

*Response 51:* We agree.

*Comment 52:* One commentor claims that the proposed zones in the Halifax River will help improve boater compliance by reducing the complex mosaic of different zones without indicating how the proposed zones would be more understandable than the existing zones.

*Response 52:* Based on our analysis and information provided by Volusia County, we have determined that aspects of our proposed zones would have actually created additional confusion, while eliminating very little (see Response 39). Our final designations provide for some simplification of the regulations in this area; further improvements are dependent on State action. We have attempted to design our manatee protection areas to avoid hindering future State actions, while ensuring appropriate protection for manatees.

*Comment 53:* One commentor stated that the Service has previously designated both refuges and sanctuaries in areas without documented mortality; therefore, these proposed refuges are fully justified.

*Response 53:* Manatee protection area designations serve different purposes in different areas. The previously designated protection areas to which the commentor is referring were located at and around warm water sites where take by harassment was the primary concern. By contrast, the proposed regulations are not specifically designed to provide additional protection at warm water sites, except in a small portion of the upstream extent of the Caloosahatchee River-San Carlos Bay Manatee Refuge (i.e., in the vicinity of the Seaboard Coastline Railroad trestle to the Beautiful Island area). There are, in fact, no warm water aggregation sites within either the Lower St. Johns River Manatee Refuge or the Halifax and Tomoka Rivers Manatee Refuge. Rather, the purpose of the proposed refuges, which establish slow speed zones, is to minimize the risk of high-speed collisions between watercraft and manatees in areas where collisions are likely to occur.

*Comment 54:* We received two comments regarding the effects of the proposed regulations on seaplane operations. Both recommended that seaplanes in general should be excluded from regulation under the rules, and one identified a seaplane operation that would be severely affected by the proposed speed restrictions on the Caloosahatchee River.

*Response 54:* According to our regulations the terms "Water vehicle, watercraft, and vessel" are defined to

include, but are not limited to, "boats (whether powered by engine, wind, or other means), ships (whether powered by engine, wind, or other means), barges, surfboards, personal watercraft, water skis, or any other device or mechanism the primary or an incidental purpose of which is locomotion on, or across, or underneath the surface of the water." This definition is sufficiently broad to include seaplanes, and the 25-mph speed limit on the Caloosahatchee River would effectively preclude the use of seaplanes in this area. After reviewing the information provided during the public comment period we have concluded that the seaplane business currently operating on the Caloosahatchee River poses an insignificant and discountable threat to manatees. Based on information provided during the public comment period, the seaplanes operating at this location take off and land in the middle of the river, well outside the existing 0.25 mile buffer zones. This portion of the river does not receive significant manatee use, based on review of aerial survey and telemetry data. During take-off and landing, the seaplanes are operating at speeds in excess of 25 mph for no more than a few seconds over a distance of approximately 1,500 feet. Given the location on the river and the short distance involved, it is exceedingly unlikely that seaplanes would encounter manatees while taking off and landing.

By definition, a manatee refuge is an area in which "certain" waterborne activities are restricted to prevent the taking of one or more manatees. For the portion of the Caloosahatchee River-San Carlos Bay Refuge between the Caloosahatchee River Bridge and the Cape Coral Bridge (the area currently utilized by seaplanes), we have concluded that the waterborne activities to be regulated per this rule need not include seaplanes. As such, the final rule has been modified to state that in this portion of the Caloosahatchee River all watercraft, except seaplanes, are required to operate at speeds less than 25 mph. As far as we know, no other seaplane operations would be affected by these regulations, so we are not adopting a broader exclusion for seaplanes at this time.

*Comment 55:* One peer reviewer commented that, based on boat surveys he conducted in the Caloosahatchee River, it appears that the proposed rule should not have a significant impact on the majority of boaters using this river because—(1) The Caloosahatchee River functions as a boating corridor as opposed to a destination (i.e., it is used as a pathway to and from other boating

destinations); (2) the majority of boat traffic remains within or near the Intracoastal Waterway when traveling through the river; and (3) speedgun studies conducted in the river prior to a numerical speed regulation demonstrated that the average vessel speed was 24.33 mph. Similar speedgun results have been found in other areas. Many of the public comments, however, expressed concern that the proposed rule would concentrate boat traffic within the navigation channel, thereby compromising boater safety.

*Response 55:* The available research on boating activity in this area (as summarized in the reviewers' comments) appears to indicate that threats to boater safety are more perceived than actual. Nonetheless, these perceptions are strong among local boaters and would clearly undermine public support for the proposed speed zones, thereby compromising compliance and ultimately the effectiveness of the regulation. Additionally, we have determined that the configuration of the proposed rule lacks a solid biological basis (see Response 25). As such, we have modified the final rule to better reflect the best available information regarding manatee use of this river, which will have the additional benefit of assuaging boater concerns for safety.

*Comment 56:* Many commentors believe that the economic impacts of the rule are underestimated. In particular, several commentors believe that the rule fails to properly analyze the full range of businesses that will be affected or the cumulative effect of reduced boating in Florida resulting from slower speed zones. Some commentors stated that the proposed rule does not adequately address how the restrictions will affect the dock building industry, restaurants, hotels, and marinas. Other commentors indicated that businesses dependent on water access or transportation, such as commercial fishing, waterfront restaurants, and fishing guides, would be severely impacted and may no longer be economically viable. One commentor believes all service industries on the Caloosahatchee River would be affected. One commentor believes that the economic impact on commercial fishing is dismissed in the analysis. Another commentor noted that recreational fishing trips will be affected.

*Response 56:* The discussion in the proposed rule assesses in a qualitative manner the economic effects of the rule to determine if it would have a significant economic effect. In order to make this determination, we examined the categories of impact that are likely to have minor impact and focused on