



Proposed changes to the manatee protection rule for Sarasota County

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

One of the primary management tasks in the 2007 Manatee Management Plan is to review existing manatee protection rules to determine if modifications are needed. The Plan describes how the FWC will prioritize rules for review and lays out which county rules the FWC plans to review over the Plan's 5-year planning horizon. The Sarasota County rule (68C-22.026, FAC) is identified as the first rule to be reviewed.

Staff work on this rule review began in 2008. A Notice of Proposed Rule was published this past February and today we are presenting staff recommendations for final action on the proposed changes.

Background information

- Why review the Sarasota County rule?
 - Recent manatee and boating data available
 - Older rule
 - Management unit not meeting Measurable Biological Goals

- How was the rule reviewed?
 - Assessment of current manatee use vs. historical use
 - Analysis of spatial overlap between manatees and boats (coincidence analysis)
 - Consideration of other factors, including:
 - Input from FWC and local law enforcement & county staff
 - Review of issues previously raised by the public
 - Other factors and data, including logistical issues



The Sarasota County rule was chosen to be the first for review 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 1992). Also, manatees that use Sarasota County are part of the Southwest management unit, which is not meeting the Measurable Biological Goals set out in the Manatee Management Plan (MMP). Based on information in the MMP manatees in the Southwest region are estimated to have experienced a population decline of 1.1% per year over the 1994-2001 period. However, the MMP notes population trends in this area “are less certain... [and] the relatively wide confidence interval shows that the population could be declining by as much as 5.4% annually, or could actually be increasing by as much as 2.4% annually.” (Note: Preliminary results from ongoing federal studies are more encouraging, with the results indicating the population is likely growing at a slow rate. Final results are expected to be published within the next year.)

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 (1985-89) versus current use (2002-08); and analyses of the spatial overlap between current manatee use and boat traffic (referred to as coincidence analysis). Other factors and data were also considered, such as manatee mortality data, water depth, habitat availability (i.e., seagrass), locations of 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 with law enforcement personnel and county staff to help identify and evaluate potential changes.

Rule review process (2008 – 2009)

- Preliminary review by FWC staff
 - 2008 – May 2009
- Local Rule Review Committee (LRRC)
 - County Commission appointed 14-member LRRC in May 2009
 - LRRC met eight times (FWC staff attended all meetings)
 - LRRC report submitted to FWC in July 2009
- FWC staff response to LRRC report
 - Staff re-evaluated potential changes in light of the LRRC recommendations
 - Prepared written staff response, as required by statute
 - Response sent to County staff and LRRC in October 2009
- Proposed rule approved for advertisement
 - Staff directed to publish proposed rule at December 2009 FWC Commission meeting



FWC staff began gathering information and analyzing data in 2008. Based on an assessment of current manatee use patterns, the results of the coincidence analysis (i.e., the overlap between manatees and boats), and other factors, FWC staff identified 25 potential rule changes that might be warranted. Although a few of the identified areas are not covered by existing zones, most are currently regulated but allow speeds of 25 MPH or greater. All of the areas staff identified had high manatee use, contained substantial seagrass, and/or exhibited high manatee-boat coincidence.

After being notified by FWC, the Sarasota County Commission formed a 14-member Local Rule Review Committee (LRRC). FWC staff provided the LRRC with data and other information and the LRRC met eight times to discuss potential changes to the existing rule. FWC staff attended all of the LRRC meetings. The LRRC submitted its final report at the end of July. An LRRC majority supported changes in some but not all of the areas identified by FWC staff. The LRRC also recommended a new zone in one area that was not originally identified by FWC staff.

FWC staff re-evaluated all areas in light of the LRRC recommendations and prepared a written response to the report, as required by the Manatee Sanctuary Act. The response was sent to the County and the LRRC on October 1.

Staff recommendations for proposed changes were presented at the December 2009 FWC Commission meeting. Staff was directed to publish the rule proposal, conduct a public hearing in Sarasota, and then bring the rule back for final consideration in 2010.

