

# Rules and Regulations

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 922

[Docket No. 030613151–3151–01]

#### Florida Keys National Marine Sanctuary: Establishment of Temporary No-Entry Zone in the White Bank Dry Rocks Area

**AGENCY:** National Ocean Service (NOS), National Marine Sanctuary Program.

**ACTION:** Temporary rule.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) issues a temporary rule prohibiting all entry into two areas off the east side of Key Largo within federal waters of the Florida Keys National Marine Sanctuary. The combined areas are approximately 0.50 square miles in size. This temporary rule is necessary to prevent injury to, and destruction of, living coral from stress to diseased coral within the close areas, and to protect healthy coral from human-caused contamination.

**DATES:** Entry is prohibited effective June 26, 2003 until August 25, 2003.

**FOR FURTHER INFORMATION CONTACT:** Billy D. Causey, Superintendent, Florida Keys National Marine Sanctuary (FKNMS), Post Office Box 500368, Marathon, Florida 33050, (305) 743–2437.

**SUPPLEMENTARY INFORMATION:** NOAA is by this rule immediately prohibiting all entry into two areas off of Key Largo within federal waters of the Florida Keys National Marine Sanctuary (FKNMS). This action is taken in accordance with 15 CFR 922.165 of the FKNMS regulations (62 FR 32154, June 12, 1997). Section 922.165 provides that, where necessary to prevent or minimize the destruction of, loss of, or

injury to a Sanctuary resource, any and all activities are subject to immediate temporary regulation, including prohibition, for up to 60 days, with one 60-day extension.

#### Background

This temporary rule is necessitated by the recent discovery of an outbreak of a rapidly-spreading infectious coral disease in parts of the Florida Keys that is killing staghorn coral (*Acropora cervicornis*, *A. prolifera*). Field observations describe disease signs that include defined areas of pale/bleached tissue, some areas of clear demarcation between live and dead tissue, and rapid tissue loss from colonies of staghorn coral.

This emergency action establishes no-entry zones to quarantine two currently infected coral patch areas that are popular with swimmers and snorkelers visiting the Sanctuary. It is possible that humans entering the waters of the affected areas could inadvertently carry infectious agents to healthy coral reef areas. Infected corals are also more subject to stress from human activities. This action is intended to limit the innocent spread of infectious agents to health coral and to reduce stress to corals within the infected areas.

This temporary rule closes two areas, each approximately 0.25 square miles in size, to all entry by humans and vessels except pursuant to a valid scientific research permit. The areas are part of White Bank Dry Rocks off of Key Largo and are referred to for the purpose of this rule as “White Bank North Patch” and “White Bank South Patch”. The locations by coordinates of the closed areas are set forth below. This rule prohibits all activities that are currently allowed in the areas, including transiting and fishing. Vessels greater than 50 meters in length are already prohibited from entering the areas by regulations establishing Areas to be Avoided (15 CFR 922.164(a)).

#### Location and Boundary of No-Entry Zones

Effective immediately, all entry is prohibited within the closed areas of White Bank Dry Rocks off of Key Largo. The coordinates of the areas are:

##### White Bank North Patch

- (1) 25 degrees 02.718 seconds N 80 degrees 22.261 seconds W;

- (2) 25 degrees 02.780 seconds N 80 degrees 22.105 seconds W;
- (3) 25 degrees 02.691 seconds N 80 degrees 22.000 seconds W;
- (4) 25 degrees 02.567 seconds N 80 degrees 22.157 seconds W.

##### White Bank South Patch

- (1) 25 degrees 02.414 seconds N 80 degrees 22.425 seconds W;
- (2) 25 degrees 02.446 seconds N 80 degrees 22.267 seconds W;
- (3) 25 degrees 02.314 seconds N 80 degrees 22.408 seconds W.

#### Penalties

Pursuant to 15 CFR 992.45, any violation of this rule is subject to a maximum civil penalty of \$120,000 per violation per day. Furthermore, the NMSA and regulations authorize a proceeding in rem against any vessel used in violation of any such regulation.

#### Classification

Under 5 U.S.C. 553(b)(B), the Assistant Administrator of the National Ocean Service, NOAA, for good cause, finds that providing prior notice and public procedure thereon with respect to this rule is impracticable and contrary to the public interest. Recent evidence has come to light of an outbreak of infectious coral disease in areas of White Bank Dry Rocks near Key Largo. It is possible that humans entering the waters of the affected areas could inadvertently carry infectious agents to healthy coral reef areas. Infected corals are also more subject to stress from human activities. This action is intended to limit the innocent spread of infectious agents to healthy coral and to reduce stress to corals within the infected areas. As such, further damage to the infected corals as well as to healthy corals outside of the close areas would occur if the prohibition implemented by this rule is delayed to provide prior notice and opportunity for public comment.

Likewise, under 5 U.S.C. 553(d)(3), the Assistant Administrator of the National Ocean Service, NOAA, finds good cause to waive the 30-day delay in effective date for this rule. First, if the rule is delayed for 30 days, significant damage to the living coral resources could result. Further, 30 days are not necessary to give notification to visitors who might use the area in the future to move to other nearby sites. The U.S. Coast Guard will give location immediate notification to vessels to stay