

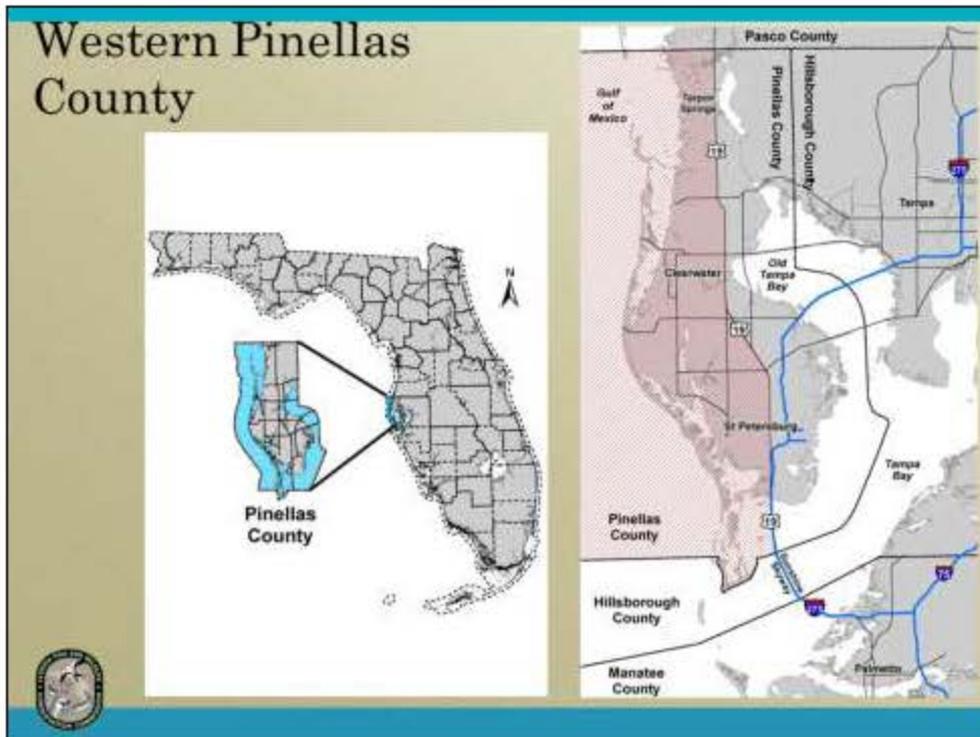


**Final manatee protection rule for western
Pinellas County**

June 2015
Florida Fish and Wildlife Conservation Commission
Division of Habitat and Species Conservation



Last November at the Commission meeting in Key Largo, staff presented recommendations for proposed manatee protection zones in western Pinellas County. Staff was directed to advertise the proposed zones and conduct at least one public hearing in Pinellas County. Today staff is presenting the results of the public comment period and bringing the proposed rule back for final action.



This shows you the location of Pinellas County. The eastern (Tampa Bay) side of the county was evaluated in 2003-2004. The western side had never been evaluated by FWC for manatee protection zones prior to the current action.

Background

- Increasing risks related to boat collisions
 - 87% of boat-related deaths occurred since 2000
 - Pinellas County ranks 6th in the state for the number of boat-related deaths since 2000
- Last “new” area planned for evaluation
 - Future efforts to be focused on review of existing rules
- Zones will reduce risks and help address issues related to the permitting of new or expanded boating facilities



Review of western Pinellas County is identified in the Manatee Management Plan because it is an important area for manatees that had never been evaluated and because staff noted increasing risks related to boat collisions. In the 26 years between 1974 and 1999, there had been only six boat-related deaths in western Pinellas County, whereas there have been 42 boat-related deaths in the 15 years between 2000 and 2014. There was a six-fold increase in the average annual number of boat-related deaths for western Pinellas County since the 1990s. This magnitude of increase is significantly greater than in any other area of the state, with the next highest increase being by a factor of 2.2.

This action will also provide some regulatory relief for area businesses that have been unable to receive federal permits for new or expansion of existing boat facilities and marinas. Based on a 2007 biological opinion by the USFWS no significant increase in boat slips would be allowed until additional protection for manatees is implemented in the Boca Ciega Bay area. Staff have worked closely with the USFWS to ensure the proposed rule will provide this regulatory relief.

Western Pinellas County is the last unevaluated area of the state with significant manatee use that is planned for review. As called for in the Manatee Management Plan, future efforts will be focused on reviewing existing rules to determine if any modifications are needed.

Development of proposed rule

- FWC staff has been working with County staff, USFWS, and many others since 2012, including a Local Rule Review Committee (LRRRC) in 2014
- The proposal that was approved for advertisement last November was supported by the County and USFWS
- Proposal was in agreement with the LRRRC majority recommendations in almost all locations
- Proposed rule was published in the *Florida Administrative Register* on 12/22/14



Since 2012, staff has worked with County staff, USFWS, Law Enforcement, and many others to refine the rule proposal. Staff made two presentations to the Barrier Islands Governmental Council (BIG C) and one to the Agency on Bay Management.

Multiple contacts with local and state elected officials. We met with the Tampa Bay Beaches Chamber of Commerce, held a public workshop in September 2014 to get more input, attended an Indian Rocks Beach City Council meeting, and discussed various issues with several area mayors.

