

miles), shoreline to shoreline, April 1 to August 31, slow speed, and from September 1 through March 31, not more than 40 km per hour (25 mph);

j. In waters north of Ponce Inlet, between Live Oak Point and Channel Marker "2," a distance of approximately 2.9 km (1.8 miles), slow speed, year-round, shoreline to shoreline; in waters adjacent to Ponce Inlet, slow speed, year-round outside of the marked navigation channel and other marked access channels, with not more than 40 km per hour (25 mph) in the marked channels; in waters within Ponce Inlet, speeds are restricted to not more than 48 km per hour (30 mph);

k. In the Intracoastal Waterway from Redland Canal to the A1A Bridge (New Smyrna Beach), for a distance of approximately 5.3 km (3.3 miles) in length, slow speed, year-round, channel included.

Manatee presence has been documented in this area through aerial surveys, photo-identification studies, telemetry studies, and a carcass salvage program (FWCC, 2000). In general, manatees primarily use the Halifax River as a travel corridor (Deutsch, 1998, 2000); manatees use the downtown Daytona Beach area marinas as a source of drinking water and may calve here. The Tomoka River system is a known calving area, as evidenced by observations of calving manatees (McNerney, 1982) and aerial observations of significant numbers of cow and calf pairs (FWCC, 2000). Other activities observed throughout these systems include playing and/or engaging in sexual activity, feeding, and resting. Manatees are known to occur in these areas throughout the year (Deutsch, 1998, 2000), although they are more abundant during the warmer months of the year (FWCC, 2000).

Two hundred and eight manatee deaths occurred in Volusia County between 1974 and 2002 (FWCC: FMRI Manatee Mortality Database, 2003). This number includes 60 watercraft-related deaths. Of these, 30 watercraft-related deaths occurred in coastal Volusia County, (including 6 deaths in the Tomoka River system and 16 in the Halifax River). Twenty of these deaths have occurred over the past 10 years and seven of these over the past 2 years. Three of the watercraft-related deaths occurred in the Tomoka River in 2001. Carcass recovery sites for manatees known to have died as a result of watercraft collision include the lower Tomoka River and tributaries, the Halifax River in downtown Daytona Beach, areas to the south of Channel Marker "40" and the Dunlawton Bridge, and areas to the south of Ponce Inlet.

Watercraft-related deaths occur between the months of March and October, with most occurring in May, June, and July.

The existing, State-designated manatee protection areas in coastal Volusia County were adopted by the State of Florida in 1994 (68C-22.012 FAC). These measures include slow and idle speed restrictions in the Tomoka River and associated waterbodies (except for in those areas upstream and downstream of Alligator Island), 91-meter (300-foot) shoreline buffers along most of the Halifax River (with maximum speeds varying between 40 and 48 km per hour (25 and 30 mph) outside of the buffers), slow speeds in the downtown Daytona Beach area (except for a watersports area to the south of Seabreeze Bridge), and a complex of varying restrictions between the Dunlawton Bridge and New Smyrna Beach. The existing State measures include 10 different types of restrictions that are used to restrict 30 discrete areas within the area of the proposed refuge. Fifteen watercraft-related manatee deaths were documented within the area of the proposed refuge since the protection areas were first adopted. Seven of these deaths occurred in 2001, and no watercraft-related deaths were known to have occurred in 2002.

We believe the proposed measures in this regulation will improve manatee protection and will prevent the take of at least one manatee through harassment, injury, and/or mortality by extending coverage to currently unprotected areas used by manatees, and by improving the ability of the public to understand and thus, comply, with protection measures through simplification of restrictions. The increased width of the shoreline buffers along the Halifax River will provide a greater margin of safety for manatees.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

1. The reasons why any of these areas should or should not be designated as manatee refuges, including data in support of these reasons;

2. Current or planned activities in the subject areas and their possible effects on manatees;

3. Any foreseeable economic or other impacts resulting from the proposed designations;

4. Potential adverse effects to the manatee associated with designating manatee protection areas for the species; and

5. Any actions that could be considered in lieu of, or in conjunction with, the proposed designations that would provide comparable or improved manatee protection.

Comments submitted electronically should be embedded in the body of the e-mail message itself or attached as a text-file (ASCII), and should not use special characters and encryption. Please also include "Attn: RIN 1018-AJ06," your full name, and return address in your e-mail message. Comments submitted to manatee@fws.gov will receive an automated response confirming receipt of your message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Jacksonville Field Office (see ADDRESSES section).

Our practice is to make all comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold also from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such a review is to ensure that our decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the comment period, on the specific assumptions and conclusions regarding the proposed designation of these manatee protection areas.