

Biscayne National Park Fisheries Regulations



Draft Rule
December 12, 2019



Florida Fish and Wildlife Conservation Commission

This presentation provides a summary of proposed draft rules that would create a new rule chapter, 68B-7, Florida Administrative Code (FAC), providing for regulation of fisheries in Biscayne National Park (BNP), as well as modifying various species-specific regulations elsewhere in 68B, FAC, as they apply within BNP.

Division: Marine Fisheries Management

Authors: Jessica McCawley, John Hunt, and Melissa Recks

Contact Phone Number: 850-487-0554

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Unless otherwise noted, images throughout the presentation are by FWC.

Background

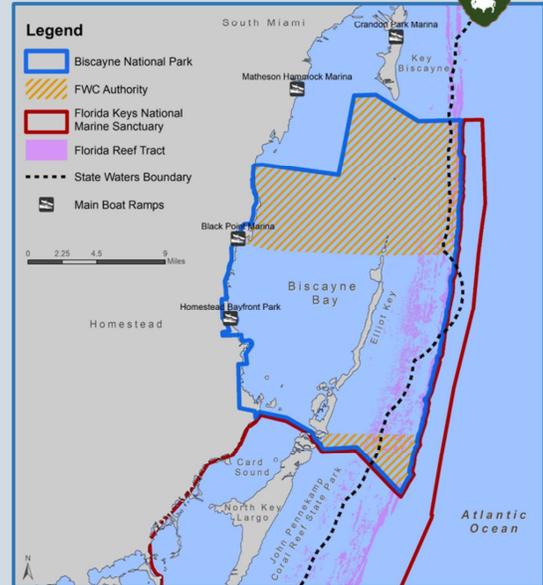


Biscayne National Park (BNP)

- 272 square miles adjacent to Miami
- Accessible to a diversity of stakeholders
- State and federal co-management

Fishery Management Plan (FMP)

- Jointly developed by BNP/FWC
- Approved by Commission in 2013
- Goal: Increase size and abundance of targeted species and conserve marine habitats



Today's proposal will implement the FMP

BNP is located in highly urbanized Miami-Dade County. Ninety-five percent of the park's 272 square miles (173,900 acres) are covered by saltwater. Habitats include coral reefs, sandy shoals, extensive seagrass beds, shallow hardbottom housing sponges and soft corals, and a largely undeveloped mangrove shoreline. Biscayne Bay itself is relatively shallow, with an average water depth of six feet. However, deeper waters are found in the park, including Hawk Channel and along the reef tract running north-south in the Atlantic Ocean waters at the eastern edge of the park. The waters of BNP can be easily accessed from both public and private facilities, with four nearby public boat ramps. In addition to recreational and commercial fishing, park waters support recreational diving, boating and kayaking.

Fishing in the waters of BNP is jointly managed by state and federal partners. Based on the enabling legislation, the fishing regulations within the northern and southern extremes of the park (orange cross-hatch on the map) are under the full authority of the FWC. In the central area of the park, FWC fishing regulations apply, but can be modified by the U.S. Secretary of the Interior. Roughly 9% of the park is in federal waters. Current federal fisheries regulations apply in these waters, but the South Atlantic Fishery Management Council (SAFMC) has agreed to defer development of future park-specific fishing regulations to FWC and NPS.

The BNP Fishery Management Plan (FMP) was jointly developed by BNP and FWC over an extended time period with considerable public involvement. The plan was approved by the Commission in 2013 and later finalized by BNP. The goals of the FMP, which will be discussed in greater detail later in the presentation include increasing the abundance and size of targeted species and conserving marine habitats within the park. The FMP includes a suite of potential changes to FWC regulations to accomplish the goals of the plan. The draft rules proposed in this presentation would implement the FMP.

