



## U. S. Fish and Wildlife Service

# Emergency Designation of Manatee Protection Areas in Florida

## Background

Manatees are a federally protected under both the Endangered Species Act and Marine Mammal Protection Act. Currently, collisions with watercraft probably constitute the greatest human-caused threat to the species. Historically, these collisions are responsible for about 25 percent of all manatee deaths and about 80 percent of all human-caused mortality in manatees.

In November 2002, a judge in Florida's 20<sup>th</sup> Judicial Circuit Court ruled that five State-designated manatee protection zones were unconstitutional due to flaws in the process used to establish the zones. The Florida Fish and Wildlife Conservation Commission subsequently filed its intent to appeal the judge's ruling and was granted a stay of the State zones ruling.

In December 2003, the Lee County Circuit Court of Appeals refused to hear the State's appeal but granted a continuance of stay of the lower court ruling pending the Commission's next appeal.

## Issue

In January, the 2<sup>nd</sup> District Court in Lakeland, FL denied the State's request for a continuance of the stay; thus removing the State protections in five critical manatee protection areas.

In response to the Court's denial of the stay, the Service announced that it considered these areas inadequately protected. As a result, the U.S. Army Corps of Engineers denied water access facility permits in these five areas.

In mid-February, the Florida Fish and Wildlife Conservation Commission recovered a manatee carcass near Pine Island. A subsequent necropsy revealed that the animal had died of wounds suffered from a boat collision. There have been at least 14 boat-related manatee deaths in these five areas since 1999.

## Status

On March 2, the 2<sup>nd</sup> District Court of Appeals in Lakeland, Florida denied the review of the commission's case to overturn 20<sup>th</sup> Circuit Court's ruling that five state manatee protection zones in Lee County are unconstitutional. The Commission is assessing its appeal options.

As a result of the court's decision and based on the best available data, the Service will exercise its authority under the Federal Endangered Species Act and the Marine Mammal Protection Act, and use an emergency designation to establish the Pine Island-Estero Bay Manatee Refuge.

These Federal protection areas correspond exactly to the previous State designations in these areas. With this emergency designation, the Service is initiating the formal rule making process to make this designation permanent. This process will include an opportunity for public comment.

## Questions?

The regulation and additional information on this action is available on the Service's web site at [northflorida.fws.gov](http://northflorida.fws.gov), or may be requested by writing via e-mail to [manatee@fws.gov](mailto:manatee@fws.gov); by faxing your request to 904-232-2404; or by letter to USFWS, Attn: MPA Emergency Designation, 6620 Southpoint Dr. S, Suite 310, Jacksonville, FL 32216. If you have specific questions or need special assistance, please contact the Service's North Florida Field Office at 904-232-2580, ext. 109.