

### Summary of Changes From the Proposed Rule

In the Caloosahatchee River-San Carlos Bay Manatee Refuge, we have reduced the length of the seasonal slow speed area of the channel from the Seaboard Coastline Railroad trestle. This portion of the manatee protection area was proposed to be approximately 7.2 km (4.5 miles) in length and has been reduced to approximately 1.6 km (1.0 mile). Based on the comments as well as a more thorough evaluation by our biologists, we have modified our proposed rule to better reflect the best available information regarding manatee use of this area. The final rule designates the portion of the Caloosahatchee River navigation channel from the Seaboard Coastline Railroad trestle downstream to Channel Marker "25" to be slow speed in the channel from November 15 to March 31, and not more than 25 mph in the remainder of the year.

Aerial survey data indicate that manatees do occur throughout this portion of the river throughout the year. However, the analysis of available data by FMRI (FWCC 2002) indicates that manatees are less likely to occur near the navigation channel downstream of the general area of Marker "25." This generally coincides with the change in the physiography of the river in this area. The river narrows upstream of Channel Marker "25" and Beautiful Island and other smaller islands act to further constrict the river. This explains the change in manatee distribution at this point in the river. Manatees are more likely to be found in and near the navigation channel upstream of Marker "25" than downstream. This fact, combined with the above-referenced lower level of boat traffic in this portion of the river relative to areas further downstream, led us to conclude that the existing regulations downstream of Marker "25" were sufficient, whereas increased protection is warranted between Marker "25" and the railroad trestle.

In three segments of the main body of the river, we are establishing "slow speed" shoreline buffers similar to the existing 0.40-km (0.25-mile) shoreline buffers, and are establishing a speed limit not to exceed 40 km per hour (25 mph) between the buffers. In the proposed regulations, the shoreline slow speed buffers would have extended out to within 91 meters (300 feet) of the marked navigation channel. We conducted a more detailed review of the recent special study of the Caloosahatchee River by the Florida Marine Research Institute (FWCC 2002)

and it appears that the majority of manatee use in this area occurs within the current 0.40 km (0.25 mile) shoreline buffer. We believe these changes better reflect the known shoreline use patterns of manatees, allow boaters to have more time to avoid manatees should they be encountered between the buffers, and provide manatees greater time to react to oncoming vessels. Our final regulation states that the slow speed shoreline buffers will have a minimum width of 0.40 km (0.25 mile), as marked, recognizing that in some locations signage may be placed at a slightly greater distance from shore in order to provide a more easily identifiable boundary.

While we acknowledge that water depths of 6 feet or greater afford manatees greater opportunity to avoid collisions with watercraft, it does not appear that the 6-foot contour line approximates manatee distribution in this portion of the river, as this contour extends a great distance from shore in this area (particularly from the western shoreline), whereas manatee aerial survey data show manatee use concentrated closer (generally within 0.40 km (0.25 mile)) to shore.

For the portion of the Caloosahatchee River—San Carlos Bay Refuge between the Caloosahatchee River Bridge and the Cape Coral Bridge, we have concluded that the waterborne activities to be regulated per this rule need not include seaplanes. 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 0.40 km (0.25 mile) buffer zone. 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 40 km per hour (25 mph) for no more than a few seconds over a distance of approximately 457 meters (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. 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.

At Redfish Point, we are reducing the downstream extent of the shoreline to shoreline slow speed zone from Channel Marker "82" to Channel Marker "76." This better reflects the known manatee use patterns and provides a slow speed corridor for manatees crossing between the canals of Cape Coral and Deep Lagoon. We conducted a more detailed review of the available data and concluded that sufficient manatee protection could be achieved in this area by reconfiguring and shortening the slow speed zone. Our analysis of aerial and telemetry data indicates that manatee use is greatest between Channel Markers "72" and "76."

In San Carlos Bay, the navigation channel and adjacent waters from Channel Marker "99" south to the Sanibel Causeway will be excluded from regulation. The proposal to make this slow speed would have potentially done more harm than good for manatees utilizing the shallow seagrass flats of San Carlos Bay because the high volume of traffic would likely be diverted to the "Miserable Mile" channel where the manatees occur in the adjacent shallow seagrass flats. The diversion of a high volume of watercraft traffic into an already-congested channel may have also created a human safety issue. The final designation protects the known areas of high manatee use in San Carlos Bay.

In the Lower St. Johns River Manatee Refuge, we have reduced the downstream extent of the manatee protection area from Reddie Point to Channel Marker "73," a distance of about 1.6 kilometers (1 mile). Existing manatee protection measures downstream of Channel Marker "73" to Reddie Point are sufficient, provided that signage is improved by the State, and moving the boundary will improve compliance in the area without compromising manatee protection. We intend to work with the State to improve the signage in the Reddie Point area.

Shoreline buffers in the St. Johns River upstream of the Fuller Warren Bridge have been revised to be from 213 to 305 meters (700 to 1,000 feet) in the river (as marked) and 213 to 274 meters (700 to 900 feet) in Doctors Lake (as marked). This will encompass the areas of highest known manatee use. The adopted zone width will allow us to approximate the current manatee protection area configuration, remedy the posting issue with the current zones, and minimize any perceived increased risk to human safety in Doctors Lake as a result of our action.

In the Halifax and Tomoka Rivers Manatee Refuge, there have been several