

**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
GUIDANCE FOR THE WATER QUALITY CERTIFICATION REVIEW OF
HARBOR MANAGEMENT PLANS**

May 2007

Revised December 2007

Municipalities must apply to the Rhode Island Department of Environmental Management (RIDEM) for a water quality certification (WQC) for those elements of a Harbor Management Plan (HMP) which will likely affect water quality in the municipal harbor (Rule 13.A.3.b.6 RI Water Quality Regulations). The main focus of DEM's review will be: delineation of marina and mooring field boundaries, measures to address sewage from vessels, measures to minimize the discharge of pollutants and resource/habitat/shellfish harvesting impacts.

A copy of the Water Quality Certification Application is attached. Please fill out the form and submit it with a copy of the harbor management plan and the fee. More specific information is available by calling Terry Walsh 222-4700 at extensions 7243. RIDEM will then review the plan and will focus on the following elements and review standards.

I. Elements of the Harbor Management Plan:

A. Mapping: Mooring fields, municipal and private marinas must be properly mapped. The maps shall include:

1. North Arrow;
2. Scale;
3. An appropriate background (aerial photos or marine map);
4. Overlay of the water quality classifications in your City or Town. The Water Quality Classifications can be found on the web at <http://www.dem.ri.gov/maps/index.htm#GV> from there just click on Environmental Resource Map. To the right there is an option to open the Water Quality and Impairments folder and then click on salt water and WQ Class. Additionally, a DVD is available from the Department which contains a version of ArcReader and most of the necessary data layers required by RIDEM;
5. Overlay of any 303(d) listed waters in your City or Town. These are available at the same website as stated above. The town must determine the existence of any 303(d) listed waters for pathogens in their town. This listing is for those water bodies that do not meet their existing water quality goals and are therefore degraded water bodies. If this is the case with your harbor or sections of your harbor, further requirements will likely be imposed in order to expand marinas or mooring fields. We recommend a meeting with the RIDEM to discuss any details before you proceed with your planning efforts.
6. Municipal marinas, anchorages and mooring areas including the existing boat counts and maximum boat counts for each area;
7. Identification of all proposed mooring areas and proposed municipal marinas;
8. Overlay of natural resources in City/Town harbors, including submerged aquatic vegetation (SAV), intertidal flats and tidal wetlands;
9. Locations of existing and proposed pump-out facilities (privately and publicly owned/operated).

You may call Alisa Richardson at 222-4700 x7232 at the RIDEM and she will provide you with any base maps, if needed. They will include appropriate backgrounds, water quality classifications and 303(d) listed waters. They are available in .jpg, arc project and/or paper formats.

B. Sewage Pump-Out Facilities: Assurance that adequate sewage pump -out facilities/service is provided.

To maintain the State's no-discharge status, adequate pump out service must be available. While the Department encourages partnerships to ensure this requirement is met, owners and operators of private marinas are responsible for providing adequate service to their customers berthed at slips, and municipalities are responsible for ensuring adequate service for municipal marinas and for moorings (regardless of whether the Town allows commercial entities to hold and sublet mooring permits).

The HMP must include sufficient information to document that adequate pump out service is provided (e.g. locations of fixed and mobile pump outs, schedules of operation, and depth at fixed based pump out facilities, discussion of overnight occupancy of vessels, etc). The Department requires a ratio of at least one (1) pump-out facility or pump-out boat for every 300 boats docked or moored within the waters covered by the harbor management plan. The ratio may be based on MSD- equipped boats provided the harbor management plan: describes the methodology used to identify MSD equipped boats, includes a commitment to annually update the number of MSDS equipped boats and indicates that additional pump out services will be provided if the ratio of MSDs equipped boats at moorings and municipal slips exceeds 300:1. A lower ratio of boats to pump-out facilities or pump-out boats may be required, or a slightly higher ratio may be allowed based on consideration of appropriate factors such as: accessibility of the pump-out facilities, degree of overnight use, multiple municipal jurisdictions within the water body.

A number of effective private/municipal partnerships and partnerships between municipalities have been established to ensure adequate pump-out service. The pennant system, where vessels fly a pennant to notify a pump-out boat that service is required is a very effective and convenient way to service moored vessels. Municipalities are strongly encouraged to adopt a pennant system for harbors with a significant number of moored vessels and for isolated mooring areas..

For your information, Federal Clean Vessel Act Grant money is available in 2007/2008 to provide partial funding for pump-out facilities and pump-out boats. For specifics on pump-out facilities and the Federal Grant money please call Joseph Migliori at 222-4700 x7258.

C. Municipal Marina Best Management Practices: Documentation of all best management plans currently being implemented, including the following:

1. Comprehensive marina pump out installation and maintenance plan that takes into account docked and moored vessels;
2. Descriptions of programs that have been developed to provide for the disposal of waste oil, plastics, trash, paint, varnish, and other inorganic materials at municipal facilities convenient to recreational boaters; and
3. Descriptions of operation and maintenance measures for marinas;
4. Identification of areas of significant shallow-water habitat and a description of how the town restricts boating activities as necessary to decrease turbidity and physical destruction of such habitat..
5. Details of how the City/Town ensures that all existing and proposed efforts to minimize pollutants have been/will be addressed.
6. Identification and recommendations on how to implement best management practices that are currently not being implemented;
7. If a new municipal marina is desired, the city/town must apply separately for the Water Quality Certification for the marina. The HMP is designed as a mechanism for feasibility and planning for a municipal marina but does not constitute the water quality certification for that activity nor does it imply that the marina will be able to obtain a water quality certification.

