

**ADDRESSES:** 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 Removal of Federal Protection Status of Two 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](mailto:manatee@fws.gov). For directions on how to submit electronic comment files, see the "Public Comments Solicited" section.

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.

**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 (*Trichechus manatus*) 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). The Florida manatee (*Trichechus manatus latirostris*), a subspecies of the West Indian manatee (Domning and Hayek 1986), lives 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. 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 are occasionally seen as far north as Rhode Island on the Atlantic Coast and as far west as Texas on the Gulf Coast.

**Watercraft Collisions**

Collisions with watercraft are the largest cause of human-related manatee deaths. Data collected during manatee carcass salvage operations conducted in

Florida from 1978 to 2002 indicate that a total of 1,145 manatees (from a total carcass count of 4,545) are confirmed victims of collisions with watercraft. This number may underestimate the actual number of watercraft-related mortalities, since many of the mortalities listed as "undetermined causes" show evidence of collisions with vessels. Collisions with watercraft comprise approximately 25 percent of all manatee mortalities since 1978. Approximately 75 percent of all watercraft-related manatee mortality has taken place in 11 Florida counties: Brevard, Lee, Collier, Duval, Volusia, Broward, Palm Beach, Charlotte, Hillsborough, Citrus, and Sarasota (Florida Fish and Wildlife Conservation Commission (FWCC) 2003). The last 5 years have been record years for the number of watercraft-related mortalities. From 1998 to 2002, 409 watercraft-related manatee deaths were recorded (36 percent of all watercraft-related deaths documented during the 1978 to 2002 period) (FWCC 2003).

**Manatee Protection Areas**

To minimize the number of injuries and deaths associated with watercraft, we and the State of Florida have designated manatee protection areas at sites throughout coastal Florida where conflicts between boats and manatees have been well documented and where manatees are known to frequently occur. Signs are posted in these areas to inform the boating public about restrictions and prohibitions.

Federal authority to establish protection areas for the Florida manatee is provided by the ESA and the MMPA, and is codified in 50 CFR, part 17, subpart J. We have 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. Take, as defined by the ESA, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Harm means an act which kills or injures wildlife (50 CFR 17.3). Such an act may include significant habitat modification or degradation that kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass includes intentional or negligent acts or omissions that create the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

Take, as defined by the MMPA, means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. Harassment, as defined by the MMPA, means any active pursuit, torment, or annoyance which, (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A]; 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 [Level B].

We may establish two types of manatee protection areas—manatee refuges and manatee sanctuaries. A manatee refuge is defined as an area in which we have determined that certain waterborne activities 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 (50 CFR 17.102). A manatee sanctuary is an area in which we have determined that any waterborne activity would result in the taking of one or more manatees, including but not limited to a taking by harassment (50 CFR 17.102). 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 (50 CFR 17.102).

An extensive network of manatee speed zones and sanctuaries has been established throughout peninsular Florida by Federal, State, and local governments (Service 2001). This existing structure works toward our goal of providing adequate protected areas throughout peninsular Florida to satisfy the biological requirements of the species.

The timing and implementation of State and Federal manatee protection area designations have been influenced by State and Federal courts and by the respective agencies and their ability to effectively post regulatory signage and enforce measures in a timely fashion. The Pansy Bayou Manatee Refuge was identified by both the State and Federal governments as an area in need of protection. Neither agency was able to coordinate or communicate its intent to designate because such plans were part of confidential legal negotiations then in progress. As a result, we designated this site in November 2002, and the State subsequently designated this site in December 2002. The Cocoa Beach Manatee Refuge was designated by the State in June 2002 and was