

From: [Beth Dieveney - NOAA Federal](#)
To: [Thomas K. Frazer \(frazer@ufl.edu\)](#)
Cc: [Carrie Simmons](#); [Gregg Waugh \(gregg.waugh@safmc.net\)](#); [Roy Crabtree \(roy.crabtree@noaa.gov\)](#); [Heather Blough \(heather.blough@noaa.gov\)](#); [John McGovern \(John.McGovern@noaa.gov\)](#); [Susan Gerhart \(susan.gerhart@noaa.gov\)](#); [Natasha Mendez-Ferrer](#); [Sarah Fangman - NOAA Federal](#); [Edward Lindelof](#)
Subject: FKNMS consultation with GMFMC
Date: Friday, August 23, 2019 8:39:50 AM
Attachments: [GMFMC ONMS304a5letter_23AUG2019.pdf](#)

Tom~

Please find the attached letter initiating consultation with the Gulf of Mexico Fishery Management Council on proposed management action in our just released Draft Environmental Impact Statement. Section 304 (a)(5) of the NMSA (16 U.S.C. 1434(a)(5)) outlines guidance of this consultation requirement. A hard copy letter is in the mail to the council office.

The DEIS and all supporting material can be accessed here: <https://floridakeys.noaa.gov/blueprint/>

Sanctuary staff have been working with GMFMC staff and we will present to Coral SSC, Coral AP and Shrimp AP at their joint meeting on September 16, the Reef Fish AP at their October 2 meeting, and to the full Council at their October meeting.

Please don't hesitate to reach out to Sarah Fangman, sanctuary superintendent, or me with any questions or concerns.

Regards,
Beth

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Beth Dieveney
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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE

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

August 22, 2019

Mr. Thomas Frazer, Ph.D.
Chair
Gulf of Mexico Fishery Management Council
4107 West Spruce Street, Suite 200
Tampa, Florida 33607

Dear Chairperson Frazer:

This letter provides the Gulf of Mexico Fishery Management Council (GMFMC) with the opportunity under section 304(a)(5) of the National Marine Sanctuaries Act (NMSA, 16 U.S.C. § 1434(a)(5)) to prepare draft regulations for fishing within the exclusive economic zone of the proposed expanded boundary of the Florida Keys National Marine Sanctuary (FKNMS).

NOAA is releasing for public review and comment a Draft Environmental Impact Statement - Florida Keys National Marine Sanctuary Marine Zoning and Regulatory Review (DEIS) that analyzes a proposed action to expand the FKNMS boundary, update sanctuary-wide regulations, modify and establish new marine zones, update marine zone-specific regulations, and revise the sanctuary's non-regulatory management plan. We would appreciate the Council's review and comment on any aspect of the DEIS. However, there are two regulatory actions that may be of particular interest to the Council: 1) potential changes to the Tortugas Ecological Reserve, and 2) the possible addition of Pulley Ridge to the Sanctuary.

NOAA's preferred alternative (Alternative 3) would expand the sanctuary by 741 square miles (1919.2 km²) and modify the existing Tortugas Ecological Reserve. The more protective Alternative 4 would make this same area a "transit only" zone and would include the area of Pulley Ridge as part of the sanctuary, however, this is not NOAA's current preferred alternative.

An update to the sanctuary management plan would also be a part of NOAA's preferred alternative (Alternative 3). One element in this plan that may be of interest to the councils is a proposal to develop a memorandum of agreement / understanding with the state of Florida and National Marine Fisheries Service for management and permitting of live rock aquaculture activities in the sanctuary.

While the national standards set forth in section 301(a) of the Magnuson-Stevens Fishery Conservation and Management Act shall serve as guidance to the GMFMC, the goals and objectives of the sanctuary, together with the purposes and policies of the NMSA serve as the benchmarks against which the GMFMC's recommendations will be measured. The GMFMC may choose one of three available actions: 1) recommend draft sanctuary fishing regulations for the proposed revisions; 2) recommend that fishing regulations are not necessary; or 3) choose not to act.



NOAA's analysis in the DEIS indicates that applying the current regulations to an expanded sanctuary and modifying certain fishing regulations are consistent with the objectives of the sanctuary. Therefore NOAA is asking the GMFMC to review the potential fishing regulations described and analyzed in the DEIS. NOAA's sanctuary regulations at 15 C.F.R. § 922.22(b) provide the regional fishery management councils with 120 days to conduct their review, make recommendations and, if appropriate, prepare draft fishery regulations and submit them to NOAA. However, consistent with NOAA policy and to provide adequate time for the GMFMC meetings, we are requesting that the GMFMC conclude its 304(a)(5) consultation by January 31, 2020. We have also asked the SAFMC to review the DEIS for areas under their jurisdiction.

In summary, we appreciate the time and effort of the GMFMC on this matter and look forward to receiving your response concerning the need for sanctuary fishing regulations to protect and manage nationally significant marine resources in the Gulf of Mexico portions of FKNMS. Please feel free to contact me at 305-809-4696 or Sarah.Fangman@noaa.gov if you have any questions or require more information. The DEIS is available at this link, floridakeys.noaa.gov/blueprint.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. Sarah Fangman', with a long horizontal flourish extending to the right.

Sarah Fangman
Sanctuary Superintendent

Cc: Carrie Simmons, PhD, Executive Director, GMFMC
Gregg Waugh, Executive Director, SAFMC
Dr. Roy Crabtree, Regional Administrator, NMFS/SERO
Heather Blough, Special Assistant to the Regional Administrator, NMFS/SERO

Legal Authority

Section 304 (a)(5) of the NMSA (16 U.S.C. § 1434(a)(5)) reads:

The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson- Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.