

**Florida Keys National Marine Sanctuary
Restoration Blueprint Notice of Proposed Rulemaking
Virtual Question & Answer
August 16, 2022**

TABLE OF CONTENTS

1. General and Management Plan-Related	1
2. Sanctuary-Wide Regulation	7
3. Marine Zone and Associated Regulation	10

The questions and responses below were submitted and delivered as a part of the virtual question and answer. For additional details about the regulations, marine zones, and management plan please see the respective documents at:

www.floridakeys.noaa.gov/blueprint

General and Management Plan-Related Questions

- 1. How large is the FKNMS staff? What is the organizational framework?**
 - a. We have about 40 staff that work to support the FKNMS mission. This includes staff in Key Largo and Key West where we have offices. We are divided into teams that focus on different parts of our mission but that work closely together.
 - b. For example, our Resource Protection Team deals with enforcement, permits and regulations; we have a Science Team, Management Team, Buoy Team that takes care of all the mooring and marker team, we have a Media, Outreach, Volunteer and Education Team (MOVE), and Facilities and Vessel Operations Team.
 - c. It's a small group but we are mighty, dedicated and talented. Much of what we do is in partnership with other agencies and community groups. We are able to magnify our impact by working with many partners.
- 2. How does Sanctuary staff interact with partner agencies (DEP, FWCC, EPA)?**
 - a. Partnership is key to FKNMS work and how we achieve success with sanctuary management, research and operations. The revised draft management plan has an entire goal (#5) focused on advancing and supporting collaborative and coordinated management. One objective is focused on partner engagement. Sixty percent of FKNMS is located in state waters, so the state partnership is critical so these are important cooperative management partners and we have several overarching cooperative agreements with them (civil claims and damage assessment, cooperative fisheries management, law enforcement, etc.) that outline how we work in collaboration with state partners. With the Environmental

Protection Agency (EPA), we work together on water quality. The FKNMS has a Water Quality Protection Program which is administered in partnership with the state Department of Environmental Protection and EPA; this is where we do a lot of partnership work with EPA. We also partner with Department of Defense and Navy, U.S. Coast Guard, National park Service, Florida Fish and Wildlife Conservation Commission, etc.

3. What is the most positive development or trend within the Sanctuary?

- a. There are a lot of positives. Highlights include the restoration activities being implemented through multiple partnerships. A few years ago, if you went to sanctuary preservation area fore reefs, you'd rarely encounter acroporid species (APAL and ACER), two of the most structurally important corals. These species have been the focus of restoration and we've made many advancements. These corals are growing and getting large enough to reproduce. This is the third year that we've seen APAL colonies that have grown up from tiny fragments and have reached sexual maturity and reproduced. We've rebuilt the populations where we've outplanted corals and those larvae can settle in other locations and speed up recovery.

4. What is the most concerning situation now in the Sanctuary?

- a. This is more difficult as there are a number of challenges. The most difficult is climate change and its impacts to corals and other organisms, which include large scale mortality, bleaching and ocean acidification. In addition, storms are getting much more severe. These impacts are difficult for us to address specifically within the FKNMS. Collectively, however, actions in the proposed rule, Mission: Iconic Reefs, and our work with partners help address resilience to rebuild with more resilient animals, plants and the ecosystem.

5. What actions have been taken to improve the health of corals and prevent coral bleaching?

- a. That's a very complex question. If coral is stressed it is difficult to keep it from bleaching as there are different factors that can cause bleaching, anything from freshwater, warm water, water that is too salty.
- b. The main bleaching effect we are concerned about is when the seawater temperature gets too high and that combines at the same time with calm conditions that allow more light to penetrate. This is what is causing mass bleaching events all around the world.
- c. There are different actions that have been proposed to mitigate that but the challenge is that most of those are something we can only do on a small scale including pumping water into the area or shading a reef. If you have a critical area to protect, this approach is okay but it is not realistic to do it on a large scale in the Florida Keys.

- d. In the Florida Keys, we are looking at what makes a coral more resistant and resilient to the bleaching? Resistance is that they may not bleach in the first case. Resilient would be if they do bleach and can recover without dying and so these are two key components with regard to the coral and associated organisms.
 - e. One has to do with the genetic strain. For example, we know that every person is a little different and we do have different traits. Some of us have not had COVID but other people have had it two or three times and that is the same thing with coral. We are looking at the corals to find out which have higher tolerance to bleaching.
 - f. The second thing about corals is they have a unique relationship with the single cell algae. Just like with the coral species, there are different species and they have a different tolerance for the temperature.
 - g. We are putting in as many species as we can in the area. For each of the species we want as many genetic strains as we can have so they address different stressors.
 - h. The other piece is related to improving the health and resilience of the ecosystem. The measures we have identified in the proposed rule which will help the corals to tolerate the stressors associated with temperatures and bleaching and also doing things to improve habitat quality reduce nuisance species, like algae. We are also restoring sea urchins and Caribbean King Crab, which are important herbivores that can help improve the habitat.
- 6. What is the likelihood that, even if enacted in entirety, these rules will be enough to save the Keys and reverse decline?**
- a. Previous answers speak to this. Recognizing that some threats are outside our control (temp stress, storms etc.), we believe the proposals in draft rule and management plan, if enacted and executed, will help us allow the system to be more resilient. These proposals will not prevent all the threats; will not likely bring us back to a perfect situation, but it will help us move in the right direction.
- 7. How does the Sanctuary expect to enforce new regulations when the current budget for enforcement is a fraction of what it has been in the past?**
- a. This is a common question. The State of Florida is a cooperative management partner of FKNMS and we are working and continue to work with law enforcement colleagues at the Fish and Wildlife Conservation Commission (FWC), the U.S. Coast Guard, and our own NOAA law enforcement partners. It will never be enough to prevent all potential violations. However, we believe most people, if they know the rules, will follow them. We will see benefits of protection if the majority of people comply with the rules. Enforcement will remain a challenge but moving forward with additional protections is still important.

