

June 15, 2012

Mr. Sean Morton
Sanctuary Superintendent
Florida Keys National Marine Sanctuary
33 East Quay Rd.
Key West, FL 33040

RE: FKNMS Public Scoping Review

Dear Superintendent Morton,

On April 19, 2012, the National Oceanic and Atmospheric Administration (NOAA) and the National Wildlife Refuge System of the Fish and Wildlife Service (FWS) noticed a request for public comments on their review of existing sanctuary boundaries, regulations, and marine zoning in the Florida Keys National Marine Sanctuary (FKNMS). The stated objective is to gather “the public’s views on the direction the sanctuary should take to best protect and conserve the living marine resources and submerged cultural resources of the Florida Keys.”

The National Marine Manufacturers Association (NMMA) is the nation’s largest recreational marine industry association, representing over 1,600 boat builders, engine manufacturers, and marine accessory manufacturers. As part of its fundamental mission to grow boating participation, NMMA recognizes the need to ensure the environmental health of our waterways. The continued vitality of recreational boating as a popular American past-time relies upon its ability to get people out on the water. Whether our members’ customers are fishing, waterskiing, swimming or just cruising, they all not only support, but demand clean water. Boaters, NMMA members, countless boating related businesses and local communities are all affected when access to the water is compromised by either poor water quality or ill-advised regulation. NMMA supports well-considered efforts to develop workable, uniform national standards for boaters that will promote environmental sustainability and protect important marine environments for future generations. With these objectives in mind, NMMA recommends that NOAA and FWS address the following overarching issues in their review of FKNMS boundaries, regulations, and marine zoning:

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Improve Transparency of Marine Zones.

Responsible boaters need clear on-the-water demarcations and readily-available maps of the various federal marine zones applicable in various parts of the FKNMS. Some local boaters have expressed concerns that they do not have readily-available maps or educational materials that provided a unified view of the Sanctuary Preservation Areas, Special-Use Areas, Ecological Reserves, and Wildlife Management Areas that have proliferated in recent years. This lack of educational materials has led to boaters being fined for unwittingly violating a regulation applicable to a particular zone and undermined the effectiveness of these zones. *NMMA recommends that NOAA and FWS's review of existing marine zones and regulations include consideration of ways to better communicate the location and applicable regulations of the various marine zones.*

Recognize State Regulations & Management Actions.

Management plans in the FKNMS must take into account existing regulations applicable to the sanctuary. 16 U.S.C. § 1431(b)(2). Since the FKNMS Management Plan was last updated, the State of Florida has enacted a number of new laws that protect natural marine resources. It is now illegal in an aquatic preserve to operate a vessel outside of a lawfully marked channel in a careless manner that causes seagrass scarring. Fla. Stat. § 253.04(3). Under the 2010 Florida Coral Reef Protection Act, vessel owners and operators may be penalized for striking, anchoring upon, running aground or otherwise damaging corals in Monroe County. Fla. Stat. § 403.93345. Monroe County is also participating in an "Anchoring and Mooring Pilot Program" established by the Florida Fish & Wildlife Conservation Commission. Fla. Stat. § 373.4105. The goals of the pilot program include promoting the establishment of public mooring fields; promoting public access to the waters of the state; enhancing navigational safety; protecting maritime infrastructure; protecting the marine environment; and deterring the improper storage and abandonment of vessels. The pilot program expires on July 1, 2014, and the lessons learned from the pilot program will be communicated to the 2015 Florida Legislature. These laws squarely address several of the resource challenges identified in the 2011 Florida Keys National Marine Sanctuary Condition Report. *NMMA recommends that NOAA and FWS consider these and other state and local laws in this review and recognize that these regulations are designed to address resource challenges in the FKNMS.*

Promote Voluntary Community Programs.

Since March 2010, the Personal Water Industry Association (PWIA) and FKNMS have teamed up in the “Blue Rider Ocean Awareness and Stewardship” program. This joint effort promotes the sustainable use and enjoyment of the FKNMS area by educating personal watercraft users and liveries. *NMMA recommends that NOAA and FWS promote such voluntary programs as viable alternatives to new regulations.*

Promote Public Access.

When establishing the National Marine Sanctuaries System, Congress made clear that sanctuaries are to be managed in a way that maintains environmentally sustainable public and private access. 16 U.S.C. § 1431(b)(6); *see also*, Florida Keys National Marine Sanctuary and Protection Act, Public Law 101-605, §7(a)(1), (1990). The public understandably wants to enjoy the FKNMS’s unique natural resources, and such enjoyment should be maintained. Further, in order for the sanctuary to continue to have a positive economic impact on Monroe County, it must be both preserved and provide public access. *NMMA recommends that any development of management activities maintain sustainable public access to park resources.*

Do Not Discriminate Based on Vessel Type.

Florida state law maintains that “a vessel is a vessel” and that it is unsound public policy to discriminate against any one type of vessel. Pursuant to this policy, the Florida Legislature explicitly prohibits local ordinances that discriminate against personal watercraft. Fla. Stat. § 327.60(2)(d). This Florida policy promotes public water access and standardizes navigational regulations. *NMMA recommends that NOAA and FWS incorporate this state policy to the extent practicable in FKNMS management.*

Maintain Stakeholder Involvement.

The FKNMS hosts a treasure of pristine vistas, unique marine resources, and recreational and research opportunities. A number of diverse interest groups, including boaters, have a strong interest in how the sanctuary is managed and regulated. *NMMA urges NOAA and FWS to maintain a high degree of transparency and stakeholder involvement as FKNMS management strategies and regulations are reviewed and updated.*

NMMA appreciates the opportunity to submit these comments. If you have any questions or concerns, please do not hesitate to contact me at (202) 737-9763 or nvasilaros@nmma.org

Kind Regards,

Nicole Vasilaros
Manager, State Government Relations and Counsel