



Final proposed changes to the manatee protection rule for Broward County

September 7, 2011

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

Last December at the Commission meeting in Weston, Florida, staff presented recommendations for proposed changes to the Broward County rule. At that time, the Commission directed staff to advertize proposed rule changes, conduct a public hearing, and prepare a Statement of Estimated Regulatory Costs (SERC).

The purpose of this item is to summarize the results of the public hearing, comment period, and SERC; and, to provide the Commission with staff recommendations for final action on the proposed changes.

Background information

68C-22.010

- This proposal is consistent with the Commission-approved statewide Manatee Management Plan
- Broward is one of the oldest rules and warranted review
- Relatively new data were available for our evaluation
- FWC worked with both a Local Rule Review Committee (LRRC) and Broward County staff in development of our proposal
- The proposal that was approved for advertisement last December makes only minor changes to the existing rule and is in agreement with 14 of 16 LRRC majority recommendations



The Broward County rule was identified for review in the management plan primarily because new manatee and boating data have both been collected in recent years and it is one of the older rules (most of the existing zones were adopted in 1993).

FWC staff considered a wide range of information as part of the review process. From a data perspective, the most emphasis was placed on analyses involving comparisons of manatee sighting data from when the zones were first created (1988-92) versus current use (2004-09); and analyses of the spatial overlap between current manatee use and boat traffic. Other factors and data were also considered, such as manatee mortality data, water depth, habitat availability (i.e., seagrass), locations of boat access facilities and marked channels, sign-posting considerations, and issues related to overall zone complexity and the ease with which boaters would be able to understand the zones. FWC staff also consulted extensively with law enforcement personnel and Broward County staff to help identify and evaluate potential changes.

Soliciting public comment

- Proposed rule was provided to the Manatee Forum
- The proposed rule, the LRRC report, and the FWC staff response to the LRCC report have all been posted on the FWC web site, and linked to this agenda item
- Proposed Rule was published in *Florida Administrative Weekly* on 3/25/11
- A public hearing was held on 4/20/11 in Pompano Beach
- Maps showing each proposed zone change were shown to the public at the hearing and staff described the proposed changes.



The proposed rule was provided to the Manatee Forum, which is a manatee stakeholder group of individuals representing many different organizations.

Based on the direction given at the December 2010 FWC Commission meeting, a Notice of Proposed Rule was published in the Florida Administrative Weekly on March 25, 2011.

At the public hearing, staff made a PowerPoint presentation, showed maps of each area, and discussed the proposed changes. In addition, staff was available to discuss all of the proposed changes with those in attendance. Maps showing the areas where boaters would see changes on the water are included in this presentation. Other maps and details of the proposed changes are not being shown as part of today's presentation, but they are available. If the public or Commission wishes to see any of the specific changes in any area of the county, we can project a map of that area, along with the supporting data.

Comments on proposed rule changes

- Public hearing
 - 11 speakers at the public hearing in Pompano Beach
 - One person opposed all changes while two others supported some of the changes but said all of the LRRC recommendations should have been followed.
 - Eight supported the proposed changes or requested additional changes to add more Slow Speed area
- Public comments
 - Five people submitted written comments as of 8/1/11
 - Two support the proposed changes, two support manatee protection in general, and one opposes the changes
 - Comments from local governments
 - No formal position from County Commission. County staff has expressed support for the proposed changes
 - Town of Hillsboro Beach supports year-round Slow Speed within its jurisdiction
 - No formal positions from other local governments provided during comment period



FWC staff conducted a public hearing on April 20, 2011 in Pompano Beach. Not including FWC and County staff, 24 people signed in at the hearing and 11 attendees provided verbal testimony (with one speaker also submitting written comments). One speaker was opposed to all of the changes, while two others supported most of the changes but said all of the LRRC recommendations should have been followed. Three attendees expressed support for the changes as proposed, while five others requested additional changes to further increase manatee protection.

Since the comment period began on 3/25/11 (through 8/1/11), five people have submitted written comments. Two support the proposed changes and two others support manatee protection in general. One person (who also commented at the first public hearing) opposes the changes. The Broward County Commission has not provided a formal position but County staff has expressed support for the proposed changes. A commissioner from the Town of Hillsboro Beach attended the hearing and said the Town would prefer year-round Slow Speed within its jurisdiction. No other local governments provided formal positions during the comment period.

