



U. S. Fish and Wildlife

Florida Manatee Proposed Manatee Protection Areas Rule Frequently Asked Questions

(updated August 1, 2001)

Q1: What is a manatee refuge?

A1: Manatee refuges are areas where **certain** waterborne activities may be restricted or prohibited to prevent injuring or killing one or more manatees. Waterborne activity includes, but is 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. For an area designated as a manatee refuge, the regulation will state which, if any, waterborne activities are prohibited, and state the applicable restrictions. Designation of manatee refuges will not eliminate waterway property owner access rights. Residents and their guests would be permitted watercraft access through a manatee sanctuary or refuge to private residences, boat houses, and docks. Any authorized boating activity would be conducted by operating watercraft at "Slow Speed."

Q2: What is a manatee sanctuary?

A2: Manatee sanctuaries are areas in which **all** waterborne activities are prohibited to prevent injuring or killing one or more manatees. Designation of manatee sanctuaries will not eliminate waterway property owner access rights. Residents and their guests would be permitted watercraft access through a manatee sanctuary or refuge to private residences, boat houses, and docks. Any authorized boating activity would be conducted by operating watercraft at "Slow Speed."

Q3: Why are you proposing sites for designation as manatee refuges or sanctuaries?

A3: Establishing protected areas, such as sanctuaries and refuges, will reduce injury and mortality rates and help protect the manatee. We have assessed the needs of the manatee at an ecosystem level using the best available scientific information to ensure adequate protected areas are available to satisfy its biological needs. We will continue to assess the need to maintain and establish protected sites as our understanding of the manatee's biological requirements is refined.

Q4: What is your legal authority to establish/designate manatee refuges or sanctuaries?

A4: The authority to establish protection areas for the Florida manatee is provided by the *Endangered Species Act of 1973*, as amended, and is codified in Title 50 of the *Code of Federal Regulations*, part 17, subpart J. We may, by regulation, establish manatee protection areas--sanctuaries or refuges--whenever there is substantial evidence showing such establishment is necessary to prevent the taking of one or more manatees.

Q5: What is "take"?

A5: "Take", as defined by the Endangered Species Act, means "to harass, harm, pursue, hunt, shoot,

wound, kill, trap, capture, collect, or attempt to engage in any such conduct.” “Harm” is further defined by us to include significant habitat modification or degradation that actually results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding or sheltering. We define “harass” as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering.

Q6: Where would the manatee refuges and sanctuaries be located?

A6: The proposed manatee refuges and sanctuaries are as follows:

Proposed seasonal (October 1 through March 31) manatee sanctuaries:

Blue Waters: Headwaters of the Homosassa River, adjacent to the Homosassa Springs State Wildlife Park, commonly referred to as the Blue Waters, in Citrus County. Homosassa Springs State Wildlife Park, located directly upstream from the site and containing the spring itself, is not accessible to the manatees wintering at Blue Waters because the spring head is used as a care facility for captive manatees.

Bartow Electric Generating Station: Warm water outflow of the Bartow Electric generating station in Tampa Bay, Pinellas County. Pinellas County has recently adopted a no-motor zone, in which only non-motorized watercraft are permitted, in the immediate area of the outflow. We believe that the no-motor zone designation will not prevent harassment of manatees at this important warm water site.

Tampa Electric Company (TECO) Big Bend: Warm water outflow of the TECO Big Bend electric generating station in Tampa Bay, Hillsborough County. There is currently a seasonal no entry zone in the immediate vicinity of the TECO outflow; however, this zone is too small to prevent harassment of manatees by fishermen.

Port Sutton: Warm water outflow of the TECO Gannon electric generating station on Tampa Bay, Hillsborough County. The Gannon plant is currently being retooled and is scheduled to go on-line in the near future.

Proposed manatee refuges:

Barge Canal: Entire length of the Barge Canal and extending eastward to the Canaveral Locks, Brevard County. We would regulate watercraft operation to slow speed, **both inside and outside the marked channel**, all year.

Sykes Creek: In Brevard County. We would regulate watercraft operation to slow speed, **both inside and outside the marked channel**, included all year.

South Gandy Navigation Channel: Channel north of the Bartow electric generating station, Pinellas County, with the purpose of regulating watercraft operation to slow speed seasonally, October 1 through March 31, inclusive.

TECO Big Bend: Waters adjacent to, and south of, the proposed manatee sanctuary at the TECO Big Bend electric generating station in Hillsborough County to provide ingress and egress to the lagoon and canals in North Apollo Beach. Watercraft activity within this refuge would be regulated to idle speed seasonally, October 1 through March 31, inclusive.

Port Sutton: Port Sutton area surrounding the proposed manatee sanctuary at the TECO Gannon electric generating station, Hillsborough County. Watercraft would be required to

proceed at idle speed seasonally, October 1 through March 31, inclusive.

