



## Potential changes to manatee protection zone exemption permits

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

One of many tasks identified in the Manatee Management Plan is consideration of changes to the permits FWC currently issues to commercial fishers and professional fishing guides to allow higher speed boat operation in specified manatee protection zones. The Plan recommends scaling back the types of activities that can be covered by these permits.

Since approval of the Plan, staff has collected additional information and further evaluated this potential rule change. Today we are presenting staff recommendations for how to proceed.

## Background and history of permit process

- Permits have been available since the early 1990s and currently can be issued in portions of 10 counties.
- The idea for permits originated in consideration of commercial gill netting, but then was broadened to include other commercial fishers and professional fishing guides.
- Numbers and types of permits shifted after passage of the 1994 constitutional net limitation.
- There have been both supporters and opponents to the permits since their inception.



Permits were first made available in the early 1990s, about the time the State began adding manatee protection zones in areas outside of wintertime warm water aggregation sites. Permits are authorized by Rule 68C-22.003, F.A.C., and the rules that establish zones in individual counties. The rules currently allow for permits in portions of 10 counties (Brevard, Citrus, Collier, Indian River, Lee, Manatee, Martin, St. Lucie, Sarasota, and Volusia).

The request for permits was first raised by commercial fishers who indicated a need to operate at higher speeds (above Slow Speed) in association with gill netting. The permits were broadened to include other commercial fishing activities (such as crabbers) and professional fishing guides, based on the fact these people were also making a living on the water.

After passage of the 1994 constitutional amendment limiting the use of gill nets, the number of netters requesting permits to set nets was reduced (but not eliminated). As a result, the types of permits being requested began to shift toward professional fishing guides and other commercial fishing activities, including crabbing.

There has been some controversy associated with the permits since their inception. Opposition views have focused on several issues: [1] general fairness issues (i.e., all boaters should have to operate the same); [2] direct risks caused by permit holders operating at higher speeds; [3] indirect effects caused by the permits (e.g., public confusion and reduced compliance with the zones); and, [4] inconsistency with federal rules (i.e., USFWS does not have a similar process for permits in federal zones and does not support FWC issuing the permits).

## Background and history (cont.)

- In rule actions in 2004 and 2005, the FWC narrowed the permits in two counties to be available only to commercial fishers while setting nets.
- Using the same rationale, the 2007 Manatee Management Plan recommends making the same change to the statewide rule so that all areas with permits are treated the same.
- No permits are being issued in areas that have overlapping federal zones (such as in Lee County) because the permits do not apply to federal zones.
- Total number of active permits has declined in recent years.



In recent rule actions (Manatee County in 2004 and Lee County in 2005), the FWC narrowed the permit to only allow higher speeds for commercial fishers while setting nets to encircle fish, with no permits available for any other commercial fishing activity or any guiding activities. Using the same rationale as these recent rule actions, the Manatee Management Plan approved by the FWC in December 2007 recommends amending the rules to eliminate all commercial fishing and professional guiding permits except for commercial fishing permits that allow higher speeds while setting nets.

The number of active permits is less now than it has been historically. Whereas 250 or more permits were often active through the early 2000s, as of September 2009 there were 142 active permits, held by 106 individuals (see below).

<u>County</u>	<u>Total</u>	<u>Guiding</u>	<u>Comm. Fish (Crabbing)</u>	<u>Both (Crabbing)</u>
Brevard	38	24	12 (11)	2 (0)
Citrus	0	0	0 (0)	0 (0)
Collier	36	32	3 (1)	1 (1)
Indian River	9	0	9 (4)	0 (0)
Lee	0	0	0 (0)	0 (0)
Manatee	10	0	10 (0)	0 (0)
Martin	3	0	3 (2)	0 (0)
Sarasota	7	0	7 (0)	0 (0)
St. Lucie	6	0	6 (2)	0 (0)
Volusia	33	17	14 (6)	2 (0)
Total (permits)	142	73	64 (26)	5 (1)
Total (people)	106	62	41 (17)	3 (1)

## Feedback from permit holders and others

- Staff sent information to stakeholders, county commissions, and current permit holders
- Four public meetings held in October 2009
  - 39 people attended (mostly permit holders)
- Feedback from meetings:
  - Permit holders opposed changes to the permits. Many questioned the scientific and/or policy basis for making a change.
  - Many permit holders said not having a permit would significantly harm their ability to run their business, especially now given the current economic conditions.
  - Several people suggested alternatives to changing the permits or ways to reduce the impacts on current permit holders if changes are made.
  - Several commercial fishers stated permits are needed for more than just setting a net.



Staff sent information to various stakeholders, including Organized Fishermen of Florida and the Florida Guides Association (and offered to have face-to-face meetings if desired but none was requested). Staff also sent information to the county commissions in each of the counties where permits are currently available and to all current permit holders, along with information on the public meetings that were planned.

Four public meetings were held in October 2009 to gather information. Although the meetings were intended primarily for current permit holders, the meetings were open to the general public as well. The meetings were held in Cocoa, Ft. Pierce, Sarasota, and Naples. All four meetings were held in the evening, starting at 6:00 p.m. A total of 39 people attended the meetings, with the vast majority (30 of the 39) representing current or prospective permit holders. One meeting attendee represented an environmental organization, three were members of the general public, and one was from a newspaper. Staff from four of the potentially affected counties also attended the meetings and at least one officer from the FWC Division of Law Enforcement was present at each meeting.

## Pros and cons

- On the plus side, scaling back the available permits as recommended in the Manatee Management Plan would improve manatee protection.
- On the minus side, a change would have an impact on current permit holders, with several permit holders predicting significant negative impacts.
- Given the current economic conditions, now is probably not a good time to add another constraint to these small businesses.
- Given the relatively small number of permits that are currently active, delaying consideration of a change should not have a substantial effect on manatee protection over at least the near-term.



Staff prepared an issue paper to provide background information on the permit process. This paper (which was provided to the stakeholders, county commissions, and current permit holders, and posted to the FWC website – prior to the public meetings) includes a discussion of how the recommended change would improve manatee protection. The following is an excerpt from the paper:

Elimination of all or some of the permits for commercial fishers and guides would directly reduce the risks faced by manatees by requiring the affected activities to be performed at slower speeds. It would also indirectly enhance protection by increasing overall compliance and removing a common source of confusion and contention. Enforcement of manatee zones in areas where exemption permits are issued can be more difficult because some boaters choose to disregard the posted regulations when they see permitted vessels traveling at faster speeds. In most cases, boaters with permits cannot be visibly distinguished from other boaters and this can easily result in other boaters believing that higher speeds are allowed. This is especially true for guiding since the vessels used by guides are often identical to recreational vessels being operated in the same areas for the same purpose. Multiple boating studies have noted that boaters seem to be more likely to violate a zone if they see other boaters operating at higher speeds (i.e., non-compliance breeds more non-compliance). The United States Fish and Wildlife Service does not support commercial fishing or guiding permits and federal manatee regulations do not allow similar authorizations. Therefore, no permits can be used in locations that have both state and federal manatee protection zones, such as in most of Lee County. Some stakeholders have said FWC should continue to issue these permits because the permits reduce the impacts of the zones on people who make a living on the water and because they believe the increased risks to manatees are small. On the other hand, other stakeholders (including some guides who benefit from the permits) have supported the elimination of these permits, with the reasoning being mostly an issue of fairness (i.e., where there are zones, they should apply equally to all boaters).

## Staff recommendation

- Delay consideration of potential changes until the economic conditions improve.
- In the meantime, staff will continue to explore alternatives and assess the likely impacts of a change, on manatee protection as well as permit holders.



Questions?

