

E. Other natural or manmade factors affecting its continued existence.

Under section 4(b)(1) of the Act, we are required to base our assessment of these factors solely on the best scientific and commercial data available.

*D. What could happen as a result of our review?*

For each species we review, if we find new information indicating a change in classification may be warranted, we may propose a new rule that could do one of the following:

- A. Reclassify the species from threatened to endangered (uplist);
- B. Reclassify the species from endangered to threatened (downlist); or
- C. Remove the species from the List (delist).

If we determine that a change in classification is not warranted, then the species remains on the List under its current status.

We must support any delisting by the best scientific and commercial data available, and only consider delisting if such data substantiate that the species is neither endangered nor threatened for one or more of the following reasons:

- A. The species is considered extinct;
- B. The species is considered to be recovered; and/or
- C. The original data available when the species was listed, or the interpretation of such data, were in error (50 CFR 424.11(d)).

*E. Request for new information*

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from the public, governmental agencies, Tribes, the scientific community, environmental entities, industry, and any other interested parties concerning the status of the species.

See "What information do we consider in our review?" for specific criteria. If you submit information, support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

*F. Public Availability of Comments*

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying

information from public review, we cannot guarantee that we will be able to do so. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where we receive comments.

**III. Definitions**

(A) *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, which interbreeds when mature;

(B) *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range; and

(C) *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

**IV. Authority**

We publish this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 12, 2011.

**LaVerne Smith,**

*Deputy Regional Director, Region 7, U.S. Fish and Wildlife Service.*

[FR Doc. 2011-15355 Filed 6-21-11; 8:45 am]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[Docket No. FWS-R4-ES-2010-0079; 92220-1113-0000-C3]

**RIN 1018-AX27**

**Endangered and Threatened Wildlife and Plants; Proposed Rule To Establish a Manatee Refuge in Kings Bay, Citrus County, FL**

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

**ACTION:** Proposed rule; availability of supplemental information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, propose to establish a manatee refuge in Citrus County, Florida, in the waters of Kings Bay, including its tributaries and connected waters. We propose this action based on our determination that there is substantial evidence showing that certain waterborne activities would result in the taking of one or more manatees and that certain waterborne activities must be restricted to prevent

the taking of one or more manatees in Kings Bay. We considered the biological needs of the manatee, the level of take at these sites, and the likelihood of additional take of manatees due to human activity at these sites in proposing this manatee refuge. These factors were the basis for establishing this area as a manatee refuge by a temporary emergency rule on November 9, 2010, which expired on March 15, 2011. We announced in the emergency rule that we would begin proceedings to establish this area as a manatee refuge. This proposed rule is part of that process. We also announce the availability of a draft environmental assessment for this action.

**DATES:** We will consider any comments on both the proposed rule and the draft environmental assessment that are received by the close of business on August 22, 2011 or at the public hearing. We will hold a public informational open house from 5:30 p.m. to 6:30 p.m., followed by a public hearing from 7 p.m. to 9 p.m., on July 7, 2011, at the location identified in the **ADDRESSES** section.

**ADDRESSES: Written comments:** You may submit comments on the proposed rule and draft environmental assessment (EA) by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Enter Keyword or ID box, enter FWS-R4-ES-2010-0079, which is the docket number for this rulemaking. Then, in the Search panel at the top of the screen, under the Document Type heading, check the box next to Proposed Rules to locate this document. You may submit a comment by clicking on "Submit Comments"
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R4-ES-2010-0079; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite MS 2042-PDM; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide to us (see the Public Comments Solicited section below for more details).

*Copies of Documents:* The proposed rule and draft EA are available by the following methods. In addition, comments and materials we receive, as well as supporting documentation used in preparing this proposed rule will be available for public inspection:

- (1) You can view them on <http://www.regulations.gov>. Go to the Federal eRulemaking Portal: <http://www.regulations.gov>

[www.regulations.gov](http://www.regulations.gov). In the Keyword box, enter Docket No. [FWS-R4-ES-2010-0079], which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document.

(2) You can make an appointment, during normal business hours, to view the documents, comments, and materials in person at the U.S. Fish and Wildlife Service, North Florida Ecological Services Office, 7915 Baymeadows Way, Suite 200, Jacksonville, Florida 32256; by telephone (904/731-3336); by facsimile (904/731-3045). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

**Public Hearing:** We will hold a public hearing at the following location: College of Central Florida—Citrus Campus, CF Conference Center, 3800 S. Lecanto Hwy., Lecanto, FL 34461-9026 on July 7, 2011 (see Public Hearing section). Comments will be accepted orally or in writing at the public hearing.

**FOR FURTHER INFORMATION CONTACT:** Jim Valade, U.S. Fish and Wildlife Service, North Florida Ecological Services Office, 7915 Baymeadows Way, Suite 200, Jacksonville, Florida 32256; by telephone (904/731-3336); by facsimile (904/731-3045); by e-mail: [manatee@fws.gov](mailto:manatee@fws.gov); or on-line at <http://www.fws.gov/northflorida>. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Public Comments Solicited

To ensure that any final action resulting from this proposed rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. We request information from the public, government agencies, Native American Tribes, the scientific community, industry, and any other interested parties. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you reference or provide. In particular, we seek comments concerning the following:

1. The reasons why this area should or should not be designated as a manatee refuge, including information

that supports the need for any changes to the proposed manatee refuge;

2. Current or planned activities in the subject area and their possible effects on manatees;

3. Any foreseeable economic or other impacts resulting from the proposed designation;

4. Any substantive information on real or potential effects of the proposed manatee refuge on manatees; and

5. Any actions that could be considered in lieu of, or in conjunction with, the proposed designation that would provide equivalent protection to the manatee against the threat of take.

Prior to issuing a final rule on this proposed action and determining whether to prepare a finding of no significant impact or an Environmental Impact Statement, we will take into consideration comments and additional information we receive. Such information may lead to a final rule that differs from this proposal. All comments and recommendations, including names and addresses, will become part of the administrative record for the final rule.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a final decision, as the Endangered Species Act, the Marine Mammal Protection Act, and our implementing regulations direct that decisions be made “solely on the basis of the best scientific and commercial data available.”

You may submit your information concerning this proposal by one of the methods listed in the **ADDRESSES** section. We will not consider submissions sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post hardcopy submissions on <http://www.regulations.gov>. Please note that comments submitted to this Web site are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

Information and materials we receive, as well as supporting documentation we used in preparing this rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment during normal business hours, at the U.S. Fish and Wildlife Service, Jacksonville Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

##### Peer Review

In accordance with our policy on peer review, published on July 1, 1994 (59 FR 34270), we will provide copies of this proposed rule to three or more appropriate and independent specialists in order to solicit comments on the scientific data and assumptions underlying this proposed establishment of a manatee refuge. The purpose of such review is to ensure that the proposed rule is based on the best scientific information available. We will invite these peer reviewers to comment during the public comment period and will consider their comments and information on this proposed rule during preparation of a final determination.

We will consider all comments and information received from peer reviewers and other commenters during the 60-day comment period on this proposed rule in preparing a final rulemaking. Accordingly, the final decision may differ from this proposal.

##### Public Hearing

We have scheduled a formal public hearing to afford the general public and all interested parties with an opportunity to make formal oral comments on the proposed Federal manatee protection area.

We will hold the public hearing at the location listed in **ADDRESSES** on the date listed in **DATES**. The public hearing will last from 7 p.m. to 9 p.m. We will hold a public informational open house prior to the hearing from 5:30 p.m. to 6:30 p.m. to provide an additional opportunity for the public to gain information and ask questions about the proposed rule. This open house session should assist interested parties in preparing substantive comments on the proposed rule.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Chuck Underwood of the Jacksonville Field Office at 904-731-3332 or via e-mail to [manatee@fws.gov](mailto:manatee@fws.gov), as soon as possible. In order to allow sufficient time to process requests, please contact us for assistance no later than one week before the hearing.

Written comments submitted during the comment period receive equal consideration with comments presented at a public hearing. All comments we receive at the public hearing, both verbal and written, will be considered in making our final decision.

## Background

### Previous Federal Actions

The West Indian manatee (*Trichechus manatus*) was listed as an endangered species on June 2, 1970 (35 FR 8491) under the Endangered Species Conservation Act of 1969 and this status was retained under the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. 1531 *et seq.*), and the population is further protected as a depleted stock under the Marine Mammal Protection Act of 1972, as amended (MMPA) (16 U.S.C. 1361 *et seq.*). On October 22, 1979, the U.S. Fish and Wildlife Service (Service) adopted a regulatory process to provide a means for establishing manatee protection areas in waters under the jurisdiction of the United States where manatees were taken by waterborne activities (44 FR 60964). The first manatee protection areas were designated in Kings Bay on November 12, 1980, for the purpose of preventing the take of manatees by harassment from waterborne activities and included the Banana Island Sanctuary, the Sunset Shores Sanctuary, and the Magnolia Springs Sanctuary (45 FR 74880). The Service subsequently designated four additional manatee protection areas in Kings Bay on June 13, 1994 and on October 16, 1998 (including the Buzzard Island Sanctuary, a sanctuary located along the north shore of Banana Island, the Warden Key Sanctuary, and the Three Sisters Springs Sanctuary, respectively) (59 FR 24654, and 63 FR 55553). To prevent the imminent take of manatees by waterborne activities, we published an emergency rule establishing the Kings Bay Manatee Refuge in Citrus County, Florida on November 9, 2010 (75 FR 68719). The Service now proposes to establish the Kings Bay Manatee Refuge throughout Kings Bay, while maintaining the 7 existing Manatee Sanctuaries in the bay.

The West Indian manatee includes two subspecies: The Florida manatee (*Trichechus manatus latirostris*) and the Antillean manatee (*Trichechus manatus manatus*). Florida manatees can be found throughout the southeastern United States, with Florida at the core of its range. Extensive efforts are ongoing by the Service and the Florida Fish and Wildlife Conservation Commission (Commission or FWC) to

recover this species. In particular, significant efforts are made to minimize human-related threats and to attempt to prevent the number of manatees taken by human activities.

