coastal Resources Management Program – Red Book (650-RICR-20-00-01), specifically in § 1.3.1(D) – Recreational boating facilities.

On the basis of the above, the subject regulations are no longer necessary and should be repealed and expired.

*RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL*

**PRE-EXISTING
RESIDENTIAL BOATING FACILITIES
PROGRAM**

Developed in Accordance with Chapter 153 of the Public Laws

Signed into law July 7, 1994

Adopted September 13, 1994

Effective October 3, 1994

Legislatively Extended January 7, 1996

Legislatively Extended July 1998

~~WHEREAS,~~

~~The Council finds that there are pre-existing, not permitted residential boating facilities constructed prior to January 1, 1985 located within its jurisdiction; and,~~

~~Many of these facilities do not pose significant risk to the coastal resources of the state nor endanger human safety.~~

~~THEREFORE,~~

~~In accordance with Chapter 153 of the Public Laws, amending 46-23-6, the following is hereby adopted:~~

~~Pre-existing Residential Boating Facilities Program~~

~~A. Policies:~~

- ~~1. Consistent with Chapter 153 of the Public Laws, the Council will accept applications under this program for a period ending January 31, 1999.~~
- ~~2. All residential boating facilities built prior to January 1, 1985 without a valid permit shall be formally identified as structures as a result of this program. The CRMC will process for Assent all eligible residential boating facilities which do not have CRMC permits. The CRMC will issue a 50year assent for structures built prior to January 1, 1985 if requirements of this Program are met and subsequently will issue registration plates and numbers for these structures (see Standards section, below). Residential docks built after January 1, 1985 without a CRMC permit will not be considered under this Program and will therefore be considered not permitted. These facilities may be subject to enforcement actions including fines, fees, and removal orders.~~
- ~~3. The Council recognizes that pre-existing residential boating facilities built prior to January 1, 1985 may not meet current Council standards and policies. To be eligible for this Program, such facilities shall not pose any significant risk to the coastal resources of the state (such as significant impacts to salt marsh) and shall not endanger human safety. Applicants shall provide clear and conveying evidence that:
 - ~~(a) the facility exists in substantially the same configuration as it did prior to January 1, 1985;~~
 - ~~(b) the facility is presently intact and functional; and,~~
 - ~~(c) the facility presents no significant threat to coastal resources nor to human safety.~~~~
- ~~4. All Temporary Doek permits issued by the CRMC, Army Corps of Engineers permits, town or city council authorizations issued prior to 1972, harbor commission authorizations issued prior to 1972, and, Rivers and Harbors permits issued prior to 1972 will be recognized by the Council as acceptable as meeting the intent of Chapter 153 of the Public Laws.~~

- ~~5.—Authorization for a residential boating facility permitted under this program allows a dock owner to undertake minor repairs of approved facilities without further review, where such repairs will not alter the assented and/or permitted design, capacity, purpose or use of the facility. For the purposes of this policy, minor repairs shall include the repair or replacement of dock decking or planks, hand railings and support, and other activities of a similar and non-substantial nature. Minor repairs do not include alterations to the approved design of the facility, expansion of the facility, or work requiring the use of heavy machinery (such as a pile driver); these activities require that a certification of maintenance be obtained from the Council.~~
- ~~6.—All residential docks built after January 1, 1985 must conform with the rules and regulations of the Coastal Resources Management Program, as per Chapter 153 of the Public Laws.~~
- ~~7.—All residential boating facilities located in the tidal waters of the state are to be registered with the CRMC. The Council shall issue registration plates with assigned registration numbers. The registration plates are to be affixed to the dock in a manner consistent with this Program.~~
- ~~8.—(a) Chapter 153 of the Public Laws allows the Council to permit residential docks, regardless of their location in tidal waters, under specific conditions of the Chapter 153 and this Program. Prior to Chapter 153, the Council issued Temporary Dock Permits for residential docks located in Type 1 waters. While the Council recognizes these, and other permits for docks in Type 1 waters, it is a goal of the Council=s to ultimately remove all recreational boating structures from Type 1 waters (RICRMP Section 200.1).~~

