

Appendices



Buck Island North Reef Overlook

Buck Island Reef National Monument
Draft General Management Plan/
Environmental Impact Statement

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**APPENDIX A
PARK LEGISLATION**

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The Presidents Proclamation No. 3443
ESTABLISHING THE BUCK ISLAND REEF NATIONAL MONUMENT IN THE VIRGIN
ISLANDS OF THE UNITED STATES

By the President of the United States of America, John F. Kennedy

Title 3- The President- Proclamation 4346
RESERVING CERTAIN LANDS ADJACENT TO AND ENLARGING THE BOUNDARIES OF
THE BUCK ISLAND REEF NATIONAL MONUMENT IN THE VIRGIN ISLANDS OF THE
UNITED STATES

By the President of the United States of America, Gerald R. Ford

Presidents Proclamation
BOUNDARY ENLARGEMENT AND MODIFICATIONS OF THE BUCK ISLAND REEF
NATIONAL MONUMENT

By the President of the United States of America, William J. Clinton

36 CFR Part 7
INTERIM RULE FOR VIRGIN ISLANDS CORAL REEF NATIONAL MONUMENT AND BUCK
ISLAND REEF NATIONAL MONUMENT
National Park Service, 2003

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THE PRESIDENT'S PROCLAMATION NO. 3443
ESTABLISHING THE BUCK ISLAND REEF NATIONAL
MONUMENT IN THE VIRGIN ISLANDS OF THE UNITED STATES
BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A P R O C L A M A T I O N

WHEREAS, By Section 2 of an Act of Congress approved June 8, 1906, (34 Stat. 225; 16 U.S.C. 431), the President is authorized "in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected", and

WHEREAS, Buck Island, situated off the northeast coast of St. Croix Island in the Virgin Islands of the United States, was included in the public, government, or crown lands ceded to the United States by Denmark under the convention entered into August 4, 1916 and proclaimed by the President January 25, 1917 (39 Stat. 1706); and

WHEREAS, all property thus acquired by the United States from Denmark, not reserved by the United States for public purposes prior to June 22, 1937, was placed under the control of the Government of the Virgin Islands by the Act of June 22, 1936, (49 Stat. 1807; 48 U.S.C. 1405-1405b), with the legal title remaining in the United States; and

WHEREAS, Buck Island was not reserved by the United States for public purposes prior to June 22, 1937, but has been owned by the United States continuously since the convention with Denmark in 1916; and

WHEREAS, Buck Island and its adjoining shoals, rocks and undersea coral reef formations possess one of the finest marine gardens in the Caribbean Sea; and

WHEREAS, these lands and their related features are of great scientific interest and educational value to students of the sea and to the public; and

WHEREAS, this unique natural area and the rare marine life which are dependent upon it are subject to constant threat of commercial exploitation and destruction; and

WHEREAS, the Advisory Board on National Parks, Historic Sites, Buildings and Monuments, established pursuant to the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 463), impressed by the caliber and scientific importance of the coral reefs of Buck Island, has urged their prompt protection to prevent further despoliation; and

WHEREAS, it is in the public interest to preserve this area of outstanding scientific, aesthetic and educational importance for the benefit and enjoyment of the people;

NOW, THEREFORE, I JOHN F. KENNEDY, PRESIDENT, of the United States of America, under and by virtue of the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431), do proclaim that, subject to valid existing rights, there is hereby reserved and set apart, as the Buck Island Reef National Monument, the area embraced within lines drawn between the coordination of latitude and longitude recited as follows:

Beginning at latitude 17°47'58" N., longitude 64°38'16" W.; thence approximately 10,450 feet to latitude 17°47'30" N., longitude 64°36'32" W., thence approximately 1,500 feet to latitude 17°47'15" N., longitude 64°36'32" W., thence approximately 4,500 feet to latitude 17°47'00" N., longitude 64°37'18" W.; thence approximately 8,600 feet to latitude 17°47'35" N. longitude 64°38'37" W.; and thence approximately 3,075 feet to latitude 17°47'58" N., longitude 64°38'16" W., the place of beginning, embracing an area of approximately 850 acres.

Warning is expressly given to all unauthorized persons not to appropriate, injure, destroy, deface, or remove any feature of this monument and not to locate or settle upon any of the lands reserved for the monument by this proclamation.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management and control of this monument as provided in the Act of Congress entitled, "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (39) Stat. 535; 16 U.S.C. 1-3), and all acts supplementary thereto and amendatory thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-eighth day

of December in the year

of our Lord nineteen

hundred and sixty-one

and of the

Independence

of the United

States of America

the one hundred and eighty-fifth.

by the President
Secretary of State

Proclamation 4346 - Buck Island Reef National Monument, U.S. Virgin Islands

February 1, 1975

By the President of the United States of America

A Proclamation

RESERVING CERTAIN LANDS ADJACENT TO AND ENLARGING THE BOUNDARIES OF THE BUCK ISLAND REEF NATIONAL MONUMENT IN THE VIRGIN ISLANDS OF THE UNITED STATES

The Buck Island Reef National Monument, situated off the northeast coast of Saint Croix Island in the Virgin Islands of the United States, was established by Proclamation No. 3443 of December 28, 1961 (76 Stat. 1441). It now has been determined that approximately thirty acres of submerged land should be added to the monument site in order to insure the proper care and management of the shoals, rocks, undersea coral reef formations and other objects of scientific and historical interest pertaining to this National Monument.

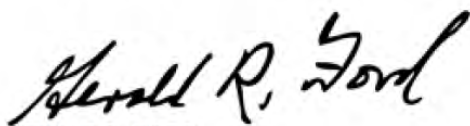
These thirty acres of submerged lands are presently owned in fee by the United States. They will be conveyed to the Government of the Virgin Islands on February 3, 1975, pursuant to Section 1(a) of Public Law 93-435 (88 Stat. 1210), unless the President, under Section 1(b) (vii) of that Act, designates otherwise.

Under Section 2 of the Act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), the President is authorized to declare by public Proclamation objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. The aforementioned thirty acres of submerged lands are contiguous to the site of the Buck Island Reef National Monument, constitute a part of the ecological community of the Buck Island Reef, and will not enlarge the monument boundaries beyond the smallest area compatible with its proper care and management.

Now, Therefore, I, *Gerald R. Ford*, President of the United States of America, by virtue of the authority vested in me by Section 1(b) (vii) of Public Law 93-435 (88 Stat. 1210), do hereby proclaim that the lands hereinafter described are excepted from the transfer to the Government of the Virgin Islands under Section 1(a) of Public Law 93-435; and, by virtue of the authority vested in me by Section 2 of the Act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), do hereby proclaim that, subject to valid existing rights, the lands hereinafter described are hereby added to and made a part of the Buck Island Reef National Monument, and Proclamation No. 3443 of December 28, 1961, establishing the Buck Island Reef National Monument is amended accordingly.

Beginning at latitude 17°47'30" N, longitude 64°36'32" W; thence approximately 1000 feet to latitude 17°47'27" N, longitude 64°36'22" W; thence approximately 900 feet to latitude 17°47'18" N, longitude 64°36'22" W; thence approximately 1000 feet to latitude 17°47'15" N, longitude 64°36'22" W; thence approximately 1500 feet to latitude 17°47'30" N, longitude 64°36'32" W, the place of beginning, embracing an area of approximately 30 acres.

In Witness Whereof, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred and ninety-ninth.



GERALD R. FORD

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**PROCLAMATION: Boundary Enlargement and Modifications of the Buck Island Reef
National Monument**

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

January 17, 2001

BOUNDARY ENLARGEMENT AND MODIFICATIONS OF THE
BUCK ISLAND REEF NATIONAL MONUMENT

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Buck Island Reef National Monument was established on December 28, 1961 (Presidential Proclamation 3443), just north of St. Croix in the U.S. Virgin Islands, for the purpose of protecting Buck Island and its adjoining shoals, rocks, and undersea coral reef formations. Considered one of the finest marine gardens in the Caribbean Sea, the unique natural area and the rare marine life which are dependent upon it are subject to the constant threat of commercial exploitation and destruction. The monument's vulnerable floral and faunal communities live in a fragile, interdependent relationship and include habitats essential for sustaining the tropical marine ecosystem: coral reefs, sea grass beds, octocoral hardbottom, sand communities, algal plains, shelf edge, and oceanic habitats. The boundary enlargement effected by this proclamation brings into the monument additional objects of scientific and historic interest, and provides necessary further protection for the resources of the existing monument.

The expansion area includes additional coral reefs (patch, pur and groove, and deep and wall), unusual "haystacks" of elkhorn coral, barrier reefs, sea grass beds, and sand communities, as well as algal plains, shelf edge, and other supporting habitats not included within the initial boundary. Oceanic currents carry planktonic larvae of coral reef-associated animals to the shallow nearshore coral reef and sea grass habitats, where they transform into their juvenile stage. As they mature over months or years, they move offshore and take up residence in the deeper coral reefs, octocoral hardbottom, and algal plains. Between the monument's nearshore habitats and its shelf edge spawning sites are habitats that play essential roles during specific developmental stages of many reef-associated species, including spawning migrations of many reef fish species and crustaceans. Several threatened and endangered species forage, breed, nest, rest, or calve in the waters included in the enlarged monument, including humpback whales, pilot whales, four species of dolphins, brown pelicans, least terns, and the hawksbill, leatherback, and green sea turtles. Countless species of reef fishes, invertebrates, plants, and over 12 species of sea birds utilize this area.