Staff worked very hard to refine the proposal to focus only on areas of most significant use for manatees. We included important sea grass beds where manatees forage, and tried to limit regulating the ICW as much as possible while still providing appropriate protection for manatees.

Soliciting public comment

- Proposed rule and all supporting information has been posted on the FWC web site since 12/22/14 (or earlier)
- Proposed rule mailed to all parties who asked to be notified and to all local governments and chambers of commerce
- Two public hearings held in January 2015 in Treasure Island and Clearwater
- Written comments could be submitted by mail or e-mail



#

Since the Rule was published we have done the following to receive public comment.

Comments on proposed rule

- Rule open for public comment since December 2014
- Two public hearings in January 2015
 - Approx. 30 attendees
 - 14 speakers (combined)
- Other written comments
 - 10 people submitted written comments



FWC staff conducted two public hearings in the local area, one in Treasure Island on January 27, 2015, and one in Clearwater on January 28, 2015. Approximately 30 members of the public attended one or both of the hearings and 14 attendees provided verbal testimony. Several members of the LRRRC attended both meetings and expressed support for the staff proposal. Opinions of speakers were mixed, with about half supporting the proposed zones (or requesting more) and the other half not agreeing with the need to add protection or expressing disagreements with specific aspects of the proposed rule.

Since the comment period began on 12/22/14 (through 6/1/15), ten people have submitted written comments (mostly by e-mail), with all comments being supportive of improved manatee protection.

Intergovernmental coordination

- U.S. Fish and Wildlife Service (USFWS)
 - Supports zones as the minimum level necessary
- Pinellas County
 - County staff provided letter of support
- Input from local municipalities
 - City of Indian Rocks Beach
 - City of St. Pete Beach
 - City of Treasure Island
 - Proposed rule already incorporates changes to address issues raised by several mayors



FWC Law Enforcement has indicated the proposed zones could be marked and enforced and that the zones would not be expected to create any boating safety or navigation problems. USFWS has expressed support for the proposed zones but indicated they would be the minimum necessary to address their concerns with regard to review of permit requests.

Pinellas County staff provided a letter in support of the proposed zones.

The Indian Rocks Beach City Council supports the proposed zone within its jurisdiction but wants the two currently excluded basins to be included in the zone.

The city of St. Pete Beach requested that the rule include a warm season zone in McPherson Bayou as well as in Blind Pass. The city of Treasure Island, whose jurisdiction also includes Blind Pass, does not want Blind Pass included in the rule. The proposed zones do not include Blind Pass because the two cities with jurisdiction do not agree and they have the authority to regulate the waterway. Based on our review of data, the existing local zone (Slow Speed on weekends and holidays) is appropriate at this time.

Throughout the process, FWC staff has kept the local governments updated on the status of the rule and has been in direct contact with many of the mayors. Changes were made earlier in the process to address issues that were raised and all mayors who raised concerns now support the zones in their jurisdictions.

Staff recommended changes

- Include the two basins requested by Indian Rocks Beach
- Adjust boundary of zone at 79th Street South
- Add provisions for net-setting permits

Pinellas County Manatee Protection Zones (June 2013)
 (Existing local area state fishing regulations shown in following)
 Map 2: Indian Rocks Beach Area

Based on the comments and feedback that have been provided, staff recommends the following changes to the proposed rule:

Indian Rocks Beach: Include the two currently-excluded basins in the warm season Slow Speed zone, as requested by the city of Indian Rocks Beach (shown in red boxes on the map). Both basins were included in the preliminary zones staff provided to the LRRC in 2014. The LRRC voted to exclude the basins based on comments the committee received from an individual who attended the LRRC meetings. FWC staff concurred with the LRRC recommendation for this area so the basins were excluded from the proposed zone. After the LRRC process had concluded and at the request of many city residents, the city council voted to support the proposed zone but with the two basins included in the zone.

Small adjustments to the zone descriptions for the 79th Street South Area, Johns Pass Area, the Redington Shores Area, and the Long Bayou, Dog Leg Key Area: Revise the southern boundary of the zone near 79th Street South so the zone fully aligns with the existing local zone (map in backup material). We only recently received more accurate geo-referenced boundaries of the existing zone which required this modification. Minor adjustments to the other three zone descriptions are needed to improve the clarity and accuracy of the descriptions - the text changes do not significantly alter the zone boundaries. These changes are shown in red strike-through and blue underlined text in the recommended final rule text that was included in the background documents for this item.

Net-setting permits: Include provisions in the rule to allow net-setting permits to be issued to qualifying commercial fishers. This change was requested by commercial fishing representatives from Organized Fishermen of Florida and FWC staff worked with these representative to identify the specific areas to be eligible. Similar provisions are contained in the rules for Manatee County and Sarasota County, and would be consistent with the Manatee Management Plan. The language adding these provisions is shown in blue underlined text in the recommended final rule text that was included in the background documents for this item.

