

CERTIFICATION OF FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION  
EMERGENCY RULE FILED WITH THE  
DEPARTMENT OF STATE

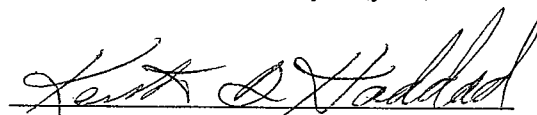
I hereby certify that an immediate danger to the public health, safety or welfare requires emergency action and that the attached rule is necessitated by the immediate danger. I further certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances and that the rule otherwise complies with subsection 120.54(4), F.S. The adoption of this rule was authorized by the head of the agency and this rule is hereby adopted upon its filing with the Department of State.

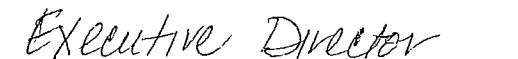
RULE NO.:

68DER 08-02

Under the provision of paragraph 120.54(4)(d), F.S., this rule takes effect upon filing unless a later time and date less than 20 days from filing, is set out below:

Effective: \_\_\_\_\_  
(month) (day) (year)

  
\_\_\_\_\_  
Signature, Person Authorized to Certify  
Rules

  
\_\_\_\_\_  
Title

3  
\_\_\_\_\_  
Number of Pages Certified

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Law Enforcement



RULE NO.:

RULE TITLE:

68DER 08-02

Emergency Regulation of Vessel Traffic – St. Johns River and Tributaries.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC, HEALTH, SAFETY OR

WELFARE: Recent rains from Tropical Storm Fay have caused severe flooding along various portions of the St. Johns River. The river has overflowed its banks in many places and expanded into the flood plain. This flooded condition has created an immediate danger to vessels transiting the area. Objects previously well above the water and objects previously on dry land have become wholly or partially submerged, creating hazards to navigation.

These objects include without limitation, dwellings, electrical and telephone wires, utility poles, trees and stumps, docks and wharfs, boat houses, and sheds. The turbulent and muddy water has caused boats to collide dangerously upon submerged objects without warning. The flood now submerges the accustomed footpaths and handholds.

Within these submerged areas, vessel wakes could cause persons to slip and fall, perhaps into the river. Under these circumstances, there is a substantial likelihood of injury or death. Operation of vessels on the waters of the St. Johns River, its associated lakes, and its tributaries from Lake George to State Road 50 presents an immediate danger to vessels and their occupants and to persons in or near the river when the river is at or above flood stage. Based on river flood levels, emergency regulations either exclude or restrict vessel operation to Idle Speed No Wake.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES:

There is general concurrence from Volusia, Seminole, Brevard, Orange and Lake Counties, the Florida Fish & Wildlife Conservation Commission's field office in Ocala, and the FWC Boating and Waterways Section, that enactment of the restricted areas based on water levels and gauge readings within segments of the St. Johns River, its associated lakes, and its tributaries is essential for the protection of public safety.

The boating restricted areas established in this emergency rule shall be active and enforceable only when the water levels are as specified in each area. The Commission established regulations based on the United States Geological

Survey gauge levels as displayed by the National Weather Service's Advanced Hydrologic Prediction Service. These river levels are available in real time to the general public and to law enforcement agencies through the National Weather Service's web site at [www.weather.gov/ahps](http://www.weather.gov/ahps).

This emergency rulemaking is being coordinated with the United States Coast Guard, the United States Army Corps of Engineers, and the sheriffs of the affected counties. The Commission has consulted with the Executive Office of the Governor and through the sheriffs of the respective counties coordinated this action with the Board of County Commissioners of each county in which the restricted areas are located. The emergency rule will be forwarded to the United States Coast Guard Seventh District for publication in their weekly Local Notice to Mariners. The boating public will be notified by publication in the local notice, by marine VHF radio broadcast of the Coast Guard's local notice, by personal contact from law enforcement officers, and by regulatory markers posted at boat ramps and other access points to the boating restricted areas.