Take, as defined by section 3(19) of the ESA, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Harm is further defined by regulation at 50 CFR 17.3 to mean an act which actually kills or injures wildlife. Harass is also defined by regulation to mean any intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). Take, as defined by section 3(13) of the MMPA, means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. Take is further defined in 50 CFR 18.3 to include, without limitation, any of the following: The collection of dead animals or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; or the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal. Under section 3(18) of the MMPA, harassment is defined to include any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B). All takings, including takings by harassment, are prohibited.

The primary human-related causes of death and injury to manatees rangewide include watercraft-related strikes (impacts and/or propeller strikes), entrapment and/or crushing in water control structures (gates, locks, *etc.*), and entanglement in fishing lines, crab pot lines, *etc.* A 2005 analysis concluded that watercraft-related mortality was the leading cause of death for manatees throughout Florida (MPSWG 2005, p. 5). A subsequent threats analysis concluded that watercraft strikes and the potential loss of warm-water habitat pose the greatest threats to the Florida manatee population (Runge *et al.* 2007, p. 17).

The Service can prevent the taking of one or more manatees through the designation of manatee protection areas

in the form of either a manatee refuge or a manatee sanctuary. Regulations authorizing designation of manatee refuges and sanctuaries in areas where restrictions or prohibitions on certain waterborne activities are needed to prevent the take of manatees are codified in 50 CFR 17 subpart J. A manatee refuge is defined as an area in which the Director has determined that: (1) Certain waterborne activities would take one or more manatees; or (2) certain waterborne activities must be restricted to prevent the take of one or more manatees, including but not limited to taking by harassment. A manatee sanctuary is an area where it has been determined that any waterborne activity would result in the taking of one or more manatees, including but not limited to a taking by harassment (50 CFR 17.102).

### Kings Bay

The Florida manatee's range includes Kings Bay, Florida. Kings Bay is a large embayment located at the headwaters of the Crystal River, a tidal river, located on Florida's west coast. Springs are the primary water source for this estuarine system; a recent report describes 70 springs that discharge warm artesian water into Kings Bay (Vanasse, Hangen, and Brustlin, Inc., 2010, p. 1). Kings Bay is located within the City of Crystal River's city limits, in Citrus County, Florida. Citrus County and the City of Crystal River are an integral part of "Florida's Nature Coast", a northwest Florida region marketed for outdoor recreational opportunities, including opportunities for viewing manatees (Nature Coast Coalition 2010 Web site). In addition to viewing manatees, area recreationists engage in snorkeling and diving, boating, canoeing and kayaking, fishing, waterskiing, and other activities (Gold 2008, pps. 4–5). Local eco-tour operators, dive shops, marinas, hotels and motels, restaurants, and other businesses benefit from these activities (Buckingham 1990, p. 6).

The Kings Bay springs constitute one of the most important natural warm-water refuges for manatees. Manatees have historically been attracted to the warm, spring-fed waters in Kings Bay where they retreat from the cold during the winter. More recently, manatees have begun to use this area during the warm summer months as well. Wintering manatees have been the focus of a manatee viewing industry for many years, and bay waters are widely used by commercial and recreational waterway users for a variety of activities throughout the year. Manatees are struck and killed or injured by boats operating in Kings Bay. Manatees are

harassed by the viewing public. The number of manatees struck and killed by boats in Kings Bay is increasing, as are the number of public reports of acts of manatee harassment.

Waterborne activities that occur on the Service’s Crystal River National Wildlife Refuge (NWR) property in Kings Bay that are known to take manatees are prohibited pursuant to 50 CFR 17 subpart J and the National Wildlife Refuge Improvement Act (16 U.S.C. 668dd–668ee), which allows the Service to issue special-use permits (SUPs) for commercial and retail activities that occur on NWR property. National Wildlife Refuges are Service-owned or managed lands that are managed to broadly conserve, manage, and restore fish, wildlife, and plant resources and their habitats. The Banana Island Manatee Sanctuary, designated under 50 CFR 17 subpart J, prohibits all waterborne activities from occurring on some submerged lands owned by this NWR. Commercial and retail activities that occur on NWR-owned land include manatee viewing, diving, snorkeling, videography, and others. Businesses wanting to engage in these activities on NWR property must obtain SUPs from Crystal River NWR. These permits are conditioned to require permittees to take those steps needed to make sure that their activities and those of their customers do not harass or otherwise take manatees.

Watercraft associated with recreational and commercial activities strike and kill manatees. In the State’s northwest region, where Kings Bay is located, adult manatee mortality is almost equally split between human-related and natural causes, with watercraft collisions being the leading source of human-caused mortality. From 1974 through 2010, collisions with watercraft killed 16 manatees in Kings Bay. Eleven of these deaths occurred between 2003 and 2010, including seven that occurred during the summer.

Manatee viewing activities provide a significant source of revenue to the local

economy (Buckingham 1990, p. 6). Local eco-tour businesses bring visitors out to Kings Bay where visitors view manatees while in the water, from boats, and from other vantage points. Some manatees initiate encounters with visitors, but most manatees avoid or ignore encounters with people, preferring to frequent manatee sanctuaries where all human activities are prohibited. Some manatees are harassed by visitors, despite the fact that all forms of harassment are prohibited by law.

Hartman (1979, pp. 128–131) was the first to observe and describe how manatees respond to the presence of people in the water, observing that most manatees tended to avoid people, some ignored people, a few approached people with curiosity and then left, and some approached and solicited interactions with people. These observations were made in Kings Bay’s warm water springs and the author correlated a reduction in the number of manatees using the Main Spring with an increasing number of people (Hartman 1979, p. 131). Concern has been expressed about manatees displaced from warm water springs for prolonged periods of time; prolonged exposure to cold can be fatal to manatees, especially for smaller animals (O’Shea 1995, p. 304). Hartman (1979, p. 126) believed that manatees in Kings Bay are harassed by people in the water and by boats.

Researchers have observed and documented manatee responses to people and boats (Sorice *et al.* 2003, p. 324). Researchers noted increases in swimming, milling, and cavorting behaviors and decreases in resting, feeding, and nursing behaviors in the presence of increasing numbers of people and boats (Abernathy 1995, pp. 23–26; Wooding 1997, p. 1; King and Heinen 2004, pp. 230–231). They also observed that increases in numbers of boats and people prompted manatees to use other areas (Kochman *et al.* 1985, pp. 922–924; Buckingham *et al.* 1999, p. 514). However, none of these studies’

observations of manatee responses to viewing participants and boats suggest that harm (killing or injuring of manatees) has occurred or is occurring (Sorice *et al.* 2003, p. 320). Nor have there been any significant increases in the number of cold-related injuries and mortalities in the northwest Florida region. Manatee survival rates in the northwest region are among the highest in Florida (FWC FWRI Manatee Mortality Database 2010 Web site; Runge *et al.* 2007, p. 20).

Observations of manatee harassment in Kings Bay prompted the Service to promulgate a rule in 1979 that allowed the agency to designate manatee protection areas where certain waterborne activities, including boating and swimming, could be prohibited in order to “reduce the incidence of manatee injuries and deaths” and to “lessen the likelihood that manatees will encounter boats and people” (44 FR 60964). Subsequently, three manatee sanctuaries were designated in Kings Bay in 1980 (45 FR 74880; November 12, 1980) and, in 1983, the Service purchased lands in and around Kings Bay and established the Crystal River NWR for the purpose of protecting manatees and to educate the public about manatees.

In 1994, citing a doubling of the number of manatees in the area since 1980, a large increase in the number of visitors, the inability of the existing sanctuaries to provide sufficient shelter for manatees, and reports of increasing manatee harassment, the Service designated three additional sanctuaries in Kings Bay to prevent the take of manatees by harassment (59 FR 24654; May 12, 1994). This expansion was followed by the addition of another sanctuary in 1998, similarly justified by reports of increasing harassment and observations of increasing numbers of manatees, increasing numbers of recreational divers and snorkelers, and insufficient space for manatees to rest, free from harassment (63 FR 55553; October 16, 1998: See table 1.).

TABLE 1—INFORMATION JUSTIFYING PREVIOUS MANATEE SANCTUARY DESIGNATIONS IN KINGS BAY, FLORIDA.

Date of Kings Bay manatee sanctuary designations	Approximate number of manatees using Kings Bay	Estimated number of people viewing manatees	Number of sanctuary designations NEW (TOTAL)
November 12, 1980 (45 FR 74880) .....	100	30,000 to 40,000 .....	3(3)
May 12, 1994 (59 FR 24654) .....	240	60,000 to 80,000 .....	3(6)
October 16, 1998 (63 FR 55553) .....	250	100,000 .....	1(7)

Over the last 30 years (1980–2010), the Service and the State of Florida have

created a network of manatee protection areas within the Kings Bay area. This

network was designed to prevent the take of manatees by waterborne

activities, including but not limited to, boating and manatee viewing activities, and was established to allow manatees to continue to gain access to critical warm-water areas and important resting and foraging areas. During the manatee season, the network includes seven Federal manatee sanctuaries (which are described in our regulations at 50 CFR 17.108(a)(1)–(a)(7)) and five State manatee protection zones (as described in Chapter 68C–22, “The Florida Manatee Sanctuary Act” (2010)).

The seven Federal sanctuaries are located at heavily-used winter, warm-water sites (springs) and foraging areas and preclude all waterborne activities within their boundaries, preventing take from both boating and manatee viewing within these areas. The State protection zones include year-round idle and slow speed zones that prevent the take of manatees from high speed watercraft collisions. Given the State’s statutory responsibilities for balancing the needs of manatees with the needs of the boating community, the State designated a 35 MPH (daytime)/25 MPH (nighttime) watersports area in Kings Bay. This area encircles Buzzard Island in the center of the bay.

