

KINGS BAY MANATEE REFUGE - FINAL RULE

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Presentation for Crystal River NWR “End of manatee season” dive shop meeting

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Why are we here?



- Largest natural concentration of wintering manatees
- Address user conflicts
- Preserve winter viewing activities
- Reduce manatee harassment, injury and mortality

On March 16, 2012, the Service designated Kings Bay in Citrus County, FL as a manatee refuge under the Service’s regulations for designating manatee protection areas [50 CFR Subpart J (17.100-108)].

Kings Bay has the largest natural concentration of Florida manatees. There are some larger concentrations, but these are around some of the power plant outfalls. In the cold events of 2010 and 2011, there was little impact on the manatees wintering at the springs in Citrus County or those animals at Blue Springs in the St Johns River. This was not true for manatees wintering at power plants (or even in the Everglades) where hundreds died. These concentrations of manatees around the natural springs are anchor points for manatee recovery.

There have been several conspicuous user conflicts in Kings Bay in the last few years relative to manatees being struck by boats and swimmers harassing manatees. In addition to the conservation values of resolving these conflicts, it is also important to the community of Crystal River. The opportunity to view manatees in this manner is unparalleled but if we can’t avoid impacts to manatees, then that opportunity is jeopardized.

In November 2010, the Service published an “emergency rule”, which temporarily established a manatee refuge in Kings Bay during that winter. The final rule retains the elements of the emergency rule, but includes additional management flexibility and prohibitions.

National Wildlife Refuge vs Manatee Refuge

- **National Wildlife Refuges** = lands and waters owned, leased, or otherwise managed by the Service in accordance with the National Wildlife Refuge Improvement Act.
- **Manatee Protection Areas** = established pursuant to federal regulations (50 CFR Part 17) published in 1979 per ESA and MMPA
 - **"Manatee Sanctuaries"** are manatee protection areas where all waterborne activities are prohibited.
 - **"Manatee Refuges"** are manatee protection areas where only certain activities are restricted.

Before we get into the details of the rule, I want to quickly clarify the difference between a National Wildlife Refuge and a manatee refuge. On their own, the terms are easy enough to confuse. However, in Kings Bay it is particularly complicated because the National Wildlife Refuge and both types of manatee protection areas (i.e., sanctuaries and refuges) are interspersed and in some cases overlap.

National Wildlife Refuges are lands and waters owned, leased, or otherwise managed by the Service in accordance with the National Wildlife Refuge Improvement Act. National Wildlife Refuges can be established for a variety of conservation purposes and there are over 540 in the U.S and its territories. Crystal River National Wildlife Refuge is one such Refuge and it was established in 1983 for the purpose of protecting manatees.

"Manatee protection areas" are established pursuant to federal regulations (50 CFR Part 17) published in 1979 under the authorities of the Endangered Species Act and Marine Mammal Protection Act. These regulations give the Service discretion to provide additional manatee protection in the event other protection efforts prove insufficient. There are 25 federal manatee protection areas in 13 counties in Florida. Eight of these are in Kings Bay.

The manatee protection area regulations use the terms "sanctuary" and "refuge" to describe the two categories of manatee protection areas. Manatee sanctuaries are manatee protection areas where all waterborne activities are prohibited. The seasonally closed area on the north side of Buzzard Island is an example of a sanctuary. During manatee season, no entry or any other activities are allowed.

Manatee refuges are manatee protection areas where only certain activities are restricted. The recently established speed and manatee viewing restrictions in Kings Bay are examples of restricted activities, while other activities, such as boating, are allowed to continue. The location where these restrictions occur, Kings Bay in this case, is called a "refuge," within the context of the regulations.

2011 Kings Bay Manatee Refuge Elements of the Proposal

- Restricted boat operations at slow speeds year-round – unless more restrictive measure in place
- 13 specifically prohibited activities at all times;
 - Including use of manatee-safe fishing lines, float lines, and mooring lines at all times
- Maintained the 7 existing manatee sanctuaries during manatee season (November 15 – March 31)
- Allowed temporary 'no-entry' areas adjacent to existing sanctuaries and several additional springs during the manatee season
- Allowed temporary 'no-entry' areas prior to or after the manatee season during unusual cold events
- No night access to Three Sisters Springs during manatee season
- Provided limited exceptions for access by waterfront property owners

In June of 2011 we published a proposed rule to establish a manatee refuge in Kings Bay and opened a 60-day public comment period. The proposal essentially incorporated the elements of the 2010 emergency rule, but expanded beyond the manatee winter season and added other prohibitions.

