

maintenance of the recovered historical resources shall be in place before commencing field operations (such agreement for the curation and display of recovered historical resources may provide for the release of public artifacts for deaccession/transfer if such deaccession/transfer is consistent with preservation, research, education, or other purposes of the designation and management of the Sanctuary. Deaccession/transfer of historical resources requires a Special-use permit issued pursuant to paragraph (d) and such deaccession/transfer shall be executed in accordance with the requirements of the SCR Agreement).

(4) The site's archaeological information is fully documented, including measured drawings, site maps drawn to professional standards, and photographic records.

(m) In addition to the terms and conditions listed in paragraph (k) and (l) of this section, any permit issued pursuant to this section is subject to such other terms and conditions, including conditions governing access to, or use of, Sanctuary resources, as the Director deems reasonably necessary or appropriate and in furtherance of the purposes for which the Sanctuary is designated. Such terms and conditions may include, but are not limited to:

(1) Any data or information obtained under the permit shall be made available to the public.

(2) A NOAA official shall be allowed to observe any activity conducted under the permit.

(3) The permittee shall submit one or more reports on the status, progress, or results of any activity authorized by the permit.

(4) The permittee shall submit an annual report to the Director not later than December 31 of each year on activities conducted pursuant to the permit. The report shall describe all activities conducted under the permit and all revenues derived from such activities during the year and/or term of the permit.

(5) The permittee shall purchase and maintain general liability insurance or other acceptable security against potential claims for destruction, loss of, or injury to Sanctuary resources arising out of the permitted activities. The

amount of insurance or security should be commensurate with an estimated value of the Sanctuary resources in the permitted area. A copy of the insurance policy or security instrument shall be submitted to the Director.

§ 922.167 Certification of preexisting leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by §§ 922.163 or 922.164 if such activity is specifically authorized by a valid Federal, State, or local lease, permit, license, approval, or other authorization in existence on July 1, 1997, or by any valid right of subsistence use or access in existence on July 1, 1997, provided that:

(1) The holder of such authorization or right notifies the Director, in writing, within 90 days of July 1, 1997, of the existence of such authorization or right and requests certification of such authorization or right;

(2) The holder complies with the other provisions of this § 922.167; and

(3) The holder complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification, by the Director, to achieve the purposes for which the Sanctuary was designated.

(b) The holder of an authorization or right described in paragraph (a) of this section authorizing an activity prohibited by §§ 922.163 or 922.164 may conduct the activity without being in violation of applicable provisions of §§ 922.163 or 922.164, pending final agency action on his or her certification request, provided the holder is in compliance with this § 922.167.

(c) Any holder of an authorization or right described in paragraph (a) of this section may request the Director to issue a finding as to whether the activity for which the authorization has been issued, or the right given, is prohibited by §§ 922.163 or 922.164, thus requiring certification under this section.

(d) Requests for findings or certifications should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuary Superintendent, Florida Keys National Marine Sanctuary, P.O. Box 500368,

Marathon, FL 33050. A copy of the lease, permit, license, approval, or other authorization must accompany the request.

(e) The Director may request additional information from the certification requester as he or she deems reasonably necessary to condition appropriately the exercise of the certified authorization or right to achieve the purposes for which the Sanctuary was designated. The information requested must be received by the Director within 45 days of the postmark date of the request. The Director may seek the views of any persons on the certification request.

(f) The Director may amend any certification made under this §922.167 whenever additional information becomes available justifying such an amendment.

(g) Upon completion of review of the authorization or right and information received with respect thereto, the Director shall communicate, in writing, any decision on a certification request or any action taken with respect to any certification made under this §922.167, in writing, to both the holder of the certified lease, permit, license, approval, other authorization, or right, and the issuing agency, and shall set forth the reason(s) for the decision or action taken.

(h) Any time limit prescribed in or established under this §922.167 may be extended by the Director for good cause.

(i) The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in §922.50.

(j) Any amendment, renewal, or extension made after July 1, 1997, to a lease, permit, license, approval, other authorization or right is subject to the provisions of §922.49.

APPENDIX I TO SUBPART P OF PART 922—
FLORIDA KEYS NATIONAL MARINE
SANCTUARY BOUNDARY COORDINATES

(APPENDIX BASED ON NORTH AMERICAN DATUM
OF 1983)

The boundary of the Florida Keys National Marine Sanctuary—

(a) Begins at the northeasternmost point of Biscayne National Park located at ap-

proximately 25 degrees 39 minutes north latitude, 80 degrees 5 minutes west longitude, then runs eastward to the 300-foot isobath located at approximately 25 degrees 39 minutes north latitude, 80 degrees 4 minutes west longitude;

(b) Then runs southward and connects in succession the points at the following coordinates:

(i) 25 degrees 34 minutes north latitude, 80 degrees 4 minutes west longitude,

(ii) 25 degrees 28 minutes north latitude, 80 degrees 5 minutes west longitude, and

(iii) 25 degrees 21 minutes north latitude, 80 degrees 7 minutes west longitude;

(iv) 25 degrees 16 minutes north latitude, 80 degrees 8 minutes west longitude;

(c) Then runs southwesterly approximating the 300-foot isobath and connects in succession the points at the following coordinates:

(i) 25 degrees 7 minutes north latitude, 80 degrees 13 minutes west longitude,

(ii) 24 degrees 57 minutes north latitude, 80 degrees 21 minutes west longitude,

(iii) 24 degrees 39 minutes north latitude, 80 degrees 52 minutes west longitude,

(iv) 24 degrees 30 minutes north latitude, 81 degrees 23 minutes west longitude,

(v) 24 degrees 25 minutes north latitude, 81 degrees 50 minutes west longitude,

(vi) 24 degrees 22 minutes north latitude, 82 degrees 48 minutes west longitude,

(vii) 24 degrees 37 minutes north latitude, 83 degrees 6 minutes west longitude,

(viii) 24 degrees 40 minutes north latitude, 83 degrees 6 minutes west longitude,