8. Does the Florida Keys National Marine Sanctuary and NOAA see this proposal as supporting the Administration's 30x30/America the Beautiful initiative? And if so, in what ways is the proposal in alignment with 30x30 goals?

- a. Yes, we believe that our proposed rule supports the Administration's 30x30/America the Beautiful initiative. This initiative includes 8 Core Principles that this proposed rule advances, some highlights are:
 - i. **Collaborative and inclusive** - this entire process has been designed to engage our sanctuary advisory council, our agency partners, and the community. The advisory council has established several issue specific working groups to further engage the community and this proposed rule is third official public comment opportunity for NOAA to hear from the community on ideas and specific proposals for how to update management of the sanctuary resources
 - ii. **Conserve for the benefit of all people** - this proposed rule includes a sanctuary boundary expansion and additional marine zones all designed to further protect and conserve the unique and sensitive marine resources of the Florida Keys.
 - iii. **Use science as a guide** - throughout this process we have used the best and most up to date information available to inform decisions. We have worked with partner agencies and organizations including NOAA Fisheries, the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service, academic researchers, among others.
 - iv. **Build on existing tools and strategies** - This proposed rule is informed by over three decades of management experience, partnership and community engagement including the use of marine zones to separate conflicting uses and protect and conserve habitats and life stages for certain organisms, stewardship programs like Blue Star and Goal Clean Seas, and research partnerships.
 - v. Other principles include:
 - 1. Supports locally led efforts
 - 2. Honor tribal sovereignty
 - 3. Pursue approaches that create jobs
 - 4. Honor private property rights and voluntary stewardship efforts
 - vi. So Yes, on a number of fronts in alignment with the administration's initiative.

9. What impact have Florida Department of Environmental Protection (DEP) and US Environmental Protection Agency (USEPA) had on improving water quality in the sanctuary?

- a. NOAA has worked with DEP and EPA on water quality improvements within the Florida Keys National Marine Sanctuary since the sanctuary's inception.
- b. DEP and EPA co-lead the sanctuary's Water Quality Protection Program (WQPP), which was the first of its kind for a national marine sanctuary.
- c. Under DEP and EPA leadership, this program is overseen by an interagency steering committee which provides recommendations for a variety of corrective actions, education and outreach, monitoring and research activities to
 - i. help understand and address sources of pollution that contribute to water quality degradation, and
 - ii. maintain the conditions necessary to sustain healthy coral reefs and other marine resources in the sanctuary.
- d. At the local level, DEP, EPA and the WQPP have contributed greatly to efforts to reduce pollutants entering marine waters. A few examples include:
 - i. Establishing the Florida Keys National Marine Sanctuary as a No Discharge Zone;
 - ii. Providing grant funding for the free mobile vessel pumpout service throughout the Keys;
 - iii. Supporting improved sewage treatment facilities throughout Monroe County, including septic to sewer upgrades and implementation of Advanced Wastewater Treatment;
 - iv. Developing water quality standards for marine waters of FKNMS and putting a Reasonable Assurance Plan in place to guide implementation of pollution controls necessary to achieve water quality standards;
 - v. Supporting the development of canal restoration guidance documents and demonstration projects to improve water quality in and adjacent to canals;
 - vi. And contributing millions of dollars to long term monitoring programs and research special studies to better understand emerging water quality issues and address specific management questions.
- e. These efforts continue through the WQPP to this day. For more information: https://ocean.floridamarine.org/fknms_wqpp/about.htm or <https://floridakeys.noaa.gov/wqpp/>

10. How can you add accountability to the Management Plan to take action to improve water quality?

- a. Accountability to improve water quality is implicit in the Management Plan and the sanctuary's Water Quality Protection Program (WQPP). The WQPP was mandated as part of the legislation that created FKNMS, and was established for the purpose of reducing pollution from point and nonpoint sources and ensuring compliance with applicable federal and state laws. The WQPP is managed by a Steering Committee composed of

federal, state, and local officials, as well as non-governmental organizations and citizens. Each agency within the WQPP has different authorities and responsibilities related to water quality, and their continued engagement with the WQPP ensures that collective action to improve water quality will continue to be a priority.

- b. We'd be happy to hear additional suggestions about improving accountability to this important topic. Please provide your comments through this process.

11. How is plastic pollution and litter impacting the health of the species in the Sanctuary and what actions can be taken to reduce plastic pollution in the Florida Keys National Marine Sanctuary?

- a. Plastic pollution is concerning in the oceans. This can cause physical and chemical harm to organisms including corals (abrasion, blocks light, reduces oxygen availability, etc.). Plastic pollution is also attributed to increased disease prevalence in corals. Plastic breaks down to microplastic (5mm in size or less). These end up in the food chain, where animals have the false impression of being full. Plastic pollution can also attract other pollutants in the water and harmful microorganisms that stick to them.

12. How much effort is made to identify those responsible for lost fishing gear and to fine those who leave abandoned fishing gear on reefs that continue ghost fishing?