Because the water levels on the St. Johns River are in constant flux, varying in response to wind directions, wind speed, and accumulated rainfall, the danger to life and property is such that normal rulemaking procedures would not adequately protect the public from the anticipated harm. The procedures used in this emergency rulemaking action are therefore fair under the circumstances.

#### SUMMARY OF THE RULE:

This emergency rule supersedes and replaces Emergency Rule 68DER 08-01 filed for adoption with the Department of State on August 25, 2008. This action establishes: 1) An Idle Speed No Wake boating restricted area on the waters south of Lake George fender system to the Highlands Park Canal at Day Mark 39 to be in effect and enforceable when the St. Johns River level is at specified flood stage levels, 2) An Idle Speed and No Vessel boating restricted area from the Highlands Park Canal at Day Mark 39 and the I-4 Bridge to be in effect and enforceable when the St. Johns River level is at specified flood stages, 3) An Idle Speed boating restricted area from the I-4 Bridge to a select location within the southern portion of Lake Monroe to be in effect and enforceable when the St. Johns River level is at specified flood stages, and 4) An Idle Speed and No Vessel boating restricted area south of a select location within the southern portion of Lake Monroe to State Road 50 Bridge to be in effect and enforceable

when the St. Johns River level is at specified flood stages. The exclusion areas will not apply to vessels under the command of U.S. Coast Guard licensed Masters, vessels owned or operated by governmental entities or are being used for governmental purposes, or persons resident at riparian property. Vessels are required to proceed only at Idle Speed No Wake. Residents will be allowed access to their properties at Idle Speed No Wake, but will be required to carry proof of residency and have it available for inspection.

**THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS:**

Major Paul Ouellette, Boating and Waterways Section, Division of Law Enforcement, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE EMERGENCY RULE IS:

68DER 08-02 Emergency Regulation of Vessel Traffic – St. Johns River and Tributaries.

(1) This emergency rule supersedes and replaces Emergency Rule 68DER 08-01 filed for adoption with the Department of State on August 25, 2008.

(2) For the purpose of protecting public safety during flood conditions, the following boating restricted areas are established on the St. Johns River, from shoreline to shoreline and including its associated lakes and its tributaries, as follows:

(a) Lake George fender system and Highlands Park Canal at Day Mark 39 – An Idle Speed No Wake boating restricted area on the St. Johns River, from shoreline to shoreline and including its associated lakes and its tributaries, from a line drawn perpendicular to the centerline of the Lake George fender system south to the line drawn perpendicular to the centerline of the Highlands Park Canal at the south end of that canal at Day Mark 39, to be in effect and enforceable when the St. Johns River level is at 2.8 feet or higher as indicated by the United States Geological Survey gauge at the S. R. 40 Bridge over the St. Johns River at Astor (ASTF1).

(b) Highlands Park Canal at Day Mark 39 and the I-4 Bridge –

1. An Idle Speed No Wake boating restricted area on the St. Johns River, from shoreline to shoreline and including its associated lakes and its tributaries, from a line drawn perpendicular to the centerline of the Highlands Park Canal at the south end of that canal at Day Mark 39 to the centerline of the north span (westbound lanes) of the I-4 Bridge over the St. Johns River, to be in effect and enforceable when the St. Johns River level is at 4.2 feet or higher as indicated by the United States Geological Survey gauge at the S. R. 44 Bridge over the St. Johns River near Deland (DLAF1).

2. A No Vessel boating restricted area on the St. Johns River, from shoreline to shoreline and including its associated lakes and its tributaries, from a line drawn perpendicular to the centerline of the Highlands Park Canal at the south end of that canal at Day Mark 39 to the centerline of the north span (westbound lanes) of the I-4 Bridge over the St. Johns River, to be in effect and enforceable when the St. Johns River level is at 5.0 feet or higher as indicated by the United States Geological Survey gauge at the S. R. 44 Bridge over the St. Johns River near Deland (DLAF1).