(ix) 24 degrees 46 minutes north latitude, 82 degrees 54 minutes west longitude,

(x) 24 degrees 44 minutes north latitude, 81 degrees 55 minutes west longitude,

(xi) 24 degrees 51 minutes north latitude, 81 degrees 26 minutes west longitude, and

(xii) 24 degrees 55 minutes north latitude, 80 degrees 56 minutes west longitude;

(d) then follows the boundary of Everglades National Park in a southerly then northeasterly direction through Florida Bay, Buttonwood Sound, Tarpon Basin, and Blackwater Sound;

(e) after Division Point, then departs from the boundary of Everglades National Park and follows the western shoreline of Manatee Bay, Barnes Sound, and Card Sound;

(f) then follows the southern boundary of Biscayne National Park to the southeasternmost point of Biscayne National Park; and

(g) then follows the eastern boundary of Biscayne National Park to the beginning point specified in paragraph (a).

APPENDIX II TO SUBPART P OF PART
922—EXISTING MANAGEMENT AREAS
BOUNDARY COORDINATES

The Existing Management Areas are located within the following geographic boundary coordinates:

Nat. Oceanic and Atmospheric Admin., Commerce Pt. 922, Subpt. P, App. III

National Oceanic and Atmospheric Administration,
Preexisting National Marine Sanctuaries:

Point	Latitude	Longitude
Key Largo—Management Area (Key Largo National Marine Sanctuary)		
1	25°19.45' N	80°12.00' W
2	25°16.02' N	80°08.07' W
3	25°07.05' N	80°12.05' W
4	24°58.03' N	80°19.08' W
5	25°02.02' N	80°25.25' W
Looe Key Management Area (Looe Key National Marine Sanctuary)		
1	24°31.62' N	81°26.00' W
2	24°33.57' N	81°26.00' W
3	24°34.15' N	81°23.00' W
4	24°32.20' N	81°23.00' W
United States Fish and Wildlife Service: Great White Heron National Wildlife Refuge (based on the North American Datum of 1983)		
1	24°43.8' N	81°48.6' W
2	24°43.8' N	81°37.2' W
3	24°49.2' N	81°37.2' W
4	24°49.2' N	81°19.8' W
5	24°48.0' N	81°19.8' W
6	24°48.0' N	81°14.4' W
7	24°49.2' N	81°14.4' W
8	24°49.2' N	81°08.4' W
9	24°43.8' N	81°08.4' W
10	24°43.8' N	81°14.4' W
11	24°43.2' N	81°14.4' W
12	24°43.2' N	81°16.2' W
13	24°42.6' N	81°16.2' W
14	24°42.6' N	81°21.0' W
15	24°41.4' N	81°21.0' W
16	24°41.4' N	81°22.2' W
17	24°43.2' N	81°22.2' W
18	24°43.2' N	81°22.8' W
19	24°43.8' N	81°22.8' W

Point	Latitude	Longitude
20	24°43.8' N	81°24.0' W
21	24°43.2' N	81°24.0' W
22	24°43.2' N	81°26.4' W
23	24°43.8' N	81°26.4' W
24	24°43.8' N	81°27.0' W
25	24°43.2' N	81°27.0' W
26	24°43.2' N	81°29.4' W
27	24°42.6' N	81°29.4' W
28	24°42.6' N	81°30.6' W
29	24°41.4' N	81°30.6' W
30	24°41.4' N	81°31.2' W
31	24°40.8' N	81°31.2' W
32	24°40.8' N	81°32.4' W
33	24°41.4' N	81°32.4' W
34	24°41.4' N	81°34.2' W
35	24°40.8' N	81°34.2' W
36	24°48.0' N	81°35.4' W
37	24°39.6' N	81°35.4' W
38	24°39.6' N	81°36.0' W
39	24°39.0' N	81°36.0' W
40	24°39.0' N	81°37.2' W
41	24°37.8' N	81°37.2' W
42	24°37.8' N	81°37.8' W
43	24°37.2' N	81°37.8' W
44	24°37.2' N	81°40.2' W
45	24°36.0' N	81°40.2' W
46	24°36.0' N	81°40.8' W
47	24°35.4' N	81°40.8' W
48	24°35.4' N	81°42.0' W
49	24°36.0' N	81°42.0' W
50	24°36.0' N	81°48.6' W
Key West National Wildlife Refuge		
1	24°40' N	81°49' W
2	24°40' N	82°10' W
3	24°27' N	82°10' W
4	24°27' N	81°49' W

When differential Global Positioning Systems data becomes available, these coordinates may be revised by FEDERAL REGISTER notice to reflect the increased accuracy of such data.

APPENDIX III TO SUBPART P OF PART 922—WILDLIFE MANAGEMENT AREAS ACCESS RESTRICTIONS

Area	Access restrictions
Bay Keys	No-motor zone (300 feet) around one key; idle speed only/no-wake zones in tidal creeks.
Boca Grande Key	South one-half of beach closed (beach above mean high water closed by Department of the Interior).
Woman Key	One-half of beach and sand spit on southeast side closed (beach and sand spit above mean high water closed by Department of the Interior).
Cayo Agua Keys	Idle speed only/no-wake zones in all navigable tidal creeks.
Cotton Key	No-motor zone on tidal flat.
Snake Creek	No-motor zone on tidal flat.
Cottrell Key	No-motor zone (300 feet) around entire key.
Little Mullet Key	No-access buffer zone (300 feet) around entire key.
Big Mullet Key	No-motor zone (300 feet) around entire key.
Crocodile Lake	No-access buffer zone (100 feet) along shoreline between March 1 and October 1.
East Harbor Key	No-access buffer zone (300 feet) around northernmost island.
Lower Harbor Keys	Idle speed only/no-wake zones in selected tidal creeks.
Eastern Lake Surprise	Idle speed only/no-wake zone east of highway U.S. 1.
Horseshoe Key	No-access buffer zone (300 feet) around main island (main island closed by Department of the Interior).
Marquesas Keys	(i) No-motor zones (300 feet) around three smallest keys on western side of chain; (ii) no-access buffer zone (300 feet) around one island at western side of chain; (iii) idle speed only/no-wake zone in southwest tidal creek.
Tidal flat south of Marvin Key	No-access buffer zone on tidal flat.