The ecologically important shelf edge is the spawning site for many reef species, such as most groupers and snappers, and the spiny lobster. Plummeting to abyssal depths, this habitat of vertical walls, honeycombed with holes and caves, is home to deepwater species and a refuge for other

species.

The expansion area also contains significant cultural and historical objects. In March 1797, the slave ship Mary, captained by James Hunter of Liverpool, sank in this area, and its cargo of 240 slaves was saved and brought to Christiansted. In March 1803, the General Abercrombie, captained by James Booth of Liverpool, also wrecked in this area, and its cargo of 339 slaves was brought to Christiansted. Slave shipwrecks in U.S. waters are rare. The monument contains remnants of these wrecks. Other wrecks may also exist in the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

WHEREAS it appears that it would be in the public interest to reserve such lands as an addition to the Buck Island Reef National Monument:

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by the authority vested in me by section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as an addition to the Buck Island Reef National Monument, for the purpose of care, management, and protection of the objects of historic and scientific interest situated on lands within the said monument, all lands and interests in lands owned or controlled by the United States within the boundaries of the area described on the map entitled "Buck Island Reef National Monument Boundary Enlargement" attached to and forming a part of this proclamation. The Federal land and interests in land reserved consist of approximately 18,135 marine acres, which is the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries of this monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or leasing or other disposition under the public land laws, including but not limited to withdrawal from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument.

For the purpose 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.

Lands and interests in lands within the monument not owned or controlled by the United States shall be reserved as a part of the monument

upon acquisition of title or control thereto by the United States.

The Secretary of the Interior shall manage the monument through the National Park Service, pursuant to applicable legal authorities, to implement the purposes of this proclamation. The National Park Service will manage the monument in a manner consistent with international law.

The Secretary of the Interior shall prepare a management plan, including the management of vessels in the monument, within 2 years that will address any further specific actions necessary to protect the objects identified above.

The enlargement of this monument is subject to valid existing rights.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the national monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of January, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.

WILLIAM J. CLINTON

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[Federal Register: April 4, 2003 (Volume 68, Number 65)]
[Rules and Regulations]
[Page 16432-16436]
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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

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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/Moorings

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

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rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment and state the reason for your request. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. All comments will be considered as part of the GMP process. There will be further opportunity for public comment during the GMP process. Final regulations will be adopted after the completion of the GMP process.

Drafting Information: The principal authors of this interim rule are John H. King, Superintendent, Virgin Islands National Park and Joel A. Tutein, Superintendent, Buck Island Reef National Monument.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

(a) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public

health or safety, or State, local, or tribal governments or communities.

(b) This rule does not interfere with actions taken or planned by another agency. The Territorial Submerged Lands Act of 1974 transferred the waters surrounding the Virgin Islands from the Department of the Interior to the Government of the Virgin Islands; however, all submerged lands adjacent to federal lands from mean high water out to three miles remained the property of the Department of the Interior. The Proclamations authorize NPS to manage these lands around VICR and BUIS for the American people.

The Proclamation for BUIS complements plans of the Territorial government to ban all fishing within the **monument** waters according to the St. Croix Coral Reef System Area of Particular Concern Management Plan (1993) (APC Plan) approved by the Government of the Virgin Islands, Department of Planning and Natural Resources. The APC Plan states, on page 40:

Move to establish, as part of the territorial marine park system, an expanded protected area around the **Buck Island Reef National Monument** to provide increased protection to the coral reef and fishery resources of the **Monument**. It is recommended that all forms of fishing be prohibited within the core and expanded area.

The Territory is willing to work with NPS to establish Memoranda of Agreement to specify resource management goals, objectives, standard protocol, and agency responsibilities. The Proclamations have declared the **monument** areas as non-extractive, coinciding with Territorial plans for the same action. The Territory is also in the process of developing a Virgin Islands Marine Park, which will abut both new monuments and hopefully provide further protection for the natural resources in the area.

(c) This rule does not alter the budgetary effects of entitlements, grants, user fees, or monetary loan programs or the rights or obligations of their recipients. The Proclamations establishing VICR and enlarging BUIS do not affect current NPS-authorized concession operations (concession fees) or other commercial operations (e.g., day use excursions) occurring in the monuments. These operations are non-extractive in nature, provide the public the means to experience these unique and delicate marine resources, and allow the public a first-hand opportunity to see the benefits of a fully protected coral reef area.

(d) This rule does not raise novel legal or policy issues. It implements two validly issued Presidential Proclamations, which leave little discretion as to the purposes for the creation of the monuments or uses of the area.

Regulatory Flexibility Act

The Department of the Interior certifies that this **interim** rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.). The economic effects of this rule are local in nature and negligible in scope.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million or

more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The Department has determined that this rule meets the applicable standards provided in section 3(a) and 3(b)(2) of Executive Order 12988.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. No property acquisition or impacts on private property owners are expected due to the administrative nature of the rule. The Proclamations identify federal submerged lands surrounding Virgin Islands National Park and around the original Buck Island Reef National Monument for management by the National Park Service. These lands were held in reservation in the Submerged Lands Act of 1974 and not transferred to the Territorial government.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The NPS is exercising jurisdiction over submerged federal lands for which control has never been relinquished.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule does not require an information collection from 10 or more parties. It does not require submissions under the Paperwork Reduction Act or OMB form 83-I. This rule does not require any outside party to submit any information to the Department of the Interior.

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National Environmental Policy Act

The NPS has determined that this rule will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase human uses that would compromise the nature and characteristics of any park area or cause physical damage to any park area;

(b) Introduce incompatible uses that compromise the nature and

characteristics of any park area or cause physical damage to it;

(c) Conflict with ownerships adjacent to parks or land uses adjacent to parks; or

(d) Cause a nuisance to owners or occupants of areas adjacent to parks.

Based upon this determination, this rulemaking is categorically excluded from the procedural requirements of the **National Environmental Policy Act (NEPA)** by Departmental Guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared specifically for this rule. The GMPs will be accompanied by proper NEPA documentation.

Government-to-Government Relationship With Tribes

In accordance with Executive Order 13175 ``Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249), the President's memorandum of April 29, 1994, ``Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), and 512 DM 2 we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

Administrative Procedures Act

The Secretary of the Interior has determined under 5 U.S.C. 553(b)(B) and 318 DM 5.3 that it is not in the public interest to delay the effective date of this **interim regulation** to accommodate notice and comment procedures. There are 4 reasons for this decision:

(a) The Proclamations clearly outline the limits of the Secretary's discretion in disallowing extractive uses at the Monuments. This **regulation** simply codifies the prohibitions of extractive uses outlined in the Proclamations and public comment will be useful only as to the few narrow exceptions allowed under the Proclamations.

(b) Delaying implementation of the Proclamations may lead to confusion about what law applies in the units and could result in harm to the objects protected by the Proclamations.

(c) Immediate action is necessary in order to effectuate the purpose for which the Proclamations were issued; that is, protecting the objects within the monuments.

(d) Immediate action is necessary in order to implement the exceptions providing for limited, permitted extraction in VICR.

List of Subjects in 36 CFR Part 7

District of Columbia, **National parks**, Reporting and recordkeeping requirements.

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For the reasons stated in the preamble, the **National Park Service** amends 36 CFR part 7 as follows:

PART 7--SPECIAL REGULATIONS, AREAS OF THE **NATIONAL PARK SYSTEM**

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1. The authority citation for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); sec. 7.96 also issued under DC Code 8-137 (1981) and DC Code 40-721 (1981).

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2. Add Sec. 7.46 to read as follows:

Sec. 7.46 Virgin Islands Coral Reef National Monument.

(a) Extractive uses. (1) All extractive uses are prohibited within the boundaries of the **Monument**, including, but not limited to, harvest or collection of fish, coastal migratory pelagic fish, baitfish, lobsters, conch, whelk, corals, sponges and all associated **reef** invertebrates, and sand, water, plants, seeds, fruit, marine mammals, marine birds, gas, minerals, and rocks.

(2) All submerged cultural resources are protected under the Archeological Resource Protection Act and the Abandoned Shipwrecks Act.

(b) Exceptions. (1) Exceptions to prohibited extractive uses are limited to bait fishing at Hurricane Hole and blue runner (hardnose) line fishing in the area south of St. John. The Superintendent shall issue permits for such uses.

(2) Bait fishing shall be permitted with cast net at a distance greater than ten feet from the seaward edge of the mangrove prop root system.

(3) A maximum of three gallons of baitfish is allowed per fisherman per day.

(4) Blue runner shall be caught using hand lines and chum (a mixture of ground up baitfish and sand to attract the fish).

(5) Any fish caught other than blue runner shall be released.

(6) Vessels involved in the catch of blue runner may use moorings designated for that purpose.

(c) Marine Operations. No dredging, excavating, or filling operations of any kind are permitted, and no equipment, structures, by-product or excavated materials associated with such operations may be deposited in or on the waters or ashore within the boundaries of the **monument**.

(d) Wrecks. No person shall destroy or molest, remove, deface, displace or tamper with wrecked or abandoned waterborne craft of any type or condition, submerged cultural resources, or any cargo pertaining thereto, unless permitted in writing by an authorized official of the **National Park Service**.

(e) Boats. (1) No watercraft shall operate in such a manner, nor shall anchors or any other mooring device be cast or dragged or placed, so as to strike or otherwise cause damage to any underwater feature.

