

Regulations applied to Key Largo and Looe Key	Prohibited activities: <ul style="list-style-type: none"> • Removing, taking, spearing, or otherwise damaging any coral, marine invertebrate, plant, soil, rock, or other material • Spearfishing 	<ul style="list-style-type: none"> • Existing regulations applied and • No anchoring 	<ul style="list-style-type: none"> • Existing regulations applied and • No anchoring 	<ul style="list-style-type: none"> • Existing regulations applied and • No anchoring
Total area: Key West and Great White Heron NWR	656.06	656.06	656.06	656.06
Regulations applied to NWR portions:	Operating a personal watercraft (PWC), airboat, or water skiing	Small area of relief for PWC operation around the "G13" marker	Small area of relief for PWC operation around the "G13" marker	Small area of relief for PWC operation around the "G13" marker

1. For more information on proposed updated regulations related to operation of personal watercraft in Key West National Wildlife Refuge, see Section 3.4.

3.4 Component 4 – Proposed modifications to marine zone regulations by alternative

In addition to regulations that apply throughout the sanctuary (see Section 3.2), there are proposed new and modified regulations that would apply to additional activities within a small number of marine zones. Table 3.7 summarizes alternatives for regulations that would apply in specific marine zones, and the full descriptions for each alternative are explained below.

For more general access regulations (e.g., idle speed/no wake, no motor, etc.) applicable to specific marine zones see the summary tables in Section 3.3 and Section 3.6. For a full list of existing marine zones and existing regulations, see 15 C.F.R. § 922.164 and 15 C.F.R. part 922, subpart P, Appendix II to VI.

3.4.1 Motorized personal watercraft (proposed update)

Note, this proposed regulatory updates applies in the Key West National Wildlife Refuge Existing Management Area.

Alternative 1: No action (status quo)

Existing FKNMS regulations detailed at 15 C.F.R. § 922.164(b)(2) prohibit operating a personal watercraft, operating an airboat, or water skiing within the marine portions of the Great White Heron and Key West national wildlife refuge management areas (except within Township 66 South, Range 29 East, Sections 5, 11, 12, and 14; Township 66 South, Range 28 East, Section 2; Township 67 South, Range 26 East, Sections 16 and 20, all Tallahassee Meridian).

Alternative 2

NOAA, after coordinating with USFWS, proposes to modify regulations for motorized personal watercraft operation to minimize marine wildlife disturbance, minimize user conflicts between motorized personal watercraft operators and other recreationists, and maintain opportunities for motorized personal watercraft use within FKNMS. Current regulations restrict motorized personal watercraft use from a portion of the sanctuary and Great White Heron and Key West national wildlife refuges and manage motorized personal watercraft use through existing regulations for vessel operation in general.

To reduce user conflict while still ensuring resource protection NOAA is proposing to modify the existing prohibition against operating a personal watercraft in the marine portions of Key West National Wildlife Refuge. The proposed regulation will

create a "notch" in Key West National Wildlife Refuge to allow passage of personal watercraft around marker "G13" but on the inside of marker "G WR5" (See Figure 3.2).

This proposed modification would not change the boundary of Key West National Wildlife Refuge, only the area where this restriction would apply. NOAA considered several other options related to operation of motorized personal watercraft but ultimately eliminated them from further review. See Section 3.7 for more information.



Figure 3.2. Proposed area where PWC operation could occur in Key West National Wildlife Refuge. Image: NOAA

Alternative 3 (preferred)

Alternative 3 is the same as Alternative 2. Alternative 3, is NOAA's preferred alternative.

Alternative 4

Alternative 4 is the same as Alternative 2.

3.4.2 Tortugas North Ecological Reserve access permits (proposed update)

Note, this proposed regulatory update applies in the Tortugas North Ecological Reserve.

Alternative 1: No action (status quo)

Existing FKNMS regulations at 15 C.F.R. § 922.167 require permits to access the Tortugas North ER for any activity other than for passage without interruption through the reserve, for law enforcement purposes, or for purposes of monitoring. The current permit process as detailed at 15 C.F.R. § 922.167 requires permit applicants to request a Tortugas North ER access permit at least 72 hours, but no longer than one month, before the desired effective date of the permit. Current regulations also include a two-week maximum permit duration. In addition to the lead time for requesting a permit, FKNMS regulations at 15 C.F.R. § 922.164 (d)(viii) require access permit holders to notify FKNMS staff at Dry Tortugas National Park before entering and upon leaving the reserve.

Alternative 2

Tortugas North Ecological Reserve remains an important sanctuary marine zone for continued protection, management, and controlled access through issuance of access permits. From 2012 through 2015, FKNMS issued a total of 143 Tortugas North ER access permits with an average of 36 per year. The average time permit holders spent in the ER during that period was seven days and activities conducted while in the ER generally included diving and snorkeling with one or two research missions per year.

