



Two of the primary management tasks in the 2007 Manatee Management Plan are to review existing manatee protection rules to determine if modifications are needed, and to review other areas that currently have little or no protection to determine if zones are warranted. The Plan describes how the FWC will prioritize areas for review and lays out which areas the FWC plans to review over the Plan's 5-year timeline. Coastal St. Johns County and Flagler County are identified in the Plan as the first area to be reviewed.

Staff work on this review began in 2009 and today we are presenting staff recommendations for proposed zones. If staff is directed to move forward, we will publish a Notice of Proposed Rule and gather public comment before bringing the rule back for final action at a future Commission meeting, probably in late 2011.

Background information

- Why review Coastal St. Johns and Flagler County
 - Need for manatee protection identified
 - Zones currently exist only in the very southern section of Flagler Co. as part of the Volusia Co. rule (1991)
 - Issues related to permitting
 - Increased development pressure and increasing trend in risks to manatees
 - Recent manatee and boating data available



The coastal St. Johns / Flagler County area was identified for review primarily because of concerns over increasing risks to manatees associated with the significant growth in coastal development that has occurred over the last 10+ years and the resultant increases in requests for construction of boat access facilities, particularly in Flagler County. This area, which includes two of only four Atlantic Coast counties that had never been reviewed for the potential need for manatee protection zones, had not previously been an area where boat-related manatee mortality was very common, with only 10 boat-related deaths recorded in the area in the 28 years between 1974 and 2001 (five in each county, with the first boat-related death in Flagler County not recorded until 1990). In the last nine years (2002-2010), 14 boat-related deaths have been recovered (five in coastal St. Johns County and nine in Flagler County). Staff interpreted this increase in frequency of boat related manatee deaths in the county as an increase in risks to manatees.

Numerous meetings have been held in recent years between the local governments, FWC, the U.S. Fish and Wildlife Service, and stakeholders to discuss a variety of manatee concerns related to state and federal approval for additional boat access facilities, with more attention put on Flagler County because it has had more of the proposed facilities and also more frequent manatee mortality. As a result of meetings held in 2006, Flagler County agreed to consider the development of a Manatee Protection Plan that would, among other things, evaluate policies associated with the siting of future boat access facilities. The FWC agreed to collect new manatee and boat distribution data so that management decisions, including speed zones, could be based on more current information. The FWC, USFWS and Flagler County agreed that some management actions should be taken to improve the climate for permitting boat facilities in the future. At this time several projects had been denied their federal permits due to anticipated increased risks and lack of existing manatee protection measures being in place.

Background information (cont.)

- How was the area reviewed?
 - Manatee data
 - Boat/Manatee use overlap
 - Other factors, including:
 - Input from law enforcement & others
 - Locations of existing, newly permitted, and proposed boat access facilities
 - Public requests
 - Complexity of zones, "enforceability"
- Preliminary review by FWC staff
 - 2009 - March 2010
 - Coastal St. Johns County
 - Zones not warranted at this time
 - Flagler County
 - Some zones may be warranted



FWC staff began gathering information and analyzing data in 2009. Staff considered a wide range of information as part of the review process. From a data perspective, staff reviewed manatee sighting, telemetry, and mortality data; boat use data, water depth, habitat availability, 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. Analysis of the overlap between manatee use and boat traffic was completed to help focus staff on the locations with the highest overlap as they are locations with the highest potential risk. Other factors and data were also considered; for instance, FWC staff also consulted with law enforcement personnel and others to help identify and evaluate potential changes.

The overall study area covers about 64 linear miles of Intracoastal Waterway (ICW) from the northern boundary of St. Johns County to the southern boundary of Flagler County. Based on an assessment of current manatee use patterns, the overlap between manatee and boat use patterns, and other factors, FWC staff determined new zones did not appear warranted in coastal St. Johns County, which comprises about 46 linear miles (71%) of the overall study area. Staff notified St. Johns County of this determination in March 2010. St. Johns County did not comment on or object to the staff determination not to pursue zones.

