

January 30, 2020

Sarah Fangman
Superintendent
Florida Keys National Marine Sanctuary
33 East Quay Road
Key West, FL 33040

Re: Florida Keys National Marine Sanctuary Restoration Blueprint

Dear Superintendent Fangman:

The National Marine Manufacturers Association (NMMA) appreciates the opportunity to provide comments on the National Oceanic and Atmospheric Administration's (NOAA) draft environmental impact statement for the Florida Keys National Marine Sanctuary (FKNMS), also known as the Restoration Blueprint. The FKNMS is a critical marine habitat and destination for recreational boaters and anglers all over the world, with millions visiting each year. Understanding the significant pressure on the Sanctuary and changing environmental conditions, we support a plan that responsibly balances resource protection with user access.

By way of background, NMMA is the largest recreational marine industry trade association in North America. Our nearly 1,400 members represent boat, engine, accessory and trailer manufacturers and collectively produce eighty percent of marine products sold in the United States. Recreational boating is a major contributor to the U.S. economy contributing \$170 billion in economic impact and supporting 35,000 marine businesses and 700,000 employees. Florida is the largest boating state in the country with an economic impact of \$23.3 billion. As part of its fundamental mission to grow boating participation, NMMA recognizes the need to ensure the environmental health of our waterways.

We appreciate NOAA's collaborative and deliberative work to develop this proposal – which is the first comprehensive review and update of the Sanctuary's boundaries, regulations, and marine zones since 1997. Consistent outreach to industry, consumers, and stakeholder partners is valued. NMMA has been highly engaged with the considerations contained herein for the past decade, participating in Sanctuary Advisory Council meetings and public engagement opportunities.

Recreational boaters and anglers are our country's original conservationists. Whether our members' customers are fishing, waterskiing, swimming or cruising, they not only support, but demand clean water and healthy ecosystems. NMMA supports NOAA's efforts to develop workable, uniform national standards for recreational boaters that will promote environmental sustainability and protect important marine environments for future generations. Our comments most closely align with Alternative Option 2, while offering the following feedback and revisions to Alternative 3, NOAA's preferred plan.

Executive Committee

Chairperson
Ben Speciale
Yamaha Marine Group

Vice Chairperson
Steve Heese
Chris-Craft Corporation

Treasurer
Scott Deal
Maverick Boat Company

Secretary
Ned Trigg
Dometic Corporation
Marine Division

BMD Representative
Doug Smoker
Smoker Craft, Inc.

EMD Representative
Ron Huibers
Volvo Penta
of the Americas

MACD Representative
Steve Tilders
Xylem Inc.

Member at Large
Bill Watters
Syntec Industries

President
Frank Hugelmeyer
NMMA

General Support for Restoring FKNMS

In general, NMMA supports Alternative Plan 2 because it balances recreation access while providing much-needed protections to critical natural resources. It is imperative to our community, industry and way of life that the Florida Keys remain healthy for generations to come. The need for the proposed action is based on widespread, acute, chronic, and emerging threats to marine resources in the Florida Keys. The existing marine zones and management plan activities designed and implemented by FKNMS in 1997 are no longer adequate to ensure the long-term health and protection of this ecosystem. We applaud NOAA for presenting a comprehensive and detailed plan for management and appreciate that proposals attempt to present narrowly targeted resource management.

Since the 2011 FKNMS Condition Report – which found that resources in the Florida Keys generally appear stable or in decline – the FKNMS has been impacted by Hurricane Irma, a coral disease outbreak, a seagrass die-off and many other threats. Most recently, NOAA announced findings that 2019 was the second hottest year on record for Earth and recorded the second highest global sea surface temperature in NOAA’s 140-year climate record. In addition to rising temperatures and an increased frequency of extreme weather events, we cannot ignore other factors that are causing environmental degradation to the Florida Keys, particularly poor water quality runoff from the Everglades. We recognize, however, this plan cannot address factors outside NOAA’s jurisdiction, but it also should not place all the burden on recreational boaters and anglers to fix environmental issues that they have not precipitated.