Statement of Estimated Regulatory Costs

- Information was collected from multiple sources, including the U.S. Census Bureau and the Department of Labor
- Information also requested from local governments, the chamber 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 amendments and also requested information from the Broward County Chamber of Commerce, the Broward County Commission, and other local governments whose jurisdictions are adjacent or within close proximity to waterways affected by the proposed rule changes. 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 Broward County as a result of the proposed rule changes given the relatively small scope of the changes and the fact that discernable adverse impacts have not been evident in other counties as a result of more substantial rule actions.

Effects of proposed changes on manatees

- The proposed changes would reduce risks to manatees
- As many as 927 manatees have been counted at one time in Broward County. On average, 188 manatees were counted per survey in Broward County during aerial surveys flown in winter months
- In recent years, an average of 3.2 manatees have been recovered annually in Broward County where cause of death was attributed to watercraft (2005-10)



The importance of Broward County to manatees has increased over time, especially during the colder months. The number of manatees seen in the county during the colder months has grown from a maximum single day count of 184 for the period when the existing rule was established to a maximum count of 927 in recent years. Much of this increase is likely related to growth in the overall population of the Atlantic management unit; however, the proportion of the Atlantic management unit seen in Broward County during the colder months has increased as well (from 22% for the 1992 synoptic count to over 30% in recent years).

The proposed changes would reduce risks to manatees, primarily during the colder months when hundreds of manatees are in the county. The proposed changes would also have a secondary benefit of reducing zone complexity in many areas by changing the cold season weekday zones to be the same as the existing weekend zones.

Effects of proposed changes on boat traffic

- The proposed changes would have no impact on the water in many locations because of existing year-round boating safety zones that are more restrictive
- The proposed changes would slightly reduce zone complexity, hopefully increasing boater understanding and compliance
- Time to transit the county north to south in the ICW during the warm season would increase by one minute. Transit time on weekends during the cold season would not change at all
- Time to transit the county in the ICW on weekdays during the cold season would increase by 22 minutes



Estimates of the time it would take a boater to transit the entire county from north to south in the Intracoastal Waterway (ICW) were made to compare how long it takes under existing circumstances versus with the proposed changes. The total length of the ICW in Broward County is approximately 25.2 miles. There are boating safety zones in many locations that are more restrictive than the manatee protection zones and which therefore take precedence. Year-round boating safety zones currently exist on over 40% of the ICW (10.8 miles). Three comparisons were made: Cold Season Weekends; Cold Season Weekdays; and, Warm Season. The travel time estimates were based on the following assumptions: Idle Speed = 20 minutes per mile (3 MPH); Slow Speed = 8.5 minutes per mile (7 MPH), and; 25 MPH = 2.4 minutes per mile.

Travel time would increase by one minute during the warm season and would not change at all on weekends during the cold season. Travel time on weekdays during the cold season would increase by 22 minutes, from 4 hours and 3 minutes currently to 4 hours and 25 minutes if the proposed changes are made.

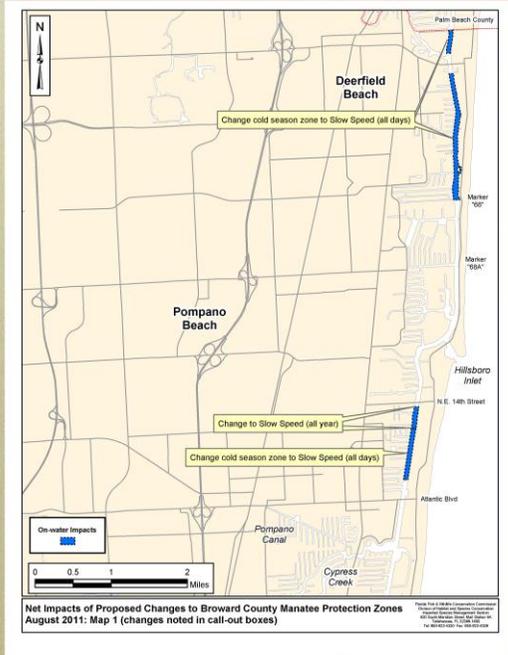
On-water impact of proposed changes

- Add 2.65 miles of cold season weekday Slow Speed between Palm Beach Co. line and Atlantic Blvd
- Extend year-round Slow Speed zone 0.30 miles south of NE 14th Street

(more...)



[Zones]



Many of the proposed changes would not have an impact on the water because there are already more restrictive state or local boating safety zones in the area. This map shows only the areas where the proposed changes would have an on-water impact in this roughly 8-mile stretch of northern Broward County. A map showing all of the proposed changes along with the existing FWC manatee protection and boating safety zones is provided in the back-up materials.

ICW from Palm Beach County to Marker “68A” and between NE 14th Street and Atlantic Blvd: Change the existing cold season weekend-only Slow Speed zones to be in effect all days during the cold season. Because of existing boating safety zones, these changes would have an on-water impact on 2.65 miles of ICW.