This network of manatee protection areas is enforced by Service, State, and local law enforcement officers. Extensive outreach and education programs support the protection area network, encouraging the public who engage in waterborne activities, including boating, manatee viewing activities, and others, to avoid taking manatees.

### Current

Similar to previous circumstances that warranted increases in the level of protection for manatees in Kings Bay, the number of manatees using Kings Bay more than doubled since 1998 (from 250 animals to 566 animals) (Kleen 2010, pers. com.); the number of residents, visitors, and boats increased; and the amount of space in the existing sanctuaries became insufficient to provide this number of manatees with shelter free from harassment. In addition, the number of manatees struck and killed by boats in Kings Bay has increased since 2002, when the watersports area was created.

The manatee population in northwest Florida grew at a rate of 4.0 percent per year through 2000, based on an assessment of adult survival rates (Runge *et al.* 2004, p. 371). Consistent with this rate of increase, the number of manatees counted in the region has increased, as well. Aerial counts were first conducted during the winter of 1983–1984, when 142 manatees were

sighted in Citrus County; 124 of these animals were sighted in Kings Bay and Crystal River. In January 2010, Crystal River NWR researchers counted 646 manatees in Citrus County’s coastal waters, including 566 manatees in Kings Bay. This is the highest number of manatees ever counted in this region and in Kings Bay (Kleen 2010, pers. com.). Aerial observations of manatees in Kings Bay during especially cold periods include sightings of manatees within the sanctuary areas and in lesser springs. In recent years, dozens of manatees are seen sheltering just outside of the sanctuary boundaries because the sanctuaries are overcrowded. Some animals shelter in some of Kings Bay’s smaller, unprotected springs, including House Spring, Jurassic Spring, and an unnamed spring just east of the mouth of Three Sisters Springs run. As many as 20 animals have been seen in each of these sites on particularly cold days (Kleen 2010, pers. com.).

The number of Citrus County residents increased by 19.8 percent (an average annual growth rate of 2.5 percent per year), from 118,085 to 141,416, between 2000 and 2008 (U.S. Census Bureau 2010 Web site). Concurrent with this increase in number of residents, the number of boats registered in Citrus County increased by 36.2 percent at an average annual growth rate of 4.0 percent per year. In 2009, there were 17,601 boats registered in Citrus County, 4,675 more than the 12,926 vessels registered there in 2000 (FDHSMV 2010 Web site). While the number of visitor-owned watercraft that use Citrus County waterways, including Kings Bay, is unknown, this number is likely increasing, based on county revenue trends that describe an increasing number of visitors to the area. Revenue trends associated with businesses that cater to visitors, including Citrus County lodging and food service revenues and tourist tax revenues, have increased by 178 percent and 214 percent, respectively, over the past 10 years, suggesting an increase in the number of visitors to the area (U.S. Census Bureau 2010 Web site). Tourism surveys suggest that about half of all visitors to the area come to Citrus County to enjoy water-based activities that include manatee viewing, snorkeling, and diving (Gold 2008, pgs. 4–5).

From 1974 through 2010, collisions with watercraft killed 60 manatees in Citrus County waterways, including 16 manatees in Kings Bay. Thirteen of the 16 Kings Bay watercraft-related deaths occurred within the past 10 years. In 2008, FWC recorded the highest number

(8) of manatees ever killed by watercraft in Citrus County and three of these carcasses were recovered in Kings Bay (FWC FWRI Manatee Mortality Database 2010 Web site).

While watercraft-related deaths occur throughout the year in Citrus County, 7 of the 16 watercraft-related deaths that occurred in Kings Bay took place during those times of the year when the watersports area designated by the State of Florida in 2002 is in effect (May 1 to August 30). Three of these carcasses were recovered within the watersports area. Two deaths are known to have occurred after 2002 within the watersports area. In May 2004, observers witnessed a boat striking a manatee in the watersports area; a carcass was recovered nearby the following day. In July 2007, a severely-injured manatee was observed in the watersports area; the animal died before it could be rescued. Its carcass was recovered on-site and it was determined to have died from acute propeller lacerations (FWC FWRI Manatee Mortality Database 2010 Web site).

Every year, manatees are entangled in fishing lines, float lines, mooring lines, and other types of gear. In extreme cases, entangled manatees can die when entangling gear cuts into their hide, causing sepsis and the occasional loss of limbs. Many entangled animals are rescued. In cases when animals are superficially entangled, entangling gear is removed and the animals are released on-site. In more severe cases, manatees are transported to rehabilitation facilities where they are treated for injuries and infections associated with entanglements. There are 30 known cases of manatee entanglements from Citrus County, including 10 from Kings Bay. Fourteen of these cases include manatees entangled in crab pot float lines, including four from Kings Bay. The remaining cases from Kings Bay include four from fishing lines and two from mooring lines. County-wide records of entanglements include 24 rescues and 4 deaths. More than half of these are known to have occurred during the past 15 years (U.S. Fish and Wildlife Service Manatee Rescue Rehabilitation and Release Program entanglements unpubl. data).

Manatee harassment, largely associated with wintertime manatee viewing activities, occurs in Kings Bay, and a variety of methods are being used to help prevent and minimize harassment from occurring. The Service, State, nongovernment organizations, and private companies prepare and distribute outreach materials to manatee-viewing recreationists to familiarize them with best practices to

follow when in the water with manatees. Best practices include the “Manatee Viewing Guidelines,” developed by the Service and partners. Outreach materials include, among other things, handouts, kiosks, signs, and videos. The Crystal River NWR developed “Manatee Manners,” a video that dive shops and kayak outfitters are required to show their customers before they enter Kings Bay. These businesses take visitors to see manatees in Kings Bay, including on refuge-owned land. As commercial interests conducting business on Crystal River Refuge-owned land, they are required to obtain SUPs, which are conditioned to insure that the permittees and their designees do not take manatees. Crystal River NWR also maintains a visitor center where guests are provided with outreach materials. The Crystal River Refuge’s “Manatee Watch” volunteer network places volunteers in kayaks near the sanctuaries to educate visitors and report infractions when they occur.

Federal regulations include 50 CFR 17.100–108, which provide for enforcement of manatee protection measures, and State regulations include provisions of the State’s Florida Manatee Sanctuary Act as codified in 68 C–22 of the Florida Administrative Code. State and Federal officers have been cross-deputized and can enforce both State and Federal regulations. The Service, State, and other law enforcement agencies actively enforce harassment regulations in Citrus County and in Kings Bay. Cited acts of harassment include trespass by manatee-viewing individuals into manatee sanctuaries where the Service has determined that any waterborne activity occurring within these areas would result in take of manatees, including but not limited to take by harassment. Indirectly, the presence of large numbers of people in the vicinity of manatees may cause some animals to abandon the area, another form of harassment. Outside of these areas, the public disturbs and occasionally harasses manatees while engaged in viewing and other waterborne activities. When observed, violators are warned or cited. State violations include boaters traveling at speeds in excess of those described by law within specific areas.

Given variations in enforcement practices and recordkeeping systems, these records are not used to describe trends in harassment activity.

### Summary

Based on current and historical data that document increasing numbers of manatees, waterway users, watercraft-related manatee deaths and injuries, and

reports of manatee harassment in Kings Bay, we conclude that the take of manatees is occurring and increasing in this area. Sources of information include U.S. Geological Survey, the FWC, manatee experts, the public, and peer-reviewed literature. Future take would occur without additional protection measures; and we do not anticipate any alternative protection measures being enacted by other agencies in sufficient time to reduce the likelihood of take. For these reasons, we believe the establishment of an additional manatee protection area is needed to prevent the take of manatees. The proposed manatee refuge covers the same geographical area as defined by the November 9, 2010, emergency rule (75 FR 68719).

### Proposal

To prevent the take of manatees, the Service and the State of Florida have designated a network of manatee protection areas at sites throughout Florida where threats to manatees have been well-documented and where manatees are known to frequently occur. This network supports our goal of providing areas of protected habitat throughout peninsular Florida, adequate to satisfy the biological needs of the species. We propose to enhance this network by establishing an additional manatee protection area, *i.e.*, a manatee refuge, in Kings Bay, a waterbody located in Crystal River, Citrus County, Florida.

Under the proposed manatee refuge designation, refuge restrictions would improve the Service’s ability to address takings associated with watercraft and with manatee viewing activities. Restrictions would require all watercraft to operate at slow speed throughout Kings Bay, except in those areas where more restrictive measures are in place (idle speed zones, no entry areas, and sanctuaries), to reduce the number of watercraft-related deaths and injuries occurring in Kings Bay. Harassment associated with manatee viewing can be controlled through the establishment of no-entry areas not to exceed specified distances around existing manatee sanctuaries, the designation of no-entry areas at lesser springs when needed, and the identification of manatee refuge-specific prohibitions.

### Proposed Kings Bay Manatee Refuge Location

The Service proposes to designate the waters of Kings Bay as a manatee refuge. These waters include that tract of submerged land that includes all waters of Kings Bay, including all tributaries

and adjoining waterbodies, upstream of the confluence of Kings Bay and Crystal River, described by a line that bears North 53°00’00” East (True) from the northeasternmost point of an island on the southwesterly shore of Crystal River (approximate latitude 28°53’32” North, approximate longitude 82°36’23” West) to the southwesternmost point of a peninsula of Magnolia Shores (approximate latitude 28°53’38” North, approximate longitude 82°36’16” West). See Map “Kings Bay Manatee Refuge”

The proposed manatee refuge encompasses seven existing Federal manatee sanctuaries, described in 50 CFR 17.108: the Banana Island Sanctuary (aka the King Spring Sanctuary), the Sunset Shores Sanctuary, the Magnolia Springs Sanctuary (including Gator Hole), the Buzzard Island Sanctuary, a sanctuary located along the north shore of Banana Island, the Warden Key Sanctuary, and the Three Sisters Springs Sanctuary. The existing sanctuaries are in effect from November 15 to March 31 (the manatee season). The proposed manatee refuge measures would be in effect in Kings Bay as described below.

