

NOTICE OF PROPOSED RULE

NAME OF AGENCY

Florida Fish and Wildlife Conservation Commission

RULE NO: 68C-22.010
RULE TITLE: Broward County Zones

PURPOSE AND EFFECT: The purpose of the proposed rule making action is to improve protection of manatees and manatee habitat in Broward County by amending the existing regulations that establish safe havens and limit allowable motorboat speed in portions of the county. These actions are being proposed after considering: [1] new information, analyses, and reports that have been collected, performed, or prepared since the existing zones were established; and [2] recommendations made by the Broward County Local Rule Review Committee that was formed pursuant to 379.2431(2)(f), FS. The effect of the action would be to amend the zones that establish safe havens and limit allowable motorboat speed in portions of the county and to revise other provisions of the rule. Adoption of the proposed changes would add 22 minutes to the roughly four hours it currently requires to transit the county in the Intracoastal Waterway (ICW) during cold season weekdays, with nominal or no change during other times. The changes would have minor or no impact on the water in many locations because of existing boating safety zones that are more restrictive.

SUMMARY: The majority of the existing manatee protection zones were established in 1993. The proposed changes would revise the zones in and around portions of the ICW, mostly in the northern section of the county and mostly during the cold season (Nov. 15 – Mar. 31). The existing cold season weekend-only Slow Speed zones between the Palm Beach County line and the vicinity of Atlantic Boulevard, and from north of Sunrise Boulevard to Burnham Point, would be changed to be in effect all days during the cold season, while the zones in the general vicinity of Hillsboro Inlet to south of N.E. 14th Street would be changed to year-round Slow Speed. The existing cold season Slow Speed zone just south of Dania Beach Boulevard would also be changed to year-round Slow Speed. Holidays would be added to the cold season weekend-only Slow Speed zone between Atlantic Boulevard to north of Sunrise Boulevard, with the Lake Santa Barbara area added to this zone (for both cold season and warm season regulation). The existing No Entry zone in the discharge canal of the Port Everglades power plant would be expanded to include the entire canal system west of the ICW. The maps accompanying this notice show only those geographic areas where zones would change. Other changes to the rule would amend the preamble language to make it consistent with current statutory and rule language and otherwise clean up zone descriptions to improve accuracy and make the descriptions easier to understand.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs (SERC) has not yet been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 379.2431(2), FS

LAW IMPLEMENTED: 379.2431(2), FS

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: April 20, 2011; 6:00 PM

PLACE: E. Pat Larkins Center, 520 Dr. M L King Blvd (NW 3rd St), Pompano Beach, FL 33060

THE FINAL PUBLIC HEARING WILL BE HELD BY THE COMMISSION AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: September 7-9, 2011; 8:30 AM – 5:00 PM

PLACE: The Naples Grande, 475 Seagate Drive, Naples, FL 34103

Another notice will be published in the F.A.W. to confirm the date and location of the final hearing. The Commission's agenda for this meeting will indicate the specific day when this item is scheduled to be addressed.

Florida Administrative Weekly publication date: March 25, 2011

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in either of these hearings is asked to advise the agency at least 5 days before the hearing by contacting the FWC at 850-488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1-800-955-8771 (TDD) or 1-800-955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Scott Calleson, Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68C-22.010 follows. See Florida Administrative Code for present text.)

68C-22.010 Broward County Zones.

(1)(a) The Commission hereby designates the waters within Broward County, as described below, as areas where manatee sightings are frequent and where the best available information supports the conclusion that manatees inhabit these areas on a regular or periodic basis. The primary purpose of this rule is to protect manatees from harmful collisions with motorboats and from harassment by establishing safe havens and regulating the speed and operation of motorboats within these designated areas. A secondary purpose is to protect manatee habitat.

(b) In consideration of balancing the rights of fishers, boaters, and water skiers to use the waters of the state for recreational and commercial purposes (as applicable under 379.2431(k), F.S.), with the need to provide manatee protection, the Commission has examined the need for limited lanes, corridors, or unregulated areas that allow higher speeds through or within regulated areas. Such lanes, corridors, or areas are provided in those locations where the Commission determined they are consistent with manatee protection needs.

(2) The following year-round and seasonal zones are established, which exclude all associated and navigable tributaries, lakes, creeks, coves, bays, backwaters, canals, channels and boat basins, and other waterways unless otherwise designated or specifically described for inclusion. Coordinates used in the descriptions of zone boundaries are referenced to the North American Datum of 1983 (NAD83). Access to the NO ENTRY zones designated hereunder will be provided in accordance with subsection (4) below and applicable provisions of Rule 68C-22.003, F.A.C.