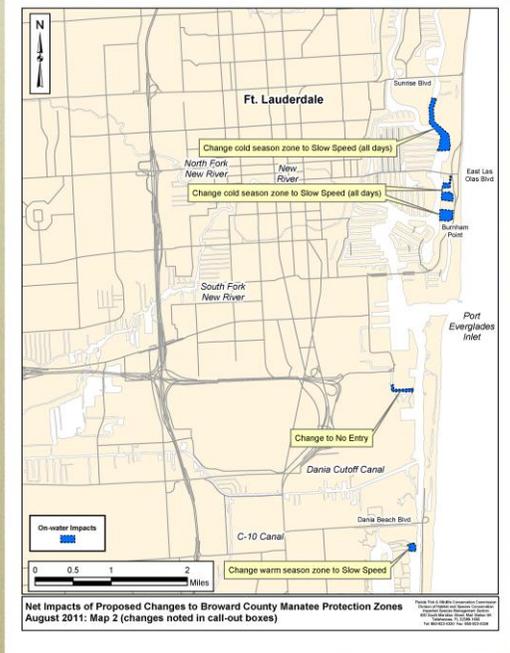
NE 14th Street: Extend the southern boundary of the revised year-round Slow Speed zone at Hillsboro Inlet from NE 14th Street to just south of Harbor’s Edge Park. This change would have an on-water impact on 0.30 miles of ICW.

On-water impact of proposed changes

- Add 0.75 miles of cold season weekday Slow Speed between Sunrise Blvd and East Las Olas Blvd
- Expand No Entry zone at Port Everglades Power Plant
- Change Slow Speed zone west of the ICW and south of Dania Beach Blvd to year-round



[Zones]



Net Impacts of Proposed Changes to Broward County Manatee Protection Zones August 2011: Map 2 (changes noted in call-out boxes)

This map shows only the areas where the proposed changes would have an on-water impact in this roughly 8-mile stretch of central Broward County. A map showing all of the proposed changes along with the existing FWC manatee protection and boating safety zones is provided in the back-up materials. No changes were proposed south of the area shown on this map or in the area between this map and the first map (total distance of approximately nine miles).

ICW from north of Sunrise Blvd to Burnham Point: Change the existing cold season weekend-only Slow speed zone to be in effect all days during the cold season. Because of existing boating safety zones, this change would have an on-water impact on approximately 0.75 miles of ICW.

Port Everglades Power Plant discharge canal: Expand the existing year-round No Entry zone to include the entire discharge canal. Most of the canal is already included in the zone but the east-west portion that connects to the ICW is regulated at Idle Speed during the cold season and Slow Speed during the warm season.

West of ICW, south of Dania Beach Blvd: Change this small existing cold season Slow Speed zone to be in effect year-round.

Recommended final rule

- Staff recommends adoption of the amendments to Rule 68C-22.010, as published in the Notice of Proposed Rule.



Questions?



[Maps]

Very few comments have been submitted during the comment period. All of the comments that have come in during the comment period have raised issues that were also previously raised before the proposed changes were approved for publication in December 2010. As such, no new information has come in that leads staff to believe changes to the proposal are needed. Therefore, staff recommends approving the rule amendments as proposed in the Notice of Proposed Rule.

The following slides are considered back up material
and are not anticipated to be part of the actual
presentation to the Commission



Proposed Changes

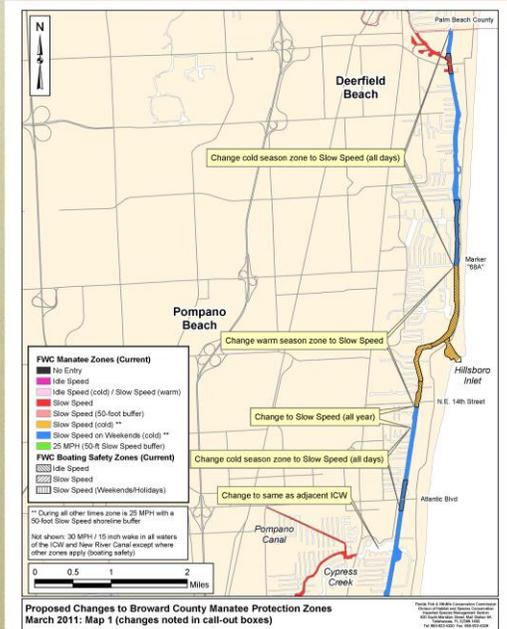
- Add cold season weekday Slow Speed zones between Palm Beach Co. line and Atlantic Blvd
- Change Slow Speed zone at Hillsboro Inlet to year-round and extend zone ¼ mile farther south
- Add zone at entrance to Pompano Canal

(more...)



