



U.S. Fish & Wildlife Service

Emergency Establishment of a Manatee Refuge in Kings Bay Frequently Asked Questions

Q1: What is a manatee refuge?

A1: Under the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and federal regulations, the Service can establish manatee protection areas for the purpose of preventing the take of manatees. Take is generally defined as the harassment, harm, death or injury of a listed species, along with a variety of other harmful actions. Manatee protection areas can be either manatee sanctuaries or manatee refuges.

Manatee refuges are areas in which the Service has determined that certain waterborne activities would result in the taking of one or more manatees, or that certain waterborne activities must be restricted to prevent the taking of one or more manatees, including but not limited to a taking by harassment. Waterborne activities that may be restricted include, but are not limited to, swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing, the use of water vehicles (including boats, personal watercraft, and other vehicles used to move across or underneath the water's surface), and dredging and filling operations.

Q2: Why is the U.S. Fish and Wildlife Service establishing Kings Bay as a manatee refuge on an emergency basis?

A2: Service biologists determined that the existing manatee sanctuaries are now too small to adequately provide protected areas for Kings Bay's manatees where they can rest, free from distracting waterborne activities. They also determined that there is substantial evidence that there is imminent danger of a taking of one or more manatees in these waters; and such establishment is necessary to prevent the direct harassment, harm, or loss of manatees.

The manatee protection measures currently in place were established more than a decade ago. The number of wintering manatees using Kings Bay has increased since then, and the current sanctuaries are too small to accommodate this number of animals. Human uses of Kings Bay also have increased well beyond the impacts originally considered when the existing sanctuaries were created.

Q3: Is the manatee refuge designation the same as an area designated as a National Wildlife Refuge?

A3: No. While manatee refuges designated under the ESA/MMPA and National Wildlife Refuges designated under the National Wildlife Refuge System Improvement Act of 1997 are both called refuges, the two differ. Manatee refuges are established solely to protect manatees against threats. They are protection areas designated in the water and are not land acquisitions or land parcels. As

stated above, manatee refuges are areas in which the Service has determined that certain waterborne activities would result in the taking of one or more manatees, or that certain waterborne activities must be restricted to prevent the taking of one or more manatees. This Kings Bay manatee refuge joins an existing federal manatee protection network that includes 11 manatee sanctuaries and 13 manatee refuges that already exist.

National Wildlife Refuges are federal lands set aside to conserve America's fish, wildlife, and plants.

Q4: Where is the manatee refuge located?

A4: The manatee refuge is in Citrus County and encompasses all of Kings Bay, including all tributaries and adjoining water bodies, upstream of the confluence of Kings Bay and Crystal River.

Q5: When does the manatee refuge go into effect?

A5: The refuge goes into effect on November 15, 2010, and remains in place for 120 days through March 15, 2011.

Q5: What is the Service's legal authority to establish manatee refuges or sanctuaries?

A5: The authority to establish protection areas for the West Indian manatee (*Trichechus manatus*) is provided by the *Endangered Species Act of 1973* (ESA), as amended and codified in 16 USC 1531 et. seq., by the *Marine Mammal Protection Act of 1972* (MMPA), as amended and codified in 16 USC 1361 et. seq., and regulations promulgated pursuant to these Acts, which are found in Title 50 of the *Code of Federal Regulations, part 17, subpart J*.

Q6: What is "take"?

A6: "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 the Service to include significant habitat modification or degradation that actually results in death or injury to listed species by significantly impairing essential behavioral patterns such as breeding, feeding or sheltering. The Service defines "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. "Take," as further defined by the Marine Mammal Protection Act, means "to harass, hunt, capture, or kill any marine mammal." "Harassment" under the MMPA means any act of pursuit, torment, annoyance which (1) has the potential to injure a marine mammal or marine mammal stock in the wild; or, (2) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing a disruption of behavioral patterns."

Q7: Why is this rule coming out now? How did this rule come about?

A7: Conservation of the manatee is a high priority of the Service. The primary threats to the recovery of the species are deaths and injuries from collisions with boats and threats to warm water habitats. To address these threats, the Service works with state and local governments and other partners to maintain an extensive network of manatee protection areas.

At a February 26, 2010, public forum with stakeholders, the Service stated that the agency planned to propose revisions to the existing network of manatee protection measures in Kings Bay in fiscal year 2010. This emergency rule is being put in place to address the previously identified concerns before the winter season begins.

Q8: What prohibitions or restrictions on waterborne activities are included in the emergency rule?

