



## Gulf Coast Ecosystem Restoration Council Categorical Exclusion Determination Form

*This form is to be completed before the Gulf Coast Ecosystem Restoration Council (Council) uses one or more Categorical Exclusions (CEs) to comply with the National Environmental Policy Act (NEPA) for a specific action or group of actions, as appropriate. More information on the Council's NEPA compliance and use of CEs can be found in the Council's [NEPA Procedures](#).*

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**Proposed Action Title:**

**Proposed Action Location:** (*State, County/Parish*)

**Proposed Action Description:**

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**Categorical Exclusion(s) Applied:**

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## **Council Use of Member Categorical Exclusion(s)**

*If the Categorical Exclusion(s) was established by a Federal agency Council member, complete the following. If not, leave this section blank and proceed to the segmentation section.*

### **Member with Categorical Exclusion(s)**

Has the member with CE(s) advised the Council in writing that use of the CE(s) would be appropriate for the specific action under consideration by the Council, including consideration of segmentation and extraordinary circumstances (as described below)?

Yes                  No

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### **Segmentation**

Has the proposed action been segmented to meet the definition of a Categorical Exclusion? (In making this determination, the Council should consider whether the action has independent utility.)

Yes                  No

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### **Extraordinary Circumstances**

In considering whether to use a Categorical Exclusion for a given action, agencies must review whether there may be extraordinary circumstances in which a normally excluded action may have a significant environmental effect and, therefore, warrant further review pursuant to NEPA. Guidance on the review of potential extraordinary circumstances can be found in Section 4(e) of the Council's NEPA Procedures. The potential extraordinary circumstances listed below are set forth in the Council's NEPA Procedures.

The Council, in cooperation with the sponsor of the activity, has considered the following potential extraordinary circumstances, where applicable, and has made the following determinations. (By checking the "No" box, the Council is indicating that the activity under review would not result in the corresponding potential extraordinary circumstance.)

- |     |    |   |
|-----|----|---|
| Yes | No | 1. Is there a reasonable likelihood of substantial scientific controversy regarding the potential environmental impacts of the proposed action?                     |
| Yes | No | 2. Are there Tribal concerns with actions that impact Tribal lands or resources that are sufficient to constitute an extraordinary circumstance?                    |
| Yes | No | 3. Is there a reasonable likelihood of adversely affecting environmentally sensitive resources? Environmentally sensitive resources include but are not limited to: |

- a. Species that are federally listed or proposed for listing as threatened or endangered, or their proposed or designated critical habitats; and
  - b. Properties listed or eligible for listing on the National Register of Historic Places.
- Yes      No    4. Is there a reasonable likelihood of impacts that are highly uncertain or involve unknown risks or is there a substantial scientific controversy over the effects?
- Yes      No    5. Is there a reasonable likelihood of air pollution at levels of concern or otherwise requiring a formal conformity determination under the Clean Air Act?
- Yes      No    6. Is there a reasonable likelihood of a disproportionately high and adverse effect on low income or minority populations (see Executive Order 12898)?
- Yes      No    7. Is there a reasonable likelihood of contributing to the introduction or spread of noxious weeds or non-native invasive species or actions that may promote the introduction, or spread of such species (see Federal Noxious Weed Control Act and Executive Order 13112)?
- Yes      No    8. Is there a reasonable likelihood of a release of petroleum, oils, or lubricants (except from a properly functioning engine or vehicle) or reportable releases of hazardous or toxic substances as specified in 40 CFR part 302 (Designation, Reportable Quantities, and Notification); or where the proposed action results in the requirement to develop or amend a Spill Prevention, Control, or Countermeasures Plan in accordance with the Oil Pollution Prevention regulation?

### **Supplemental Information**

Where appropriate, the following table should be used to provide additional information regarding the review of potential extraordinary circumstances and compliance with other applicable laws. The purpose of this table is to ensure that there is adequate information for specific findings regarding potential extraordinary circumstances.

Supplemental information and documentation is not needed for each individual finding regarding the potential extraordinary circumstances listed above. Specifically, the nature of an activity under review may be such that a reasonable person could conclude that there is a very low potential for a particular type of extraordinary circumstance to exist. For example, it would be reasonable to conclude that the simple act of acquiring land for conservation purposes (where

(there are no other associated actions) does not present a reasonable likelihood of a release of petroleum, oils, lubricants, or hazardous or toxic substances.

