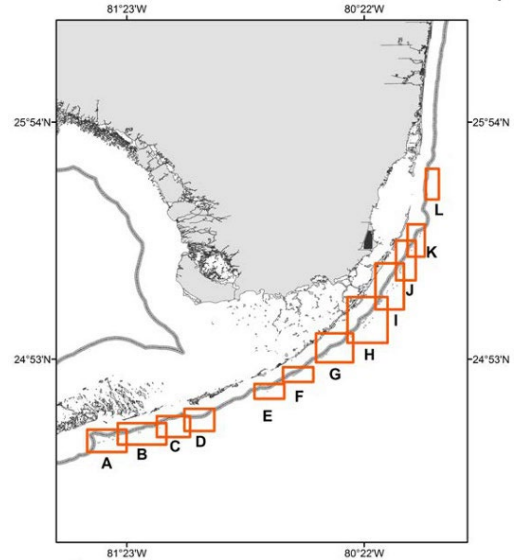


# Draft Points to include in the SAFMC Comment Letter on the Proposed Rule for the Florida Keys National Marine Sanctuary Management Review: Blueprint for Restoration

## Amendment 11 to the Spiny Lobster FMP

In order to ensure that ESA-listed *Acroporid* corals are getting adequate protection, the Council will be working with the Florida Fish and Wildlife Conservation Commission (FWC) to re-examine the 60 areas in federal waters of the FKNMS that were closed to the use of lobster traps through Amendment 11 to the Spiny Lobster Fishery Management Plan. The Council will determine whether, following the impacts of Hurricane Irma and other environmental events, these areas are still in the right locations to protect corals, different areas need protection, and whether protection for some existing areas is no longer needed.

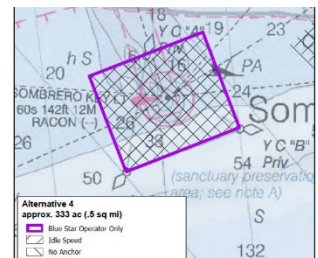


## FKNMS Management Plan

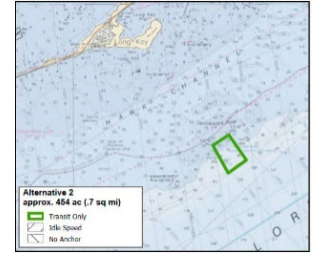
- The Council supports updating the Management Plan to address key overarching issues: improve water quality, improve boater education to prevent damage to sensitive habitats, increase law enforcement, and encourage FKNMS to work with FWC on a well-designed suite of artificial reefs.
- The Council supports outreach and education efforts in the revised FKNMS Management Plan including:
  - the Marine Sanctuary Explorer App to educate users about Sanctuary resources and regulations;
  - the use of navigation markers to promote responsible navigation, increase safety, and reduce damage to sensitive habitats; and
  - the proposed evaluation of the placement and numbering of mooring buoys.

## FKNMS Sanctuary Preservation Areas in the South Atlantic EEZ

- The Council supports the status quo designation for Key Largo Dry Rocks and Grecian Rocks SPAs.
- Sombrero Key SPA: The SPA would be expanded slightly to include remnant elkhorn corals, a species listed under the Endangered Species Act. In addition, the proposed expansion would square off the existing triangular shape facilitating marking, compliance, and enforcement.



- Tennessee Reef Conservation Area – This zone would be extended to the 90-foot contour line to capture additional deep reef habitats.



- Alligator Reef SPA – The SPA would be expanded to the 90-foot contour to include additional deep reef habitat.

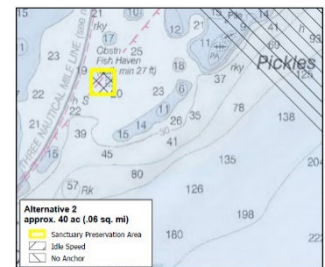


- The Council does not support prohibiting all fishing activity within SPAs and requests that the FKNMS consider allowing trolling in all SPAs within the South Atlantic EEZ since prohibiting trolling is not necessary to protect corals.

