

Section 1. Section 373.4061, Florida Statutes, is created to read:

373.4061 Pilot project for noticed general permit to counties for public use mooring fields.--

(1) A general permit is granted to (name several here) counties to construct, operate, alter, maintain, or remove public use mooring fields, subject to the limitations and conditions of this section.

(2) In order to qualify for this general permit, the activity must comply with the following:

(a) The project must be included in a management plan that has been the subject of at least one public workshop;

(b) The county commission must conduct at least one public hearing within 1 year before project initiation;

(c) Prior to submittal of a notice to use this general permit, the county shall conduct at least one pre-application meeting with appropriate Fish and Wildlife Conservation Commission staff and water management district or department staff to discuss project designs, implementation details, resource concerns, and conditions for meeting applicable state water quality standards.

(3) This general permit shall be subject to the following specific conditions:

(a) A project under this general permit shall not significantly impede navigation or unreasonably infringe upon the riparian rights of others. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision;

(b) The mooring field constructed under this general permit may not exceed a capacity of 100 vessels or exceed a halo impact to the bottom by the total number of helical

**Comment [mcc1]:** This needs definition as to what will qualify and by whom, who's plan- the boaters, economic plan or an environmental management plan.

piling installations of no more than 500 square feet;

1. The installation of the mooring field must use helical anchors engineered for securing the mooring to the bottom. The attachment of the helical to the buoy or vessel may not use chain or cable that may scour the bottom. The installation of helical anchors and associated attachment gear may provide safe refuge for anchored out boats and vessels in exposed marinas to help reduce economic and environmental damage caused by storm events.

2. Subject to specific limitations within the management agreement, the mooring field shall be limited to no more than 15 percent live-aboards as defined by law without written authorization from the department authorizing a larger percentage.

**Comment [mcc2]:** This mentions a Management Agreement earlier a Management Plan was required. Are these the same and what must be included? Needs to be clear and specific.

3. A managed mooring field using this general permit for construction shall be in compliance with all Fish and Wildlife Conservation Commission-approved Manatee Protection Plans provided that 94 percent of all vessels in the mooring field are reserved for sailboats and the remaining 6 percent are reserved for power boats being transient in nature only.

**Comment [mcc3]:** This is not clear. Is it saying that if the mooring field meets the 94/6 ratio then it will automatically meet local MPP requirements or is this a maximum percent of power boats that will be allowed no matter what the local MPP dictates or if the local MPP is stricter will a lower percentage of power boats be allowed.

4. There must be at least 1 ft of water between any resource and the deepest portion of any vessel in the mooring field at mean low water.

**Comment [mcc4]:** Delineating a minimum water depth would alleviate arguments down the line.

(c) The mooring field installation may not require dredge or fill activities other than the installation of helical anchors, and two pilings for a dock. The dock may not exceed 250 square feet and may not be placed over sea grass. Turbidity shall be monitored and controlled at all times such that turbidity immediately outside the project area complies with rules 62-302 and 62-4.242, Florida Administrative Code;

**Comment [mcc5]:** What if there is already an existing dock that exceeds this size and/or a docking facility (slips) and ramp at the proposed location. Does it become ineligible for the general permit? What about dinghy docks?

(d) A local government may by agreement contract with a privately owned marina or department-approved facility to operate and manage the mooring field where the local government has no governmentally owned marina or other type of operation capable of adequately managing the mooring field. The upland support marina or other facility must prepare a management plan in consultation with the department and sponsor local government.

**Comment [mcc6]:** Such as restaurant, condo associations, etc ...? Are there specific upland amenities that must be available for approval? Conflicts during permitting can be avoided if this is clear.

1. A mooring field that is managed by a marina must have a Clean Marina designation by the department.

2. An upland waterfront facility other than a marina may support the mooring field provided the facility meets regulatory standards, and can provide the services required by this section;

**Comment [mcc7]:** Such as...

3. One-hundred percent of the moorings must be open to the general boating public on a first come first served basis. Rental or lease contracts may not exceed one calendar year in duration. Rental or lease contracts may not be tied to or made contingent upon either membership or affiliation with an association of individuals or upon a possessory interest in real estate.

**Comment [mcc8]:** Very broad statement and open to interpretation.

**Comment [mcc9]:** This appears to be just pumpout, site monitoring, maintenance, and registration paperwork. Is that true, unclear. I do not see any upland amenities required such as restrooms, showers, etc. as would be available at marinas.

