Approved Uniform Waterway Marker Standards
For Posting
Manatee Protection Zones
in Florida’s Waterways

Produced by:

U.S. Fish & Wildlife Service

Florida Fish and Wildlife Conservation Commission
Boating and Waterways Section

Coastal and Waterways Division

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List of Abbreviations

Aid to Navigation                                               ATON
Code of Federal Regulations                                      CFR
Department of Environmental Protection                          DEP
Endangered Species Act                                          ESA
Florida Administrative Code                                     F.A.C.
Florida Fish and Wildlife Conservation Commission               FWC
Florida Statutes                                                F.S.
Global Information System                                       GIS
Global Positioning System                                       GPS
Intracoastal Waterway                                           ICW
Local Notice to Mariners                                        LNM
Marine Mammal Protection Act                                    MMPA
Miles per Hour                                                  MPH
Post, Buckley, Schuh & Jernigan, Inc.                           PBS&J
U.S. Coast Guard                                                USCG
U.S. Corps of Engineers                                         USCOE
U.S. Fish and Wildlife Service                                  FWS

Acknowledgements

This report was developed through the efforts of a coalition of stakeholders participating within the Manatee Protection Working Group under the auspices of the Florida Manatee Recovery Team. The team consists of representatives, often with varying interests, from the U.S. FWS, USCG, FWC, Mote Marine Laboratory, Save the Manatee Club, Marine Industries Association, Defenders of Wildlife, Coastal Conservation Association of Florida, the Ocean Conservancy and Standing Watch, Fish and Wildlife Research Institute, and the Florida Inland Navigation District.

This report represents the combined knowledge, experience, and expertise of the participants and provides for the guidelines established herein for posting practices, planning and implementing waterway regulatory markers, as well as benchmarks for evaluating and improving current posting strategies.
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  Chapter 68D-23 Florida Administrative Code
  Code of Federal Regulations, Title 50, Chapter 1, Part 17-100
Introduction

This document was developed to provide an approved uniform waterway marker standard for posting Federal and State manatee protection zones in Florida’s waterways.

The marker standardization process utilized by the U.S. Fish and Wildlife Service (FWS) and the Florida Fish and Wildlife Conservation Commission (FWC) for the installation of waterway markers in these zones is illustrated in this document.

Without uniform and universal standards, boaters who travel through different jurisdictions may face inconsistent messages which may lead to confusion. A standard for waterway markers insures that markers are designed for the first-time viewer and that messages are kept brief. Marker messages that convey more than one concept or thought have been given careful consideration, and recommendations contained herein are helping boaters separate out multiple messages for easier and more comprehensible message conveyance.

Developing and setting a standard of marking manatee protection zones ultimately provides a boater with the ability to recognize and understand these messages. In addition, uniformity increases efficiency in the manufacture, installation, enforcement, maintenance, and administration processes. This manual will be modified as new technology and techniques are introduced.
Federal Regulations for Manatee Protection

The FWS has federal authority, provided by the Endangered Species Act, 16 U.S.C. 1361 et seq. (ESA) and the Marine Mammal Protection Act (MMPA) to establish protection areas for the Florida manatee. The FWS has the discretion, by regulation, to establish manatee protection areas whenever substantial evidence shows that the establishment of such an area is necessary to prevent the taking of one or more manatees. This authority is found in the Code of Federal Regulations (CFR), Title 50, Chapter 1, Part 17-100, available in the Appendix.

FWS may establish two types of manatee protection areas: Refuges and Sanctuaries.

A manatee refuge is defined as an area in which the FWS has determined certain waterborne activities would result in the taking of one or more manatees, or that certain waterborne activities must be restricted to prevent the taking of one or more manatees, including but not limited to, a taking by harassment. A waterborne activity is defined as including, but not limited to, swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing, the use of water vehicles, and dredging and filling operations. Public and private property owners will be permitted to access and maintain property that lies within a designated refuge, but must operate their watercraft at slow speed while in the designated area (50 CFR 17.102).

A manatee sanctuary is an area in which the FWS has determined that any waterborne activity would result in the taking of one or more manatees, including but not limited to, a taking by harassment. Manatee sanctuary regulations can be imposed seasonally or year-round. Public and private property owners will be permitted to access and maintain property that lies within a designated sanctuary, but must operate their watercraft at idle speed while in the designated area (50 CFR 17.102).

FWS is exempt from state and federal permitting for the placement of uniform waterway markers, but FWS continues to follow the same standards and guidelines as set forth in Chapter 68D-23, Florida Administrative Code (F.A.C.), available in the Appendix. For purposes of tracking in the state marker database, FWS obtains a statewide permit number from FWC.

State of Florida Regulations for Manatee Protection

The FWC has authority, provided by the Florida Manatee Sanctuary Act (Chapter 370.12 Florida Statutes), to regulate waters within the state for manatee protection. State manatee protection rules are detailed in Chapter 68C-22 F.A.C., available in the Appendix.

Manatee protection rules are established to restrict the speed and operation of motorboats where necessary to protect manatees from harmful collisions with vessels and from harassment. In areas that are frequently inhabited by manatees, the rules can prohibit or limit entry into an area, as well as restrict what activities can be performed in the area. FWC also has the authority to protect manatee habitat from destruction by boats or other human activity.

Unlike FWS, the FWC is only exempt from state permitting under the Standard Programmatic General Permit (SPGP III-R1), but must seek approval from the U.S. Coast Guard (USCG) and the U. S. Corps of Engineers (USCOE) for the placement of uniform waterway markers. If the affected water body is within, or adjacent to, a state park or aquatic preserve, FWC also consults with the Florida Department of Environmental Protection (DEP).

For purposes of tracking and inventory in the state marker database, FWC issues a permit for each of its markers.
During regulation development, FWC staff assesses the potential zone configuration to determine impacts on any existing regulations that are legally posted on the affected waterway, channel markers, or potential hazards. Staff notes any impediments that may make marking the zone difficult, create boater confusion, cause a potential hazard, or impact enforcement efforts. Modifications to the zone configurations are considered and/or corrected prior to the regulation being finalized.

It is important that manatee zones be posted in a manner which does not create undue hazards to navigation or interfere with other waterborne activities. The two primary objectives targeted in marking manatee protection zones are:

- To provide a clear understanding of both the waterway zone regulations which apply, and the geographical location (boundaries) of the protection area, so that the public can understand and comply with these measures.
- To facilitate and support the enforcement of these regulations. Staff develops a detailed marker plan which is made available to all interested parties, including local state, county, and federal marine related entities.

**Waterway Marker Plan**

The design of a waterway marker plan to post federal and/or state manatee protection zones will depend on a variety of factors including: (1) the geographic boundaries of the regulation; (2) physical features of the area to be marked; (3) water conditions (including depth and substrate); (4) existing markers, traffic patterns, and access points such as marinas and ramp facilities; (5) interfaces, transitions, and conflicts with other regulated zones; and (6) limitations to installation and maintenance of the markers and their associated structures. Navigational charts, aerial photographs, and other sources of information are used as aids to identify the type and location of these factors.

Waterway marker plan development is accomplished in close coordination with all affected entities and stakeholders, including local and state marine law enforcement. Because marine law enforcement staff are most familiar with the areas where they are conducting enforcement activities, their input is very important to proper placement of markers to post zones. Consideration should also be given to allowing for specific stakeholder input as part of the posting plan development. An example could be marina operators, liveries, and commercial vessels.

There is a wide variety of waterway marker plan configurations. Some amount of customizing may be needed for each zone to be properly and adequately posted. There are some general guidelines that should be applied to the posting of all regulatory zones.

- The postings should be coordinated with other waterway markers/features/regulations to minimize confusion and visual clutter (waterway marker pollution), and not create a hazard to navigation. The use of bridge fender systems, bridge pilings, power poles, and aids to navigation (ATON) should be considered to alleviate the need for additional pilings. Marking traditional travel routes using the above concepts can also be considered.
- Zone boundary lines should be posted such that boaters are able to see from marker to marker from both perpendicular and parallel perspectives.
- Significant angles and changes in direction should be delineated with markers. If physical features, such as land masses, bridges, creek and canal mouths, channels, and other readily identifiable landscape references are used in the marking scheme, ensure that the boundary lines are tied into these features with the marker messages (i.e.: “Slow Speed Minimum Wake To Bridge” or “Slow Speed Minimum Wake 500 Feet To Shore”).
- Transitional areas between zones and unregulated or higher speed areas within zones need to be clearly differentiated from the regulated zone (i.e.: “Resume Normal Safe Operation” or “Slow Speed Minimum Wake Out of Marked Channel 25 MPH in Marked Channel”).

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♦ Markers appropriate to the area should be used. For example, where buoys can provide additional safety for boaters, they should be installed. Buoys may be used by themselves to mark a shoreline buffer zone or in combination with signs.

The illustration below demonstrates the applicable information needed within the marker plan.

Geographic information system (GIS) maps provide the benefits of accurate marker coordinate positioning, boating restricted zone delineation, and spatial reference on an aerial image.

A listing of work to be performed corresponds with the map.

<table>
<thead>
<tr>
<th>LOC #</th>
<th>Size</th>
<th>Piling</th>
<th>Sign 1 Wording</th>
<th>Sign 2 Wording</th>
<th>Sign 2 Facing</th>
<th>Installation - Instructions</th>
<th>LAT DEG (WGS84 datum)</th>
<th>LAT_DMB</th>
<th>LONG DEG</th>
<th>Long_Orin</th>
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<td>SH-020A</td>
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<td>DSMW to Shore Apr 1 - Nov 15</td>
<td>DSMW to Shore Apr 1 - Nov 15</td>
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<td>Install near beach off shore and close to existing park signs</td>
<td>29 0.201</td>
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Regulatory Zones

State and federal manatee protection regulations generally employ the following types of zones.

Idle Speed No Wake

Idle Speed No Wake is the most restrictive vessel speed.

Idle speed requires a vessel to proceed at a speed no greater than that which will maintain steerage 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 (Rule 68C-22.002 (1) F.A.C.).
**Slow Speed Minimum Wake**

Slow speed requires that a vessel 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, there is no specific numeric speed assigned to Slow Speed (Rule 68C-22.002 (4) F.A.C.).

**Maximum XX Miles Per Hour**

Maximum XX miles per hour (MPH) speed zones are controlled areas within which a vessel’s speed made good over the bottom, measured in statute miles, shall not exceed XX miles per hour.

XX is the maximum speed at which a vessel may lawfully be operated within the marked area. The vessel must still operate at a safe speed that does not create an elevated bow which restricts visibility or produce an excessive wake as vessel operators are responsible for their wakes (Rule 68C-22.002 (5), (6), (7), and (18) F.A.C.).

**No Entry Zone or No Entry Area**

No Entry Zone or No Entry Area is a controlled waterway where all vessels and all persons are not permitted either year round or seasonally.

No Entry Zone or a 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, etc., a cane pole) are prohibited from entering. The most common example is those warm water discharge canals at power plants where entry is prohibited during the winter months (Rule 68C-22.002 (11) F.A.C.).

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Regulatory Zone Configurations

The diversity of waterways and associated waterway regulatory zones make standardization a challenge. To simplify this effort, regulatory zones may be categorized into four (4) basic configurations.

Shore-to-Shore Zone

A shore-to-shore zone extends over the entire water body. Shore-to-shore zones are often located in narrow waterways, canals, bayous, and other confined areas. The posting of shore-to-shore zones generally involves marking entry points at key locations (boat ramps, marinas, and canals with access to large volumes of boat traffic). The quantity of markers and their interval varies with the waterway’s physical features. If the shore-to-shore zone extends for a considerable distance, consideration should be given to providing reminder markers within the interior of the zone.

Buffer Zone

Buffer zones protect a portion of the waterway, while the remainder of the waterway remains unregulated or regulated at a less restrictive level. These types of zones are commonly employed as shoreline buffer areas (i.e. “Slow Speed Minimum Wake 500 Feet From Shore”).

The boundaries of buffer zones must be clearly marked, as they represent a transition between areas of differing regulatory requirements. Generally, buffer zones must be marked at their starting points and include periodic reminder markers. This type of zone is best marked with a line of buoys (to delineate the boundary), or buoys in combination with signs, particularly if the waters are relatively calm. The distance between markers should be established at approximately 1/4 mile or a suitable distance of visibility from one marker to the next.

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Travel Corridor Zone

The travel corridor zone has an exempt area, or travel corridor, where higher vessel speed is allowed. The most common example of this zone is a slow speed zone with a higher speed travel channel, such as the Intracoastal Waterway (ICW), running through the overall slower speed zone.

Posting of exemption zones requires a hybrid between the standard shore-to-shore zone and the buffer zone. In addition to marking the overall shore-to-shore zone, waterway markers specific in message and location need to mark the exempt area or corridor. The exempt area should be marked on the zone entrances and generally need additional markings along the exempt course or channel.

In cases where the unregulated area is a marked channel, consideration should be given to placing additional markers along the corridor on existing green channel markers and other installed structures to remind boaters of the differing regulations along the exempt travel corridor. Prior approval from the owner of the particular channel marker must be obtained.