Management and Science Plans



General Management Plan (GMP)

- Long-term management philosophy and zoning
- Included controversial no-take Marine Reserve Zone (MRZ)
- Finalized in 2015

Fishery Management Plan (FMP)

- Long-term plan to balance resource protection and fishing
- Ensures high-quality fishing opportunities can continue
- Series of MOUs with FWC – Agreed marine reserves would not be considered as first option
- Finalized in 2014



Science Plan

- Joint FWC-BNP plan for monitoring fish populations
 - Determine baseline conditions, establish benchmarks
 - Staff will seek Commission approval at Final Public Hearing



There are two separate management plans developed to guide park operations. The General Management Plan (GMP) establishes an overall long-term management philosophy about visitor use and activities in the park and is concerned with zoning of areas where different levels of resource protection and various activities occur. Although FWC did not have a Memorandum of Understanding (MOU) with BNP for the GMP, an MOU related to the FMP was agreed upon in 2002 and stated in part that FWC and BNP agreed to seek the least restrictive fisheries management actions necessary and that no-take zones should only be developed after other management measures had been tried and failed. However, a draft GMP in 2011 included a no-take marine reserve zone (MRZ) and was followed by substantial opposition from the local fishing community. While an alternative with greater access was pursued in a Supplemental Draft GMP, that alternative was also poorly received by the public and the final GMP released in 2015 included the MRZ. However the MRZ has not yet been implemented.

The FMP establishes a long-term plan to balance recreational and commercial fishing in the park with protection of the park's fisheries resources, such that high-quality fishing can continue in the park for generations to come. This plan is intended to guide fisheries management decisions over five to ten years and was developed, in part, through a series of MOUs. Initiated in 2002, the MOU included shared goals to work cooperatively on fishery management programs for BNP. As previously stated, the FWC and the park agreed in the MOU to seek the least restrictive actions necessary, and that no-take zones should only be considered as a last resort. The FMP was approved by the Commission in 2013 and finalized by the park in 2014 after extensive public engagement over many years.

FWC and BNP also collaborated to develop a Science Plan to guide FMP-related research and monitoring. The Science Plan defines how the pre-FMP implementation baselines for targeted fishery species will be measured, as well as the corresponding benchmarks against which we will measure achievement of the goal to increase abundance and average size of targeted species. Staff plan to produce progress reports of the Science Plan every 7 years that will evaluate the progress on whether the desired 20% increases in size and abundance have been reached, with other periodic updates occurring as requested. Staff will seek final Commission approval of the Science Plan at the Final Public Hearing.

Proposed FMP Management Actions



- NPS and FWC agreed that FWC will develop fishing regulations for entire Park
- **FMP goal**
 - Increase size and abundance of targeted fish and invertebrate species within BNP by at least 20%
 - Conserve marine habitats within the park
- Suite of changes to FWC's fishing regulations inside BNP :
 - Modify size limits
 - Modify bag limits
 - Coral reef protection areas (CRPAs)
 - Trap-free zone at park headquarters
 - No-trawl zones



Photo courtesy of Jiangan Luo

The remainder of this presentation will focus on potential actions to implement the now-final FMP. The NPS and FWC agreed that FWC would develop the fishing regulations for the entire park to minimize regulatory complexity and public confusion. The FMP establishes a goal of increasing the abundance and average size of targeted species by 20% and includes a series of potential management actions that could be considered by BNP and FWC as means to meet the goal. Other management actions proposed by the FMP and included as draft rules in this proposal would address the FMP's goal of conserving important marine habitats within the park.

At the October Commission meeting, the Commission directed staff to collect additional public input on a portion of the potential management actions outlined at the October Commission meeting.

The actions considered for rulemaking include modifications to the size limits and bag and possession limits for targeted species. Other potential rulemaking actions include adding trap-free zones and prohibitions on lobster harvest in various offshore Coral Reef Protection Areas (CRPAs) and a trap-free zone in an area of nearshore waters north and east of park headquarters at Convoy point. No-trawl zones for portions of the park are also proposed.

Background information, public feedback, and proposed draft rules on each of these potential management options is discussed in the upcoming slides.