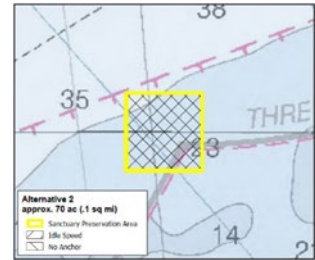
### Restoration Areas (Nursery and Habitat)

The Council shares the FWC’s concern for coral, particularly for unprotected coral nurseries and restoration areas in federal waters of the Council’s jurisdiction and supports the following:

- Carysfort Reef – Nursery: This zone is a discrete area within the larger Carysfort Reef SPA.
- The Elbow – Nursery: This area was not proposed in the 2019 DEIS and is proposed to provide additional protections to an existing, permitted coral nursery site.
- Pickles Reef West– Nursery: In the DEIS, this area was proposed as a SPA. In the proposed rule this marine zone would instead become a Restoration Area Nursery and be expanded to include multiple coral nursery sites, which have been shown to be resilient to high water temperatures, storms, and coral disease.



- Marathon Key – Nursery: In the DEIS, this area was proposed as a SPA. This marine zone is proposed to become a Restoration Area Nursery.



- Five additional Nursery Restoration Areas are proposed and supported by the Council: Middle Keys Nursery, Looe Key East Nursery, Looe Key West Nursery, Key West Nursery and Sand Key Nursery. These areas provide additional protection to existing, permitted coral nursery sites.
- Cheeca Rocks South—Habitat: This is an active and long-term restoration site with one of the largest remaining populations of Endangered Species Act-listed star coral (*Orbicella* spp.), still contains intact populations of species susceptible to Stony Coral Tissue Loss Disease and appears to be a site that is more resilient to bleaching and disease. In addition, The Council, as well as NMFS and FWC, recommend this site for additional habitat protections.
- Horseshoe Reef—Habitat: This is the only Mission: Iconic Reefs site that is not already included within an existing SPA. The new proposed Restoration Areas—Habitat zone would specifically encompass the portion of Horseshoe Reef targeted for active, restoration and would not affect the remainder of the reef.
- Pickles Reef East—Habitat: This is an active and long-term restoration site that includes a large population of Endangered Species Act-listed elkhorn coral and staghorn coral that has been particularly vulnerable to anchor damage.
- Cheeca Rocks East—Habitat: This is an active and long-term restoration site with one of the largest remaining populations of Endangered Species Act-listed star coral (*Orbicella* spp.), still contains intact populations of species susceptible to Stony Coral Tissue Loss Disease and appears to be a site that is more resilient to bleaching and disease.

### Management Areas

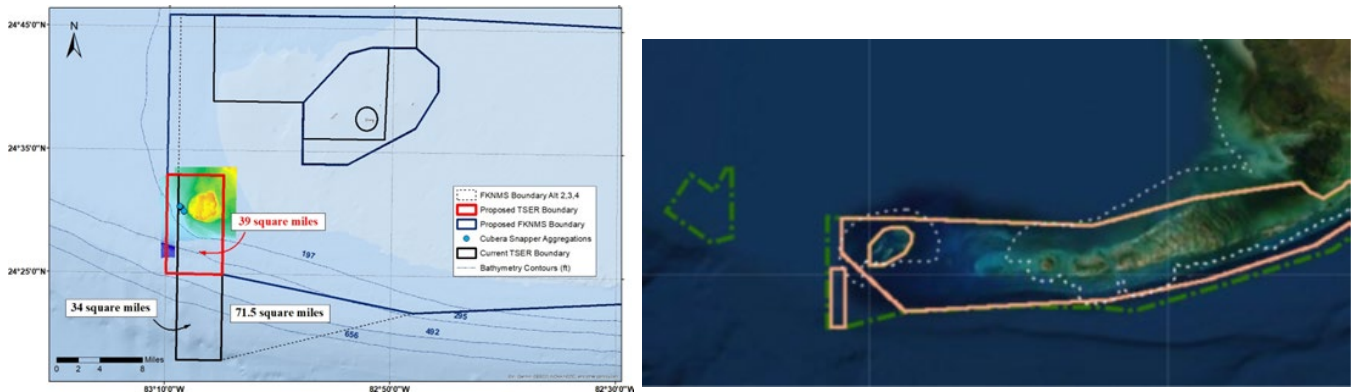
The Council supports the proposal to maintain Key Largo and Looe Key existing Management Areas with minor modifications and rename them the “Key Largo Management Area” and the “Looe Key Management Area.”

### Large, Contiguous Area Protections

In comments submitted on the DEIS, the Council opposed the designation of three large, contiguous, SPAs for fisheries management. The Council supports the proposed elimination of the large, contiguous Carysfort Reef proposal, Long Key Tennessee Reef SPA, and the Tortugas Spawning Corridor SPA, since the benefits to the fisheries resulting from the originally proposed restrictions in these large areas are poorly understood.

