

(i) Clearly identify the amounts and items that are in question at the time of negotiation;

(ii) Indicate a specific time or subsequent event by which the contractor will submit a supplemental proposal, including cost or pricing data, identifying the cost impact adjustment necessitated by the deficient estimating system;

(iii) Provide for the contracting officer to unilaterally adjust the contract price if the contractor fails to submit the supplemental proposal; and

(iv) Provide that failure of the Government and the contractor to agree to the price adjustment shall be a dispute under the Disputes clause.

#### **215.408 Solicitation provisions and contract clauses.**

(1) Use the clause at 252.215-7000, Pricing Adjustments, in solicitations and contracts that contain the clause at—

(i) FAR 52.215-11, Price Reduction for Defective Cost or Pricing Data—Modifications;

(ii) FAR 52.215-12, Subcontractor Cost or Pricing Data; or

(iii) FAR 52.215-13, Subcontractor Cost or Pricing Data—Modifications.

(2) Use the clause at 252.215-7002, Cost Estimating System Requirements, in all solicitations and contracts to be awarded on the basis of cost or pricing data.

#### **215.470 Estimated data prices.**

(a) The Department of Defense requires estimates of the prices of data in order to evaluate the cost to the Government of data items in terms of their management, product, or engineering value.

(b) When data are required to be delivered under a contract, the solicitation will include DD Form 1423, Contract Data Requirements List. The form and the provision included in the solicitation request the offeror to state what portion of the total price is estimated to be attributable to the production or development of the listed data for the Government (not to the sale of rights in the data). However, offerors' estimated prices may not reflect all such costs; and different offerors may reflect these costs in a different manner, for the following reasons:

(1) Differences in business practices in competitive situations;

(2) Differences in accounting systems among offerors;

(3) Use of factors or rates on some portions of the data;

(4) Application of common effort to two or more data items; and

(5) Differences in data preparation methods among offerors.

(c) Data price estimates should not be used for contract pricing purposes without further analysis.

(d) The contracting officer shall ensure that the contract does not include a requirement for data that the contractor has delivered or is obligated to deliver to the Government under another contract or subcontract, and that the successful offeror identifies any such data required by the solicitation. However, where duplicate data are desired, the contract price shall include the costs of duplication, but not of preparation, of such data.

#### **PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

3. Section 252.215-7000 is amended by revising the introductory text to read as follows:

##### **252.215-7000 Pricing Adjustments.**

As prescribed in 215.408(1), use the following clause:

\* \* \* \* \*

4. Section 252.215-7002 is amended by revising the introductory text to read as follows:

##### **252.215-7002 Cost Estimating System Requirements.**

As prescribed in 215.408(2), use the following clause:

\* \* \* \* \*

5. Section 252.243-7000 is amended by revising the clause date and paragraph (c)(1) to read as follows:

##### **252.243-7000 Engineering Change Proposals.**

\* \* \* \* \*

Engineering Change Proposals (XXX 19XX)

\* \* \* \* \*

(c) \* \* \*

(1) A completed contract pricing proposal; and

\* \* \* \* \*

[FR Doc. 97-31109 Filed 11-25-97; 8:45 am]

BILLING CODE 5000-04-M

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

RIN 1018-AE47

#### **Endangered and Threatened Wildlife and Plants; Proposed Rule To Establish an Additional Manatee Sanctuary in Kings Bay, Crystal River, FL**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to establish an additional West Indian manatee (*Trichechus manatus*) sanctuary in Citrus County, Florida, adjacent to Kings Bay/Crystal River at the confluence of the Three Sisters Spring run with a residential canal. All waterborne activities in the sanctuary would be prohibited from November 15 through March 31 of each year. The proposed action would help prevent the taking of manatees by harassment resulting from waterborne activities during the winter months. The number of sanctuaries in Kings Bay would be increased to seven to accommodate the increase in the number of manatees using the area each winter and to offset harassment from increasing public use. Due to insufficient time to complete preparations for establishing a permanent sanctuary before cold weather arrives, an emergency rule is published elsewhere in today's **Federal Register** to provide the manatee with immediate protection for a period of 120 days. This action is proposed under the authority of the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act of 1972, as amended.

**DATES:** Comments from all interested parties must be received by January 26, 1998. If requested, a public hearing will be held for the purpose of receiving comments on the permanent establishment of an additional manatee sanctuary at Kings Bay, Crystal River, Florida.

**ADDRESSES:** Written comments and materials should be sent to Manatee Coordinator, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216-0912.