Gathering Public Input

- Public workshops in August and October
 - Coral Gables, Miami, Florida City, Homestead, and Key Largo (2)
 - 350+ participants
 - Live “clicker” survey and open public comment
- In-person meetings
- Online saltwater comments and emails
- Letters to staff, Commissioners, and the Governor’s Office



Next slides: public input on proposed FMP management actions and draft rules

Public input was gathered on the proposals through a series of public workshops, in-person meetings with various stakeholder groups, and a variety of other ways for stakeholders to provide input to the Commission. Public workshops were conducted in August in Coral Gables, Florida City, and Key Largo, and again during October in Miami, Homestead and Key Largo. These workshops were attended by a total of over 350 people. Each workshop included a staff presentation on the history of the FMP, the Science Plan, and the proposed management actions. The workshops also included a questions and answers panel, a live “clicker” survey designed to gather input on the specific proposals, and an open public comment period. Several additional in-person meetings were also held with various stakeholder groups where staff gathered more detailed input on some of the proposals that will be presented today. Finally, as of November 14th, staff had received over 80 comments through our online saltwater comments portal, over 6,000 emails (including over 5,700 form letters from people associated with the National Parks Conservation Association and approximately 280 from American Sportfishing Association affiliates), and several letters to staff, Commissioners, and the Governor’s Office.

The next several slides will summarize the public input received on the various proposed FMP management measures and the related proposed draft rules.

Size Limits – Proposed Draft Rule

- **Purpose:** increase size of targeted species within the park by 20%

Public Feedback

- Generally supported by fishers and non-fishers

Draft Rule

- *Increase size limits for selected finfish within BNP*
- *Allow transit and landing of smaller fish through the park if harvested legally outside the park*

Minimum Size Limits – Recreational and Commercial		
Grouping	Species Common Name	Proposed Changes
Snapper	Gray snapper	10 → 12" TL
	Lane snapper	8 → 10" TL
	Mutton snapper	18 → 19" TL
	Schoolmaster snapper	10 → 12" TL
	Yellowtail snapper	12 → 14" TL
Grouper	Red grouper	20 → 24" TL
Hogfish	Hogfish	no change (16" FL)
Grunt	Bluestriped grunt	none → 10" TL
	White grunt	none → 8" TL
Triggerfish	Gray triggerfish	12 → 14" FL



Staff gathered public feedback on a series of potential park-specific size limits that would apply to recreational and commercial fisheries operating within the park. The purpose of these increases in minimum size limits is to achieve the FMP goal of increasing the average size of targeted species within BNP. The species selected for proposed size limit changes were prioritized within the Science Plan based on their existing monitoring, current knowledge of their biology, and their likelihood to respond to park-specific management. For species with existing minimum size limits, a 20% increase to the current minimum size limit was calculated to shift the size structure of these species in the park toward the FMP goal. The two exceptions to the 20% size limit increase included hogfish and mutton snapper, which have undergone size limit increases in recent years. Thus, staff suggested not increasing the minimum size for hogfish any further and only increasing the mutton snapper size limit by one inch. For targeted species without current size regulations (grunts), a new potential size limit that is approximately 20% larger than size-at-maturity was provided as a measure to increase the average size of those species.

The proposed size limit changes was largely supported by both fishers and non-fishers.

Based on the public feedback received, staff recommends implementing the minimum size limits as discussed at the October Commission meeting. The proposed draft rules would modify recreational and commercial minimum size limits for several targeted species, including a variety of snapper species, red grouper, two species of grunts, and triggerfish as shown in the table on this slide.

If harvested legally outside the park, the proposed draft rules would allow for the transit of smaller fish through the park as long as the vessel did not stop in park waters. It would also allow these legally harvested, smaller fish to be landed at either of the two boat ramps within the park.