This slide provides a summary of what was in the proposed rule. There are some notable changes between the proposed and final rule that I will point out later.

Key Public Concerns

- Kings Bay is currently dangerous in the summer
- Compressing high speed recreation into the river channel would be worse
- Adverse economic impacts
- Needed more protection for manatees than proposed



This slide summarizes the key public concerns expressed about the proposed rule during the public comment period.

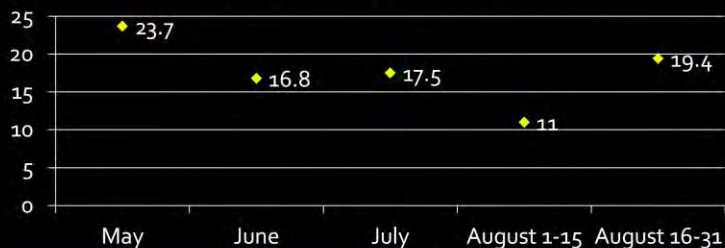
There were two areas of public concern expressed relating to safety. One is that Kings Bay as-is is dangerous. The other is that compressing high speed recreation into Crystal River would be problematic. The Service consulted with federal and state waterway safety experts and reviewed boating accident statistics. We found **both** concerns to be valid.

Conversely, we were not able to verify that there would be any measurable economic effects associated with the rule, positive or negative. Some of the public concern regarding adverse effects seemed to be based on a presumption that we would require slow speed to the Gulf of Mexico, which was not part of the rule or any Service discussions surrounding the rule. Also, the subsequent changes in the final rule further minimize the possibility of adverse economic effects. The final rule reduces high speed recreation for six weeks, but enhances other types of recreation in the more confined areas of Kings Bay.

Finally, there were some that felt that the proposed rule did not go far enough to protect manatees and recommended protection of additional springs, not only in Kings Bay but beyond. They also recommended a blanket no touch rule and minimum approach distances around manatees.