Area	Access restrictions
Mud Keys	(i) Idle speed only/no-wake zones in the two main tidal creeks; (ii) two smaller creeks on west side closed.
Pelican Shoal	No-access buffer zone out to 50 meters from shore between April 1 and August 31 (shoal closed by the Florida Game and Freshwater Fish Commission).
Rodriguez Key	No-motor zone on tidal flats.
Dove Key	No-motor zone on tidal flats; area around the two small islands closed.
Tavernier Key	No-motor zone on tidal flats.
Sawyer Keys	Tidal creeks on south side closed.
Snipe Keys	(i) Idle speed only/no-wake zone in main tidal creek; (ii) no-motor zone in all other tidal creeks.
Upper Harbor Key	No-access buffer zone (300 feet) around entire key.
East Content Keys	Idle speed only/no-wake zones in tidal creeks between southwesternmost keys.
West Content Keys	Idle speed only/no-wake zones in selected tidal creeks; no-access buffer zone in one cove.
Little Crane Key	No-access buffer zone (300 feet) around entire key.

APPENDIX IV TO SUBPART P OF PART 922—ECOLOGICAL RESERVES BOUNDARY COORDINATES

One Ecological Reserve—the Western Sambos Ecological Reserve—is designated in the area of Western Sambos reef. NOAA has committed to designating a second Ecological Reserve within two years from issuance of this plan in the area of the Dry Tortugas. The establishment of a Dry Tortugas Ecological Reserve will be proposed by a notice of proposed rulemaking with a proposed boundary determined through a joint effort among the Sanctuary, and the National Park Service, pursuant to a public process involving a team consisting of managers, scientists, conservationists, and affected user groups.

The Western Sambos Ecological Reserve (based on differential Global Positioning Systems data) is located within the following geographic boundary coordinates:

* WESTERN SAMBOS

Point	Latitude	Longitude
1	24°33.70' N	81°40.80' W
2	24°28.85' N	81°41.90' W
3	24°28.50' N	81°43.70' W
4	24°33.50' N	81°43.10' W

(* Denotes located in State waters)

APPENDIX V TO SUBPART P OF PART 922—SANCTUARY PRESERVATION AREAS BOUNDARY COORDINATES

The Sanctuary Preservation Areas (SPAs) (based on differential Global Positioning Systems data) are located within the following geographic boundary coordinates:

Point	Latitude	Longitude
Alligator Reef		
1	24°50.98' N	80°36.84' W
2	24°50.51' N	80°37.35' W
3	24°50.81' N	80°37.63' W

Point	Latitude	Longitude
4	24°51.23' N	80°37.17' W
Carysfort/South Carysfort Reef		
1	25°13.78' N	80°12.00' W
2	25°12.03' N	80°12.98' W
3	25°12.24' N	80°13.77' W
4	25°14.13' N	80°12.78' W
*Cheeca Rocks		
1	24°54.42' N	80°36.91' W
2	24°54.25' N	80°36.77' W
3	24°54.10' N	80°37.00' W
4	24°54.22' N	80°37.15' W
Coffins Patch		
1	24°41.47' N	80°57.68' W
2	24°41.12' N	80°57.53' W
3	24°40.75' N	80°58.33' W
4	24°41.06' N	80°58.48' W
Conch Reef		
1	24°57.48' N	80°27.47' W
2	24°57.34' N	80°27.26' W
3	24°56.78' N	80°27.52' W
4	24°56.96' N	80°27.73' W
Catch and release fishing by trolling only is allowed in this SPA.		
Davis Reef		
1	24°55.61' N	80°30.27' W
2	24°55.41' N	80°30.05' W
3	24°55.11' N	80°30.35' W
4	24°55.34' N	80°30.52' W
Dry Rocks		
1	25°07.59' N	80°17.91' W
2	25°07.41' N	80°17.70' W
3	25°07.25' N	80°17.82' W
4	25°07.41' N	80°18.09' W
Grecian Rocks		
1	25°06.91' N	80°18.20' W
2	25°06.67' N	80°18.06' W
3	25°06.39' N	80°18.32' W
4	25°06.42' N	80°18.48' W
5	25°06.81' N	80°18.44' W

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Point	Latitude	Longitude
* Eastern Dry Rocks		
1	24°27.92' N	81°50.55' W
2	24°27.73' N	81°50.33' W
3	24°27.47' N	81°50.80' W
4	24°27.72' N	81°50.86' W
The Elbow		
1	25°08.97' N	80°15.63' W
2	25°08.95' N	80°15.22' W
3	25°08.18' N	80°15.64' W
4	25°08.50' N	80°16.07' W
French Reef		
1	25°02.20' N	80°20.63' W
2	25°01.81' N	80°21.02' W
3	25°02.36' N	80°21.27' W
* Hen and Chickens		
1	24°56.38' N	80°32.86' W
2	24°56.21' N	80°32.63' W
3	24°55.86' N	80°32.95' W
4	24°56.04' N	80°33.19' W
Looe Key		
1	24°33.24' N	81°24.03' W
2	24°32.70' N	81°23.85' W
3	24°32.52' N	81°24.70' W
4	24°33.12' N	81°24.81' W
Molasses Reef		
1	25°01.00' N	80°22.53' W
2	25°01.06' N	80°21.84' W
3	25°00.29' N	80°22.70' W
4	25°00.72' N	80°22.83' W
* Newfound Harbor Key		
1	24°37.10' N	81°23.34' W
2	24°36.85' N	81°23.28' W
3	24°36.74' N	81°23.80' W
4	24°37.00' N	81°23.86' W
* Rock Key		
1	24°27.48' N	81°51.35' W
2	24°27.30' N	81°51.15' W
3	24°27.21' N	81°51.60' W
4	24°27.45' N	81°51.65' W
* Sand Key		
1	24°27.58' N	81°52.29' W
2	24°27.01' N	81°52.32' W
3	24°27.02' N	81°52.95' W
4	24°27.61' N	81°52.94' W
Catch and re- lease fishing by trolling only is allowed in this SPA.		
Sombrero Key		
1	24°37.91' N	81°06.78' W
2	24°37.50' N	81°06.19' W
3	24°37.25' N	81°06.89' W
Catch and re- lease fishing by trolling only is allowed in this SPA.		