A8: The new manatee refuge overlaps existing seasonal manatee sanctuaries (areas where all waterborne activities are prohibited) and allows for the establishment of additional “no-entry” areas with boundaries posted in such a way as to accommodate manatee use during the winter. This will ensure that the protection areas are of a size and duration adequate to meet the varying needs of manatees using these sites. The designation also identifies restrictions on waterborne activities outside of the sanctuaries within Kings Bay that are intended to prevent manatee harassment from occurring.

Manatee viewing guidelines, many of which have been in place for several years, have been incorporated into the rule. As prohibited acts, these will now be legally enforceable by federal and state marine law enforcement officers. Activities that are specifically prohibited throughout the manatee refuge include:

- Chasing or pursuing manatee(s).
- Disturbing or touching resting or feeding manatee(s).
- Diving from the surface on to resting or feeding manatee(s).
- Cornering or surrounding or attempting to corner or surround manatee(s).
- Riding, holding, grabbing, or pinching or attempting to ride, hold, grab, or pinch manatee(s).
- Poking, prodding, or stabbing, or attempting to poke, prod, or stab manatee(s) with anything, including hands and feet.
- Standing on or attempting to stand on manatee(s).
- Separating a mother and calf or attempting to separate a mother and calf.
- Separating manatee(s) from a group or attempting to separate manatee(s) from a group.
- Giving manatee(s) anything to eat or drink or attempting to give manatee(s) anything to eat or drink.
- Actively initiating contact with belted and/or tagged manatee(s) and associated gear, including any belts, harnesses, tracking devices, and antennae.
- In addition to the above prohibited activities, the following waterborne activities are prohibited within Three Sisters Springs from November 15, to March 15: scuba diving and fishing, including with hook and line, by cast net, or spear.

Q9: Does the rule conflict with the current Crystal River National Wildlife Refuge Comprehensive Conservation Plan (CCP) being developed?

A9: No. The rule is consistent with draft CCP alternatives currently being considered.

Q10: How will this rule impact the area commonly known as Three Sisters Springs?

A10: Within Three Sisters Springs from November 15, 2010, to March 15, 2011, scuba diving and fishing (including with hook and line, by cast net, or spear) are prohibited. In addition, the general prohibitions described under Q.8 apply in this area as well. This rule also allows for the possible establishment of an expanded no entry-area around the existing sanctuary at Idiot's Delight depending on the use of the sanctuary by manatees during the winter season.

During the record breaking, sustained cold temperatures in January 2010, the Service asked local residents to refrain from entering Three Sisters Springs for ten days. This rule gives the Service the flexibility to deal with such unusual events by allowing for the expansion of the current sanctuary at Idiot's Delight to a degree that could close all or part of Three Sisters Springs, depending on use by manatees. If such an extreme weather event were to repeat itself, the Service could chose to close all or part of the springs temporarily. But while this rule does give the Service flexibility to manage the springs by opening or closing all or part of them, there is no expectation that the entirety of Three Sisters Springs would be closed to the public for the duration of the emergency rule.

Q11: Is the public being given an opportunity to better understand the emergency establishment of the manatee refuge in Kings Bay, as well as get information about how the Service intends to proceed with formally establishing this manatee protection area?

A11: Yes. To facilitate public understanding of the emergency designation of a manatee refuge in Kings Bay, the Service has scheduled two (2) public informational meetings at the following location and dates and time:

Location:

Plantation Inn and Golf Resort
9301 W. Fort Island Trail
Crystal River, FL 34429

Emergency Rule Informational Meetings:

- Tuesday, November 16, 2010, 6:00 to 9:00 p.m.
- Thursday, November 18, 2010, 6:00 to 9:00 p.m.

Purpose: The Service has scheduled two (2) public informational meetings in Crystal River to discuss the emergency rule. These informal public meetings afford the Citrus County community and other interested parties an opportunity to hear information and ask questions about the emergency refuge rule, why the Service took this action and what is next in the process.

The Service has also scheduled two (2) informal public meetings at the following location and dates and time, to discuss the process of formally establishing the manatee refuge in Kings Bay:

Location:

Plantation Inn and Golf Resort
9301 W. Fort Island Trail
Crystal River, FL 34429

Informal Public Meetings:

- Saturday, November 20, 2010, 1:00 to 4:00 p.m.
- Thursday, December 2, 2010, 6:00 to 9:00 p.m.

Purpose: These non-decision making, informal public meetings provide an opportunity for information exchange and offer the Citrus County community and other interested parties the chance to get information and ask questions about the next steps in the more formal rulemaking process, as well as provide the Service staffs information that may be useful in the process of formally establishing this manatee protection area.

Q12: How will the manatee protection area affect private lands or other landowners?

