



Florida Fish and Wildlife Conservation Commission

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REGULATORY PLAN – OCTOBER 1, 2016 AMENDED

The Fish and Wildlife Conservation Commission, pursuant to the requirements of section 120.74(1), Florida Statutes, as amended by Chapter 2015-162, Laws of Florida, hereby publishes its Regulatory Plan, due October 1, 2016.

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, 2016, which create or modify the statutory duties or authority of the Fish and Wildlife Conservation Commission.

Chapter 2016-4, Laws of Florida (SB 158)

During the 2016 Regular Session, SB 158, codified in Chapter 2016-4, Laws of Florida, was enacted, modifying the duties or authorities of the Fish and Wildlife Conservation Commission as discussed below.

Identification Cards and Driver Licenses: Chapter 2016-4, Laws of Florida, will permit an individual who holds a lifetime fishing, hunting, or sportsman's license or a boater safety identification card to have a symbol displaying that status added to his or her driver license or state identification card. The symbol may be added when the driver license or identification card is being issued, renewed, or replaced for a purpose other than solely including the symbol on the card (i.e., an address or name change) for a \$1 fee. Others, who wish to surrender and replace their driver licenses or identification cards before their expiration date, for the sole purpose of including their status as a lifetime fishing, hunting, or sportsman license holder or boating safety cardholder, will be required to pay a \$2 fee for the replacement license or card. A driver license or state identification card that has one of these recreational symbols can be used as proof that the individual possesses the relevant lifetime fishing, hunting, or sportsman license or boater safety card. Although the law became effective on July 1, 2016, it specifies that changes made to driver licenses and identification cards will apply upon implementation of new designs for the driver license and identification cards by the Department of Highway Safety and Motor Vehicles, which is anticipated to be in 2017. The Fish and Wildlife Conservation Commission's authority is altered only by providing law enforcement another means of verifying that members of the public are hunting, fishing, and boating in compliance with the law. This law does not

require rulemaking, and rulemaking is not necessary to implement the law because all language necessary to implement the changes is provided in statute.

Chapter 2016-96, Laws of Florida (HB 1051)

During the 2016 Regular Session, HB 1051, codified in Chapter 2016-96, Laws of Florida, was enacted, modifying the duties or authorities of the Fish and Wildlife Conservation Commission as discussed below.

Anchoring Limitation Areas: Chapter 2016-96, Laws of Florida, created anchoring limitation areas in sections of Broward and Miami-Dade Counties where, generally, a person is prohibited from anchoring a vessel at any time between the hours from one-half hour after sunset to one-half hour before sunrise. The law does authorize vessels to anchor overnight in an anchoring limitation area if the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or persons onboard the vessel unless the vessel anchors, if imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard the vessel, during events described in s. 327.48, F.S., relating to regattas, races, marine parades, tournaments, and exhibitions, or other special events including, but not limited to, public music performances, local government waterfront activities, or fireworks displays. Certain vessels, including law enforcement vessels, are also exempt from the anchoring limitations. The law further authorizes law enforcement officers or agencies to remove and impound vessels from these areas or to cause their removal and impoundment under certain circumstances and provides for a limitation of liability except in instances of gross negligence or willful misconduct. A violation of this law is punishable by civil fines. The Fish and Wildlife Conservation Commission's authority is altered because Commission law enforcement is required to enforce the new anchoring limitation areas. This law does not require rulemaking, and rulemaking is not necessary to implement the law because all language necessary to implement the changes is provided in statute.

Chapter 2016-107, Laws of Florida (HB 7013)

During the 2016 Regular Session, HB 7013, codified in Chapter 2016-107, Laws of Florida, was enacted, modifying the duties or authorities of the Fish and Wildlife Conservation Commission as discussed below.

Recreational License Penalties:

Chapter 2016-107, Laws of Florida, amended numerous provisions imposing penalties for violations of recreational fish and wildlife laws and regulations. The amendments were intended to achieve consistency between penalties for similar violations, to encourage compliance, and deter offenses. The fine for illegally taking game while trespassing was increased from \$250 to \$500 per violation, and added all fish and wildlife to the list of species covered by the fine. Violators of recreational fishing and hunting licensing requirements now have an option to purchase the respective license in addition to the base penalty, rather than paying the cost of the license in addition to the base penalty (but

not receive the license). The fine for repeat offenders for any recreational noncriminal infraction within three years is increased from \$100 to \$250. The penalty for violations of rules or orders of the Florida Fish and Wildlife Conservation Commission requiring reporting by people who hold alligator hunting licenses, or requiring the return of unused CITES tags issued under the Statewide Alligator Harvest Program or the Statewide Nuisance Alligator Program, is reduced from a second degree misdemeanor to a noncriminal infraction. The penalty for wildlife management area violations on U.S. forest lands is made consistent with those of all other wildlife management areas. The penalty for the sale, barter, or trade of tarpon is made consistent with the penalty for rules that prohibit the sale of other saltwater species, going from a second degree misdemeanor to a first degree misdemeanor. Language prohibiting the altering or changing of a license or permit is deleted from the statutory section that prohibits the transfer of a license or permit or possession of a transferred license or permit; instead, such actions will be treated as forging or counterfeiting a license or permit, punishable as a third degree felony. These portions of the law do not require rulemaking, and rulemaking is not necessary to implement the law because all language necessary to implement the changes is provided in statute.