- a. As most are aware, marine debris is a challenging issue for FKNMS and worldwide, but we are not aware of any specific efforts to identify hook/line fishing gear. However, traps are required to have ID and license numbers. Owners do try to recover gear as it the gear is costly. We have examples of sanctuary partnership efforts focused on debris issues. For example, Goal Clean Seas: Florida Keys works with local tour operators and the community to address the debris issue post Irma. We also partner within NOAA, Marine Debris Program website has links to all programs in Florida and Florida Marine Debris Plan, outlines efforts of many partners.

13. Current water quality studies have indicated pollution in nearshore waters off of Marathon, where a series of shallow wastewater injection wells are utilized. What can the Sanctuary do about this apparent point-source problem?

- a. As noted in the management plan component of the Restoration Blueprint under Goal 2, Objective 2.1, the Florida Keys National Marine Sanctuary will continue to engage with the Water Quality Protection Program to achieve water quality improvements. This water quality concern is exactly the type of issue to be addressed within the Water Quality Protection Program, especially due to the variety of regulations and agency authorities associated with installing and maintaining wastewater systems and ensuring compliance with water quality standards. In 2020, the WQPP adopted a updated set of water quality priorities, which included several

related to wastewater systems and one specific to researching shallow wells to determine their impact on water quality. The WQPP agrees that it is important to protect nearshore water quality, and shallow wells have indeed been identified as a potential challenge. Data, however, is first necessary to confirm whether effluent from shallow wells a) is emerging in nearshore waters, and b) if that contributes to degraded local water quality. The WQPP recommended a special study to investigate these questions, which has subsequently been funded by the EPA. That study is in progress and the results will help inform future discussions within the WQPP about what additional actions may be necessary relevant to this issue.

14. What are the efforts to protect Gag Grouper?

- a. The proposed rule does not include measures protecting individual species but rather the ecosystem more generally. Our measures are to protect habitats and certain vulnerable life stages.

15. Our President has proposed to eliminate the use of fossil fuels by the end of the decade to arrest sea level rise. Sea level rise is a grave danger in the Florida Keys. Why doesn't the blueprint include a plan to phase out fossil fueled government vessels from sanctuary use, and prohibit privately owned and operated fossil fueled vessels from the sanctuary by the end of the decade?

- a. Our draft management plan, which is part of the Restoration Blueprint, under Goal 5 details our efforts to support collective and collaborative efforts for efficiency and effectiveness. An objective within this goal includes obtaining and maintaining infrastructure to support our mission. ONMS as a whole is interested in and has explored transitioning to greener vessels. However, costs of that transition at this time is prohibitive; we will continue to explore as costs decrease.

16. Will any resources be made available in Spanish?

- a. Unfortunately not at this time.
- b. We had funds allocated for Spanish translation of some of these materials and those funds had a deadline of use prior to when associated materials for this proposed rule were final.

Sanctuary-Wide Regulation Questions

17. You are proposing to prohibit the feeding and attracting of fish, including sharks, from any vessel or while diving. What science is backing this proposal?

- a. The impacts of feeding wild fish for viewing has been a controversial issue with a range of opinions.

- b. A detailed study conducted in 2018, [Feeding Wild Fish for Tourism](#) reviewed 58 peer reviewed studies, some findings include:
- 1) Feeding can prevent fish from interacting naturally with their environment including changes in species distribution and behavior,
 - 2) the practice habituates the fish to divers and boats,
 - 3) feeding events aggregate predatory fish and exacerbate predatory behaviors, resulting in interference competition and makes the fish vulnerable to increased predation,
 - 4) There are also documented negative health effects due to food that is not nutritionally balanced (such as bread or cheese), and
 - 5) and there are considerable reports of increased risk of injury to tourists.
- c. NOAA received comment during the Restoration Blueprint process that (shark) feeding prohibition language was introduced on the mistaken concept that feeding sharks for purposes other than harvesting “trains” the animal to associate swimmers and divers with a source of food. Comments provided examples of species where this has been discounted - great white sharks, tiger sharks, cage diving - but the effects depend on species. We have black tip (back country and shallow reefs) and reef sharks (shallow reefs), bull sharks, nurse sharks; lemon (shallow back country flats), hammerhead sharks, and tiger sharks - several of these are very shy and wary of dives, and several are relatively rare. Certain of these are considered dangerous - such as the tiger shark and bull shark, and they can exhibit aggressive behaviors when fish, bait and other foods are present regardless of whether they are accustomed to being fed. But the more common sharks seen on the reefs - black tip, reef sharks and bull sharks are usually skittish and avoid divers, but they will become aggressive if a food source is dropped into the water.
- d. The proposed new fish feeding regulation is additionally based on existing state rules, public comment, consultation with agency partners, and input from fisheries experts. NOAA is seeking comments on the numbers, scale, and types of activities related to feeding and attracting fish, including sharks, or other marine species that currently occur within the sanctuary to aid in determining whether permits should be issued to existing operators and what terms and conditions would be appropriate for such activities.

18. What is considered feeding fish? Is chumming included?

- a. There is no change proposed to the current discharge exception for fish, fish parts, chumming materials, or bait used while conducting traditional fishing.

19. How long does it normally take to do a one-off rule change in National Marine Sanctuaries? Not this kind of comprehensive overhaul of the entire management plan/regulations, but a specific fix to a specific single problem. Is 180+180 days enough time to do a full rule making process if that is what is needed?

- a. FKNMS currently has emergency rulemaking authority and has used that tool a handful of times to address emerging threats to sanctuary resources. The current timeline associated with emergency regulations is 60 days emergency rule with one 60-day extension, which we have learned isn't sufficient if a full rulemaking process (for example, to enact permanent protection to a threatened area) needs to occur. For example, if we identify a resource threat and need to enact permanent protection. NOAA is proposing the updated 180+186 day-extension timeline because we believe it will be sufficient to undertake a rulemaking if that is warranted. However, this doesn't predetermine that a rulemaking will occur. This timeline also aligns with NOAA National Marine Fisheries Service emergency regulations under the Magnuson Stevens Conservation Act.