### Manatee Refuge Measures

The proposed manatee refuge measures, described in more detail below, include:

- Maintaining the 7 existing manatee sanctuaries where all waterborne activities are prohibited November 15–March 31;
- Restricting boat speeds throughout the refuge at all times;
- 13 specifically prohibited activities throughout the manatee refuge at all times;
- Requiring manatee-safe fishing lines, float lines, and mooring lines at all times;
- Temporary ‘no-entry’ areas adjacent to existing sanctuaries and several additional springs during the manatee season (November 15–March 31);
- Temporary ‘no-entry’ areas prior to or after the manatee season during unusual cold events; and,
- Limited exceptions for adjoining property owners and their designees.

### Existing Manatee Sanctuaries

All 7 currently existing manatee sanctuaries in Kings Bay, where all waterborne activities are prohibited November 15–March 31, will remain in effect.

### Boat Speeds

To prevent the take of one or more manatees killed and injured by high-speed watercraft, we propose to restrict boat speeds in Kings Bay to slow speed

throughout the year except in those areas where more restrictive measures are in place. Within the Kings Bay Manatee Refuge, all watercraft would be required to operate at slow speeds throughout Kings Bay, except in those areas with more restrictive measures such as idle speed zones, no-entry areas, and sanctuaries. Slow speed is defined as the speed at which a boat is fully off plane and completely settled in the water. By slowing all boats down within this area, collisions with manatees in Kings Bay can be prevented.

#### Manatee Viewing and Other Waterborne Activities

To prevent the take of one or more manatees associated with manatee viewing and other waterborne activities, we specify prohibitions that would be in effect throughout the year. Pursuant to the ESA and MMPA, all takings, including takings by harassment, are prohibited throughout the year, wherever they may occur. In regard to these prohibited activities, we consider a resting manatee to be a mostly motionless manatee on the water bottom, in the water column, or on the water's surface that rises to the surface to breathe. While resting, a manatee may make minor changes in its posture and may slightly shift its position. Minor changes in posture occur when manatees breathe or roll. Resting manatees may also make slight movements with their flippers or tail to compensate for draft, *etc.* (Hartman 1979, pp. 82–84). To prevent the take of manatees by individuals engaged in waterborne activities while in the water, in boats, or on-shore within the Kings Bay Manatee Refuge, we specifically identify and prohibit the following activities:

- (i) Chasing or pursuing a manatee(s).
- (ii) Disturbing or touching a resting or feeding manatee(s).
- (iii) Diving from the surface onto resting or feeding manatee(s).
- (iv) Cornering or surrounding or attempting to corner or surround a manatee(s).
- (v) Riding, holding, grabbing, or pinching or attempting to ride, hold, grab, or pinch a manatee(s).
- (vi) Poking, prodding, or stabbing or attempting to poke, prod, or stab a manatee(s) with anything, including your hands and feet.
- (vii) Standing on or attempting to stand on a manatee(s).
- (viii) Separating a mother and calf or attempting to separate a mother and calf.
- (ix) Separating a manatee(s) from a group or attempting to separate a manatee(s) from a group.

(x) Giving a manatee(s) anything to eat or drink or attempting to give a manatee(s) anything to eat or drink.

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

(xii) Interfering with rescue and research activities.

(xiii) Using mooring and float lines that can entangle manatees.

In addition, the following waterborne activities are prohibited within Three Sisters Springs from November 15 through March 31:

- a. Entering Three Sisters Springs between 6 p.m. and 7 a.m.
- b. Scuba diving.
- c. Fishing, including but not limited to fishing by hook and line, by cast net, and by spear.

#### Fishing Lines, Float Lines, Mooring Lines, and Other Types of Gear in Kings Bay

To prevent one or more manatees from becoming entangled in fishing lines, float lines, mooring lines, and other types of gear in Kings Bay, we propose to require the use of manatee-safe lines and other measures to prevent take from occurring throughout the year. Within Kings Bay, users of float lines, mooring lines, and other types of entangling gear would be required to use manatee-safe lines and practices that would prevent one or more manatees from being entangled, injured, or killed in this type of gear (refer to the list of prohibited activities above). Manatee-safe lines are lines that do not entangle manatees. Manatee-safe lines include stiffened lines and lines that, when in use, are kept taut and unable to entangle manatees. Examples include, but are not limited to, lines that incorporate stiffeners such as wire, lines enclosed in hose or PVC, and others. Lines should not be discarded in Kings Bay where they can continue to pose a threat to manatees. Monofilament recycling programs and the State of Florida's derelict crab pot removal program provide additional means for reducing the number of lines discarded in this area.

#### Temporary No-Entry Areas (November 15 Through March 31)

To insure sufficient space within the Kings Bay Manatee Refuge for manatees to shelter, rest, and feed, free from harassment both in the vicinity of the existing sanctuaries and at House Spring, Jurassic Spring, and Idiot's Delight Number 2 Spring, we propose to create temporary no-entry areas during the manatee season (between November 15 and March 31). Pursuant to Subpart

J, all waterborne activities would continue to be prohibited within existing Federal manatee sanctuaries. Because there is insufficient space in the existing sanctuaries for all manatees that use Kings Bay to shelter, rest, and feed, free from harassment, we propose to create temporary no-entry areas outside of and adjacent to the existing sanctuaries to insure adequate room for manatees wanting to access these sites when space is needed. We also propose to create no-entry areas around House Spring, Jurassic Spring, and Idiot's Delight Number 2 Spring when these springs are occupied by manatees in need of shelter free from harassment. By providing manatees with additional space in areas where all waterborne activities are prohibited, we can prevent take of manatees in these areas from manatee viewing and other waterborne activities.

#### Temporary No-Entry Areas (April 1 Through November 14)

To prevent the take of manatees sheltering in Kings Bay from cold weather that occurs outside of the manatee season (November 15 to March 31), temporary no-entry areas may be proposed and put in effect during early onset and protracted cold weather events that occur outside of the manatee season. Manatees that appear in Kings Bay during cold fronts that pre-date the start of the manatee season are especially vulnerable to harassment because none of the sanctuaries and no entry areas are in effect prior to November 15. Similarly, none of these measures are in effect after March 31, during those times when cold weather continues beyond this period of time. In April 2010, the Service asked the public to voluntarily stay out of existing manatee sanctuaries after the close of the manatee season due to protracted cold weather and the continued presence of manatees at these sites. While the public generally complied with the request, some people did not and manatees were harassed.

By designating temporary no-entry areas prior to November 15 and after March 31 during cold fronts when manatees are present, manatee harassment that could occur during these times can be prevented. Designations would remain in effect for the duration of a cold front and only when manatees are present; manatee presence at warm-water sites during unseasonal cold events typically lasts for several days or less. Temporary designations would remain in effect for no longer than 14 days.



### Exceptions for Adjoining Property Owners and Their Designees

Property owners and their designees (including but not limited to guests and contractors) who own property that adjoins designated no-entry areas would continue to be able to access their property by obtaining an exception from the Crystal River NWR that would allow them to operate boats within the adjoining no-entry area for purposes of access and property maintenance. The Crystal River NWR would continue to provide adjoining property owners and their designees with a sticker or letter of authorization that identifies their boats as authorized to access no-entry areas. Boats owned by excepted owners would be required to be marked by stickers and would be required to operate within designated areas at idle speed. Designees with a letter of authorization would be required to have a copy of the letter in their possession while operating within a designated area and would be required to operate at idle speed.

### Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, *etc.*

### Required Determinations

#### *Regulatory Planning and Review*

In accordance with the criteria in Executive Order 12866, this proposed rule is not a significant regulatory action. The Office of Management and Budget makes the final determination under Executive Order 12866.

a. This proposed rule would not have an annual economic impact of over \$100 million or adversely affect an economic sector, productivity, jobs, the

environment, or other units of government. A cost-benefit analysis is not required. It is not expected that significant economic impact would result from the establishment of a manatee refuge (approximately 530 acres) in Citrus County in the State of Florida.

b. This proposed rule, if implemented, would not create inconsistencies with other agency actions. The proposed rule is consistent with and complimentary to other existing agency actions. Existing agency actions currently in effect in Kings Bay include manatee protection areas. The proposed rule is based on the authorities used to create these areas and enhances the ability of these locally accepted designations to protect manatees from harassment and watercraft collisions.

c. This proposed rule would not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Minimal restrictions to existing human uses of the proposed site would result from this proposed rule, but the restrictions are believed to enhance manatee viewing opportunities. No entitlements, grants, user fees, loan programs, or rights and obligations of their recipients are expected to occur.

d. This proposed rule would not raise novel legal or policy issues. We have previously established other manatee protection areas.

The purpose of this proposed rule is to establish a manatee protection area in Citrus County, Florida. The area includes the waters of Kings Bay and connecting waters and tributaries, upstream of the confluence of the Crystal River and Kings Bay. We are proposing to prevent the taking of one or more manatees by managing human activities in this area. The refuge would incorporate an existing network of Federal manatee sanctuaries. Affected waterborne activities would include swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing (including wind surfing), fishing, and the use of watercraft and other vessels. This rule could result in impacts to manatee viewing activities, recreational boaters, commercial charter boats, and commercial fishermen, primarily in the form of additional restrictions on manatee viewing activities and boat speed restrictions in specific areas. The Service could experience increased administrative costs due to this proposed rule. In addition, the rule would be expected to produce economic benefits for some parties as a result of increased manatee

protection and decreased boat speeds within the area of the manatee refuge.