Resolving the Safety Issue

Average Manatee Use by Month

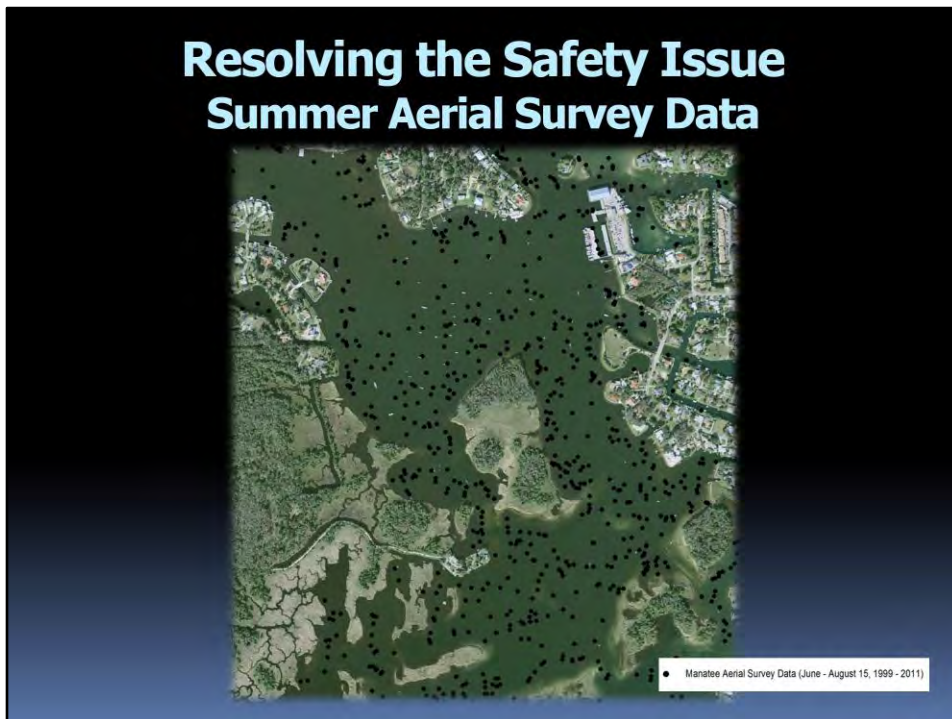


The Service examined seasonal manatee use data (i.e., numbers of manatees seen and when they were seen) in the watersports zone on a monthly basis from May through August for a period of 13 years (1999 – 2011); 69 surveys in all (Crystal River NWR unpublished data).

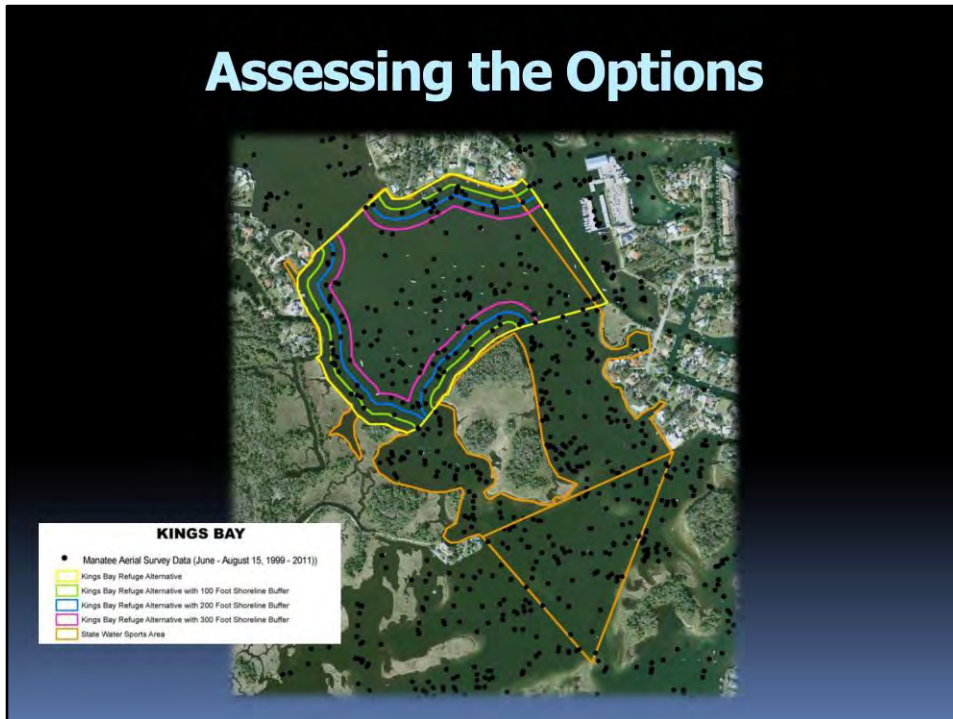
Coincidentally, the period of least manatee use also matches the period when the least experienced boaters would be most likely to be on the water, the public school summer vacation period.

To resolve the safety issue, the Service assessed 13 years of manatee data to determine when and where manatees are found in Kings Bay during the period of May thru August when the watersports zone was in effect. We found that May had the most manatee use and that early August had the least. Manatees start moving back into Kings Bay in mid-August. In terms of distribution, we saw that the area of least use is between Buzzard Island and the mouth of Crystal River.