20. In the DEIS for the Blueprint, Alternative 4 proposed expanding the existing idle speed/no wake zone along all residential shorelines Sanctuary wide in order to protect shallow water habitats and wildlife, including nesting areas for birds. Why was this expansion not included in the draft rule?

- a. We received a fair amount of public and agency comments that both supported and opposed this proposed expansion of the existing idle speed no wake along all residential shorelines to apply to all shorelines.
- b. We considered all comments but ultimately did not carry this proposal forward in the proposed rule due to several factors including the number of exceptions that may be required for channels, passes, the need to access deeper areas nearshore, and the ability to enforce and educate about this proposal.
 - i. While these ideas would provide necessary protection for vulnerable sanctuary resources including potential impacts from climate change and sea level rise, we are pausing our consideration at this time to ensure they are fully crafted in the best places to achieve those protections, while balancing user access. This is something that we can consider at a future date.

21. Members of Safer, Cleaner Ships have asserted that silt in the ship channel, which gets churned up by large ships, is damaging the reef. If this is true, why doesn't the restoration blueprint call for periodic silt removal in the ship channel?

- a. The proposed rule includes an updated discharge regulation that would improve water quality by eliminating discharges from cruise ships, which are among the largest vessels that transit the sanctuary. The focus on discharges builds upon previous rulemakings by NOAA and public comments associated with them. Maintenance of the federal Key West navigation channel within the sanctuary is under the authority of the US Army Corps of Engineers, however, the Corps would coordinate with FKNMS if it proposed any project in this location.

22. Members of the local community report frequently observing waste oil being dumped in the water by ship crews. Why doesn't the restoration blueprint include a mechanism, such as a telephone or marine radio for the Coast Guard watchstanders, so that these concerned boaters could contact the Coast Guard immediately and these actions be stopped?

- a. Dumping waste oil into the sanctuary has been prohibited since the original FKNMS regulations became effective in July 1997. Because multiple state and federal agencies have jurisdiction over various resource protection issues, FKNMS has placed a [link on its homepage](#) for the past several years that directs readers on where to report specific environmental violations.

23. There was a proposal years ago to re-dredge the main ship channel to give vessels more clearance from the bottom. Now that the City of Key West has reduced its cruise ship capacity by 2/3, the risk of larger ships has diminished. Why doesn't the Blueprint call for a study to determine whether a deeper channel would reduce any harmful effects of large ships?

- a. Maintenance of the federal Key West navigation channel within the sanctuary is under the authority of the US Army Corps of Engineers. The revised draft management plan, which is a companion document to the Proposed Rule, sets out goals and objectives, as well as priority themes, for the sanctuary for the coming years. Water quality is one of the priority themes; however, in the Draft Environmental Impact Study process, NOAA did not identify that a specific study on the depth of the ship channel was a priority at this time. We welcome comments to the public record regarding this need.

Marine Zone and Associated Regulations Questions

Management Areas

24. It appears the 132 square mile (approximate) no anchor zone adjacent to Pennekamp has been dropped from the Blueprint. Is that correct?

- a. Correct. The proposal for No Anchoring in the existing Key Largo Management Area is not included in the proposed rule. However, public comment indicated support for additional, targeted no anchor regulations where needed to provide additional protection for sensitive habitats.
- b. No anchoring includes anything that attaches to the seafloor including power poles and push poles.

Conservation Areas, Restoration Areas, and Sanctuary Preservation Areas

25. Was network connectivity among marine zones a consideration during this rulemaking? Can you point to ANY examples of areas of interconnected habitat in the Draft Rule?

- a. Yes, this is an important scientific measure for the existing and proposed marine zone changes. We considered this both specific zones and in our proposed boundary change to incorporate Pulley Ridge. A few specific examples follow.
 - i. Proposing to incorporate Pulley Ridge into the FKNMS boundary. This is the deepest known community that supports shallow water corals in U.S. waters. Pulley Ridge has been shown to be connected to the Tortugas - and the Lower Keys, specifically for some of the larger grouper species and the barrel sponges, and for certain corals that have a longer dispersal phase of larvae there is connectivity between deep habitats and the mid depth and shallow reefs. One of the most important is large cupped star coral (mcav) which is one of the most important reef frame building corals and it suffered large losses in shallow water as a result of Stony Coral Tissue Loss Disease in shallow water. This is an important population that can help reseed other areas.
 - ii. The second example is with the protected areas in the Tortugas. We established two Ecological reserves Tortugas Ecological Reserve North and South. One reason to protect Tortugas Ecological Reserve South was due to a spawning aggregation site near Riley's Hump for mutton snapper. This aggregation had declined to a few dozen fish when the area was established. The protective measures here protected mutton snapper in that area and within 5-6 years the biomass, size of individual fishes and numbers of reproductively mature increased. These fish were shown to migrate between Tortugas National Park and Riley's Hump during spawning season, leading to recovery of the spawning aggregation.
 - iii. One of the intents of protection of large contiguous habitats such as Western Sambo is to ensure that interconnected habitats including mangroves, seagrass beds, hardbottom and reef habitats utilized by different life stages of fishes and invertebrates and the migratory corridors between these are protected to ensure that the most vulnerable phases of their life are protected and to provide more of a chance that they can successfully settle in a particular habitat and have the refuge and feeding grounds they need to reach maturity and spawn. For example, some move off the reef into deeper waters (90') to protect corals, lobsters (spawning) and snapper spawning aggregations.
- b. In addition, one aspect of the Restoration Blueprint in the management plan describes our restoration activities. As we identified our strategy for Mission: Iconic Reef work, connectivity was one of the main criteria for site selection. we looked at when selecting sites. The design is in part to ensure corals to survive long enough to achieve reproductive maturity and to be a source for downstream reef sites.