Regulatory impact analyses require the comparison of expected costs and benefits of the proposed rule against a baseline, which typically reflects the regulatory requirements in existence prior to the rulemaking. For purposes of this analysis, the baseline assumes that the Service takes no additional regulatory actions to protect the manatee. In fact, even with no further activity by the Service, an extensive system of manatee protection areas is already in place within the area of the proposed manatee refuge. As discussed below, in the regulatory impact analysis where we compare expected costs and benefits of the proposed changes, the economic impact of establishing this manatee refuge is not expected to be significant.

The economic impacts of this proposed rule are due to changes within the proposed manatee refuge area. Proposed restrictions associated with a newly designated manatee refuge would require all watercraft to operate at slow or idle speeds outside of the no-entry areas, as posted, to further minimize the number of watercraft-related manatee deaths and injuries occurring in Kings Bay. Harassment associated with manatee viewing activities would be controlled through the ability to designate temporary no-entry areas, enforce regulatory prohibitions, and an education program that addresses all individuals engaged in manatee viewing activities throughout the bay.

In order to gauge the economic effect of this proposed rule, both benefits and costs must be considered. Potential economic benefits related to this proposed rule include: Increased manatee protection and tourism related to manatee viewing, increased property values, increased boater safety, increased swimmer safety, improved fisheries health, and decreased shoreline maintenance costs. Potential economic costs are related to increased administrative activities related to implementing the rule and restrictions on certain waterborne activities. Economic costs would be measured primarily by the number of recreationists who use alternative sites for their activity or have a reduced quality of the waterborne activity experience in the designated manatee refuge. In addition, there may be some impact on commercial fishing because of the need to maintain slower speeds. While the State of Florida has over 7.5 million acres of waterways, this proposed rule would affect only 530 acres of the State's waterways and these 530 acres are currently regulated to



protect manatees. The proposed rule increases this protection by: Allowing for a limited expansion of existing sanctuary boundaries; establishing the ability to temporarily designate three discrete no entry areas; creating a discrete, 4-month-long, restricted slow-speed area within existing slow and idle speed areas; and by specifically prohibiting actions known to harass manatees. As detailed below, designation of this manatee refuge as proposed in this rule is not expected to affect enough waterborne activity to create a significant economic impact (that is, the rule would not have an annual impact of over \$100 million).

#### *Economic Benefits*

We believe that the proposed establishment of Kings Bay Manatee Refuge would increase the level of manatee protection in these areas. Improved protection for the manatee may result in direct economic benefits by insuring the continued, local presence of viewable manatees and insuring the continued existence of the manatee viewing industry. Indirect benefits include the protection of private and publicly owned shorelines from high-speed wakes, the protection of aquatic vegetation from losses due to excessive turbidity caused by high-speed boat traffic, increased property values, and reductions in high-speed boating-related human deaths and injuries.

The public's support for manatees and their protection has been examined through contingent value studies (Bendle and Bell 1995, pp. 8–17; Fishkind and Associates 1993, pp. 5–11). These economic studies characterized the value placed by the public on this resource and determined that the public's willingness to pay for manatee protection is significant and that public support for manatee protection regulations in general, such as that described in the proposed rule, exists.

Bendle and Bell (1995, p. ii) conducted a representative survey of Florida residents in general (through random sample) and attempted to answer the question, "How much are Florida residents willing to pay to cover the costs associated with protecting the manatee?" In 1993 dollars, efforts to protect the manatee population as a whole were valued at an estimated \$2.6 billion or \$14.78 per household (or \$4.03 billion or \$22.91 per household, when adjusted to reflect 2011 monetary values). Based on surveys of north Florida residents, Fishkind and Associates (1993, p. 11) estimated that adult Florida residents would be willing

to pay \$30 per year in 1992 dollars (or \$47.70 per year when adjusted to reflect 2011 monetary values) to help compensate for the adverse economic effects, if any, of protecting the manatee population (Fishkind and Associates 1993, pp. 28–30).

It is difficult to apply the results of these studies to the proposed rule, because neither study measures an impact similar to that associated with this rulemaking, which applies only to the Kings Bay area. For example, the Fishkind and Associates study (1993, p. 1) was designed to gauge the economic impact of the Florida Manatee Sanctuary Act. First, the estimates of economic benefit were predicated on a different baseline in terms of both the manatee population being protected at that time versus now, and the regulatory conditions, such as manatee protection areas, that were in existence at the time. Second, this study is not clear about the type and extent of manatee protection; it does not clearly state if protection refers solely to the designation of manatee protection areas or if protection is interpreted to include implementation and enforcement of protection measures. The study also does not clearly state whether residents are willing to pay for manatee protection within a specific region or for manatee protection throughout the State of Florida. While neither of these studies is specific enough to apply to this proposed rule, they do provide an indication that the public confers substantial value on the protection of manatees.

Another potential economic benefit is continued and increased tourism that likely results from an increase in manatee protection. Citrus County and Kings Bay are nationally and internationally recognized as primary destinations for winter-time manatee viewing. Surveys of visitors to Citrus County estimate that about half come to enjoy water-based activities, including manatee viewing, snorkeling, and diving (in order of preference) (Gold 2008, pp. 4–8). Hundreds of thousands of individuals are believed to engage in these activities each winter, and the number of participants is thought to be increasing.

Visitors and local residents view manatees in Kings Bay from boats or in the water on their own or through local eco-tour operators. Visitors may pay eco-tour operators to equip them and take them out onto Kings Bay to view manatees; vendors provide both in-water and on-water experiences. In-water rentals include wetsuits, masks, snorkels, and related gear. On-water rentals include canoe, kayak, and other

boat-type rentals. Other visitors travel to the area and engage in manatee viewing activities using their own equipment, including boats and other needed gear. Many visitors stay at local hotels and eat at local restaurants. There are no reports or estimates of direct costs and expenditures associated with manatee viewing.

While there is no information on the number of boats associated with manatee viewing, including boats used by residents, boats trailered to the area by visitors, boats used to transport eco-tour clients, or boats leased to individuals watching manatees, a recent evaluation on the impact of boating on Florida, Florida's North Central Region, and Citrus County suggests that the overall economic impact of manatee viewing is important (FWC 2009 Online Boating Economic Impact Model Web site).

FWC's 2006 evaluation of Citrus County boating activities documented 14,304 county-registered boats (13,283 power boats and 1,021 non-power boats, including 903 kayaks and canoes) and 402,029 boat days in Citrus County waters. Over 60 percent of the boat trips taken by these boats occurred in Citrus County. Local boat ramp infrastructure emphasizes salt water destinations (calculated 2006 ramp lane capacities provide access for 10,620 launches, including 8,883 saltwater launches and 1,737 freshwater launches). The economic significance of Citrus County's registered boats and their activities is estimated at \$104,740,000 annually in 2006 dollars (or \$116,261,400 when adjusted to reflect 2011 monetary values); \$63,513,400 (or \$70,449,874 in 2011 monetary values) of this amount is spent on boat trips, including \$8,549,200 (or \$9,489,612 in 2011 monetary values) on lodging (14 percent) and \$9,060,500 (or \$10,057,155 in 2011 monetary values) on food. The evaluation does not assess nonresident (or out-of-state) boats. The fraction of county-registered boats used for manatee viewing in Kings Bay is unknown, as is the number of boats trailered to the area by visitors. As such, the contribution of boats used for manatee viewing cannot be monetized or evaluated in terms of any economic benefit likely to accrue from this rulemaking.

Businesses that benefit both directly and indirectly from manatee viewing can be found in Department of Labor descriptions of Citrus County industries. While these industry descriptions provide useful information about numbers of businesses and the number of individuals they employ, they do not describe the number of businesses and

individuals engaged directly or indirectly in manatee viewing. These industries include: Leisure and hospitality businesses, professional and business services; and trade, transportation, and utility businesses. Through September 2010, there were 288 leisure and hospitality establishments in Citrus County employing 3,294 individuals; 512 professional and business service establishments employing 3,340 individuals; and 683 trade, transportation, and utility establishments employing 7,330 individuals (U.S. Department of Labor 2011).

Improved protection for the manatee may result in an economic benefit to these industries by insuring the continued local presence of viewable manatees and insuring the continued existence of the manatee viewing industry. However, the viability of the local manatee viewing industry, as practiced by both commercial businesses and individuals, is challenged by reported acts of manatee harassment associated with these activities.

Florida waterfront property owners may benefit from manatee protection areas such as the area described in this proposal. Bell and McLean (1997, p. 1) studied the impact of posted manatee speed zones on the property values of waterfront homes in Fort Lauderdale, Broward County, Florida. The authors found a strong relationship between property values and slow-speed zones, and found evidence that slow-speed zones may have a positive impact on home sale price. Slow-speed zones were found to correlate with as much as a 15- to 20-percent increase in sale price. The authors speculated that speed zones may increase property values by reducing noise and fast traffic, and by making it easier for boats to enter and leave primary waterways. In the proposed manatee refuge area, residential property owners may experience these benefits.

In addition, due to reductions in boat wake associated with speed zones, property owners may experience some economic benefits related to decreased costs for maintenance and repair of shoreline stabilization (*i.e.*, seawalls along the water's edge). Similarly, the erosion of shoreline vegetation and aquatic plant communities from boat wakes would lessen, thus improving important fisheries habitat. Speed reductions may also result in increased boater and swimmer safety. These types of benefits cannot be quantified with available information.

Based on previous studies, we believe that this rule would produce some economic benefits. However, given the lack of information available for estimating these benefits, the magnitude of these benefits is unknown.

#### *Economic Impacts*

##### *Affected Recreational Activities*

For some waterway users, the loss of a local, high-speed watersports area may reduce the quality of these activities or may cause people to forgo the activities. The extra time needed to cross additional slow and/or idle speed areas or to avoid "no-entry" areas may inconvenience some recreationists. In this section, we examine the waterborne activities taking place in the area and the extent to which they may be affected by the designation of the proposed manatee refuge. The resulting potential economic impacts are discussed below. Actual impacts cannot be quantified, however, because an actual number of recreationists using the site is not known.