Marking areas with multiple regulations requires the use of markers with a combination of messages. An example of this may be an area which is regulated as Slow Speed Minimum Wake outside of a channel and a numerical speed limit inside the channel. It is recommended that depending upon where the actual sign is to be located, the controlling regulation be the dominate message conveyed to assist boaters in understanding, particularly in areas where a higher speed corridor exists.
Restricted/Limited Entry Zone

Restricted/limited entry zones permit entry only under highly restrictive conditions (such as no motor use). These sites generally are seasonal zones which have dense concentrations or intensive use by manatees or significant habitat features.

As with buffer zones, this type of zone is best marked with a line of buoys (to delineate the boundary), or buoys in combination with signs, particularly if the waters are relatively calm. The distance between markers should be established at approximately 1/4 mile or a suitable distance of visibility from one marker to the next.

Consideration of the use of buoys is made when the installation of wooden pilings is limited due to water depth, strong currents, or tidal/water level fluctuations, and especially when buoys may be easily installed and removed for use in marking smaller, seasonal posted areas.

The use of flip signs (vertical or horizontal) to change the regulated use of a waterway (usually accomplished to change designations seasonally) has been effective for some time. Most common use of flip signs exist where there are seasonal zones such as within Blue Waters (Citrus County) where there is a seasonal No Entry regulation, and within Blue Springs State Park (Volusia County) - Slow Speed Minimum Wake Channel Included October 15 – April 15, and 25 MPH in Channel April 16 – October 14.

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Specifications of Uniform Waterway Markers

Specifications for uniform waterway markers are important to ensure markers are consistent, uniform, and will withstand the rigors of the environment. Waterway markers can be in the form of a buoy or sign. Signs are typically mounted on a piling in the water or upland, bridge fender systems, or other fixed structures, or they can be installed on a buoy float.

When a sign is used for a regulatory marker, it must be rectangular. Consideration of the size of the water body and sight distance will determine the selection of a regulatory sign that is generally 3’x4’, 4’x6’, or 5’x7’. The symbol must cover at least half and not more than two-thirds of the height of the display area it is centered in. The 4’x6’ or 5’x7’ signs are installed on 2 or 3 pile structures. Occasionally, larger signs are affixed to bridge fenders, seawalls, or other embedded waterway structures. Smaller signs are used in appropriate situations where there are smaller bodies of water, canals, boat ramps, etc. and are often used in conjunction with other similarly sized ATONS, such as green channel markers. The dimensions of these smaller signs are typically 3’x4’. If necessary, to assist in clarifying the intent of the message or to prevent too much text from being displayed on a sign, additional signage generally 1’x4’, 1’x6’ or 1’x7’ may be placed below the regulatory sign.

FWC has determined that the larger shallow draft 14” buoys are preferred over the standard 9” or 12” size buoy for greater visibility and reduction in surface area exposed below the water level. In addition, newer buoys will be manufactured with eye hooks and a “bird-be-gone” mechanism of either a cone or stainless steel bird spikes located on top of the buoy. The use of a cone or bird spikes eliminate the ability for birds to rest on the buoy and reduce the bird droppings that tend to cover the marker message. The eye hook will aid in hoisting the buoy from the water, using existing equipment for scraping off marine life. These additions should increase both visibility as well as extend the life of the buoy marker under normal conditions.

Sign and buoy design drawings are included in the Appendix.

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Buoy vs. Signs

FWC has explored the advantages and disadvantages to using buoys in place of signs. Buoys are an alternative method to signs used in marking manatee zones in some settings, and presents less of a hazard to navigation than signs by decreasing the forces experienced in a vessel strike. However, FWC has determined that in most waterways, buoys used in combination with signs to post a regulatory zone are recommended. This marker combination appears to adequately post a waterway, minimizing the navigational hazards and achieving boater understanding of the appropriate vessel operation for the regulated area.

Buoys appear to work very well when installed within confined waterways with little exposure to tidal fluctuation, wind, and boat wake. Buoys are more aesthetically appealing over signs when marking boundary areas within small bays or safe harbor areas. In the short term, buoys are initially more economical to install than pilings and signs, but do require periodic maintenance and replacement within a relatively short period of time under normal environmental conditions. Due to the limited amount of display area, the installation of buoys to mark a buffer zone along the shoreline or at a bridge works very well so long as the marker wording is minimal (i.e. Slow Speed Minimum Wake to Shore).

For these reasons, FWC has determined that buoys serve a useful function when used in conjunction with signs in some waterways to post regulatory zones.

Some disadvantages to using buoys to mark regulatory zones are identified as follows:

- buoys are more expensive to maintain in the long term
- buoys are less amenable to displaying print messages or regulations
- buoys have been known to go off station under certain environmental conditions
- buoys may not allow for an adequate surface area to display the message
- marine growth on the buoy can result in sinking or listing
- the length of the buoy mooring system may in itself present a hazard and may not be restrictive enough to hold the buoy in the proper location
- an increased chance of loss (especially during storm conditions)
- reduced probability for boater recognition
- if installed within an exposed extreme low or high fluctuating, tidally influenced waterway, such as within Tampa Bay, buoys generally require replacement more often even under normal conditions.
Waterway Marker Symbols

Regulatory markers are a type of ATON, and are therefore regulated by the USCG. It is important that these standards are adhered to insure uniformity and consistency. A boater needs to see similar markings wherever they navigate. Markers give information to boaters of regulations and warnings, and guide them while navigating the waterways. The USCG sets forth the restrictions and regulations of markers to be identified by their white background, black text, and international orange symbol. As previously discussed, markers can either be in the form of a buoy or sign. The orange symbol dictates the type of boating restriction and is illustrated in the following four types:

- Controlled Area – indicated by a circle symbol marking controlled areas such as an established speed limit.
- Hazard Area – indicated by a diamond symbol which warns of hazards and obstructions such as rocks, shoals, construction, dams, and/or stumps. Warns boaters to always proceed with caution and keep a safe distance.
- Exclusion Area – indicated by a crossed diamond system marking exclusion or closed areas such as swimming areas, dams, and spillways off limits to all vessels.
- Information – indicated by a square symbol which gives direction and information such as places to find food, supplies and other non-regulatory information.

Regulatory Marker Symbols

<table>
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<tr>
<th>CONTROLLED AREA SYMBOL</th>
<th>HAZARD AREA SYMBOL</th>
<th>RESTRICTED AREA SYMBOL</th>
<th>INFORMATION SYMBOL</th>
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<tbody>
<tr>
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<td>COMMON MESSAGES</td>
<td>COMMON MESSAGES</td>
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</tr>
<tr>
<td>MANATEE ZONE</td>
<td>SUBMERGED ROCK</td>
<td>EXCLUSION ZONE</td>
<td>MARINA ENTRANCE</td>
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<td>SLOW SPEED</td>
<td>DANGER</td>
<td>NO ENTRY</td>
<td>STATE PARK AHEAD</td>
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<td>MINIMUM WAKE</td>
<td>SHOAL</td>
<td>SWIM AREA</td>
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<td>IDLE SPEED</td>
<td>STUMP</td>
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</tr>
<tr>
<td>NO WAKE</td>
<td>SHALLOW AREA</td>
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</tr>
<tr>
<td>25 MPH</td>
<td>CAUTION</td>
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</table>
Waterway Marker Messages

In order to be effective, waterway markers must be understood by a boater and convey a clear and concise meaning. Examples of common waterway marker messages are available in the Appendix.

Waterway markers designating manatee protection regulations should be worded to convey the required information in the absolute minimum wording possible. This allows a larger font lettering of the main message of the sign or buoy, to provide legibility at a greater distance. Abbreviations should be kept to a minimum, unless commonly recognized and understood.

Additional information is often displayed on the waterway marker, which may include information about distances, channel speed, hours or dates of regulation, landmarks, water bodies, inclusions, exemptions, or variable conditions.

While developing the layout of text on buoys or signs, the main message (that which regulates vessel operation) should be in larger font. As illustrated below, the same message has varying formats, with the last sign in the sequence being the preferred layout for conveying the intent of the message.

This example illustrates the same text in the sign message, with an increase in font size of the main message. The larger font is more easily read by the vessel operator and conveys the message in a clear, concise, and easy to understand manner.

The exception to this guideline, however, is for waterway markers that convey a “Resume Normal Safe Operation”. Recommended formatting of this particular type of regulatory marker will be such that the four words are placed outside of the orange circle. Because placement of this marker would indicate that the boater was inside of a speed restricted zone, less emphasis is placed on creating a larger sign message for vessels that would need to read it while operating a vessel at a higher rate of speed. Consistencies in this type of sign formatting will promote the recognition of this sign from a distance.

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When more than one message is being conveyed to the boater, it is recommended that the message be broken into a book format (left to right panels), as illustrated below. This separation of the regulatory messages provides for increased readability and less confusion. A common example of this type of marker (Exhibit A) would be a seasonal zone, such as around a power plant, which excludes access for a particular period of time and allows access for the remainder of the year.

Specifically on signs, messages will be written so that they are applicable to the current operation and direction of the vessel. For example, a boat traveling within the marked ICW channel will view signs (Exhibit B) that will indicate they may operate their vessel at 25 MPH in the ICW channel. However, if the vessel operator moves out of the ICW channel, the vessel will need to operate at a Slow Speed Minimum Wake. Conversely, a boat that may be approaching the ICW but still within the slow speed zone, will view the reverse of that sign message so that it will read, “Manatee Zone Slow Speed Minimum Wake Out of ICW Channel, 25 MPH in ICW Channel.”
In areas of critical concern, additional sign messages can be placed on an “informative” sign to reduce the amount of text on the regulatory sign. Use of this method allows for a more standard message on the upper sign, with additional information conveyed on the sign placed below.

Placement of the Permit Number and Regulations

The permit number must be displayed in the lower left corner of each waterway marker, while applicable code sections and statute or regulation numbers must be displayed in the lower right corner in black block characters not less than one inch in height (provided that it shall not interfere with the message of the marker). Although the FWS and FWC are exempt from permitting, a permit and regulation (rule or CFR) number is placed on all signs for purposes of tracking in the statewide database, and for the enforcement of the specific regulation. In a few areas of the state, there are overlapping state and federal manatee protection regulations. In these cases, the signs will display both state regulations and the federal codes.

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Planning and Placement of Waterway Markers

Marker Placement Guidelines

Factors to consider when installing waterway markers include the following:

It is recommended that regulatory markers not be located within the main marked channel of the Florida ICW, or within 100 feet thereof. However, the use of green day boards or markers is recommended. The use of the channel marker to install a regulatory sign may result in a reduction in the amount of markers needed, thereby alleviating a potential navigational hazard as well as be seen by boaters traveling within the ICW.

In narrow waterways where the 100 foot separation distance is not possible, the following USCOE guiding formula should be used:

\[ 3 \times (\text{Channel Depth} + 2 \text{ ft}) + 10 \text{ ft} \]

For example, if the channel depth is eight feet, then the separation distance would be calculated as follows:

\[ 3 \times (8 \text{ ft} + 2 \text{ ft}) + 10 \text{ ft} = 40 \text{ ft} \]

As stated above, signs may be placed on the same structure as USCG maintained navigational markers with permission granted in each individual application. Generally, waterway regulatory signs may be placed parallel with USCG dayboards at the start of, or transition between, waterway regulatory zones. Signs placed on USCG ATONs within a zone will be placed perpendicular to the day board. Waterway regulatory signs should only be placed on green square markers.

It is recommended signs should not be placed on red day markers to avoid shape confusion by boaters. Environmental and visual pollution should also be considered in waterway marker placement. To avoid visual pollution, the fewest number of markers necessary to clearly mark a zone should be used.

To the extent practical, the placement of waterway markers should take other immediate site conditions into account. Installing markers on sandbars, obstructions, and other potential boating hazards can serve a multi-fold purpose of informing boaters of regulations and keeping them from running aground or into other submerged hazards.

Where practical, the addition of signs to existing structures, as opposed to the installation of new (and additional) structures, should receive strong consideration.

Waterway markers and informational signs must be installed with all protruding bolts toward the back of the sign. This eliminates possibilities of damage to boats or people aboard boats who may come in contact with the sign. It also eliminates perches for birds and places where debris may catch that would obscure the sign.

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**Enacting the Regulatory Zone**

**Procedure**

1. A marker plan is developed based on the numerous factors previously discussed in posting the regulatory zones. Staff is involved during development of proposed protection zones and attends public workshops to become familiar with issues of concern with area boaters.

2. The existence of other regulatory zones (local, state, and federal), navigational markers, legality of zones, as well as the existing location of markers based on on-site inspections of the affected waterway is researched. If the rule is still in its developmental stage, problems with posting the zone in its current form are identified. The impact of any other regulations on the new regulations is determined – the most restrictive zone is posted.

3. On-site evaluations are conducted to identify existing pilings, channel markers, private ATONS, boat facilities (ramps, marinas, and canals to major boat traffic), configuration or potential confusion in posting the zone with existing regulations, and/or any illegal markers. Coordinates for proposed locations for potential markers are obtained.

4. Once a marker plan and maps are drafted, a meeting with local, state, and federal government marine units, local government contacts, and interested parties is coordinated to discuss the proposed plan. Type of markers (buoys, signs, or a combination of both) recommended for use in the area, marker spacing, educational outreach, and areas where vessel activities are high to insure markers are well posted for enforcement and safety is discussed and consensus is built.

5. Based on this meeting, additional site evaluations of the area may be required, which may alter the plan and modifications to maps. Revised versions of the plan, including marker wording, are sent to all participants for comment.

6. Plan and maps are submitted to the appropriate government entities such as the USCG, USCOE, and Florida DEP for authorization, if needed. USCG requires that a specific listing of all channel markers used be provided in a cover letter.