26. The DEIS Alt 4 included larger marine zones, such as the Tortugas Corridor and a shoreline-to-reef SPA at Carysfort Reef. Can NOAA clarify why the Tortugas Corridor was not included in the proposed rule? In addition, while the current proposed extension of the Carysfort SPA is an improvement over the status quo, why was the prior option with a shoreline to reef zone not selected?

- a. Yes, the 2019 DEIS included proposals to establish three large, contiguous Conservation Areas in the sanctuary (Carysfort Reef, Long Key and Tennessee Reef, and Tortugas Corridor). Intended to further protect interconnected habitats and various stages of marine life.
- b. We received many public and agency comments related to these proposals including:
 - i. Supportive of the value of providing these additional ecosystem-level management and protection, and
 - ii. general concern about loss of access and opportunity for use in all the proposed areas.
- c. While these larger areas are not included in the proposed rule, the specific zones proposed in the 2019 DEIS alternatives and the overarching concept of protecting diverse, connected habitats, are topics NOAA may explore more robustly in the future. We did add specific zones that encompass at least portions of these such as Turtle Rocks that protects mid channel habitat, that works in conjunction with Carysfort SPA.
- d. Tortugas was proposed as a migratory route from Tortugas National Park to Riley's Hump in Tortugas South. There was concern that there wasn't enough science in this area to justify the need for that protection.
- e. NOAA is interested in continuing to explore this issue and this could include establishing an interagency team to evaluate the merits of a carefully designed network of marine reserves as recommended by FWC in their agency comment letter.

27. Riley's Hump in Tortugas South Ecological Reserve has been identified as an important spawning aggregation site for several snapper and grouper species. Is there any protection in place for a migratory corridor to and from spawning sites within the Tortugas Region?

- a. The proposal to expand the Tortugas South marine zone is to extend the zone one mile to the west. This marine zone currently includes Riley's Hump. The expansion would include additional area shown to support additional fish spawning activity. The DEIS had included a migratory corridor for mutton snapper from Dry Tortugas National Park to Riley's Hump, however we are still collecting information to determine how important the corridor is.
- b. Through the public comment on the DEIS, we received comment about the challenges of this proposed Tortugas Corridor and how it would affect communities working in the area.
- c. Currently, we are not proposing a Tortugas Corridor marine zone.

28. Does the Blueprint propose any protections (such as no fishing or lobstering) for permitted coral nurseries in the Keys? If so, which nurseries and what are the protections?

- a. The proposed rule includes a new Restoration Area zone type within which there are two types:
 - i. Habitat Restoration Areas would protect sites where active coral transplanting and restoration activities are ongoing. These areas would be managed with the same regulations that apply to SPAs to provide for access and educational opportunities while prohibiting discharge, fishing, and anchoring. In the proposed rule there are four proposed Habitat Restoration Areas.
 - ii. Nursery Restoration Areas would encompass existing nursery areas and would be regulated similar to Conservation Areas to provide the highest level of protection to sensitive corals and other organisms while they are being propagated. These regulations would prohibit discharge, fishing, and anchoring, and would require that vessels remain in transit through the area. The proposed rule includes nine Nursery Restoration Areas.
 1. At the time the proposed rule was developed all existing permitted coral reef nursery sites were included. Since that time, additional nursery sites have been established.
 2. If needed, NOAA could use the Temporary Regulation for Emergency and Adaptive Management to establish temporary protections for these sites and, if needed, go through a full rulemaking to establish more permanent marine zones.

29. The Islamorada Coral Gardens, located off of Upper Matecumbe, do not have any zone protections under the draft rule. The corals in this area are of similar size and quality to those at Cheeca Rocks. Did the Sanctuary consider adding any type of protections to this area?

- a. As we were reviewing public and agency comment specific to the areas around Cheeca Rocks SPA and specific to protecting coral reef restoration sites, we did consider proposing one large marine zone to encompass the existing Cheeca Rocks SPA and the two proposed new Cheeca Rocks East and Cheeca Rocks South Habitat Restoration Areas. If we had gone forward with that larger area, it would have encompassed Islamorada Coral Gardens.
- b. However, ultimately decided to propose individual marine zones in this area:
 - i. To explicitly protect the coral reef restoration sites as we are in other locations
 - ii. To balance the resource protection goals with providing the greatest level of user access.

30. The Cheeca Rocks SPA map indicates that all three zones (including east and south) are part of the SPA, but the legend and description indicates that the east and south areas are habitat restoration areas. What activities are prohibited in the habitat restoration area that are not in the SPA? Why was the Cheeca Rocks area parceled out? Due to the activities in the area, it seems like the zoning should be contiguous in this area.

- a. The regulations for Sanctuary Preservation Areas and for Habitat Restoration Areas are the same which are:
 - i. no discharge regulation (except for engine cooling water)
 - ii. No take
 - iii. No anchoring
- b. As noted above, Cheeca Rocks includes three distinct marine zones:
 - i. To explicitly protect the coral reef restoration sites as we are in other locations
 - ii. To balance the resource protection goals with providing the greatest level of access.
- c. Informed by public and agency comment and given the increase in important habitat restoration activities in the sanctuary over the past two decades, NOAA's proposed rule includes a new Restoration Area zone type.