For some types of activities, no supplemental information may be needed to support a finding that there are no extraordinary circumstances. For example, where the activity under review is solely planning (with no associated implementation activity), it may be reasonable to conclude that none of the extraordinary circumstances listed above would apply. In such cases, the table below would be left blank.

In other cases, it may be appropriate to include supplemental information to ensure that there is an adequate basis for a finding regarding a particular extraordinary circumstance. For example, it might be appropriate in some cases to document coordination and/or consultation with the appropriate agency regarding compliance with a potentially applicable law (such as the Endangered Species Act). In those cases, the table below should be used to provide the supplemental information.

Agency or Authority Consulted	Agency or Authority Representative: Name, Office & Phone	Date of Consultation	Notes: Topic discussed, relevant details, and conclusions. (This can include reference to other information on file and/or attached for the given action.)

Additional supplemental information may be attached, as appropriate. Indicate below whether additional supplemental information is attached.

**Additional Information Attached:**      Yes      No

If “Yes”, indicate the subject:

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**Determination by Responsible Official**

Based on my review of the proposed action, I have determined that the proposed action fits within the specified Categorical Exclusion(s), the other regulatory requirements set forth above are met, and the proposed action is hereby Categorically Excluded from further NEPA review.

**Responsible Official (Name)**

Justin R. Ehrenwerth

**Responsible Official (Signature)****Date**

Dec 10, 2015

**U. S. FISH AND WILDLIFE SERVICE**

**ENVIRONMENTAL ACTION STATEMENT FOR CATEGORICAL EXCLUSION**

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I concur that the following proposed action qualifies as a categorical exclusion from NEPA documentation requirements consistent with 40 CFR 1508.4, 516 DM 2.3A, 516 DM 2 Appendix 1, and 516 DM 6 Appendix 1.4.

**A. Project Information**

**Project Name:** Alabama Submerged Aquatic Vegetation Monitoring Program (Implementation)

**Project Title:** Measuring and monitoring of SAV, mapping SAV, and the collection and subsequent sowing of SAV seeds.

**Project Tracking #:** RESTORE Council (AL\_RESTORE\_005\_003\_Cat2)

**Project Sponsor:** State of Alabama

**Project Location:** Mobile and Baldwin Counties, Alabama

**B. Proposed Action and Alternatives** (*Describe the proposed action and any alternatives explored. Discuss briefly why proposed action was selected over other alternatives.*)

The Alabama Submerged Aquatic Vegetation Restoration and Monitoring Project seeks to utilize RESTORE Act funds to further the State's comprehensive efforts to sustain and restore SAV in coastal Alabama. These efforts advance the goals and objectives of the Comprehensive Conservation and Management Plan of the Mobile Bay National Estuary Program and supports ongoing efforts of the NOAA funded Alabama Coastal Zone Management Program.

The proposed timeframe of 5 years builds upon over 30 years of effort to measure and monitor SAV in coastal Alabama. Specific project components include:

***Lower Perdido Bay Sea Grass Protection and Restoration:***

Lower Perdido Bay contains some of Alabama's most extensive seagrass beds, but it is also one of the most popular areas for recreational boating along the coast. In the last decade, the State has implemented no wake zones around the grassbeds and a 2006 Gulf of Mexico Program Community Based Restoration Grant (GOMF-CRP 2006) supported prop scar restoration efforts and education outreach in the area. RESTORE funds will be used to add additional bird stakes to the area, which are a proven method for prop scar restoration. Additional navigational signage advising the public of the boundaries of no-motor zones and the presence of sea grasses will also be placed.

Educational signage describing the importance of SAVs will also be placed at strategic locations around the adjacent waterways and educational brochures will be printed and distributed.

***Upper Mobile Bay and the lower Mobile/Tensaw River Delta SAV Restoration Project:***

SAV seeds (particularly *Vallisneria sp.*) will be collected in order to be sown in areas known to historically have *Vallisneria* present (based on 1994 and 2002 mapping) but which have not recovered since tropical storm events and drought of 2004-2007. Seeds may also be utilized to grow SAV plugs for planting in such areas.