Recreational Bag Limits

- **Purpose:** increase abundance of targeted species by 20%
 - 10-fish aggregate possession limit per person
 - Aggregate limit reduced from 20-fish to 10-fish based on Commission direction
- Possession and transit of fish in excess of these limits would be prohibited

Public Feedback

- Support from non-harvesters and fishers (except spearfishers)
 - Some opposition to including pelagic species not common inside BNP
 - Suggestion to include yellow jack



Photo courtesy of Emily Muehlstein



Several aggregate recreational bag and possession limit options were considered during the development of these proposed rules. These bag limits were intended to reduce overall harvest within the park without further limiting harvest of any particular species on a given recreational fishing trip. Today's proposal includes a 10-fish recreational "major finfish" aggregate possession limit per person that includes a variety of food and sport finfish species that are typically encountered within BNP. This proposal is similar to the aggregate limit in nearby Everglades National Park. The major finfish aggregate was originally proposed as a 20-fish limit. However, based on Commission direction at the October Commission meeting, staff explored and is now recommending a 10-fish aggregate. In order to improve compliance and maximize the benefits of this proposed aggregate limit, staff recommend applying them to all persons/vessels fishing within, transiting through, and landing within park boundaries, including at boat ramps within the park.

The workshop survey results indicated there was support from both non-harvesters and fishers (except spearfishers, who had a more mixed response) for the major finfish aggregate. Other comments were also supportive for this option overall, with the exception of some stakeholders who were concerned with the inclusion of pelagic species harvested outside the park. Staff also heard that yellow jack should be included in the 10-fish major finfish aggregate. These suggestions to modify the list of species included in the aggregate were incorporated into the proposed list presented today (provided on the next slide).

Recreational Bag Limits – Proposed Draft Rule

- Establish 10-fish aggregate bag limit for selected major finfish
- Prohibit transit and landing of fish in excess of the aggregate limit

Grouping	Common names
Snapper	Gray, Lane, Mutton, Schoolmaster, Yellowtail
Grouper	Red grouper, Black grouper, Rock hind, Red hind, Coney, and Graysby
Hogfish	Hogfish
Triggerfish	Gray and Ocean
Grunts	all Haemulidae species
Jacks	Permit, Florida pompano, African pompano, Blue runner, Greater amberjack, Lesser amberjack, Banded rudderfish, Crevalle jack, and Yellow jack
Drum	Spotted seatrout, Red drum and Black drum
Snook	All snook (<i>Centropomus</i> species)
Tripletail	Tripletail
Porgies	Sheepshead, Jolthead porgy, Whitelbone porgy, Knobbed porgy, and Sheepshead Porgy
Cobia	Cobia
Wahoo	Wahoo
Dolphin	Dolphin
Mackerel	King and Spanish
Flounder	Gulf, Southern, Summer, and Fringed Flounder
Barracuda	Great barracuda
Other (unregulated) species	Grunts, Cero Mackerel, Ladyfish, Silver jenny (Irish pompano)



Change: added yellow jack to the proposed aggregate limit

Based on public input received, staff is recommending excluding the pelagic species dolphin, cobia, mackerel, and wahoo from this aggregate limit, but adding yellow jack to the aggregate and continuing to include the other species as originally proposed to establish a 10-fish recreational aggregate bag and possession limit for the selected major finfish shown on this slide.

Unlike the proposed size limits, the proposed draft rule relating to the aggregate bag limit would not allow transit or landing of fish in excess of the limit within the park.

Coral Reef Protection Areas – Proposed Draft Rule

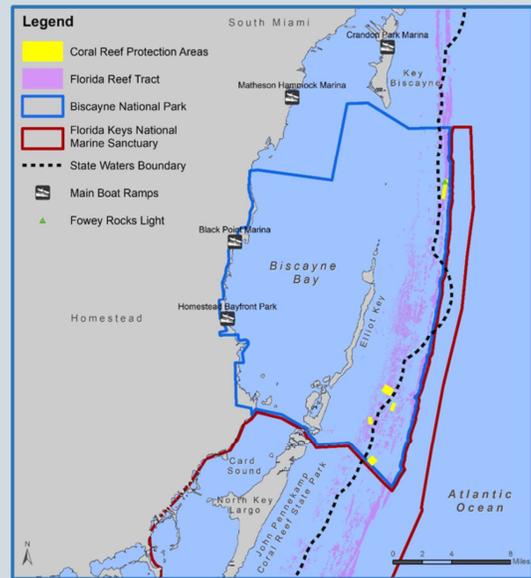
- **Purpose:** protect areas of high quality or threatened species of coral by prohibiting trap use
- 5 proposed areas