31. Is French Reef being removed as a sanctuary area or was that a map error? If so, why remove an established sanctuary area that is already marked and known?

- a. That is not an error. The proposed rule includes a proposal to eliminate five existing marine zones, two existing wildlife management areas, two existing sanctuary preservation areas, and one special use management area.
- b. These marine zones are proposed to be eliminated as they are no longer serving their original purpose and intent.
- c. Specifically, for the two proposed sanctuary preservation areas:
 - i. Rock Key SPA (also proposed for elimination) was established due to the flourishing Elkhorn coral population which is now nearly gone. Sand Key and Eastern Dry Rocks are nearby zones that have similar habitat types and reef structure. These sites have lost 99% of wild elkhorn at these locations; Eastern Dry Rocks is a Mission Iconic Reef site where we are working to restore the coral community including elkhorn coral. This will allow for comparative data between SPA + restoration; SPA + no restoration; and an open area where all use is allowed. Removing the SPA designation allows comparison studies to be done between similar areas with different levels of protection and active management.
 - ii. French Reef and Molasses Reef are a similar example in the Upper Keys where sanctuary managers can compare impacts from users on resources between areas that are designated as SPAs and those that are not. These are forereef locations in the upper Keys

with high relief spur and groove habitat. These areas have similar structure, coral and fish communities. Both contain remnant elkhorn coral thickets (which used to dominate shallow fore reefs in the Keys). By opening French Reef, we will have this as a site where we can compare anchoring and no anchoring areas and determine what sort of impact anchors have on these reef environments.

- d. Again, we welcome public comment on these specific proposals.

32. Will mooring balls remain at French Reef?

- a. Yes. For both of the SPAs that we are proposing to remove, we would maintain the mooring balls at these locations (French Reef and Rock Key).

33. In reading the rules regarding the SPA's, there will be no allowance to anchor in the sand any longer. Is that correct? Is there any possibility that shallow SPA's like Grecian Rocks or Dry Rocks would allow for anchoring in the sand?

- a. Current regulations in the Sanctuary Preservation Areas and Ecological Reserves have some restrictions on anchoring, such as prohibiting anchoring if a mooring buoy is available.
- b. The proposed rule includes no anchoring in all SPAs. This is intended to protect sensitive habitats within those SPAs and to create clear and consistent regulations for easier understanding, compliance and enforcement.
- c. The existing anchoring regulations prohibit:
 - i. Having a vessel anchored on living coral other than hardbottom in water depths less than 40 feet when visibility is such that the seabed can be seen.
- d. In all other Ecological Reserves and Sanctuary Preservation Areas:
 - i. Prohibiting the placement of any anchor in a way that allows the anchor or any portion of the anchor apparatus (including the anchor, chain or rope) to touch living or dead coral, or any attached living organism. When anchoring dive boats, the first diver down must inspect the anchor to ensure that it is not touching living or dead coral, and will not shift in such a way as to touch such coral or other attached organism. No further diving shall take place until the anchor is placed in accordance with these requirements.
 - ii. anchoring instead of mooring when a mooring buoy is available or anchoring in other than a designated anchoring area when such areas have been designated and are available.

34. Does a no anchor zone include power poles and push poles?

- a. In creating no anchor sanctuary preservation areas, the proposed rule also includes a definition for anchoring. In the current proposal, this is securing a vessel to the seabed by any means, which would include a power pole or push pole.

35. If ‘No Anchor’ in the SPA’s become the rule, are there plans and funding for more anchor balls?

- a. Yes, recognizing that if we increase the amount of no anchor area, we want to allow for continued use and enjoyment of those areas, which means installing additional moorings. How many and where is a question that we still need to examine. We have begun initial discussion on this with the Sanctuary Advisory Council.
- b. The Sanctuary Advisory Council has approved establishing a Buoy Working Group (to include members from the SAC and the community) to provide advice and recommendations to the sanctuary regarding the buoy program. Topics they will consider include:
 - i. Marking of zones
 - ii. Parameters for mooring buoy placement
 - iii. Mooring buoy numbers and locations
 - iv. Innovative use of buoys to advance management and visitor use goals
 - v. Additional partnership and funding opportunities
- c. That working group is expected to start meeting in January 2023, after the close of the public comment period.
- d. We have received funding from Tourism Development Council in Monroe County to support additional moorings. We are already working to increase capacity to provide mooring buoys to allow for continued enjoyment of the SPAs.

Wildlife Management Areas

36. The wording for the Crocodile Lake WMA has changed from ‘No Access’ to ‘No Entry’. Is this just semantics?

- a. The proposal to change the existing no access buffer zone regulation to no entry is to be more consistent and align better with similar State of Florida marine zones and regulations.
- b. While very similar, there is a slight difference in the access restrictions:
 - i. No Access Buffer Zone means a portion of the Sanctuary where vessels are prohibited from entering regardless of the method of propulsion. Technically, an individual could swim into a no access buffer zone.
 - ii. No Entry Zone means all vessels and all persons are prohibited from entering the area.

37. Can you help me understand what ‘No Entry’ means in the Crocodile Lake WMA and Lake Surprise WMA? I can’t seem to find exactly what the rules are. I.E. don’t go on shore, there is a 10’ setback, no fishing etc. Are the rules the same for all ‘No Entry’ sites?

- a. Yes, the access restrictions for No Entry zones are the same for all No Entry zones (prohibited from entry by people and vessels).