Voluntary Contributions – Licensure Applications: Chapter 2016-107, Laws of Florida, authorizes, rather than mandates the Commission to, retain an administrative fee when collecting voluntary donations for Southeastern Guide Dogs, Inc., during the hunting/fishing licensure application process. This portion of the law does not require rulemaking, and rulemaking is not necessary to implement the law because all language necessary to implement the changes is provided in statute.

Possession of Marine Turtles:

Chapter 2016-107, Laws of Florida, modified the Marine Turtle Protection Act, s. 379.2431 (1), F.S., to clarify that the knowing possession of sea turtle species or hatchlings, including any parts thereof, is illegal and a 3rd degree felony. Previous to this clarification, the possession of sea turtle species, hatchlings, or parts was implied to be illegal along with other prohibitions in s. 379.2431(1)(d), F.S, including knowingly taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing any sea turtles or their eggs or nests. Because at least one court case found an individual not guilty because “possession” of sea turtles was not specifically prohibited in law, the Legislature added “possession” of sea turtles to the prohibitions listed in the act. The penalty for all such prohibitions is a 3rd degree felony. This law does not require rulemaking, and rulemaking is not necessary to implement the law because all language necessary to implement the changes is provided in statute.

Chapter 2016-108, Laws of Florida (HB 7025)

During the 2016 Regular Session, HB 7025, codified in Chapter 2016-108, Laws of Florida, was enacted, modifying the duties or authorities of the Fish and Wildlife Conservation Commission as discussed below.

At-Risk Vessels: Chapter 2016-108, Laws of Florida, prohibits a vessel that is at-risk of becoming derelict from anchoring on, mooring on, or occupying the waters of the State, and provides parameters for law enforcement officers to determine whether or not a vessel meets the definition of at-risk. The law makes a violation a noncriminal infraction, punishable by civil fines. The Fish and Wildlife Conservation Commission's authority is altered by this law because it permits agency law enforcement officers to issue citations to individuals with vessels at risk of becoming derelict. This law does not require rulemaking, and rulemaking is not necessary to implement the law because all language necessary to implement the changes is provided in statute.

Chapter 2016-134, Laws of Florida (HB 703)

During the 2016 Regular Session, HB 703, codified in Chapter 2016-134, Laws of Florida, was enacted, modifying the duties or authorities of the Fish and Wildlife Conservation Commission as discussed below.

Vessels: Chapter 2016-134, Laws of Florida, revised what constitutes careless operation of a vessel, applying only if a person is operating a vessel in an unreasonable or imprudent manner that endangers the life, limb, or property of another person outside of the vessel or endangers the life, limb, or property of any person due to vessel overloading or excessive speed. The law further requires a law enforcement officer to issue a safety inspection decal to the operator of a vessel upon demonstrated compliance with safety equipment carriage and use requirements during a safety inspection initiated by the law enforcement officer; provides that a safety inspection decal signifies that the vessel was in compliance with the safety equipment carriage and use requirements at the time and location of the inspection; and provides that a safety inspection decal, if displayed, must be located within six inches of the vessel's properly displayed vessel registration decal (or for non-motorized vessels which are not required to be registered, be located on the forward half of the port side of the vessel above the waterline). The law prohibits law enforcement officers from stopping a vessel solely for the purpose of inspecting safety equipment carriage and use requirements if the vessel has a properly displayed valid safety inspection decal, except when there is a reasonable suspicion that a violation of the safety equipment carriage or use requirements is occurring or has occurred, or for any other lawful purpose. The Fish and Wildlife Conservation Commission's authority is altered since the law eliminates Commission law enforcement officers' authority to stop a vessel for the purpose of verifying that the vessel and operator are in compliance with the safety equipment carriage and use requirements when a vessel displays a valid, properly placed safety inspection decal. This law does not require rulemaking, and rulemaking is not necessary to implement the law because all language necessary to implement the changes is provided in statute.

Chapter 2016-171, Laws of Florida (SB 846)

During the 2016 Regular Session, SB 846, codified in Chapter 2016-171, Laws of Florida, was enacted, modifying the duties or authorities of the Fish and Wildlife Conservation Commission as discussed below.