7. Formal bidding for marine contractor services and markers is conducted. Markers are then shipped to Contractor or another suitable location for verification prior to installation (i.e. county complex, FWC offices).

8. Once a contractor is selected, a copy of the final plan, including maps and details on marker installation instructions, bid, and permits, is transmitted.

9. Prior to commencement of construction, a press release is written and distributed. Other forms of public information such as flyers and brochures detailing the new regulatory zone(s), are developed and distributed to boaters and marine related businesses by local and state marine units.

10. The final plan, with as-built coordinates for each marker, is entered into the FWC Marker Database and GIS mapping system.

11. Markers that currently are posted in the waterway that are deemed “illegal” or abandoned and which are not permitted may be removed. The waters of the state are filled with signs that were posted illegally and only cause to confuse boaters of the legal regulations in addition to being navigational hazards.

12. The completion of the marking of waterway regulatory zones should be complimented by public notification that may include additional news releases, press conferences, boat ramp signage, and other public outreach efforts.

For updates visit www.MyFWC.com/boating
Public Awareness

Public notice regarding posting of new regulatory zones should be given utilizing a variety of media and informational sources. A good public awareness program will aid in increasing compliance of the regulated zones.

The types of media to inform the public include brochures (available at marinas, sporting goods stores, boat ramps, etc.), radio broadcasts, press releases, and correspondence to local residents.

Signage at boat ramps is another effective form of informing the boater. It is important to note that sign messages cannot be conveyed unless the sign can attract the attention of boaters, therefore requiring placement at points of interest, as well as offering visual appeal. To be noticed, ramp signage should be designed to catch attention. Bright colors, presentation of message, sign placement, relevance (not outdated), and condition are all factors that should be considered.
Maintenance, Repair and Response

Marker Maintenance

Installation specifications can greatly reduce marker maintenance issues. As previously discussed, FWC has determined that the larger shallow draft 14” buoys are preferred over the standard 9” or 12” size buoy for a reduction in surface area exposed below the water level. This should reduce marine growth that can result in the sinking or listing of the buoy. Furthermore, to address short-term maintenance issues, newer buoys will be manufactured with “bird-be-gone” mechanisms of cones or bird spikes, as well as eye hooks at the top of the buoy. The “bird-be-gone” mechanism should reduce the bird droppings that tend to cover the marker message, and the eye hook will aid in hoisting the buoy from the water using existing equipment for scraping off marine life. These additions should increase both visibility as well as extend the life of the buoy marker under normal conditions. Sign installation specifications can also reduce the need for marker maintenance. FWC recommends that waterway marker signs be installed at an angle to reduce bird droppings on the face of the sign. Sign drawing details are available in the Appendix.

FWS and FWC are responsible for the proper placement, inspection, and maintenance of waterway markers they install to post manatee protection areas. The federal and state markers should be maintained in proper condition at all times for both boater compliance, safety, and enforcement efforts. A discrepancy exists whenever a marker is destroyed, damaged, moved, or is otherwise unserviceable. For this reason, a routine inspection and maintenance program should be in place to ensure overhanging tree limbs, vandalism, or wildlife use does not obscure waterway markers or their messages.

As described in the On-Call program on the following page, the public as well as law enforcement and other public agencies whose duties require that they travel on waterways, will be encouraged to report any damaged, deteriorated, or obscured waterway marker at first opportunity. Waterway marker maintenance and repairs can then be accomplished by agency personnel or through maintenance contracts or agreements. Non-conforming markers should be corrected or replaced, and unnecessary/unauthorized waterway markers should be removed, regardless of physical condition. Properly mounted and maintained, clean, and legible waterway markers are critical to achieving a high level of boater compliance in regulated areas.

Marker Inventory

FWC has developed a Waterway Marker Inventory program to assess the current condition of existing waterway markers in state navigable waters as part of the FWC overall asset management system. The Waterway Marker Inventory program will be used to direct personnel to evaluate the conditions of the markers and perform appropriate maintenance, which is particularly important following disaster events.

The assessment process includes locating the marker, assessing the condition, and entering the data into a Trimble GeoXT Handheld Global Positioning System (GPS) unit. The marker location and marker assessments are recorded electronically to provide a more efficient and detailed inventory of the waterway markers or assets, and alert of repairs and replacements in the overall asset management effort.

FWS is using the program developed by FWC to inventory each of their markers using the Trimble GeoXT Handheld GPS and associated database.

For updates visit www.MyFWC.com/boating
On-Call and Emergency Response Programs

FWC has developed two programs, On-Call and Emergency Response, to attend to the immediate response of FWC assets (boat ramps, waterway markers, etc.) or other navigational hazards (derelict vessels, debris, etc). These programs provide a team of experts to ensure timely examination, evaluation, and appropriate repair of damaged FWC assets statewide.

The On-Call Response Program is designed for navigational hazards to be reported via a toll-free number, (866) 405-BUOY. Waterfront citizens and boaters are being encouraged to use this number through the distribution of wallet-size cards, placards, key rings, and bumper stickers. All uniform waterway markers owned or managed by FWC will have the toll-free number placed on the marker to allow the boating public to report damaged or missing markers. Once the call is received by FWC, a team is sent to assess the reported waterway problem and coordinate with other entities that are responsible for navigational hazards. After locating and determining the problem, FWC coordinates the repair of the asset and monitors the repair work. Once repair is complete, FWC will conduct post-repair assessments. The USCG will be informed of any navigational or safety hazards so a Local Notice to Mariners (LMN) can be issued to all boaters.

The Emergency Response Program is utilized after a disaster. FWC will dispatch teams to the disaster area to identify and mark navigational or other safety hazards. Damage assessments will be performed in the disaster area, and repairs will be coordinated based on these post-disaster assessments. FWC will coordinate and monitor the repair work and conduct post-repair assessments. As with the On-Call Response Program, the USCG will be informed of any navigational or safety hazards so a LMN can be issued to all boaters.

For updates visit www.MyFWC.com/boating
Appendix

Common Manatee Regulatory Sign Messages
Buoy and Sign Design Drawings
Chapter 68C-22 Florida Administrative Code
Chapter 68D-23 Florida Administrative Code
Code of Federal Regulations, Title 50, Chapter 1, Part 17-100
Common Manatee Regulatory Sign Messages

MANATEE ZONE

**SLOW SPEED**
**MINIMUM WAKE**
TO BRIDGE AND CAUSEWAY

ZONE BEGINS 200 FT WEST OF BRIDGE
PERMIT NO.: 91-000
68C-22.XXX FAC

**SLOW SPEED**
**MINIMUM WAKE**
OUT OF MARKED CHANNEL
ZONE BEGINS 200 FT WEST OF BRIDGE
PERMIT NO.: 91-000
68C-22.XXX FAC

MANATEE ZONE

**SLOW SPEED**
**MINIMUM WAKE**
TO BRIDGE AND CAUSEWAY
ICW EXEMPT

PERMIT NO.: 91-000
68C-22.XXX FAC

**IDLE SPEED**
**NO WAKE**

PERMIT NO.: 91-000
68C-22.XXX FAC

MANATEE ZONE

**SLOW SPEED**
**MINIMUM WAKE**
1500 FT FROM SHORE

50 CFR 17.XXX
PERMIT NO.: 91-000
68C-22.XXX FAC

**SLOW SPEED**
**MINIMUM WAKE**
ENTIRE CREEK AND CANAL SYSTEM
PLASTIC PILE CAP AND (4)
#10 x 1.5" STAINLESS STEEL SCREWS

3/8" x 1.5" STAINLESS STEEL LAG BOLTS AND LOCK WASHERS

4" SPACER

3/8" x 1.5" STAINLESS STEEL BOLTS,
NUTS, WASHERS, AND LOCK WASHERS

TYPE 304 3/4" STAINLESS STEEL STAPLES.
MINIMUM 1" LAP

4" x 4" CROSSMAN

6" WHITE REFLECTIVE TAPE
SECURED WITH (4)
STAINLESS STEEL STAPLES.
MINIMUM 1" LAP

10" WOODEN NON-SPliced
PILING

MEAN HIGH WATER
SURFACE

2' TO 15' VARIABLE

SUBSTRATE
SURFACE

8' SAND AND/OR SHELL
10' + MUD

BOLTS MUST NOT
EXTEND MORE THAN
1" BEYOND NUT
AND WASHER

6' TO 9' VARIABLE

NOTE:
1. ALL PILINGS MUST BE PRESSURE TREATED LUMBER (2.50 CCA FOR
SALTWATER APPLICATIONS; 0.80 CCA, 0.80 ACQ, OR 1.0 ACZA
FOR FRESHWATER APPLICATIONS).
2. ALL FRAMING FOR SIGNBOARD MUST BE PRESSURE TREATED
LUMBER (0.60 CCA, 0.60 ACQ, OR 0.60 ACZA FOR SALTWATER
APPLICATIONS; 0.40 CCA, 0.40 ACQ, 0.40 ACZA, 0.21 CA OR 0.41 CBA
FOR FRESHWATER APPLICATIONS).
3. BOLT HOLES BORED 1/8" LARGER THAN DIAMETER OF BOLT.
ALL FASTENERS MUST BE VANDAL PROOFED.
4. THE CONTRACTOR SHALL NOT IMPACT THE MESSAGE AREA OR
REFLECTIVE SURFACES OF THE SIGN WHEN DRILLING HOLES IN
THE SIGNS, OR SPLICE THE ENDS OF THE CROSSING TIMBERS

NOT TO SCALE
NOTE:
1. ALL PILINGS MUST BE PRESSURE TREATED LUMBER (2.50 CCA FOR SALTWATER APPLICATIONS; 0.80 CCA, 0.80 ACQ, OR 1.0 ACZA FOR FRESHWATER APPLICATIONS).
2. ALL FRAMING FOR SIGNBOARD MUST BE PRESSURE TREATED LUMBER (0.60 CCA, 0.60 ACQ, OR 0.60 ACZA FOR SALTWATER APPLICATIONS; 0.40 CCA, 0.40 ACQ, 0.40 ACZA, 0.21 CA OR 0.41 CBA FOR FRESHWATER APPLICATIONS).
3. BOLT HOLES BORED 1/8" LARGER THAN DIAMETER OF BOLT. ALL FASTENERS MUST BE VANDAL PROOFED.
4. THE CONTRACTOR SHALL NOT IMPACT THE MESSAGE AREA OR REFLECTIVE SURFACES OF THE SIGN WHEN DRILLING HOLES IN THE SIGNS, OR SPLINT THE ENDS OF THE CROSSING TIMBERS.

4'x6' or 5'x7' Double Pile Sign Detail
PLASTIC PILE CAPS AND (4)
#10 x 1.5" STAINLESS STEEL SCREWS

SPECS FOR 4'x6' AND 5'x7'
FLIP SIGNS

TYPE 304 3/4" STAINLESS STEEL
BOLTS, NUTS, AND LOCK WASHERS

FOUR(4) 4"
STAINLESS STEEL
PIANO TYPE HINGES

6" WHITE REFLECTIVE TAPE
SECURED WITH (4) STAINLESS STEEL STAPLES.
MINIMUM 1" LAP

10" WOODEN NON-SPUCED
PILING

4"x4" SPACER

NOT TO SCALE

NOTE:
1. ALL PILING MUST BE PRESSURE TREATED LUMBER (2.50 CCA FOR
SALTWATER APPLICATIONS; 0.80 CCA, 0.80 ACQ, OR 1.0 ACZA
FOR FRESHWATER APPLICATIONS).
2. ALL FRAMING FOR SIGNBOARD MUST BE PRESSURE TREATED
LUMBER (0.80 CCA, 0.80 ACQ, OR 0.60 ACZA FOR SALTWATER
APPLICATIONS; 0.40 CCA, 0.40 ACQ, 0.40 ACZA, 0.21 CA OR 0.41 CBA
FOR FRESHWATER APPLICATIONS).
3. BOLT HOLES BORED 1/8" LARGER THAN DIAMETER OF BOLT.
ALL FASTENERS MUST BE VANDAL PROOFED.
4. THE CONTRACTOR SHALL NOT IMPACT THE MESSAGE AREA OR
REFLECTIVE SURFACES OF THE SIGN WHEN DRILLING HOLES IN
THE SIGNS, OR SPLICE THE ENDS OF THE CROSSING TIMBERS

4'x6' or 5'x7' Vertical
Flip Sign Detail

Maintenance & Repair Work
Uniform Waterway Marker Plans
Adjust length of cable and underwater float so that at low tide cable should not touch bottom.

1/4" cable covered with 3/4" blue Pluvic hose

Helical embedment anchors installed at a minimum depth of 5'. Consist of a minimum helical 8" disk size with 1.25" shaft diameter and made of galvanized steel and tested to insure 500 pounds of upward load pressure.

Underwater float (5+ pounds of floatation consisting of a hard skin buoy (not styrofoam) to keep cable from resting on bottom.

Notes:
- Stainless steel thimble
- Stainless steel eye
- Stainless steel cable clamps
- Stainless steel cable clamp
- Blue Goodyear Pluvic hose
- Used to cover cable at thimble
- 3/4" blue Pluvic hose used to cover cable at anchor
- 1/4" cable covered with 3/4" blue Pluvic hose

Not to scale
1/2" SS SHACKLE

FIRE HOSE COVERS CONNECTION

STORMSOFT DOWN LINE

STORMSOFT SHOCK ABSORBER

ADJUST LENGTH OF CABLE AND UNDERWATER FLOAT SO THAT AT LOW TIDE CABLE SHOULD NOT TOUCH BOTTOM.

