

should be considered for designation as manatee refuges.

#### Site Selection Process and Criteria

In order to establish a site as a manatee protection area, we must determine that there is substantial evidence showing such establishment is necessary to prevent the take of one or more manatees. In documenting historic manatee use and harm and harassment, we relied on the best available information (although some data are admittedly sparse), including aerial survey and mortality data and additional information from FMRI and the U.S. Geological Survey's Sirenia Project, manatee experts, as well as the public, and our best professional judgment.

#### Definitions

The following terms are used in 50 CFR 17.108. We present them here to aid in understanding this proposed rule.

*Idle speed* means the minimum speed needed to maintain watercraft steerage.

*Planing* means riding on or near the water's surface as a result of the hydrodynamic forces on a watercraft's hull, sponsons (projections from the side of a ship), foils, or other surfaces. A watercraft is considered on plane when it is being operated at or above the speed necessary to keep the vessel planing.

*Slow speed* means the speed at which a watercraft proceeds when it is fully off plane and completely settled in the water. Watercraft must not be operated at a speed that creates an excessive wake. Due to the different speeds at which watercraft of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to slow speed. A watercraft is *not* proceeding at slow speed if it is—(1) on a plane, (2) in the process of coming up on or coming off of plane, or (3) creating an excessive wake. A watercraft is proceeding at slow speed if it is fully off plane and completely settled in the water, not plowing or creating an excessive wake.

*Slow speed (channel exempt)* designates a larger area where slow speed is required, through which a maintained, marked channel is exempt from the slow speed requirement.

*Slow speed (channel included)* means that the slow-speed designation applies to the entire marked area, including within the designated channel.

*Wake* means all changes in the vertical height of the water's surface caused by the passage of a watercraft, including a vessel's bow wave, stern wave, and propeller wash, or a combination of these.

#### Areas Proposed for Designation as Manatee Refuges

##### *Caloosahatchee River—San Carlos Bay Manatee Refuge*

We are proposing to establish a manatee refuge in the Caloosahatchee River and San Carlos Bay in Lee County (in the Southwest Region) for the purpose of regulating vessel speeds, from the Seaboard Coastline Railroad trestle, downstream to Channel Marker "93," and from Channel Marker "99" to the Sanibel Causeway. Except as provided in 50 CFR 17.105, watercraft will be required to proceed as follows:

a. from the Seaboard Coastline Railroad trestle at Beautiful Island, downstream to a point 152 meters (500 feet) east of the Edison Bridge, a distance of approximately 7.2 km (4.5 miles), slow speed in the marked navigation channel from November 15 to March 31 and not more than 40 kilometers (km) per hour (25 miles per hour (mph)) in the channel from April 1 to November 14;

b. from a point 152 meters (500 feet) east of the Edison Bridge downstream to a point 152 meters (500 feet) west of the Caloosahatchee Bridge, approximately 1.1 km (0.7 miles) in length, slow speed year-round, shoreline-to-shoreline including the marked navigation channel;

c. from a point 152 meters (500 feet) west of the Caloosahatchee Bridge downstream to a point 152 meters (500 feet) northeast of the Cape Coral Bridge, a distance of approximately 10.9 km (6.8 miles), year-round, slow speed shoreline buffers extending out to a distance of approximately 91 meters (300 feet) from the marked navigation channel. (In any location where the distance from the shoreline to within approximately 91 meters (300 feet) of the near side of the channel is less than 0.4 km (0.25 mile), the slow speed buffer will extend to the edge of the marked navigation channel.) Vessel speeds between these buffers (including the marked navigation channel) are limited to not more than 40 km per hour (25 mph) throughout the year;

d. from a point 152 meters (500 feet) northeast of the Cape Coral Bridge downstream to a point 152 meters (500 feet) southwest of the Cape Coral Bridge, a distance of approximately 0.3 km (0.2 mile), slow speed, channel included, year-round;

e. from a point 152 meters (500 feet) southwest of the Cape Coral Bridge to Channel Marker "72," a distance of approximately 1.9 km (or 1.2 miles), slow speed year-round, shoreline buffers extending out to a distance of approximately 91 meters (300 feet) from

the marked navigation channel. (In any location where the distance from the shoreline to within approximately 91 meters (300 feet) of the near side of the channel is less than ¼ mile, the slow speed buffer will extend to the edge of the marked navigation channel.) Vessel speeds between these buffers (including the marked navigation channel) are limited to not more than 40 km per hour (25 mph);

f. from Channel Marker "72" to Channel Marker "82" (in the vicinity of Redfish Point), for a distance of approximately 3.1 km (1.9 miles) in length, slow speed year-round shoreline-to-shoreline, including the marked navigation channel;

g. from Channel Marker "82" to Channel Marker "93," a distance of approximately 3.9 km (2.4 miles), in length, slow speed year-round, shoreline buffers extending out to a distance of approximately 91 meters (300 feet) from the marked navigation channel. (In any location where the distance from the shoreline to within approximately 91 meters (300 feet) of the near side of the channel is less than 0.4 km (0.25 mile), the slow speed buffer will extend to the edge of the marked navigation channel.) Vessel speeds between these buffers, including the marked navigation channel, are limited to not more than 40 km per hour (25 mph);

h. from Channel Marker "99" to the Sanibel Causeway, slow speed year-round in San Carlos Bay within the following limits: a northern boundary described by the southern edge of the marked navigation channel, a line approximately 2.9 km (1.8 miles) in length; a southern boundary described by the Sanibel Causeway (approximately 1.9 km or 1.2 miles in length); a western boundary described by a line that connects the western end of the eastern most Sanibel Causeway island and extending northwest to the western shoreline of Merwin Key (approximately 3.1 km or 1.9 miles in length); the eastern boundary includes the western limit of the State-designated manatee protection area (68C–22.005) near Punta Rassa (approximately 2.9 km or 1.8 miles in length). Speeds are unrestricted in the channel and bay waters to the west of this area.

Manatee presence has been documented in this area through aerial surveys, photo-identification studies, telemetry studies, and a carcass salvage program (Florida Fish and Wildlife Conservation Commission (FWCC, 2000). Per these studies, it is apparent the Caloosahatchee River is used throughout its length throughout the year by manatees. Primary winter-use