(* denotes located in State waters)

APPENDIX VI TO SUBPART P OF PART 922—SPECIAL-USE AREAS BOUNDARY COORDINATES AND USE DESIGNATIONS

The Special-use Areas (based on differential Global Positioning Systems data) are located within the following geographic boundary coordinates:

Point	Latitude	Longitude
Conch Reef (Research Only)		
1	24°56.83' N	80°27.26' W
2	24°57.10' N	80°26.93' W
3	24°56.99' N	80°27.42' W
4	24°57.34' N	80°27.26' W
Eastern Sambos (Research Only)		
1	24°29.84' N	81°39.59' W
2	24°29.55' N	81°39.35' W
3	24°29.37' N	81°39.96' W
4	24°29.77' N	81°40.03' W
Looe Key (Research Only)		
1	24°34.17' N	81°23.01' W
2	24°33.98' N	81°22.96' W
3	24°33.84' N	81°23.60' W
4	24°34.23' N	81°23.68' W
Tennessee Reef (Research Only)		
1	24°44.77' N	80°47.12' W
2	24°44.57' N	80°46.98' W
3	24°44.68' N	80°46.59' W
4	24°44.95' N	80°46.74' W

APPENDIX VII TO SUBPART P OF PART 922—AREAS TO BE AVOIDED BOUNDARY COORDINATES

Point	Latitude	Longitude
In The Vicinity of the Florida Keys		
(Reference Charts: United States 11466, 27th Edition—September 1, 1990 and United States 11450, 4th Edition—August 11, 1990)		
1	25°45.00' N	80°06.10' W
2	25°38.70' N	80°02.70' W
3	25°22.00' N	80°03.00' W
4	25°00.20' N	80°13.40' W
5	24°37.90' N	80°47.30' W
6	24°29.20' N	81°17.30' W
7	24°22.30' N	81°43.17' W
8	24°28.00' N	81°43.17' W
9	24°28.70' N	81°43.50' W
10	24°29.80' N	81°43.17' W
11	24°33.10' N	81°35.15' W
12	24°33.60' N	81°26.00' W
13	24°38.20' N	81°07.00' W
14	24°43.20' N	80°53.20' W
15	24°46.10' N	80°46.15' W
16	24°51.10' N	80°37.10' W
17	24°57.50' N	80°27.50' W
18	25°09.90' N	80°16.20' W
19	25°24.00' N	80°09.10' W
20	25°31.50' N	80°07.00' W
21	25°39.70' N	80°06.85' W
22	25°45.00' N	80°06.10' W

Point	Latitude	Longitude
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In the Vicinity of Key West Harbor

(Reference Chart: United States 11434, 21st Edition—August 11, 1990)

23	24°27.95' N	81°48.65' W
24	24°23.00' N	81°53.50' W
25	24°26.60' N	81°58.50' W
26	24°27.75' N	81°55.70' W
27	24°29.35' N	81°53.40' W
28	24°29.35' N	81°50.00' W
29	24°27.95' N	81°48.65' W

Area Surrounding the Marquesas Keys

(Reference Chart: United States 11434, 21st Edition—August 11, 1990)

30	24°26.60' N	81°59.55' W
31	24°23.00' N	82°03.50' W
32	24°23.60' N	82°27.80' W
33	24°34.50' N	82°37.50' W
34	24°43.00' N	82°26.50' W
35	24°38.31' N	81°54.06' W
36	24°37.91' N	81°53.40' W
37	24°36.15' N	81°51.78' W
38	24°34.40' N	81°50.60' W
39	24°33.44' N	81°49.73' W
40	24°31.20' N	81°52.10' W
41	24°28.70' N	81°56.80' W
42	24°26.60' N	81°59.55' W

Area Surrounding the Dry Tortugas Islands

(Reference Chart: United States 11434, 21st Edition—August 11, 1990)

43	24°32.00' N	82°53.50' W
44	24°32.00' N	83°00.05' W
45	24°39.70' N	83°00.05' W
46	24°45.60' N	82°54.40' W
47	24°45.60' N	82°47.2' W
48	24°42.80' N	82°43.90' W
49	24°39.50' N	82°43.90' W
50	24°35.60' N	82°46.40' W
51	24°32.00' N	82°53.50' W

APPENDIX VIII TO SUBPART P OF PART 922—MARINE LIFE RULE [AS EXCERPTED FROM CHAPTER 46-42 OF THE FLORIDA ADMINISTRATIVE CODE]

- 46-42.001 Purpose and Intent; Designation of Restricted Species; Definition of "Marine Life Species."
- 46-42.002 Definitions.
- 46-42.003 Prohibition of Harvest: Longspine Urchin, Bahama Starfish.
- 46-42.0035 Live Landing and Live Well Requirements.
- 46-42.0036 Harvest in Biscayne National Park.*
- 46-42.004 Size Limits.
- 46-42.005 Bag Limits.
- 46-42.006 Commercial Season, Harvest Limits.
- 46-42.007 Gear Specifications and Prohibited Gear.
- 46-42.008 Live Rock.*
- 46-42.009 Prohibition on the Taking, Destruction, or Sale of Marine Corals and Sea Fans.