STORMSOFT DOWN LINE

3'-4' FIRE HOSE SECURED WITH HEAVY DUTY WIRE TIES

BLUE PVC HOSE

SELF TIGHTENING KNOT

FIGURE "8" KNOT TO SECURE BUOY AT APPROPRIATE DEPTH.

UNDERWATER FLOAT (5+ POUNDS OF FLOATATION CONSISTING OF A HARD SKIN BUOY (NOT STYROFOAM) TO KEEP DOWN LINE AND FIRE HOSE FROM RESTING ON BOTTOM.

HELICAL EMBEDMENT ANCHORS INSTALLED AT A MINIMUM DEPTH OF 5'. CONSIST OF A MINIMUM HELICAL 8" DISK SIZE WITH 1.25" SHAFT DIAMETER AND MADE OF GALVANIZED STEEL AND TESTED TO INSURE 500 POUNDS OF UPWARD LOAD PRESSURE.

MIN. 5' DEPTH

CONTRACTOR TO PROVIDE STORMSOFT MOORING SYSTEM OR APPROVED EQUIVALENT.

NOT TO SCALE
CHAPTER 68C-22 THE FLORIDA MANATEE SANCTUARY ACT

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), 372.072(6) FS. Law Implemented 370.12(2)(d), (g)-(l), (n), (o), 372.072(6) 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, sponsoms, 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.

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, Amended 11-23-83, Formerly 16N-22.02, Amended 12-30-86, 12-24-90, 12-25-91, 6-16-93, 9-9-93, Formerly 16N-22.002, Amended 5-31-95, 6-25-96, 5-12-98, Formerly 62N-22.002, Amended 12-23-03.

68C-22.003 Regulated Activities.

(1) General Guidelines and Application Procedures: This rule sets forth criteria pertaining to the regulation of the speed and operation of vessel traffic and other activities which are otherwise prohibited by Chapter 68C-22, F.A.C. Permits for such regulated activities shall be issued only as provided hereunder. Permits shall be issued only upon a finding by the Commission that activities as described in this section will not pose a serious threat to manatees, and that such activities are justified. Determinations of justification of need will be made based on the criteria given under each specific subsection. Permits shall not be granted for activities within “Motorboats Prohibited” or “No Entry” zones, except as explicitly provided for in this section.

(a) In considering applications for permits under this section, a “serious threat to manatees” exists if, due to the nature, location, or frequency of the activity proposed, its conduct can be reasonably expected to result in either (1) injury or death to manatees, (2) a significant disruption of the manatee’s normal use, behavior or migratory patterns, or (3) disturbance which would lead to or cause destruction of essential manatee habitat. In making its determination, the Commission’s examination will include an evaluation of the following factors:
1. Patterns of manatee use of the area, both seasonal and year-round;
2. The number of manatees known or assumed to occur in or seasonally use the area;
3. The manatee mortality trends within the area;
4. The existence of features within the area which 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;
5. The cumulative effect of the requested activities in light of other permits previously granted or currently being considered by the Commission and known vessel traffic patterns and densities in the area; and
6. The characteristics of the waterway and of the vessel(s)/motor(s) which would be operated by the applicant.

(b) Applications for permits to conduct activities described in this section should be submitted as far in advance of the requested activities as possible and must be submitted to the Chief of the Office of Environmental Services, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, FL 32399. Information which must be submitted is described in each specific subsection. If an application does not contain sufficient information to enable the Office to evaluate the request, the Office shall request any needed information within 30 days of receipt of the request. The Office shall respond by letter (issuing a permit or denying the request) as quickly as is practical and must respond within 90 days of receipt of all necessary information.

(c) When issuing a permit, the Commission may place conditions on the permit as necessary to protect manatees. Examples of types of conditions which may be specified include seasonal constraints, use of screens or barriers, restrictions on types of permitted activities, restrictions relative to time of day, day of week, or weather conditions when permits are in effect, use of specialized equipment (e.g., propeller guards or jet drives, speedometers) when feasible and such use would not defeat the purpose of the requested activity, additional water quality precautions, sea grass protection or protection of associated marine life or vegetation, temporary marking or permit display, limitations on intensity of activity, pre-activity monitoring, use of manatee observers, and after-activity reports. The specific conditions, if any, that are placed on a permit will be dependent on the specifics of the request. Acceptance of the permit shall constitute evidence that the recipient agrees to comply with the conditions set forth in the permit.

(d) The Commission retains the right to modify or rescind a permit should information become available indicating that the permitted activity is likely to create a serious threat to manatees or that the permit (in its current form) is not needed by the recipient. Before a permit is modified or rescinded, the permit holder shall be given an opportunity to discuss with the Commission the reasons for the modification or rescission. Unless an immediate threat to manatees is likely, the Commission shall wait at least 30 days after notifying the permit holder before taking action on the permit. If a single manatee is struck or killed by a vessel operating pursuant to a permit under these provisions, the permit shall be immediately re-evaluated by the Commission to determine if the permit needs to be modified or rescinded.

(e) Receipt of a permit does not release a holder from the duty to comply with all federal, state, and local regulations (other than Chapter 68C-22, F.A.C.), governing the operation of vessels on navigable waterways or pertaining to protection of the West Indian (Florida) manatee. Permit issuance does not constitute authorization for the recipient to kill, injure, or harass a manatee while operating under a permit.

(f) Failure to comply with the permit or associated conditions, or any finding of fraudulent use or application for said permit, shall be cause for the immediate revocation of the permit.

(2) Law Enforcement: Any authorized law enforcement officer may engage in any activity otherwise prohibited by Chapter 68C-22, F.A.C., if:

(a) The officer is acting in the performance of his or her official duties, and entry into a “Motorboats Prohibited” or “No Entry” zone as defined in Rule 68C-22.002, F.A.C., is reasonably warranted; or
(b) The activity is being conducted to directly protect manatees, to enhance the propagation or survival of manatees, or it is reasonably required to enforce other provisions of Chapter 68C-22, F.A.C.

(3) Emergency Situations: Any person may engage in water-born activity otherwise prohibited by Chapter 68C-22, F.A.C., if such activity is reasonably necessary to prevent the loss of life or property due to emergency circumstances, or to render emergency assistance.

(4) General Activities: For the purpose of issuing authorizations to allow the performance of certain activities which are otherwise prohibited by Chapter 68C-22, F.A.C., (including activities prohibited by “Motorboats Prohibited” or “No Entry” zones as defined in Rule 68C-22.002, F.A.C., as provided in subsection (1), permits shall be issued by the Commission only upon both a showing of a justification of need by the applicant and a determination of an absence of serious threat to manatees in association with the requested activity. Permits shall only be issued for activities which are necessary to carry out a prerequisite of permitting by federal, state, or local governments (or are a condition to or are otherwise authorized by a valid permit), are necessary for habitat restoration or environmental protection purposes, are necessary for other scientific or educational purposes or for the enhancement of propagation or survival of the manatee, or are necessary for purposes of construction, maintenance, or repair to adjacent property owner’s facilities including maintenance dredging and debris removal. Permitted activities may not, either intentionally or negligently, molest, harass, collide with, injure or harm manatees. When operating under a permit within “Motorboats Prohibited” or “No Entry” zones, vessels shall be operated at no greater than idle speed.

(a) Permits are non-transferable and shall only be considered upon written application as specified hereunder. Copies of any associated permits must be submitted with the request. The application must, at a minimum, contain enough information to demonstrate:
1. The nature and scope of the activity to be conducted within the restricted area, including the number of vessels to be involved, the type and configuration of the vessels, and the maximum speeds necessary;
2. The specific area within which the activity would be conducted, described in the application and depicted on a nautical chart;
3. The period of time for which the permit is needed, limited to specific dates if possible; and
4. Justification for conducting the activity within waters regulated for manatee protection, clearly demonstrating why an alternative site is unsuitable or unavailable.

(b) Permits granted under the provisions of this subsection shall be effective only for the time period specified in the permit, and only in the areas specified in the notice.

5. Resident Access to Limited Entry Areas: Any authorized resident or his/her guests who must cross a “Motorboats Prohibited” or “No Entry” zone as defined in Rule 68C-22.002, F.A.C.; for the sole purpose of water access by boat to private residences, boat houses, or boat docks, shall be authorized access by obtaining and affixing an identifying insignia to his/her vessel. Motorboats shall be operated at no greater than idle speed while within the zone.

(a) To obtain authorization, authorized residents must submit a signed letter providing the following information and documentation:
1. The name, mailing address, and telephone number of the authorized resident;
2. A description of the vessel(s) to be permitted, including a copy(ies) of the current vessel registration(s);
3. A map showing the location of the property to which access is required in relation to the “No Entry” or “Motorboats Prohibited” zone;
4. Verification of property ownership, rental or lease. For property owners, acceptable forms of verification include the property’s tax assessment, a current utilities or telephone bill, or a mortgage agreement. For residents renting or leasing the property, acceptable forms of verification include the rental or lease agreement, or a current utilities or telephone bill. To be acceptable, the document used for verification must be in the authorized resident’s name.
(b) Upon review and approval of the application by the Office of Environmental Services, an identifying decal or other insignia shall be issued, free of charge, to authorized residents. (Two (2) insignias or decals per authorized resident shall also be issued free of charge for use by authorized guests, with additional guest decals available upon justification of need).

6. Commercial Fishing and Professional Guiding: The following provisions pertain to qualifying commercial fishermen and professional fishing guides. In those speed zones wherein such intent was provided and specified at the time of zone establishment and as provided in subsection (1), permits shall be issued by the Commission only upon both a showing of a justification of need by the applicant and a determination of an absence of serious threat to manatees in association with the requested activity.

(a) In considering applications for permits under this subsection, a justification of need will be based on a finding of hardship. A hardship will be found to exist if an applicant can demonstrate the following:
1. Commercial fishing or professional guiding, as appropriate, is either:
   a. The applicant’s principal occupation, in that a majority of the applicant’s work week is spent in pursuit of that occupation; or
   b. A significant source of income for the applicant, in that a minimum of 25% of the applicant’s gross annual income is attributable to revenue derived from that occupation;
2. The applicant’s customary fishing or guiding practices would be significantly curtailed as a result of the restrictions for which a permit is sought in that at least 25% of the applicant’s gross annual income would be lost if a permit is not granted because sufficient alternative sites or methods for carrying out the activity in question are not available to the applicant; and
3. The applicant’s compliance with the restrictions for which a permit is sought will result in a significant economic or physical burden being borne by the applicant.

(b) Upon a determination by the Office of Environmental Services that such a permit will not result in serious threats to manatees and that a hardship exists as a result of the speed restrictions imposed, commercial fishermen fulfilling the following requirements shall be granted a permit:
1. Possession of a current Saltwater Products License issued pursuant to Section 370.06, F.S., or of an equivalent freshwater license issued pursuant to Section 372.65, F.S., (if only freshwater species are taken), a current commercial vessel registration, and any other license(s) as may be required of commercial fishermen to operate within the particular county in which a permit is sought; and;
2. Completion of the permit application referenced in paragraph (6)(d) hereunder, including submittal of copies of all documents required in subparagraph (b)1. above.

(c) Upon a determination by the Office of Environmental Services that such a permit will not result in serious threats to manatees and that a hardship exists as a result of the speed restrictions imposed, professional fishing guides fulfilling the following requirements shall be granted a permit:
1. Possession of a current commercial vessel registration;
2. Possession of a current license from the U.S. Coast Guard authorizing the carriage of passengers for hire on the waters for which the permit is sought;
3. Possession of a current saltwater fishing license in accordance with Section 370.0605, F.S., for vessels carrying customers wherein a fee is paid directly or indirectly (if saltwater species are taken);
4. Possession of other current occupational license(s) as may be required of professional fishing guides to operate within the particular county in which the permit is sought; and

5. Completion of the permit application referenced in paragraph (6)(d) hereunder, including submittal of copies of all documents required in subparagraphs (c)1. through (c)4., above.

(d) A permit application form (“Application for Permit, Manatee Protection Zones”), Form No. FWC 68C-22.003-6 (6/96), which is hereby incorporated by reference, may be obtained from the Fish and Wildlife Conservation Commission, Office of Environmental Services, 620 South Meridian Street, Tallahassee, FL 32399, or from the Division of Law Enforcement office as designated under specific manatee protection zone rule provisions. The form shall include items for completion by commercial fishermen and professional fishing guides, imparting information necessary: (1) to show a justification of need by the applicant; and (2) for the Commission to make a determination as to the potential impacts of allowing the requested activities within specified regulated areas.

(e) Acceptance of a permit shall constitute evidence that the recipient agrees to maintain speeds of 20 mph or less at all times while operating under a permit within the restricted area and to comply with any and all conditions set forth within the permit. (Examples of other types of conditions which may be specified to promote manatee protection are described in subsection 68C-22.003(1), F.A.C.)

(f) Permits granted under the provisions of this section shall be effective only for the time period specified in the permit, and only in the areas specified in the notice. Permits may only be utilized by the fisherman or guide in whose name it is issued, only while aboard the vessel identified on the permit, and only when engaged in their customary fishing or guiding practices, as applicable. For guides, permits apply only when paying customers are aboard.