The Florida Keys support more than 77,000 residents and approximately 5.5 million visitors, who collectively contribute to the \$4.7 billion economy. Approximately 60 percent of the economy is tied directly to marine-related activities, including recreational fishing and boating. When National Marine Sanctuaries were first established, Congress made it clear that sanctuaries are to be managed in a way that maintains environmentally sustainable public and private access. Section 304 of the National Marine Sanctuaries Act (NMSA), recognizes recreation as a designated purpose which deserves protection and consideration in sanctuary management. (16 U.S.C. 1431). Maintaining the status quo of a declining marine environment will put the economy and jobs at risk. Consideration of how these regulations will impact the economy of the Florida Keys, south Florida, and overall visitation to the Sanctuary must be factored. Extensive restrictions on access will discourage visitation to the FKNMS and may unnecessarily move pressure to a nearby area.

Collaborative and Coordinated Fisheries Management

NMMA supports the goal established within the Restoration Blueprint to advance and support collaborative and coordinated management. As it relates to fisheries, NMMA encourages NOAA to maintain and strengthen cooperative management with state, federal, and local partners to advance shared resource management priorities. With 65 percent of FKNMS in state waters, NMMA recommends that fisheries decisions be separately managed by Florida Fish and Wildlife Conservation Commission (FWC), in coordination with the Gulf of Mexico and South Atlantic Fishery Management Councils. FWC is an international leader in fisheries management, has an

effective track record of coordinating with federal jurisdictions, and maintains significant scientific research regarding changing fisheries and management options. Somewhat similar to the recently proposed Biscayne National Park fisheries management plan, NMMA would support a workable framework where fisheries management within the Sanctuary was separately outlined and agreed to by FWC and NOAA. This action would develop a consistent set of fisheries regulations within the Sanctuary and alleviate the current burdensome task that recreational boaters and anglers experience while attempting to follow the law.

Allocating Appropriate Resources to Law Enforcement

NMMA and the recreational boating and angling community is concerned regarding the lack of sufficient law enforcement presence and resources within FKNMS. Most of the current law enforcement within FKNMS is directed by FWC, with an estimated fifty-six officers patrolling nearly 4,000 square miles of water. With the anticipated expansion of the Sanctuary that would encompass an additional 741 square miles -- along with many new and modified zones -- the absence of sufficient law enforcement, so desperately needed to achieve the goals of the Restoration Blueprint, is concerning. An increase in law enforcement officers and equipment dedicated to FKNMS is imperative to the success and longevity of the Sanctuary. Additionally, increasing the presence of law enforcement within FKNMS would address concerns regarding nighttime activity inside the Sanctuary.

Expansion of the Sanctuary Boundary

Alternative 2 would expand the FKNMS boundary from 3,800 to 4,541 square miles to include the area to be avoided (ATBA) and encompass the area in the Tortugas region between the existing Sanctuary boundary and the Tortugas South Ecological Reserve. NMMA believes this expansion provides additional protections and connectivity for important ecological resources and establishes consistency with neighboring and interconnected waters that boaters frequently navigate.

Sanctuary-wide Regulations

In general, these proposed regulations provide NOAA additional authority to ensure the protection of Sanctuary resources, rapidly respond to impacts, and in some cases, create consistency with other sanctuary and state regulations. NMMA offers the following comments and recommendations.

- **Emergency Regulation** – Extending the use of emergency regulations from a 60-day period to 180 days with an option for an additional 186-day extension is a lengthy amount of time. NMMA understands that this proposed update would not change the rulemaking requirement for public notice and comment under the *Administrative Procedures Act*; however, we do express concern for the extended length of time and encourage this authority to be used in a judicious manner. NMMA would support application in narrow instances, with regular reviews during the period and opportunity for public comment.