(2) All watercraft, carrying passengers, for hire, shall comply with applicable regulations and laws of the U.S. Coast Guard and Territory of the Virgin Islands.

(3) Anchoring will only be permitted in emergency situations to protect life and property.

(4) Anchoring shall only be permitted from 48 hours prior to landfall of the hurricane to 48 hours following passage of the hurricane.

(5) No lines or ropes shall be attached to mangroves or other shoreline vegetation.

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3. Amend Sec. 7.73 to add paragraph (a), and revise paragraphs (d) and (e) to read as follows:

Sec. 7.73 Buck Island Reef National Monument.

(a) Extractive uses. All extractive uses are prohibited within the boundaries of the **Monument**, including but not limited to harvest or collection (on the land or in the water) of fish for any use, marine mammals, coastal migratory pelagic fish, baitfish, lobsters, conch, whelk, hermit crabs (soldier crabs), seashells, corals, dead coral, sea fans, sponges and all associated reef invertebrates, plants, fruits and seeds, firewood, driftwood, rocks, sand, gas, oil, and minerals.

* * * * *

(d) Boats. (1) No watercraft shall operate in such a manner, nor shall anchors or any other mooring device be cast or dragged or placed, so as to strike or otherwise cause damage to any underwater features.

(2) Anchoring or maneuvering watercraft within the waters that contain underwater marked swimming trails and interpretive signs is prohibited.

(3) Anchoring is prohibited except by permit issued by the Superintendent for

[[Page 16436]]

deep sand bottom areas or for administrative purposes.

(4) Anchoring will be allowed in emergency situations only to protect life and property.

(5) All watercraft, carrying passengers, for hire, shall comply with applicable regulations and laws of the U.S. Coast Guard and Territory of the Virgin Islands.

(e) Fishing. (1) All forms of fishing are prohibited including, but not limited to, spearfishing, rod and reel, hand-line, nets, gill or trammel, traps or pots, snares, hooks, poison, cast nets, trawl, seine, and long-line.

(2) The use or possession of any type of fishing equipment or any of the items listed in paragraph (a) of this section is prohibited within the boundaries of the **Monument**.

Dated: February 12, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03-8190 Filed 4-3-03; 8:45 am]

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**APPENDIX B
SERVICEWIDE MANDATES AND POLICIES PERTAINING TO BUCK ISLAND REEF
NATIONAL MONUMENT**

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APPENDIX B: SERVICEWIDE MANDATES AND POLICIES PERTAINING TO BUCK ISLAND REEF NATIONAL MONUMENT

This section provides an overview of the laws and policies that are applicable to the management of the Buck Island Reef National Monument.

LEGISLATION

The legislation for the park is provided in Appendix A.

SERVICEWIDE LAWS AND POLICIES

This section summarizes the major appropriate legal and administrative mandates that apply to managing all units of the NPS. These are measures that the NPS must strive to meet, regardless of the alternative selected for the long-term management of the park. The body of laws and executive orders that guide park management, with their legal citations, are identified.

The National Park Service Organic Act and the Redwood Act Amendment to the National Park Service General Authorities Act

One of the most important statutory directives for the National Park Service (NPS) is provided by the interrelations of the NPS Organic Act of 1916 and the Redwood Act Amendment to the NPS General Authorities Act of 1970. The Organic Act mandates that the National Park Service “shall promote and regulate the use of Federal areas known as national parks, monuments, and reservations by such means and measures as conform to the fundamental purpose of said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

The General Authorities Act amends the Organic Act to broaden the types of areas that are included in the national park system, such as national seashores, recreation areas, and parkways. The Redwood Act further amends the General Authorities Act to reassert system-wide the high standard of protection set forth in the Organic Act. In the Redwood Act, “Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the Nation Park System shall be consistent with and founded in the purpose established by the first section of the Act of August 25, 1916, to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity on the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.”

Both the Organic Act and the General Authorities Act, as amended by the Redwood Act, define a single standard for the management of the park service: to safeguard the units of the national park system, conserving resources and values for enjoyment of all people of the United States and prohibiting impairment. Director’s Order 55, Interpreting the National Park Service Organic Act, serves as the NPS interpretation of the meaning of the Organic Act and the General Authorities Act, as amended.

National Historic Preservation Act

The National Historic Preservation Act of 1966 authorized the Secretary of the Interior to “expand and maintain a national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture.” Section 106 of the act requires federal agencies to consider the effects of their undertakings on National Register properties and to allow the Advisory Council on Historic Preservation “a reasonable opportunity to comment” on such

undertakings. The National Register of Historic Places was expanded from the original roster of historic landmarks and areas of the National Park System to a comprehensive inventory of historic properties nationwide. National Park Service actions affecting properties listed on the National Register of Historic Places are subject to review by state historic preservation officers and the Advisory Council.

Section 110 requires among other things that the park to "establish a preservation program to protect and preserve historic properties in consultation with others" and that this program ensure "that historic properties under the jurisdiction or control of [the National park Service], are identified, evaluated, and nominated to the National Register." Further, Section 110 requires "that such properties under the jurisdiction or control of [the park] as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 106 of this Act and gives special consideration to the preservation of such values in the case of properties designated as having National significance." Section 112 requires that studies or other actions taken with regards to historic properties be done by personnel or contractors who meet appropriate professional qualifications standards developed by the Secretary of the Interior. It also requires that the park maintain data from historic properties studies in an appropriate database available to prospective researchers.

National Environmental Policy Act

The National Environmental Policy Act of 1969 states as policy that federal agencies must assess the environmental impacts of any proposed action that they fund, support, permit, or implement. It specifically directs federal agencies to document the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the proposed action be implemented, and alternatives to the proposed action.

The act also established the Council on Environmental Quality, which is charged with the implementation and oversight of the National Environmental Policy Act. The Council on Environmental Quality subsequently developed the legal requirements (40 Code of Federal Regulations 1500-1508) that all federal agencies must follow in evaluating the environmental effects of proposed actions. These procedures involve three levels of documentation: categorical exclusions; environmental assessments; and environmental impact statements. In the National Park Service, construction activities, natural or cultural resource management projects, and park plans trigger the majority of National Environmental Policy Act documents. The National Environmental Policy Act enables the National Park Service to integrate compliance with other legal mandates and provides a format for public involvement. Director's Order 12 sets forth the policy and procedures by which the service will comply with the National Environmental Policy Act.

Clean Air Act

The Clean Air Act provides a legal framework for the National Park Service to preserve and protect parks' air quality related values. The act establishes national ambient air quality standards for certain criteria pollutants. Major provisions of the act are intended to set a goal for cleaner air by setting national primary and secondary ambient air quality standards. Primary standards define levels of air quality necessary to protect public health, while secondary standards define levels necessary to protect public welfare from any known or anticipated adverse effects of a pollutant.

Under the Clean Air Act, the U.S. Environmental Protection Agency is required to set new source performance standards, based on best-demonstrated technology and to establish national emission standards for hazardous air pollutants. The U.S. Environmental Protection Agency is also required to develop programs for prevention of significant deterioration of air quality in attainment areas. Air

pollution permits in attainment areas mandate installation of pollution controls that represent the best available control technology.

The Clean Air Act also requires states to develop and submit a state implementation plan for achieving national ambient air quality standards within each state. The state implementation plan must establish state air quality control regions and specify emission limits, schedules, and timetables for compliance from both stationary and mobile sources. The Clean Air Act requires federal facilities to comply with state air pollution requirements. The Clean Air Act reinforces the NPS Organic Act role as a protector of natural and cultural resources within the national park system. Under the Clean Air Act, the National Park Service is responsible for protecting air quality within park unit boundaries, and for taking appropriate action to do so, when reviewing emission sources within and outside of the park system.

Clean Water Act

The Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act and the Water Quality Act of 1987, forms the legal framework to support maintenance and restoration of water quality. The Clean Water Act establishes the National Pollutant Discharge Elimination System as the regulatory mechanism to achieve water quality goals by regulating pollutant discharge to navigable streams, lakes, and rivers. Through standards promulgated by individual states, the Clean Water Act requires the NPS to protect its water resources from point and nonpoint sources of pollution. Many NPS construction activities are regulated by the Clean Water Act under stormwater permitting requirements.

Under Section 303 (d) of the Clean Water Act, states are required to develop lists of streams and water bodies that do not meet ambient water quality standards. The resulting inventory of impaired streams, called the 303 (d) list, is updated every two years by states and is the basis for decisions related to restoring water quality. The law requires that the states establish priority rankings for waters on the lists and develop total maximum daily loads for these waters. A total maximum daily load is a calculation of the maximum amount of a pollutant that a waterbody can receive and continue to meet its designated use.

Based on an evaluation of the states' implementation of their Clean Water Act 303 (d) responsibilities, the U.S. Environmental Protection Agency developed changes and improvements to the total maximum daily load regulations. On July 13, 2000, the agency issued a final total maximum daily load rule that will improve current regulations. Congress has required the U.S. Environmental Protection Agency (delegated to the Virgin Islands Department of Environmental Protection) to establish total maximum daily loads for the territory, under the current total maximum daily load regulation.

Endangered Species Act

The Endangered Species Act of 1973, amended in 1982 and 1987, is intended to prevent the further decline of endangered and threatened plant and animal species and to help in the restoration of populations of these species and their habitats. The Endangered Species Act, jointly administered by the Department of Commerce and the Department of the Interior, requires that each federal agency consult with the U.S. Fish and Wildlife Service to determine whether endangered or threatened species are known to exist or have critical habitats on or in the vicinity of the site of a proposed action.