Also in March 2010, FWC staff determined new or amended zones may be warranted in portions of the 18.6 linear miles of ICW in Flagler County. Staff notified Flagler County of this determination and, as required by statute, requested that Flagler County form a Local Rule Review Committee (LRRC).

Rule review process

- Local Rule Review Committee (LRRC)
 - Flagler County appointed 10-member LRRC in May 2010
 - LRRC met 7 times
 - May - July 2010
 - FWC staff attended all but one of the meetings
 - LRRC report submitted to FWC on July 21, 2010
 - LRRC majority supported some zones but in general recommended shorter or less restrictive zones
- FWC staff response to LRRC report
 - Staff re-evaluated potential changes in light of the LRRC report
 - Prepared written staff response, as required by statute
 - Response sent to County staff and LRRC in September 2010
 - Revised staff recommendations reduced the amount of ICW area that would be included in the warm season Slow Speed zones to 5.4 linear miles (29% of ICW in Flagler County; 8.4% of overall study area).
 - Shortened the length of the warm season to April - September



Flagler County formed a 10-member Local Rule Review Committee (LRRC) in May 2010. FWC staff provided the LRRC with data and preliminary recommendations for potential zones. FWC staff identified five warm season Slow Speed zones that might be warranted and three other areas where input from the LRRC was requested. The five potential zones covered 6.7 of the 18.6 linear miles of ICW in Flagler County. The warm season was defined as April - October. All of the areas staff identified had high manatee use and/or exhibited high manatee-boat overlap. The LRRC met seven times through July to discuss potential zones. FWC staff attended all but one of the LRRC meetings.

An LRRC majority supported zones in some areas but in general recommended shorter or less restrictive zones than those initially identified by FWC staff. An LRRC majority also recommended a shorter warm season: May - July rather than April - October. FWC staff revised its recommendations after re-evaluating all areas based on the LRRC report, a reassessment of the data, and additional discussions with FWC Law Enforcement. Although the revised staff recommendations were not in concurrence with all of the LRRC-supported zones, the revised zones were in closer agreement with the LRRC. The revised staff recommendations reduced the amount of ICW area that would be included in the warm season Slow Speed zones from 6.7 to 5.4 linear miles, which represents 29% of the 18.6 linear miles of ICW in Flagler County and 8.4% of the overall study area (all of coastal St. Johns County and Flagler County). FWC staff also revised the warm season to cover only April - September.

Rule review process (late 2010)

- Additional discussions with Flagler County & others
 - U.S. Fish and Wildlife Service
 - Generally supportive of FWC recommendations; did not think the LRRC majority recommendations were sufficient
 - Flagler County and the City of Palm Coast
 - Meetings with County and City representatives in November and December
 - The County and City suggested some changes to the recommended zones
 - Areas of disagreement reduced
 - Enterprise Florida & OTTED
 - Meeting in October. Concerns related to potential impacts on Sea Ray
 - Sea Ray
 - Meetings with a Sea Ray representative in October and December
 - Revised recommendations developed to eliminate impacts to Sea Ray



Since preparing the written response to the LRRC in September 2010, FWC staff has received input from and had additional discussions with Flagler County and others.

The U.S. Fish and Wildlife Service submitted a letter in September 2010 commenting on the LRRC report and the revised FWC staff recommendations. USFWS stated the LRRC majority recommendations “would not protect manatees sufficiently.” While USFWS supported the FWC staff recommendations, USFWS stated it would prefer more protective zones in Palm Coast as well as the southern end of the county.

Two meetings were held in 2010 with representatives from Flagler County and Palm Coast to discuss the areas of disagreement. Agreement was reached regarding the duration of the warm season and the extent of the zones in the northern part of the county. Progress was also made toward agreement on the extent of the zones in the southern part of the county, although some differences of opinion remained.

FWC staff met with staff from Enterprise Florida and the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) in October to discuss concerns about the potential impact of zones on the continued operation of Sea Ray in Flagler County. FWC staff made assurances that impacts would be minimized or eliminated and also provided an update of ongoing direct discussions with Sea Ray.