~~(b) Temporary Dock Permit holders are able to convert the Temporary Dock Permit, which carries ten (10) year permit terms, to an assent consistent with Chapter 153 of the Public Laws ("C.1, below), however, such permit holders who do not comply with the provisions of Chapter 153 of the Public Laws and this Program are still required to abide by the conditions and stipulations of the Temporary Dock Permit and the Rhode Island Coastal Resources Management Program.~~

~~B. Standards~~

~~1. Registration of Docks~~

- ~~A.—All residential boating facilities must have affixed to them a registration plate and number located on the seaward face of the most seaward piling. If a residential boating facility does not have pilings and/or is generally a floating structure, or is built on crib supports, then the registration plate must be affixed to the seaward face of the most seaward dock or floating dock. Regardless of the type of residential boating facility structure, the registration plate and number must be permanently affixed to the facility on its most seaward face and be visible from the navigation channel or fairway to the structure at all times.~~

~~B. The CRMC will issue a registration plate and number upon the submittal of the dock owner of a signed Dock Registration Form. The form will compile information about the dock owner such as name and address as well as a reference to the structure's permit or assent number(s). The Dock Registration Form will also state that the residential boating facility has been constructed and is currently maintained in accordance with the conditions and/or stipulations of its permit or Assent. If the CRMC finds that a residential boating facility is not in compliance with its permit or Assent, the owner of the dock will be required, by the CRMC, to bring the dock into compliance and may be subject to fines and penalties of this Program. If a facility has been constructed in a manner not in compliance with its permit or Assent, and is determined by the Executive Director that the impact of the construction is less than or equal to the originally authorized conditions, the permit may be modified (as per Management Procedures Section 8.3).~~

~~C. Previously Permitted Residential Boating Facilities~~

~~1. CRMC Assented Residential Docks~~

~~(a) The Council will, on its own or at the request of the residential dock owner, issue a registration plate and number for the dock.~~

~~2. Other Agency Authorized Residential Docks~~

~~(a) Upon proof of an Army Corps of Engineers permit; a town or city council authorization issued prior to 1972; a harbor commission authorization issued prior to 1972; and/or, a Rivers and Harbors permit issued prior to 1972, the CRMC will issue a registration plate and number that will be assigned to that specific structure.~~

~~(b) The Council may, as appropriate, issue its own Assent for these structures.~~

~~2. Permits for Residential Boating Facilities Built Prior to January 1, 1985 without Authorization~~

~~A. For those pre-existing residential boating facilities built prior to January 1, 1985 that may not meet current Council standards and policies, such facilities must:~~

- ~~(1) show no significant risk to the coastal resources of the state nor endanger human safety;~~
- ~~(2) exist in substantially the same configuration as it did prior to January 1, 1985; and,~~
- ~~(3) be presently intact and functional.~~

~~B. If applicable, upon the issuance of a Council Assent, the Council will issue a registration plate and number for these structures.~~

~~3. Permits for Residential Boating Facilities Built After January 1, 1985 without Authorization~~

~~A. Chapter 153 of the Public Laws specifically intends that any residential boating facility constructed after January 1, 1985 must meet and conform to the Council's rules and regulations for such facilities. Therefore, any such facility is not eligible for this program and does not meet the intent of this law. Additionally, if the owner of such a facility is seeking a permit after the fact, s/he must apply for the after the fact permit through the Council's regular permit application process. Further, these structures may be subject to applicable fines and fees and enforcement actions.~~

C. Permit Application Process

~~Applications considered by and submitted under this program will only be accepted until January 31, 1999.~~

1. Residential Boating Facilities Built Prior to January 1, 1985.

~~A. (1) The dock owner has until January 31, 1999 to submit a Pre-existing Residential Boating Facility Permit application to the CRMC to be eligible under this Program. After this time, the CRMC will only accept formal residential boating facility applications.~~

~~(2) All such applicants must comply with the following requirements:~~

~~(a) Documentation demonstrating clear and convincing evidence that the pre-existing residential boating facility was built prior to January 1, 1985, such as a town or city council authorization prior to 1972, harbor commission authority prior to 1972, dated Photographs, and/or Affidavits;~~

~~(b) Site plan and dock plans showing~~

~~(1) Dock profile;~~

~~(2) Dock dimensions (fixed pier, ramp, float, etc...);~~

~~(3) Basic Dock specifications;~~

~~(4) Property lines;~~

~~(c) Application fee schedule:~~

~~(1) Temporary Dock permit (CRMC) holders: \$400.00~~

~~(2) Pre-existing Residential Boating Facility permit application: \$500.00~~

~~(d) Proof of ownership: a letter from the local tax assessor stating ownership of the property, a current copy of the property's tax bill, or a property deed.~~