Recommended Final Action

- Approve the proposed rule with the changes previously discussed to:
 - Include the two basins in Indian Rocks Beach
 - Make small revisions to four other zone descriptions
 - Add provisions to allow net-setting permits to be issued to qualifying commercial fishers

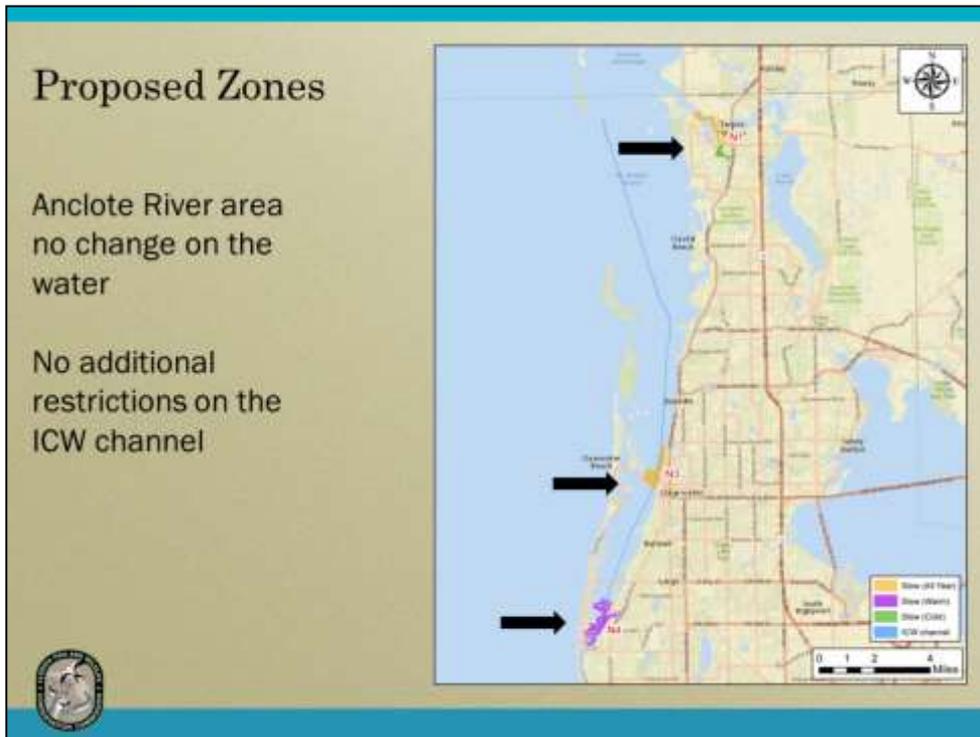


The recommended final rule text (with the recommended changes) is included in the background documents for this item.

Staff will publish a Notice of Change detailing the changes made to the proposed rule. Rule adoption will likely occur in August 2015, with the zones becoming enforceable as soon as markers are posted on the water. Posting will likely occur in mid-2016.

The following slides are backup material





This map shows the three areas with proposed zones in the northern section of western Pinellas County. Warm season zones would be in effect April through October. Cold season zones would be in effect November through March.

The zones in the Anclote River overlay more restrictive existing zones so there would be no on-water effect in this area. The same is true for a portion of the zone in the Clearwater area and a small portion of the area in Indian Rocks Beach. The only portion of the Intracoastal Waterway (ICW) included in these zones is in the Clearwater area and it is already covered by the existing state boating safety zones.

Proposed Zones

Focus on areas with high
boat - manatee overlap

Important feeding and
manatee travel corridors

Limited impact to ICW



This map shows the proposed zones in the southern section of western Pinellas County. Warm season zones would be in effect April through October.

For a large portion of the zone in Johns Pass (S4) and smaller portions of areas, S2, S9, S12, and S13, these zones would have limited on-water effect because of existing zones that are as or more restrictive. The entire zone in the Fort De Soto area (S17) overlays more restrictive existing zones so there would be no on-water effect here. The zone east of Tierra Verde (S15) overlays an existing (non-regulatory) caution zone.

With the exception of one half-mile section that would be warm season only, no new zones would be added on the Intracoastal Waterway (ICW) beyond what is already covered by existing boating safety zones.

Staff recommended changes

- Adjust boundary of zone at 79th Street South



This map shows the recommended change to the zone in the 79th Street South Area. The change is to the southern boundary of the zone (shown in red box on the map) so the zone fully aligns with the existing local zone, as was intended. Recently received information showed that the southern boundary of the existing zone was not a straight line as was originally believed. Without the recommended change, the proposed zone would leave a small unregulated triangular area in between the existing zone and the proposed zone. This would create a potential safety issue as well as be difficult to mark.

Summary of recommended zones

- Size of protected area
 - Existing boating zones on approximately 15% of inshore waters in western Pinellas County
 - Recommended final rule would add zones on 8% more (total of 23% of inshore waters)
 - Most zones warm season only (April – October)
 - Half a mile of ICW included during warm season
- Amount of protection provided
 - Existing and new zones would cover about 23% of the inshore waters and capture over 62% of the manatee sightings



Areas recommended for inclusion in the final rule encompass 6,273 acres (11.8% of the 53,132 acres of inshore water in western Pinellas County). This total is 1,144 acres less than what was originally identified for review by the LRRC. Of the recommended areas, 4,252 acres (8% of inshore waters) would be newly protected (i.e., the remaining areas overlay more restrictive existing local or state zones). Existing zones encompass approximately 8,227 acres (15.5% of inshore waters). Including the new recommended areas, the total amount of area within zones would be 12,479 acres (23% of inshore waters).

