

Uniform Waterway Markers in Florida Waters Rule 68D-23, F.A.C.



Florida Fish and Wildlife Conservation Commission
Division of Law Enforcement
Boating and Waterways Section
Major Paul Ouellette (6-6-2006)

The proposed changes to this rule are intended to: (1) correct and update statutory cross-references that have been changed since the current rule was promulgated in 2001; (2) improve clarity and consistency of language and definitions; (3) remove or revise obsolete provisions and cross-references; and (4) respond to requests for revisions received from stakeholders and from other governmental entities. The anticipated effects include the relaxation of certain reporting requirements and other reductions to the regulatory burden on permittees where possible. Other anticipated effects include the provision to applicants of greater flexibility in the size of and messages displayed on waterway regulatory and information markers.

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Current Rule:

- Implement a uniform system of waterway marking
- Establish criteria for placing markers
- Guidance document for permitted entities

The current rule was promulgated in 2001. Its purpose was to establish a guidance regulation consistent with the U. S. Aids to Navigation System.

This rule implements a single uniform system of waterway marking for the Florida Intracoastal Waterway and other state navigable waters and provides for uniformity in design, construction, and coloring of markers.

It establishes criteria for the placement of markers, and acts as a guidance document to entities wanting to place uniform waterway markers.

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Amendments:

Proposed amendments to the Uniform Waterway Markers in Florida Waters Rule 68D-23 do the following:

- Remove and/or revise obsolete provisions and cross-references
- Improve clarity and consistency of language and definitions
- Incorporated 2005 legislative changes

Significant amendments to this rule include:

The removal and/or revision of obsolete provisions and cross-references. An example of this would be removing references to the old Department of Natural Resources.

We worked cooperatively with stakeholders to improve clarity and consistency of language and definitions. Some local governments have expressed their difficulty with interpreting some of the definitions within the rule. We worked with them and other interested parties to better clarify some of this language.

We also incorporated 2005 legislative language. During the 2005 Session, a bill passed amending s. 327.40, the statute that drives this rule. We needed to address these changes into the rule. An example would include an exemption from permitting certain waterway markers within inland lakes and associated canals.

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Stakeholder Comment:

- Five public workshops held
- 36 attended workshops and related public meetings
- State/local agencies, boating interest groups, boating public representatives attended workshops or commented
- Feedback was incorporated into rule
- Received support

This draft rule language was presented at five public workshops and one public meeting throughout the state.

A total of 36 individuals attended workshops and other advertised meetings addressing this issue.

The majority of comments were received from local government, other state agencies, and boating interests.

Overall, there was support for these changes.

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Floor Amendments to Rule 68D-23:

- Add phrase for clarification
- Incorporate two 2006 legislative actions

There are three proposed Amendments to this rule before you. The first is a stakeholder request to clarify that the navigable waters of the United States within Florida together with Florida's non-navigable state waters cover all the waters of this state. Staff requests authority to amend the rule to include this phrase.

As revised, this subsection will read:

(1) This Chapter is consistent and conforms to 33 C.F.R. 62.21 – The navigable waters of the United States and non-navigable State waters (which together comprise all waters of this state) after December 31, 2003, are marked to assist navigation using the United States Aids to Navigation System, a system consistent with the International Association of Lighthouse Authorities (IALA) Maritime Buoyage System. The IALA Maritime Buoyage System is followed by most of the world's maritime nations and will improve maritime safety by encouraging conformity with buoyage systems used worldwide.

The next two amendments are legislatively driven. During the 2006 Legislative Session, a Bill passed that amended Section 327.60(1), F.S., to prohibit any ordinance that discriminates against airboats unless they have been adopted "by a two-thirds vote..." Staff requests authority to amend this rule to reflect this legislative change if the act is approved by the Governor.

The rule will be amended to add:

(d) Ordinances that discriminate against airboats adopted after October 1, 2006, unless adopted by a two-thirds vote of the governing body enacting such ordinance, as provided in Section 327.60(1), F.S.

A second Bill passed through the Legislature that amends Section 327.60(2), F.S., to allow local governments to regulate non-live-aboard vessel anchoring within the marked boundaries of legally permitted mooring fields. Staff requests authority to amend this rule to reflect this change, pending it becoming law.

The rule would be amended to read as:

(e) Ordinances regulating the anchoring of non-live-aboard vessels in navigation, in violation of Section 327.60(2), F.S., when such vessels are outside the marked boundaries of mooring fields permitted as provided in Section 327.40, F.S., and this rule.

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Staff requests Commission approval
of amendments to Rule 68D-23 F.A.C.

Staff requests Commission approval of the proposed
amendments to Rule 68D-23 as advertised.

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QUESTIONS?

Questions?