

## CHAPTER 68C-22 MANATEES

68C-22.001 Scope and Purpose.

68C-22.002 Definitions.

### 68C-22.001 Scope and Purpose.

(1) This rule chapter implements Section 370.12(2), F.S., (the Florida Manatee Sanctuary Act) by establishing restrictions to protect manatees from harmful collisions with motorboats and from harassment; to protect manatee habitat, such as seagrass beds, from destruction by boats or other human activity; and to provide limited safe havens where manatees can rest, feed, reproduce, give birth or nurse undisturbed by human activity. The Commission shall only regulate motorboat speed and operation in areas where manatees are frequently sighted and the best available scientific information, as well as other available, relevant, and reliable information supports the conclusion that manatees inhabit such areas on a regular or periodic basis. Information considered by the Commission may include but is not limited to manatee surveys, observations, available studies of food sources, and water depths.

(2) When establishing manatee protection zones as provided above, the Commission shall utilize the standards provided under paragraph (2)(a), below, in determining whether restrictions are necessary to protect manatees or manatee habitat. The Commission shall not establish restrictions that result in undue interference with the rights of fishers, boaters, and water skiers (as they apply under Section 370.12(2)(k), F.S.).

(a) The Commission utilizes the following standards in determining whether restrictions are necessary to protect manatees or manatee habitats in areas of regular or periodic manatee use:

1. Restrictions are necessary if the absence of adequate restrictions will likely result in:

- a. Injury or death to manatees; or
- b. Harassment of manatees; or
- c. Destruction of essential manatee habitat.

2. In determining whether restrictions are necessary, the Commission will consider, but not be limited to an examination of, the following factors:

- a. The patterns and intensity of known boating activities in the area;
- b. Seasonal and/or year-round patterns of manatee use;
- c. The number of manatees that the Commission has concluded use the area on a regular or periodic basis;
- d. The manatee mortality trends within the area;
- e. The existence of features within the area that are essential to the survival of, or are known to attract, manatees, such as seagrasses or other food sources, favorable water depths, and fresh or warm water sources;
- f. The characteristics of the waterway; and
- g. Whether the Commission's measurable biological goals that define manatee recovery are being achieved in the region that is being considered.

(b) Regarding the measurable biological goals referenced in paragraph (2)(a), above, in regions where the goals are being achieved, the Commission shall give great weight to existing state manatee protection rules; however, the Commission may amend existing rules or adopt new rules in these areas to address risks or circumstances in a particular area or water body.

(c) In consideration of balancing the rights of fishers, boaters, and water skiers to use waters for recreational and commercial purposes (as applicable under Section 370.12(2)(k), F.S.), with the necessity for boat speed regulation to protect manatees and manatee habitat in identified manatee use areas, the Commission may designate limited lanes or corridors to provide for reasonable motorboat speeds (25 mph or greater) or not regulate sufficient portions in order to accommodate activities that require higher speeds, upon a finding that such lanes, corridors, or areas are consistent with manatee protection needs.

*Specific Authority 370.12(2)(g)-(j), (l), (n), (o) FS. Law Implemented 370.12(2)(d), (g)-(l), (n), (o) FS. History—New 3-19-79, Formerly 16N-22.01, Amended 12-30-86, 6-16-93, 9-9-93, Formerly 16N-22.001, Amended 5-31-95, 6-25-96, 5-12-98, Formerly 62N-22.001, Amended 12-23-03, 11-8-05.*

### 68C-22.002 Definitions.

When used in these rules, the following words shall have the indicated meanings unless the context clearly indicates otherwise:

(1) "Idle Speed" and "Idle Speed No Wake" may be used interchangeably and mean that a vessel must proceed at a speed no greater than that which will maintain steerageway and headway. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow.

(2) "Miles" means statute miles.

(3) "Motorboats prohibited zone" as used in Chapter 68C-22, F.A.C., is synonymous with the definition of the "no power-driven vessels" zone defined in paragraph 68D-23.103(2)(d), F.A.C., and means that all vessels equipped with any mechanical means of propulsion are prohibited from entering the marked area unless the mechanical means of propulsion is not in use and, if possible to do so, is tilted or raised out of the water.

(4) "Slow Speed" and "Slow Speed Minimum Wake" may be used interchangeably and mean that a vessel must be fully off plane and completely settled into the water. The vessel must then proceed at a speed which is reasonable and prudent under the prevailing circumstances so as to avoid the creation of an excessive wake or other hazardous condition which endangers or is likely to endanger other vessels or other persons using the waterway. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, there is no specific numerical speed assigned to Slow Speed. A vessel that is:

(a) Operating on plane is not proceeding at this speed;

(b) In the process of coming off plane and settling into the water or coming up onto plane is not proceeding at this speed;

(c) Operating at a speed that creates an excessive wake or other hazardous condition which unreasonably or unnecessarily endangers other vessels or other persons using the waterway, or is likely to do so, is not proceeding at this speed;

(d) Completely off plane and which has fully settled into the water and is proceeding at a reasonable and prudent speed with little or no wake is proceeding at this speed.

