

certain pelagic species (e.g., swordfish, shark and tuna), was generally regulated by the National Marine Fisheries Service. Mooring and anchoring within the boundaries of VICR were previously authorized by the Territory pursuant to title 25, chapter 16 VIRR.

This interim rule prohibits all extractive uses including fishing within VICR, except for bait fishing at Hurricane Hole and blue runner (hardnose) line fishing in the area south of St. John as permitted by the Secretary (and only where consistent with the protection of the objects identified in Proclamation No. 7399). The interim rule also prohibits dredging, excavations, or filling operations; protects all wrecks or abandoned waterborne craft and cargo; regulates boats and anchoring to prevent them from causing any damage to any underwater features; and requires boats to follow Coast Guard and Territorial regulations. Although this regulation does not specifically prohibit the use of personal watercraft (PWC) within these units, under the PWC regulations located at 36 CFR 3.24, PWC are prohibited from operating within these units and have been prohibited since April 2000. The interim rule does permit anchoring in emergency situations to protect life and property.

BUIS originally permitted the continuation of "the existing fishing (including the landing of boats and the laying of fishpots outside of the marine garden), bathing or recreational privileges by inhabitants of the Virgin Islands". Proclamation No. 3443. The regulations for BUIS, codified at 36 CFR 7.73, have prohibited dredging, excavations, or filling operations; protected all wrecks or abandoned waterborne craft and cargo; regulated boats and anchoring to prevent them from causing any damage to any underwater features, prevented boats from anchoring or maneuvering near marked swimming trails, and required boats to follow Coast Guard and Territorial regulations. The previous regulations provided that fishing was prohibited except by handheld rod or line or conventional Virgin Islands fish pots or traps, or nets for bait fish; use or possession of spearfishing equipment was banned; special rules and limits applied to Florida spiny lobster, whelk, and conch; and all fishing was prohibited in the "Marine Garden".

This interim rule leaves in place the existing regulatory provisions regarding dredging, protection of wrecks, and boat regulation. It adds a prohibition of all anchoring except as authorized by the Superintendent in deep sand bottom areas, in emergencies, or for limited

administrative purposes. It also adds a prohibition on all extractive uses. The interim rule eliminates the previous provisions on fishing, and instead prohibits all fishing and bans the use or possession of fishing equipment within BUIS.

Because the Secretary's discretion under the Proclamations is limited, and because the Proclamations supersede existing law over the areas, it is in the public interest to promulgate these interim regulations in order to provide notice to interested and affected parties of the designations, prohibitions, and change in management, and to carry out the Proclamations' purpose to protect objects of historic and scientific interest. The National Park Service finds that this interim rule is both necessary and prudent in order to achieve the goals stated in the Proclamations and make them effective.

Impairment Finding

NPS Management Policies 1.4 requires the Superintendent to consider the impacts of a proposed action before approving it and determine, in writing, that the activity will not lead to an impairment of park resources and values.

Fishing Exceptions

Exceptions to the prohibitions established for VICR include bait fishing at Hurricane Hole by permit and for blue runner (hardnose) line fishing, also by permit, in the area south of St. John. These exceptions are determined to produce no impairment of the objects protected by the proclamation.

The bait fish found in Hurricane Hole are seasonal, migratory species using this area for refuge. This is not a reproductive site for these species and limited harvest, by permit, will not depopulate this resource. This rule establishes limits on harvest to three gallons of bait fish per fisherman per day, and require that nets not be used within ten feet of the seaward edge of the mangrove prop root system (to avoid disturbing the invertebrate communities that live on the prop roots).

The hardnose found south of St. John are a coastal migratory pelagic fish. These fish stay primarily near the surface while feeding and migrating through the Monument. Harvest, by permit, of this pelagic resource will not impair objects protected under the designation. The most effective way to fish for hardnose involves anchoring. Since anchoring in this area is not allowed, the NPS will be installing several moorings for use by fishermen.

Anchoring/Mooring

Hurricane Hole has long been used by the marine community as a safe shelter for vessels during hurricanes. Pursuant to maritime law and practice, access to this shelter cannot be denied during an emergency situation. The establishment of a hurricane mooring system in these bays would resolve conflicts between resource protection and hurricane shelter for boats. The installation of a mooring system, after survey for submerged cultural resources, would not impair protected objects.

The Proclamation for BUIS does not have any exceptions to the prohibition except that boat anchoring may be permitted for emergency or authorized administrative purposes, and the Superintendent "may issue permits for anchoring in deep sand bottom areas, to the extent that is consistent with the protection of the objects". This ensures that any such anchoring would not impair protected objects.

This impairment determination will sunset upon adoption of the respective GMPs, which will further evaluate impacts to monument resources and values.

The GMP process will evaluate further the exceptions to the general prohibition on extractive uses. The public will have further opportunity to comment on extractive uses during the GMP process, however, the Secretary's discretion under the Proclamations is limited and only a few exceptions can be modified.

Public Participation: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to: Superintendent, Virgin Islands National Park; 1300 Cruz Bay Creek, St. John, Virgin Islands 00830, or Superintendent, Buck Island Reef National Monument; 2100 Church Street, Lot #100; Christiansted, VI 00820. You may also comment via the Internet to: John_H_King@nps.gov or CHRI_Superintendent@nps.gov. Please also include "Attn: RIN 1024-AC89", your name and return address in your Internet message. Finally, you may hand-deliver comments to the Virgin Islands National Park Visitor Information Center, Cruz Bay, St. John or to the Buck Island Reef National Monument Superintendent's Office at the Danish Customs House, Christiansted, St. Croix. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the