Pansy Bayou: Water-ski area in Sarasota County. We would regulate vessel traffic to slow speed all year. The remaining waters around the proposed refuge are currently designated by the State as slow speed-channel included zones.

Little Sarasota Bay: In Sarasota County. **Boats traveling outside the marked channel of the Intracoastal Waterway would be required to maintain slow speed all year.**

Lemon Bay: In Charlotte County. All waters outside of the marked channel would be regulated to provide for slow speed vessel operation all year.

Peace River: The river and all associated waters northeast of the Tamiami Trail (U.S. Highway 41) in Charlotte and Desoto Counties. Waters within the marked navigation channel would be regulated to allow watercraft to travel at a maximum speed of 25 miles per hour (mph). All waters outside of the marked channel would be regulated to provide for slow speed vessel operation all year.

Shell Island: Navigation channel located just north of Shell Island at the mouth of the Caloosahatchee River, Lee County. We would regulate vessel speed as slow speed-channel included all year.

Haulover Canal: All waters lying within a radius of 0.5 mile of each end of the Haulover Canal, Brevard County, and including the canal itself would be designated as a slow speed-channel included zone all year. While vessels are currently required by the State to proceed at slow speed within the confines of the canal, there is no speed regulation to the east and west of the canal.

Cocoa Beach: Area adjacent to Municipal Park at Cocoa Beach, Brevard County. We would regulate vessel operation to slow speed all year. The site is currently a water-ski area regulated by the State as a 35-mph zone all year, whereas the surrounding waters are regulated as slow speed zones all year.

Q7: How is “slow” and “idle” speed defined in these regulated areas?

A7: “idle” speed is defined as the minimum speed necessary to maintain watercraft steerage. “Slow” speed is defined as the speed in which the watercraft proceeds fully off plane and is completely settled in the water. Since watercraft of different sizes and configurations may travel at different speeds, a specific speed is not assigned. However, a watercraft is NOT proceeding at slow speed if it is - 1) on plane, (2) in the process of coming up on or coming off of plane, or (3) is creating an excessive wake. A watercraft IS proceeding at slow speed if it is fully off plane and completely settled in the water, not plowing or creating an excessive wake. Protections areas may also carry a channel qualifier, exempt or included. In such instances this refers to the existing marked navigational channel.

Q8: Was the public given an opportunity to participate in this process?

A8: Yes. An Advance Notice of Rulemaking was published in the *Federal Register* in September 2000 advising the public we were initiating our review and requesting comments on our process. We then

held a series of six (6) public workshops in December 2000 to solicit comments, suggestions and additional recommendations. These workshops were non-regulatory in nature, meaning they were not required by any statutory rule or regulation.

In addition, public comment on the Service current proposals is being sought now. The service encourages its stakeholders to comment on the proposed designations. Those stakeholders with information on existing conservation measures, special needs consideration, or other concerns are encouraged to make such information known to the Service, in writing, during the comment period. Comments on the proposal must be received within 60 days of the actual publication of the proposed rule in the Federal Register. A public hearing is scheduled for September 13 from 7 to 9 p.m at the Radisson Inn in Melbourne, FL. Requests for additional public hearings must be received in writing within 30 days from the date of publication.

Q9: What was the outcome of the earlier workshops?

A9: A total of 396 people attended the workshops. Of those individuals, 166 provided comments. Although most of the comments were general in nature, either supporting our efforts to establish additional manatee protection areas or opposing them, several individuals provided specific information or comments. Media reports on the workshops, as well as our efforts to encourage public participation, subsequently generated a large number of public comments regarding our process and any proposals we might consider making. Commentators raised concerns about the potential impacts any decision might have on public waterway access, waterway property owner rights, economic impact on businesses and property values, as well as the necessity for additional manatee protection areas. We are completing our review of these comments and will consider all comments we receive during the upcoming comment period, as well as the best available biological data, so that we can develop our proposed designation of manatee protection areas.

Q10: Will these manatee protection areas affect property rights?

A10: No. For each proposed protection area, designation of manatee refuges or sanctuaries will not eliminate waterway property owner access rights. Residents and their guests will be permitted watercraft access through a manatee sanctuary or refuge to private residences, boat houses, and docks. Any authorized boating activity would be conducted by operating watercraft at "Slow Speed."

Q11: Will designation of a site as a manatee refuge or sanctuary restrict my access to Florida's waterways?

A11: The designation of manatee protection areas is not intended to create blanket access restrictions to Florida's waterways. However, some level of impact would be experienced in areas designated as manatee protection areas. The types of prohibited or restricted waterborne activities and schedule for such will vary from site to site and may be seasonal in nature. In all cases, designation of manatee sanctuaries and refuges will not eliminate waterway property owner access rights.

Q12: Do you consider economic and quality of life impacts on citizens when making final site selection?

A12: Yes. We consider waterway access, impact on commercial and recreational waterway uses, as well as community economic impacts in reaching final decisions.

Q13: Are you singling out watercraft as the only cause of manatee mortality?