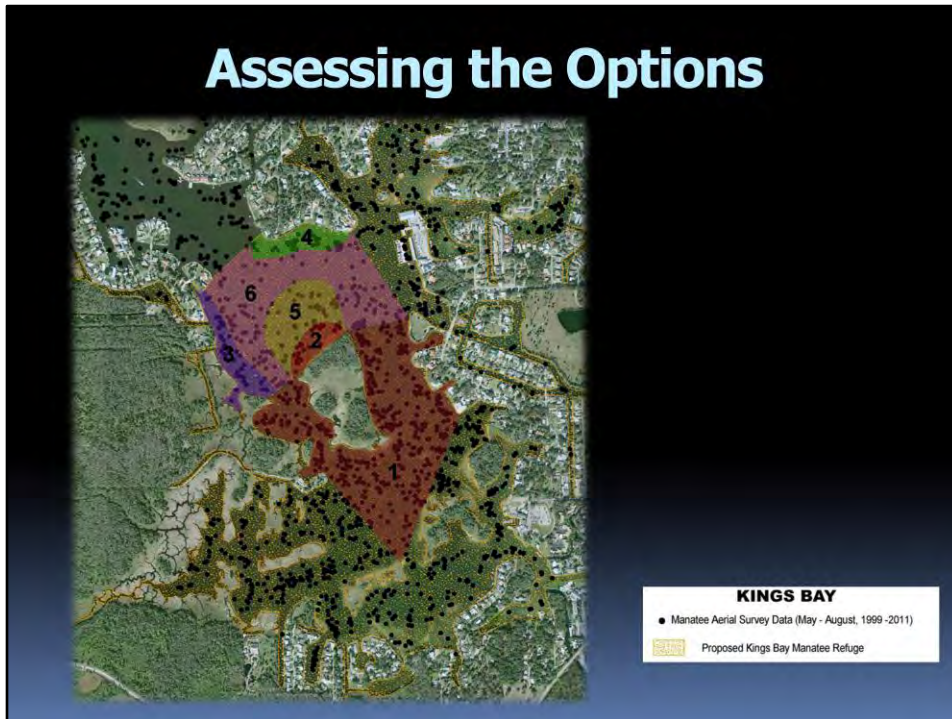
This slide shows average manatee use in the bay by month.



This graphic depicts the 13-years of combined data showing locations where manatees have been observed. The dots may represent a single manatee or a group of manatees as observed during the aerial surveys flown from May thru August when the watersports zone was in effect.



Here, the multi-colored bands illustrate one of the analyses we carried out in making our final decision and show distances from shore in 100 foot increments out to 300 feet, as well as the boundaries of the original summer watersports zone.



This graphic illustrates another one of the analyses we carried out in making our final decision. Here, the numbered/multi-colored zones were areas where we estimated the extent of manatee use.

Other Changes

- Eliminated manatee-safe line provision
- Revised Three Sisters closure hours (now sunset to sunrise)



We also made other minor changes in the final rule.

We withdrew the manatee-safe line provision. That provision was very confusing to the public and was unenforceable without being able to describe, by rule, what a manatee-safe line is.

Instead of fixed hours, we also revised the nighttime closure of Three Sisters Springs during manatee season to be sunset to sunrise. The objective is to prevent unintentional harassment of manatees (users unable to see and avoid manatees in the dark) and to be able to see to enforce that provision. Fixed hours would have needlessly closed the spring during daylight or conversely, allowed use in the dark.

Recommendations NOT Adopted

- Adding more sanctuaries inside & outside of Kings Bay
- No-touch rule
- Approach distance rule
- Closing the “Keyhole” at King Spring



The Service did not add any additional manatee protection beyond that initially proposed. We believe the final rule will minimize harm and harassment to the extent necessary to meet the recovery needs of the species in Kings Bay.

The Service considers a blanket no-touch rule and an approach distance rule (e.g., 10 feet, or alternatively, a body length) to be unenforceable as a swimmer is not in complete control of these parameters; and those activities, in and of themselves, do not necessarily harm manatees. However, both are good educational recommendations. We also note that several forms of contact with manatees and in-water behaviors around manatees are prohibited by the rule.

The Service believes recreation can continue at Kings Spring without harming manatees.

Myths Debunked

Things Folks Said We Said But We Didn't



- No closure of Kings Bay to fishing
- No slow speed all the way to the Gulf of Mexico
- No restricted access to private property
- No sticker required for use of Kings Bay outside of sanctuaries

There were a number of myths raised during and after the public comment period which were not reflected in our original proposed action; nor in our final decision.

Nowhere in the rule did we propose closing all of Kings Bay to fishing.

As noted earlier, there was never a proposal to require slow speed to the Gulf of Mexico, nor were there any such Service discussions surrounding the rule.

There was no proposal to restrict access to private property.