Recommended areas include some year-round zones (2,443 acres – 866 of which would be newly protected), some warm season (Apr-Oct) zones (3,768 acres – 3,386 of which would be newly protected), and one cold season (Nov-Mar) zone (62 acres – all are already covered by existing zones). Of the 46.4 linear miles of Intracoastal Waterway (ICW) channel in Pinellas County, 8.2 linear miles are within existing year-round boating safety zones. The recommended zones would add 0.5 linear miles for manatee protection, but only during the warm season.

Statement of Estimated Regulatory Costs

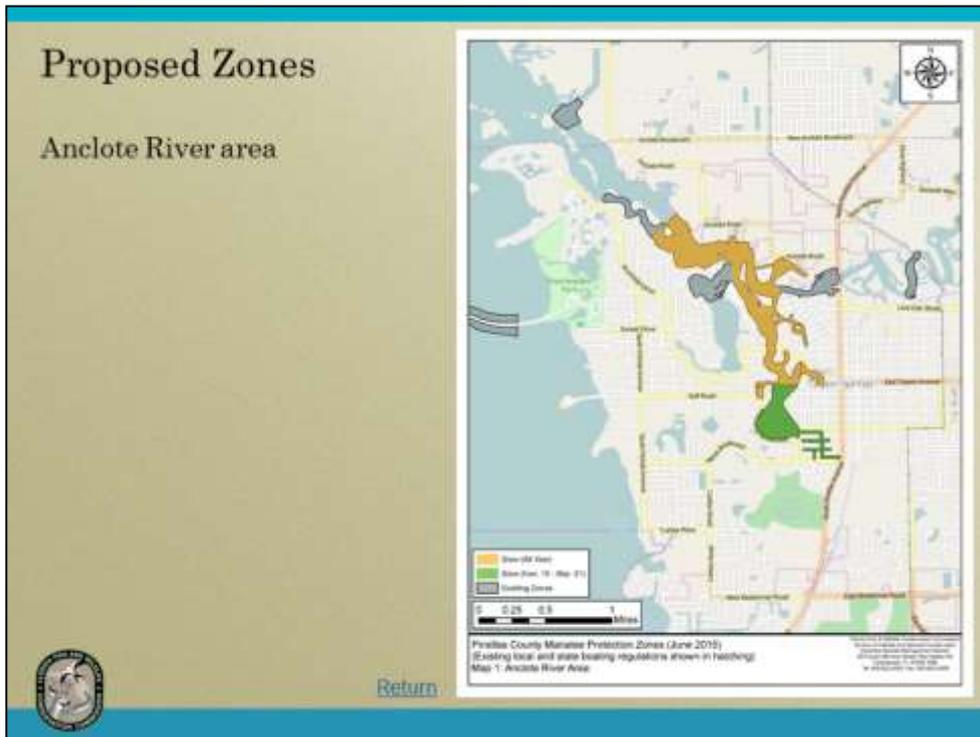
- Information was collected from multiple sources, including the U.S. Census Bureau and the U.S. Department of Labor
- Information also requested from local governments, 12 chambers of commerce, and others. No information was provided by these entities.
- Nominal adverse economic impacts are anticipated



In compliance with state law and following guidance from the FWC Office of General Counsel, staff prepared a Statement of Estimated Regulatory Costs (SERC) as required by statute. The SERC was included in the background documents for this item and also posted on the FWC web site.

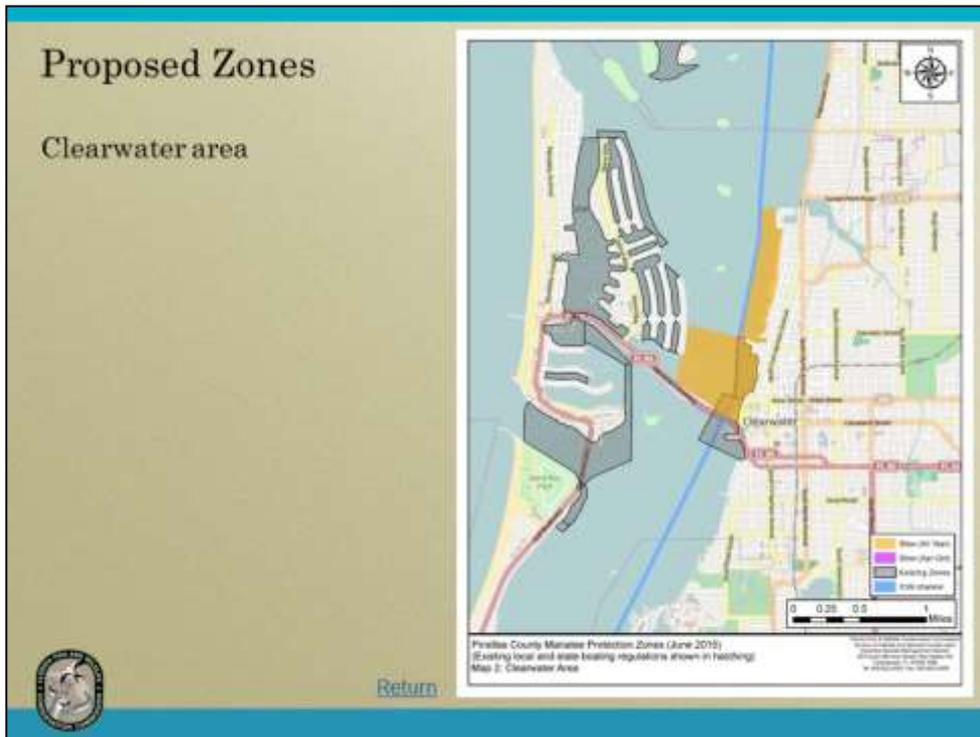
Staff collected and evaluated data to assess regulatory costs and other economic issues associated with the proposed rule and also requested information from twelve chambers of commerce in the western Pinellas County area, Pinellas County, and all local governments whose jurisdictions are adjacent or within close proximity to waterways affected by the proposed rule. No information was provided by any of these other entities.