(5) "Maximum 25 MPH Speed Zone" means a controlled area within which a vessel's speed made good over the bottom, measured in statute miles, shall not exceed 25 miles per hour. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at 25 MPH to do so, this speed limit shall not be construed as permitting the reckless or careless operation of a vessel, in violation of Section 327.33, F.S., or authorizing any vessel to travel at an unsafe speed, in violation of navigation rule 6, as adopted pursuant to Section 327.33, F.S., by reason of:

(a) Having an elevated bow which restricts visibility, or

(b) Producing an excessive wake or other hazardous condition that endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.

(6) "Maximum 30 MPH Speed Zone" means a controlled area within which a vessel's speed made good over the bottom, measured in statute miles, shall not exceed 30 miles per hour. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at 30 MPH to do so, this speed limit shall not be construed as permitting the reckless or careless operation of a vessel, in violation of Section 327.33, F.S., or authorizing any vessel to travel at an unsafe speed, in violation of navigation rule 6, as adopted pursuant to Section 327.33, F.S., by reason of:

(a) Having an elevated bow which restricts visibility, or

(b) Producing an excessive wake or other hazardous condition that endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.

(7) "Maximum 35 MPH Speed Zone" means a controlled area within which a vessel's speed made good over the bottom, measured in statute miles, shall not exceed 35 miles per hour. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at 35 MPH to do so, this speed limit shall not be construed as permitting the reckless or careless operation of a vessel, in violation of Section 327.33, F.S., or authorizing any vessel to travel at an unsafe speed, in violation of navigation rule 6, as adopted pursuant to Section 327.33, F.S., by reason of:

(a) Having an elevated bow which restricts visibility, or

(b) Producing an excessive wake or other hazardous condition that endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.

(8) "Shoreline" means the point where the water meets the land at any point in time.

(9) "General Contour of the Shoreline" means a line defined as the most waterward of the outside edge of emergent aquatic vegetation, if present, or a line of Mean Low Water as defined in Chapter 177, Part II, F.S., as approximated on NOAA nautical charts. Waters lying landward of this line are to be included up to the shoreline, as defined under subsection (8), above. Emergent aquatic vegetation shall include plants rooted in the ground that extend above the surface of the water.

(10) "Channel" means a navigation route that is marked by aids to navigation that have been authorized by permits issued by all required state and federal authorities.

(11) "No Entry Zone" or "No Entry Area" means a controlled area where all vessels and all persons, either in vessels or swimming, diving, wading, or fishing (except from an adjacent bank or bridge when using poles or lines which are not equipped with a fishing line retrieval mechanism, e.g., a cane pole) are prohibited from entering.

(12) "Authorized Resident" means any person owning a fee or leasehold interest in real property or a boating facility immediately adjacent to a motorboats prohibited zone or a no entry zone.

(13) "Rights of Fishers, Boaters, and Water Skiers" (as they apply under Section 370.12(2)(k), F.S.), means that fishers, boaters, and water skiers have the right to use the waters of the State of Florida for recreational or commercial purposes in a manner consistent with all applicable federal, state and local laws and regulations. Such laws and regulations include, but are not limited to, those governing the operation and safety of vessels on the water to promote public safety, environmental/natural resource protection, and/or responsible use of the waters of the State.

(14) "Undue Interference" with the rights of fishers, boaters, and water skiers (as it applies under Section 370.12(2)(k), F.S.) occurs:

(a) If the Commission regulates boat speeds generally throughout the waters of the state; or

(b) If the Commission establishes regulations that encompass a larger geographic area or time frame than is warranted; set speed limits that are more restrictive than are warranted; encompass an area where the Commission has not determined that restrictions are necessary to protect manatees or manatee habitat pursuant to paragraph 68C-22.001(2)(a), F.A.C.; or fail to provide limited lanes or corridors providing for reasonable motorboat speeds, as called for in paragraph 68C-22.001(2)(b), F.A.C.

(15) "Planing" means riding on or near the water's surface as a result of the hydrodynamic forces on a vessel's hull, sponsons, foils or other surfaces. A vessel is considered "on plane" when it is being operated at or above the speed necessary to keep the vessel planing.

(16) "Wake" means all changes in the vertical height of the water's surface caused by the passage of a vessel including, but not limited to, a vessel's bow wave, stern wave, and propeller wash.

(17) "Harassment" means any intentional or negligent act or omission which creates the likelihood of causing an injury to a manatee by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, breeding, feeding or sheltering. The intentional provision of any type of food to manatees not in captivity shall be considered harassment under this definition, unless authorized by a valid federal or state permit.

(18) "Maximum 20 MPH Speed Zone" means a controlled area within which a vessel's speed made good over the bottom, measured in statute miles, shall not exceed 20 miles per hour. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at 20 MPH to do so, this speed limit shall not be construed as permitting the reckless or careless operation of a vessel, in violation of Section 327.33, F.S., or authorizing any vessel to travel at an unsafe speed, in violation of navigation rule 6, as adopted pursuant to Section 327.33, F.S., by reason of:

(a) Having an elevated bow which restricts visibility, or

(b) Producing an excessive wake or other hazardous condition that endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.

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