Based on 30 years of management and issuance of access permits, NOAA is proposing minor modifications to the regulations for Tortugas North ER access permits. While still requiring access permits, updated regulations would

remove the current timing limitation requiring Tortugas North Ecological Reserve access permits be requested no longer than one month before the permit effective date and remove the requirement to notify FKNMS before entering and upon leaving the reserve.

FKNMS believes the requirement to request a permit no greater than a month in advance is not necessary based on the level and type of activity in the Tortugas North ER. Applicants would still be required to request an access permit at least 72 hours in advance to allow FKNMS staff time to review and process the request. Access permits would still be required for access to the Tortugas North ER and the maximum duration of each permit would remain two weeks. These permits serve a valuable purpose in tracking activity and informing enforcement personnel of the vessels approved for operation within the ER. The provision to notify FKNMS staff before entering and upon leaving the reserve is not deemed necessary given the limited amount of use within the reserve. When making the proposed modifications, the contact information for requesting such access permits would be updated.

Alternative 3 (preferred)

Alternative 3 is the same as Alternative 2. Alternative 3 is NOAA's preferred alternative.

Alternative 4

Alternative 4 is the same as Alternative 2.

3.4.3 Catch and release fishing by trolling in four sanctuary preservation area (proposed update)

Note: this proposed regulatory update applies in sanctuary preservation areas.

Alternative 1: No action (status quo)

Existing FKNMS regulations at 15 C.F.R. § 922.164(d)(1)(iii) prohibit fishing by any means within SPAs, except for catch and release fishing by trolling in the Conch Reef, Alligator Reef, Sombrero Reef, and Sand Key SPAs.

Alternative 2

To address concerns regarding potential threats to sanctuary resources, human safety, and conflict of use, NOAA proposes to modify existing SPA regulations to:

remove the exception for catch and release fishing by trolling in the Conch Reef, Alligator Reef, Sombrero Reef, and Sand Key sanctuary preservation areas.

This existing exception is no longer consistent with the goals and objectives of sanctuary management. This proposed update would serve to fulfill the original intent of the SPA zone type to separate conflicting uses and protect benthic habitats. Through this review process, concerns were raised by advisory council working groups and public comment regarding human safety aspects of allowing any level of conflicting use to occur within SPAs. Updating this regulation would also meet agency direction to simplify and, where possible, make the regulations applicable to activities and access for specific marine zones consistent within each zone type. With this proposed modification, catch and release fishing by trolling would be prohibited in all SPAs and such prohibitions would apply in any new proposed SPA (see Section 3.6).

Alternative 3 (preferred)

Alternative 3 is the same as Alternative 2. Alternative 3 is NOAA's preferred alternative.

Alternative 4

Alternative 4 is the same as Alternative 2.

3.4.4 Baitfish permits (proposed update)

Note: this proposed regulatory update applies in sanctuary preservation areas.

Alternative 1: No action (status quo)

FKNMS regulations currently prohibit fishing within SPAs, with exceptions for catch and release fishing in four SPAs noted above (see 15 C.F.R. § 922.164(d)). However, FKNMS has been issuing permits for limited bait fishing in SPAs since the initial 1997 EIS and management plan. Since that time, permits

have been issued as follows: Castnet permits are issued for and valid in all SPAs and are issued by calendar year. Hair hook permits, which are valid in only Davis, Conch, and Alligator SPAs, are issued for October 15 through April 15 and fishing is allowed only from 5:00 a.m. until 10:00 a.m. daily.

Alternative 2

NOAA is proposing to modify baitfish permitting to:

Eliminate, over a three-year period, the practice of issuing permits that allow capture of baitfish from within the sanctuary preservation areas.

The collection of baitfish in SPAs is no longer consistent with the goals and objectives of sanctuary management. This proposed update would serve to fulfill the original intent of the SPA zone type to separate conflicting uses.

The practice of issuing baitfish permits would be eliminated over a three-year period following the effective date of final regulations. During this time, only individuals who have historically held baitfish permits would be eligible to receive any further permits. Baitfish permit data from 2019 would be used to determine those eligible for permits in the three-year phase out period. In conjunction with this proposed change, the *Office of National Marine Sanctuaries Instructions for Submitting Applications for National Marine Sanctuary Permits and Authorizations, Appendix D Florida Keys National Marine Sanctuary Baitfishing Permits* would be eliminated.

Alternative 3 (preferred)

Alternative 3 is the same as Alternative 2. Alternative 3 is NOAA's preferred alternative.

Alternative 4

Alternative 4 is the same as Alternative 2.

3.4.5 Limited use access restrictions for specific sanctuary preservation areas (proposed new)

Note: this proposed regulatory update applies in select sanctuary preservation areas.

Alternative 1: No action (status quo)

Existing FKNMS regulations do not include specific marine zones that restrict the number of users that can access an area or marine zone at any one time.

Status quo for this action also applies in Alternative 2. No additional information is provided for this alternative as they are the same as Alternative 1: No action, where the sanctuary does not restrict the overall level of use in any marine zone.

Alternative 2

Alternative 2 maintains the existing management approach as described above in Alternative 1: No action.