The FWC anticipates nominal adverse economic impacts on boaters, local businesses, or the overall economy of Pinellas County as a result of the proposed rule given the scope of the proposed zones and the fact that discernable adverse impacts have not been evident in other counties as a result of more substantial rule actions.



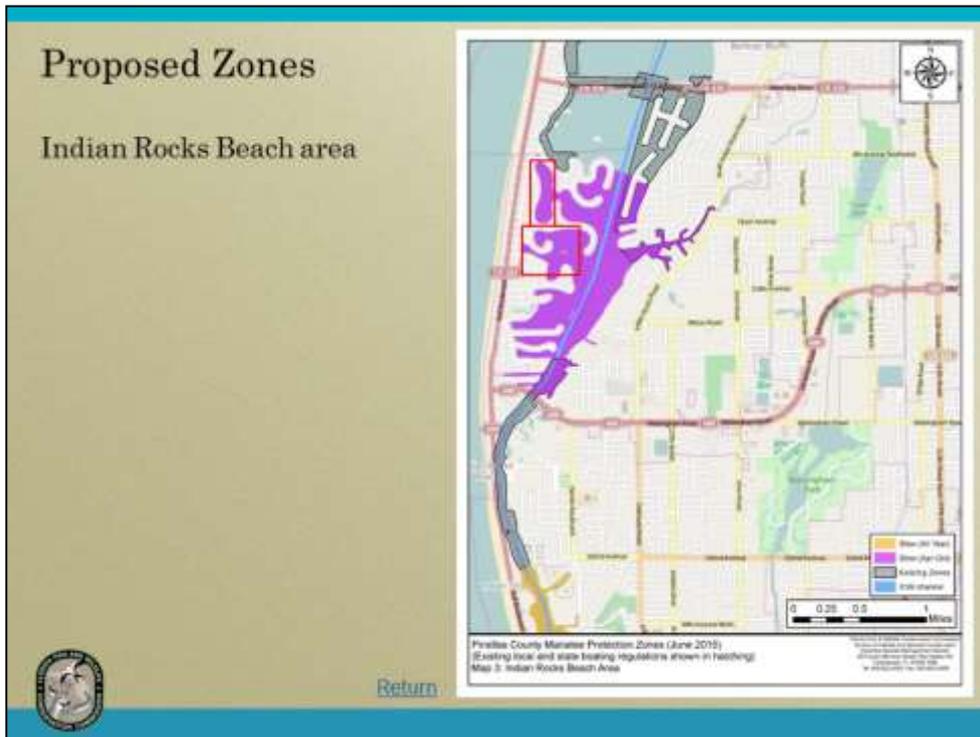
Staff is not recommending any changes to the proposed zones for the Anclote River area.

Spring Bayou Area: Add a year-round Slow Speed zone to overlay the more restrictive existing zones, including the adjacent section of the Anclote River, but with only a cold season zone in Whitcomb Bayou. These zones were supported by an LRRC majority.



Staff is not recommending any changes to the proposed zones for the Clearwater area.

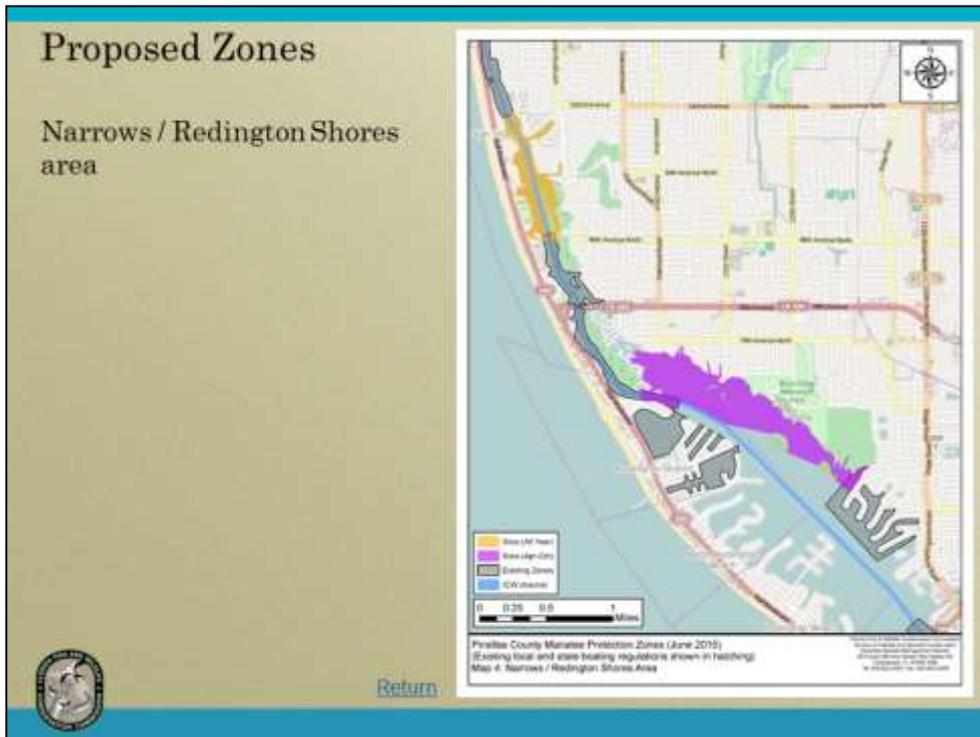
Clearwater area (N3): Add a year-round Slow Speed zone that partially overlays the existing boating safety zone. This zone was unanimously supported by the LRRC. The only portion of the ICW channel included within this zone is the 0.6 mile section that is already a part of the existing zone.