*—Part 42.0036 was not reproduced because it does not apply to the Sanctuary.

*—Part 42.008 was not reproduced because it is regulated pursuant to this Part 922.163(2)(ii).

46-42.001 Purpose and Intent; Designation of Restricted Species; Definition of "Marine Life Species".—

(1)(a) The purpose and intent of this chapter are to protect and conserve Florida's tropical marine life resources and assure the continuing health and abundance of these species. The further intent of this chapter is to assure that harvesters in this fishery use nonlethal methods of harvest and that the fish, invertebrates, and plants so harvested be maintained alive for the maximum possible conservation and economic benefits.

(b) It is the express intent of the Marine Fisheries Commission that landing of live rock propagated through aquaculture will be allowed pursuant to the provisions of this chapter.

(2) The following fish species, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to Section 370.01(20), Florida Statutes:

- (a) Moray eels—Any species of the Family Muraenidae.
- (b) Snake eels—Any species of the Genera *Myrichthys* and *Myrophis* of the Family Ophichthidae.
- (c) Toadfish—Any species of the Family Batrachoididae.
- (d) Frogfish—Any species of the Family Antennariidae.
- (e) Batfish—Any species of the Family Ogcocephalidae.
- (f) Clingfish—Any species of the Family Gobiesocidae.
- (g) Trumpetfish—Any species of the Family Aulostomidae.
- (h) Cornetfish—Any species of the Family Fistulariidae.
- (i) Pipefish/seahorses—Any species of the Family Syngnathidae.
- (j) Hamlet/seabass—Any species of the Family Serranidae, except groupers of the genera *Epinephalus* and *Mycteroperca*, and seabass of the genus *Centropristis*.
- (k) Basslets—Any species of the Family Grammistidae.
- (l) Cardinalfish—Any species of the Family Apogonidae.
- (m) High-hat, Jackknife-fish, Spotted drum, Cubbyu—Any species of the genus *Equetus* of the Family Scaenidae.
- (n) Reef Croakers—Any of the species *Odontocion dentex*.
- (o) Sweepers—Any species of the Family Pempheridae.
- (p) Butterflyfish—Any species of the Family Chaetodontidae.

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(q) Angelfish—Any species of the Family Pomacanthidae.

(r) Damselfish—Any species of the Family Pomacentridae.

(s) Hawkfish—Any species of the Family Cirrhitidae.

(t) Wrasse/hogfish/razorfish—Any species of the Family Labridae, except hogfish, *Lachnolaimus maximus*.

(u) Parrotfish—Any species of the Family Scaridae.

(v) Jawfish—Any species of the Family Opistognathidae.

(w) Blennies—Any species of the Families Clinidae or Blenniidae.

(x) Sleepers—Any species of the Family Eleotrididae.

(y) Gobies—Any species of the Family Gobiidae.

(z) Tangs and surgeonfish—Any species of the Family Acanthuridae.

(aa) Filefish/triggerfish—Any species of the Family Balistes, except gray triggerfish, *Balistidae capriscus*.

(bb) Trunkfish/cowfish—Any species of the Family Ostraciidae.

(cc) Pufferfish/burrfish/balloonfish—Any of the following species:

1. Balloonfish—*Diodon holocanthus*.
2. Sharpnose puffer—*Canthigaster rostrata*.
3. Striped burrfish—*Chilomycterus schoepfi*.

(3) The following invertebrate species, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to Section 370.01(20), Florida Statutes:

(a) Sponges—Any species of the Class Demospongia, except sheepswool, yellow, grass, glove, finger, wire, reef, and velvet sponges, Order Dictyoceratida.

(b) Upside-down jellyfish—Any species of the Genus *Cassiopeia*.

(c) Siphonophores/hydroids—Any species of the Class Hydrozoa, except fire corals, Order Milleporina.

(d) Soft corals—Any species of the Subclass Octocorallia, except sea fans *Gorgonia labellum* and *Gorgonia ventalina*.

(e) Sea anemones—Any species of the Orders Actinaria, Zoanthidea, Corallimorpharia, and Ceriantharia.

(f) Featherduster worms/calcareous tubeworms—Any species of the Families Sabellidae and Serpulidae.

(g) Star-shells—Any of the species *Astraea americana* or *Astraea phoebia*.

(h) Nudibranchs/sea slugs—Any species of the Subclass Opisthobranchia.

(i) Fileclams—Any species of the Genus *Lima*.

(j) Octopods—Any species of the Order Octopoda, except the common octopus, *Octopodus vulgaris*.

(k) Shrimp—Any of the following species:

1. Cleaner shrimp and peppermint shrimp—Any species of the Genera *Periclimenes* or *Lysmata*.

2. Coral shrimp—Any species of the Genus *Stenopus*.

3. Snapping shrimp—Any species of the Genus *Alpheus*.

(1) Crabs—Any of the following species:

1. Yellowline arrow crab—*Stenorhynchus seticornis*.

2. Furcate spider or decorator crab—*Stenocionops furcata*.

3. Thinstripe hermit crab—*Clibanarius vittatus*.

4. Polkadotted hermit crab—*Phimochirus operculatus*.

5. Spotted porcelain crab—*Porcellana sayana*.

6. Nimble spray or urchin crab—*Percnon gibbesi*.

7. False arrow crab—*Metoporphaphis calcarata*.

(m) Starfish—Any species of the Class Asteroidea, except the Bahama starfish, *Oreaster reticulatus*.

(n) Brittlestars—Any species of the Class Ophiuroidea.

(o) Sea urchins—Any species of the Class Echinoidea, except longspine urchin, *Diadema antillarum*, and sand dollars and sea biscuits, Order Clypeasteroidea.

(p) Sea cucumbers—Any species of the Class Holothuroidea.

(q) Sea lillies—Any species of the Class Crinoidea.

(4) The following species of plants, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to Section 370.01(20), Florida Statutes:

(a) Caulerpa—Any species of the Family Caulerpaceae.

