

*Response 63:* There is very little published information available regarding the impact of slow speed zones on property values. We believe that more information is needed to better understand the impact of manatee protection areas on property values in specific areas. Given the timeframe of the analysis, performing primary research, such as an original study of property values, was not feasible. The study by Bell and McLean appears to be one of the few studies and the most recent study addressing this issue.

*Comment 64:* Several commentors suggested that tax revenues from a loss in property values could be negatively impacted by the rule. That is, property value reductions in an area may lead to lower real estate and other tax revenues.

*Response 64:* While some existing properties may realize a gain in value (thereby generating greater tax revenues), other properties may experience a loss in value (thereby reducing tax revenues). Given the lack of data, it is difficult to know the magnitude of this overall effect. However, the Bell and McLean (1997) study suggests that property values may increase with slow speed zone implementation, which would lead to increased tax revenue. However, given the timeframe of the analysis, performing the primary research to determine the overall effect was not feasible.

*Comment 65:* One commentor believes the rule to be a major rule (will have an annual impact of more than \$100 million on the economy), given that it threatens the recreation of 1.4 million boaters in Florida and a \$15 billion marine industry in Florida.

*Response 65:* It appears that the commentor's boater and marine industry information is based on a 2001 study performed by Thomas J. Murray and Associates for the Marine Industries Association of Florida, titled "Florida's Recreational Marine Industry—Economic Impact and Growth 1980–2000" (no citation was provided). This study conducts a regional economic impact of retail sales by motorboat and yacht dealers in the State of Florida (Revenue Kind Code 28). The analysis estimates the direct, indirect, and induced impacts associated with this sector to calculate the \$14.1 billion economic impact. We have focused on the economic impact likely resulting from the rule—those impacts associated with a reduction in marine recreational and commercial fishing activities due to slow speed zones. Murray *et al.* measures an impact not associated with the proposed rule; thus, these impacts

have not been incorporated into the analysis.

*Comment 66:* The Small Business Administration's Office of Advocacy (SBA-Advocacy) recommends that the Service complete an Initial Regulatory Flexibility Analysis.

*Response 66:* This screening-level study indicates that changes to existing speed zones would affect a number of small entities, but the economic impacts would not be to a substantial number of entities. In addition, we believe that the rule would not have a significant economic impact on these affected entities. Because we certify that this rule would not have a significant economic impact on a substantial number of small entities, an Initial Regulatory Flexibility Analysis is not required.

*Comment 67:* SBA-Advocacy recommends that the Service refine its analysis in order to determine whether a substantial number of small entities will be significantly affected by the rule. In particular, SBA-Advocacy suggests revising the analysis to focus exclusively on entities affected by the rule.

*Response 67:* Based on a review of publicly available data sources, the data that would be needed to satisfy SBA-Advocacy's concerns are not available. Alternative analyses, different from the one described in the proposed rule, could be conducted; however, none of these analyses would be able to produce the level of detail recommended by SBA-Advocacy.

*Comment 68:* SBA-Advocacy has indicated that, as a result of preliminary outreach conducted, a substantial number of small entities will face significant economic impacts from the rule. Affected entities identified generally by SBA-Advocacy include charter fishing companies, a ferry company, a boat builder, harbor facilities, restaurants, marine construction firms, and realtors. SBA-Advocacy recommended that the Service conduct outreach to affected small entities to obtain information on the potential impacts of the proposed rule and to solicit input on alternatives to minimize regulatory burdens imposed on small entities.

*Response 68:* While we agree that there is the potential for an economic effect on a number of small entities in the affected area, information on the total number of small businesses in the affected area does not exist. Conducting outreach efforts to obtain data on the impact to small entities, beyond providing a public review comment period, would require a level of effort that is incompatible with the timeframe of the rule. In addition, we received no

comments during the public comment that included information on substantial numbers of entities impacted, or significant impacts.

Furthermore, Federal courts and Congress have indicated that a Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act (RFA/SBREFA) analysis should be limited to direct and indirect impacts on entities subject to the requirements of the regulation. As such, entities not directly regulated by the proposed establishment of manatee protection areas need not be considered in this RFA/SBREFA screening analysis. For example, SBA-Advocacy suggested impacts on restaurants and realtors should be considered; however, these entities are not subject to the restrictions on speed at which a boat can travel, and are therefore correctly excluded from the analysis.

*Comment 69:* One commentor suggested his fast ferry business would experience dire effects from the regulation. Another commentor suggested his jet ski business would be negatively affected. Other commentors suggested that the rule would impact small businesses.

*Response 69:* Because of its location in Fort Myers, this ferry service is currently incurring costs related to speed zones affecting its travel time. The commentor did not provide a specific estimate of how much time would be added to his trip that would impact the value of his business. While the length of a trip aboard this ferry service will be affected, it may still be the fastest alternative available to consumers and consumers may still choose this option. Given available information, it is difficult to determine whether this business will be significantly affected. Because the jet ski business indicated that personal watercraft sales and service are only approximately 20 percent of revenues for this business and the expected reduction in sales and service related to jet skis is 17 to 25 percent, the expected overall impact on revenues would be less than 5 percent. Based on further review by the Service and in response to various comments, the speed zone restrictions initially proposed have been reduced in the final rule. Therefore, the impacts anticipated by the commentors will likely also be reduced correspondingly. Given our analysis of available information, we continue to believe that the economic impact of the speed zones in the final rule will not result in significant impacts to a substantial number of small entities.