Staff is recommending a change to the proposed zones for the Indian Rocks Beach area.

Proposed zones for the Indian Rocks Beach area (N4): Add a warm season Slow Speed zone in most of the area outside of the ICW, with two of the basins on the west side excluded. This zone was supported by an LRRC majority.

Recommended change: Include the two currently-excluded basins in the zone. The two red boxes indicate the locations of the two basins.

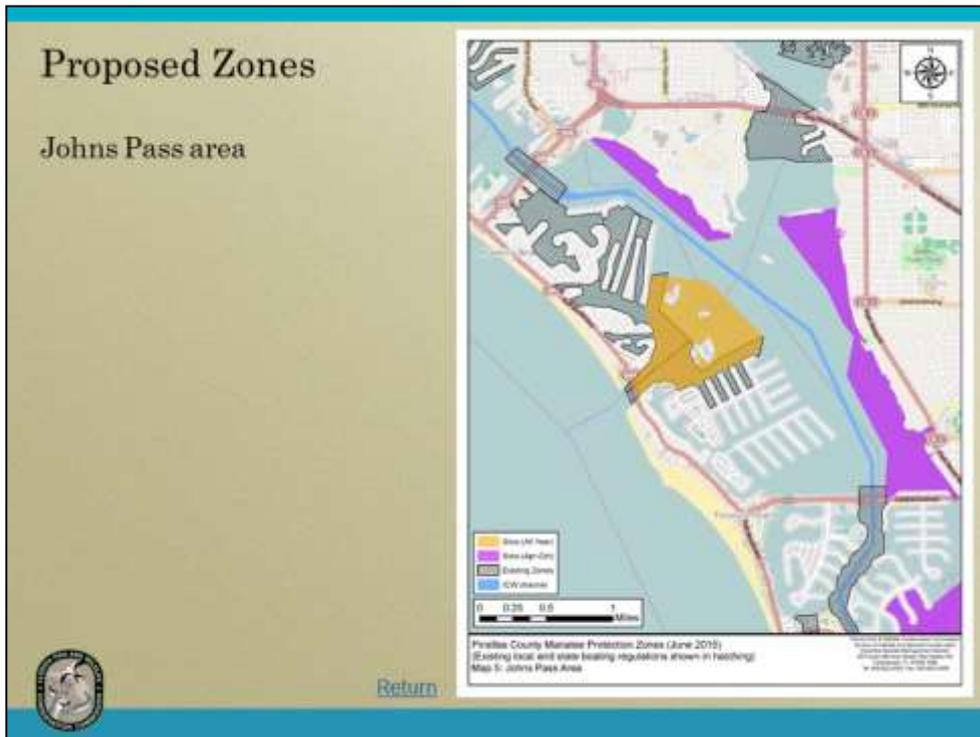


Staff is recommending a minor change to the proposed zones for the Narrows / Redington Shores area:

Narrows (S1): Add a year-round Slow Speed zone with the ICW channel excluded. This zone was supported by an LRRC majority but with the ICW having a 25 mph limit rather than being excluded. The ICW was excluded (rather than proposed for a 25 mph limit) at the suggestion of FWC Law Enforcement.

Redington Shores Area (S2): Add a warm season Slow Speed zone north of the ICW. The only portion of the ICW channel included in this zone is the 0.3 mile section that is already a part of the existing state boating safety zone. This proposed zone excludes an area at the southern end that the LRRC removed before unanimously supporting a zone in this area. Some additional area north of the area the LRRC excluded was also excluded to address concerns raised by one of the mayors.

Recommended change: Minor change to the description for the Redington Shores Area. No substantive change to the zone.