A13: No. We acknowledge that watercraft-related mortality is not the only cause of manatee deaths. It is, however, the number one cause of human-related deaths. Designation of manatee protection areas offers us an opportunity to implement sound, effective risk-reduction management actions. Adult survival rates are one of the key criteria we consider in evaluating the success of our recovery efforts, and implementation of these proposed protection areas is expected to have a significant impact on overall adult manatee survival rates. (Additional information on other Service manatee protection efforts may be found at <http://northflorida.fws.gov>)

Q14: I thought the Florida Fish and Wildlife Conservation Commission was designating speed zones, refuges and sanctuaries; are you coordinating your efforts with the state agencies?

A14: We are coordinating our efforts closely with the Commission. We are open to considering state and local government agency actions in lieu of federally-designated protection areas. Therefore, any actions taken by state or local agencies between now and our final determination may impact our final site selection and/or designation. If the State adopts identical or comparable manatee protection areas to the ones in our proposal, the Service will withdraw the Federal designations.

Q15: How is the settlement between the Save the Manatee Club et al. and the Fish and Wildlife Service impacting this process?

A15: In the settlement, we agreed to a specific schedule for proposing manatee refuges and sanctuaries. Our review process was already underway before the lawsuit was filed. Our proposal fully complies with this schedule. (The Federal Settlement may be reviewed at <http://northflorida.fws.gov>)

Q16: What is the final settlement between the Save the Manatee Club and the State of Florida?

A16: Please contact the Florida Fish and Wildlife Conservation Commission for information related to the state lawsuit.

Q17: Does the Fish and Wildlife Service have enough people to post regulation signs and boundary signs?

A17: Yes. We are committed to posting and enforcing any manatee protection area we designate. In addition, the state has committed substantial resources to increase law enforcement relating to manatees.

Q18: How are manatee protection areas enforced?

A18: Manatee protection area restrictions are enforced by our law enforcement officers through routine patrol and task force operations. Using unmarked watercraft, our officers use video and still photography to document boat operators violating posted manatee protection zone restrictions and

apprehend the operators. Information and evidence gathered by the officers is turned over to the U.S. Attorney's Office, which subsequently issues a federal violation notice to the offender. First offender notices offer the option of paying a fine or appearing before a U. S. Magistrate Judge. Repeat offenders may not receive this option and may be required to appear in federal court. Our officers coordinate with State conservation officers, local sheriff marine patrols, and the U.S. Coast Guard to conduct task force actions and provide manatee protection areas enforcement training.

Q19: Since the State of Florida's 2001 manatee count was higher than expected, why are you proceeding with the proposal to designate manatee refuges and sanctuaries?

A19: We are very pleased with this year's count and see these numbers as indicative of the success of many long-term conservation efforts. However, collisions with watercraft and harassment actions that impede the use of warm water areas critical to manatee survival continue to impact manatees. Whether or not the manatee population grows or declines is primarily dependent on the survival rate of adult manatees. The proposed manatee protection areas would help ensure sufficient adult survival. We reviewed the existing network of federal, state and local manatee protection areas and we identified gaps in the existing network and are proposing appropriate measures to fill those gaps. The designation of additional manatee protection areas is expected to further improve the adult survival rate and support the full recovery of the species.

Q20: How many federal manatee sanctuaries are currently in place and what impacts have they had on manatee protection and recovery?

A20: There are seven (7) federal sanctuaries in Florida, all of which are located in the Crystal River area. Although the specific quantitative impact is difficult to measure, we do know that Citrus County has the highest manatee adult survival rates and overall population growth in the state. This suggests that the manatee protection plan in that area has been successful.

Q21: Will any changes be made at the existing manatee sanctuaries in Crystal River?

A21: We are not proposing any changes to the seven (7) Crystal River manatee sanctuaries at this time. However, we will continue to monitor and review activities at these sites and may take appropriate measures to adjust existing boundaries and designations to ensure the protection of manatees in the area.

Q22: What are the next steps in the process?

A22: Now that we have published a proposed rule in the *Federal Register*, we have opened a 60-day public comment period. The service encourages all interested stakeholders to comment on the proposed designations. Those stakeholders with information on existing conservation measures, special needs consideration, or other concerns are encouraged to make such information known to the Service, in writing, during the comment period. All comments must be received within 60 days of the actual publication date of the proposed rule in the Federal Register. We will hold a hearing on September 13 from 7 to 9 p.m. at the Radisson Hotel and Conference Center in Melbourne, FL. Additional public hearings may be requested, in writing, no later than 30 days from the date of publication. If public hearings are requested, we will publish notices in the *Federal Register* and in local newspapers announcing the date(s) and location(s) of the hearing(s). At that time, we may need to

extend the public comment period to allow interested parties sufficient time to submit their comments for the record. When the comment period closes, we will take into consideration all comments and any additional information received in making a final determination regarding this proposal.

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