(b) Halimeda/mermaid's fan/mermaid's shaving brush—Any species of the Family Halimedaceae.

(c) Coralline red algae—Any species of the Family Corallinaceae.

(5) For the purposes of Section 370.06(2)(d), Florida Statutes, the term "marine life species" is defined to mean those species designated as restricted species in subsections (2), (3), and (4) of this rule.

Specific Authority 370.01(20), 370.027(2), 370.06(2)(d), F.S. Law Implemented 370.01(20), 370.025, 370.027, 370.06(2)(d), F.S. History—New 1-1-91, Amended 7-1-92, 1-1-95.

46-42.002 Definitions.— As used in this rule chapter:

(1) "Barrier net," also known as a "fence net," means a seine used beneath the surface of the water by a diver to enclose and concentrate tropical fish and which may be made of either nylon or monofilament.

(2) "Drop net" means a small, usually circular, net with weights attached along the outer edge and a single float in the center,

used by a diver to enclose and concentrate tropical fish.

(3) "Hand held net" means a landing or dip net as defined in Rule 46-4.002(4), except that a portion of the bag may be constructed of clear plastic material, rather than mesh.

(4) "Harvest" means the catching or taking of a marine organism by any means whatsoever, followed by a reduction of such organism to possession. Marine organisms that are caught but immediately returned to the water free, alive, and unharmed are not harvested. In addition, temporary possession of a marine animal for the purpose of measuring it to determine compliance with the minimum or maximum size requirements of this chapter shall not constitute harvesting such animal, provided that it is measured immediately after taking, and immediately returned to the water free, alive, and unharmed if undersize or oversize.

(5) "Harvest for commercial purposes" means the taking or harvesting of any tropical ornamental marine life species or tropical ornamental marine plant for purposes of sale or with intent to sell. The harvest of tropical ornamental marine life species or tropical ornamental marine plants in excess of the bag limit shall constitute prima facie evidence of intent to sell.

(6) "Land," when used in connection with the harvest of marine organisms, means the physical act of bringing the harvested organism ashore.

(7) "Live rock" means rock with living marine organisms attached to it.

(8) "Octocoral" means any erect, nonencrusting species of the Subclass Octocorallia, except the species *Gorgonia flabellum* and *Gorgonia ventalina*.

(9) "Slurp gun" means a self-contained, handheld device that captures tropical fish by rapidly drawing seawater containing such fish into a closed chamber.

(10) "Total length" means the length of a fish as measured from the tip of the snout to the tip of the tail.

(11) "Trawl" means a net in the form of an elongated bag with the mouth kept open by various means and fished by being towed or dragged on the bottom. "Roller frame trawl" means a trawl with all of the following features and specifications:

(a) A rectangular rigid frame to keep the mouth of the trawl open while being towed.

(b) The lower horizontal beam of the frame has rollers to allow the trawl to roll over the bottom and any obstructions while being towed.

(c) The trawl opening is shielded by a grid of vertical bars spaced no more than 3 inches apart.

(d) The trawl is towed by attaching a line or towing cable to a tongue located above and at the center of the upper horizontal beam of the frame.

(e) The trawl has no doors attached to keep the mouth of the trawl open.

(12) "Tropical fish" means any species included in subsection (2) of Rule 46-42.001, or any part thereof.

(13) "Tropical ornamental marine life species" means any species included in subsections (2) or (3) of Rule 46-42.001, or any part thereof.

(14) "Tropical ornamental marine plant" means any species included in subsection (4) of Rule 46-42.001.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History—New 1-1-91, Amended 7-1-92, 1-1-95.

46-42.003 Prohibition of Harvest: Longspine Urchin, Bahama Starfish.— No person shall harvest, possess while in or on the waters of the state, or land any of the following species:

- (1) Longspine urchin, *Diadema antillarum*.
- (2) Bahama starfish, *Oreaster reticulatus*.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History—New 1-1-91, Amended 7-1-92.

46-42.0035 Live Landing and Live Well Requirements.—

(1) Each person harvesting any tropical ornamental marine life species or any tropical ornamental marine plant shall land such marine organism alive.

(2) Each person harvesting any tropical ornamental marine life species or any tropical ornamental marine plant shall have aboard the vessel being used for such harvest a continuously circulating live well or aeration or oxygenation system of adequate size and capacity to maintain such harvested marine organisms in a healthy condition.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History—New 7-1-92.

46-42.004 Size Limits.—

(1) Angelfishes.—

(a) No person harvesting for commercial purposes shall harvest, possess while in or on the waters of the state, or land any of the following species of angelfish, of total length less than that set forth below:

1. One-and-one-half (1 1/2) inches for:

- a. Gray angelfish (*Pomacanthus arcuatus*).
- b. French angelfish (*Pomacanthus paru*).

2. One-and-three-quarters (1 3/4) inches for:

- a. Blue angelfish (*Holacanthus bermudensis*).
- b. Queen angelfish (*Holacanthus ciliaris*).
3. Two (2) inches for rock beauty (*Holacanthus tricolor*).

(b) No person shall harvest, possess while in or on the waters of the state, or land any angelfish (Family Pomacanthidae), of total length greater than that specified below:

1. Eight (8) inches for angelfish, except rock beauty (*Holacanthus tricolor*).
2. Five (5) inches for rock beauty.

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(c) Except as provided herein, no person shall purchase, sell, or exchange any angelfish smaller than the limits specified in paragraph (a) or larger than the limits specified in paragraph (b). This prohibition shall not apply to angelfish legally harvested outside of state waters or federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, which angelfish are entering Florida in interstate or international commerce. The burden shall be upon any person possessing such angelfish for sale or exchange to establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and any customs receipts, and to show that such angelfish originated from a point outside the waters of the State of Florida or federal Exclusive Economic Zone (EEZ) waters adjacent to Florida waters and entered the state in interstate or international commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute prima facie evidence that such angelfish were harvested from Florida waters or adjacent EEZ waters for purposes of this paragraph.