***Submerged Aquatic Vegetation Monitoring Program:***

It has been five years since the last comprehensive mapping of SAV in coastal Alabama. In 2014, the National Fish and Wildlife Foundation announced that Gulf Environmental Benefit Funds will be awarded to update SAV maps in Alabama. Alabama seeks to leverage this effort to collect 2 additional SAV measurements over the next 5-7 years, each 2-3 years apart. In each case, aerial imagery will be analyzed to determine SAV coverage and create a GIS shapefile of SAV coverage, with species composition noted for each polygon. Imagery acquisition, imagery analysis and field work to ground-truth SAV species and coverage will be conducted in accordance with NOAA protocols in order to maintain data consistency between collections. A report on SAV coverage, species composition and status & trends will be developed from each monitoring event.

- C. **Categorical Exclusion(s)** (*Quote and provide the Departmental Manual citation(s) for the specific Categorical Exclusions you are using; if it appears necessary, discuss why you believe the action fits as this Categorical Exclusion; mention that the action does not trigger an Exception to the Categorical Exclusions at 43 C.F.R. 46.210(e) or 516 DM 2 Appendix 2; and/or if it does trigger an Exception, discuss why it does not apply for this action.*)

***43 C.F.R. 46.210(e)***

“Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research and monitoring activities.”

This action does not trigger an Exception to the Categorical Exclusions at 43 C.F.R. 46.210(e).

***516 DM 8.5(B)(6)***

“The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbance are anticipated.”

This action does not trigger an Exception to the Categorical Exclusions at 516 DM 2 Appendix 2.

- D. **Permits/Approvals** (*Discuss any additional permits/approvals needed before the proposed action can be implemented, such as a Clean Water Act section 404 permit, Endangered Species Act section 7 consultation, and/or National Historic Preservation Act section 106 clearance.*)

This project will be implemented by the Alabama Department of Conservation and Natural Resources in partnership with the Dauphin Island Sea Lab (DISL), Mobile Bay National Estuary Program, The City of Orange Beach and The Nature Conservancy (TNC). Both the DISL and TNC currently hold USACE Nationwide Permits for annual maintenance and replacement of zone signage, educational signage, as well as the installation of new bird stakes in prop scars as

they are identified in this area. The gathering of SAV seeds in a non-destructive manner is not subject to regulatory requirements. No USACE permit is required for seed gathering or sowing. Seeding plots will be marked in a non-permanent manner using biodegradable natural materials, which will not require USACE permits. Additionally, this restoration project is considered a Permissible Use under Alabama Coastal Area Management Program. There are no expected issues with Service Trust resources from project implementation. This proposal would require no additional permitting.

E. **Public Involvement/Interagency Coordination** (*Discuss the opportunities provided to the public, other agencies, and/or Tribes to get involved with the proposed action, any significant comments they may have made, and our responses.*)

The RESTORE Council intends to publish a draft Funded Priorities List of projects in the Federal Register soliciting public comments in August 2015. The activity-specific appendices will inform the readers of instances in which the Council proposes to use a Categorical Exclusion(s) or adopt an Environmental Assessment. The appropriate weblinks to those documents would be available on the Council's website.

F. **Supporting Documents** (Supporting documents for this determination include relevant office file material and the following key references: *List document citations here.*)

(1) *The RESTORE Council website:*

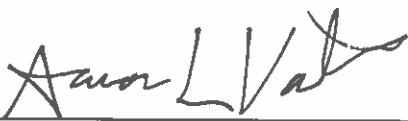
<http://www.restorethegulf.gov/release/2015/03/12/council-selected-restoration-component-proposals-and-context-reports>

(2) *Specific Project Proposal:*

[Alabama Submerged Aquatic Vegetation Restoration and Monitoring Project \(PDF\)](#)

(3) *Letter dated July 7, 2015, from the Service's Ecological Services Office located in Daphne, Alabama, documenting the environmental compliance review.*

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(Signature Authority)

7-9-15  
(date)

## NEPA Extraordinary Circumstances Checklist

### A. Project Information

**Project Name:** Alabama Submerged Aquatic Vegetation Monitoring Program (Implementation)

**Project Title:** Measuring and monitoring of SAV, mapping SAV, and the collection and subsequent sowing of SAV seeds.

**Project Tracking #:** RESTORE Council (AL\_RESTORE\_005\_003\_Cat2)

**Project Sponsor:** State of Alabama

**Project Location:** Mobile and Baldwin Counties, Alabama  
(County & State)

- B.** This proposal X is; \_\_\_\_ is not completely covered by categorical exclusion(s) in 43 C.F.R. 46.210(e) and 516 DM 6, Appendix 1 (B)(6).  
*(check one)(Review proposed activities. An appropriate categorical exclusion [CE] must be identified before completing the remainder of the Checklist. If a CE cannot be identified, or the proposal cannot meet the qualifying criteria in the CE, or any extraordinary circumstances applies [see below], an Environmental Assessment must be prepared.)*