(a) NO ENTRY –

1. Port Everglades Power Plant Area – Those waters of the discharge canal of the Florida Power & Light Company's Port Everglades Power Plant and associated waterways, south and east of the discharge points at the plant (westernmost point of canal at approximate latitude 26° 05' 04" North, approximate longitude 80° 07' 35" West), and west of a line that bears 196° from a point on the seawall along the northern shoreline of the discharge canal at the canal's intersection with the Intracoastal Waterway (approximate latitude 26° 04' 43" North, approximate longitude 80° 06' 56" West) to a point on the southern shoreline of the discharge canal (approximate latitude 26° 04' 41" North, approximate longitude 80° 06' 56" West); and those waters of the tributaries and associated waters south of the discharge canal; and

2. Lauderdale Power Plant Area – Those waters of the cooling ponds and canal system of the Florida Power & Light Company's Lauderdale Power Plant, south of the southern edge of the State Road 84 Bridge, west of S.W. 29th Avenue and S.W. 30th Avenue, south and east of the southern and eastern shoreline of South New River Canal (also shown as South Fork New River on some maps) and north of S.W. 42nd Street and S.W. 43rd Court.

(b) IDLE SPEED – North New River Canal, South New River Canal Area: Those waters of South Fork New River, North New River Canal and South New River Canal, and associated waterways, west of the southerly extension of the centerline of S.W. 27th Avenue, east of the southerly extension of the centerline of S.W. 34th Avenue and north of a line that bears 295° from a point on the eastern shoreline of South New River Canal (approximate latitude 26° 04' 50" North, approximate longitude 80° 11' 11" West) roughly 1300 feet southwest of the eastbound Interstate 595 Bridge over the South New River Canal (also shown as South Fork New River on some maps), to include those waters of Florida Power & Light Company's canal that connects to South Fork New River lying north of the southern edge of the State Road 84 Bridge.

(c) IDLE SPEED (November 15 through March 31)/SLOW SPEED (Remainder of year) –

1. Port Everglades Power Plant Area – Those waters of the Atlantic Intracoastal Waterway, shoreline to shoreline, south of a line that bears 90° from an angle point in the seawall on the western shoreline of the Intracoastal Waterway (approximate latitude 26° 05' 10" North, approximate longitude 80° 06' 51" West) and north of a line that bears 270° from a point on the on the eastern shoreline of the Intracoastal Waterway (approximate

latitude 26° 04' 16" North, approximate longitude 80° 06' 49" West) roughly 2300 north of where Dania Cut-off Canal intersects the Intracoastal Waterway, including all waters of Whiskey Creek northwest of the centerline of the northernmost Ocean Drive Bridge; and

2. South New River Canal, Dania Cut-off Canal Area – All waters of South New River Canal and Dania Cut-off Canal, including associated waterways, south of a line that bears 90° from a point on the western shoreline of South New River Canal (approximate latitude 26° 04' 16" North, approximate longitude 80° 12' 04" West) roughly 1300 north of where Dania Cut-off Canal intersects South New River Canal, east of a line that bears 344° from the northernmost point of the eastern seawall of the residential canal west of S.W. 42nd Terrace (approximate latitude 26° 04' 02" North, approximate longitude 80° 12' 12" West), and west of the northerly extension of the centerline of S.W. 33rd Avenue.

(d) SLOW SPEED –

1. Hillsboro Canal and Deerfield Island Park Area – Those waters within 50 feet of the general contour of the southern and southwestern shoreline of Hillsboro Canal, north of the westerly extension of the general contour of the northern shoreline of Deerfield Island Park (Capone Island), and east of the western side of the Military Trail Bridge; all waters of Hillsboro Canal and associated waterways, shoreline to shoreline, south of the westerly extension of the general contour of the northern shoreline of Deerfield Island Park (Capone Island), and west of the general contour of the western shoreline of the Intracoastal Waterway; and all waters of the Atlantic Intracoastal Waterway and associated waterways, shoreline to shoreline, south of a line that bears North 89° from the southernmost tip of Deerfield Island Park (latitude 26° 18' 57" North, longitude 80° 04' 55" West), and north of a line drawn perpendicular to the centerline of the waterway 525 feet south of the centerline of the Hillsboro Boulevard (State Road 810) Bridge;

2. Hillsboro Inlet Area – Those waters of the Atlantic Intracoastal Waterway, shoreline to shoreline, south of line drawn perpendicular to the centerline of the waterway running through Red Atlantic Intracoastal Waterway Channel Marker "68A" (approximate latitude 26° 16' 33" North, approximate longitude 80° 04' 52" West), and north of a line drawn perpendicular to the centerline of the waterway 1850 feet south of the centerline of the N.E. 14th Street Bridge, to include those waters of Hillsboro Bay and Hillsboro Inlet northwest of a line drawn perpendicular to the centerline of the inlet channel 150 feet northwest of the seaward extremity of the southwestern Hillsboro Inlet jetty;

