

MEMORANDUM



To: Florida Fish and Wildlife Conservation Commissioners
From: Colonel Curtis Brown, Director, Division of Law Enforcement
Date: October 2, 2019
Subject: Consent Agenda - Derelict Vessel Grant Rule Amendment

Purpose:

Obtain approval of proposed changes to Derelict Vessel Grant Guidelines incorporated in Rule 68-1.003(7) Florida Administrative Code (FAC) Derelict Vessel Removal Program Grants.

Summary:

At its July 2019 meeting, the Commission approved changes to Derelict Vessel Grant Guidelines incorporated by reference in Rule 68-1.003(7), FAC. The changes approved included editing the Guidelines and Application to: (1) eliminate the current 45-day application cycle for funding and to adopt a continuously open application period; (2) eliminate the current requirement for applicants to provide 25% matching funds (FWC will fund 100% of the eligible and qualified removal costs for each awarded grant); (3) require the applying entity to ensure the owner (or other responsible party) of each derelict vessel on a grant application has been afforded due process as required by State and Federal law before grant applications are eligible for funding. Although not highlighted, the amended Guidelines also gave notice that applicants routinely failing to legally charge derelict vessel owners would be denied use of state funding in the removal process.

When staff moved to adopt these changes into the Rule, the Joint Administrative Procedures Committee (JAPC) provided comments that the Rule, pursuant to section 379.106, F.S., must identify the method of payment to be used to disburse the grant funds, require the applicant to specifically identify the total number of derelict vessels within the applicant's jurisdiction and address the requirement to identify the degree of commitment of the local government to maintain waters free of derelict vessels and to seek legal action against those who abandon vessels. The amendment will include language to address these issues and provide clarifying language reflecting that, with exceptions, vessels for which the owner has not been charged will be ineligible for removal grant funding under this program. The exceptions include when, after diligent search and inquiry law enforcement is unable to identify or locate the owner, and the rule provides what constitutes a diligent search and inquiry. Staff also made clarifying and non-substantive changes, and one additional substantive change, to remove language that said that derelict vessels attached to, grounded upon, tied to, or docked at any private property are ineligible for removal grant funding under the program. These vessels may fall into the definition of derelict provided under statute, and thus, may be eligible for removal funding if these changes are approved. The edited guidelines are attached to this memo.

Staff Recommendation:

Approve publishing a notice of change for Rule 68-1.003(7) F.A.C. to amend rule language as described above and file the rule for adoption as soon as possible.

Staff Contact and/or Presenter:

Major Robert Rowe, Boating and Waterways Section Leader, Division of Law Enforcement