Alternative 3 (preferred)

NOAA is proposing to limit the levels of use within a select number of SPAs. The areas proposed would be Carysfort, Sombrero, and Sand Key SPAs. These sites include areas within each of the central regions of the Florida Keys: Upper Keys, Middle Keys, and Lower Keys.

This proposal is based on increasing levels of overall use and in some areas, increasing concentrated uses that could impact both the condition of sanctuary resources and the user experience. To address these concerns, NOAA proposes to restrict the overall numbers of users that can access these areas at any one time. In Alternative 3, NOAA proposes to:

restrict user access in Carysfort, Sombrero, and Sand Key sanctuary preservation areas to Blue Star¹ dive/snorkel operators.

In conjunction with this proposed regulation, NOAA would use data from the 2017 FWC Aerial Overflight User Survey, other data sources, and input from the public and user groups to determine if the proposed SPAs are the best sites to test this management approach. NOAA would consider innovative approaches to managing concentrated uses in the sanctuary including limiting access to Blue Star dive/snorkel operators only. (See Section 3.5 Goal 3, Objective 1, Activity 1 for proposed management plan activities related to this action.)

Alternative 4

Alternative 4 includes the same proposed new regulation creating limited-use SPAs as described in Alternative 3; however, this would only apply in Sombrero and Sand Key SPAs. In Alternative 4, FKNMS is proposing to expand the Carysfort Sanctuary Preservation Area from the shoreline to the deep reef (see Section 3.6).

¹ Blue Star is a program established by the sanctuary recognizing tour operators who are committed to promoting responsible and sustainable diving, snorkeling, and fishing practices to reduce the impact of these activities on ecosystems in the Florida Keys. Blue Star operators take the extra step to educate their clients to be better environmental stewards and to interact responsibly with natural resources in the Florida Keys. Visit <https://sanctuaries.noaa.gov/bluestar> for more information.

Table 3.7. Additional marine zone regulations: Summary of alternatives

Notes: The marine zone where each regulation would apply is in bold. Alternative 3 is the preferred alternative.

Sub-action	Alternative 1: No action (status quo)	Alternative 2	Alternative 3 (preferred)	Alternative 4
3.4.1 Motorized personal watercraft	No action: Operating a personal watercraft, operating an airboat, or water skiing are prohibited within the marine portions of the Great White Heron and Key West national wildlife refuge management areas . 15 C.F.R. § 922.164(b)(2)	Create a "notch" in Key West National Wildlife Refuge to allow passage of personal watercraft around marker "G13" but on the inside of marker "G WR5"	Same as Alternative 2	Same as Alternative 2
3.4.2 Tortugas North Ecological Reserve access permits	No action: For access to Tortugas Ecological Reserve North , access permits must be requested at least 72 hours but no longer than one month before the date the permit is desired to be effective. 15 C.F.R. § 922.167(b)(1) and The following activities are prohibited within the ecological reserves: entering or leaving the Tortugas North area with a valid access permit issued pursuant to §922.167 without notifying FKNMS staff at the Dry Tortugas National Park office by telephone or radio no less than 30 minutes and no more than 6 hours before entering and upon leaving the Tortugas Ecological Reserve. 15 C.F.R. § 922.164(d)(1)(viii)	Remove the current requirement for requesting access permits to Tortugas Ecological Reserve North no longer than one month before the date of the permit. Remove the requirement to notify FKNMS before entering and upon leaving Tortugas Ecological Reserve North .	Same as Alternative 2	Same as Alternative 2
3.4.3 Catch and release fishing by trolling in four sanctuary	No action: Allow exception for catch and release fishing by trolling in the Conch Reef, Alligator Reef,	Remove the exception for catch and release fishing by trolling in the Conch Reef, Alligator Reef,	Same as Alternative 2	Same as Alternative 2

preservation areas	Sombrero Reef, and Sand Key Sanctuary preservation areas. 15 C.F.R. § 922.164(d)(1)(iii)	Sombrero Reef, and Sand Key sanctuary preservation areas.		
3.4.4 Bait fishing permits	No action: Castnet permits are issued for and valid in all sanctuary preservation areas where fishing is prohibited (with exceptions noted above for catch and release in certain zones), and are issued by calendar year. Hair hook permits are valid in only Davis, Conch, and Alligator sanctuary preservation areas , where fishing is prohibited (with exceptions noted above), are issued for October 15 through April 15, and only allow fishing from 5:00 a.m. until 10:00 a.m. daily.	Eliminate, over a three-year period, the practice of issuing permits that allow capture of baitfish from within the sanctuary preservation areas.	Same as Alternative 2	Same as Alternative 2
3.4.5 Restricted access in select sanctuary preservation areas	No action: Current regulations do not include specific marine zones that regulate or restrict the number of users that can access an area or marine zone at any one time.	No change from Alternative 1	Restrict user access in Carysfort, Sombrero, and Sand Key sanctuary preservation areas	Restrict user access in Sombrero and Sand Key sanctuary preservation areas