

between unrelated persons, and tax liabilities are disregarded. * * *

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AC89

Virgin Islands Coral Reef National Monument and Buck Island Reef National Monument

AGENCY: National Park Service, Interior.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule relates to the prohibition on extractive uses contained in Presidential Proclamation No. 7399, which established the Virgin Islands Coral Reef National Monument (VICR), and Presidential Proclamation No. 7392, which expanded the boundaries of the existing Buck Island Reef National Monument (BUIS). This interim rule prohibits extractive uses, with some exceptions, and anchoring within VICR. For the purposes of protecting the objects identified in BUIS, Proclamation No. 7392 supersedes the limited authorization for extractive uses that was included in Proclamation 3443 of December 28, 1961, which created BUIS. Pursuant to Proclamation No. 7392, this interim rule prohibits all extractive uses and boat anchoring within BUIS except in deep sand areas or in emergencies (all other anchoring is subject to permit). This interim rule replaces the BUIS regulations stated in 36 CFR 7.73, which allowed for certain types of fishing and collecting, operation of watercraft, and anchoring. Proclamation Nos. 7399 and 7392 require the National Park Service to prepare management plans, which are to include guidelines for the management of vessels in the monument, within three years for VICR and two years for BUIS.

DATES: This interim rule becomes effective on May 5, 2003. This interim rule will remain in effect until final regulations are adopted. Written comments on this interim rule are solicited from all interested parties, and these comments will be considered in developing the General Management Plans (GMP) and final regulations. Final

regulations will be adopted upon completion of the GMPs and review of all comments.

ADDRESSES: Comments should be addressed to: John H. King, Superintendent, Virgin Islands National Park, 1300 Cruz Bay Creek, St. John, Virgin Islands 00830. E-mail:

John_H_King@nps.gov. Mr. Joel A. Tutein, Superintendent, Buck Island Reef National Monument, 2100 Church Street, Lot #100, Christiansted, St. Croix, Virgin Islands 00820-4611. E-mail: *CHRI_Superintendent@nps.gov*.

FOR FURTHER INFORMATION CONTACT: For Virgin Islands Coral Reef: Contact Superintendent's Office, Virgin Islands National Park, between 8 a.m. and 5 p.m., Monday-Friday by phone at 340/776-6201 or by Fax at 340/693-9301. For Buck Island: Contact Superintendent's Office, Buck Island Reef National Monument, between 8 a.m. and 5 p.m., Monday-Friday, at 340/773-1460.

SUPPLEMENTARY INFORMATION:

Background

On January 17, 2001, President Clinton established Virgin Islands Coral Reef National Monument (VICR) and enlarged and modified Buck Island Reef National Monument (BUIS). Presidential Proclamation Nos. 7399 and 7392, respectively.

In establishing VICR, Proclamation No. 7399 assigns management to the Secretary of the Interior through the National Park Service (NPS) under its existing authorities, but subject to the overriding purpose of protecting the monument's objects of historic or scientific interest. The acreage included is the smallest area compatible with the proper care and management of the objects to be protected. Proclamation No. 7399 contains six major provisions:

(1) It reserves only lands owned or controlled by the United States in the area.

(2) It is subject to valid existing rights in the federal lands or resources within the area, if any, although the exercise of those rights could be regulated in order to protect the purposes of the monument.

(3) The area is withdrawn from mineral and geothermal entry, location, sale, leasing or other disposition.

(4) Boat anchoring is prohibited, except for emergency and authorized administrative uses.

(5) All extractive uses are prohibited, except for bait fishing at Hurricane Hole and for blue runner (hardnose) line fishing in the area south of St. John, both by permit only. The Secretary may issue permits only "to the extent that

such fishing is consistent with the protection of the objects identified in this proclamation."

(6) A management plan, including vessel management planning, is to be prepared within three years.

Proclamation No. 7392, the "Buck Island Reef National Monument Boundary Enlargement", added approximately 18,135 marine acres to the existing Buck Island Reef National Monument. This acreage is the smallest area compatible with the proper care and management of the objects to be protected. The Proclamation added extensive coral reef and fisheries resources not originally within the monument boundaries including deep reefs, sea grass beds, shelf edge communities, and oceanic habitats. The area also contains significant cultural and historic objects including possible shipwrecks from the slave era. The Buck Island Proclamation states that:

For the purposes of protecting the objects identified above, the Secretary shall prohibit all boat anchoring, provided that the Secretary may permit exceptions for emergency or authorized administrative purposes, and may issue permits for anchoring in deep sand bottom areas, to the extent that it is consistent with the protection of the objects.

For the purposes of protecting the objects identified above, the Secretary shall prohibit all extractive uses. This prohibition supersedes the limited authorization for extractive uses included in Proclamation 3443 of December 28, 1961.

The Proclamations give the Secretary limited discretion in what activities and uses she may allow. She must prohibit all extractive uses, but she may allow very limited fishing in two areas at VICR and may permit certain very limited kinds of boat anchoring at BUIS.

The Proclamations differ from current regulations governing the areas. Note that NPS general regulations prohibit all commercial fishing in any unit of the National Park System except where specifically authorized by federal statutory law. However, NPS regulations at 36 CFR 2.3 allow recreational fishing under state law in all park units unless otherwise prohibited. The Proclamations and this interim regulation are generally more restrictive for both VICR and BUIS.

Commercial and recreational fishing were previously authorized by Territorial Government permit within the boundaries of the area that now constitutes VICR, with regulations on the taking of some species (*i.e.*, area and seasonal closures, size limits, gear restrictions, etc.) and prohibitions on the harvest or possession of others. Title 12, chapter 9A VIRR. The harvest of