In the proposed Kings Bay Manatee Refuge, affected waterborne activities include traveling, cruising, waterskiing, personal watercraft use, canoeing and kayaking, manatee viewing, snorkeling and diving, and fishing. Based on a recent visitor study that relied on a variety of survey mechanisms, the two most popular activities in Citrus County were manatee viewing and snorkeling and diving (Gold 2008, pp. 4–8). Recreationists engaging in high-speed activities, including waterskiing, use of personal watercraft, and other similar activities would likely experience some impacts due to the proposed regulations; individuals not engaged in high-speed-activities are unlikely to experience much impact due to the proposed regulation.

Primary activities that would be affected by the designation of year-round slow or idle speeds are those that involve high-speed watercraft operations, including waterskiing, which take place between May 1 and August 31 in the watersports area located in the center of Kings Bay. The proposed regulation may cause some water skiers and other recreationists to forgo high-speed activities here, or may reduce the quality of their experience in the event that these recreationists elect to waterski at less preferred alternative sites.

Without data describing the number of affected recreationists and the number of trips that they make every year to the watersports area, costs associated with the loss of this area are unknown. If this information were

available, we could estimate the impact of lost or diminished skiing days given the value of a waterskiing day published in the literature. One study by Bergstrom and Cordell (1991, p.67) suggested the lost surplus value may be \$ 46.75/day (adjusted to reflect 2002 monetary values) for a day of waterskiing. They applied a multicommunity, multisite travel cost model to estimate demand equations for 37 outdoor recreational activities and trip values, including waterskiing. The analysis was based on nationwide data from the Public Area Recreational Visitors Study collected between 1985 and 1987 and several secondary sources.

Thomas and Stratis (2002, pgs. 30–32) evaluated the effect that reductions in the number of available boating destinations had on recreational boaters in Lee County. Reduced boat speeds at certain sites precluded high-speed activities historically associated with these sites, reducing the number of high-speed destinations available to these boaters. Thomas and Stratis demonstrated that some redistribution of boating trips did subsequently occur and concluded that the reduction in boating destinations resulted in an annual estimated loss per boater of \$423.94 in 1996 dollars (or \$597.97 when adjusted to reflect 2011 dollar values). The study was conducted in Lee County, not Citrus County, in 1996, and specific locations and 1996 values localize and date the results.

While studies demonstrate that recreationists can experience a change in the quality of their waterborne experience when speeds are restricted in historically high-speed boater destinations, not enough data are available to estimate any losses in economic value that the recreationists who use Kings Bay are likely to experience. However, given that alternative sites are regionally available, economic impacts are not expected to be significant.

Recreationists who transit the designated, summertime slow-speed area would likely experience a diminished quality of the boating experience due to the additional time needed to transit this area at speeds slower than those historically present. These recreationists likely include anglers traveling to downstream fishing sites, and the additional transit times would affect the time that they have available to fish. Lost fishing time could result in catch losses, thereby diminishing the fishing experience. The number of these recreationists and the number of trips that they make is unknown. As a result, the economic cost

of this rulemaking on these individuals is unknown.

#### *Affected Commercial Charter Boat Activities*

Various types of charter boats use Citrus County waterways for nature tours and other activities. The number of charter boats using Kings Bay is unknown, and information on their origins and destinations is lacking. However, many charter boats are used by renters to view manatees, an activity that occurs within the refuge area. The refuge designation is unlikely to cause a significant adverse impact to businesses that provide boats for manatee viewing and may even benefit them. Enhanced manatee protection measures should improve the viewing experience and are likely to positively affect this industry. The extra time required for commercial charter boats used for fishing to reach fishing grounds could reduce onsite fishing time and could result in fewer trips. Added travel time may affect the length of a trip, which could result in fewer trips overall, creating a potential economic impact.

#### *Affected Commercial Fishing Activities*

Local commercial fisheries may experience some impact due to the proposed regulation. To the extent that the proposed regulation establishes additional speed zones in commercial fishing areas, this may increase transit times associated with the fishing activity, affecting the efficiency of commercial fishing. Costs associated with requirements for the use of manatee-safe float lines would likely increase some fishing gear costs.

Crab boats would have to travel at slower speeds in some locations between crab pots, thereby potentially reducing the number of crabs landed on a daily basis. The speed limits may also slow transit speeds between fishing grounds for both crab and mullet fishing boats. The number of fishing boats operating and the amount of blue crab and mullet landings occurring in areas that would be newly designated speed zones under this proposed rule are unknown. Given this, the impact on the commercial fishing industry cannot be quantified.

Crabbers fishing within the Kings Bay Manatee Refuge would need to modify their gear to ensure that manatees do not become entangled in crab pot float lines. The use of stiffened lines, including lines that incorporate stiffeners (wire, lines enclosed in hose or PVC, *etc.*), crab pot lines to reduce the number of float lines used (where crab pots are strung together and single float lines are used

to locate the beginning and end of such a crab pot line), and other methods would increase gear costs. However, the number of crabbers fishing in Kings Bay is unknown, and the extent to which this would impact these users is unknown.

The proposed designation would likely affect commercial fishermen by way of added travel time, which may have an economic impact. However, because added travel times are unlikely to exceed an additional 30 minutes beyond existing travel times, it is unlikely that the proposed rule would result in a significant economic impact on the commercial fishing industry.

#### *Agency Administrative Costs*

Agency administrative costs would include costs associated with signposting, enforcement, and some costs for education and outreach to inform the public about new designations within the manatee refuge. The proposed refuge would require nominal, additional signposting activities; however, the number and location of signs needed to post the proposed manatee refuge is not known. Similarly, additional law enforcement and education and outreach needs are anticipated. Associated administrative costs are unknown.

The designation of this manatee refuge would affect less than 530 acres of the State of Florida's 7.5 million acres of waterways and would add restrictions to an already-restricted area to better protect manatees. As a result, the rule would impact the quality of waterborne activity experiences for some recreationists and may lead some recreationists to forgo certain waterborne activities. While the proposed rule would prohibit certain activities within the refuge area, it does not prohibit recreationists from participating in similar activities elsewhere. Alternative sites are available for all waterborne activities that may be affected by this rule. The inconvenience of having to go slower or choose alternative sites for certain waterborne activities would likely have a regional economic cost. While the level of economic benefits that may be attributable to the manatee refuge is unknown (including benefits associated with manatee viewing), these benefits would likely minimize any economic impacts that may be associated with this rule. Given available information, the net economic impact of designating this manatee refuge is not expected to be significant (that is, it would not exceed \$100 million per year).

#### *Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions) (5 U.S.C. 601 *et seq.*). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities. This section presents a screening level analysis of the potential effects of the proposed designation of a manatee protection area on small entities. We certify that this rule would not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial/final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

In order to determine whether the proposed rule would have a significant economic impact on a substantial number of small entities, we utilize available information on the industries most likely to be affected by the designation of the manatee refuge. Small entities likely affected by the proposed rule include entities whose businesses support high-speed recreational boating activities and commercial fishing. However, no current information is available on the specific number of small entities that would potentially be affected. This proposed rule would preclude high-speed activities from an existing summertime water sports area and would add travel time to boating recreationists and commercial activities having to travel through the additional slow-speed zones. Because the only restrictions on recreational activity result from displacement and added travel time and alternative sites are available for all waterborne activities,

we believe that the economic impact on small entities resulting from changes in recreational use patterns would not be significant. The economic impacts on small businesses resulting from this proposed rule are likely to be indirect effects related to reduced demand for goods and services if recreationists choose to reduce their level of participation in waterborne activities. Similarly, because the only restrictions on commercial activity result from the inconvenience of added travel time, we believe that any economic impact on small commercial fishing or charter boat entities would not be significant. Also, the indirect economic impact on small businesses that may result from reduced demand for goods and services from commercial entities is likely to be insignificant.

#### *Small Business Regulatory Enforcement Fairness Act*

This proposed rule is not a major rule under 5 U.S.C. 804(2). This proposed rule:

a. Does not have an annual effect on the economy of \$100 million or more. As shown above, this proposed rule may cause some inconvenience in the form of displacement and added travel time for recreationists and commercial fishing and charter boat businesses because of speed and access restrictions in this manatee refuge, but it should not translate into any significant business reductions for the many small businesses in Citrus County. Since the only restrictions on recreational activity would result from displacement and added travel time and alternative sites are available for all waterborne activities, we believe that the economic impact on small entities resulting from changes in recreational use patterns would not be significant. The economic impacts on small business resulting from this proposed rule are likely to be indirect effects related to reduced demand for goods and services if recreationists choose to reduce their level of participation in waterborne activities. Similarly, because the only restrictions on commercial activity result from the inconvenience of added travel time, we believe that any economic impact on small commercial fishing or charter boat entities would not be significant. Also, the indirect economic impact on small businesses that may result from reduced demand for goods and services from commercial entities is likely to be insignificant.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It is unlikely that

there are unforeseen changes in costs or prices for consumers stemming from this proposed rule. The recreational charter boat and commercial fishing industries may be affected by lower speed limits for some areas when traveling to and from fishing grounds. However, this impact is likely to be limited.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. As stated above, this proposed rule may generate some level of inconvenience to recreationists due to displacement and added travel time, but the resulting economic impacts are believed to be minor and would not interfere with the normal operation of businesses in the affected county. Added travel time to traverse some areas is not expected to be a major factor that would impact business activity.

#### *Unfunded Mandates Reform Act*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This proposed rule would not significantly or uniquely affect small governments. A Small Government Agency Plan is not required. The designation of manatee refuges imposes no substantial new obligations on State or local governments.

b. This proposed rule would not produce a Federal mandate of \$100 million or greater in any year. As such, it is not a significant regulatory action under the Unfunded Mandates Reform Act.

#### *Takings*

In accordance with Executive Order 12630, this proposed rule does not have significant takings implications. A takings implication assessment is not required. The proposed manatee protection area is located over Federal-, State- or privately-owned submerged bottoms. Any property owners in the vicinity would retain navigational access and the ability to maintain their property.