Section 7(c) of the Endangered Species Act authorizes the U.S. Fish and Wildlife Service to review proposed major federal actions to assess the potential impacts to listed species. In accordance with Section 7 (c), the National Park Service, in consultation with the U.S. Fish and Wildlife Service, must identify and promote the conservation of all federally listed species and their critical habitat within park boundaries.

The Fish and Wildlife Coordination Act (16 U.S.C. 661, 666c)

The Fish and Wildlife Coordination Act protects the quality of the aquatic environment needed for fish and wildlife resources. The Act requires consultation with the Fish and Wildlife Service and the fish and wildlife agencies of States where the "waters of any stream or other body of water are proposed or authorized, permitted or licensed to be impounded, diverted . . . or otherwise controlled or modified" by any agency (except TVA) under a Federal permit or license. NOAA Fisheries was brought into the process later, as these responsibilities were carried over, during the reorganization process that created NOAA. Consultation is to be undertaken for the purpose of "preventing loss of and damage to wildlife resources", and to ensure that the environmental value of a body of water or wetland is taken into account in the decision-making process during permit application reviews. Consultation is most often (but not exclusively) initiated when water resource agencies send the FWS or NOAA Fisheries a public notice of a Section 404 permit. FWS or NOAA Fisheries may file comments on the permit stating concerns about the negative impact the activity will have on the environment, and suggest measures to reduce the impact.

Fish & Wildlife Act of 1956 - 16 U.S.C. §§ 742a-742j

The Fish and Wildlife Act establishes a comprehensive national fish, shellfish, and wildlife resources policy with emphasis on the commercial fishing industry. The Act emphasizes that the Act be administered with regard to the inherent right of every citizen and resident to fish for pleasure, enjoyment, and betterment and to maintain and increase public opportunities for recreational use of fish and wildlife resources. Further, the Act established a Bureau of Sport Fisheries and Wildlife and a Bureau of Commercial Fisheries within the US Fish and Wildlife Service.

The Act requires the Secretary of the Interior to:

- Develop measures for "maximum sustainable production of fish";
- Make economic studies of the industry and recommend measures to insure stability of the domestic fisheries;
- Undertake promotional and information activities to stimulate consumption of fishery products; and
- Take steps "required for the development, advancement, management, conservation, and protection of the fisheries resources," and take steps "required for the development, management, advancement, conservation, and protection of fish and wildlife resources" through research, acquisition of land and water or interests therein, development of existing facilities, and other means.

Fish & Wildlife Conservation Act (Nongame Act) - 16 U.S.C. §§ 2901-2911

The Act encourages states to develop conservation plans for nongame fish and wildlife of ecological, educational, aesthetic, cultural, recreational, economic or scientific value. Pursuant to amendments adopted in 1988 and 1989 the Secretary of the Interior is directed to undertake certain activities to research and conserve migratory nongame birds.

Fish Restoration & Management Projects Act - 16 U.S.C. §§ 777 et seq.

Under the Act, the Secretary of the Interior is authorized and directed to cooperate with State fish and game departments in fish restoration and management projects by agreeing upon the fish restoration and management projects to be aided under standards fixed by the Secretary of the Interior. A state may submit programs or projects for fish restoration in two ways:

- The state prepares and submits to the Secretary a comprehensive fish and wildlife resource management plan which insures the perpetuation of these resources for the economic, scientific, and recreational enrichment of the people; or
- The State fish and game department submits to the Secretary full and detailed statements of any fish restoration and management project proposed for that State.

Title III of the Marine Protection, Research and Sanctuaries Act of 1972

The National Marine Sanctuaries Program was created in Title III of the Marine Protection, Research and Sanctuaries Act of 1972. Today, there are 13 national marine sanctuaries protecting some 18,500 square miles of ocean and coasts. Staff from the NOAA Fisheries are involved in the federal management teams that develop the sanctuary management plans to ensure coordination with regard to fisheries management, and protection of vital fishery resources and fishery habitats.

Magnuson-Stevens Fishery Conservation and Management Act (Public Law 94-265)

The purpose of the Magnuson-Stevens Fishery Conservation Management Act is (1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act; (2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act; (3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective; (4) to permit foreign fishing consistent with the provisions of this Act; (5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation; (6) to foster and maintain the diversity of fisheries in the United States; and (7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.

Migratory Game Fish Study Act of 1959 (16 USC 760(e))

Provides for a continuing study of migratory marine fishes, including the effects of fishing on the species.

Coral Reef Conservation Amendments Act of 2007

The purpose of the Coral Reef Conservation Act are as follows: (1) to preserve, sustain, and restore the condition of coral reef ecosystems; (2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities and the Nation; (3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems; (4) to assist in the preservation of coral reefs by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations; (5) to provide financial resources for those programs and projects; and (6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects.

Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777-777k, 64 Stat. 430)

The Federal Aid in Sport Fish Restoration Act, also referred to as the Dingell-Johnson Act or Wallop-Breaux Act, provides Federal aid to the States for management and restoration of fish having “material value in connection with sport or recreation in the marine and/or freshwaters of the United States.” Amendments to the Act provide funds to states for aquatic education, wetlands restoration, boat safety and clean vessel sanitation devices (pumpouts), and a non-trailerable boat program.

Clean Vessel Act of 1992; 33 U.S.C. 1322, 106 Stat 5039

The Clean Vessel Act of 1992 provided a 5 year recreational boater sewage disposal program and amends the Federal Aid in Sport Fish Restoration Act to allow the Secretary of Interior to issue grants to coastal and inland States for pumpout stations and waste reception facilities to dispose of recreational boater sewage. Public Law 109-59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 reauthorized this Act through 2009.

Abandoned Shipwreck Act of 1987 - 43 U.S.C. § 2101-2106

The ASA declares the US policy that States carry out their responsibilities to develop appropriate and consistent policies to:

- protect natural resources and habitat areas;
- guarantee recreational exploration of shipwreck sites; and
- allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

In managing the resources subject to the provisions of this Act, States are encouraged to create underwater parks or areas to provide additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act [16 U.S.C. 470 et seq.], for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

The United States asserts title to any abandoned shipwreck that is:

- embedded in submerged lands of a State;
- embedded in coralline formations protected by a State on submerged lands of a State; or
- on submerged lands of a State and is included in or determined eligible for inclusion in the National Register

Act to Prevent Pollution from Ships of 1980 - 33 USC § 1901-1911

The Act authorizes the EPA and the Secretary of the department in which the U.S. Coast Guard is located, currently the Department of Homeland Security, to administer and implement the requirements of the International Convention for the Prevention of Pollution from ships, the MARPOL Protocol, and this Act.

The Act describes penalties for violation of MARPOL and allows the EPA and USCG to promulgate regulations necessary and proper for the administration of the Act, issue certifications, conduct inspections, and engage in enforcement actions.

Disaster Mitigation Act - Public Law 106-390

The Disaster Mitigation Act, implemented by FEMA, reinforces the importance of pre-disaster infrastructure mitigation planning to reduce disaster losses nationwide. The Act is aimed primarily at the control and streamlining of the administration of federal disaster relief and programs to promote

mitigation activities. The Act also establishes minimum mitigation standards for public and private structures.

Federal Power Act – 16 U.S.C. § 791 et seq.

The Federal Power Act calls for cooperation between the Federal Energy Regulatory Commission (FERC) and other Federal agencies in licensing and relicensing power projects. Under this act FERC is authorized to issue licenses for the construction, operation and maintenance of dams, water conduits, reservoirs, and transmission lines to improve navigation and to develop power from any streams or other bodies of water over which it has jurisdiction.

The 1992 amendments (Public Law 102-486), directed the Secretary of Energy, in consultation with the Secretaries of the Interior and the Army, to study cost-effective opportunities to increase hydropower production from federally-owned or operated facilities. The amendments also authorized a study on the Nation's principal river basins to find opportunities to more efficiently generate hydroelectric power from federal facilities.

Marine Plastic Pollution Research and Control Act - 33 U.S.C. § 1905

Under this Act, ports, terminals and recreational marinas are required to have adequate and convenient “reception facilities” for their regular customers. This is meant to ensure that the ports are able to handle the reception of garbage from incoming vessels

Migratory Bird Treaty Act – 16 U.S.C. § 703 et seq.

This Act provides for the protection of all migratory birds and their parts (including eggs, nests, and feathers). The Act implements the international conventions entered into between the United States and Canada, Japan, Mexico, and Russia, for the protection of selected species of birds that combine to form a common resource.

National Invasive Species Act of 1996 – Public Law 104-332

This Act reauthorized and modified NANPCA as well as extended it to cover the Hudson River region. The Act required record keeping, reporting, sampling and monitoring of vessels for compliance with the voluntary guidelines issued by the US Coast Guard.

National Oceanographic Partnership Act - Public Law 104-201

NOPA Creates the National Oceanographic Partnership Program and its governing body, the National Ocean Research Leadership Council, to promote the national interest in natural security, economic development, quality of life, and strong science education and communication through improved knowledge of the ocean.

Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) – 16 U.S.C. § 4701

This Act addressed the problem of ballast water and invasive species. The US Coast Guard was prompted to issue voluntary guidelines for ballast water exchange to combat the entry and spread of invasive species in the Great Lakes.

