

At the June 2011 Commission meeting, staff provided a summary of actions that had been taken in recent years to evaluate the potential need for manatee protection boat speed zones in Flagler County. Staff also presented its recommendations for what to include in a formal rule proposal to be put out for public review and comment. At that meeting staff was directed to continue working with Flagler County and the U.S. Fish and Wildlife Service to further refine a draft rule proposal that could be supported by Flagler County.

Today we are presenting the results of that additional coordination work as well as 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, likely in the first half of 2012.

Summary of prior actions

- Area identified for review in MMP (2007)
- Staff evaluation (2009-10)
- Local Rule Review Committee process
 - LRRC meetings (May - July 2010)
 - FWC staff response (Sept 2010)
- Additional discussions with Flagler County and others (late 2010)
 - Flagler County: Agreement reached on some areas but County favored less zones in some areas
 - USFWS: Generally supported FWC zones but favored more zones in some areas
 - Sea Ray: Agreement reached to reduce zone in middle portion of county to eliminate impacts
- Issue postponed from Dec 2010 FWC meeting to Feb 2011 FWC meeting



The coastal St. Johns / Flagler County area is identified for review in the 2007 Manatee Management Plan. This area comprises two of only four Atlantic Coast counties that had never been reviewed for the potential need for manatee protection zones. Historically, boat-related manatee mortality had not been very common in this area, with only 10 boat-related deaths recorded in this 2-county area in the 28 years between 1974 and 2001. Since 2002, 14 boat-related deaths have been recovered (five in coastal St. Johns County and nine in Flagler County). This apparent increase in risks to manatees occurred concurrently with the significant growth in coastal development that the area was experiencing. In 2006, federal permits for multiple projects involving hundreds of boat slips in Flagler County were denied due to concerns over increased risks to manatees and the lack of existing manatee protection measures.

FWC staff evaluated all available information in 2009-10 and provided preliminary recommendations to the Flagler County Local Rule Review Committee (LRRC) in May 2010. The potential warm season zones covered 6.7 of the 18.6 linear miles of ICW in Flagler County. An LRRC majority supported zones in some areas but in general recommended shorter or less restrictive zones. FWC staff considered the LRRC report and revised the staff recommendations to reduce the amount of ICW area that would be included in the Slow Speed zones from 6.7 to 5.4 linear miles. FWC staff also shortened the warm season to cover only April – September.

In late 2010 staff had multiple additional discussions with Flagler County, Palm Coast, the U.S. Fish and Wildlife Service, Sea Ray, and others. Areas of disagreement were reduced but some differences of opinion remained. To allow for more discussions to occur, consideration of the issue was postponed from the December 2010 FWC meeting to the February 2011 meeting.

Summary of prior actions (2011)

- Issue moved from Feb 2011 FWC meeting to June 2011 meeting
- Additional discussions with Flagler County and others
 - FWC met with County staff and attended County Commission workshop in May
 - FWC reached out to local cities but did not receive formal positions from any
 - USFWS reaffirmed its previous position generally in support of FWC zones but favoring more zones in some areas
- June 2011 FWC meeting
 - Staff directed to continue working on draft rule
- Additional discussions with Flagler County and USFWS



After the issue was moved to the June 2011 FWC meeting, FWC staff continued to coordinate with Flagler County, including meeting with staff in early April in Lake City and attending a County Commission workshop on May 17. FWC staff also reached out to the town of Beverly Beach and the city of Flagler Beach because almost all of the recommended zones are in or within close proximity to these areas. Neither local government indicated if it had a formal position. USFWS staff reaffirmed that USFWS supported the FWC staff recommendations but would prefer more protective zones, particularly in the southern end of the county.

Based on the additional discussions, staff made more revisions to its recommendations. The revised staff recommendations presented in June further reduced the amount of ICW area that would be included in the Slow Speed zones to 3.8 linear miles. All zones would be in effect only during the warm season and the length of the warm season was reduced to cover only May through Labor Day. Flagler County submitted a letter at the meeting supporting the northern zone and the length of the warm season but suggesting different zone configurations in the middle and southern sections of the county. The County proposal would have included approximately 2.3 linear miles of ICW in the Slow Speed zones. The County also committed to complete a formal Manatee Protection Plan, including a boat facility siting plan and support for increased and sustained local enforcement of zones. FWC staff was directed to continue working with Flagler County and USFWS to try and reach a compromise position.