Proposed Rule vs. LRRC

- Concurrence with 20 of the 26 recommendations made by an LRRC majority
- Six areas of disagreement
 - In three areas the LRRC supported adding new Slow Speed zones but the proposed rule leaves areas unregulated
 - In three other areas the LRRC supported leaving the existing zones unchanged but the proposed rule makes the zones more protective. In all three of these areas, however, the length of channel that would be affected by the proposed changes is shorter than what was reviewed by the LRRC.
- Overall impact of the proposed changes would be small
 - Total regulated area would increase by 3% (313 acres)
 - Time to transit the county north to south in the ICW (35.5 miles) would increase by 15 minutes (from 2 h 29 min to 2 h 44 min)



In its final report, the LRRC provided comments or recommendations on 29 areas or issues, including all 25 areas originally identified by FWC staff. In total, FWC staff concurred with the LRRC majority position in 20 cases and disagreed with six, with the LRRC not making a recommendation on two minor issues and no FWC position needed for one other. A more detailed breakdown is as follows:

LRRC recommendation to add or expand zone:

Concur with LRRC: 10

Disagree with LRRC: 3

LRRC recommendation to make no change:

Concur with LRRC: 9

Disagree with LRRC: 3

LRRC recommendation to remove zone:

Concur with LRRC: 1

Areas of disagreement: In three cases an LRRC majority recommended adding new zones but the proposed rule leaves the areas unregulated. In three other cases an LRRC majority recommended leaving the existing zones unchanged but the proposed rule increases protection. In these latter cases, all of which involve changing sections of the Intracoastal Waterway (ICW) channel from 25 MPH to Slow Speed, the length of channel that is proposed to be changed is shorter than what was originally identified and commented on by the LRRC.

Comments on proposed rule changes

- Notice of Proposed Rule
 - Published in *Florida Administrative Weekly* on 2/5/10
- Public hearings
 - Six speakers at the public hearing on 3/2/10 in Sarasota
 - Three were opposed to any changes that would increase restrictions anywhere in the county
 - Two supported proposed changes, plus the addition of a new zone on the north end of Siesta Key
 - Today's meeting is the final public hearing
- Public comments
 - County Commission comments (3/18/10)
 - Supports proposed zones adjacent to Forked Creek and in North Roberts Bay (but wants the zone extended farther south); also supports not adding zone on the north end of Siesta Key; did not oppose any of the proposed changes.
 - Other written comments
 - Over 550 form letters supporting proposed changes



Based on the direction given at the December 2009 FWC Commission meeting, a Notice of Proposed Rule was published in the *Florida Administrative Weekly* on February 5, 2010.

FWC staff conducted a public hearing on March 2, 2010 in Sarasota. Six attendees provided verbal testimony at the hearing and one other attendee submitted written comments. Three of the attendees were opposed to any changes that would increase restrictions in the county (generally because they question the scientific basis for finding that changes are needed). Two attendees expressed support for the proposed changes, but also requested that a zone be added on the north end of Siesta Key. One attendee said some of the proposed changes are good but that the FWC should have followed all of the recommendations made by the Local Rule Review Committee (LRRC) rather than accepting some and rejecting others. The attendee who submitted written comments stated his organization supports manatee protection and the reduction of boat speeds, in part because it also makes it safer for their activities (rowing).

The Sarasota County Commission provided written comments via letter dated March 18, 2010. The County commended the work of the LRRC and FWC staff. The County did not oppose any of the proposed changes but did comment on three specific areas. The County supported the proposed change in North Roberts Bay (south of the Siesta Key Bridge) but commented that they would like the Slow Speed zone extended 0.30-0.35 miles farther to the south (past the Bird Colony Islands). The County also supported the proposed changes adjacent to Forked Creek and the FWC decision not to propose a new zone on the north end of Siesta Key.

Besides the comments mentioned above, the only other written comments FWC has received (through 3/22/10) are one e-mail in opposition and over 550 form letters supporting the proposed changes. These form letters were in response to an Action Alert issued by Save the Manatee Club.

Recommended final rule

- Staff recommends adoption of the amendments to Rule 68C-22.026, as published in the Notice of Proposed Rule.



Staff has reviewed all of the public comments. 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 2009. 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.

Questions?