**FOR FURTHER INFORMATION CONTACT:** Robert O. Turner at the above address, (904/232-2580 ext.117); or Vance Eaddy, Senior Resident Agent, U.S. Fish and Wildlife Service, 9721 Executive Center Drive, Suite 206, St. Petersburg, Florida 33702, (813/570-5398)

## SUPPLEMENTARY INFORMATION:

**Background**

Crystal River is a tidal river on the west coast of Florida. Forming the headwaters of Crystal River is Kings Bay, a lake-like body of water fed by numerous freshwater springs. The Kings Bay springs constitute one of the most important natural warm-water refuges for manatees, a federally listed endangered species. More than 250 animals may seek refuge in the bay's warm waters during winter cold periods. With the winter presence of manatees and its sheltered, warm and clear waters, Kings Bay also attracts large numbers of waterborne users (boaters, recreational divers, snorkelers, and swimmers) most of whom seek out manatees for a close viewing experience. The influx of visitors, primarily there to see and interact with manatees, provides a major economic impact to the Crystal River community.

Large aggregations of manatees apparently did not exist in Kings Bay until recent times (Beeler and O'Shea 1988). The first careful counts were made in the late 1960's. Since then manatee numbers have increased significantly. In 1967–1968 Hartman (1979) counted 38 animals. By 1981–1982, the maximum winter count increased to 114 animals (Powell and Rathbun 1984), and in December 1994 the count was 271 (U.S. Fish and Wildlife Service, unpublished data). Both births and immigration of animals from other areas have contributed to the increases in manatee numbers at Crystal River.

The Second Revision of the Florida Manatee Recovery Plan (U.S. Fish and Wildlife Service 1995) identifies the need to minimize disturbance and harassment of manatees in the wild. This concern for the welfare of manatees in Kings Bay has resulted in the establishment of a series of sanctuary areas to protect manatees from any potential negative impacts of human activities. The first three sanctuaries were created in 1980, encompassing a total of about 10 acres in Kings Bay. These were closed to all human access each winter from November 15 to March 31 and provided manatees with areas where they could retreat from waterborne users. To better administer and protect the bay's manatee habitat, the Service purchased several islands associated with the sanctuaries in 1983 and established the Crystal River National Wildlife Refuge. During the 1980's, the number of manatees and divers increased steadily, resulting in the need for additional manatee sanctuaries. In 1994, the Service

established three additional sanctuaries and expanded an existing sanctuary. The six sanctuaries now encompass approximately 39 acres within Kings Bay.

The Kings Bay manatee sanctuary system provides significant protection to the more than 250 manatees that use this area as a winter warm-water refuge. With the increasing number of manatees using Kings Bay and an increasing number of recreational divers and snorkelers coming to Crystal River to seek close encounters with manatees, another problem area outside the existing sanctuary system has been identified.

Since the establishment of the three most recent sanctuaries, reports of waterborne users harassing manatees and causing manatees to leave the Three Sisters Spring run area has been documented by researchers, refuge staff and concerned citizens. The Save the Manatee Club and the Marine Mammal Commission have urged the Service to act to protect manatees utilizing the Three Sisters Spring run area. Dive shop operators have acknowledged that there is a manatee harassment problem in the area of the proposed sanctuary.

Prior to last winter, the Service and local interest groups met separately with local dive shop owners to discuss the harassment issue and the feasibility of establishing a new sanctuary. There was a consensus that a sanctuary was needed and that it would be more effective if it was developed through a local city or county ordinance. Representatives of each of the local dive shops wrote letters recognizing the need for a small sanctuary near Three Sisters Spring and recommended that the regulations be promulgated locally. Local efforts have been made to address the problem and the Service will continue to encourage local officials to create a permanent refuge. However, in conjunction with the emergency rule published elsewhere in today's **Federal Register**, regulations at 50 CFR 17.106(e) require the Service to also commence with the establishment of the sanctuary through publication of a proposed rule.

The Service funded a manatee and human interaction study at Three Sisters Spring (January 23–February 17, 1997) which confirmed that harassment was occurring and documented instances in which manatees left the warm waters at the confluence of the spring run and the residential canal when divers, snorkelers and/or swimmers arrived (Wooding, 1997). The Service is concerned that these animals may be leaving earlier than if they were left undisturbed.

**Reasons for Determination**

Refer to the emergency rule published elsewhere in today's **Federal Register**.

**National Environmental Policy Act**

The Service has determined this action qualifies as a categorical exclusion in accordance with 516 DM 2, Appendix 1 and 516 DM 5, Appendix 1. No further National Environmental Policy Act documentation will therefore be made.