~~B. Upon approval of the permit application, the CRMC shall also issue a registration plate and number conditioned to the assent. The assent is valid for a period of fifty (50) years. All residential boating facilities must show the registration plate, visible from the water, attached to the face of the most seaward piling, float or dock structure.~~

2. Residential Docks with CRMC issued Temporary Dock Permits

- A. ~~The Council has previously issued Temporary Dock Permits for residential boating facilities that currently expire ten (10) years from the date of issuance. All such permits will be recognized by the Council under these regulations as acceptable as meeting the intent of Chapter 153 of the Public Laws. The Council will therefore accept, for a period ending January 31, 1999 requests from such permit holders to convert the Temporary Dock Permit, which carries ten (10) year permit terms, to an assent consistent with Chapter 153 of the Public Laws, which carries a 50 year permit term.~~
- B. ~~Any Temporary Dock Permit holder who does not wish to comply with the provisions of Chapter 153 of the Public Laws and this Program are still required to abide by the conditions and stipulations of the Temporary Dock Permit and the Rhode Island Coastal Resources Management Program.~~
- C. ~~Temporary Dock Permit holders must show proof of such a permit upon application submittal.~~

3. Residential Boating Facilities Built After January 1, 1985

- A. ~~Chapter 153 of the Public Laws specifically intends that any residential boating facility constructed after January 1, 1985 must meet and conform to the Council's rules and regulations for such facilities. Therefore, any such facility is not eligible for this program and does not meet the intent of this law. Additionally, if the owner of such a facility is seeking a permit after the fact, s/he must apply for the after the fact permit through the Council's regular permit application process. Further, these structures may be subject to applicable fines and fees and enforcement actions.~~

D. Violations

- ~~If a registration plate is not present on a residential boating facility structure, the CRMC will place a sticker on the structure detailing that the owner must register the dock in accordance with the requirements of this Program. The CRMC will also try to ascertain the address of the dock owner to notify him/her of the violation. The dock owner will have 45 days to respond to this notice. The CRMC may invoke enforcement actions and its fine and fee schedules (see below).~~
- ~~Enforcement actions shall be registered on Land Evidence Records. Upon proof that an enforcement action has been satisfactorily addressed by a property owner in violation of this Program, the CRMC will notify the property owner that the violation may be removed from the Land Evidence Records. The property owner may then cause the enforcement action to~~

~~be removed from the Land Evidence Records and shall notify the CRMC and show proof of such removal by registered letter.~~

- ~~3. Each issuance of violation is considered to be a new violation, and subject to the fine schedule of Section 300.2.~~

E. Fine Schedule

- | | | |
|------------------------------------------------------------------|------------------|-----------------------------------------|
| 1. Registration Plate Not Posted: | _____ | \$1,000 |
| 2. Use of Plate Not Registered to Dock: | _____ | \$1,000 |
| 3. Non-Compliance with Assent/Permit Stipulations: | _____ | Up to: \$1,000 |
| 4. Non-Compliance with Program: | _____ | Up to: \$1,000 |
| 5. Each Subsequent Violation (12 Months to Correct): | _____ | Up to: \$1,000 per violation |
| 6. Lost or Stolen Plates Not Reported within 60 days: | _____ | \$100 |

F. Definitions

- ~~1. Valid Permits: A. Authorization from a harbor commission or town or city council that shows proof of authorization to be prior to 1972.~~

~~B. Army Corps of Engineers (ACOE) authorization or ACOE authorization showing compliance with 33 CFR 330.3(b) Appendix A.~~

~~C. Harbors and Rivers permit issued by the State of Rhode Island.~~

~~D. CRMC Assent.~~

- ~~2. Formal Residential Boating Facility Application: Applications submitted to the CRMC in accordance with its stated rules, regulations, and programs seeking an Assent to construct a residential boating facility.~~

- ~~3. Residential Boating Facility: a dock, pier, wharf, or float, or combination of such facilities, contiguous to a private residence, condominium, cooperative or other home owners' association properties that may accommodate up to four (4) boats (RI CRMP Section 300.4).~~