Public Feedback

- Supported by most user groups
- Commercial fishers: some mixed support

Draft Rule

- *Create a series of CRPAs around high-quality and threatened coral stands*
- *Prohibit trap use and lobster harvest inside the CRPAs year-round*



Zones called Coral Reef Protection Areas (CRPAs), where use of traps and all lobstering would be prohibited, were identified in a series of locations along the reef tract. These areas were selected to provide protection from trap- and lobster-harvest related damage based on the presence of either especially high-quality coral habitat or areas containing high densities of federally listed threatened coral species. This proposed action is similar to FWC rules in John Pennekamp Coral Reef State Park (Pennekamp), which prohibit harvesting lobster and deploying traps near the natural coral formations within well-marked areas. High winds have the potential to cause trap movement into sensitive habitats, resulting in damage to corals and sponges. These areas were designed to provide a buffer around the corals intended to be protected and their sizes are based on data collected from Pennekamp and other places in the Keys documenting how far traps move in these locations when the fishery sets traps in the vicinity. The five areas proposed cover a total of 1.29 square miles.

Workshop participants from most user groups supported implementing the CRPAs. However, support from commercial fishers was mixed. The comments received outside of the survey were limited for this management action, but were generally supportive. Commercial industry representatives who attended small group meetings with staff prior to the October Commission meeting expressed concern about the previously proposed boundaries of the CRPA in the northeastern portion of the park near Fowey Rocks Light (green triangle on the map). Industry representatives requested modifying this area to reduce the amount of sand-covered deep water that is commonly fished with traps. These changes were incorporated prior to the October Commission meeting, as were minor changes to the boundaries of the other four CRPAs so that these CRPAs better encompass coral habitat.

The proposed draft rules would create these five CRPAs (see map on slide) where the use of traps and all lobstering would be prohibited, as presented at the October Commission meeting, in order to conserve these high quality reef habitats and federally-listed threatened corals.

Trap-Free Zone near Park Headquarters – Proposed Draft Rule

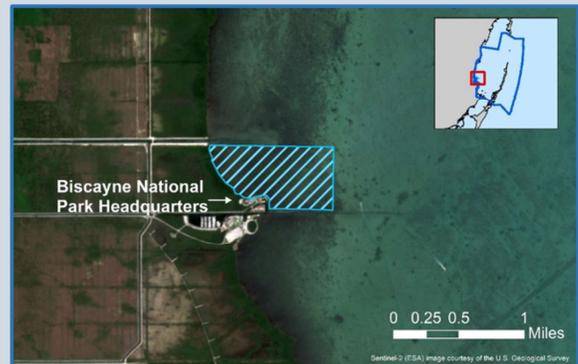
- **Purpose:** reduce conflicts in high-use area
- Lobstering already prohibited in the area

Public Feedback

- Support from most user groups
- Some opposition from commercial fishers

Draft Rule

- *Create a trap-free zone near visitor's center at park headquarters*



In addition to the CRPAs, the FMP identified a potential trap-free zone north and east of the park's headquarters at Convoy point that would prevent user conflicts between non-consumptive visitors such as kayakers, paddle boarders, and wind surfers and the trap fishery and trap gear in this high-use area. Lobstering is already prohibited in this area because it is within the Biscayne Bay-Card Sound Spiny Lobster Sanctuary, but other types of traps are currently fished in the area.

Workshop survey participants from most user groups supported implementing this trap-free zone. However, some commercial fishers opposed it. Staff did not receive any feedback on the area outside of the workshop survey.

