



# Florida Fish and Wildlife Conservation Commission

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## REGULATORY PLAN – OCTOBER 1, 2017

The Fish and Wildlife Conservation Commission, pursuant to the requirements of section 120.74(1), Florida Statutes, hereby publishes its Regulatory Plan, due October 1, 2017.

### **List of Laws Enacted or Amended During the Previous 12 Months which Create or Modify the Duties or Authority of the Fish and Wildlife Conservation Commission**

In compliance with paragraph 120.74(1)(a), F.S., below is a list of laws enacted or amended during the 12 months prior to October 1, 2017, which create or modify the statutory duties or authority of the Fish and Wildlife Conservation Commission.

**Vessels:** Chapter 2017-163, Laws of Florida, redefines live-aboard vessels and adds to the statutory definition of vessels that are at risk of becoming derelict those vessels that do not have an effective means of propulsion for safe navigation within 72 hours after the owner or operator has received notice from a law enforcement officer and the issues have not been corrected or the owner or operator cannot provide proof of purchase of the parts necessary for repairs. It prohibits a vessel or floating structure from anchoring or mooring within 150 feet of a marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field, and provides penalties and exemptions. It removes a previously created expiration on anchoring limitation areas and prohibits a vessel or floating structure from anchoring, mooring, tying, or otherwise affixing to an unpermitted or unauthorized object that is on or affixed to the bottom of the waters of the state. The bill permits an owner to request and requires the Commission to establish a boating restricted area, if the area meets the statutory requirements, for privately-owned submerged lands that are adjacent to Outstanding Florida Waters or an aquatic preserve solely to protect seagrass and contiguous seagrass habitat within the private property boundaries from seagrass scarring from propeller dredging. It allows local governments to enact and enforce regulations related to proof of proper sewage disposal and removal of a vessel affixed to a public dock that is abandoned or lost property. It increases the penalty associated with operating a vessel with a registration that has been expired for more than 6 months. The bill provides that a law enforcement officer who has provided written notice through a citation to an owner of a derelict vessel is not required to send notice by certified mail, and prohibits the Department of Highway Safety and Motor Vehicles from issuing a certificate of title for a derelict vessel, until the vessel is no longer deemed derelict. The Fish and Wildlife Conservation Commission's statutory responsibilities are altered by this law because the agency is required to: adopt rules, including an application process and criteria for meeting the requirements for owners of privately owned

submerged lands to apply for boating restricted areas to protect seagrasses as provided in the law; review and approve or deny requests from local governments to restrict anchoring or mooring of vessels or floating structures for less than 100 feet outward from the marked boundary of a public mooring field; and review ordinances adopted by local governments that require proof of pumpout to ensure they are in compliance with the law. It further creates new enforcement requirements for the agency's Division of Law Enforcement. The agency is authorized but not required to adopt rules related to determining whether or not a vessel is at risk of becoming derelict because it does not have an effective means of propulsion for safe navigation, rules related to the allowance for prohibition of anchoring less than 100 feet outward from the marked boundary of a public mooring field, and rules related to approving proof of pumpout provisions provided in the new law. The agency must adopt rules to implement this law only with regard to the requirements for owners of privately owned submerged lands to apply for boating restricted areas to protect seagrasses. A Notice of Rule Development for the proposed changes was published in the Florida Administrative Register on April 6, 2017 (Vol. 43/130). The Fish and Wildlife Conservation Commission expects to publish all necessary Notices of Proposed Rule by April 1, 2018.

**List of Commission Rules the Fish and Wildlife Conservation Commission  
Commissioners Will Consider for Adoption Before July 1, 2018**

In compliance with section 120.74(1)(b), Florida Statutes, the following is a list of rules the Fish and Wildlife Conservation Commission will consider for adoption before July 1, 2018. For each rule listed below, a statement of whether the rulemaking is intended to simply, clarify, increase efficiency, improve coordination with other agencies, reduce regulatory costs, or delete obsolete, unnecessary, or redundant rules is provided.