There was no requirement for a sticker for use of Kings Bay outside of the seasonal sanctuaries or temporary no-entry areas.

Final Rule Summary

- Maintains the 7 existing seasonal manatee sanctuaries
- Temporary 'no-entry' areas adjacent to existing sanctuaries and specified additional springs during the manatee season
- Temporary 'no-entry' areas prior to or after the manatee season during unusual cold events

Maintains the 7 existing seasonal manatee sanctuaries

Temporary 'no-entry' areas adjacent to existing sanctuaries and specified additional springs during the manatee season. This provision provides managers the flexibility to expand existing sanctuaries and to create temporary no-entry areas at Three Sisters, House, Jurassic, and Idiot's Delight #2 springs. Maximum expansion dimensions are specified by the rule. Such expansion can be done when manatees exceed the capacity of an existing sanctuary or shift usage to specific springs just mentioned, due to water, weather, or other conditions.

Temporary 'no-entry' areas prior to or after the manatee season during unusual cold events. This provision allows managers the flexibility to put any of the described sanctuaries or temporary no-entry areas into effect, for a maximum of 14 consecutive days, before or after the manatee season during cold fronts when manatees are present.

Final Rule Summary – cont'd

- Regulates watercraft speeds throughout the manatee refuge at all times
 - Provision for high-speed (25-mph, daylight) operations from June 1 through August 15 in designated area
- Prohibiting anchorage (other than emergency anchorage) of watercraft in the high-speed (25 mph) area from June 1 through August 15

Regulates watercraft speeds throughout the manatee refuge at all times

- Provision for high-speed operations (25-mph, daylight) from June 1 through August 15 in the designated area generally north of Buzzard Island
- Slow speed throughout the rest of the bay, except where more restrictive zones are in place, such as idle or no-entry.

Prohibiting anchorage (other than emergency anchorage) of watercraft in the high-speed (25 mph) area from June 1 through August 15. For various reasons, manatees in Kings Bay are known to approach anchored boats. This **provision reduces the potential to attract manatees into harm's way within the area where boats are allowed to travel at 25 mph.**

Final Rule Summary – cont'd

- Exceptions for property owners and their designees adjoining sanctuary and temporary no-entry areas
- The following are prohibited in Three Sisters Spring from November 15-March 31:
 - All waterborne activities from sunset to sunrise,
 - Scuba diving, and
 - Fishing (including but not limited to hook and line, cast net, and spear)

Exceptions for property owners and their designees adjoining sanctuary and temporary no-entry areas. They will be allowed to access and maintain their property. They will be provided with a sticker to identify their boat. Designees of the property owner (for example a renter or contractor) will be provided with a letter of authorization. Sticker and letter holders are required to proceed at idle speed while within the boundaries of a sanctuary or no-entry area.

The following are prohibited in Three Sisters Spring from November 15-March 31:
All waterborne activities from sunset to sunrise,
Scuba diving, and
Fishing, including but not limited to hook and line, cast net, and spear

Final Rule Summary – cont'd

- 12 specifically prohibited activities at all times
 - Chasing or pursuing a manatee(s).
 - Disturbing or touching a resting or feeding manatee(s).
 - Diving from the surface onto a resting or feeding manatee(s).
 - Cornering or surrounding (or attempting to) corner or surround a manatee(s).
 - Riding, holding, grabbing, or pinching (or attempting to) a manatee(s).
 - Poking, prodding, or stabbing a manatee (or attempting to) with anything, including your hands and feet.
 - Standing on or attempting to stand on a manatee(s).
 - Separating a mother and calf or attempting to separate a mother and calf.
 - Separating a manatee(s) from a group (or attempting to).
 - Giving a manatee(s) anything to eat or drink (or attempting).
 - Actively initiating contact with a belted and/or tagged manatee(s) and associated gear, including any belts, harnesses, tracking devices, or antennae.
 - Interfering with rescue and research activities.

These prohibitions are essentially the same as those included in the emergency rule, with the addition of the last regarding rescue and research activities.

Most of these are self-explanatory so I won't read them all. There are 2, however, that require additional discussion.

