

NOTICE OF PROPOSED RULEMAKING
FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION: Division of Habitat and Species Conservation

RULE NO:
68A-27.003

RULE TITLE:
Designation of Endangered Species; Prohibitions; Permits.

PURPOSE AND EFFECT: The purpose of this proposed revised rule is to remove the Florida manatee from the State of Florida Endangered Species list.

SUMMARY: The Fish and Wildlife Conservation Commission reclassified the Florida manatee from an endangered species to a threatened species. The proposed rule change removes the Florida manatee from the state list of endangered species.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES: Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution; Section 372.121 Florida Statutes.

A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

DATE AND TIME: During the Commission's regular meeting September 12 – 14, 2007, 8:30 a.m. to 5:00 p.m., each day.

PLACE: Hilton Hotel, 333 First Street, South, St. Petersburg, Florida 33701.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Tim Breault, Director, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-27.003 Designation of Endangered Species; Prohibitions; Permits.

(1) The following species, listed prior to June 23, 1999, are hereby declared to be endangered and shall be afforded the protective provisions specified. No person shall pursue, molest, harm, harass, capture, possess, or sell any of the endangered species included in this subsection, or parts thereof or their nests or eggs except as authorized by specific permit, permits being issued only when the permitted activity will clearly enhance the survival potential of the species.

- (a) Pillar coral (*Dendrogyra cylindrus*)
- (b) Blackmouth shiner (*Notropis melanostomus*)
- (c) Okaloosa darter (*Etheostoma okaloosae*)
- (d) Shortnose sturgeon (*Acipenser brevirostrum*)
- (e) American crocodile (*Crocodylus acutus*)
- (f) Green sea turtle (*Chelonia mydas*)
- (g) Hawksbill sea turtle (*Eretmochelys imbricata*)
- (h) Kemp's ridley sea turtle (*Lepidochelys kempi*)
- (i) Leatherback sea turtle (*Dermochelys coriacea*)
- (j) Striped mud turtle (*Kinosternon bauri*) (lower keys population only)
- (k) Wood stork (*Mycteria americana*)
- (l) Snail kite (*Rostrhamus sociabilis plumbeus*)

- (m) Peregrine falcon (*Falco peregrinus*)
- (n) Ivory-billed woodpecker (*Campephilus principalis*)
- (o) Bachman's warbler (*Vermivora bachmanii*)
- (p) Kirtland's warbler (*Dendroica kirtlandii*)
- (q) Florida grasshopper sparrow (*Ammodramus savannarum floridanus*)
- (r) Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*)
- (s) Gray bat (*Myotis grisescens*)
- (t) Indiana bat (*Myotis sodalis*)
- (u) Florida mastiff bat (*Eumops glaucinus floridanus*)
- (v) Silver rice rat (*Oryzomys argentatus*)
- (w) Choctawhatchee beach mouse (*Peromyscus polionotus allophrys*)
- (x) Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*)
- (y) St. Andrews beach mouse (*Peromyscus polionotus peninsularis*)
- (z) Anastasia Island beach mouse (*Peromyscus polionotus phasma*)
- (aa) Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*)
- (bb) Key Largo woodrat (*Neotoma floridana smalli*)
- (cc) Florida saltmarsh vole (*Microtus pennsylvanicus dukecampbelli*)
- (dd) Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*)
- ~~(ee) Florida manatee (*Trichechus manatus latirostris*)~~

~~(eff)~~ Florida panther (*Puma concolor coryi*)
~~(ffgg)~~ Key deer (*Odocoileus virginianus clavium*). No person shall feed Key deer (*Odocoileus virginianus clavium*) by hand or by placing any food that serves to attract such species.

- ~~(gghh)~~ North Atlantic right whale (*Eubalaena glacialis*)
- ~~(hhii)~~ Fin whale (*Balaenoptera physalus*)
- ~~(iijj)~~ Sei whale (*Balaenoptera borealis*)
- ~~(jjkk)~~ Humpback whale (*Megaptera novaeangliae*)
- ~~(kkll)~~ Sperm whale (*Physeter macrocephalus*)
- ~~(llmm)~~ Schaus' swallowtail butterfly (*Heracles aristodemus ponceanus*)
- ~~(mmnn)~~ Stock Island tree snail (*Orthalicus reses*)

(2) The Miami blue butterfly (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), listed after June 23, 1999, is hereby declared to be endangered, and shall be afforded the protective provisions specified in this subsection. No person shall take, harm, harass, possess, sell, or transport any Miami blue butterfly (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), or parts thereof or their eggs, larvae or pupae except as authorized by permit from the executive director. Permits will be issued based upon whether issuance would further management plan goals and objectives.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-84, 7-1-85, Formerly 39-27.03, Amended 6-1-86, 5-10-87, 4-27-89, 9-14-93, 6-23-99, Formerly 39-27.003. Amended 12-16-03.

NAME OF PERSON(S) ORIGINATING PROPOSED RULE: Mr. Tim Breault, Division of Habitat and Species Conservation.

NAME OF SUPERVISOR WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2007.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.W: May 4, 2007.

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES
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The purpose of this proposed revised rule is to remove the Florida manatee from the State of Florida Endangered Species list.

The Florida manatee is listed by the Federal government as Endangered. Federal and State designations of species status are independent of one another. The proposed revised State rule has no effect on the Federal listing or Federal programs associated with the Federal listing designation.