Staff is recommending two minor changes to the proposed zones for the Johns Pass area:

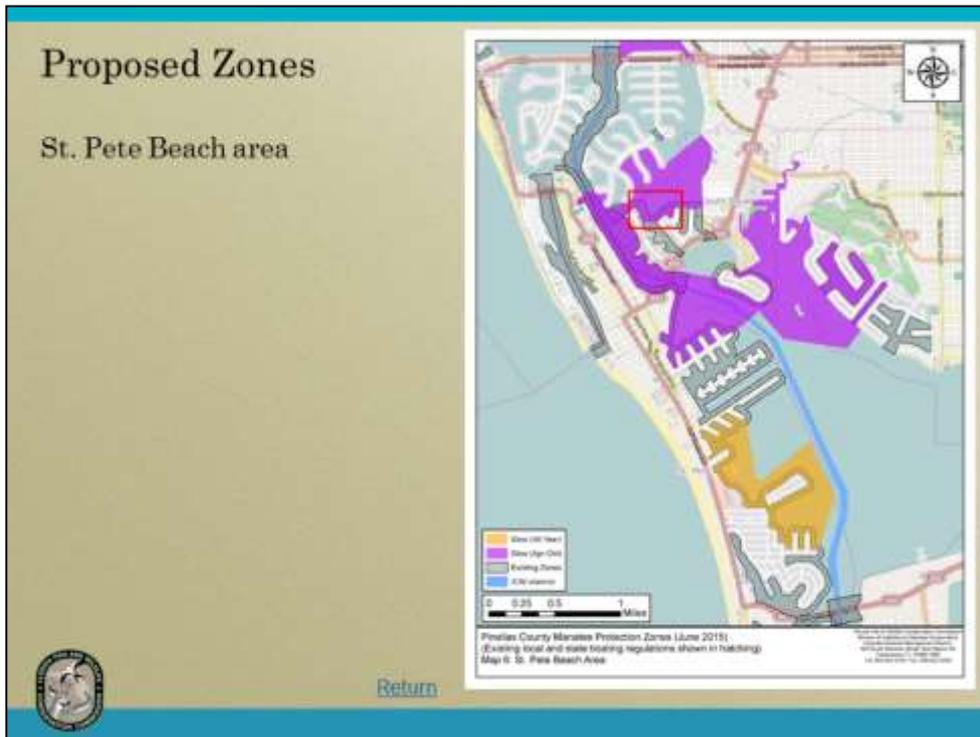
Bay Pines West (S3): Add a warm season Slow Speed zone. This zone was unanimously supported by the LRRC. The western boundary was straightened at the suggestion of FWC Law Enforcement (to simplify zone marking).

Johns Pass (S4): Add a year-round Slow Speed zone that partially overlays the existing local boating safety zones. This zone was unanimously supported by the LRRC.

Long Bayou South (S5): Add a warm season Slow Speed zone. This zone was unanimously supported by the LRRC.

Treasure Island Causeway North (S6): Add a warm season Slow Speed zone. The LRRC unanimously supported a zone in this area after excluding the originally identified area in and around the ICW and an east-west corridor immediately north of the causeway (extending to under the bridge in the southeast corner). The proposed zone excludes the area in and around the ICW, as supported by the LRRC, but includes the east-west corridor as part of the zone. FWC Law Enforcement and USFWS support the zone as proposed.

Recommended change: Minor changes to the descriptions for Johns Pass and Long Bayou South. No substantive changes to the zones.



Staff is recommending a small change to the proposed zones for the St. Pete Beach area:

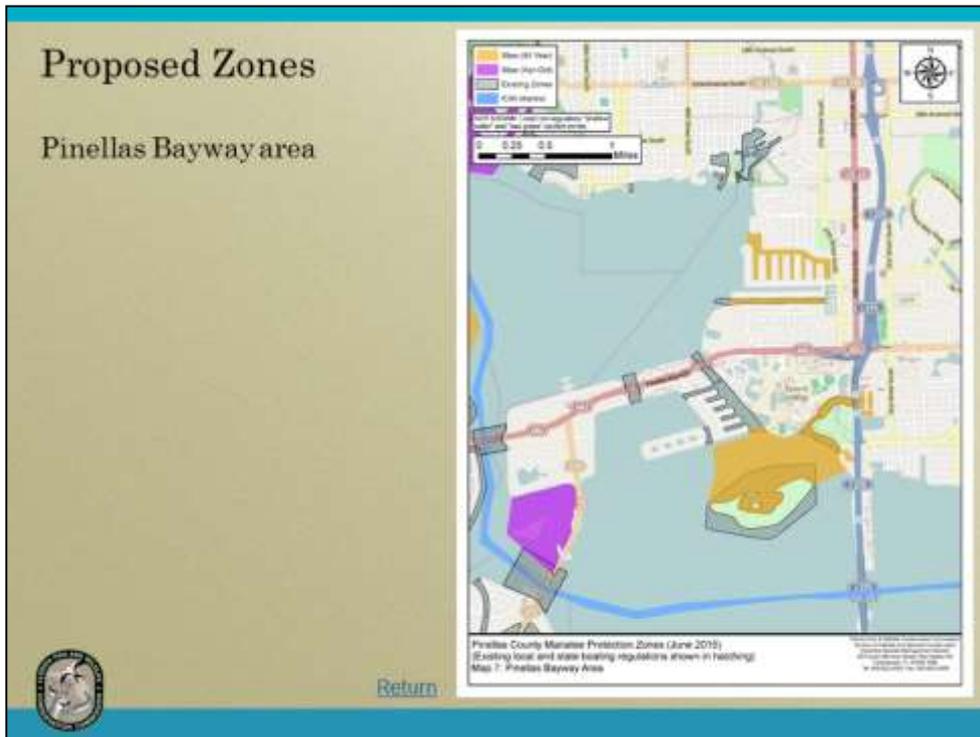
79th Street South (S7): Add a warm season Slow Speed zone. This zone was unanimously supported by the LRRC. The two basins in the northwest corner were included at the suggestion of FWC Law Enforcement (to simplify zone marking).