(7) Testing of Motors or Vessels by Manufacturers: The following provisions pertain to boat motor and vessel testing operations by manufacturers. As provided in subsection (1), permits shall be issued by the Commission only upon both a showing of justification of need by the applicant and a determination of an absence of serious threat to manatees in association with the requested activity. Permits shall be in effect for five (5) years, or for a shorter period if requested by the applicant, and shall only be issued upon written application as specified within paragraph (7)(a) hereunder. Permits are non-transferable and shall only be issued from speed restrictions appearing in Chapter 68C-22, F.A.C., which were established after June 1, 1990.

(a) Permits shall be granted only upon:
1. Submission of a request in writing to the Office of Environmental Services clearly stating:
   a. The geographic areas within which testing is to be conducted (The written description shall be accompanied by navigational charts or boater guide maps clearly indicating the proposed test course location and route);
   b. The types of vessels/motors to be tested;
   c. The estimated number of motors or vessels to be tested annually;
   d. The estimated maximum number of motors or vessels to be tested at any one time within the restricted area;
   e. The estimated maximum speeds at which vessels will travel during the tests; and
   f. The estimated number of qualified employees to work as vessel operators, and a brief description of their qualifications.
2. Submission of a statement of justification of need to utilize specific waterways or specific portions of waterways within areas for which manatee speed zone protection has been established, clearly demonstrating a substantial hardship (economic, operational or other) to the manufacturer. Such a statement must detail why, and under what circumstances, other waters are inappropriate for such testing purposes.

(b) Acceptance of a permit shall constitute evidence that the recipient (and his/her authorized employees) agrees to:
1. Carry on the vessel a copy of the permit and, an identification as an employee of a corporation or firm actively engaged in the manufacture of boat motors or vessels;
2. Unless otherwise provided in the permit, operate only between sun-up and sundown, Monday through Friday, and sun-up Saturday through noon, not on Sundays or on state-recognized holidays; and
3. Comply with any and all conditions set forth in the permit. (Examples of other types of conditions which may be specified to promote manatee protection are described in subsection 68C-22.003(1), F.A.C.)

(c) For the purposes of this rule, the following definitions shall apply:
1. Testing – The act by a manufacturer of evaluating a boat motor or vessel for the purposes of determining its operational characteristics. Such operational characteristics shall include, but not be limited to, those pertaining to product designs, endurance, performance, and safety.
2. Boat motor manufacturer – An entity engaged in the production of boat motors from basic components for the purpose of sale.
3. Vessel manufacturer – An entity engaged in the production of vessels from basic components for the purpose of sale.
4. Vessel – Vessel is synonymous with boat, as referenced in Section 1(b), Article VII, of the State Constitution, and includes every description of watercraft, barge, and airboat other than a seaplane on the water used or capable of being used as a means of transportation on water.

(8) Resident Access Through Speed-controlled Areas: For the sole purpose of allowing ingress and egress to persons who must travel through speed zones established under Chapter 68C-22, F.A.C., to access private residences, boat houses, or boat docks, except as provided under subsections (4) and (5) above, who would otherwise be physically precluded water access because of
speed restrictions (such that shoaling or other physical factors would require residents to exceed such speed restrictions), the Commission shall grant a non-transferable resident permit upon a demonstration of just cause, as set forth in paragraph (8)(a) hereunder, and upon finding that issuance of such a permit will not pose a serious threat to manatees.

(a) The Office of Environmental Services, upon review by the Division of Law Enforcement, will consider a request for such a resident permit upon the receipt of a signed explanatory letter of intent from the affected resident clearly demonstrating:

1. The need to exceed speed restrictions for ingress and egress purposes;
2. Justification for traveling at speeds greater than those established within designated zone on the basis of vessel and boat motor types/horsepower;
3. Evidence of property ownership or residency in said property;
4. Areas, as marked on an accompanying map and clearly described with permanent landmarks, where shoaling or other physical circumstances warrant exception to restrictive provisions, and the minimum area/distance required for travel at speeds greater than those established within the designated zone; and
5. Description(s) and vessel registration number(s) for vessel(s) owned by said resident for which a permit is requested.

(b) Acceptance of a permit shall constitute evidence that the recipient agrees to maintain speeds of 25 MPH or less at all times while operating under a permit unless otherwise provided in the permit, to hold said permit on the vessel at all times, and to comply with any and all conditions set forth within the permit. (Examples of other types of conditions which may be specified to promote manatee protection are described in subsection 68C-22.003(1), F.A.C.)

(c) Permits granted under the provisions of this subsection shall be effective only for the time period specified in the permit, and only in the areas specified in the notice.

(d) If the area for which a permit has been issued is dredged, the permit recipient shall so notify the Commission.

(9) Boat Races: The following provisions pertain to powerboat racing. In those speed zones wherein such intent was provided and specified at the time of zone establishment and as provided in subsection (1), permits shall be issued by the Commission only upon both a showing of a justification of need by the applicant and a determination of an absence of serious threat to manatees in association with the requested activity. Permits are non-transferable and shall only be considered upon written application as specified hereunder.

(a) The application must, at a minimum, contain enough information to demonstrate:

1. The nature and scope of the racing event, including estimated numbers of vessels to be involved, the nature and configuration of the vessels, and the maximum speeds anticipated;
2. The specific area within which the racing event is requested, described in the application and depicted on a nautical chart;
3. The intended date(s) of the racing event; and
4. Justification for holding the racing event within waters regulated for manatee protection, clearly demonstrating why an alternative site is unsuitable or unavailable.

(b) Failure to comply with the permit or associated conditions, or any finding of fraudulent use or application for said permit, shall be cause for the immediate revocation of the permit, including suspension of permit privileges prior to or during the permitted event. (Examples of types of conditions which may be specified to promote manatee protection are described in subsection 68C-22.003(1), F.A.C.)

(c) If a single manatee is struck or killed by a vessel operating above the posted speed limit pursuant to a permit under these provisions, the permit shall be automatically and immediately rescinded.

(d) Permits granted under the provisions of this subsection shall be effective only for the time period specified in the permit, and only in the areas specified in the permit.

Specific Authority 370.12(2)(f)-(i), (k), (n), (o) FS. Law Implemented 370.12(2)(d), (f)-(k), (m), (n), (o) FS. History–New 3-19-79, Formerly 16N-22.03, Amended 12-30-86, 8-28-90, 12-25-91, 6-16-93, Formerly 16N-22.003, Amended 6-25-96, 5-12-98, Formerly 62N-22.003.


Regulations established pursuant to Section 370.12(2), F.S., and Rule 68C-22.001, F.A.C., shall be marked by regulatory markers that conform to Chapter 68D-23, F.A.C., Uniform Waterway Markers in Florida Waters. Where conflicting speed or operational restrictions are established by law or pursuant to law, the more restrictive shall be posted and shall apply.

Specific Authority 370.12(2)(g)-(l), (m), (o) FS. Law Implemented 370.12(2)(g)-(l), (m), (o) FS. History–New 3-19-79, Formerly 16N-22.04, Amended 12-30-86, 12-25-91, Formerly 16N-22.004, 62N-22.004, Amended 12-23-03.
CHAPTER 68D-23 UNIFORM WATERWAY MARKERS IN FLORIDA WATERS
68D-23.003 Placement of Regulatory Markers in Waters of the State. (Repealed)
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68D-23.101 Intent.
(1) This Chapter is consistent with and conforms to 33 C.F.R. part 62 – The navigable waters of the United States and non-navigable State waters (which together include all waters of this state), are marked to assist navigation using the United States Aids to Navigation System, a system consistent with the International Association of Lighthouse Authorities (IALA) Maritime Buoyage System. The IALA Maritime Buoyage System is followed by most of the world’s maritime nations and will improve maritime safety by encouraging conformity with buoyage systems used worldwide.
(2) It is the intent of this chapter:
(a) To provide for uniformity in design, construction and coloring of markers so that all vessel operators may readily recognize, identify and distinguish between authorized markers and unlawfully placed markers;
(b) To provide a means by which the Division and its officers and all other law enforcement officers charged with the enforcement of this chapter may determine with reasonable certainty which boating restricted areas are lawfully established and marked;
(c) To insure that regulatory markers noticing boating restricted areas created pursuant to Sections 327.22, 327.60 and 370.12, F.S., are authorized only for the purposes of protecting human life and limb, vessel traffic safety and maritime property, and manatees.
(3) It is further the intent of this chapter that no boating restricted area be established, continued in effect, or enforced for the purpose of noise abatement or for the protection of shoreline, shore-based structures, or upland property from vessel wake or shoreline wash. As provided in Section 327.33(2), F.S., “vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property.” The wake resulting from the reasonable and prudent operation of a vessel is a force which should be anticipated by the owners of property adjacent to the navigable waters of this state.
(4) The Division will not issue any permit authorizing the placement of regulatory markers for:
(a) Ordinances that apply within the Florida Intracoastal Waterway, in violation of Section 327.60(2), F.S.;
(b) Ordinances adopted pursuant to Section 370.12(2)(p), F.S., until such ordinances have been reviewed and approved by the commission, and provided that such ordinances do not apply within the marked navigation channel of the Florida Intracoastal Waterway nor to the waters within 100 feet of said channel;
(c) Ordinances that discriminate against personal watercraft, in violation of Section 327.60(1), F.S.;
(d) Ordinances that discriminate against airboats, unless adopted by a two-thirds vote of the governing body enacting such ordinance, as provided in Section 327.60(1), F.S.
(e) Ordinances regulating the anchoring of non-live-aboard vessels in navigation, in violation of Section 327.60(2), F.S., when such vessels are outside the marked boundaries of mooring fields permitted as provided in Section 327.40, F.S., and this rule.
(5) Where conflicting speed or operational restrictions are established by law or pursuant to law, the more restrictive shall be posted and shall apply.
(6) Regulatory markers placed pursuant to a permit issued as provided herein shall be prima facie evidence of the boundaries of boating restricted areas and the speed or operational restrictions imposed therein.
Specific Authority 327.04, 327.40, 327.41 FS. Law Implemented 327.40, 327.41 FS. History–New 12-23-01, Amended 10-5-06.
68D-23.102 Scope.

The provisions of this chapter prescribe the procedures by which the Division permits and regulates the placement of markers in, on, and over the waters of this state and the shores thereof. This chapter also provides for the design, construction, characteristics and coloring of all markers placed in, on, and over the waters of this state and the shores thereof by adopting by reference the United States Aids to Navigation System, Part 62 of Title 33 of the Code of Federal Regulations.

Specific Authority 327.40; 327.41 FS. Law Implemented 327.40, 327.41 FS. History—New 12-23-01.

68D-23.103 Definitions.