Multiple meetings have been held since the June FWC meeting. And although FWC staff recognizes a case can be made for more protective zones, in order to reach a compromise and achieve county support, staff has revised the zone configuration so that it now includes approximately 2.7 linear miles of ICW in warm season Slow Speed zones.



Based on recent discussions and agreements, staff has made additional revisions to its recommendations. The revised staff recommendations reduce the amount of ICW area that would be included in the Slow Speed zones to 2.7 linear miles. All zones would be in effect only during the warm season and the warm season would cover May through Labor Day. There are recommended zones in three general areas of the county, with only one of the areas shown on this map.

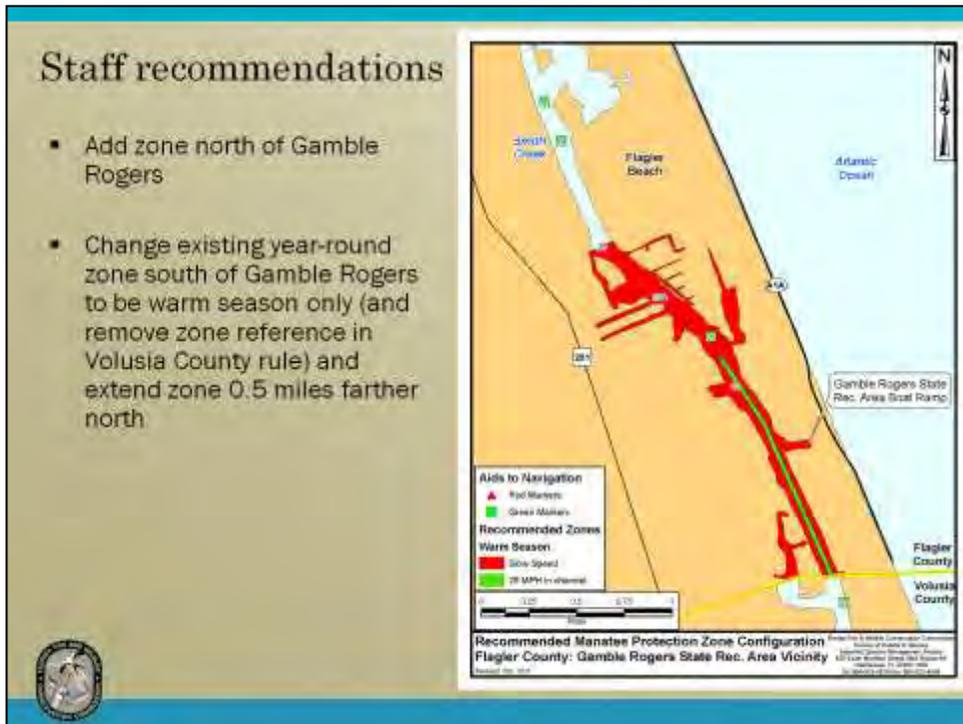
The only recommended zone in the northern part of the county is a warm season Slow Speed zone that would cover 0.6 miles of ICW in the vicinity of Hammock Dunes Parkway in Palm Coast. This zone is the same as what was recommended in June, and previously supported by the County.



Most of the recommended zones are in the southern section of Flagler County because this is where manatee use was the highest and also where all of the recent boat-related deaths have been recovered. The areas where staff is recommending zones constitute less than 20% of the water area in coastal Flagler but included close to half of all manatee sightings in the county.

The first zone in this area extends from south of Lehigh Canal to ICW marker “6”. It would be a roughly 1.5 mile long, warm season Slow Speed zone east of the ICW channel (plus all waters of Lehigh Canal). The zone contemplated for this area in 2010 covered the entire waterway but the northernmost one mile section was changed so that the zone would not adversely affect the operations of Sea Ray, whose facility is located on Lehigh Canal. The southernmost half-mile of this zone was recommended as a shore-to-shore Slow Speed zone in June but has been added to the “east of ICW only” zone as part of the compromise reached with Flagler County. The compromise includes agreement that the County will support efforts to amend the zones to change the southernmost half-mile section to shore-to-shore Slow Speed before any new boat facilities will be authorized by USFWS in the general vicinity of Lehigh Canal.