Pasadena Avenue Area (S9): Add a warm season Slow Speed zone that partially overlays the existing boating safety zone. The LRRC unanimously supported a zone in this area but with the ICW channel excluded south of the boating safety zone. The proposed zone includes a 0.5 mile section of ICW south of the boating safety zone. USFWS strongly supports including the ICW south of the boating safety zone.

Pasadena Golf Club (S10): Add a warm season Slow Speed zone. This zone was unanimously supported by the LRRC.

Boca Ciega Isles (S11): Add a year-round Slow Speed zone that excludes the originally identified triangular area of deeper water. This zone was unanimously supported by the LRRC.

Recommended change: Revise the southern boundary of the 79th Street South zone so the zone fully aligns with the existing local zone. The red box indicates the triangular area that would be added to the southern end of the zone.

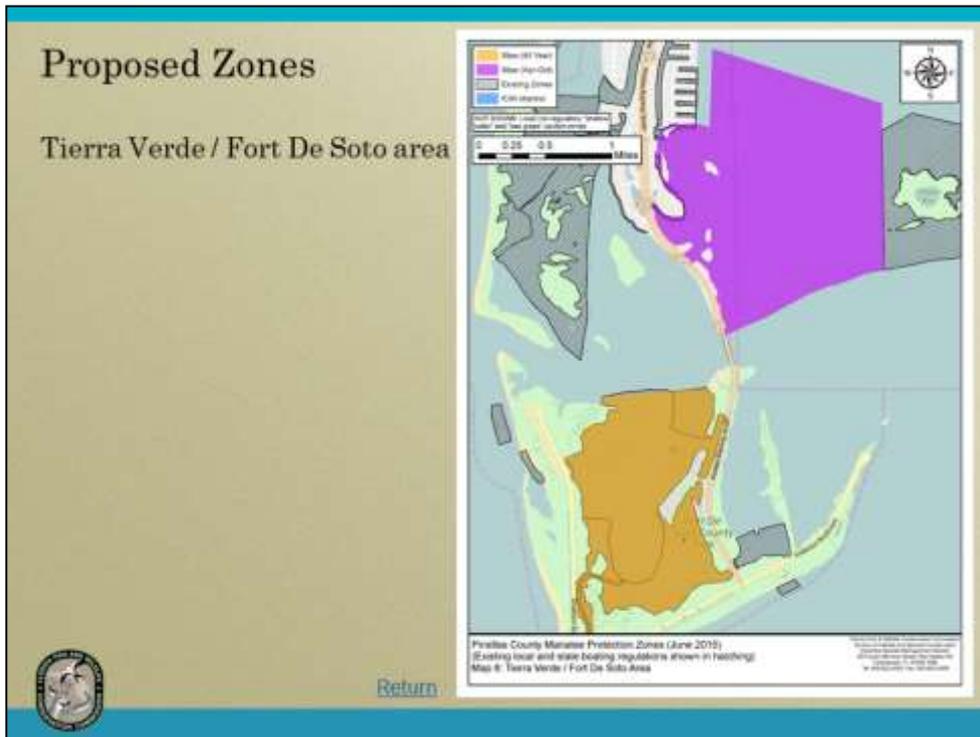


Staff is not recommending any changes to the proposed zones for the Pinellas Bayway area:

Marina Harbour Area (S12): Add a year-round Slow Speed zone. This zone was unanimously supported by the LRRC.

Indian Key Area (S13): Add a year-round Slow Speed zone that excludes an east-west corridor immediately south of the Bayway Isles. An LRRC majority supported a zone in this area after excluding the main channel and the east-west corridor immediately south of the Bayway Isles. The proposed zone includes the main channel as part of the zone. USFWS strongly supports including the main channel in the Slow Speed area.

Isla del Sol (S14): Add a warm season Slow Speed zone. This zone was unanimously supported by the LRRC. The southern boundary was slightly modified at the suggestion of FWC Law Enforcement (to simplify zone marking).



Staff is not recommending any changes to the proposed zones for the Tierra Verde / Fort De Soto area:

Tierra Verde Area (S15): Add a warm season Slow Speed zone that excludes the originally-identified area in and north of “The Pit” as well as the deeper water area immediately east of Tierra Verde. This zone was supported by an LRRC majority. The northern boundary was slightly modified at the suggestion of FWC Law Enforcement (to simplify zone marking).

Fort De Soto Area (S17): Add a year-round Slow Speed zone to overlay the more restrictive existing zones. This zone was unanimously supported by the LRRC.

Additional information

Pinellas County:

<http://www.pinellascounty.org/statemanateeplan/default.htm>

FWC manatee protection rule information:

<http://myfwc.com/wildlifehabitats/managed/manatee/rulemaking/>



All of the other information FWC provided to the LRRRC is available on the Pinellas County website.

Additional information on manatee protection rules is available on the FWC website.