

unless authorized. "Take" as defined by the MMPA and its implementing regulations (50 CFR part 18) means "to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal, including, without limitation, any of the following—the collection of dead animals or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; or the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal."

"Harassment" is defined under the MMPA as, "any act of pursuit, torment, or annoyance which—(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering."

The prohibitions on take apply to all persons, including Federal, State, and local government agencies, with the exception of humane taking (including euthanasia) by government officials while engaged in their official duties (16 U.S.C. 1379(h)).

Section 101(a)(5)(A) of the MMPA allows the Secretary of the Department of the Interior, through the Director of the Fish and Wildlife Service (Service), upon request, to authorize by specific regulation the incidental unintentional take of a small number of marine mammals by U.S. citizens engaged in specific identified activities (other than commercial fishing) within specific geographic areas. On November 14, 2002, the Service published a proposed rule and notice of availability of a draft Environmental Impact Statement regarding regulations that would authorize for the next five years the incidental unintentional take of a small number of Florida manatees (*Trichechus manatus latirostris*) resulting from government activities related to watercraft and watercraft access facilities within three regions of Florida (67 FR 69078).

Public Comments Solicited

Any final action resulting from this proposal will be based on the best available information. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule.

We welcome any and all suggestions, materials, and recommendations to assist and guide us in this endeavor. Specifically, we are seeking:

1. Information regarding manatee population studies/data, particularly for the Southwest Florida Stock;
2. Information regarding measures, including technological measures, that would result in the least practicable impact on manatees and their habitat;
3. Information regarding the effectiveness of mitigating measures currently in place;
4. Information regarding the potential social and economic effects of the proposed regulations;
5. Information regarding means of minimizing potential social and economic effects of the negative finding for the Southwest Stock;
6. Suggested means and measures to report and monitor the effects of incidental take on manatees;
7. Suggested additional research efforts related to the findings of this rule; and
8. Nominations for participants to serve on the Working Group on Watercraft-related Incidental Take.

Additionally, we are requesting specific public comment on the following issues pertaining to the economic analysis, which is printed in its entirety in the EIS for this action:

1. Information to better model the change in boater behavior and/or the economic surplus impacts of changes in marine access;
2. Additional estimates of the difference in residential property values with and without the potential to construct private boat docks;
3. Information to estimate the number and regional distribution of out-of-state boaters who use their boats in Florida waters; and
4. Alternative regional impact models (i.e., alternatives to IMPLAN) that would more accurately capture changes in sector outputs and employment resulting from the rule.

Please submit comments as a DOS text file format and avoid the use of special characters and encryption. Please also include "Attn—RIN 1018-AH86" and your name and return address in your email message. If you do not receive a confirmation from the system that we have received your email message, contact us directly by calling the Jacksonville Field Office (see ADDRESSES section).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their name and home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Our final determination on the proposed regulations will take into consideration comments and any additional information received by the date specified above. Previous comments and information submitted during the comment period need not be resubmitted. The comment period is extended to January 27, 2003.

Author

The primary author of this notice is Stefanie Barrett, U.S. Fish and Wildlife Service (see ADDRESSES).

Authority

The authority to establish regulations that would authorize for the next five years the incidental, unintentional take of small numbers of Florida manatees is provided by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), as amended.

Dated: December 27, 2002.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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