(1) For purposes of this chapter and Chapters 68C-22 and 68D-24, F.A.C., the following definitions shall apply:
(a) “Aid to navigation” means any device external to a vessel intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation.
(b) “Information marker” means a device external to a vessel intended to provide the mariner with information concerning matters other than dangers or obstructions to navigation, or regulatory matters.
(c) “Regulatory marker” means a device used to alert the mariner to various warnings or regulatory matters such as horsepower, speed, or wake restrictions.
(d) “Mooring buoy” means a device that is permanently secured to the bottom of a body of water and to which a vessel may be secured when not underway.
(e) “Buoy” means any device designed to float which is anchored in the waters of the state and which is used to convey a message or carry a sign.
(f) “Sign” means an object which displays a message and which is attached to another object such as a piling, buoy, structure, or the land itself.
(g) “Symbol” means the orange geometric shape displayed on an information or regulatory marker. The meanings associated with the orange geometric shapes are as follows:
1. A vertical open-faced diamond signifies danger;
2. A vertical diamond shape having a cross centered within indicates that all vessels or certain classes of vessels are excluded from the marked area;
3. A circular shape indicates that certain operating restrictions are in effect within the marked area; and
4. A square or rectangular shape will contain directions or instructions lettered within the shape.
(h) “Display area” means the area on an information marker or regulatory marker within which the symbol is displayed.
(i) “Boating restricted area” means an area of the waters of the state within which the operation of vessels is subject to specified restrictions or from which vessels are excluded.
(j) “Shore” means that area of land immediately adjacent or contiguous to the waters of the state such that a sign or marker erected thereon is readily visible to the operator of a vessel who might reasonably believe that the sign or marker displays navigational, regulatory or other information relevant to the operation of the vessel.
(k) “Florida Intracoastal Waterway” means:
1. All waters within the right-of-way of the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway Route 1 across Lake Okeechobee; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; the Gulf Intracoastal Waterway, Carrabelle to Anclote open bay section (using the Gulf of Mexico); and the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and
2. All waters from shoreline to shoreline within the Okeechobee Waterway, Stuart to Fort Myers, not including Route 1 across Lake Okeechobee; the St. Johns River, Jacksonville to Sanford; and, the Apalacheicola, Chattahoochee, and Flint Rivers in Florida.
(l) “Uniform State Waterway Marking System” means the system of aids to navigation, information markers, regulatory markers, and mooring buoys, as specified in Part 66 of Title 33 of the Code of Federal Regulations.
(m) “United States Aids to Navigation System” means the system of aids to navigation, information markers, regulatory markers, and mooring buoys, as specified in Part 62 of Title 33 of the Code of Federal Regulations.
(n) “Private Aid to Navigation” means an aid to navigation the establishment of which is authorized by a permit issued by the United States Coast Guard pursuant to Part 66 of Title 33 of the Code of Federal Regulations.
(o) “Maritime property” means vessels and their engines, tackle, gear, equipment, appurtenances, furnishings, cargoes, stores, personal property then on board belonging to the vessels’ occupants, and such other similar property as is consistent with the general maritime law of the United States. This definition does not include littoral or riparian property, the shores thereof, seawalls, docks, wharfs, or other property intentionally and permanently attached to the shore.
(p) “Inland lake” means a naturally occurring or man-made fresh water lake or pond. The term does not include reservoirs, impoundments, or any portion of the Florida Intracoastal Waterway.
(q) “Associated canal” means a man-made canal that is directly attached to an inland lake and that does not connect to other waters or that connects only to another inland lake. The term does not include any portion of a state or federally funded navigation project or any portion of the Florida Intracoastal Waterway.
(r) “In writing” means any written or printed form of communication and includes electronic mail, files transferred as attachments to electronic mail, and telefacsimiles.
(2) When used on markers, the terms:
(a) “Idle Speed No Wake” and “Idle Speed” 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.
(b) “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. A vessel that is:
1. Operating on plane is not proceeding at this speed;
2. In the process of coming off plane and settling into the water or coming up onto plane is not proceeding at this speed;
3. Operating at a speed that creates a wake 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;
4. 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.
“Slow Speed” and “Slow Speed Minimum Wake” are the preferred terms. “Slow Down Minimum Wake” markers may continue to be used for restricted areas authorized prior to January 1, 2001, except when such a restricted area is contiguous to an Idle Speed No Wake boating restricted area.
(c) “Caution zone” means an area presenting a significant risk of navigational hazard, an area frequently inhabited by manatees on a somewhat regular basis, or other area similarly requiring that vessels be operated with particular alertness and caution so as to avoid endangering life, limb, vessel traffic safety or maritime property, or manatees.
(d) “No Power-driven Vessels” – All vessels equipped with any mechanical means of propulsion must turn off the mechanical means of propulsion and, if possible to do so, tilt or raise the mechanical means of propulsion out of the water.
(e) “No Internal Combustion Motors” or “No Motor Zone” – All vessels equipped with internal combustion motors (e.g.: gasoline or diesel motors) for propulsion must turn off the internal combustion motor and, if possible to do so, tilt or raise the internal combustion motor out of the water. The use of electric motors is not prohibited.
(f) “Vessel exclusion zone” means an area from which all vessels or certain classes of vessels are excluded. The following list includes the most common examples of vessel exclusion zones. Whenever the following messages are displayed on vessel exclusion zone markers, they have the meaning provided. Other messages on vessel exclusion zone markers are permissible, so long as the markers display language that accurately describes the vessels or classes of vessel that are excluded from the area. All vessel exclusion zones must be marked with the crossed-diamond symbol as specified in subparagraph (1)(g)2., above.
1. “No Vessels” or “Swim Area” – All vessels of any type are prohibited from entering the marked area.
2. “No Motorized Vessels” or “No Motorboats” or “Motorboats Prohibited” – All vessels equipped with any mechanical means of propulsion are prohibited from entering the marked area, even if the mechanical means of propulsion is not in use.
3. “Manually Propelled Vessels Only” – All vessels other than those propelled by oars, paddles, or poles are prohibited from entering the marked area. Vessels equipped with sails or a mechanical means of propulsion may enter the marked area only if the sails or mechanical means of propulsion is not in use and, if possible to do so, the mechanical means of propulsion is tilted or raised out of the water.
4. “No Entry Area” – All vessels and all persons, either in vessels or swimming, diving, or wading, are prohibited from entering the marked area.

(g) “Miles per hour” and “MPH” mean speed made good over the bottom measured in statute miles. A specific number will be posted in conjunction with “miles per hour” or “MPH” and is the maximum speed at which a vessel may lawfully be operated within the marked area. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at posted numerical speed limit do so, this posted 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:
1. Having an elevated bow which restricts visibility, or
2. Producing an excessive wake or other hazardous condition which endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.

(h) “Wake,” when used in conjunction with a numerical size limit, 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 wake, and propeller wash, measured from the ambient tide level to the crest of the vessel’s wake at a distance of not less than 25 feet from the vessel.

(i) “Holiday” means:
1. New Year’s Day.
2. Birthday of Martin Luther King, Jr., the third Monday in January.
3. Memorial Day.
4. Independence Day, the Fourth of July.
5. Labor Day.
6. Columbus Day.
8. Thanksgiving Day.
9. Friday after Thanksgiving.

If any of these holidays falls on Saturday, the preceding Friday shall be observed as a holiday. If any of these holidays falls on Sunday, the following Monday shall be observed as a holiday.

(3) The division may authorize the use of other terminology on regulatory markers if the message is clear, unambiguous, and accurately describes a lawfully imposed restriction.

Specific Authority 327.04, 327.40, 327.41, 327.46, 370.12 FS. Law Implemented 327.40, 327.41, 327.46, 370.12 FS. History–New 12-23-01, Amended 10-5-06.

68D-23.104 Placement of Markers.

(1)(a) Except as provided below, no person, municipality, county or other governmental entity shall place, cause to be placed, or maintain in place any marker in, on or over the waters of the state or the shores thereof without a permit from the division.

(b) Counties, municipalities and other government entities are exempt from permitting under this rule when placing:
1. Swimming Area Markers or Special Event Markers on inland lakes and their associated canals.
2. Informational markers other than Swimming Area Markers or Special Event Markers, when placed on the shores of inland lakes and their associated canals or on such waters within fifty feet (50’) of the ordinary high water line.

(c) Nothing herein shall prevent counties, municipalities or other governmental entities from choosing to voluntarily apply for waterway marker permits.

(2) Any person, municipality, county, or other governmental entity desiring to place a marker shall make application to the division on the Florida Uniform Waterway Marker Application form, FWC/DLE 153
(01/2006), which is adopted and incorporated herein by reference. Application forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways Management, 620 South Meridian Street, Tallahassee, Florida 32399-1600 or download the application from the Commission website at: http://www.myfwc.com/boating/waterways/index.htm.

Each application must include:

(a) A scale drawing no larger than 8½ inches by 11 inches, reproducible on standard office photocopying equipment, showing the approximate placement of the proposed markers with each proposed marker labeled to correspond to the list required below. If the application is for regulatory markers, the drawing must also depict the exact boundaries of the proposed boating restricted area.

(b) A list of the markers proposed, labeled to correspond to the drawing required above.

(c) A statement of the specifications for the markers proposed, including:

1. A description giving the type, size, shape, color, material, height above mean high water for each marker sign or buoy, and the number, letter or message displayed thereon;

2. A description of the type, size, and material used for:

   a. Any structure which will support a marker sign;

   b. Any anchor, anchoring system, chain, tether, rode, or other ground tackle which will secure a marker buoy, including a mooring buoy, to the bottom;

3. A statement of the color, characteristic, height above mean high water, intensity, and nominal range of any light which will be placed on the markers;

4. A statement of the type signal (whistle, horn, bell, etc.) and characteristic for any audible fog signal.

5. The latitude and longitude expressed in degrees and decimal minutes of the location where each marker will be placed, and the datum in which the coordinates are expressed (WSG-84, NAD-83, etc.).

(d) A statement of the purpose for placing the proposed markers. If the application is for regulatory markers, this statement must include the purpose for regulating vessel operation and a statement of the facts and circumstances justifying the establishment of the restriction on speed or operation.

(e) A statement listing the names or titles of the individuals responsible for the placement and maintenance of the markers along with an address and a contact telephone number for each individual.

(f) If the application is for regulatory markers, the applicant must enclose therewith proof of the lawful imposition of restrictions on the speed or operation of vessels for which the regulatory markers are requested, as follows:

1. A copy of an ordinance adopted pursuant to Section 327.22, F.S., which imposes the restriction only upon vessels resident within the county or municipality imposing the restriction; or

2. A copy of an ordinance adopted pursuant to Section 327.60, F.S., which imposes the restriction for reasons of vessel traffic safety or public safety; or

3. A copy of an ordinance adopted by a county or municipality and approved by the commission pursuant to paragraph 370.12(2)(p), F.S., which imposes the restriction for reasons of manatee protection; or

4. A copy of the statute, special act, rule, regulation, order, or other instrument which imposes the restriction for reasons other than public safety or manatee protection, and a statement of the specific authority under which the restriction is imposed.

(3) Upon receipt of all statements and other documents specified above, the division will:

(a) Determine whether:

1. The proposed markers conform to the United States Aids to Navigation System and this chapter; and

2. The proposed markers and any support structures or moorings conform to the United States Coast Guard Aids to Navigation – Technical Manual (Comdtnst M16500.3A).

(b) Determine whether or not the placement of the proposed markers in the proposed locations would create an unreasonable hazard to navigation.

(c) For danger markers only, determine whether or not the markers as proposed would clearly mark the hazard or danger and adequately notice mariners of the hazard or danger.

(d) For regulatory markers only:

1. Determine whether or not the markers as proposed would clearly mark the area as a boating restricted area and adequately notice mariners of the restriction imposed on vessel speed or operation.

2. Based on the authority under which the restriction is imposed:

   a. Determine whether or not the restriction applies only to vessels resident in the ordaining municipality or county, for ordinance adopted pursuant to Section 327.22, F.S.; or
b. Determine whether or not there exists a conflict with the provisions of Chapter 327, F.S., or any amendments thereto or regulations thereunder, for ordinances adopted pursuant to Section 327.60, F.S.; or
c. Forward the request to the Imperial Species Management Section for review and approval pursuant to paragraph 370.12(2)(o), F.S., for ordinances adopted thereunder; or
d. For all other regulatory markers, determine whether or not the restriction to be implemented by the proposed markers is supported by statute, special act, rule, ordinance, or other enactment or order.
(4) The division may consult, coordinate, or cooperate with any other governmental entity having concurrent jurisdiction over the waters for which the permit is requested.
(5) After obtaining the requested permit, the applicant must install, inspect, maintain, and remove the permitted marker at its own expense and as directed by the division.
(6) Discontinuance and removal. Any permitted waterway marker may be discontinued and removed by the owner after 30 days notice to the Boating and Waterways Section. Upon completion of the removal of the marker, the applicant must notify the Boating and Waterways Section in writing within 30 working days.

Specific Authority 327.04, 327.40, 327.41 FS. Law Implemented 327.40, 327.41 FS. History--New 12-23-01, Amended 10-5-06

68D-23.105 Criteria for Approval of Regulatory Markers.

(1) The division shall find a valid vessel traffic safety or public safety purpose is presented for ordinances adopted pursuant to Section 327.60, F.S., under the following facts and circumstances:
(a) For an Idle Speed-No Wake boating restricted area, if the area is:
1. Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet wide and within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet wide.
2. Within 500 feet of fuel pumps or dispensers at any marine fueling facility which sells motor fuel to the general boating public on waterways more than 300 feet wide and within 300 feet of the fuel pumps or dispensers at any licensed terminal facility which sells motor fuel to the general boating public on waterways not exceeding 300 feet wide.
3. Inside or within 300 feet of any lock structure.
4. An area where boating accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate high risk of collision or where any significant vessel wake would be likely to endanger life, limb, vessel traffic safety or maritime property.
(b) For a Slow Speed Minimum Wake boating restricted area if the area is:
1. Within 300 feet of any bridge fender system.
2. Within 300 feet of any bridge span presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.
3. Within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area where an intervening obstruction to visibility may obscure other vessels or other users of the waterway.
4. Subject to unsafe levels of vessel traffic congestion.
5. Subject to hazardous water levels or currents, or containing other navigational hazards.
6. An area that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present significant risk of collision or a significant threat to public safety.
(c) For a numerical speed limit boating restricted area if the area is:
1. Subject to unsafe levels of vessel traffic.
2. Subject to hazardous water levels or currents or containing other navigational hazards.
3. An area that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present risk of collision or a risk to public safety.
4. An area within which a proposed numerical speed limit is less restrictive than the speed limit in place for the surrounding area if hazardous tides or currents require that vessels operate faster than the surrounding speed limit in order to properly maintain maneuvering ability and headway or if the geographic configuration of the area and levels of vessel traffic density indicate that higher speeds do not pose a threat to life, limb, property, or manatees. Any dispute concerning the threat to manatees shall be resolved as provided in paragraph 370.12(2)(o), F.S.
(d) For vessel exclusion zones if the area is:
1. Designated as a public bathing beach or swim area.
2. Reserved exclusively as a canoe trail or otherwise limited to vessels under oars or under sail.
3. Reserved exclusively for a particular activity and user group separation must be imposed to protect the safety of those participating in such activity.
   (e) For other boating restricted areas (caution zone, no skiing, no parasailing, one-way vessel traffic, etc.) if the area is one that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present a risk to vessel traffic safety or public safety.
(2)(a) An ordinance for the protection of manatees, adopted pursuant to paragraph 370.12(2)(o), F.S., must be reviewed and approved by the commission before any regulatory marker implementing such an ordinance may be installed. Any disagreement on the provisions of such an ordinance shall be resolved as provided in said paragraph.
   (b) In order to avoid a duplicate review and approval process, the division shall defer to the findings of the commission. Therefore, upon the review of such an ordinance and the commission’s approval of the ordinance upon a finding that manatees are frequently sighted, that manatees can be generally assumed to inhabit the area periodically or continuously, and that the restrictions imposed are justified and necessary for the protection of manatees or their habitat, the division shall find a valid manatee safety purpose is presented.
   Specific Authority 327.40, 327.41 FS. Law Implemented 327.40, 327.41, 370.12 FS. History–New 12-23-01.