A12: As stated above in Q.3, manatee protection areas are designated in the water, and are not land acquisition or land parcels. As a result, designation of a Kings Bay manatee refuge will not affect private or other lands surrounding Kings Bay, and will not affect the rights of waterfront property owners. Public and private waterfront property owners and their designees retain riparian access to their properties and can maintain property and waterways when their property adjoins or is located in a manatee refuge. Public and private waterfront property owners would be required to operate their boats and conduct property and waterway maintenance activities in a manner consistent with the refuge measures that are in effect adjacent to their property; maintenance activities will continue to be subject to applicable federal, state or local permitting requirements.

Q13: What if my property falls within a “no-entry” area in the manatee refuge?

A13: If “no entry” areas are designated adjacent to privately-owned shoreline, these designations will not prevent riparian landowners from traveling to and from their property nor will they affect the landowners’ ability to maintain property and waterways. In the event that their property adjoins a “no entry” area, property owners will be allowed to travel to and from their property at idle speeds. These owners would need to contact the Crystal River National Wildlife Refuge to obtain a sticker that identifies their boat as belonging to an adjoining waterfront property owner.

Q14: How is "idle" speed defined in these regulated areas?

A14: "Idle" speed is defined as the minimum speed necessary to maintain steerage.

Q15: Will designation of a site as a manatee refuge restrict my access to Florida’s waterways?

A15: No. Designation of an area as a manatee refuge will not restrict access to waterways. Although you will have to avoid designated sanctuaries and “no-entry” areas and follow specific restrictions within the refuge as posted and/or permitted.

Q16: In establishing this manatee protection area, is the Service working with stakeholders and partners in the area?

A16: In working with the public and other partners, the Service determined that the existing manatee sanctuaries are now too small to adequately provide protection to Kings Bay’s manatees where they can rest, free from distracting waterborne activities. As stated earlier, at a public forum of stakeholders,

earlier this year, we discussed that proposed revisions to manatee protections needed to be made. We will be working closely with the community in the meetings described under Q. 11 and during the official public comment period that exists as part of the rulemaking process to inform us as the Service formally establishes this manatee protection area.

Q17: I thought the Florida Fish and Wildlife Conservation Commission (FWC) has designated speed zones, refuges and sanctuaries in the Kings Bay-Crystal River area. Is the Service coordinating its efforts with the state agencies?

A17: Yes. These provisions will remain in place, while this rule is in effect. Further, joint discussions with FWC regarding the issues and concerns associated with Kings Bay manatee protections and possible solutions have been and will continue to be a critical part of the Service's species management processes.

Q18: Can the Fish and Wildlife Service adequately post regulation signs and boundary signs?

A18: Yes. Posting of manatee refuges is required. The Service will involve the FWC, Inland Navigation Districts, local governments, the U.S Army Corps of Engineers, and the U.S. Coast Guard, as appropriate, in initial posting and the development of a sign plan for this federal manatee refuge. The ability to adequately post and enforce designated sites is always a factor in the site selection process.

Q19: How is the new manatee refuge enforced?

A19: Manatee refuges are only effective to the extent that waterway resource users comply with posted regulations and established prohibited activities. As such, enforcement will continue to be an essential component of the effort. The Service, state, and other agency law enforcement officers will enforce the newly established manatee refuge. Non-federal officers will continue to be authorized to enforce federal manatee refuge regulations, just as U.S. Fish and Wildlife Service law enforcement officers can and do enforce state manatee protection regulations.

Enforcement around existing sanctuaries was increased over the past several years in response to public concerns over harassment, increased manatee use of Kings Bay, and increases in human activities. The Service believes these joint efforts contributed in part to an overall reduction in the number of complaints regarding harassment. This emergency establishment of a manatee refuge and the initiation of a proposed rulemaking further that effort.

Q20: Florida's statewide 2010 manatee count was high, as was the count in the Citrus County. Why is the Service proceeding with the designation of an additional manatee refuge?

A20: The Service is very pleased with recent survey counts and sees 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 designation of an additional federal manatee protection area is expected to further improve adult survival rates, provide the Service with a valuable adaptive management tool to meet current and future manatee needs in Kings Bay, address harassment concerns, and support the full recovery of the species.

Q21: What are the next steps in the process?

A21: The Service will hold the informal public meetings as noted, above. Then, it will evaluate the information received and proceed to complete the proposed rule, which should be published in early 2011 in the *Federal Register*.

Q22: Where can I find more information on this rule and other manatee conservation/recovery efforts?

A22: Visit the Service's website at <http://www.fws.gov/northflorida/>.