(2) Butterflyfishes.—

(a) No person harvesting for commercial purposes shall harvest, possess while in or on the waters of the state, or land any butterflyfish (Family Chaetodontidae) of total length less than one (1) inch.

(b) No person shall harvest, possess while in or on the waters of the state, or land any butterflyfish of total length greater than 4 inches.

(3) Gobies—No person shall harvest, possess while in or on the waters of the state, or land any gobie (Family Gobiidae) of total length greater than 2 inches.

(4) Jawfishes—No person shall harvest, possess while in or on the waters of the state, or land any jawfish (Family Opistognathidae) of total length greater than 4 inches.

(5) Spotfin and Spanish hogfish—

(a) No person shall harvest, possess while in or on the waters of this state, or land any Spanish hogfish (*Bodianus rufus*) of total length less than 2 inches.

(b) No person shall harvest, possess while in or on the waters of this state, or land any Spanish hogfish (*Bodianus rufus*) or spotfin hogfish (*Bodianus pulchellus*) of total length greater than 8 inches.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History—New 1-1-91, Amended 7-1-92, 1-1-95.

46-42.005 Bag limit.—

(1) Except as provided in Rule 46-42.006 or subsections (3) or (4) of this rule, no person shall harvest, possess while in or on the waters of the state, or land more than 20 individuals per day of tropical ornamental marine life species, in any combination.

(2) Except as provided in Rule 46-42.006, no person shall harvest, possess while in or on the waters of the state, or land more than one (1) gallon per day of tropical ornamental marine plants, in any combination of species.

(3) Except as provided in Rule 46-42.006, no person shall harvest, possess while in or on the waters of the state, or land more than 5 angelfishes (Family Pomacanthidae) per day. Each angelfish shall be counted for purposes of the 20 individual bag limit specified in subsection (1) of this rule.

(4)(a) Unless the season is closed pursuant to paragraph (b), no person shall harvest, possess while in or on the waters of the state, or land more than 6 colonies per day of octocorals. Each colony of octocoral or part thereof shall be considered an individual of the species for purposes of subsection (1) of this rule and shall be counted for purposes of the 20 individual bag limit specified therein. Each person harvesting any octocoral as authorized by this rule may also harvest substrate within 1 inch of the perimeter of the holdfast at the base of the octocoral, provided that such substrate remains attached to the octocoral.

(b) If the harvest of octocorals in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters is closed to all harvesters prior to September 30 of any year, the season for harvest of octocorals in state waters shall also close until the following October 1, upon notice given by the Secretary of the Department of Environmental Protection, in the manner provided in s.120.52(16)(d), Florida Statutes.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History—New 1-1-91, Amended 1-1-95.

46-42.006 Commercial Season, Harvest Limits.—

(1) Except as provided in Rule 46-42.008(7), no person shall harvest, possess while in or on the waters of the state, or land quantities of tropical ornamental marine life species or tropical ornamental marine plants in excess of the bag limits established in Rule 46-42.005 unless such person possesses a valid salt-water products license with both a marine life fishery endorsement and a restricted species endorsement issued by the Department of Environmental Protection.

(2) Persons harvesting tropical ornamental marine life species or tropical ornamental marine plants for commercial purposes shall have a season that begins on October 1 of each year and continues through September 30 of the following year. These persons shall not harvest, possess while in or on the waters of the state, or land tropical ornamental marine life species in excess of the following limits:

(a) A limit of 75 angelfish (Family Pomacanthidae) per person per day or 150 angelfish per vessel per day, whichever is less.

(b) A limit of 75 butterflyfishes (Family Chaetodontidae) per vessel per day.

(c) There shall be no limits on the harvest for commercial purposes of octocorals unless and until the season for all harvest of octocorals in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters is closed. At such time, the season for harvest of octocorals in state waters shall also close until the following October 1, upon notice given by the Secretary of the Department of Environmental Protection, in the manner provided in Section 120.52(16)(d), Florida Statutes. Each person harvesting any octocoral as authorized by this rule may also harvest substrate within 1 inch of the perimeter of the holdfast at the base of the octocoral, provided that such substrate remains attached to the octocoral.

(d) A limit of 400 giant Caribbean or "pink-tipped" anemones (Genus *Condylactis*) per vessel per day.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History—New 1-1-91, Amended 7-1-92, 1-1-95.

46-42.007 Gear Specifications and Prohibited Gear.—

(1) The following types of gear shall be the only types allowed for the harvest of any tropical fish, whether from state waters or from federal Exclusive Economic Zone (EEZ) waters adjacent to state waters:

(a) Hand held net.

(b) Barrier net, with a mesh size not exceeding $\frac{3}{4}$ inch stretched mesh.

(c) Drop net, with a mesh size not exceeding $\frac{3}{4}$ inch stretched mesh.

(d) Slurp gun.

(e) Quinaldine may be used for the harvest of tropical fish if the person using the chemical or possessing the chemical in or on the waters of the state meets each of the following conditions:

1. The person also possesses and maintains aboard any vessel used in the harvest of tropical fish with quinaldine a special activity license authorizing the use of quinaldine, issued by the Division of Marine Resources of the Department of Environmental Protection pursuant to Section 370.08(8), Florida Statutes.

2. The quinaldine possessed or applied while in or on the waters of the state is in a diluted form of no more than 2% concentration in solution with seawater. Prior to dilution in seawater, quinaldine shall only be mixed with isopropyl alcohol or ethanol.

(f) A roller frame trawl operated by a person possessing a valid live bait shrimping license issued by the Department of Environmental Protection pursuant to Section 370.15, Florida Statutes, if such tropical fish are taken as an incidental bycatch of shrimp lawfully harvested with such trawl.