68D-23.106 Marker Placement Conditions.

(1) All markers must comply with the following requirements and all permits issued pursuant to this chapter are subject to the following conditions:
   (a) Placement of these markers must be as requested in the application. Any deviation will require that the applicant apply to have the permit amended.
   (b) The applicant must display the permit number (except as provided below) on each marker and the ordinance number, code section number, statute number, regulation or rule number (etc.) on each regulatory marker. These numbers must be displayed in black, block characters approximately one inch in height.
   1. On all regulatory markers, the permit number must be displayed in the lower left corner on the face of each regulatory marker. The ordinance number, code section number, statute number, regulation or rule number (etc.) must be displayed in the lower right corner on the face of each regulatory marker.
   2. On all markers other than regulatory markers, the permit number must be displayed on the marker at any location on the marker where it can easily be read, including the reverse side of a sign, provided that it does not interfere with the message of the marker.
   3. Informational markers placed by counties, municipalities, or other governmental entities on inland lakes and their associated canals are exempt from permitting under this rule. Such markers, if not permitted, must display in lieu of a permit number, the name of the county, municipality, or other governmental entity that placed the marker.
   (c) Upon completion of the installation of markers, the applicant must notify the Boating and Waterways Section in writing within 30 days. If the latitude and longitude of each marker, as installed, is different from that listed in the application, this notification must include the correct latitude and longitude in degrees and decimal minutes as installed and the datum in which the coordinates are expressed.
   (d) All markers must be maintained in proper condition at all times. A discrepancy exists whenever a marker is not exactly as described in the approved application or is destroyed, damaged, moved, or is otherwise unserviceable or not watching properly. The applicant must immediately report any discrepancy in the marker to the Boating and Waterways Section by telephone, telefacsimile or other similarly rapid means of communication. Unless the applicant’s permit expressly provides for a longer period, the applicant must correct any discrepancy within not more than 30 days and must notify the Boating and Waterways Section when the correction is accomplished.
   (e) Authorization by the division for the placement of a marker does not authorize any invasion of private rights, nor grant any exclusive privileges, nor does it obviate the necessity of complying with any other federal, state or local laws or regulations.
   (f) All permits issued pursuant to this chapter are contingent upon the consent of and, if necessary, the issuance of appropriate permits by the United States Army Corps of Engineers authorizing the placement of
structures for the support of the proposed markers. Consent may be by nationwide permit, regional permit, letter permit, authorization letter, statement of no objection, or other similar means.

(g) All permits issued pursuant to this chapter are contingent upon the consent of and, if necessary, the issuance of appropriate permits by the United States Coast Guard authorizing the establishment of private aids to navigation pursuant to Part 66 of Title 33 of the Code of Federal Regulations.

(h) It is unlawful to place markers, buoys, or signs on submerged lands, or other property or structure not owned by the person or governmental entity placing them without first receiving the written consent of the owner of the submerged lands, other property, or structure to the placement of said markers, buoys, or signs. For markers, buoys, or signs placed pursuant to a permit issued under this rule, the permit is contingent upon the applicant providing a copy of such consent to the Boating and Waterways Section.

(i) By accepting any permit and placing the markers authorized therein, the applicant other than a governmental entity, to the extent authorized by law, agrees and promises to hold harmless the State of Florida and its agencies, employees, agents, or successors from fault with respect to any claim or claims arising from alleged negligence in the placement, maintenance, operation and removal of any and all markers placed by applicants pursuant to such permits. The applicant other than a governmental entity further agrees to indemnify the State of Florida for any and all legal fees and costs incurred in defense of any suit brought against the State as a result of alleged negligence by applicant in the placement, maintenance, operation or removal of the markers.

(j) Applicants for permits to place regulatory markers or the governmental entities establishing the rules, ordinances, or other actions imposing the regulations must provide for the enforcement of operating restrictions noticed by said markers.

(2) Additional conditions for regulatory markers.

(a) All regulatory markers must be supported by a statute, special act, rule, regulation, ordinance, order, or other similar regulatory instrument which imposes the restriction displayed on the marker.

(b) If the regulatory instrument supporting a regulatory marker is amended or if it is repealed, rescinded, revoked, or otherwise becomes a nullity, the permit holder must within 30 days notify the Boating and Waterways Section of the change and must also:

1. In the case of an amendment to the regulatory instrument, the file and amended permit application showing the markers that will be removed, replaced, modified, or added in order to implement the amendment to the regulatory instrument.

2. In the case of the repeal, rescission, revocation, or other nullification of the regulatory instrument, remove from the waters of this state and the shores thereof all regulatory markers implementing that regulatory instrument.

(3) The division and its officers and all other law enforcement officers charged with the enforcement of Chapter 327, F.S., have the authority to remove or cause the removal of any marker found in violation of the conditions imposed under this section or otherwise imposed in the permit authorizing the placement of the marker if the violation is not corrected within 30 days following notification of the permittee of the violation.

Specific Authority 327.04, 327.40, 327.41 FS. Law Implemented 327.40, 327.41 FS. History–New 12-23-01, Amended 10-5-06.


(1) The following are adopted and incorporated by reference as they existed on December 23, 2001:

(a) The United States Aids to Navigation System, Part 62 of Title 33 of the Code of Federal Regulations;

(b) The United States Coast Guard Aids to Navigation – Administration Manual (Comdtinst M16500.7);

(c) The United States Coast Guard Aids to Navigation – Technical Manual (Comdtinst M16500.3A).

(2) All markers, including mooring buoys placed or maintained in, on or over the waters of the state or the shores thereof must conform to the United States Aids to Navigation System.

(a) All markers in, on or over the waters of the state or the shores thereof must conform to the United States Aids to Navigation System and all other provisions of this chapter, or be removed from the waters or shores of the state.

(b) No person, municipality, county, or other governmental entity shall place, maintain, or permit to remain in, on or over the waters of the state or shores thereof any nonconforming marker.

(c) All nonconforming markers in place in, on, or over the waters of the state or shores thereof are declared a nuisance. The division and its officers and all other law enforcement officers charged with the
68D-23.108 Specifications for Markers.
(1) A marker placed in, on or over the waters of the state or shores thereof may be displayed as a buoy bearing letters, numbers or a symbol on its surface, or as a sign mounted on a buoy, piling or other structure, or as a sign on the shore.
(2) Buoyed signs and markers must extend not less than 36 inches above the surface of the water. A sign suspended above the water must have a minimum of 25 feet clearance from the mean high water mark to the bottom of the sign.
(3) A buoy whose sole purpose is to carry a sign above it shall be marked with three horizontal bands of international orange alternating with two horizontal bands of white, each band placed completely around the circumference of the buoy and occupying approximately one-fifth of the total area of the buoy’s surface above the waterline. All markers shall be made of materials which will retain, despite exposure to weather and other elements, their color, shape, legibility and position.
(4) All letters on green or black backgrounds shall be white. All letters and numerals on red or white backgrounds shall be black, except that white retroreflective letters and numerals may be used on a red background. All letters and numerals shall be of block characters of good proportion, spaced in a manner which will provide maximum legibility and of a size proportionate to the size of the marker.
(5) Retroreflective materials shall be used for all displays on markers that are required to be international orange and as otherwise required in the United States Coast Guard Aids to Navigation – Technical Manual (Comdtnst M16500.3A). The white background dayboard film material for all information, danger, exclusion, and regulatory signs installed or replaced after July 1, 2006, shall be retroreflective. Retroreflective materials may be used for any other portion of a marker.
(6) Every pile used in waters of this state to support signs for waterway marking purposes must have two bands of white tape placed around it. The bands of tape must be placed separately around each pile for dolphins, clusters, and other structures using multiple piles for support. The tape must be 6 inches wide and made of self-adhesive (pressure sensitive), diamond-grade, white, retroreflective material. The top of the first band must be placed 6” from the bottom of the sign; the top of the second band must be placed 8” from the bottom of the first band. The tape must be installed with a minimum overlap of 1 inch over the entire 6” width of the band. On wooden piles, the tape must be additionally secured using not less than 4 stainless steel, 1-inch staples driven through the area of the overlap. If the tape becomes delaminated, cracked, checked, weathered, or abraded so as to have a dull or roughened surface, it must be replaced. Any existing tape must be removed before applying the replacement tape.
(7) All buoys other than mooring buoys must be attached to the waterbody bottom using anchors, sinkers, chain, shackles, swivels, and bridles that meet or exceed the specifications in the United States Coast Guard Aids to Navigation – Technical Manual (Comdtnst M16500.3A).
(8) Mooring buoys are white cylindrical or spherical with a blue band located near the top of the buoy. All mooring buoys must be attached to the waterbody bottom using anchors, sinkers, chain, shackles, swivels, and must be equipped with pennants, that are of sufficient size, strength, and holding power for their intended purpose.

68D-23.109 Additional Specifications for Information and Regulatory Markers.

(1) All information and regulatory markers shall be white in color and shall display international orange symbols.
(2) When a buoy is used as an information or regulatory marker, it shall be white with horizontal bands of international orange placed completely around the circumference of the buoy. One band shall be at the top of the buoy body, the second band shall be placed just above the waterline so that both international orange bands are clearly visible to approaching vessels. The international orange bands shall be not less than two inches in width. The display area shall be that portion of the buoy body between the bands and shall be
(3) When a sign is used for an information or regulatory marker it must be rectangular. It must be white with an international orange border. The display area is that portion of the sign within the border. Symbols must be centered within the display area. The size of the sign must be appropriate to the size of the waterway where the sign is located and the nature of the vessels transiting the waterway.

(4) Specifications for Display of Symbols.

(a) The thickness of the international orange line used to draw the borders and the symbols shall be not less than 2 inches.

(b) The height of the symbol shall be at least half and not more than two-thirds the height of the display area.

(c) The sides of the diamond shape shall slope at a thirty to forty-five degree angle from the vertical on a plane surface. Appropriate adjustments for curvature shall be made when applied to a cylindrical surface.

(d) In addition to the permit number required to be displayed under subsection 68D-23.106(1), F.A.C., every regulatory marker shall display the number of the statute, special act, rule, ordinance, or other governmental action that created the boating restricted area or other operating restriction, and the name of the municipality, county or other governmental agency which placed and maintains the marker. This number and name shall be displayed in characters not less than one inch in height and shall be placed in the lower right hand corner of the display area on each sign, and at any location on each buoy where it can easily be read, provided that it shall not interfere with the message of the marker.

Specific Authority 327.04, 327.40, 327.41 FS. Law Implemented 327.40, 327.41 FS. History–New 12-23-01, Amended 10-5-06.

68D-23.110 Inspections and Certification.

(1) Each person holding a permit to place and maintain one or more markers must inspect all markers for which the permit was issued triennially.

(2) The required inspection must be documented in writing and must include the following:

(a) The name of the permit holder and permit number of the markers being inspected;

(b) The name of the person or persons currently responsible for the placement and maintenance of the markers; and

(c) A photograph of each marker taken in close enough proximity to legibly show all symbols, borders, and letters and numbers, including the text of any message, the permit number, and the ordinance number, code section number, statute number, regulation or rule number, (etc.). For marker installations with two or more signs, a sufficient number of photographs must be taken to legibly show the information on each sign. Digital photography is acceptable for this purpose. Photographs must be labeled with the location of the marker depicted and the date the photograph was taken.

(d) A statement certifying that the markers placed pursuant to the permit have been inspected during the ninety days preceding the statement and that:

1. The markers are properly maintained and in serviceable condition;

2. The markers conform to the requirements of this chapter;

3. The markers are still properly on station; and

4. The date or dates on which the markers were inspected.

(3) The permit holder must maintain the inspection documentation until it is replaced by a subsequent inspection and documentation. Failure to inspect a marker and to maintain documentation of the results of the inspection during the specified time period is grounds for rescinding the permit authorizing placement of the marker and for removing or ordering the removal of the marker.

(4) Dayboard and buoy surfaces and dayboard backing materials will deteriorate because of the effects of weathering. Wind, rain, freezing temperatures, and sunlight cause delamination (separation), cracking, peeling, and fading. Attention must be given to these conditions during inspections.

(a) Markers will be considered discrepant under the following guidelines:

1. Backing materials. Delamination of the plies on a plywood dayboard backing must not effect more than 25 percent of the surface area. Any warpage must not visibly detract from the signal or message presented to the mariner. The backing must not be softened or otherwise deteriorated around the mounting points to a degree that the board could come loose in a storm typical for the area in which the marker is placed.
2. Elastomeric films, numerals, letters, symbols, and borders. Delamination of films and retroreflective markings on dayboards and buoys must not affect more than 10 percent of the surface of the material. Films and retroreflective markings must not be cracked, checked, weathered, or abraded so as to have a dull or roughened surface. Peeling of the film or markings from the dayboard or buoy must not affect more than 10 percent of the surface area. Letters, numerals, symbols, and borders must not be faded or weathered so as to visibly detract from the signal or message presented to the mariner.
(c) A dayboard or buoy must be replaced if any of the deteriorations noted above is observed or, if for any reason, it cannot function as intended (including significant fading or other discoloration) until the next regularly scheduled inspection. Onsite repairs are permitted if they do not interfere with or detract from the intended signal function of the marker.
(5) All discrepancies documented during an inspection must be reported to the Boating and Waterways Section and corrected within 30 days, as provided in paragraph 68D-23.106(1)(d), F.A.C.
Specific Authority 327.04, 327.40, 327.41 FS. Law Implemented 327.40, 327.41, 370.12 FS. History--New 12-23-01, Amended 10-5-06.