D. Applicable State and Federal Laws/Regulations/Harbormaster Authority:

Reference shall be made to all applicable state laws regarding no-discharge as well as reference to applicable state laws with regard to the harbormasters' enforcement authority over the discharge of sewage from vessels associated with mooring fields and municipal marinas

II. Review Standards and Considerations - Shellfish Harvesting/Boat Locations and Densities:

A. The Department will review the existing and proposed mooring and marina locations and density of vessels for compliance with the Water Quality Regulations for Water Pollution Control and the FDA Shellfish Sanitation Program. This includes but is not limited to evaluation of mooring fields and marina areas for compliance with water quality classifications and uses. The Potential for discharges of gray water and sewage from marinas, and in certain cases mooring fields, represent a potential threat for shellfish contamination and FDA requires that these areas be closed to shellfish harvesting. Mooring areas that require shellfish harvesting restrictions are those that have the greatest potential to support overnight use. These included destination type mooring fields such as: typical harbors, and sheltered areas known to or likely to result in overnight use. Areas know or likely to result in overnight use may be associated with significant shoreline services (marinas, restaurants, etc) or may be adjacent to undeveloped areas (e.g. Potter Cove, Prudence Island). To simplify the review process new mooring fields should not be cited in SA waters. RIDEM reviews HMPs for consistency with the state's water quality classifications in the following manner:

- 1.** SA waters are designated for shellfish harvesting for direct human consumption primary and secondary contact recreational activities, and fish and wildlife habitat. This is the highest water quality classification that can be assigned to marine waters. Shellfish harvesting restrictions would be required if certain marinas or destination type mooring fields were present in SA waters. Therefore:

Except as noted below, establishment of a marina or destination type mooring field in SA waters requires that the water quality classification and designated uses are downgraded. In order to downgrade designated uses a Use Attainability Analysis must be conducted to demonstrate that attaining the designated uses is not feasible for one of six specific reasons. The criteria and procedures for downgrading designated uses are found in Rule 19 of the RI Water Quality Regulations (which mimic the Federal Clean Water Act).

Mooring fields (a grouping of 10 or more boats) may be established in SA waters where it is demonstrated that there is little potential for overnight use (e.g. open areas that are not conducive to overnight stays). To do so, the HMP must include: an analysis of the potential for overnight use; demonstrate how adequate pump-out services will be provided; and, a commitment that the City or Town will assess mooring fields in SA waters each year to confirm that the use of moorings is consistent with this requirement.

- a.** In 2006, Rule 19E(1)(b) of the RI Water Quality Regulations were modified to list specific SA waters, where a marina or destination type mooring field may be proposed and will not require a downgrade nor a use attainability analysis, unless the Director determines it is necessary to comply with Rule 18 (Antidegradation of Water Quality Standards). This modification was made to address a long-standing inconsistency between CRMC Regulations and DEM Water Quality Regulations regarding allowable uses along these specific shorelines.

Additionally, the Department monitors water quality on a regular basis to ensure that waters are safe for shellfish harvesting and any activity cannot degrade the existing water quality or restrict the use of shellfish harvesting. If the Department finds a problem that is related to the expansion of mooring fields, the Department has the authority to order the removal of the mooring fields.

2. **SA{b}** waters are in the vicinity of marinas and/or mooring fields established prior to November 28, 1975. Shellfishing is restricted in the summer but all Class SA criteria must be attained. Marinas and mooring fields are allowed in SA{b} waters provided that the pump-out facilities are adequate to support the boating population. Additionally, the density of boats in SA{b} waters cannot degrade water quality in SA waters nearby.
3. **SB** waters are designated for primary and secondary contact recreational activities; shellfish harvesting for controlled relay and depuration; and fish and wildlife habitat. The majority of existing marina and mooring fields are located within SB areas.

III. Standards And Considerations – Impacts To Habitat And Water Quality

- A. The following physical, chemical and biological criteria are parameters of minimum water quality necessary to support the surface water use classifications referenced above. The Department reviews all aspects of the plan to ensure that at a minimum, all waters shall be free of pollutants in concentrations or combinations or from anthropogenic activities subject to these regulations that:
 - (a). Adversely affect the composition of fish and wildlife;
 - (b). Adversely affect the physical, chemical, or biological integrity of the habitat;
 - (c). Interfere with the propagation of fish and wildlife;
 - (d). Adversely alter the life cycle functions, uses, processes and activities of fish and wildlife; or
 - (e). Adversely affect human health.

IV. Annual Maintenance

Any approved mooring field each year must have adequate pump-out services and the City or Town must commit to assessing these mooring fields each year and confirm that the use of moorings is consistent with this policy. Any expansions of mooring areas require an amendment to the Harbor Management Plan and must be approved as a modification of the Water Quality Certification.

V. Additional Information:

The Complete Harbor Management Plan Report must also demonstrate that the harbor master will execute the specific enforcement capabilities relating to the discharge of sewage provided under applicable state law (i.e. RI General Law 46-12-39 through 41). :