Oceans Act of 2000 – Public Law 106-256

The Oceans Act establishes a Commission which develops a National Oceans Report which makes recommendations to the President and Congress on ocean and coastal issues. The President then responds to these recommendations in a “National Ocean Policy” that he submits to Congress.

The Commission establishes a multi-disciplinary science advisory panel that assists the Commission in preparing its report, ensuring that the scientific information considered is based on the best available data.

The Commission must provide a copy of their draft report to the Governor of each coastal state whose comments will be included in the Commission's final report. Under this Act the President of the United States must develop his National Ocean Policy in consultation with the states.

Ocean Dumping Act - 16 U.S.C. § 1401 et seq.

The ODA amends and consist of Titles I and II of the Marine Protection, Research, and Sanctuaries Act. This Act provides the basic authority for the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) to regulate ocean dumping. Title I prohibits any person, without a permit, from:

- Transporting from the U.S. any material for the purpose of dumping it into ocean waters (defined to mean those waters of the open seas lying seaward of the baseline from which the territorial sea is measured). In the case of a vessel or aircraft registered in the U.S. or flying the U.S. flag, or in the case of a U.S. agency, the act prohibits any person, without a permit, from transporting from any location any material for the purpose of dumping it into ocean waters; and
- Dumping any material transported from a location outside the U.S. into the territorial sea, or the contiguous zone extending 12 nautical miles seaward from the baseline of the territorial sea to the extent that it may affect the territorial sea or the territory of the U.S. EPA issues permits regulating the ocean dumping of all material except dredged material, which is permitted by COE.

Oil Pollution Act – 33 U.S.C. §§ 2701-2761

The OPA imposes liability for cleanup and damages on “each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone”.

Rivers & Harbors Act of 1899 (RHA) - 33 U.S.C. § 401 et seq.

Under sections 9 & 10 of the RHA, the U.S. Army Corps of Engineers is authorized to regulate the construction of any structure or work within navigable waters.

- USACE jurisdiction under RHA is limited to "navigable waters," or waters subject to the ebb and flow of the tide shoreward to the mean high water mark that may be used to transport interstate or foreign commerce.
- After receiving an application for a section 10 RHA navigation permit, USACE issues a public notice to solicit information from the public, adjacent property owners, and state, local, and federal agencies.
- USACE is required to consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to protect and conserve wildlife resources

Submerged Lands Act – 43 U.S.C. § 1301 et seq.

The SLA gave title to and ownership of the lands beneath navigable waters, with the boundaries of the states, to the respective states, along with the natural resources within such lands. The Act also gave the states the right and power to manage, administer, lease, develop and use the lands and resources granted.

Additionally, the SLA approved and confirmed the seaward boundary of the states as “a line three geographical miles distant from its coast line or, in the case of the Great Lakes, to the international boundary.” The SLA also respected the boundaries of TX and FL to be three marine leagues.

Sustainable Fisheries Act - Public Law 104-297

The SFA includes amendments to the Magnuson-Stevens Fishery Conservation & Management Act. Through the Act, Congress established a requirement that the Secretary of Commerce:

- Prepare advisory guidelines based on the national standards;
 - The guidelines aid in the development of fisheries management plans, and
 - Provide guidance to the Secretary in the review and approval of those fisheries management plans
- Expand on and interpret the national standards, providing more detailed requirements for fisheries management under MSFCMA.

Territorial Submerged Lands Act – 48 U.S.C. § 1705

Congress transferred ownership of submerged lands out to three nautical miles to Guam, the Virgin Islands, and American Samoa through the Territorial Submerged Lands Act.

Water Resources Development Act (WRDA) - 33 U.S.C. § 2201 et seq.

The WRDA authorizes and directs the Army Corps of Engineers (Corps) on projects for navigation, flood control, flood damage reduction, environmental restoration, recreation, hurricane and storm damage reduction, ecosystem restoration, shore protection and damage reduction, aquifer storage and recovery, snagging and sediment removal, beneficial use of dredged materials and navigation mitigation throughout the country.

Watershed Protection & Flood Prevention Act - 16 U.S.C. §§ 1001-1009

The act authorizes federal assistance to local organizations for planning and carrying out projects in watershed areas for conservation and use of land and water, and for flood prevention.

The Secretary of Agriculture is required to submit to Congress plans for works of improvement in watershed or sub-watershed areas where the federal contribution exceeds \$5 million or the plan includes a structure with a capacity greater than 2,500 acre feet. These plans must be submitted for comment to the secretary of the interior if they include works of improvement for reclamation or irrigation or affect lands or wildlife under the Department of the Interior's jurisdiction.

Marine Mammal Protection Act (16 U.S.C. 1361 et seq.)

The Marine Mammal Protection Act (MMPA) established a moratorium, with certain exceptions, on the taking of marine mammals in US waters and by US citizens on the high seas, and on the Final EIS Essential Fish Habitat for the US Caribbean FMPs Page 3-115 importing of marine mammals and marine mammal products into the United States. Under the MMPA, the Secretary of Commerce (authority delegated to NOAA Fisheries) is responsible for the conservation and management of cetaceans and pinnipeds (other than walruses). The Secretary of the Interior is responsible for walruses, sea and marine otters, polar bears, manatees and dugongs.

Part of the responsibility that NOAA Fisheries has under the MMPA, involves monitoring populations of marine mammals to make sure that they stay at optimum levels. If a population falls below its optimum level, it is designated as "depleted," and a conservation plan is developed to guide research and management actions to restore the population to healthy levels.

In 1994, Congress amended the MMPA, to govern the taking of marine mammals incidental to commercial fishing operations. This amendment required the preparation of stock assessments for all marine mammal stocks in waters under US jurisdiction, development and implementation of take reduction plans for stocks that may be reduced or are being maintained below their optimum

sustainable population levels due to interactions with commercial fisheries, and studies of pinniped-fishery interactions.

The MMPA requires all commercial fisheries to be placed in one of three categories, based on the relative frequency of incidental serious injuries and mortalities of marine mammals in each fishery. Category I designates fisheries with frequent serious injuries and mortalities incidental to commercial fishing; Category II designates fisheries with occasional serious injuries and mortalities; Category III designates fisheries with a remote likelihood or no known serious injuries or mortalities. For 2001, gear types managed by the Council fall under Category III, as there have been no documented interactions between this fishery and marine mammals; however, the large pelagics longline fishery is listed under Category I (NOAA, 2001c).

Wilderness Act

The Wilderness Act of 1964 established the National Wilderness Preservation System, composed of federal lands designated as wilderness areas. Wilderness areas are to be administered “for the use and enjoyment of the American people in such a manner as will leave them unimpaired for future use and enjoyment as wilderness.” The law states that “the designation of any area of any park, monument, or other unit of the national park system as a wilderness area shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system.”

Permanent roads are prohibited within any wilderness area, except where specifically provided by law. Except as needed for administrative purposes, temporary roads or use of motorized vehicles or equipment are forbidden within any wilderness area. The following exceptions are permitted: where the use of motorboats is already established, it may be permitted to continue subject to management restrictions; all wheelchairs, including motorized wheelchairs, are allowed in NPS wilderness areas; measures necessary to control fire, insects, and diseases may be taken; and certain mining activities are permitted.

EXECUTIVE ORDERS

Executive Order 12962 – Recreational Fisheries

“in order to conserve, restore, and enhance aquatic systems to provide for increased recreational fishing opportunities nationwide, it is ordered as follows:

Federal agencies shall improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities by:

- (a) developing and encouraging partnerships between governments and the private sector to advance aquatic resource conservation and enhance recreational fishing opportunities;
- (b) identifying recreational fishing opportunities that are limited by water quality and habitat degradation and promoting restoration to support viable, healthy, and, where feasible, self-sustaining recreational fisheries;
- (c) fostering sound aquatic conservation and restoration endeavors to benefit recreational fisheries;
- (d) providing access to and promoting awareness of opportunities for public participation and enjoyment of U.S. recreational fishery resources;
- (e) supporting outreach programs designed to stimulate angler participation in the conservation and restoration of aquatic systems;
- (f) implementing laws under their purview in a manner that will conserve, restore, and enhance aquatic systems that support recreational fisheries;

- (g) establishing cost-share programs, under existing authorities, that match or exceed Federal funds with nonfederal contributions;
- (h) evaluating the effects of Federally funded, permitted, or authorized actions on aquatic systems and recreational fisheries and document those effects relative to the purpose of this order; and
- (i) assisting private landowners to conserve and enhance aquatic resources on their lands.

The EO establishes a National Recreational Fisheries Coordination Council ("Coordination Council") consisting of seven members, one member designated by each of the following Secretaries--Interior, Commerce, Agriculture, Energy, Transportation, and Defense--and one by the Administrator of the Environmental Protection Agency. The Coordination Council shall:

- (a) ensure that the social and economic values of healthy aquatic systems that support recreational fisheries are considered by Federal agencies in the course of their actions;
- (b) reduce duplicative and cost-inefficient programs among Federal agencies involved in conserving or managing recreational fisheries;
- (c) share the latest resource information and management technologies to assist in the conservation and management of recreational fisheries;
- (d) assess the implementation of the Conservation Plan required under section 3 of this order; and
- (e) develop a biennial report of accomplishments of the Conservation Plan.