The second zone extends from the southern boundary of the “east of ICW only” zone to just south of the SR 100 Bridge. It would be a roughly 1.2 mile long, shore-to-shore warm season Slow Speed zone. This zone is the same as what was recommended in June except that in June the zone also included the half-mile section immediately to the north that has been added to the “east of ICW only” zone as part of the compromise reached with Flagler County.



The first zone in this area is north of Gamble Rogers State Recreation Area. It would be a roughly 0.9 mile long, shore-to-shore warm season Slow Speed zone from south of ICW marker “21” to ICW marker “20.” This zone is the same as what was recommended in June except that the northern boundary has been moved about 600 feet farther south as part of the compromise reached with Flagler County.

The last zone is in the vicinity of Gamble Rogers. It would be a roughly 1.2 mile long warm season “Slow Speed / 25 MPH in ICW channel” zone from the Volusia County line to a little south of ICW marker “21.” The northern 0.5 miles of this zone was recommended as a shore-to-shore Slow Speed zone in June but has been changed to “Slow Speed / 25 MPH in ICW channel” as part of the compromise reached with Flagler County. The existing 0.7 miles of year-round “Slow Speed / 30 MPH (day) and 25 MPH (night) in ICW channel” zone immediately to the south would be changed to a warm season “Slow Speed / 25 MPH in ICW channel” zone (and the reference to this area would be removed from the Volusia County rule).

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 during the most critical timeframe (May – early September)
 - Zones would affect 2.7 of the 18.6 linear miles of ICW in Flagler County (15% of Flagler ICW; 4.2% of ICW in overall study area)
- Addition of zones should facilitate federal and state permitting of future boat access facilities; however, the zones as currently proposed may not adequately offset risks of all projects that may be proposed in the future.
- Adverse impacts of the rule would be very small
 - Time to transit Flagler County in the ICW during the roughly four months the zones would be in effect would increase by about 15 minutes (from 50 min to 1 h 5 min).



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 2.7 linear miles, down from the 3.8 linear miles that was recommended in June and the 6.7 miles that was initially identified in May 2010 as possibly being warranted. The duration of the warm season would be May through early September (down from the 7-month season that was initially contemplated).

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, they may not adequately offset risks of all projects that may be proposed in the future.

Adverse impacts of the recommended zones would be very 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 15 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.

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.

Staff recommendations

- 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
- Evaluate possible changes based on input received during the public comment period, and return with a final recommendation for Commission consideration in 2012.



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.

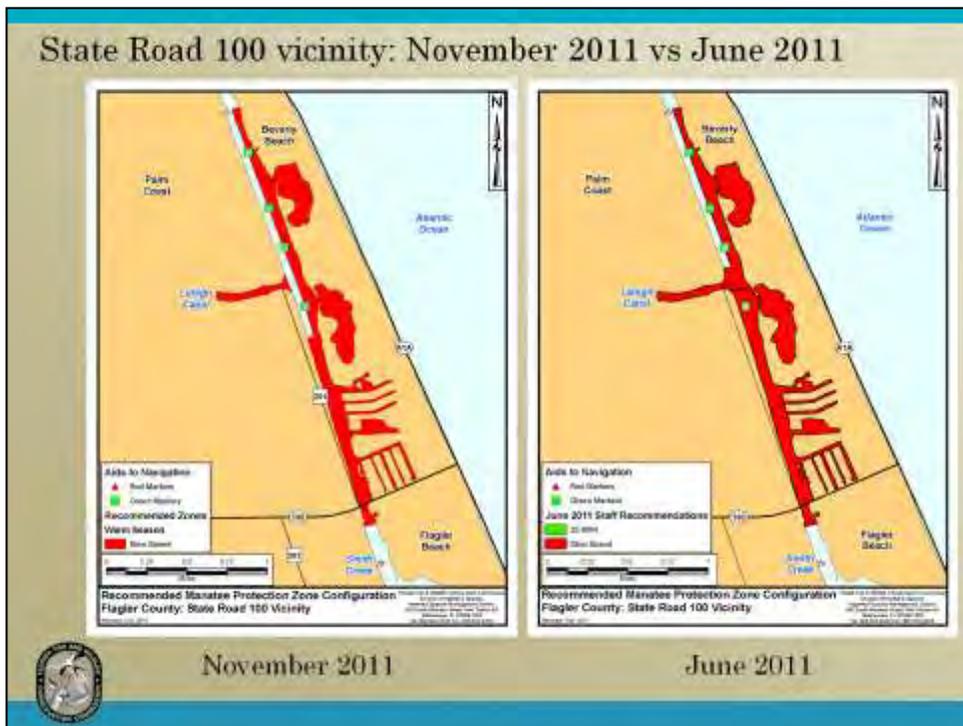
Staff will re-evaluate the proposed rule based on public comments and other input provided during the comment period. Staff will bring a recommended final rule back for Commission consideration in 2012.