Two meetings were held with representatives of Sea Ray in October and December. Agreement was reached regarding changes to the zones to eliminate impacts to Sea Ray’s operations.

Rule review process (2011)

- Consideration of rule moved to June 2011 FWC meeting
 - Flagler County requested postponement from Feb to April meeting
 - FWC staff requested delay until June meeting
- Additional discussions with Flagler County & others
 - Additional LRRC meeting on Feb. 16, 2011
 - LRRC generally reaffirmed its previous recommendations.
 - U.S. Fish and Wildlife Service
 - USFWS reaffirmed its previous position. Generally supportive of FWC recommendations but would prefer more protection south of SR 100; does not think the LRRC or County positions are sufficient.
 - Flagler County
 - Multiple meetings and correspondence with County representatives between January and May
 - County Commission plans to hold a workshop in the future.
 - Cities of Beverly Beach and Flagler Beach
 - Beverly Beach supportive of FWC staff recommendations
 - Flagler Beach thus far has not indicated if it has a position



In February, Flagler County requested consideration of zones be postponed from the February FWC meeting until the meeting in April. FWC staff supported postponement but requested the item be moved to the June FWC meeting because this meeting was set to be held within easy driving distance of Flagler County.

Also in February, Flagler County asked the LRRC to reconvene for an additional meeting to serve as an advisory board to the County. The LRRC did not take formal votes but in general reaffirmed its previous recommendations.

In March, USFWS staff reaffirmed that USFWS is generally supportive of the FWC staff recommendations but would prefer more protective zones in the southern end of the county south of SR 100. USFWS does not believe the zones supported by the LRRC or those supported by the County would provide sufficient protection.

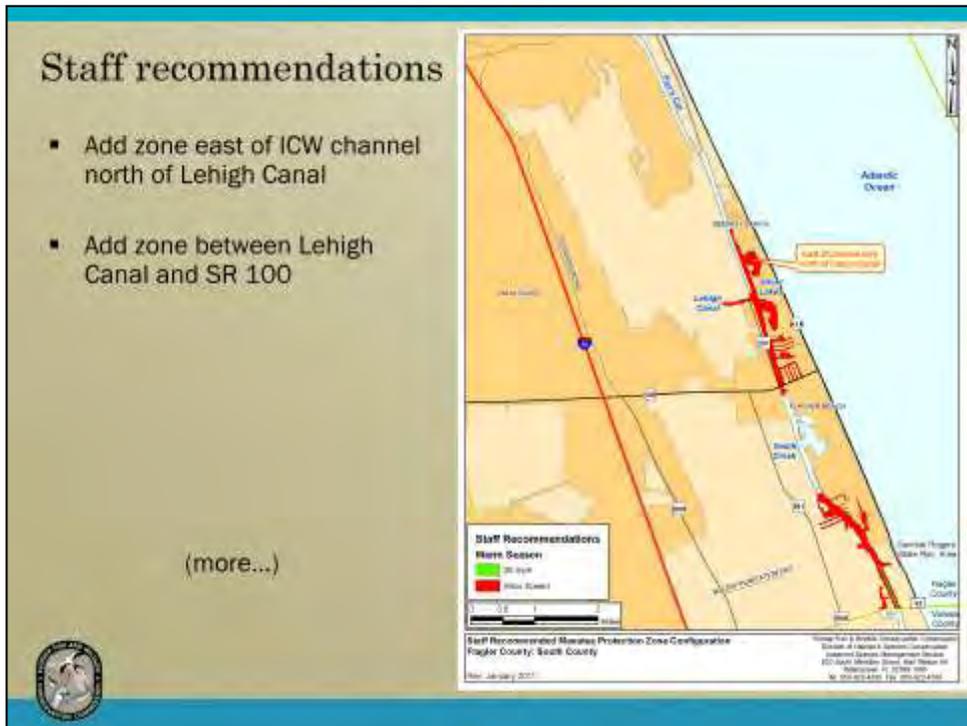
FWC staff has continued to coordinate with representatives from Flagler County, including a meeting in early April in Lake City. The County Commission is planning to hold a workshop in May and FWC staff will attend. Staff will summarize the workshop and any subsequent County input as part of the staff presentation. Areas where there are still disagreements between the staff recommendations and the County position are addressed with the revised FWC staff recommendations that follow.