## Sanctuary Boundary Expansion

The Council supports the FWC's proposed modification to the proposed expansion of the Sanctuary boundary in the Tortugas, including the changes to the boundary of the Tortugas South Ecological Reserve.



## Baitfish Permits

The Council supports status quo for baitfish permits and does not support the proposed three-year phase out. The Council agrees with the FWC's opinion that lampara net bait fishermen are able to fish within SPAs without interacting with corals and people because of how that gear is used. The Council views banning cast nets in the SPAs as too restrictive.

## Live Rock Aquaculture Permits

The Council supports maintaining the current exception for live rock aquaculture from sanctuary-wide regulatory prohibitions if authorized by a submerged lands lease issued by the Florida Department of Agricultural and Consumer Services or a National Marine Fisheries Service (NMFS) Aquacultured Live Rock permit.

The Council also supports developing an MOA that will allow NOAA to ensure protection of sanctuary resources through inter-agency collaboration without requiring a separate sanctuary permit.

## Derelict Vessels

The Council supports the creation of the derelict vessel regulation outlined in the proposed rule which would protect the marine sanctuary by prohibiting deserting a vessel, or anchoring, mooring, or occupying a vessel at risk of becoming derelict.

## Fish Feeding

- The Council supports the FKNMS proposal to prohibit all "fish feeding" from a vessel and while diving which, however, allows use of chum/bait while fishing. Furthermore, the FWC supports aligning state and federal fish feeding regulations within the FKNMS.
- The Council and many recreational advisors are concerned with shark depredation and the possibility that fish feeding teaches sharks to associate humans and their vessels with food, which could contribute to shark depredation and other negative interactions with sharks.

## Definition of Traditional Fishing

The Council is concerned about the definition of traditional fishing listed in the DEIS. This definition

specifies fishing gear allowed in the FKNMS. This outdated definition currently does not allow lobster traps and would not allow new, innovative fishing gear such as lionfish traps. The Council looks forward to working with FKNMS, FWC, and NOAA Fisheries to update this definition.

### **Emergency Regulations Changes**

- The Council is concerned that the proposed changes to the emergency regulations, would allow the FKNMS to enact temporary regulations that affect fisheries and fishing related businesses that operate in the Council’s jurisdiction without the Council having an opportunity to comment or weigh in on the proposed emergency measures.
- The Council requests that the FKNMS ensure the process for emergency rules preserves a reasonable opportunity for the Council to comment on these proposals before they are finalized and not simply be notified of the regulatory changes after the fact.

### **Protocol for Cooperative Fisheries Management for the FKNMS**

- The current Protocol for Cooperative Fisheries Management for the FKNMS was signed into effect in 1997 and describes protocol and procedure for rulemaking that relates to the management of fisheries resources and fishing activities in state and federal waters of the FKNMS. The Council is working with the FWC, NMFS and the FKNMS to review, revise and update the agreement.

### **Advisory Panel Engagement**

Council Advisory Panels were contacted and encouraged to listen in to the September 21, 2022, Council Meeting Webinar and Presentation on the FL Keys Sanctuary Restoration Blueprint. Subsequently, the Snapper Grouper, Mackerel Cobia, and Habitat APs convened in the fall and had the opportunity to discuss the proposed rule. The Mackerel Cobia AP provided no specific comments.

The Shrimp AP is scheduled to meet via webinar in January 2023 to receive the FKNMS Presentation and provide comments.

Comments from the Snapper Grouper and Habitat APs are summarized below:

### **Snapper Grouper AP Comments**

- Council’s response should be to protect and enhance the fishing industry in that area
- An AP member provided extensive comments on potential effects of the proposed regulations, as well as how current and past regulations in the Florida Keys Sanctuary have affected fishing in the area. The AP requested that the Council consider appending the transcript of the AP member’s comments to the Council’s letter.
- Council should recommend that greater consideration be given to:
  - Equity between fishermen and divers.
  - Effects of other harmful factors in area such as stormwater runoff.
  - Large amount of population growth (including tourists and part-time residents) and development in the Keys.
  - Responses to degradation other than limiting fishing areas.

### **Habitat and Ecosystem AP Comments**

- Given the cascading adverse impacts the Sanctuary is experiencing, the proposed rule seems to be a well-balanced approach and address the comments the Council submitted on the DEIS.
- Important to emphasize the NMS staff are actively engaged in commenting on water quality impacts.
- General support for the proposed rule.