

somehow eliminated the need for the refuges.”

Response 10: We disagree with the commentor. The Service would not have agreed to propose the manatee protection if we did not believe that substantial evidence shows such establishment is necessary to prevent the taking of one or more manatees. Nevertheless, our agreement in the Stipulated Order to propose the protection areas was “based on the current best available data” (Stipulation, ¶ 1) and the Service “retain[ed] its discretion consistent with the Administrative Procedure Act in reaching its final decision with respect to [the] manatee protection areas.” (Stipulation, ¶ 2) Numerous management options are available to improve manatee protection, and we could have concluded, after receiving input from the interested parties, the State, and other concerned citizens, that one of these other options would be more effective in protecting manatees in these areas.

Designation of manatee protection areas involves both scientific and practical considerations. This final rule reflects the results of in-depth analysis of the areas, including careful evaluation of manatee and watercraft use information, site visits, coordination with State and local regulatory experts, and review of public comments. This review revealed aspects of the available scientific information that were not fully considered during the development of the proposed rule, as well as many practical considerations that were not factored into the original analysis.

Comment 11: Peer review comments from the U.S. Coast Guard stated that speed limit requirements (*i.e.*, 25-mph maximum allowable speed) are not enforceable by the Coast Guard as they do not have the equipment or training necessary to determine the speed of a vessel.

Response 11: Our Division of Law Enforcement believes that a specific speed limit (*e.g.*, 25 mph) is enforceable. Additionally, we have adopted a 25-mph speed limit in several areas in order to be consistent with State regulations. In our view, this will improve manatee protection in these areas by enhancing public understanding and compliance.

Comment 12: Peer review comments from the U.S. Coast Guard stated that slow speed areas will be enforceable if zones are clearly and adequately marked. Otherwise, it will be difficult for enforcement officers to document cases based on distance judgments.

Response 12: We concur with the reviewer’s comment. We intend to design and implement sign plans that will clearly and effectively mark the new manatee protection areas to facilitate public understanding and compliance, as well as ensure the enforceability of the zones. Additionally, we intend to work with State and local agencies to enforce these zones.

Comment 13: One peer reviewer concurred with the following assumptions of this proposed rule—(1) information on the existence of four subpopulations; (2) the difficulty of reliably monitoring trends in the overall population; (3) the problems associated with using uncalibrated indices based on maximum counts at winter refuges; and (4) the lack of utility and reliability of uncorrected counts as a basis for assessing population estimates or measuring trends in the population. These assumptions “reflect the views of [the] manatee scientific community, including the consensus of the 2002 Manatee Population and Ecology Workshop panel of experts.”

Response 13: Comment noted.

Comment 14: One peer reviewer stated that assessments, such as the determination that the Atlantic and Southwest stocks are less stable than the Crystal River (*i.e.*, Northwest) and St. Johns River stocks, are supported by available scientific data. These assessments indicate that the Atlantic and Southwest stocks require additional management and conservation efforts.

Response 14: We concur with the reviewer regarding the need for additional management and conservation efforts in the Atlantic and Southwest stocks. We believe it is important to note that management and conservation efforts include a variety of options to improve or provide additional protection for manatees, such as enforcement, education, and improving the signage of existing zones. The designation of manatee protection areas is only one of those options and may not be the most beneficial or appropriate management/conservation tool in some areas or situations.

Comment 15: One peer reviewer noted that the current status of manatee populations within the Atlantic and Southwest stocks, while not critical or in imminent danger at this time, indicates that additional management and protection is warranted to expedite recovery and to put safeguards in place as the human population in Florida continues to grow. The reviewer concurs with the Service’s assessment that “* * * there has been no confirmation that significant threats to

the species, including human-related mortality, injury, and harassment, and habitat alteration have been reduced or eliminated * * *” (68 FR 16604). With the anticipated continued human population growth and development of Florida and the recent increase in human-related manatee mortality, especially from collision with watercraft, there is cause for concern relative to manatee adult survival and species recovery. The need for additional manatee protection areas is underscored by these facts.

Response 15: We concur with the reviewer regarding the status of the manatees in the Atlantic and Southwest stocks. The Caloosahatchee River-San Carlos Bay Manatee Refuge is located within the range of the Southwest Stock while the Lower St. Johns River Manatee Refuge and Halifax and Tomoka Rivers Manatee Refuge are both located within the range of the Atlantic Stock. As noted above, a variety of management and conservation options, in addition to or in lieu of manatee protection areas, can and should be explored to improve the status of these stocks.

Comment 16: One peer reviewer stated that further explanation was needed regarding the Service’s assumption that designation of “manatee protection areas at sites * * * where conflicts between boats and manatees have been well documented” should “minimize the number of injuries and deaths associated with watercraft activities” (68 FR 16605). While the reviewer agrees with this assumption, she believes that a scientific basis for this assertion would better justify the rationale for designating manatee protection areas to minimize death and injury (for example, work by Mote Marine Laboratory and Brad Weigle using tethered and manned airships, respectively, and at the very least, anecdotal information from manatee researchers regarding manatee response to watercraft).

Response 16: We concur. The reviewer is correct in that, while no empirical studies specifically address this assumption, researchers have documented manatee response to oncoming boats. Manatee response to boats at distances of approximately 100 meters (328 feet) was documented in a study conducted in 1994 (Weigle *et al.*, 1994). Boat speeds during these response trials varied between slow speed and 48 km/h (30 mph). While no specific behavior was observed for each speed trial, researchers observed that bottom-resting manatees did not respond to oncoming boats and that manatees observed surface resting or