

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AJ06

Endangered and Threatened Wildlife and Plants; Establishment of Three Additional Manatee Protection Areas in Florida**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule; availability of supplemental information.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to establish three additional manatee protection areas in Florida. We are proposing this action under the Endangered Species Act of 1973, as amended (ESA), and the Marine Mammal Protection Act of 1972, as amended (MMPA), to further recovery of the Florida manatee (*Trichechus manatus latirostris*) by reducing the number of takings. We are proposing to designate areas in Lee, Duval, Clay, St. Johns, and Volusia Counties as manatee refuges in which certain waterborne activities would be regulated. Specifically, watercraft would be required to operate at idle, slow speed, 40 kilometers per hour (25 mph), or 48 kilometers per hour (30 mph) in areas described in the proposed rule. We also announce the availability of a draft environmental assessment for this action.

DATES: We will consider comments on both the proposed rule and the draft environmental assessment that are received by June 3, 2003. We will hold public hearings on Tuesday, May 13, in Ft. Myers, FL; Wednesday, May 14, in Daytona Beach, FL; and Thursday, May 15, in Jacksonville, FL. See additional information on the public comment process in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: Formal public hearings will be held from 6:30 p.m. to 9 p.m. at the following locations:

Ft. Myers, FL, on Tuesday, May 13, at the Harborside Convention Hall, 1375 Monroe St.; Daytona Beach, FL, on Wednesday, May 14, at the Ocean Center, 101 N. Atlantic Ave.; Jacksonville, FL, on Thursday, May 15, at The University Center, University of North Florida campus, 4567 St. Johns Bluff Rd. South.

If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments and information by mail to the Field

Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, Attn: Proposed Manatee Refuges, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216.

2. You may hand-deliver written comments to our Jacksonville Field Office, at the above address, or fax your comments to 904/232-2404.

3. You may send comments by electronic mail (e-mail) to manatee@fws.gov. For directions on how to submit electronic comment files, see the "Public Comments Solicited" section.

We request that you identify whether you are commenting on the proposed rule or draft environmental assessment. Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours from 8 a.m. to 4:30 p.m., at the above address. You may obtain copies of the draft environmental assessment from the above address or by calling 904/232-2580, or from our Web site at <http://northflorida.fws.gov>.

FOR FURTHER INFORMATION CONTACT:

David Hankla, Peter Benjamin, or Jim Valade (see **ADDRESSES** section), telephone 904/232-2580; or visit our Web site at <http://northflorida.fws.gov>.

SUPPLEMENTARY INFORMATION:**Background**

The West Indian manatee is federally listed as an endangered species under the ESA (16 U.S.C. 1531 *et seq.*) (32 FR 4001) and the species is further protected as a depleted stock under the MMPA (16 U.S.C. 1361-1407). Florida manatees, a subspecies of the West Indian manatee (Domning and Hayek, 1986), live in freshwater, brackish, and marine habitats in coastal and inland waterways of the southeastern United States. The majority of the population can be found in Florida waters throughout the year, and nearly all manatees use the waters of peninsular Florida during the winter months. The manatee is a cold-intolerant species and requires warm water temperatures generally above 20° Celsius (68° Fahrenheit) to survive during periods of cold weather. During the winter months, most manatees rely on warm water from industrial discharges and natural springs for warmth. In warmer months, they expand their range and occasionally are seen as far north as Rhode Island on the Atlantic Coast and as far west as Texas on the Gulf Coast.

Status of the Florida Manatee

Long-term studies, as described below, suggest that there are four

relatively distinct regional populations of manatees in Florida—(a) the Northwest Region, along the Gulf of Mexico from Escambia County east and south to Hernando County; (b) the Upper St. Johns River Region, consisting of Putnam County from Palatka south to Lake and Seminole counties; (c) the Atlantic Region, consisting of counties along the Atlantic coast from Nassau County south to Miami-Dade County and that portion of Monroe County adjacent to the Florida Bay and the Florida Keys; and counties along the lower portion of the St. Johns River north of Palatka, including Putnam, St. Johns, Clay and Duval counties; and (d) the Southwest Region, consisting of counties along the Gulf of Mexico from Pasco County south to Whitewater Bay in Monroe County.

Despite significant efforts dating back to the late 1970s and early 1980s, scientists have been unable to develop a useful means of estimating or monitoring trends in the size of the overall manatee population in the southeastern United States (O'Shea, 1988; O'Shea *et al.*, 1992; Lefebvre *et al.*, 1995). Even though many manatees aggregate at warm-water refuges in winter and most, if not all, such refuges are known, direct counting methods (*i.e.*, by aerial and ground surveys) are unable to account for uncertainty in the number of animals that may be away from these refuges at any given time, the number of animals not seen because of turbid water, and other factors. The use of mark-resighting techniques to estimate manatee population size based on known animals in the manatee photo-identification database has also been impractical, as the proportion of unmarked manatees cannot be estimated.

The only data on population size include un-calibrated indices based on maximum counts of animals at winter refuges made within one or two days of each other. Based on such information in the late 1980s, the total number of manatees throughout Florida was originally thought to include at least 1,200 animals (Service, 2001). Because aerial and ground counts at winter refuges are highly variable depending on the weather, water clarity, manatee behavior, and other factors (Packard *et al.*, 1985; Lefebvre *et al.*, 1995), interpretation of these data to assess short-term trends is difficult (Packard and Mulholland, 1983; Garrott *et al.*, 1994).

Beginning in 1991, the State of Florida initiated a statewide, synoptic, aerial survey program to count manatees in potential winter habitat during periods of severe cold weather