- b. One of the goals of the proposed rule is to create consistency among our individual zones and regulations, where possible, and also to be consistent with state regulation terminology.
- c. Specific to Crocodile Lake WMA:
 - i. Existing regulations: No-access buffer zone (100 feet) along shoreline between March 1 and October 1.
 - ii. Proposed regulations: Year-round no entry within 300 feet (100 yards) of shorelines with the exception of the area around Steamboat Creek. This still provides shoreline protection during nesting season and year-round.
- d. Specific to Eastern Lake Surprise WMA:
 - i. Existing regulations: Idle speed only/no-wake zone east of highway U.S. 1.
 - ii. Proposed regulations: Idle speed no wake; Adds a no entry within 300 feet (100 yards) of the northern half of the shoreline (this area was previously in Crocodile Lake WMA, has been included in the eastern Lake Surprise WMA); this also includes no entry in the canal and basin on the southeast side
- e. Note the [summary document](#) that outlines the proposed changes from status quo to the proposed rule.

38. Can Steamboat Creek still be used? Map indicates no entry but also see 'Exclude Steamboat Creek' in WMA documentation.

- a. Steamboat Creek can still be used. This exception was directly informed by public comment on the Draft Environmental Impact Statement alternatives. Have left the shoreline areas around Steamboat Creek available.
- b. If you are using the static map, it is difficult to see that level of detail at that scale.
- c. If you use the interactive map and zoom into the area around Steamboat Creek you will see that the shoreline adjacent to Steamboat Creek is not included in the No Entry zone.
- d. The best tool to see this level of detail is through the [interactive map](#).

39. For Pigeon Key (the one near Key Largo), will the proposed new Wildlife Management Area with no entry provisions restrict snorkeling up to the mangrove shoreline or anchoring or boating near Pigeon Key?

- a. Yes, as proposed the no entry regulation means all vessels and all persons are prohibited from entering the area. This is an important nesting site for frigate birds, mangrove snakes, and other sensitive species.

40. What is the difference between Pelican vs. Pigeon Key in the Upper Keys

- a. These are two separate islands, both of which are important for roosting and nesting wading birds. Pelican Key is in Buccaneer Point near Sunset Cove; Pigeon Key is further south and west, closer to Hammer point area. Both of these are proposed new no entry wildlife management areas.

41. Due to increased boat traffic from the Buccaneer Point neighborhood, can no wake markers be installed east of Pelican Key towards the canals and the Key Largo Everglades National Park headquarters to protect the shallow grasses and manatees feeding in that area?

- a. Current FKNMS regulations require vessels to operate at idle speed within 100 yards of residential shorelines, and in the Proposed Rule this regulation remains in place with only technical edits to terminology to conform with state rules. Portions of the shoreline to the south of Pelican Key are covered by this regulation, however the shoreline east of Pelican Key and to the northeast of the Everglades National Park property are not zoned as a residential shoreline (but instead as a Natural Area or Suburban Commercial) so this regulation would not apply here. However, state agencies such as FWC and local municipalities such as Monroe County are able to designate idle speed zones within their jurisdiction to apply specific protections to areas experiencing problems,

42. Can a mooring buoy be installed to protect the grasses at Pelican Key?

- a. As noted, the proposed rule includes a no entry area at Pelican Key.
- b. The Sanctuary Advisory Council has approved establishing a Buoy Working Group to provide advice and recommendations to the sanctuary regarding the buoy program. Topics they will consider include:
 - i. Marking of zones
 - ii. Parameters for mooring buoy placement
 - iii. Mooring buoy numbers and locations
 - iv. Innovative use of buoys to advance management and visitor use goals
 - v. Additional partnership and funding opportunities
 - vi. That working group is expected to start meeting in January 2023.
- c. The intent is to consider the sanctuary wide approaches and need for marker, informational, and mooring buoys.
- d. This effort would also be informed by comments on this draft rule.
- e. Consideration of buoys at Pelican Key would be part of this discussion.

43. Can Pelican Key continue to be used as an important location for education and ecotourism?

- a. Pelican Key is proposed to be a no entry area of 100 yards (300 feet) around the entire island to decrease disturbance to manatees and roosting and wading birds.
- b. Activities for education and ecotourism can still occur outside of this 100-yard no entry zone.

44. For Pelican Key, bayside. WMA. There is a new negative effect, not known about when the RB was created. Seaplanes land and take off near the island and also fly low over it when flying over it from areas to the south. This creates potential collision events with the high-flying birds here (vultures, pelicans, frigates) and especially disturbs the 4 threatened bird

species at the island. Other NMS have rules that seaplanes cannot land within one mile of bird islands. The proposed no entry zone is great but won't protect from seaplanes. Is there a way to consider adding a regulation as other NMSs have?

- a. The first thing to reiterate: the proposals in the DEIS and the subsequent proposals in the NOPR being reviewed now, have been based on best available information we had at the time and numerous agency and public comments. We cannot know everything about all situations, and use patterns and situations change.
- b. Would like the questioner to consider submitting formal public comments through this process so we have this new information captured.
- c. This type of situation is exactly what we envision when we talk about the proposed updated temporary regulation for emergency and adaptive management. SAC has been calling for FKNMS to undertake more rapid management responses to address emerging threats just like this. The proposal is to update that existing regulation by expanding the timeframe when a temporary regulation can remain in place.
- d. A few other proposed changes to the temporary regulation for emergency and adaptive management; Include purposes for which NOAA would issue temporary regs and set out a procedure by which a temp reg would be undertaken (Documenting our compliance and addressing comment requirements under federal law; would also require state approval for temporary regs in state waters). Envision this more flexible adaptive tool at our disposal.
- e. Look at the revised temp and emergency reg and provide comments on that as well.