(g) A trawl meeting the following specifications used to collect live specimens of

the dwarf seahorse, *Hippocampus zosterae*, if towed by a vessel no greater than 15 feet in length at no greater than idle speed:

1. The trawl opening shall be no larger than 12 inches by 48 inches.

2. The trawl shall weigh no more than 5 pounds wet when weighed out of the water.

(2) This rule shall not be construed to prohibit the use of any bag or container used solely for storing collected specimens or the use of a single blunt rod in conjunction with any allowable gear, which rod meets each of the following specifications:

(a) The rod shall be made of nonferrous metal, fiberglass, or wood.

(b) The rod shall be no longer than 36 inches and have a diameter no greater than $\frac{3}{4}$ inch at any point.

(3) No person shall harvest in or from state waters any tropical fish by or with the use of any gear other than those types specified in subsection (1); provided, however, that tropical fish harvested as an incidental bycatch of other species lawfully harvested for commercial purposes with other types of gear shall not be deemed to be harvested in violation of this rule, if the quantity of tropical fish so harvested does not exceed the bag limits established in Rule 46-42.005.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History—New 1-1-91, Amended 7-1-92, 1-1-95.

46-42.009 Prohibition on the Taking, Destruction, or Sale of Marine Corals and Sea Fans; Exception; Repeal of Section 370.114, Florida Statutes.—

(1) Except as provided in subsection (2), no person shall take, attempt to take, or otherwise destroy, or sell, or attempt to sell, any sea fan of the species *Gorgonia flabellum* or of the species *Gorgonia ventalina*, or any hard or stony coral (Order Scleractinia) or any fire coral (Genus *Millepora*). No person shall possess any such fresh, uncleaned, or uncured sea fan, hard or stony coral, or fire coral.

(2) Subsection (1) shall not apply to:

(a) Any sea fan, hard or stony coral, or fire coral legally harvested outside of state waters or federal Exclusive Economic Zone (EEZ) waters adjacent to state waters and entering Florida in interstate or international commerce. The burden shall be upon any person possessing such species to establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and any customs receipts, and to show that such species originated from a point outside the waters of the State of Florida or federal Exclusive Economic Zone (EEZ) adjacent to state waters and entered

the state in interstate or international commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute prima facie evidence that such species were harvested from Florida waters in violation of this rule.

(b) Any sea fan, hard or stony coral, or fire coral harvested and possessed pursuant to permit issued by the Department of Environmental Protection for scientific or educational purposes as authorized in Section 370.10(2), Florida Statutes.

(c) Any sea fan, hard or stony coral, or fire coral harvested and possessed pursuant to the aquacultured live rock provisions of Rule 46-42.008(3)(a) or pursuant to a Live Rock Aquaculture Permit issued by the National Marine Fisheries Service under 50 CFR Part 638 and meeting the following requirements:

(1) Persons possessing these species in or on the waters of the state shall also possess a state submerged lands lease for live rock aquaculture and a Department of Environmental Protection permit for live rock culture deposition and removal or a federal Live Rock Aquaculture Permit. If the person possessing these species is not the person named in the documents required herein, then the person in such possession shall also possess written permission from the person so named to transport aquacultured live rock pursuant to this exception.

(2) The nearest office of the Florida Marine Patrol shall be notified at least 24 hours in advance of any transport in or on state waters of aquacultured live rock pursuant to this exception.

(3) Persons possessing these species off the water shall maintain and produce upon the request of any duly authorized law enforcement officer sufficient documentation to establish the chain of possession from harvest on a state submerged land lease for live rock aquaculture or in adjacent Exclusive Economic Zone (EEZ) waters pursuant to a federal Live Rock Aquaculture Permit.

(4) Any sea fan, hard or stony coral, or fire coral harvested pursuant to Rule 46-42.008(3)(a) shall remain attached to the cultured rock.

Specific Authority 370.027(2), F.S.; Section 6, Chapter 83-134, Laws of Florida, as amended by Chapter 84-121, Laws of Florida. Law Implemented 370.025, 370.027, F.S.; Section 6, Chapter 83-134, Laws of Florida, as amended by Chapter 84-121, Laws of Florida. History—New 1-1-95.2222

**Subpart Q—Hawaiian Islands
Humpback Whale National
Marine Sanctuary**

AUTHORITY: 16 U.S.C. 1431 *et seq.* and subtitle C, title II, Pub. L. 102-587, 106 Stat. 5055.

SOURCE: 64 FR 66570, Nov. 29, 1999, unless otherwise noted.

§ 922.180 Purpose.

(a) The purpose of the regulations in this subpart is to implement the designation of the Hawaiian Islands Humpback Whale National Marine Sanctuary by regulating activities affecting the resources of the Sanctuary or any of the qualities, values, or purposes for which the Sanctuary was designated, in order to protect, preserve, and manage the conservation, ecological, recreational, research, educational, historical, cultural, and aesthetic resources and qualities of the area. The regulations are intended to supplement and complement existing regulatory authorities; to facilitate to the extent compatible with the primary objective of protecting the humpback whale and its habitat, all public and private uses of the Sanctuary, including uses of Hawaiian natives customarily and traditionally exercised for subsistence, cultural, and religious purposes, as well as education, research, recreation, commercial and military activities; to reduce conflicts between compatible uses; to maintain, restore, and enhance the humpback whale and its habitat; to contribute to the maintenance of natural assemblages of humpback whales for future generations; to provide a place for humpback whales that are dependent on their Hawaiian Islands wintering habitat for reproductive activities, including breeding, calving, and nursing, and for the long-term survival of their species; and to achieve the other purposes and policies of the HINMSA and NMSA.

(b) These regulations may be modified to fulfill the Secretary's responsibilities for the Sanctuary, including the provision of additional protections for humpback whales and their habitat, if reasonably necessary, and the conservation and management of other marine resources, qualities and ecosystems of the Sanctuary determined to be of national significance. The Secretary shall consult with the Governor of the State of Hawaii on any modification to the regulations contained in this part. For any modification of the regulations contained in this part that