Disturbing or touching a resting or feeding manatee(s)

What is a “resting” manatee?

“...we consider a resting manatee to be a mostly motionless manatee that rises to breathe from the water bottom, in the water column, or on the water’s surface. While resting, a manatee may make minor changes in its posture and may slightly shift its position.”

For example, they will surface to breathe, they may roll, adjust their flippers and tail to compensate for drift, etc.

The rule describes a “resting” manatee as one that is “mostly motionless... that rises to breathe from the water bottom, in the water column, or on the water’s surface.” While the manatee is resting, it may make minor changes in its posture and may slightly shift its position – they will surface to breathe, they may roll, adjust their flippers and tail to compensate for drift, etc. [50 CFR 17.108(c)(14)(ix)]

The take home message is that a resting manatee can be anywhere in the water – not just on the bottom – and that resting manatees are not completely motionless.

Actively initiating contact with a belted and/or tagged manatee(s) and associated gear, including any belts, harnesses, tracking devices, or antennae.

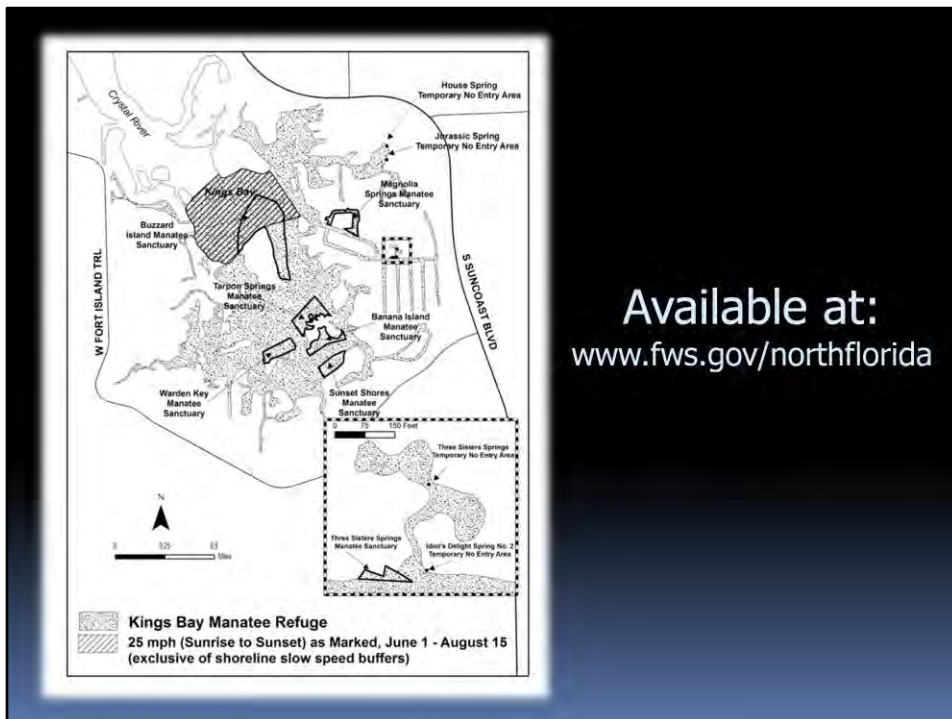


There are two reasons for manatee to be belted and/or tagged and it is important in either case that those manatees be left alone.

Tagged wild manatees are being monitored to observe natural behavior and movements absent any human interference.

Tagged rehab manatees are being monitored for their ability to acclimate/re-acclimate to the wild. It is critical for these animals to be left alone so that they can figure out how to thrive in the wild absent any interactions and support from people. They need to be able to find forage and feed, find drinking water, associate with wild manatees, travel to important use sites including warm water, etc. on their own. If they're distracted they may not successfully acclimate/re-acclimate to the wild, in which case they will be returned to captivity.

Additionally, there have been instances where people have pulled tags and belts off of these animals, making it difficult to continue to monitor them. Keeping people away from tagged manatees helps to minimize this problem.



Public comments are addressed in the final rule. In addition to the final rule, a copy of this and other presentations, as well as a list of questions and answers are also available on our website www.fws.gov/northflorida.

Revision of the Slow Speed Area