**Required Determinations**

This proposed rule was not subject to Office of Management and Budget review under Executive Order 12866. The rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The previous establishment of sanctuaries in Kings Bay, Crystal River, did not result in a significant economic impact. Thus it is not expected that any significant impacts would result from the establishment of a sanctuary (less than one quarter acre in size) at the Three Sisters Spring. Also, no direct costs, enforcement costs, information collection, or record-keeping requirements are imposed on small entities by this action and the rule contains no information collection requirements under the Paperwork Reduction Act of 1995. This rule does not require a Federalism assessment under Executive Order 12612 because it would not have any significant federalism effects as described in the order.

**References Cited**

Refer to the emergency rule published elsewhere in today's **Federal Register**.

*Author:* The primary author of this proposed rule is Robert O. Turner, Manatee Coordinator (see ADDRESSES section).

**Authority**

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), as amended.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Regulation Promulgation**

Accordingly, the Service proposes to amend part 17, subchapter B of chapter

I, title 50 of the Code of Federal Regulations, as follows:

#### PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend section 17.108 by adding paragraph (a)(7) to read as follows:

#### § 17.108 List of designated manatee protection areas.

(a) \* \* \*

(7) A tract of submerged land on the west side of the confluence of Three Sisters Spring run and the residential canal off the eastern shore of Kings Bay, Crystal River, lying in the northeast corner of Section 28, Township 18, South Range 17 East in Citrus County, Florida; containing less than one quarter acre.

\* \* \* \* \*

Dated: November 20, 1997.

**Jamie Rappaport Clark,**

*Director, Fish and Wildlife Service.*

[FR Doc. 97–31108 Filed 11–21–97; 3:41 pm]

BILLING CODE 4310–55–P

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 971107264–7264–01; I.D. 102297A]

RIN 0648–AK47

#### Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; 1998 Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule and proposed 1998 initial specifications; request for comments.

**SUMMARY:** NMFS proposes initial specifications for the 1998 fishing year for Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish (MSB). In addition, NMFS proposes to amend the minimum net mesh size requirement for *Loligo* squid to make it applicable only to the cod end of the net. The intent of this change is to reduce the frequency that nets need to be replaced with a resultant cost savings to the fishery. Regulations governing these fisheries require NMFS to publish specifications for the upcoming fishing year and provide an opportunity for the public to comment.

**DATES:** Public comments must be received on or before December 26, 1997.

**ADDRESSES:** Copies of the Mid-Atlantic Fishery Management Council's quota paper and recommendations, the Environmental Assessment, and Regulatory Impact Review, including analysis of impacts under the Regulatory Flexibility Act, are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

Comments should be sent to Andrew A. Rosenberg, Ph.D., Regional Administrator, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. Please mark the envelope "Comments—1998 MSB specifications."

**FOR FURTHER INFORMATION CONTACT:** Myles Raizin, (978) 281–9104.

#### SUPPLEMENTARY INFORMATION:

Regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648. These regulations require NMFS to publish a proposed rule specifying the initial annual amounts of the initial optimum yield (IOY) as well as the amounts for allowable biological catch (ABC), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species. In addition to commercial quotas, the Council, in consultation with its Squid, Mackerel, and Butterfish Technical Monitoring Committee, may recommend revisions to the amount of *Loligo* and *Illex* squids and butterfish that may be retained, possessed, and landed by vessels issued the incidental catch permit; commercial minimum fish sizes; commercial trip limits; commercial seasonal quotas/closures for *Loligo* or *Illex* squid; minimum mesh sizes; commercial gear restrictions; recreational harvest limit; recreational minimum fish size; and recreational possession limits.

The following table contains the proposed initial specifications for the 1998 Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish fisheries as recommended by the Council:

PRELIMINARY INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 1998  
[Metric ton (mt)]

Specifications	Squid		Atlantic Mackerel	Butterfish
	Loligo	Illex		
Max OY .....	<sup>1</sup> 26,000	<sup>1</sup> 24,000	<sup>2</sup> N/A	<sup>3</sup> 16,000
ABC .....	21,000	19,000	382,000	7,200
IOY .....	21,000	19,000	<sup>4</sup> 80,000	5,900
DAH .....	21,000	19,000	<sup>5</sup> 80,000	5,900
DAP .....	21,000	19,000	50,000	5,900
JVP .....	0	0	15,000	0
TALFF .....	0	0	0	0

<sup>1</sup> Maximum optimum yield (Max OY) corresponds to a level of fishing beyond which overfishing occurs for *Loligo* and *Illex*.

<sup>2</sup> Max OY is not applicable for Atlantic mackerel.

<sup>3</sup> Max OY is specified as a catch level that would result from  $F_{msy}$  for butterfish.

<sup>4</sup> IOY for Atlantic mackerel may be increased during the year, but the total will not exceed 382,000 mt.

<sup>5</sup> Includes 15,000 mt of Atlantic mackerel recreational allocation.