Staff recommends creating a trap-free zone as shown on here in the nearshore waters adjacent to the visitor's center at park headquarters, as discussed at the October Commission meeting. The boundaries of this zone maintain parallel lines with landmarks for clarity and simplicity. The proposed zone includes approximately 0.3 miles of nearshore, shallow park waters.

No-Trawl Zone – Proposed Draft Rule

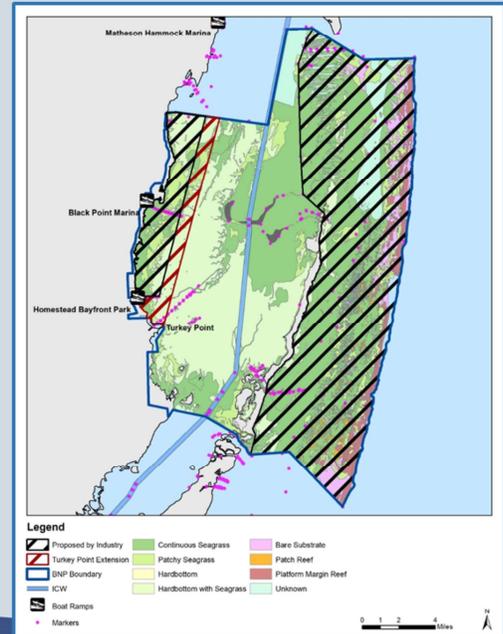
- **Purpose:** protect vital nursery habitat and reduce bycatch
- Areas closed to trawling

Public Feedback

- Proposal incorporates previous commercial industry suggestions
- Broad support with some continued concern by commercial participants
- Some additional concern it does not include enough nearshore hardbottom

Draft Rule

- *Create no-trawl areas to protect sensitive habitat and reduce bycatch*



Finally, the FMP also identified the potential implementation of a no-trawl zone within a portion of the bay as a means to conserve park seagrass and hardbottom nursery habitat for fish and invertebrates, as well as reducing bycatch in these nursery habitats. The roller-frame trawls used within the park were designed to roll over seagrasses with minimal negative impacts. However, research indicates that they can have a greater impact to hardbottom organisms such as soft corals and sponges. Two options were presented to industry and at August workshops for public feedback.

During meetings with the commercial industry that followed the August workshops, participants expressed concern about the negative impacts to the shrimp fishery from both of the presented options. The industry suggested alternative areas that would prohibit trawling close to shore, but also the deeper waters offshore of the barrier islands. The proposed boundaries were modified to reflect the industry-proposed zone (shown in black on the slide), but with the addition of expanded nearshore hardbottom areas (shown in red) along the eastern edge of the industry-proposed nearshore zone. Workshop survey participants from most user groups supported implementing a no-trawl zone in the park. However, support from commercial fishers continues to be mixed. There is also still some concern that the proposed areas do not include enough of the nearshore hardbottom.

The proposed draft rule includes the two no-trawl zones presented at the October Commission meeting. The boundaries of these zones provide more coverage than the original proposed zones, while displacing fewer fishermen, and still providing protection for portions of the hardbottom nursery habitat that is most susceptible to trawl damage.

No Longer Recommending

- Modifications to stone crab and blue crab bag limits
- Creating a baitfish bag limit
- Elimination of lobster mini-season
 - CRPA regulations modified for additional coral protection
- Spearfishing modifications (elimination of trigger mechanisms and air-assisted equipment)
 - Size and bag limits apply to both hook-and-line anglers and spearfishermen



Staff took a suite of options to workshop in August that, based on public feedback, are no longer being recommended.

Staff is no longer recommending modifications to the stone crab and blue crab bag limits.

The creation of a baitfish bag limit has also been removed from the recommendation, due to its likely, but unintended consequences on baitfish harvested outside the park but used to fish either in the park or in waters well-beyond the park on charter trips and by private recreational anglers.