4. The mooring field must have a minimum of twenty-five percent of the moorings available for transient vessels and or for hurricane availability when applicable. A vessel is "transient" if its operator hires a mooring for a period of time that does not exceed 120 calendar days.

5. Each vessel mooring within the field must have either current registration from a state of the United States, federal vessel documentation, or documentation from its foreign county registry. A copy of each vessel's registration shall be filed with the marina or waterfront facility managing the mooring field and must be archived in

a secure and readily accessible location for a minimum of three (3) years.

6. A pump-out boat must be available to service vessels within the mooring field on a daily basis.

7. Vessels may navigate through the mooring field at idle speed, however, vessels are restricted from dropping anchor within the mooring field or within 100 feet of the mooring field boundaries.

8. The installation of the mooring field may not interfere with any marked navigational channel or channel right of way.

9. A local government may not request from the Fish and Wildlife Conservation Commission an idle or slow speed zone for any vessel under 26 feet in length or outboard powered vessel in any marked channel in the vicinity of the mooring field except as needed for the protection of manatees or other endangered or threatened species as listed under the federal Endangered Species Act.

(e) Moorings and other support structures must be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of rule 18-21.005, Florida Administrative Code within 1 year after a structure is damaged in a discrete event such as a storm, flood, or accident;

(f) All work under this general permit shall be conducted in conformance with the general conditions of rule 62-341.215, Florida Administrative Code;

(g) Construction, use, or operation of the structure or activity shall not adversely affect any species that is endangered, threatened or of special concern, as listed in

rules 68A-27.003, 68A-27.004, and 68A-27.005, Florida Administrative Code; and

(h) The installation of the mooring field may not adversely impact vessels or structures of archaeological or historical value relating to the history, government, and culture of the state which are defined as historic properties in s. 267.021(3).

(4) The district or department, as applicable, shall provide written notification as to whether the proposed activity qualifies for the general permit within 30 days after receipt of written notice of a county's intent to use the general permit. If the district or department notifies the county that the system does not qualify for a noticed general permit due to an error or omission in the original notice to the district or the department, the county shall have 30 days from the date of the notification to amend the notice to use the general permit and submit such additional information to correct such error or omission.

(5) This general permit constitutes a letter of consent by the Board of Trustees of the Internal Improvement Trust Fund under chapters 253 and 258, where applicable, and chapters 18-18, 18-20, and 18-21, Florida Administrative Code, where applicable, for the county to enter upon and use state-owned submerged lands to the extent necessary to complete the activities. Activities conducted under this general permit do not divest the state from the continued ownership of lands that were state-owned, sovereign submerged lands prior to any use, construction, or implementation of this general permit.

(6) The department, in consultation with the host counties and the Fish and Wildlife Conservation Commission, will prepare and file a report with the President of the

Florida Senate, the Speaker of the Florida House of Representatives, and to the Board of Trustees of the Internal Improvement Trust Fund, to provide information, if possible, whether any mooring field that is part of this pilot project has impacted water quality, has contributed to boating access to Florida waters, and to what extent the installation and operation of the mooring field has impacted plant and animal marine life. The report shall be filed on or before October 1, following the third Regular Session after completion of the first mooring field that is subject to this general permit, or five years after the effective date of this act, whichever is sooner.

(7) Within 60 days of the effective date of this act the department will initiate rulemaking regarding mooring fees that a local government or a management facility may charge the boating public. Rules must include a provision for fees above those developed by rule that will be based on need and presented to the department by the local government or representative.

(8) Within 60 days of the effective date of this act the Florida Fish and Wildlife Conservation Commission will commence working with federal agencies and local governments to seek a Section 7 exemption to the federal Endangered Species Act's prohibition on take that may be incidental to mooring field activity, through a statement that is attached to a biological opinion. The incidental take statement, if acquired, will specify the terms and conditions necessary to carry out reasonable and prudent measures that will minimize incidental take. In addition, the Commission will begin to develop a **Habitat Conservation Plan for establishing mooring fields** in the target counties, and ultimately for the state.

**Comment [mcc10]:** Is this connected to the Management Plan or Management Agreement referenced earlier?

(9) Unless acted upon by the Florida Legislature,  
this pilot project will sunset July 1, 2015.

Section 2. This act shall take effect July 1, 2010