Calls for a Recreational Fishery Resources Conservation Plan which will set forth a 5-year agenda for Federal agencies identified by the Coordination Council. In so doing, the Conservation Plan will establish, to the extent permitted by law and where practicable;

- (1) measurable objectives to conserve and restore aquatic systems that support viable and healthy recreational fishery resources,
- (2) actions to be taken by the identified Federal agencies,
- (3) a method of ensuring the accountability of such

Federal agencies, and

- (4) a comprehensive mechanism to evaluate achievements. The Conservation Plan will, to the extent practicable, be integrated with existing plans and programs, reduce duplication, and will include recommended actions for cooperation with States, Tribes, conservation groups, and the recreational fisheries community.

The EO mandates that all Federal agencies will aggressively work to identify and minimize conflicts between recreational fisheries and their respective responsibilities under the Endangered Species Act of 1973 by developing a joint agency policy that will;

- (1) ensure consistency in the administration of the ESA between and within the two agencies,
- (2) promote collaboration with other Federal, State, and Tribal fisheries managers, and
- (3) improve and increase efforts to inform nonfederal entities of the requirements of the ESA.

The Secretary of the Interior shall expand the role of the Sport Fishing and Boating Partnership Council to:

- (a) monitor specific Federal activities affecting aquatic systems and the recreational fisheries they support;

- (b) review and evaluate the relation of Federal policies and activities to the status and conditions of recreational fishery resources; and
- (c) prepare an annual report of its activities, findings, and recommendations for submission to the Coordination Council.

Executive Orders on Coral Reefs

Coral Reef Protection Executive Order 13089 (1998) establishes policies and actions needed to address the growing threats to the nation's coral reefs. The U.S. Coral Reef Task Force of 17 federal, state and territorial agencies led by the Departments of Interior and Commerce is coordinating the response to threats from impaired water quality, overfishing, coral bleaching and disease. The NPS is a key player under the U.S. Coral Reef Task Force. In March, 2000, the Task Force adopted the national Action Plan to Conserve Coral Reefs, a comprehensive blueprint with two major themes: 1) better understand coral reef ecosystems, and 2) reduce the adverse impacts from human activities. The Action Plan was endorsed in the 2002 Coral Reef Action Strategy reported to Congress by the Bush Administration.

Executive Order 13158 (2000) establishes policies protect significant natural and cultural resources within the marine environment through the expansion and enhancement of the Nation's system of marine protected areas (MPAs). The purpose of the order is to strengthen the management, protection, and conservation of existing marine protected areas and establish new or expanded MPAs; develop a scientifically based, comprehensive national system of MPAs representing diverse U.S. marine ecosystems, and the Nation's natural and cultural resources; and avoid causing harm to MPAs through federally conducted, approved, or funded activities.

Executive Order 13352 (2004) is intended to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense, and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decision making, in accordance with their respective agency missions, policies, and regulations. Under this order the term cooperative conservation is defined as the use, enhancement, and enjoyment of natural resources, protection of the environment, or both and involve collaboration among Federal, State, local, and tribal governments, private for- and nonprofit institutions, as well as nongovernmental organizations and individuals.

Executive Orders on Wetlands and Floodplains

Executive Order 11988, Floodplain Management (May 24, 1977), requires federal agencies to evaluate the potential effects of actions in floodplains to avoid adversely impacting floodplains wherever possible. Executive Order 11988 also requires federal agencies to ensure that planning programs and budget requests reflect consideration of flood hazards and floodplain management, including the restoration and preservation of such land areas as natural undeveloped floodplains, and to prescribe procedures to implement the policies and procedures of this executive order.

Executive Order 11990, Protection of Wetlands (May 24, 1977), requires federal agencies to take action to avoid adversely impacting wetlands wherever possible, to minimize wetlands destruction, and to preserve procedures to implement the policies and procedures of this executive order. It is the intent of these executive orders that, wherever possible, federal agencies implement the floodplains/wetlands requirements through existing procedures, such as those internal procedures established to implement National Environmental Policy Act. The National Park Service often integrates compliance with the executive orders with other legal mandates, such as National Environmental Policy Act.

NATIONAL PARK SERVICE DIRECTORS ORDERS AND MANAGEMENT POLICIES

NPS Management Policies 2006

This is an update to the 2001 Management Policies. The policies are derived from the laws that have been enacted to establish and govern the NPS and the National Park System. This document serves as the basic, Servicewide policy manual used by park superintendents and other NPS managers to guide their decision-making. The manual prescribes policies which enable the NPS to preserve park resources and values unimpaired for the enjoyment of future generations, as required by law. The policies have been updated to keep pace with new laws that have been enacted, changes in technology and American demographics, and new understandings of the kinds of actions that are required to best protect the natural and cultural resources of the parks. The policies stress the importance of: using the parks for educational purposes; demonstrating environmental leadership in the parks; managing park facilities and resources in ways that will sustain them for future generations of Americans to enjoy; and working with partners to help accomplish the NPS mission. The new Management Policies is available on the NPS World Wide Web site at <http://www.nps.gov/policy/MP2006.pdf>.

Director's Order #12

Director's Order #12 describes the policy and procedures by which the National Park Service will comply with the National Environmental Policy Act. The Council on Environmental Quality, part of the Executive Office of the President, is the "caretaker" of National Environmental Policy Act. The National Park Service is required to abide by all National Environmental Policy Act regulations (40 Code of Federal Regulations 1500-1508) and any other procedures and requirements imposed by other higher authorities, such as the Department of the Interior.

Director's Order #17: National Park Service Tourism

The purpose of this Tourism Policy is to promote and support sustainable, responsible, informed, and managed visitor use through cooperation and coordination with the tourism industry.

Director's Order #24: Museum Collections Management

This lays the foundation by which the NPS meets its responsibilities toward museum collection. Director's Order #24 provides policy guidance, standards, and requirements for preserving, protecting, documenting, providing access to, and use of, NPS museum collections.

Director's Order #28

Director's Order #28, issued pursuant to 16 United States Code (1 through 4), addresses cultural resource management. The National Park Service will protect and manage cultural resources in its custody through effective research, planning, and stewardship and in accordance with the policies and principles contained in the National Park Service Management Policies 2006.

Director's Order #28A: Archeology

Director's Order #28A provides a management framework for planning, reviewing and undertaking archeological activities and other activities that may affect archeological resources within the National Park System.

Director's Order #47: Soundscape Preservation and Noise Management

The purpose of this Director's Order is to articulate National Park Service operational policies that will require, to the fullest extent practicable, the protection, maintenance, or restoration of the natural soundscape resource in a condition unimpaired by inappropriate or excessive noise sources.

Ban on Personal Watercraft

Personal watercraft use is a relatively new recreational activity that has been observed in approximately 32 of the 87 units of the national park system that allow motorized boating. The NPS is proposing regulations that will prohibit personal watercraft in units of the national park system unless the NPS determines that such use is appropriate for a specific unit based on that unit's enabling legislation, resources and values, other visitor uses, and overall management objectives.

36 CFR Parts 1, 3 and 7 Boating and Water Use Activities

The National Park Service is revising rules that regulate boating and water use activities in areas administered by the NPS. The rule is intended to address changing visitor use patterns, changing technologies, compelling boating and water safety issues, and the evolution of related statutory authorities. The goal is to provide for greater consistency with United States Coast Guard regulations and state laws and regulations and to establish rules which will be more clearly understood by the visiting public, and which can be more effectively communicated and enforced by NPS personnel. Promulgation of the final regulation will eliminate many requirements which are ineffective or out of date and will provide flexibility in managing safety, resource preservation, and public use needs throughout the National Park System.

VIRGIN ISLANDS LAWS

This section summarizes the major legal and administrative mandates that apply to the NPS in the Virgin Islands. These are measures that the NPS must strive to meet, regardless of the alternative selected for the long-term management of the park.

Antiquities and Cultural Properties Act of the Virgin Islands

Virgin Islands Act 6234, the Antiquities and Cultural Properties Act of 1998 (Virgin Islands Code: Title 29 Public Planning and Development, Chapter 17 Antiquities and Cultural Properties) identifies the role and responsibilities of the State Historic Preservation Office, permitting requirements and procedures, rules regarding excavation, procedures upon discovery of human burial sites, enforcement actions, and definitions and actions addressing the management of cultural properties and antiquities. The National Park Service coordinates actions involving cultural resources with the State Historic Preservation Officer in accordance with the National Historic Preservation Act and Virgin Islands Act 6234.

