

**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:** Final rule.

**SUMMARY:** We, the Fish and Wildlife Service (Service), establish three additional manatee protection areas in Florida. This action is authorized 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 preventing the taking of one or more manatees. We are designating areas in Lee, Duval, Clay, St. Johns, and Volusia counties as manatee refuges in which certain waterborne activities will be regulated. Specifically, watercraft will be required to operate at either slow speed or not more than 40 kilometers per hour (km/h) (25 miles per hour) in areas described in the rule. We also announce the availability of a final environmental assessment for this action.

**DATES:** *Effective date:* This rule is effective September 5, 2003.

*Compliance date:* Mandatory compliance with this rule will occur when appropriate signage has been installed in the regulated areas.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216.

**FOR FURTHER INFORMATION CONTACT:** David Hankla, Peter Benjamin, Stefanie Barrett, 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 native 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. We have concluded that these groups meet the criteria for designation as separate stocks, per the MMPA (67 FR 69081, November 14, 2002).

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). In 2001, the Manatee Population Status Working Group (MPSWG) provided a statement summarizing what they believed to be the status of the Florida manatee at that time (Wildlife Trust, 2001). The MPSWG stated that, for the Northwest and Upper St. Johns River stocks, available evidence indicated that there had been a steady increase in animals over the last 25 years. The statement was less optimistic

for the Atlantic Stock due to an adult survival rate that was lower than the rate necessary to sustain population growth. The MPSWG believed that this region had likely been growing slowly in the 1980s, but then may have leveled off or even possibly declined. They considered the status of the Atlantic Stock to be “too close to call.” This finding was consistent with high levels of human-related and, in some years, cold-related deaths in this Stock. Regarding the Southwest Stock, the MPSWG acknowledged that further data collection and analysis would be necessary to provide an assessment of the manatee's status in this region. Preliminary estimates of adult survival available to the MPSWG at that time indicated that the Southwest Stock was similar to the Atlantic Stock and “substantially lower than [the adult survival estimates] for the Northwest and Upper St. Johns Regions.” The Southwest Stock was cited as having had high levels of watercraft-related deaths and injuries and natural mortality events (*i.e.*, red tide and severe cold).

Recent information suggests that the overall manatee population has grown since the species was listed in 1967 (50 CFR 17.11). Based on data provided at the April 2002 Manatee Population Ecology and Management Workshop, we believe that the Northwest and Upper St. Johns River stocks are approaching demographic benchmarks established in the Florida Manatee Recovery Plan (Service, 2001) for reclassification from endangered to threatened status. We also believe that the Atlantic Stock is relatively close to meeting the downlisting benchmark for adult survival, and is close to meeting or exceeding other demographic criteria. We are less optimistic, however, regarding the Southwest Stock. Although data are still insufficient or lacking to compare the Southwest Stock's status to the downlisting/delisting criteria, preliminary data for adult survival and modeling results indicate that this stock is below the benchmarks established in the recovery plan, and may be experiencing a population decline.

Although we are optimistic about the potential for recovery in two out of the four regions, it is important to clarify that in order to downlist or delist the manatee, pursuant to the ESA, all four regions must simultaneously meet the appropriate criteria as described in the Florida Manatee Recovery Plan (Service, 2001). In addition to meeting the demographic criteria established in the recovery plan, in order for us to determine that an endangered species