#### *Federalism*

In accordance with Executive Order 13132, the proposed rule would not have significant Federalism effects. A Federalism assessment is not required. This proposed rule would not have substantial direct effects on the State, on the relationship between the Federal Government and the State, or on the distribution of power and responsibilities among the various levels of government. We coordinated

with the State of Florida to the extent possible on the development of this proposed rule.

#### *Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule would not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

#### *Paperwork Reduction Act*

This proposed regulation does not contain new collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* The proposed regulation would not impose new recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. OMB has reviewed and approved the information collection requirements associated with special use permits and assigned OMB Control No. 1018-0102. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### *National Environmental Policy Act*

We have analyzed this proposed rule in accordance with the criteria of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental assessment has been prepared and is available for review online at <http://www.regulations.gov> (see **ADDRESSES**), or upon request (see **FOR MORE INFORMATION CONTACT**).

#### *Government-to-Government Relationship with Tribes*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175 and the Department of the Interior's manual at 512 DM 2, we have evaluated possible effects on Federally recognized Indian Tribes and have determined that there would be no effects.

#### *Energy Supply, Distribution, or Use*

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this proposed rule is not a significant

regulatory action under Executive Order 12866, and it would only require vessels to proceed at slow or idle speeds or avoid no-entry areas in 530 acres of waterways in Florida, it is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

#### Data Quality Act

In developing this proposed rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106-554).

#### References Cited

For a list of the references cited in this rule, see Docket No. FWS-R4-ES-2011-0079, available at <http://www.regulations.gov>.

#### Author

The primary author of this document is Jim Valade (see ADDRESSES).

#### Authority

The statutory 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, as amended (16 U.S.C. 1361 *et seq.*).

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

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

#### Proposed Regulation Promulgation

Accordingly, we propose 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 § 17.104 by revising paragraph (b) to read as follows:

#### § 17.104 Prohibitions.

\* \* \* \* \*

(b) *Manatee refuge.* It is unlawful for any person within a particular manatee refuge to engage in any waterborne activity which has been specifically prohibited within that refuge, or to engage in any waterborne activity in a manner contrary to that permitted by regulation within that area. Any take of manatees under the Acts (see § 18.3 of this chapter for a definition of “take” in regard to marine mammals), including take by harassment, is prohibited wherever it may occur.

\* \* \* \* \*

3. Amend § 17.108 by:

a. In paragraph (a)(3), removing the period at the end of the paragraph and adding in its place a comma and the words “to be known as the Magnolia Springs Manatee Sanctuary.”;

b. In paragraph (a)(4), removing the period at the end of the paragraph and adding in its place a comma and the words “to be known as the Buzzard Island Manatee Sanctuary.”;

c. In paragraph (a)(5), removing the period at the end of the paragraph and adding in its place a comma and the words “to be known as the Tarpon Springs Manatee Sanctuary.”;

d. In paragraph (a)(6), removing the period at the end of the paragraph and adding in its place a comma and the words “to be known as the Warden Key Manatee Sanctuary.”;

e. Revising paragraph (b) to read as set forth below; and

f. Adding paragraph (c)(14) to read as set forth below:

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

\* \* \* \* \*

(b) *Exceptions.* (1) Adjoining property owners, their guests, employees, and their designees may engage in watercraft access and property maintenance activities through manatee sanctuaries (set forth in paragraphs (a)(1) through (a)(11) of this section) and designated “no entry areas” in the Kings Bay Manatee Refuge (set forth in paragraph (c)(14) of this section). Use of sanctuary and no-entry area waters is restricted to

authorized individuals accessing adjoining properties, storing watercraft, and maintaining property and waterways. Maintenance activities include those actions necessary to maintain property and waterways, subject to any Federal, State, and local government permitting requirements.

(2) Authorized individuals must obtain a sticker or letter of authorization from the Fish and Wildlife Service identifying them as individuals authorized to enter no-entry areas that adjoin their property. Stickers must be placed in a conspicuous location to readily identify authorized watercraft. Individuals with a letter of authorization must have a valid letter in their possession when accessing no-entry areas.

(3) Authorized individuals must conduct any authorized boating activity within these areas at idle or no-wake speeds.

\* \* \* \* \*

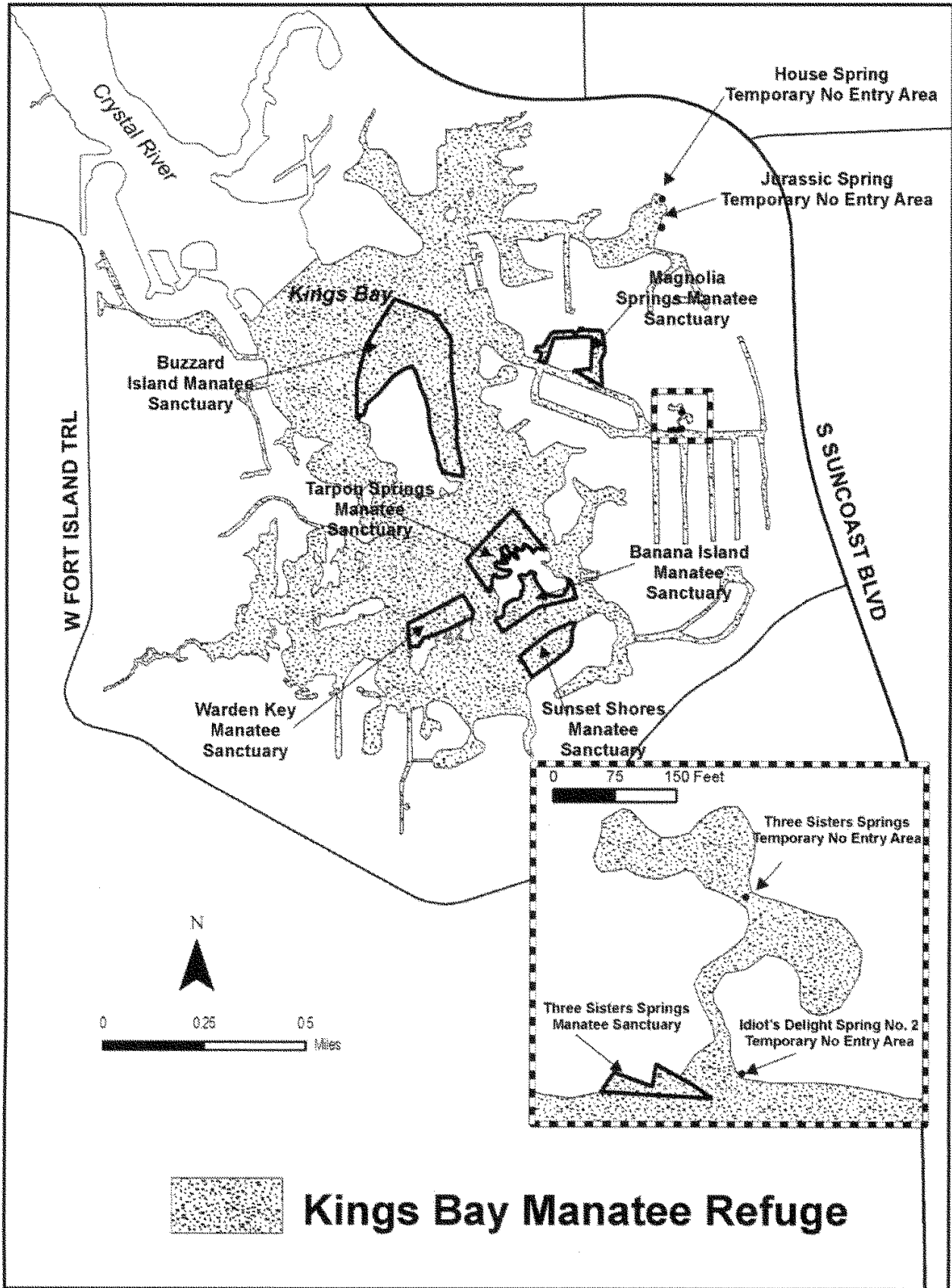
(c) \* \* \*

(14) *The Kings Bay Manatee Refuge.* A tract of submerged land that includes all waters of Kings Bay, including all tributaries and adjoining waterbodies, upstream of the confluence of Kings Bay and Crystal River, described by a line that bears North 53°00'00" East (True) from the northeasternmost point of an island on the southwesterly shore of Crystal River (approximate latitude 28°53'32" North, approximate longitude 82°36'23" West) to the southwesternmost point of a peninsula of Magnolia Shores (approximate latitude 28°53'38" North, approximate longitude 82°36'16" West).

(i) *Area covered.* The Kings Bay Manatee Refuge encompasses existing manatee protection areas as described in paragraphs (a)(1) through (a)(7) of this section, and areas outside these sections as depicted on the map in paragraph (c)(14)(ii) of this section.

(ii) *Particular areas.* The following springs fall within the boundaries of the Kings Bay Manatee Refuge. A map showing the entire refuge, including these springs, follows:

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# Kings Bay Manatee Refuge

BILLING CODE 4310-55-C

(A) *Three Sisters Springs*. A tract of submerged land, lying in Section 28,

Township 18 South, Range 17 East, Tallahassee Meridian, Citrus County,

Florida, more particularly described as follows: For a point of reference, commence at the northwest corner of said Section 28 in an east southeast direction to the canal that begins on the west side of Southeast Cutler Spur Boulevard and runs west–northwest to Kings Bay. The spring is north and east of the northern terminus of Southeast Paradise Avenue along the northern shore of said canal. Three Sisters Springs includes three main and numerous smaller spring vents and a spring run that connects the vents to said canal in Crystal River, Citrus County, Florida. This area is not the same as set forth in paragraph (a)(7) of this section. This area is behind the sanctuary (north from the mouth of the channel) as set forth in paragraph (a)(7) of this section and no one may enter this area from November 15 through March 31 between the hours of 6:00 p.m. and 7:00 a.m.