[Net]

[End]



Proposed changes for the northern section of Broward County:

ICW from Palm Beach County to Marker “68A” and between NE 14th Street and Atlantic Blvd: Change the existing cold season weekend-only Slow speed zones to be in effect all days during the cold season. Because of existing boating safety zones, these changes would have an on-water impact on 2.65 miles of ICW. These changes were supported by an LRRC majority.

Hillsboro Inlet: Change the existing cold season Slow Speed zone to be in effect year-round and extend the southern boundary of this zone from NE 14th Street to just south of Harbor’s Edge Park (0.30 miles). Other than the extension of the southern boundary, this change would have no on-water impact because of existing boating safety zones. Both of these changes were supported by an LRRC majority.

Entrance to Pompano Canal / Cypress Creek: Add a zone to this area (also known as Lake Santa Barbara) to treat it the same as the adjacent ICW. Because of existing local zones (not shown on the map), this change would have no on-water impact. This change was unanimously supported by the LRRC.

Proposed Changes

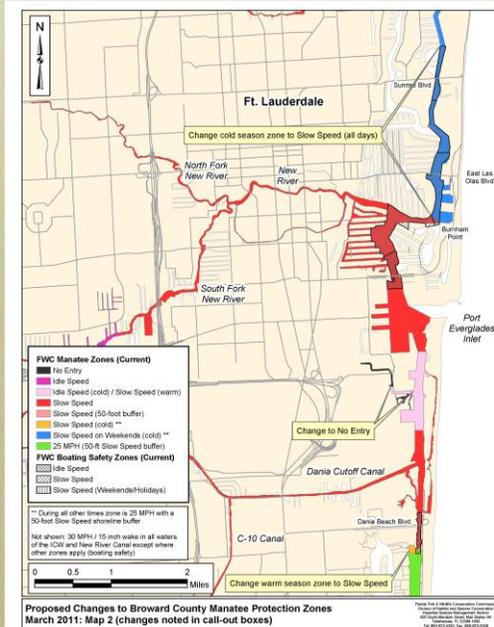
- Add cold season weekday Slow Speed zone from north of Sunrise Blvd to Burnham Point
- Expand No Entry zone at Port Everglades Power Plant
- Change Slow Speed zone west of the ICW and south of Dania Beach Blvd to year-round

(more...)



[Net]

[End]



Proposed changes for the central section of Broward County:

ICW from north of Sunrise Blvd to Burnham Point: Change the existing cold season weekend-only Slow speed zone to be in effect all days during the cold season. Because of existing boating safety zones, this change would have an on-water impact on approximately 0.75 miles of ICW. This change was suggested by Broward County staff after the LRRC report was submitted so the LRRC did not provide a recommendation on this change.

Port Everglades Power Plant discharge canal: Expand the existing year-round No Entry zone to include the entire discharge canal. Most of the canal is already included in the zone but the east-west portion that connects to the ICW is regulated at Idle Speed during the cold season and Slow Speed during the warm season. This change was unanimously supported by the LRRC.

West of ICW, south of Dania Beach Blvd: Change this small existing cold season Slow Speed zone to be in effect year-round. This change was supported by an LRRC majority.

Proposed Changes (other issues)

- Amend preamble language to make consistent with current statute and rule language
 - Manatee Sanctuary Act and Chapter 68C-22, F.A.C. have been amended multiple times since existing rule was adopted

- Add holidays to the weekend-only zones
 - Currently included in the existing boating safety zones but not in the weekend-only manatee protection zones

- Clean-up zone descriptions
 - Update geographic coordinates, references to channel markers or other landmarks, etc.



[End]

Changes to the preamble language would be mostly a housekeeping measure so that the rule tracks the current language in the Manatee Sanctuary Act and Rule 68C-22.001, FAC. Both the Act and 68C-22.001 have been amended multiple times since the Broward County rule was adopted in 1993. The LRRC did not provide a recommendation on this change.

Holidays are not currently included in the weekend-only manatee protection zones. Holidays are included in the existing weekend-only boating safety zones. The rationale for adding holidays is that boat traffic on holidays is typically as great or greater than it is on weekends. The LRRC unanimously supported this change.

Cleaning up the zone descriptions would also be a housekeeping measure. Zone descriptions would be updated where needed and otherwise revised to make the rule more easy to follow. The changes would improve the rule but would not substantively alter the affected zones. The LRRC unanimously supported this change.