Public Comment / Questions



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

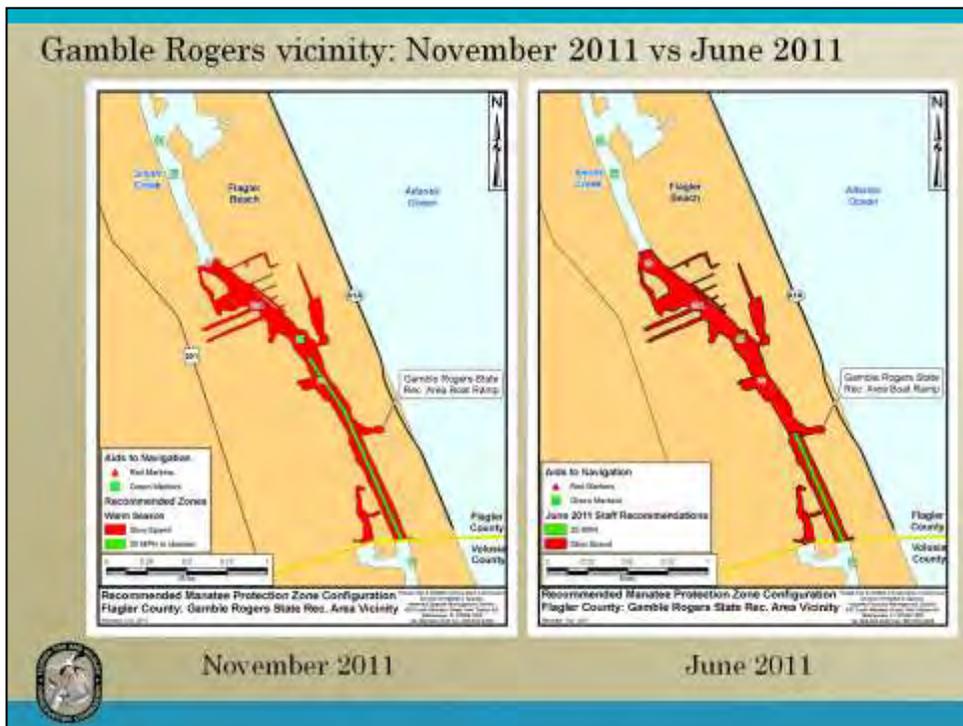




Companion to Slide 5: Comparison of November 2011 and June 2011 recommendations for the Lehigh Canal / State Road 100 vicinity

The first zone in this area extends from south of Lehigh Canal to ICW marker “6”. It would be a roughly 1.5 mile long, warm season Slow Speed zone east of the ICW channel (plus all waters of Lehigh Canal). The southernmost half-mile of this zone was recommended as a shore-to-shore Slow Speed zone in June but has been added to the “east of ICW only” zone as part of the compromise reached with Flagler County.

The second zone extends from the southern boundary of the “east of ICW only” zone to just south of the SR 100 Bridge. It would be a roughly 1.2 mile long, shore-to-shore warm season Slow Speed zone. This zone is the same as what was recommended in June except that in June the zone also included the half-mile section immediately to the north that has been added to the “east of ICW only” zone as part of the compromise reached with Flagler County.



Companion to Slide 6: Comparison of November 2011 and June 2011 recommendations for the vicinity of Gamble Rogers State Recreation Area

The first zone in this area is north of Gamble Rogers State Recreation Area. It would be a roughly 0.9 mile long, shore-to-shore warm season Slow Speed zone from south of ICW marker “21” to ICW marker “20.” This zone is the same as what was recommended in June except that the northern boundary has been moved about 600 feet farther south as part of the compromise reached with Flagler County.

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