**Law Enforcement**

1. Rule 68D-24.015, Florida Administrative Code – Apalachicola River Boating Restricted Areas - Staff will evaluate the current rule and propose amendments to correct a zone boundary. Staff will engage the boating public, the local government and local law enforcement to seek an appropriate remedy. This rulemaking effort is intended to simplify and clarify.
2. Rule 68D-24.108, Florida Administrative Code – Charlotte County Boating Restricted Areas - Staff will evaluate the current rule and propose amendments to the current rule to correct and clarify a zone boundary. Staff will engage the boating public, the local government and local law enforcement to seek an appropriate remedy. This rulemaking effort is intended to simplify and clarify.
3. Rule 68D-24.117, Florida Administrative Code – Escambia County Boating Restricted Areas - Staff will evaluate the current rule and propose amendments to the current rule to clarify a zone boundary. Staff will engage the boating public, the local government and

local law enforcement to seek an appropriate remedy. This rulemaking effort is intended to simplify and clarify.

4. Rule 68D-24.146, Florida Administrative Code – Okaloosa County Boating Restricted Areas - Staff will evaluate the current rule and propose amendments to the current rule to correct and clarify a zone boundary. Staff will engage the boating public, the local government and local law enforcement to seek an appropriate remedy. This rulemaking effort is intended to simplify and clarify.
5. Rule 68A-12.010, Florida Administrative Code- Regulations Governing the Operation of Private Hunting Preserves - Staff will evaluate the current rule and propose amendments to update the rule. Staff will engage the public, the relevant industry and other state agencies to seek appropriate updates. Major review initially focused on enforcement clarity.
6. Rule 68A-12.011, Florida Administrative Code- Regulations Governing the Establishment and Operation of Game Farms - Staff will evaluate the current rule and propose amendments to update the rule. Staff will engage the public, the relevant industry and other state agencies to seek appropriate updates. Major review initially focused on enforcement clarity.

#### **Habitat and Species Conservation**

1. 68C-22.008, Florida Administrative Code - St. Lucie County Zones - Staff intend to propose changes to the existing manatee protection zones. Revisions may include addition of some new areas to be regulated, removal of some regulated areas and a few changes for areas already regulated. This rulemaking effort is intended to: simplify; clarify; increase efficiency; improve protection for manatees.
2. 68C-22.023, Florida Administrative Code – Collier County Zones - Staff intend to complete the rulemaking process started in FY 2016-2017 regarding changes to the existing manatee protection zones. The Commission approved changes however a request for administrative hearing was submitted and the rule is now pending with the Division of Administrative Hearings. Revisions proposed included addition of some new areas to be regulated, removal of some regulated areas and a few changes for areas regulated at idle speed to be modified to slow speed. This rulemaking effort is intended to: simplify; clarify; increase efficiency; and improve protection for manatees.
3. Rule 68F-20, Florida Administrative Code - Aquatic Plant Control Permits - Staff will propose changes in the aquatic plant permitting rules, to include provisions for delegation of permitting authority to local governments, modifications to the current list of permit exemptions, as well as changes to several definitions. The purpose of the changes is to reduce the regulatory burden on the public while maintaining sufficient protection to fish and wildlife habitat in waters of the State. This rulemaking effort is intended to: simplify;

clarify; increase efficiency; improve coordination with other agencies; and reduce regulatory costs.

**Update of 2016-2017 Regulatory Plan**

The Florida Fish and Wildlife Conservation Commission previously filed its List of Commission Rules Considered for Adoption for the Fiscal Year Beginning July 1, 2016, pursuant to section 120.74(2), Florida Statutes. In compliance with section 120.74(1)(c), F.S., the Florida Fish and Wildlife Conservation Commission affirmatively states that it has no update to provide to the prior year's document.

**CERTIFICATION**

By way of this Certification, pursuant to section 120.74(1)(d), Florida Statutes, the below signed agency head and principal legal advisor each verify that they have reviewed this regulatory plan, and that the Fish and Wildlife Conservation Commission regularly reviews all of its rules and identifies the period during which all rules have most recently been reviewed to determine if the rules remain consistent with the Fish and Wildlife Conservation Commission's rulemaking authority and the laws implemented.



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Brian Yablonski, Chairman  
Fish and Wildlife Conservation Commission



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Harold "Bud" Vielhauer, General Counsel  
Fish and Wildlife Conservation Commission