In addition, staff is no longer considering eliminating lobster mini-season within the park. The original intent of the proposal to eliminate mini-season in BNP was to provide protection for corals during high-use dive times. This protection is now offered with the modified CRPA proposal which prohibits lobster harvest year-round in those valuable coral areas.

Lastly, staff previously recommended modifications to the spearfishing regulations inside BNP (the elimination of trigger mechanisms and air-assisted equipment). Staff is no longer recommending those prohibitions, but as is the case statewide, size and bag limits apply to spearfishermen within the park as well as hook-and-line anglers and fishers using other types of fishing gear.

Additional Feedback

- Requests for additional FWC Law Enforcement within the park
- Support for temporary or permanent marine reserves
- Requests to further limit commercial fishing



In addition to the proposed management measures that provided for public input, staff also heard feedback on a variety of other topics related fisheries management in BNP.

One of the most common other recommendations staff received was to increase the presence of FWC law enforcement in the park. This recommendation was often related to concerns about the enforcement of new regulations being proposed or as a suggested alternative to any new regulations.

Another common recommendation heard was to implement temporary or permanent no-take marine reserves (no-take areas). The National Parks Conservation Association, for example, gathered over 5,700 form letters and emails supporting the staff's proposals, but also recommending these types of spatial closures.

Limiting commercial fishing was also suggested as an alternative to further recreational restrictions.

Additional Information



Other BNP-only actions in the FMP

- Annual permit for for-hire guides (implemented April 2019)
- Phase out commercial fishery: limited-entry permit with annual renewal required

Actions from FMP considered but not recommended

- Seasonal and area closures
- Restricting traps from hardbottom habitat
- Additional commercial harvest limits
- Species-specific bag limit changes

Adaptive management

- Goal remains constant but actions can be adaptive over time



Photo courtesy of Jim Higgins

While not requiring FWC action, there are some actions identified in the FMP that are intended to be or have already been implemented by BNP, including requiring annual permits for for-hire guides operating within the park. This permit requirement has been in place since April 2019 and is similar to the requirements of for-hire guides operating charters in Everglades National Park. The FMP also provides for a potential slow phase out of commercial fishing in the park via a Special Use Permit issued by BNP. If implemented, this permit would be created by the NPS and be a use-or-lose permit issued to current fishers with a history of landings in the park. The permit would create a mechanism to phase out commercial fishing when the fishermen currently fishing park waters leave the fishery.

There were also several actions identified in the FMP that were potential options for implementation, but which staff are not recommending at this time. These non-recommended measures include seasonal and area closures, restricting traps from all hardbottom habitat, and adding additional restrictions to commercial harvest. These actions were not considered because FWC staff believe the current regulations coupled with those proposed today are sufficient to accomplish the intent of the non-recommended actions.

Finally, while the goal of the FMP has been agreed upon by all parties and is finalized, FWC maintains the ability to adapt the fishery regulations used to achieve this goal over time based on the status of the fisheries as provided in periodic progress reports associated with the Science Plan.

Staff Recommendation

Approve noticing the proposed draft rules aimed at achieving the goals of the BNP FMP

- Modified size limits
- Aggregate recreational finfish bag limit
- Coral Reef Protection Areas
 - Trap use prohibited
 - Lobster harvest prohibited
- Trap-free zone near park headquarters
- No-trawl areas



Photo courtesy of Don DeMaria

If approved and directed, return for a final public hearing at the February Commission meeting



Staff will request approval of the Science Plan and MOU at the Final Public Hearing

Staff recommends the Commission approve the proposed draft rules aimed at achieving the goals of the BNP FMP through modified size limits, creation of a 10-fish recreational aggregate finfish bag limit, creating Coral Reef Protection Areas where traps and lobster harvest would be prohibited, and creating a trap-free zone near park headquarters and no-trawl zones that include several areas of hardbottom habitat.

If approved and directed, staff will return for a final public hearing at the February 2020 Commission Meeting.

Staff will also seek Commission approval of the Science Plan and new MOU between FWC and BNP at the Final Public Hearing.