**C. Extraordinary Circumstances:**

Will This Proposal (check one for each item below):

Yes    No

- \_\_\_\_ X 1. Have significant adverse effects on public health or safety.
- \_\_\_\_ X 2. Have significant adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds (EO 13186), and other ecologically significant or critical areas under Federal ownership or jurisdiction.
- \_\_\_\_ X 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA Section 102(2)(E)).
- \_\_\_\_ X 4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
- \_\_\_\_ X 5. Have a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
- \_\_\_\_ X 6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

- 7. Have significant adverse effects on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office, the State Historic Preservation Officer, the Advisory Council on Historic Preservation, or a consulting party under 36 CFR 800.
- 8. Have significant adverse on species listed, or proposed to be listed, on the List of Endangered or Threatened species, or have significant adverse effects on designated Critical Habitat for these species.
- 9. Have the possibility of violating a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environmental.
- 10. Have the possibility for a disproportionately high and adverse effect on low income or minority populations (EO 12898).
- 11. Have the possibility to limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian Religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).
- 12. Have the possibility to significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).

[If included, attach any additional information or documentation supporting the Checklist.]

(If any of the above extraordinary circumstances receive a "Yes" check, an Environmental Assessment must be prepared.)

D. Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the proposal:

- qualifies as a categorical exclusion as provided by 43 C.F.R. 46.210(e) and 516 DM 6, Appendix 1 (B)(6). No further NEPA documentation will therefore be made.
- is not completely covered by the categorical exclusion as provided by 516 DM 6, Appendix 1 and/or 516 DM 2, Appendix 1. An Environmental Assessment must be prepared.

US Fish and Wildlife signature approval:

Date: 7-9-15

Staff Preparer:

Date: 7/7/15



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

Alabama Field Office

1208 Main Street

Daphne, Alabama 36526

IN REPLY REFER TO:  
2015-I-0655

JUL 30 2015

Mr. John Ettinger  
Acting Director, Environmental Compliance  
Gulf Coast Ecosystem Restoration Council  
500 Poydras Street, Ste. 1117  
New Orleans, LA 70130

Dear Mr. Ettinger:

The Fish and Wildlife Service (Service) has reviewed RESTORE Act funding proposal titled “Alabama Submerged Aquatic Vegetation Restoration and Monitoring Project” in Baldwin County, Alabama. Our comments are in reference to compliance with the National Environmental Policy Act (83 Stat. 852; 42 U.S.C. 4321 et seq.), the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), the Migratory Bird Treaty Act (40 Stat. 775, as amended; 16 U.S.C. 703 et seq.), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c), the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.), the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801), the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.).

The proposed project includes marking plots, collecting and sowing seeds, installation of bird stakes and signage, and monitoring for restoration and protection of submerged aquatic vegetation (SAV) areas within the Lower Perdido Bay, Upper Mobile Bay and Lower Mobile/Tensaw River Delta in Alabama. These highly productive marine plant communities provide valuable habitat in the waters that they populate. Continuous seagrass beds stabilize coastal sediments, decrease wave energy, and provide shelter for a variety of juvenile and adult aquatic species. The restoration and protection of SAV in Lower Perdido Bay, Upper Mobile Bay and Lower Mobile/Tensas River Delta will result in greater potential habitat for fish and wildlife resources.

Federally listed species found in Baldwin County near these areas proposed for SAV restoration and protection include: green sea turtle, Kemp's ridley sea turtle, loggerhead sea turtle, piping plover, red knot, West Indian manatee, and Gulf Sturgeon. The proposed project will not result in any changes to shoreline habitats where piping plover or red knot could be feeding or resting or where sea turtles could be nesting, therefore, no effects are expected to the piping plover, red knot, green sea turtle, Kemp's ridley sea turtle, and loggerhead sea turtle in their terrestrial environment. Manatee and Gulf Sturgeon are known to occur in the area of the proposed projects. The main risk to these species during the implementation of this project would be from boat collisions which could result in harm or mortality. The project applicants will adhere to Alabama manatee standard construction conditions (see attached) for operation of boats in these areas. These measures will reduce the risk of impacts to these species, therefore, the proposed project "may affect, but is not likely to adversely affect" the manatee and Gulf sturgeon. We anticipate the effects of this action on listed species to be completely beneficial.