(B) *House Spring*. A tract of submerged land, lying in Section 21, Township 18 South, Range 17 East, Tallahassee Meridian, Citrus County, Florida, more particularly described as follows: For a point of reference, commence at the southwest corner of said Section 21 in an east northeast direction to the northeasternmost corner of Hunter Spring Run. The spring is immediately west of and adjacent to Northeast 2nd Court in Crystal River, Citrus County, Florida.

(C) *Jurassic Spring*. A tract of submerged land, lying in Section 21, Township 18 South, Range 17 East, Tallahassee Meridian, Citrus County, Florida, more particularly described as follows: For a point of reference, commence at the southwest corner of said Section 21 in an east northeast direction to the eastern shore of Hunter Spring Run. The spring is immediately west of the western terminus of Bayshore Drive in Crystal River, Citrus County, Florida.

(D) *Idiot's Delight Number 2 Spring*. A tract of submerged land, lying in Section 28, Township 18 South, Range 17 East, Tallahassee Meridian, Citrus County, Florida, more particularly described as follows: For a point of reference, commence at the northwest corner of said Section 28 in an east southeast direction to the canal that begins on the west side of Southeast Cutler Spur Boulevard and runs west–northwest to Kings Bay. The spring is north and east of the northern terminus of Southeast Paradise Avenue along the northern shore of said canal just east of the southern terminus of the Three Sisters Springs run in Crystal River, Citrus County, Florida.

(iii) *Speed restrictions*. Throughout the entire year, watercraft speeds are restricted to slow speed throughout the refuge except in those areas where access is precluded (manatee sanctuaries, no entry areas) or more restrictive speed restrictions are in effect.

(iv) *Time and area prohibitions*. From November 15 to March 31, all waterborne activities, including swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing (including with hook and line, by cast net, or spear), and the use of water vehicles (including but not limited to boats powered by engine, wind or other means; ships powered by engine, wind or other means; barges, surfboards, personal watercraft, water skis, and any other devices or mechanisms capable of locomotion on, across, or underneath the surface of the water) are prohibited in areas that are outside of and within specified distances from the existing manatee sanctuaries located in Kings Bay (defined in paragraphs (a)(1) through (a)(7) of this section) and the springs defined in paragraph (c)(14)(ii) of this section: Three Sisters Springs, House Spring, Jurassic Spring, and Idiot's Delight Number 2 Spring.

(v) *Expanded temporary no-entry area*. When manatees exceed the capacity of an existing manatee sanctuary or shift usage around an existing manatee sanctuary or shift usage to Three Sisters Springs, House Spring, Jurassic Spring, and Idiot's Delight Number 2 Spring, due to water or weather conditions, we will designate "no entry" areas from November 15 through March 31. Designations of no-entry areas around existing manatee sanctuaries and Three Sisters Springs, House Spring, Jurassic Spring, and Idiot's Delight Number 2 Spring within the Kings Bay Manatee Refuge will be made based on aerial survey observations of manatees using the existing sanctuary sites, current weather information, and other sources of credible, relevant information. We could designate no-entry areas around one or all of the manatee sites in Kings Bay depending on the winter season. We will designate no-entry areas within the Kings Bay Manatee Refuge and outside of existing manatee sanctuaries as follows:

(A) For the sanctuaries set forth in paragraphs (a)(1) through (a)(6) of this section, to a distance not to exceed 100 feet from the existing sanctuary boundary.

(B) For the Three Sisters Springs Sanctuary, to a distance not to exceed 400 feet from the existing boundary. We

do not intend to completely mark off the manmade channel. Expansions could occur directly around the existing sanctuary and north into the area locally known as Three Sisters Springs.

(C) For House Spring and Jurassic Spring, an area that does not exceed 100 feet from the associated spring vents.

(D) For Idiot's Delight Number 2 Spring, an area that does not exceed 25 feet from the associated spring vent. Any temporary designation will be configured to avoid the manmade channel in the canal and will not block access into Three Sisters Springs.

(vi) *Temporary no-entry areas*. Temporary no-entry area designations may be made in the existing manatee sanctuaries located in Kings Bay (defined in paragraphs (a)(1) through (a)(7) of this section), Three Sisters Springs, House Spring, Jurassic Spring, and Idiot's Delight Number 2 Spring prior to November 15 and after March 31 during cold fronts when manatees are present. Designations will remain in effect for the duration of a cold front and only when manatees are present; temporary no-entry area designations will remain in effect for no longer than 14 days.

(vii) *Posting of additional protection areas*. Additional protection areas within the Kings Bay Manatee Refuge, but outside of the existing manatee sanctuaries set forth in paragraphs (a)(1) through (a)(7) of this section and around Three Sisters Springs, House Spring, Jurassic Spring, and Idiot's Delight Number 2 Spring, will be posted to distances as described in paragraph (c)(14)(v) of this section and identified by the following devices: buoys, float lines, signs, advisories from onsite Service employees and their designees, or other methods.

(viii) *Notifications*. When waterborne activities pose an immediate threat to aggregations of manatees and are likely to take one or more manatees, additional protection areas outside of existing manatee sanctuaries set forth in paragraphs (a)(1) through (a)(7) of this section and around Three Sisters Springs, House Spring, Jurassic Spring, and Idiot's Delight Number 2 Spring, but within the Kings Bay Manatee Refuge will be posted to distances as described in paragraph (c)(14)(v) of this section. No-entry area designations will occur immediately. We will advise the public of designations through public notice(s) announcing and describing the measures in a local newspaper and other media, including but not limited to, local television and radio broadcasts, Web sites and other news outlets, as soon as time permits. Onsite Service employees and their designees, when



present, may also inform waterway users of designations.

(ix) *Prohibited activities.* We specifically identify and prohibit the activities set forth in this paragraph to prevent the take of manatees by individuals engaged in waterborne activities while in the water, in boats, or on-shore within the Kings Bay Manatee Refuge. In regard to these prohibited activities, we consider a resting manatee to be a mostly motionless manatee on the water bottom, in the water column, or on the water's surface that rises to the surface to breath. While resting, a manatee may make minor changes in its posture and may slightly shift its position. Minor changes in posture occur when resting manatees breathe or roll. Resting manatees may also make slight movements with their flippers or tail to compensate for drift, *etc.* Prohibited activities include:

- (A) Chasing or pursuing manatee(s).
- (B) Disturbing or touching a resting or feeding manatee(s).
- (C) Diving from the surface on to resting or feeding manatee(s).
- (D) Cornering or surrounding or attempting to corner or surround a manatee(s).
- (E) Riding, holding, grabbing, or pinching or attempting to ride, hold, grab, or pinch a manatee(s).
- (F) Poking, prodding, or stabbing or attempting to poke, prod, or stab a manatee(s) with anything, including your hands and feet.
- (G) Standing on or attempting to stand on manatee(s).
- (H) Separating a mother and calf or attempting to separate a mother and calf.
- (I) Separating manatee(s) from a group or attempting to separate manatee(s) from a group.
- (J) Giving manatee(s) anything to eat or drink or attempting to give manatee(s) anything to eat or drink.
- (K) Actively initiating contact with belted and/or tagged manatee(s) and associated gear, including any belts, harnesses, tracking devices, or antennae.
- (L) Interfering with rescue and research activities.
- (M) Using mooring and float lines that can entangle manatees.

Dated: June 10, 2011.

**Rachel Jacobson,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2011-15603 Filed 6-21-11; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

[Docket No. FWS-R9-MB-2011-0014; 91200-1231-9BPP-L2]

RIN 1018-AX34

#### Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2011-12 Hunting Season; Notice of Meetings

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

**ACTION:** Proposed rule; supplemental.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 2011-12 hunting season. This supplement to the proposed rule provides the regulatory schedule, announces the Service Migratory Bird Regulations Committee and Flyway Council meetings, and provides Flyway Council recommendations resulting from their March meetings.

**DATES:** *Comments:* You must submit comments on the proposed regulatory alternatives for the 2011-12 duck hunting seasons by July 5, 2011. Following subsequent **Federal Register** documents, you will be given an opportunity to submit comments for proposed early-season frameworks by July 29, 2011, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 31, 2011.

*Meetings:* The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early-season migratory bird hunting on June 22 and 23, 2011, and for late-season migratory bird hunting and the 2012 spring/summer migratory bird subsistence seasons in Alaska on July 27 and 28, 2011. All meetings will commence at approximately 8:30 a.m.

**ADDRESSES:** *Comments:* You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R9-MB-2011-0014.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R9-MB-2011-0014; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We will not accept e-mailed or faxed comments. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

*Meetings:* The Service Migratory Bird Regulations Committee will meet in room 200 of the U.S. Fish and Wildlife Service's Arlington Square Building, 4401 N. Fairfax Dr., Arlington, VA.

**FOR FURTHER INFORMATION CONTACT:** Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP-4107-ARLSQ, 1849 C Street, NW., Washington, DC 20240; (703) 358-1714.

#### SUPPLEMENTARY INFORMATION:

##### Regulations Schedule for 2011

On April 8, 2011, we published in the **Federal Register** (76 FR 19876) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. We will publish proposed early-season frameworks in early July and late-season frameworks in early August. We will publish final regulatory frameworks for early seasons on or about August 16, 2011, and for late seasons on or about September 15, 2011.

##### Service Migratory Bird Regulations Committee Meetings

The Service Migratory Bird Regulations Committee will meet June 22-23, 2011, to review information on the current status of migratory shore and upland game birds and develop 2011-12 migratory game bird regulations recommendations for these species, plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. The Committee will also develop regulations recommendations for September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, the Committee will review and discuss preliminary information on the status of waterfowl.

At the July 27-28, 2011, meetings, the Committee will review information on the current status of waterfowl and develop 2011-12 migratory game bird regulations recommendations for regular waterfowl seasons and other species and