68D-23.111 Enforcement.

This chapter shall be enforced by the division and its officers, and any other authorized law enforcement officer as provided in Section 327.70, F.S., all of whom shall have the authority to remove or cause the removal of any marker found to be in violation of this chapter.
Specific Authority 327.40, 327.41 FS. Law Implemented 327.22, 327.40, 327.41, 327.60, 327.70, 370.12 FS. History--New 12-23-01.

68D-23.112 Exemptions.

(1) Nothing herein shall apply to the United States Government or its agencies, nor to any aid to navigation, marker, mooring buoy, or other similar device placed thereby.
(2) Persons establishing private aids to navigation other than regulatory markers and mooring buoys on waters of concurrent state/federal jurisdiction pursuant to the provisions of 33 CFR § 66.01 may submit to the Boating and Waterways Section a copy of their United States Coast Guard permit (CG-2554) in lieu of the materials required under Rule 68D-23.104, F.A.C. Upon receipt by this section of said copy of their permit, such private aids to navigation are exempt from further permitting and need not display a permit number.
(3) Except as provided in subparagraph 68D-23.106(1)(b)3., F.A.C., every regulatory marker without a permit number, in place in, on or over the waters of the state or shores thereof is declared a nuisance. The division and its officers and all other law enforcement officers charged with the enforcement of Chapter 327, F.S., have the authority to remove or cause the removal of any unpermitted regulatory marker. Markers authorized by the former Florida Department of Natural Resources prior to January 1, 1988, for which no permit number was assigned shall be issued a permit number upon receipt by the Boating and Waterways Section of the following:
(a) A copy of the correspondence authorizing placement of said markers;
(b) A statement of the specifications for the markers, including:
1. A list of the markers;
2. A description giving each marker’s size and message, and
3. The latitude and longitude coordinates in degrees and decimal minutes of the location of each marker and the datum in which those coordinates are expressed;
4. A statement that the markers have been inspected during the ninety days preceding the instant request and that:
   a. The markers are properly maintained and in serviceable condition;
   b. The markers conform to the requirements of this chapter;
   c. The markers are still properly on station; and
   d. The date or dates on which the markers were inspected.
(4) Markers placed by local governments on inland lakes and their associated canals.
   (a) The placement of information or danger markers by counties, municipalities, or other governmental entities, in, on, or over the waters or shores of inland lakes and their associated canals is exempt from permitting under this section and such markers need not display any permit number. These markers include,
but are not limited to, those providing information or warnings concerning: ends of boat ramps, no
swimming, swimming area, lake names, canal names, trash receptacles, public health notices, underwater
hazards, regulatory matters, emergencies, and special events.
(b) These markers, with the exception of swimming area and special event markers, must be placed on land
or within 50 feet from the ordinary high-water line.
(c) This exception from the permitting requirement does not relieve any county, municipality, or other
governmental entity from compliance with any other state or federal rule, regulation, or law.
(d) The Commission finds that federal law imposes less restrictive requirements than provided herein on
the placement of markers indicating the ends of boat ramps, no swimming, swimming area, lake name,
trash receptacle, public health notice, canal, emergency, and other similar markers directed to persons on
land, swimmers, and other persons using the waters of this state who are not the operators or occupants of
vessels. Such markers were not considered waterway markers prior to June 13, 2005, and were not subject
to the provisions of this rule or Section 327.40, F.S., prior to that date. The Commission temporarily
exempts such markers from the provisions of this rule and Section 327.40, F.S. This temporary exemption
shall expire and this paragraph shall stand repealed on December 31, 2006, unless repromulgated.
(5) The restrictions displayed on regulatory markers shall not apply:
(a) In the case of an emergency;
(b) To law enforcement patrol vessels or firefighting vessels; or
(c) To any rescue vessel owned or operated by a governmental entity.

Specific Authority 327.04, 327.40, 327.41 FS. Law Implemented 327.40, 327.41, 327.46, 327.71, 370.12 FS. History–
New 12-23-01, Amended 10-5-06.
Subpart J—Manatee Protection Areas

SOURCE: 44 FR 60964, Oct. 22, 1979, unless otherwise noted.

§ 17.100 Purpose.
This subpart provides a means for establishing manatee protection areas without waters under the jurisdiction of the United States, including coastal waters adjacent to and inland waters within the several States, within which certain waterborne activities will be restricted or prohibited for the purpose of preventing the taking of manatees.

§ 17.101 Scope.
This subpart applies to the West Indian manatee (Trichechus manatus), also known as the Florida manatee and as the sea cow. The provisions of this subpart are in addition to, and not in lieu of, other regulations contained in this chapter I which may require a permit or prescribe additional restrictions on the importation, exportation, transportation, or taking of wildlife, and the regulations contained in title 33, CFR, which regulate the use of navigable waters.

§ 17.102 Definitions.
In addition to definitions contained in the Acts, part 10 of this subchapter, and § 17.3 of this part, and unless the context otherwise requires, in this subpart:


Authorized officer means any commissioned, warrant, or petty officer of the U.S. Coast Guard, or any officer or agent designated by the Director of the U.S. Fish and Wildlife Service, the Secretary of the Interior, the Secretary of Commerce, or the Secretary of the Treasury, or any officer designated by the head of a Federal or State agency which has entered into an agreement with the Secretary of the Interior, Secretary of Commerce, Secretary of the Treasury, or Secretary of Transportation to enforce the Acts, or any Coast Guard personnel accompanying and acting under the direction of a person included above in this definition;

Manatee protection area means a manatee refuge or a manatee sanctuary;

Manatee refuge means an area in which the Director has determined that certain waterborne activity would result in the taking of one or more manatees, or that certain waterborne activity must be restricted to prevent the taking of one or more manatees, including but not limited to a taking by harassment;

Manatee sanctuary means an area in which the Director has determined that any waterborne activity would result in a taking of one or more manatees, including but not limited to a taking by harassment;

Waterborne activity includes, but is not limited to, swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing, the use of water vehicles, and dredging and filling operations;

Water vehicle includes, but is not limited to, boats (whether powered by engine, wind, or other means), ships (whether powered by engine, wind, or other means), barges, surfboards, water skis, or any other device or mechanism the primary or an incidental purpose of which is locomotion on, across, or underneath the surface of the water.

§ 17.103 Establishment of protection areas.
The Director may, by regulation issued in accordance with 5 U.S.C. 553 and 43 CFR part 14, establish manatee protection areas whenever there is substantial evidence showing such establishment is necessary to prevent the taking of one or more manatees. Any regulation establishing a manatee protection area shall state the following information:

(a) Whether the area is to be a manatee sanctuary or refuge.

(1) If the area is to be a manatee sanctuary, the regulation shall state that all waterborne activities are prohibited.

(2) If the area is to be a manatee refuge, the regulation shall state which, if any, waterborne activities are prohibited, and it shall state the applicable restrictions, if any, on permitted waterborne activities.
§ 17.104 Prohibitions.

Except as provided in §17.105,

(a) Manatee sanctuary. It is unlawful for any person to engage in any waterborne activity within a manatee sanctuary.

(b) Manatee refuge. It is unlawful for any person within a particular manatee refuge to engage in any waterborne activity which has been specifically prohibited within that refuge, or to engage in any waterborne activity in a manner contrary to that permitted by regulation within that area.

(c) State law. It is unlawful for any person to engage in any waterborne activity prohibited by, or to engage in any waterborne activity in a manner contrary to that permitted by any State law or regulation the primary purpose of which is the protection of manatees: Provided: that such State law or regulation has been issued as part of a program which is determined to be in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) or has been approved as consistent with the Marine Mammal Protection Act of 1972 in accordance with section 109 of that Act (16 U.S.C. 1379) and 50 CFR 18.53.1

§ 17.105 Permits and exceptions.

(a) The Director may issue permits allowing the permittee to engage in any activity otherwise prohibited by this subpart. Such permits shall be issued in accordance with the provisions of §17.22 of this part. Such permits shall be issued only for scientific purposes or for the enhancement of propagation or survival. All of the provisions of §17.22 shall apply to the issuance of such permits, including those provisions which incorporate other sections by reference. Compliance with this paragraph does not by itself constitute compliance with any applicable requirements of part 18.

(b) Any authorized officer may engage in any activity otherwise prohibited by this subpart if:

(1) The officer is acting in the performance of his or her official duties; and

(2) The activity is being conducted to directly protect any manatees, to enhance the propagation or survival of manatees, or is reasonably required to enforce the other provisions of this subpart.

(c) Any person may engage in any activity otherwise prohibited by this subpart if such activity is 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.

(d) Any waterborne activity which would otherwise be prohibited by this subpart may be engaged in if it is conducted by or under a contract with a Federal agency and if the Secretary of Defense, in accordance with section 7(j) of the Endangered Species Act of 1973 (16 U.S.C. 1536(j)) makes a finding that such activity is necessary for reasons of national security. Such a finding must be made prior to the beginning of the activity or the designation of the protection area, whichever occurs later; except that in the case of an emergency establishment of a protection area under §17.106, the finding must be made within 10 days after the beginning of the activity or the designation of the protection area, whichever occurs later.

§ 17.106 Emergency establishment of protection areas.

(a) The Director may establish a manatee protection area under the provisions of paragraphs (b) and (c) of this section at any time he determines there is substantial evidence that there is imminent danger of a taking of one or more manatees, and that such establishment is necessary to prevent such a taking.

1EDITORIAL NOTE: Section 18.53 was removed at 48 FR 22456, May 18, 1983. See the note at part 18, subpart F.
(b) The establishment of a manatee protection area under this section shall become effective immediately upon completion of the following requirements:

(1) Publication of a notice containing the information required by §17.103 of this section in a newspaper of general circulation in each county, if any, in which the protection area lies; and

(2) Posting of the protection area with signs clearly marking its boundaries.

(c) Simultaneously with the publication required by paragraph (b) of this section, the Director shall publish the same notice in the Federal Register. If simultaneous publication is impractical, because of the time involved or the nature of a particular emergency situation, failure to publish notice in the Federal Register simultaneously shall not delay the effective date of the emergency establishment. In such a case, notice shall be published in the Federal Register as soon as possible.

(d) No emergency establishment of a protection area shall be effective for more than 120 days. Termination of an emergency establishment of a protection area shall be accomplished by publishing notice of the termination in the Federal Register and in a newspaper of general circulation in each county, if any, in which the protection area lies.

(e) Within 10 days after establishing a protection area in accordance with this section, the Director shall commence proceedings to establish the area in accordance with §17.103.

§ 17.107 Facilitating enforcement.

Water vehicles operating in manatee sanctuary or refuge waters are subject to boarding and inspection for the purpose of enforcing the Acts and these regulations.

(a) The operator of a water vehicle shall immediately comply with instructions issued by authorized officers to facilitate boarding and inspection of the water vehicle.

(b) Upon being approached by an authorized officer, the operator of a water vehicle shall be alert for signals conveying enforcement instructions.

(c) A water vehicle signaled for boarding shall:

(1) Guard channel 16, VHF–FM, if equipped with a VHF–FM radio;

(2) Stop immediately and lay to or maneuver in such a manner as to facilitate boarding by the authorized officer and his or her party;

(3) When necessary to facilitate the boarding, provide a safe ladder, manrope, safety line and illumination of the ladder; and

(4) Take such other actions as may be necessary to ensure the safety of the authorized officer and his or her party and to facilitate the boarding and inspection.

(d) It is unlawful for any person to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or member of his or her party.

§ 17.108 List of designated manatee protection areas.

(a) Manatee sanctuaries. The following areas are designated as manatee sanctuaries. All waterborne activities are prohibited in these areas during the period November 15–March 31 of each year. The areas which will be posted are described as follows:

(1) That part of Kings Bay, Crystal River, Citrus County, within T. 18 S., R. 17 E., Tallahassee Meridian; located in SW¼ fractional section 28, more particularly described as follows:

Beginning at Corner 1 (N–1,653,459/E–308,915) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay near the southwest corner of Lot 9 as accepted on a plat by the Department of the Interior, General Land Office, dated January 10, 1928; thence easterly, along said shoreline, approximately 1240 feet to Corner 2 (N–1,653,762/E–309,641) a point; thence S. 56°59′11″ W., across open water, 776.49 feet to Corner 3 (N–1,653,339/E–308,900) a point; thence N. 32°03′07″ W., across open water, 142.26 feet to the point of beginning, containing 3.41 acres, more or less, to be known as the Banana Island Sanctuary.

(2) That part of Kings Bay, Crystal River, Citrus County, Florida, within T. 18 S., R. 17 E., Tallahassee Meridian; located in SW¼ fractional section 28, more particularly described as follows:

Beginning at Corner 1 (N–1,652,684/E–309,396) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay, said point being the northwest corner of Lot 31 Sunset Shores Addition to Woodward Park (Plat Book 2, page 140 Citrus County Property Appraiser’s Office); thence N. 39°05′33″ W., across open water, 439.10 feet to Corner 2 (N–1,653,043/E–309,144) a point; thence N.