FWC staff has also reached out to the cities of Beverly Beach and Flagler Beach since almost all of the recommended zones are in or within close proximity to these cities. Beverly Beach has indicated it is supportive of the FWC staff recommendations. Flagler Beach has not yet indicated if it has a position.



Based on the discussions with Flagler County and others, FWC staff has made additional revisions to the recommendations contained in the September 2010 response to the LRRRC. The revised staff recommendations further reduce the amount of ICW area that would be included in the warm season Slow Speed zones to 3.8 linear miles, which represents 20% of the 18.6 linear miles of ICW in Flagler County and 5.9% of the overall study area (all of coastal St. Johns County and Flagler County). FWC staff has also revised the warm season to cover only May through early September (to include Labor Day). The representatives of Flagler County and Palm Coast support this revised duration of the warm season.

The only recommended zone in the northern part of the county is in the vicinity of Hammock Dunes Parkway in Palm Coast. Staff recommends this zone due to the intersection of the ICW with an east/west channel that services the largest canal system in the city, thus being a significant boat traffic point with three marinas in the vicinity. The manatee data also shows regular use by manatees and dependent calves. The warm season Slow Speed zone would extend from 300 feet south of the bridge to 200 feet north of the recently added water treatment diffuser discharge (which is about 600 feet north of the southernmost Palm Coast residential canal, and about a half mile north of the bridge). The representatives of Flagler County and Palm Coast support this recommended zone. An LRRRC majority supported a slightly smaller zone, while the USFWS prefers a zone that extends a little farther north and about 2000 feet farther south.



Staff recommendations for the southern section of Flagler County are based on the level of use of this area by manatees, the amount of boat traffic, and the need to reduce risks to manatees:

North of Lehigh Canal: Add a warm season Slow Speed zone east of the ICW channel, from channel marker “6” to 500 feet north of Lehigh Canal. The representatives of Flagler County and Palm Coast are not opposed to this recommended zone. An LRRC majority opposed a zone in this area, in part because of its potential impact on Sea Ray, whose facility is located on Lehigh Canal. The potential zone originally identified for this area covered the entire waterway but the revised recommendation is for a zone that only includes the area east of the ICW. This change was made so that the zone would not adversely affect Sea Ray’s operations. Sea Ray has stated the recommended zones would not affect its operations. The USFWS is generally supportive of the recommended zone but would prefer the original (shore-to-shore) zone.

Lehigh Canal to SR 100 Bridge: Add a warm season Slow Speed zone from 500 feet north of Lehigh Canal to 300 feet south of the SR 100 Bridge. The representatives of Flagler County and Palm Coast are not opposed to this recommended zone, but would prefer the ICW channel be excluded from the Slow Speed zone at least north of marker “13.” FWC staff does not support excluding the channel north of marker “13” because it would include the confluence of the ICW and Lehigh Canal in the higher speed area. An LRRC majority supported a “channel exempt” warm season Slow Speed zone in this area. The USFWS is supportive of the recommended zone.



Staff recommendations for the southern section of Flagler County are based on the level of use of this area by manatees, the amount of boat traffic, and the need to reduce risks to manatees:

Gamble Rogers State Recreation Area: Add a warm season Slow Speed zone from just north of the northern marker “20” to just south of the basin at Gamble Rogers. The representatives of Flagler County and Palm Coast support a zone in this area, but would prefer the northern boundary be slightly farther south and that 25 MPH speeds be allowed in the ICW channel south of marker “22.” FWC staff does not support the shorter zone or the additional 25 MPH channel because of the increased risks it would present and that it would include the confluence of the basin at Gamble Rogers with the ICW as a higher speed area. An LRRC majority supported a warm season Slow Speed zone that “bracketed the boat ramp” at Gamble Rogers but the LRRC did not identify how far the zone should extend away from the ramp. The USFWS is generally supportive of the original (larger) zone but would prefer that the northern boundary be extended about 2500 feet farther north of the original boundary.