APPENDIX C AFFECTED ENVIRONMENT

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Appendix C is organized into two sections:

C.1 - Water Quality Data

C.2 - Listed Species Using Essential Fish Habitat in the U.S. Virgin Islands

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C.1. Water Quality

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Table C.1. Summary of U.S. Virgin Islands Water Quality Criteria

Criteria	Class B	Class C
Dissolved Oxygen	Not less than 5.5 mg/l from other than natural sources.	Not less than 5.0 mg/l.
pH	<8.3 Tolerable Limit>7.0	<8.5 Tolerable Limit>6.7
Temperature	Less than 32° Celsius	Same as Class B
Bacteria	<ul style="list-style-type: none"> Not to exceed 70 fecal coliforms per 100 ml by MF or MPN count. Not to exceed a geometric mean of 35 enterococci per 100 ml. Not to exceed a single sample maximum of 104 per 100 ml at any time. 	<ul style="list-style-type: none"> Not to exceed 200 fecal coliforms per 100 ml by MF or MPN count. Not to exceed a geometric mean of 35 enterococci per 100 ml. Not to exceed a single sample maximum of 104 per 100 ml at any time.
Phosphorus	Not to exceed 50 mg/l in any coastal waters	Same as Class B
Chlorine	<ul style="list-style-type: none"> 4-day average concentration of chlorine not to exceed 7.5 ug/l. The 1-hour average concentration of chlorine not to exceed 13 ug/l. 	Same as Class B
Suspended, colloidal or settleable solids	None from wastewater which would cause deposition or be otherwise deleterious.	Same as Class B
Oil and Floating substance	No residue attributable to wastewater. No visible film; no globules of grease	Same as Class B
Radioactivity	<ul style="list-style-type: none"> Gross Beta: 1000 picocuries per liter, in the absence of Strontium-90 and alpha emitters Radium-226: 3 picocuries per liter Strontium-90: 10 picocuries per liter 	Same as Class B
Taste and Odor	None in amounts to interfere with use for primary contact recreation, potable water supply or to render undesirable taste or odor to edible aquatic life.	Same as Class B
Color and Turbidity	<ul style="list-style-type: none"> A secchi disc shall be visible at a minimum depth of one meter. For waters where the depth does not exceed one (1) meter, the bottom must be visible. A maximum nephelometric turbidity unit reading of three (3) shall be permissible. 	A Secchi disc shall be visible at a minimum depth of one (1) meter.

¹Requirements for Class A waters consist of no variation on current water quality. At no time should Class B standards be exceeded in Class A waters.

< less than

> greater than

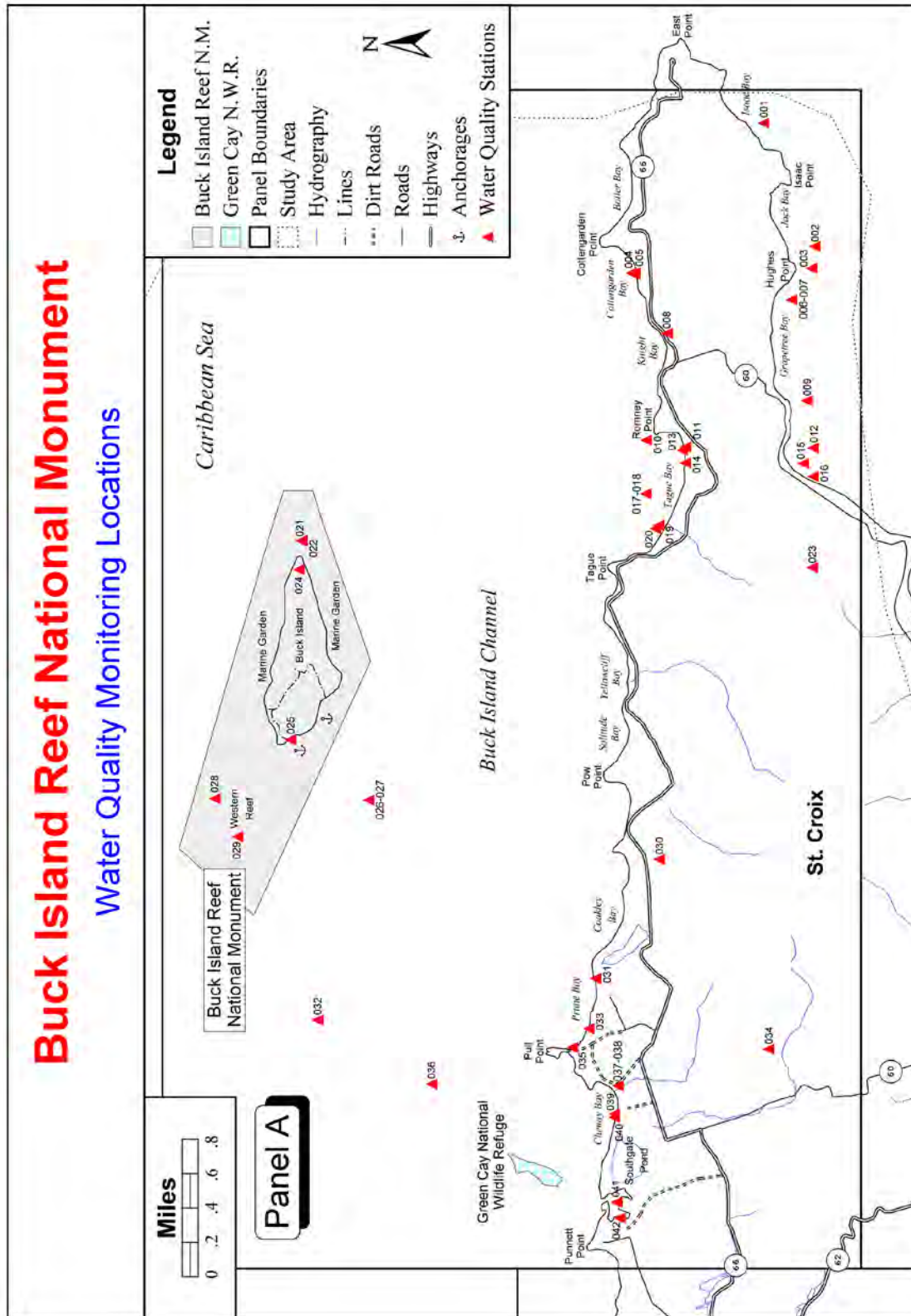
mg/L = milligrams per Liter

ug/L = micrograms per Liter

MPN = most probable number

MF = membrane filter

Source: Modified from DPNR 2006a.



**C.2. LISTED SPECIES
USING ESSENTIAL FISH HABITAT
IN THE U.S. VIRGIN ISLANDS**

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Table C.2.1. Federally Managed Fish Species Using Essential Fish Habitat within the U.S. Virgin Islands

	Common Name	Scientific Name
Reef Fish	Coney	<i>Epinephelus fulvus</i>
	Red hind	<i>Epinephelus guttatus</i>
	Nassau Grouper	<i>Epinephelus striatus</i>
	Mutton snapper	<i>Lutjanus analis</i>
	Schoolmaster	<i>Lutjanus apodus</i>
	Gray snapper	<i>Lutjanus griseus</i>
	Silk snapper	<i>Lutjanus vivanus</i>
	Yellowtail snapper	<i>Ocyurus chrysurus</i>
	White grunt	<i>Haemulon plumier</i>
	Branded butterfly fish	<i>Chaetodon striatus</i>
	Queen triggerfish	<i>Balistes vetula</i>
	Squirrelfish	<i>Holocentrus ascensionis</i>
	Sand tilefish	<i>Malacanthus plumier</i>
	Redtail parrotfish	<i>Sparisoma chrysopterum</i>
	Trunkfish	<i>Lactophrys quadricornis</i>
Spiny lobster	Spiny lobster	<i>Panulirus argus</i>
Queen conch	Queen conch	<i>Strombus gigas</i>
Coral and coral reefs	Coral and coral reefs	All corals

Source: Adapted from CFMC 2004

Table C. 2.2. List of Stony Corals Found within the Vicinity of Buck Island Reef National Monument

Stony Corals		
<i>Acropora cervicornis</i>	<i>Diploria strigosa</i>	<i>Mussa angulosa</i>
<i>Acropora palmata</i>	<i>Eusmilia fastigiata</i>	<i>Mycetophyllia aliciae</i>
<i>Acropora prolifera</i>	<i>Favia fragum</i>	<i>Mycetophyllia ferox</i>
<i>Agaricia agaricites</i> (several different forms)	<i>Helioseris cucullata</i> (= <i>Leptoseris cucullata</i>)	<i>Mycetophyllia lamarckiana</i>
<i>Agaricia fragilis</i>	<i>Isophyllastrea rigida</i>	<i>Oculina diffusa</i>
<i>Agaricia grahamae</i>	<i>Isophyllia sinuosa</i>	<i>Porites astreoides</i>
<i>Agaricia lamarcki</i>	<i>Madracis decactis</i>	<i>Porites branneri</i>
<i>Agaricia tenuifolia</i>	<i>Madracis mirabilis</i>	<i>Porites divaricata</i>
<i>Agaricia undata</i>	<i>Manicina areolata</i>	<i>Porites furcata</i>
<i>Cladocora arbuscula</i>	<i>Meandrina meandrites</i>	<i>Porites porites</i>
<i>Colpophyllia breviserialis</i>	<i>Millepora alcicornis</i>	<i>Scolymia lacera</i>
<i>Colpophyllia natans</i>	<i>Millepora complanata</i>	<i>Siderastrea radians</i>
<i>Dendrogyra cylindrus</i>	<i>Millepora squarrosa</i>	<i>Siderastrea siderea</i>
<i>Dichocoenia stellaris</i>	<i>Montastraea annularis</i>	<i>Solenastrea bournoni</i>
<i>Dichocoenia stokesi</i>	<i>Montastraea cavernosa</i>	<i>Stephanocoenia michelinii</i>
<i>Diploria clivosa</i>	<i>Montastraea faveolata</i> (more platelike)	<i>Tubastraea aurea</i>
<i>Diploria labyrinthiformis</i>	<i>Montastraea franksi</i> (bumpier)	

Source: Adapted from CFMC 2004

**APPENDIX D
CLIMATE CHANGE SUMMARY**

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APPENDIX D CLIMATE CHANGE SUMMARY

Climate change refers to any significant change in measures of climate (such as temperature, precipitation, or wind) lasting for an extended period (decades or longer). In general, climate change may result from (USEPA 2008):

- Natural factors, such as changes in the sun's intensity or slow changes in the Earth's orbit around the sun;
- Natural processes within the climate system (e.g. changes in ocean circulation, acidification, or temperature); and
- Human activities that change the atmosphere's composition (e.g. through burning fossil fuels) and the land surface (e.g. deforestation, reforestation, urbanization, desertification, etc.).