(c) I-4 Bridge and Lake Monroe Vicinity - An Idle Speed No Wake boating restricted area on the St. Johns River, from shoreline to shoreline and including its associated lakes and its tributaries, from the centerline of the

north span (westbound lanes) of the I-4 Bridge south and east to a line drawn at 81 degrees 15 minutes 00 seconds West Longitude within Lake Monroe, to be in effect and enforceable when the St. Johns River level is at 7.0 feet or higher as indicated by the United States Geological Survey gauge at the U.S. Highway 17/92 Bridge over the St. Johns River near Sanford (SNFF1).

(d) Lake Monroe to State Road 50 Bridge –

1. An Idle Speed No Wake boating restricted area on the St. Johns River, from shoreline to shoreline and including its associated lakes and its tributaries, south and east of a line drawn at 81 degrees 15 minutes 00 seconds West Longitude within Lake Monroe east and south to the centerline of the S.R. 50 Bridge, to be in effect and enforceable when the St. Johns River level is at 8.5 feet or higher as indicated by the United States Geological Survey gauge at the S.R. 46 Bridge over the St. Johns River above Lake Harney near Geneva (GENF1).

2. A No Vessel boating restricted area on the St. Johns River, from shoreline to shoreline and including its associated lakes and its tributaries, south and east of a line drawn at 81 degrees 15 minutes 00 seconds West Longitude within Lake Monroe east and south to the centerline of the S.R. 50 Bridge, to be in effect and enforceable when the St. Johns River level is at 9.0 feet or higher as indicated by the United States Geological Survey gauge at the S.R. 46 Bridge over the St. Johns River above Lake Harney near Geneva (GENF1).

(3) (a) The restrictions in this rule do not apply:

1. In situations requiring immediate action to protect life, limb, and property from imminent danger;
2. To law enforcement or fire fighting vessels;
3. To rescue vessels owned or operated by governmental entities;

(b) The No Vessel restrictions in paragraph (2) do not apply to the following vessels:

1. Any vessel under the command of an individual licensed by the United States Coast Guard to serve as Master of Steam or Motor Vessels;

2. Vessels owned or operated by governmental entities or are being used for governmental purposes under contract with a governmental entity.

3. Vessels operated by individuals resident at riparian property within the No vessel boating restricted area may traverse these waters but must proceed directly to and from their properties without delay or diversion and must carry proof of residency and have it available for inspection on board the vessel.

4. Proceed only at Idle Speed No Wake.

(4) When in Effect – each boating restricted area established in subsection (2) shall be active and enforceable only when the water level is as specified in each respective paragraph. For purposes of this emergency rule, all referenced river levels are as displayed by the National Weather Service’s Advanced Hydrologic Prediction Service on its web site at [www.weather.gov/ahps](http://www.weather.gov/ahps).

(5) As provided in Section 327.70, F.S., this emergency rule shall be enforced by the Division of Law Enforcement of the Fish and Wildlife Conservation Commission and its officers, the sheriffs of the various counties through which these waters flow and their respective deputies, and any other duly constituted law enforcement officers.

(6) Except as provided in subsection (7), any person failing to comply with the provision of this emergency rule shall be guilty of a noncriminal infraction, punishable as provided in Section 327.73, F.S.

(7) No person shall at any time willfully or wantonly operate any vessel at a speed or in a manner so as to cause a wake that endangers or is likely to endanger life or limb, or damage the property of, any person. Section 327.33(1), FS., provides that any person who willfully or wantonly operates any vessel at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, any person, commits the offence of reckless operation, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, FS.

(8) This emergency rule takes effect immediately upon being filed with the Department of State and will continue in effect for 90 days or until the Executive Director of the Agency finds that the flooding conditions have sufficiently abated so that the restrictions are no longer justified.

(9) This emergency rule does not affect existing state boating restricted areas described in Sections 68C-22.012 and 68D-24.018 F.A.C. that are outside the areas regulated in this emergency rule.

Specific Authority 327.04, 327.46 FS. Law Implemented 327.33, 327.46 FS.

History– New \_\_\_\_\_.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 8/29/2008