3. Cypress Creek and Pompano Canal – Those waters of Cypress Creek west of the centerline of the U.S. Highway 1 Bridge, and east of the salinity control structure located approximately 300 feet east of the Dixie Highway (State Road 811) Bridge; and those waters of Pompano Canal north of Cypress Creek and southeast of the centerline of the South Cypress Road Bridge;

4. Middle River Area – Those waters of South Fork Middle River west of the centerline of the U.S. Highway 1 Bridge, and east of the centerline of the N.W. 31st Avenue Bridge; and those waters of North Fork Middle River west of the centerline of the U.S. Highway 1 Bridge, south of the centerline of the Oakland Park Boulevard (State Road 816) Bridge, and east of the river's intersection with South Fork Middle River, near Interstate I-95;

5. Port Everglades Area – Those waters of New River, Stranahan River (including the canals and associated waterways west of the Intracoastal Waterway, east of Cordova Road, and north of S.E. 17th Street), Port Everglades Turning Basin, Lake Mable, and the Atlantic Intracoastal Waterway, east of the northerly extension of Cordova Road, south and west of a line that bears 310° from the westernmost angle point of the seawall at Burnham Point (approximate latitude 26° 06' 38" North, approximate longitude 80° 06' 32" West), south and west of a line that bears approximately 300° from the northwesternmost corner of the seawall of the U.S. Naval Reservation on the south side of the Port Everglades entrance channel (approximate latitude 26° 05' 33" North, approximate longitude 80° 06' 41" West) to the southwesternmost corner of the seawall of Harbor Heights Development (approximate latitude 26° 05' 42" North, approximate longitude 80° 06' 58" West), and north of a line that bears 90° from an angle point in the seawall on the western shoreline of the Intracoastal Waterway (approximate latitude 26° 05' 10" North, approximate longitude 80° 06' 51" West) to include the waters of the three boat slips on the western side of Port Everglades Turning Basin; waters specifically excluded from this zone are those waters of Sylvan Lake and the canals and other associated waterways of Harbor Beach Development, with the zone boundary being a line drawn from point to point along the western ends of the seawalls forming the general contour of the eastern shoreline of Stranahan River (western limits of Harbor Beach Development) and the general contour of the southern shoreline of New River (northern limits of Harbor Beach Development);

6. Atlantic Intracoastal Waterway, Dania Cut-off Canal Area to South of Dania Beach Boulevard – Those waters of the Atlantic Intracoastal Waterway, shoreline to shoreline, south of a line that bears 270° from a point on the eastern shoreline of the Intracoastal Waterway (approximate latitude 26° 04' 16" North, approximate longitude 80° 06' 49" West) roughly 2300 north of where Dania Cut-off Canal intersects the Intracoastal Waterway, and north

of a line that bears 90° from the southernmost tip of a peninsula on the western side of the Intracoastal Waterway (approximate latitude 26° 02' 55" North, approximate longitude 80° 06' 58" West) roughly 1600 feet south of the Dania Beach Boulevard Bridge; and all waters west of the western boundary of the main marked channel of the Intracoastal Waterway in the vicinity of the aforementioned peninsula, south of the northern shoreline of the bay to the west of the aforementioned peninsula, and north of a line roughly 1940 feet south of the Dania Beach Boulevard Bridge that bears 90° from a point on the western shoreline (approximate latitude 26° 02' 52" North, approximate longitude 80° 07' 03" West);

7. Whiskey Creek Area – Those waters of Whiskey Creek, southeast of the centerline of the northernmost Ocean Drive Bridge, and east of the eastern shoreline of the Intracoastal Waterway;

8. New River Area – Those waters of New River, Tarpon River, North Fork New River and South Fork New River, west of the northerly extension of Cordova Road, east of the salinity control structure in North Fork New River located approximately 600 feet west of N.W. 34th Avenue, and east of the southerly extension of the centerline of S.W. 27th Avenue across South Fork New River, to include the waters of Marina Bay (located just to the west of Interstate 95);

9. North New River Canal Area – Those waters of North New River Canal, west of the southerly extension of the centerline of S.W. 34th Avenue, and east of the salinity control structures located approximately 1000 feet north of and approximately 1400 feet east of the intersection of East Holloway Canal and North New River Canal, including all waters of the canal system of the Plantation Isles Development south of Peters Road and west of S.W. 53rd Avenue and S.W. 54th Avenue;

10. South New River Canal Area – Those waters of South New River Canal, south of South Fork New River, and east of the S.W. 100th Avenue Bridge, except as otherwise designated for alternative regulation;

11. Dania Cut-off Canal Area – Those waters of Dania Cut-off Canal west of the western shoreline of the Intracoastal Waterway, and east of the northerly extension of the centerline of S.W. 33rd Avenue, including all waters of that portion of Whiskey Creek and associated waterways west of the western shoreline of the Intracoastal Waterway and south of the southern shoreline of Dania Cut-off Canal; and

12. C-10 Canal – Those waters of C-10 Canal, south of the southern shoreline of Dania Cut-off Canal, and north of the centerline of the Hollywood Boulevard (State Road 820) Bridge.