Divers-Down Warning Devices: Chapter 2016-171, Laws of Florida, created the definition of “divers-down warning device” to include divers-down flags, buoys, or other similar warning devices and created specifications for permissible divers down warning devices. This change provides divers with additional choices, beyond flags, for signaling to boaters that there are divers in the water while remaining compliant with Florida law. The Fish and Wildlife Conservation Commission’s authority is altered only by requiring that law enforcement enforce a new method of signaling that divers are in the water. This law does not require rulemaking, and rulemaking is not necessary to implement the law because all language necessary to implement the changes is provided in statute.

Chapter 2016-233, Laws of Florida (HB 1075)

During the 2016 Regular Session, HB 1075, codified in Chapter 2016-233, Laws of Florida, was enacted, modifying the duties or authorities of the Fish and Wildlife Conservation Commission as discussed below.

State Areas: Chapter 2016-233, Laws of Florida, provides that the Fish and Wildlife Conservation Commission may establish, by rule, protection zones restricting the speed and operation of vessels in order to protect and prevent harm to springs. This harm includes negative impacts to water quality, water quantity, hydrology, wetlands, and aquatic-and wetland-dependent species. If the Commission does adopt such rules, the Commission must consult and coordinate, during the development process, with the Department of Environmental Protection, and the water management district, county, and municipality, when developing a zone. If a zone includes navigable waters of the United States, the Commission must also coordinate with the U.S. Coast Guard and the U.S. Army Corps of Engineers. If an individual operates a vessel in violation of a spring protection zone rule, the individual will be cited with a uniform boating citation and is subject to penalties. The Fish and Wildlife Conservation Commission’s statutory authority is altered by this law because the agency is authorized to adopt rules establishing protection zones. This law does not require rulemaking, and rulemaking is not necessary to implement the law.

Chapter 2016-253, Laws of Florida (HB 871)

Broward County: Chapter 2016-253, Laws of Florida, repealed a local law that required Broward County to pay for the cost of providing waterway speed limit signs. Financial responsibility for constructing and maintaining signs after the local law passed went to the Fish and Wildlife Conservation Commission by statute. The bill also repealed a provision

specifying that a person who operates a vessel in excess of the maximum speed limit in New River Canal and the Florida Intracoastal Waterway in Broward County was guilty of a non-criminal infraction. After passage of the local law, persons found to have operated a vessel in excess of the maximum speed limit in those locations will be liable according to general law. The Fish and Wildlife Conservation Commission's statutory responsibilities are altered because the agency is now responsible for the financing of the construction and maintenance of water speed limit signs in Broward County. This law does not require rulemaking, and rulemaking is not necessary to implement the law because all language necessary to implement the changes is provided in statute.

**List of Commission Rules the Fish and Wildlife Conservation Commission
Commissioners Will Consider for Adoption Before July 1, 2017**

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, 2017. 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 680-24.117, Florida Administrative Code - Escambia County Boating Restricted Areas - Staff will evaluate the current rule and propose amendments to the current rule 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; clarify; and improve coordination with other agencies.

Habitat and Species Conservation

1. Rule 68F-20, Florida Administrative Code - Aquatic Plant Control Permits - By the end of the year, it is possible that Commission 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.

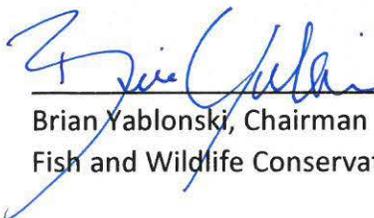
2. Rule 68C-22.023, Florida Administrative Code –Collier County Manatee Protection Zones- By July 1, 2017 Commission staff intend to propose changes to the existing manatee protection zones for Collier County. This rule was last revised in 1997 and staff reviewed more recent manatee related data to identify areas of the rule to review. The county formed a Local Rule Review Committee to review the areas identified by staff and provided their report to the agency as required by the statutory process. FWC staff provided a response to the LRRC and are now developing proposed rule revisions to bring before our Commission at their November 2016 meeting. Revisions will include 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.

Update of 2015-2016 Regulatory Plan

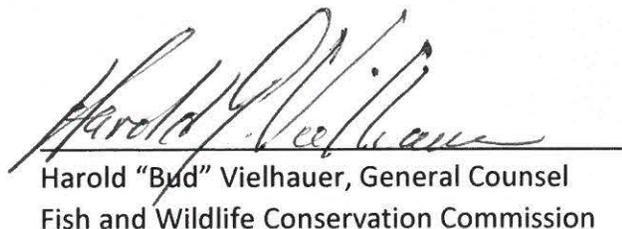
The Florida Fish and Wildlife Conservation Commission previously filed its List of Commission Rules Considered for Adoption for the Fiscal Year Beginning July 1, 2015, pursuant to section 120.74(3), Florida Statutes (2014). In compliance with section 120.74(1)(c), F.S., the Florida Fish and Wildlife Conservation Commission affirmatively states that, other than relisting Rules 68D-24.015 and 68D-24.108, Florida Administrative Code, 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.



Brian Yablonski, Chairman
Fish and Wildlife Conservation Commission



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