- **Derelict Vessels** – NMMA supports the creation of the derelict vessel regulation, as outlined in Alternative Plan 2. This rule would provide sanctuary protection from potential threats to the marine environment; prohibiting anchoring, mooring, or occupying a vessel at risk of becoming derelict or deserting a vessel aground, at anchor, or adrift in the Sanctuary. This regulation is consistent with Florida state law and protects our waterways.
- **Fish Feeding** – In general NMMA supports the proposed fish feeding regulation in Alternative Plan 2, as it addresses the potential impact that the feeding of fish, sharks, or other marine species poses for human and environmental safety. This proposal would not impact recreational anglers’ ability to chum with live or dead bait from their vessels or shore-based fish feeding, which is popular in the Florida Keys. It should be noted that Alternative 2 is slightly more restrictive than the current state regulations. The FWC fish feeding prohibition is only applicable with divers in the water, whereas the FKNMS rule language denotes the practice of feeding fish while diving and/or from a vessel. We again suggest that NOAA coordinate and allow FWC to lead a unified fisheries rule within the Sanctuary with respect to fish feeding.
- **Overnight Use of Mooring Buoys** – NMMA is concerned that instituting a prohibition on overnight use of any FKNMS mooring buoy system is unfair to both residents and visitors, who respectfully and lawfully enjoy the Sanctuary and desire to sleep aboard their vessel when transiting. Rather than implementing these restrictions, NMMA suggests expanding the quantity of mooring buoys available to the public, as well as the aforementioned allocation of resources to law enforcement, so that they can appropriately execute existing regulations.

Proposed Modifications to Marine Zones

Alternative Plan 2 would reduce the number of marine zone types to a total of 4; adding 31 wildlife management areas, six sanctuary preservation areas, and two areas as conservation areas for a total of eight conservation areas. While Alternative Plans 2 and 3 are very similar; they differ slightly in quantity, but dramatically in application. NMMA expresses serious concern and strongly opposes the following elements.

Sanctuary Preservation Areas:

- **Anchoring:** The proposed changes to Sanctuary Preservation Areas (SPAs) would eliminate the issuing of bait fish permits and catch and release trolling. SPAs would also become no anchor zones and only allowing idle speed transiting. In general, NMMA recognizes the prohibition of anchoring will alleviate potential concerns of coral damage from improper anchor setting. Any prohibition on anchoring should subsequently be supported by a plan to install sufficient mooring fields. Without mooring fields in a no-anchor zone, boats who wish or need to be anchored for fishing, diving or recreation purposes will be prohibited. This could create de-facto access closures. NMMA recommends, rather, a phased-in prohibition to allow for the sequential installation of

sufficient mooring buoys. Additionally, the plan does not specifically address how the use of power poles would be impacted. Power poles are an entirely different system than traditional anchoring and popularly used in shallow waters for flats fishing. Their impact on the sea floor is minimal and should not be prohibited.

- The **Dry Tortugas Spawning Corridor** would now be designated as a SPA in both Alternative Plan 2 and 3, implementing a no anchor and “idle speed only” policy in very large 39-mile swath of protected area. Idle speed for this distance is impossible and unsafe for boaters. NMMA recommends establishing “running lanes” in situations that require expeditious travel, such as severe weather and other emergencies.
- **Long Key/Tennessee Reef** is included as a SPA in Alternative Plan 3. While NMMA understands that this area is an important ecological resource area and some protection is needed, the proposal goes too far. NMMA recommends addressing this area outside of the scope of the Restoration Blueprint, and in coordination with FWC, due to extensive impact on recreational fisheries and access. Rather than a full closure, alternative management tools to use in this area should include slow speed around land masses, catch and release fishing, and bag/size limits on select species.
- NMMA opposes expansion of SPAs into deeper water such as **Carysfort, Alligator Reef, and Tennessee Reef** as these areas are critical for deep water recreational fishing. There must be more sound, science-based evidence to properly balance the fishery and user access.
- Limited access to **Carysfort, Sombrero and Sand Key** SPAs needs to be more clearly described to users. While we support the intent to limit diver access, preference should be given to Blue Star dive operations and clearly allow for the continued access of recreational divers in the SPAs.

Conservation Areas:

- The creation of this zone type encompasses two existing zones (Ecological Reserves and Special Use Areas) which exhibit no change in regulatory rules. NMMA does not view this zone type as a major change to the existing management plan and would support such a new zone type.