(e) SLOW SPEED (Weekends and Holidays, November 15 through March 31) – This zone applies on weekends and those holidays identified in 110.117, F.S., that occur during this period (from 7:00 a.m. to 7:00 p.m.) for the following described waters: Those waters of the Atlantic Intracoastal Waterway, shoreline to shoreline, south of a line drawn perpendicular to the centerline of the waterway 500 feet south of the centerline of the Atlantic Boulevard Bridge, and north of a line drawn perpendicular to the centerline of the waterway 2250 feet north of the centerline of Sunrise Boulevard; and all waters of Lake Santa Barbara and associated waterways west of the Intracoastal Waterway and east of the centerline of the U.S. Highway 1 Bridge over Cypress Creek.

(f) SLOW SPEED (November 15 through March 31) –

1. Palm Beach County line to Channel Marker “68A”: Those waters of the Atlantic Intracoastal Waterway, shoreline to shoreline, south of the Palm Beach County line and north of a line drawn perpendicular to the centerline of the waterway running through Red Atlantic Intracoastal Waterway Channel Marker “68A” (approximate latitude 26° 16' 33" North, approximate longitude 80° 04' 52" West), except as otherwise designated for more restrictive regulation;

2. Atlantic Boulevard Area: Those waters of the Atlantic Intracoastal Waterway, shoreline to shoreline, south of a line drawn perpendicular to the centerline of the waterway 1850 feet south of the centerline of the N.E. 14th Street Bridge, and north of a line drawn perpendicular to the centerline of the waterway 500 feet south of the centerline of the Atlantic Boulevard Bridge; and

3. North of Sunrise Boulevard to Burnham Point: Those waters of the Atlantic Intracoastal Waterway, shoreline to shoreline, south of a line drawn perpendicular to the centerline of the waterway 2250 feet north of the centerline of Sunrise Boulevard, and north of a line that bears 310° from the westernmost angle point of the seawall at Burnham Point (approximate latitude 26° 06' 38" North, approximate longitude 80° 06' 32" West), including all boat basins and associated waterways south of East Las Olas Boulevard.

(g) MAXIMUM 25 MPH/SLOW SPEED BUFFER – This zone includes a Slow Speed designation for all waters within 50 feet of the shorelines, and a maximum 25 MPH speed limit designation for all waters outside the 50-foot shoreline buffer (and including portions of the Atlantic Intracoastal Waterway channel where it is marked), within the following areas: All waters of the Atlantic Intracoastal Waterway when not otherwise designated for more restrictive regulation south of the Palm Beach County-Broward County line, and north of the Broward County-Miami-Dade County line, including all waters of Lake Santa Barbara and associated waterways west of the Intracoastal Waterway and east of the centerline of the U.S. Highway 1 Bridge over Cypress Creek.

(3) The following provisions pertain to issuance of permits for the purpose of powerboat racing within the Atlantic Intracoastal Waterway. The following conditions, limitations, and procedures shall apply:

(a) Procedures related to the application for, as well as review and issuance of, these permits shall be as set forth in Rule 68C-22.003, F.A.C.

(b) Permits shall be limited as follows:

1. Permits shall be considered only for racing events to be held within the area between the southern end of the fender system of the East Las Olas Bridge and a line that bears 310° from the westernmost angle point of the seawall at Burnham Point (approximate latitude 26° 06' 38" North, approximate longitude 80° 06' 32" West);

2. Permits shall be considered only for racing events to be held between April 1 and October 31; and

3. Permits shall be considered only for racing events to be held during daylight hours.

(4) Access to the discharge canal adjacent to the Florida Power and Light Port Everglades Power Plant as designated as a No Entry Zone under paragraph (1)(a)1., above, shall be permitted for enforcement, emergency, and repair vessels and for other vessels for engineering or research purposes in association with operations of the Port Authority or the Commission. No permit or letter of authorization from the Commission is needed for these parties.

(5) Maps depicting the zones described in this rule are available on the agency's website at <http://myfwc.com>. The maps are intended only as visual aids and do not have regulatory effect; therefore, in the event of conflict between the maps and the descriptions of the zones provided by this rule, the rule text shall prevail.

Rulemaking Authority 379.2431(2) FS. Law Implemented 379.2431(2) FS. History--New 3-19-79, Formerly 16N-22.10, Amended 12-5-89, 6-16-93, Formerly 16N-22.010, Amended 12-18-94, 6-25-96, Formerly 62N-22.010, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Tim Breault, Director of the Division of Habitat and Species Conservation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioners of the Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 19, 2010