The restoration and protection of SAV will also benefit other trust fish and wildlife resources such as migratory birds protected under the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act. We also do not anticipate adverse impacts to marine mammals protected under the Marine Mammal Protection Act because the measures implemented to reduce impacts from boat collisions to manatee and Gulf sturgeon should also reduce the risk to the Atlantic bottlenose dolphin. Project applicants will report any dolphin or whale in distress (e.g., injured/entangled) or dead marine mammal to the Southeast Marine Mammal Stranding Network: 1877-WHALE HELP or 1-877- 942-5343. Through the restoration and protection of seagrass beds, we anticipate that this project will have only beneficial effects to fisheries resources protected under the Magnuson-Stevens Act. The proposed project is also not located within the John H. Chaffee Coastal Barrier Resource System. There are no known historic features within the project areas and there is no excavation or ground disturbance associated with this project, therefore there are no cultural resource issues associated with this project.

The RESTORE Council NEPA regulations allow for Council members to adopt other Council member's categorical exclusions, if appropriate. This proposed action includes marking plots, collecting and sowing seeds, installation of bird stakes and signage, and monitoring for restoration and protection of submerged aquatic vegetation (SAV) areas within the Lower Perdido Bay, Upper Mobile Bay and Lower Mobile/Tensaw River Delta in Alabama. After reviewing the proposal we have determined the Alabama Submerged Aquatic Vegetation Restoration and Monitoring Project qualifies as a categorical exclusion under the National Environmental Policy Act as provided by 516 DM 6, Appendix 1 and/or 516 DM 2 **CE -Department of the Interior 43 C.F.R.**  
**46.210(e) Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research and monitoring activities** and **CE - Fish and**

***Wildlife Service (B) Resource Management (6) The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbance are anticipated*** and no further NEPA documentation is required.

Additionally, we do not think the use of two categorical exclusions on a single project constitutes improper segmentation of the project. Monitoring of restoration and protection of SAV has no independent utility or function and would not be implemented absent preparing plots, collecting and sowing seeds, and installing bird stakes and signage. Further, viewing the project as a whole, there are no cumulative effects that accrue. This determination relied upon the supporting documentation within the proposal as well as the environmental compliance review conducted by the Service including a review used to determine that no extraordinary circumstances existed.

If you have any questions, please contact Shannon Holbrook in this office at (251) 441-5870.

Sincerely,



Jeffrey R. Powell  
Deputy Field Supervisor  
Alabama Ecological Services Field Office

## **STANDARD MANATEE CONDITIONS FOR IN-WATER WORK OR EVENTS in ALABAMA**

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. Instruct all personnel associated with the project/event about the potential presence of manatees and the need to avoid collisions with manatees. Advise all personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and Alabama Nongame Species Regulation.
- b. Operate all vessels associated with the project/event at “no wake/idle” speeds at all times while in the project/event area, and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom when possible. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project/event personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shut down if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with and/or injury to a manatee shall be reported immediately to the Dauphin Island Sea Lab’s Manatee Sighting Network (1-866-493-5803) and the U.S. Fish and Wildlife Service in Daphne, Alabama, at (251) 441-5839 or (251) 441-5181 and emailed to: Alabama@fws.gov. Please report nonemergency manatee observations to the numbers above or online at: <http://manatee.disl.org/>.
- f. Temporary signs using text exactly as below shall be posted prior to and during all in-water project or event activities. Signs shall be at least 8½” by 11” explaining the requirements for the “Idle/No Wake” and the shut down of in-water operations. Signs must be posted in a location prominently visible to all personnel engaged in water-related activities and placed visible to each vessel operator. All signs are to be removed by the permittee upon completion of the project or event. Questions concerning these signs can be forwarded to the email address listed above. An example is enclosed and can be copied and used during construction/event activities.



## **CAUTION: MANATEE HABITAT**

**IDLE SPEED IS REQUIRED IF OPERATING A VESSEL IN  
THE CONSTRUCTION OR EVENT AREA**

All equipment must be **SHUTDOWN** if a manatee comes  
within **50 FEET** of operation

Report any collision with and/or injury to a manatee immediately to:

**Dauphin Island Sea Lab's Manatee Sighting Network:**

**1-866-493-5803**

and the U.S. Fish and Wildlife Service in Daphne, AL:  
**(251) 441-5839 or (251) 441-5181**