

the proposal, we have determined that either alternative or existing measures are sufficient to protect manatees (see "Summary of Comments and Recommendations" and "Summary of Changes From the Proposed Rule" below).

#### Effective Date

This rule is effective 30 days after the date of this publication and once the manatee protection areas are marked and posted.

#### Definitions

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

*Planning* 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. Exceptions to slow speed restrictions are contained in 50 CFR 17.105 and include activities “\* \* \* reasonably necessary to prevent the loss of life or property due to weather conditions or other reasonably unforeseen circumstances, or to render necessary assistance to persons or property”.

*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 (although the channel may also have a higher posted speed limit). Exceptions to slow speed restrictions are contained in 50 CFR 17.105 and include activities “\* \* \* reasonably necessary to prevent the loss of life or property due to weather conditions or other reasonably unforeseen circumstances, or to render necessary assistance to persons or property”.

*Slow speed (channel included)* means that the slow-speed designation applies to the entire marked area, including within the designated channel. Exceptions to slow speed restrictions are contained in 50 CFR 17.105 and include activities “\* \* \* reasonably necessary to prevent the loss of life or property due to weather conditions or other reasonably unforeseen circumstances, or to render necessary assistance to persons or property”.

*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.

#### Summary of Comments and Recommendations

In the April 4, 2003, proposed rule (68 FR 16602), we requested all interested parties to submit factual reports or information that might contribute to the development of a final rule. We published legal notices announcing the proposal, inviting public comment, and announcing the schedule for public hearings, in the *Fort Myers News-Press*, *Daytona Beach News-Journal*, *Naples Daily News*, *Orlando Sentinel*, *Charlotte Sun-Herald*, *Sarasota Herald-Tribune*, *Florida Times-Union*, *St. Augustine Record*, and *Clay Today*. We held the public hearings at the Harborside Convention Hall in Fort Myers, Florida, on May 13, 2003; the Ocean Center in Daytona Beach, Florida, on May 14, 2003; and at the University Center, University of North Florida, in Jacksonville, Florida, on May 15, 2003. Approximately 3,325 people attended the public hearings. We received oral comments from 203 individuals. The comment period closed on June 3, 2003.

In addition to soliciting comments from the public, we solicited peer review comments from three independent experts in manatee ecology, boating activity, and waterway regulation, from The Ocean Conservancy, Mote Marine Laboratories, and the United States Coast Guard, respectively. Their comments and our responses are summarized below.

During the comment period, we received approximately 5,931 written and oral comments concerning the proposal. Most were form letters expressing support for the proposed designation; however, most substantive comments expressed concern or opposition to the proposed action. The following is a summary of the comments received and our responses. Comments of a similar nature have been grouped together.

*Comment 1:* Several commentors, including the FWCC, suggested that the Service does not have the resources to enforce these additional zones. They are concerned that lack of enforcement will result in the new zones being less protective than the existing zones. The FWCC also expressed concern that, in areas where Federal and State speed zones overlap, enforcement by State law enforcement officers may be complicated.

*Response 1:* We are fully committed to implementing these protection areas, including enforcement of these areas upon posting. However, we are very aware of the fact that compliance is critical to the effectiveness of manatee protection area regulations and that compliance is facilitated, in large part, by enforcement. We are also aware that enforcement resources are limited at all levels of government, and that cooperation among law enforcement agencies is needed to maximize effectiveness of limited resources. We know that State and local law enforcement agencies have many enforcement mandates in addition to manatee protection and that it may be difficult for these agencies to make enforcement of Federal manatee protection areas a high priority, particularly if they do not agree that the Federal designations are necessary or appropriate.

We believe that local and State law enforcement improves compliance with Federal designations and leads to more effective Federal rules. The final rule has been designed to reflect the best available information regarding manatee and boating use of these waters, and was also intended to address (to the extent possible) State and local concerns regarding the proposed rule. We have attempted to make our designations consistent with existing regulations, where possible, in order to minimize the boating public's confusion and facilitate signage, enforcement, and compliance, while ensuring appropriate protection for manatees.

*Comment 2:* Several commentors believe that adoption of new zones at this time is premature. The FWCC stated that they are currently studying the zones in Lee and Duval Counties and are currently collecting new data in Volusia County. Their report on Duval County is expected in November 2003. The new data collection from Volusia County is expected to be completed in June 2004.

*Response 2:* We have concluded that the actions identified in the final rule are warranted and prudent to undertake at this time, and that sufficient information is currently available to