45. Why are you designating Pelican Key, an island accessible to most kayaks and paddleboards, as 'no entry' when there are over 200 protected mangrove islands nearby in Everglades Natl Park, which are too far for anyone to enjoy?

- a. This was a proposed new marine zone included in the DEIS. The alternatives in the DEIS included proposing this area as a no motor zone or no entry zone this location. The no entry zone proposed in the proposed rule is informed by public and agency comment and updated resource protection data - including use of the island by white crowned pigeons, frigate birds, and manatees. The no entry areas provide protection to decrease disturbance to sensitive species.

46. About Pelican Key. Can the Restoration Blueprint add a proposal to prohibit commercial fireworks within perhaps one mile or more of Pelican Key. I have personally witnessed the disappearance of four threatened bird species following each large commercial fireworks display, often for the benefit of nearby wedding venues. White crowned pigeons have returned, 20 or so, but the large (over 100) colony left in June 2019 after multiple commercial fireworks. It was the middle of their mating season. The large

colony has not returned. Three other threatened bird species also have disappeared after each fireworks display and do not return for days to weeks (tri-color herons) or even for years (snowy egrets, little blue herons).

- a. Addressing fireworks specifically isn't included in the proposed rule. There are multiple issues in the Florida Keys that fall under the authority of other agencies. Fireworks are permitted by the county, local municipalities, and USCG. The sanctuary specific nexus is with discharge.

47. The Whitmore Bight WMA outlines a no motor area. There is an additional flat just south of Pennekamp channel in that area that is just as, if not more, shallow than the Whitmore Bight area and contains the same habitat. This area is popular for flats fishing as well. Did the Sanctuary consider this area in creating the WMA?

- a. If you are referring to the area that is an existing John Pennekamp Coral Reef State Park no motor zone, yes we did consider including this within the proposed Whitmore Bight no motor zone.
- b. This area is referred to as Airport Flats adjacent to South Sound Creek channel. Understanding that there are many jurisdictions, we determined that expanding this area into an existing Florida State Park no motor zone would duplicate the regulation without providing additional protection; thus the Whitmore Bight WMA was not proposed to be expanded to this area adjacent to the south bound creek channel.

48. Expanding the Rodriguez Key no motor zone is removing/expanding popular areas for safe public enjoyment along the north and east side of the island. Public is just going to be displaced to other areas or require enforcement that is not budgeted or popular. Could the board consider adjusting the more popular areas back to current boundaries and making less popular areas "no entry" to promote habitat?

- a. Wildlife management areas are generally designed to protect shallow water habitats and species dependent on those habitats.
- b. The proposed WMAs aim to balance resource protection with compatible uses.
- c. The modified and/or proposed new wildlife management areas included in the proposed rule generally favors sanctuary resource protection over access where biological and impact data demonstrate a need; however, the least restrictive access regulations and zone size needed to meet the resource protection goals are proposed.
- d. In Rodriguez Key area, this proposed expanded marine zone is intended to:
 - i. Decrease disturbance of a variety of birds, fish, and the benthic community including seagrass and hardbottom habitat, on which these species depend. The shallow seagrass flats in this area have been impacted by vessel groundings and exhibit light-to-severe prop scarring.

- e. We've also had some questions about what is intended by a no motor zone.
 - i. *No motor* means the use of internal combustion motors is prohibited. A vessel with an internal combustion motor may access a no motor zone only through the use of a push pole, paddle, sail, electric motor, or similar means of operation, but is prohibited from using its internal combustion motor.
- f. We welcome public comment on this proposed marine zone and other areas you reference.

49. Tavernier Key "no anchor" zone on public access northwest corner of flat is going to displace people to other areas or require enforcement that is not budgeted or popular. Could the board consider adjusting the northwest corner to current access rules and allow anchoring access while making less popular areas "no entry" to promote habitat?

- a. Similar to Rodriguez key - this is an existing no motor zone. You can go into the area, you just cannot operate a motor there. This also has an additional no anchoring regulation.
- b. Tavernier Key is an existing no motor wildlife management area
- c. The proposed rule includes a slight expansion of Tavernier Key from 1.6 to 1.7 square miles and the addition of no anchoring. These proposed modifications are intended to:
 - i. Decrease disturbance to a variety of birds using the area for nesting, roosting, and foraging, and
 - ii. Protect shallow water habitat used by various fish species
 - iii. Due to vessel impacts, no anchor zone will eliminate habitat damage caused by people entering the area with motors.

50. The island of Pigeon Key on the Seven Mile Bridge suffered significant land loss as well as the loss of nearly 70 percent of its mangroves in hurricane Irma. With that loss, the erosion to the island from standard and especially king tides as well as boat traffic continues to see alarming rates of erosion to the historical and cultural resource. Is it possible to designate a certain distance in all directions from the island of Pigeon key as an idle speed/ no wake zone, perhaps 1/4 of a mile from its shores?

- a. Current FKNMS regulations require vessels to operate at idle speed within 100 yards of residential shorelines, and in the proposed rule this regulation remains in place with only technical edits to terminology to conform with state rules. Because Pigeon Key is not zoned as a residential shoreline or zoned as Monroe County residential land use district (but instead a Park and Refuge District) this regulation would not apply here. However, local municipalities such as the City of Marathon and Monroe County and FWC are able to designate idle speed zones within their jurisdiction to apply specific protections to areas experiencing problems. That may be a potential avenue to address this issue/concern.