South of Gamble Rogers: Change the existing year-round “Slow Speed / 30 MPH (day) and 25 MPH (night) in ICW channel” zone to a warm season “Slow Speed / 25 MPH in ICW channel” zone (and remove the reference to this area from the Volusia County rule). The representatives of Flagler County and Palm Coast as well an LRRC majority support this recommended change. The USFWS would prefer the original recommendation to change this area to a warm season Slow Speed zone.

Effect of recommended rule

- The recommended rule would reduce risks to manatees while limiting zones to those areas and months when risks appear to be the greatest.
 - Zones would be in effect only May - early September
 - Zones would affect 3.8 of the 18.6 linear miles of ICW in Flagler County (20% of Flagler ICW; 5.9% of ICW in overall study area)
- Adverse impacts of the rule would be small
 - The recommended zones were revised to eliminate impacts to the operations of Sea Ray.
 - The duration of the warm season was shortened to include only the most critical 4-month timeframe.
 - Time to transit Flagler County in the ICW when the zones were in effect would increase by about 22 minutes (from 50 min to 1 h 12 min).
 - Addition of zones should facilitate federal and state permitting of future boat access facilities; however, as currently proposed, they may not adequately offset risks of all projects that may be proposed in the future.



The revised staff recommendations would reduce risks to manatees while limiting the duration and extent of zones to only the most critical areas. The amount of ICW area that would be included in the warm season Slow Speed zones would be 3.8 linear miles, down from the 6.7 miles that was initially identified in May 2010 as possibly being warranted. The duration of the warm season has also been reduced to just over four months, down from the 7-month season that was initially contemplated.

Adverse impacts of the recommended zones would be small. FWC staff worked with Sea Ray to ensure the configuration of zones would have no adverse impacts on the operations of Sea Ray. During the four months the zones would be in effect, it would take approximately 22 additional minutes for boaters to transit the entire length of the county but this increased transit time is unlikely to cause any substantial changes in how often or where boats are operated. The addition of the recommended zones should facilitate some federal and state permitting of future boat access facilities because the zones would help to reduce the risks presented by the additional boats that could be operated on county waters. However, because the zones have been scaled back to some extent, they may not adequately offset risks of all projects that may be proposed in the future.

Information on time estimates: There is an existing year-round Slow Speed boating safety zone in the vicinity of SR 100, which would supersede the recommended manatee protection zone in this roughly 0.3 mile stretch of ICW. The travel time estimates were based on the following assumptions: Slow Speed = 8.5 minutes per mile (7 MPH) and 25 MPH = 2.4 minutes per mile. Speeds in unregulated areas were assumed to be 25 MPH.

Next steps

- Staff requests permission to publish a Notice of Proposed Rule, and conduct at least one public hearing in Flagler County
 - Proposed rule would be as described in this presentation
 - Staff will also prepare a Statement of Estimated Regulatory Costs (SERC) to assess potential economic issues
- Staff will evaluate possible changes based on input received during the public comment period, and return with a final recommendation for Commission consideration later in 2011.



Staff requests Commission approval to publish a Notice of Proposed Rule in the Florida Administrative Weekly, with the proposed zones being those described in this presentation. Staff will conduct at least one public hearing in Flagler County and collect public comments on the proposal. Staff will also prepare a Statement of Estimated Regulatory Costs (SERC) to assess potential economic issues.

Staff will re-evaluate the proposed rule based on public comments and other input provided during the comment period. Staff will bring a recommended final rule back for Commission consideration later this year.

Public Comment / Questions