Wildlife Management Areas (WMAs):

- These areas restrict vessel operation to protect wildlife and minimize disturbances. Currently, there are 28 WMA’s within FKNMS and the proposed Alternative Plan 2 would increase this number to 59 while Alternative Plan 3 would increase the total to 60 WMAs. While this would be a dramatic increase in the total number of WMA’s our main concern is regarding the over-complication of regulations. The current proposed plan outlines that WMA’s rules would vary by zone and would include vessel restrictions on access,

anchoring, and speed that are specific to each of the potentially 60 protected areas. Instead of the current proposals, NMMA recommends replacing the proposed regulation as it applies to WMA's in the backcountry with the existing Shoreline Slow Speed regulation [15 C.F.R. § 922.163(a)(5)(iii)(D) – which prohibits operating a vessel at a speed greater than four knots or in a manner which creates a wake within 100 yards of residential shorelines. This allows for across the board management of all WMA, protecting the environment through consistent slow speed rules and without varied and complex zones. This would provide clarity and relief for visitors wishing to enjoy the Sanctuary while ensuring a slow enough speed to protect ecologically sensitive resources.

Management Areas:

- Alternative Plan 2 creates a "notch" in Key West National Wildlife Refuge to allow relief and passage of personal watercraft (PWC) operation. NMMA and our subsidiary, the Personal Watercraft Industry Association (PWIA) was involved in the negotiated agreement presented by local PWC liveries and the FKNMS advisory council. Liveries are an important contributor to the Florida Keys economy and this compromise helps PWC's easily traverse the waterways, ensures safety and properly protects the habitat.

Key Largo Management Area:

- Unfortunately, NOAA's proposed Alternative Plans 2 and 3 both include Key Largo as a Management Area. NMMA strongly opposes this proposal, as it would restrict anchoring for 134 square miles. This restriction is far too large of an area to prohibit anchoring, especially without mooring fields appropriately established, and would essentially result in a de facto boating and fishing closure. While we understand that anchoring damage has occurred in this area, NMMA believes that good stewardship objectives would be achieved by phasing in this new regulation as the addition of necessary mooring fields are installed.

Education

The final FKNMS plan must be accompanied by a robust and deliberate public education campaign. With such dramatic changes in Sanctuary-wide regulations and numerous targeted rules around SPAs, WMAs and other land masses, the public will need time to understand and adapt to the new regulations. Visitors want to be good stewards of the environment but need the resources to know how. NMMA encourages NOAA to coordinate with state-wide boater education programs to provide comprehensive information on the final regulations. While NMMA does not support mandatory education for a specific waterway jurisdiction, we do support statewide education. Components of public education should include: publication of all rules with supporting electronic and paper copy maps, integration of rule publication on NOAA sanctuary sites and coordinated links to boater education and state-wide visitation programs. Providing online maps displaying zone locations, developing an IOS and Android platform application, and exploring public-private partnerships with marine electronics manufacturers are all important considerations of how to appropriately educate FKNMS locals and visitors. Signage and maps at visitor centers, public boat

ramps, hotels, and local liveries should also be considered. Recreational boaters do not see boundaries on the water and transit among different areas frequently. On water signage, when appropriate, to indicate zones, no anchoring, speed limits and transient corridors should be utilized. Additionally, innovative technology such as “smart buoys” and QR codes will help to ensure robust, but appropriate, information dissemination for the environment. Education, and a phased in implementation timeline, will reduce public confusion and enhance voluntary compliance, while also enabling FWC law enforcement to coordinate resources in a more efficient manner.

Conclusion

NMMA greatly appreciates the opportunity to provide these comments for your consideration. We look forward to continuing to work with NOAA and the FKNMS staff to ensure a proper balance of recreational access and resource protection. We stand ready to work with you on a final plan and ensure the FKNMS is maintained for generations to come. Please contact me at nvasilaros@nmma.org or Lee Gatts at lgatts@nmma.org with any questions or concerns.

Sincerely,



T. Nicole Vasilaros, Esq.
Senior Vice President, Government and Legal Affairs
National Marine Manufacturers Association

CC:
Robert A. Spottswood
Commissioner
Florida Fish and Wildlife Conservation Commission
626 S. Meridian St.
Tallahassee, FL 32399