The Earth's climate has changed many times during the planet's history, with events ranging from ice ages to long periods of warmth. Historically, natural factors such as volcanic eruptions, changes in the Earth's orbit, and the amount of energy released from the sun have affected the Earth's climate. Human activities associated with the Industrial Revolution have also changed the composition of the atmosphere and therefore are very likely influencing the Earth's climate. For example, over the past 200 years, the burning of fossil fuels and deforestation has caused the concentrations of heat-trapping "greenhouse gases" to increase significantly in the atmosphere (USEPA 2008). As the concentrations of these gases continue to increase in the atmosphere, the Earth's temperature is climbing above past levels (IPCC 2007; United Nations Environment Programme 2007; U.S. Climate Change Science Program 2008). Most of the warming in recent decades is very likely the result of human activities (IPCC 2007). For example, the recent United Nations report (IPCC 2007) stated that "Observational evidence from all continents and most oceans shows that many natural systems are being affected by regional climate changes, particularly temperature increases." The report further states that, "A global assessment of data since 1970 has shown it is likely that anthropogenic warming has had a discernible influence on many physical and biological systems".

Over the past 200 years the oceans have absorbed nearly half the CO₂ produced by human activities. One effect has been to produce carbonic acid, thus increasing acidity and lowering the pH of surface seawater by 0.1 pH unit. Projections based on different emission scenarios give additional reductions in average global surface ocean pH of between 0.14 and 0.35 units by the year 2100 (IPCC 2007). This seawater acidity is probably higher than has been experienced for hundreds of millennia, and there is convincing evidence that such acidification will impair the process of calcification by which animals, such as corals and molluscs, make their shells from calcium carbonate.

Scientists are certain that human activities are changing the composition of the atmosphere, and that increasing the concentration of greenhouse gases will change the planet's climate (USEPA 2008; IPCC 2007). However, they are not sure by how much it will change, at what rate it will change, or what the specific effects will be. Observed effects have included sea level rise, shrinking glaciers, changes in the range and distribution of plants and animals, trees blooming earlier, temperature increases, lengthening of growing seasons, ice on rivers and lakes freezing later and breaking up earlier, and thawing of permafrost.

Studies conducted as part of the NPS Inventorying and Monitoring Program (NPS 2007; Miller et al. 2006) have shown that climate change has had major adverse effects on coral reefs in Buck Island Reef National Monument, Virgin Islands National Park, and Virgin Islands Coral Reef National Monument. For example almost half the reefs in the parks experienced mortality from disease as a result of the 2005 bleaching event (Miller et. al 2006; 2009). These effects have been attributed

primarily to increased water temperatures that have resulted in the bleaching of reef-forming corals, followed by disease. In addition to these effects of climate change, coral reefs have also been affected by hurricanes, sedimentation from development on land, boat groundings and anchoring, fishing, acidification of ocean waters, and effects of tourism and recreation (Rothenberger et al. 2008). The inter-relationship of all of these factors is also thought to be important, and is poorly understood at the present time.

Climate change affects sea level, amounts of precipitation intensity and runoff, height, duration and frequency of ocean waves, and long-term tracks, intensity and frequency of coastal storms (Nicholls 2002). These changes have the potential to adversely affect not only coral reefs, but also mangroves, freshwater wetlands, open and nearshore ocean ecosystems, and terrestrial ecosystems in as yet unknown ways. For example, Barange (2002) concluded that the climate change could affect coastal enrichment and productivity patterns, abundance, diversity and production of planktonic and fish communities, the amount of available marine habitats, species distribution, and predator-prey relationships in marine systems.

Cultural resources also can be affected by climate change. Epic storms and changing sea levels can adversely affect submerged resources. That is, shipwrecks in shallow waters could be damaged by high frequency waves of long duration. Or, increased sea levels could offer some measure of protection.

Shipwreck resources tend to reach a sort of equilibrium if moisture, pH and temperature levels remain fairly consistent. If a wreck is exposed to the air during frequent storm events, deterioration of its wood and metal components could be accelerated. As with the growth of coral, the various flora and microorganisms present on wrecks would be affected by changes in pH, temperature, amount of sunlight and storm intensity and frequency. The overall effect of such changes is, at present, unclear.

Rising sea levels and frequent storm events can contribute to the physical damage to or loss of coastal historical and archeological resources. On the island's steep slopes, previously disturbed soils in archeological and historical sites are more vulnerable to erosion. Storm events and changing precipitation patterns can contribute to creation of new gullies (guts) or extreme runoff and erosion of existing drainages. Climate change could contribute to unanticipated changes in the types of vegetation and location of vegetation communities on the island, affecting both archeological sites and ruins of historic structures. However, the levels and types of change cannot, at present, be determined.

The NPS Inventorying and Monitoring Program (NPS 2007; 2009) will continue to provide a means of monitoring the potential effects of climate change on both marine and terrestrial resources in the park. This information will be used as a means of adapting park management approaches to best deal with observed changes in resources that could result from climate change. (Additional information regarding South Florida/Caribbean Network and climate change research is available on the web at: <http://science.nature.nps.gov/im/units/sfcn/>).

APPENDIX E AGENCY COORDINATION

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Stakeholder Coordination

The following is an example of the scoping letter sent to stakeholders during the 2004 scoping period as described in Chapter 5 of this document.

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United States Department of the Interior

NATIONAL PARK SERVICE
Buck Island Reef National Monument
2100 Church Street #100
Christiansted, St. Croix, VI 00820-4611
(340) 773-1460



IN REPLY REFER TO:

June 4, 2004

Dear Interested Party:

In accordance with the National Environmental Policy Act of 1969 (Public Law 91-190, as amended), the National Park Service is preparing a General Management Plan and Environmental Impact Statement for Buck Island Reef National Monument. The purpose of this letter is to request your comments regarding the General Management Plan/Environmental Impact Statement, identify issues of concern that you might have, and solicit your input on the future management direction for the park.

The Purpose and Need: Buck Island Reef National Monument was established in 1961 to preserve one of the finest marine gardens in the Caribbean Sea. In 2001, the monument was significantly expanded to further preserve and protect the island and tropical marine ecosystem including coral reefs, sea grass beds, octocoral hard bottom, sand communities, algal plains, shelf edge, and oceanic habitats; to protect threatened and endangered species and enhance their habitats and survivability; to enhance the health and diversity of fisheries resources through their protection; to protect and manage terrestrial and submerged cultural resources; and to preserve this area of outstanding scientific, aesthetic, and educational importance for the benefit and enjoyment of the people now and for the future. The expansion of the monument identified the need for the development of a new General Management Plan to guide the future direction of resource preservation and visitor use at the monument. The general management planning process provides a comprehensive approach to establish the basic management philosophy for the park and provide strategies for addressing issues and achieving identified management objectives. The General Management Plan/Environmental Impact Statement will evaluate the environmental impacts of a range of alternatives to address distinct management approaches to preserving significant natural and cultural resources for public enjoyment, competing demands for limited resources, priorities for using available funds and staff, and differing interests and views of what is most important.

National Park Service managers constantly make difficult decisions about ways to preserve significant natural and cultural resources for public enjoyment, about competing demands for limited resources, about priorities for using available funds and staff, and about differing interests and views of what is most important. The General Management Plan process provides methods

and tools for resolving these issues in ways that minimize conflicts and promote mutually beneficial solutions that articulate how public use and enjoyment of the park can be part of a strategy for ensuring that resources are protected unimpaired for future generations.

The Process and Importance of Public Input: The General Management Plan process provides for early identification of concerns, issues, expectations, and values of existing and potential visitors, neighbors, people with traditional cultural ties to lands within the park, cooperating associations, other partners, scientists, scholars, and other government agencies. Input gathered during this process will be used in the Environmental Impact Statement to assess and compare the effects of each alternative on the natural and man-made environment. The Environmental Impact Statement will also recommend selection of a "preferred" management alternative. The National Park Service is requesting the public's input throughout this project.

Public Meetings: Your input is a key element in the General Management Plan/Environmental Impact Statement. You are invited to attend any of the public meetings to be held the week of June 21, 2004 at the following locations:

<i>Area</i>	<i>Date and Time</i>	<i>Location</i>
Christiansted, St. Croix	June 23, 2004 6:30 -8:30 p.m.	National Park Service Danish West India Guinea Company Warehouse Ground Floor (Old U.S. Post Office Building) 2100 Church Street #100 Christiansted, St. Croix
Christiansted, St. Croix	June 24, 2004 6:30-8:30 p.m.	National Park Service Danish West India Guinea Company Warehouse Ground Floor (Old U.S. Post Office Building) 2100 Church Street #100 Christiansted, St. Croix
Christiansted, St. Croix	June 25, 2004 9:30-11:30 a.m.	National Park Service Danish West India Guinea Company Warehouse Ground Floor (Old U.S. Post Office Building) 2100 Church Street #100 Christiansted, St. Croix

Additional public meetings will be scheduled upon release of the Draft General Management Plan/Environmental Impact Statement. Time and place of the additional public meetings will be published in advance of these meetings.

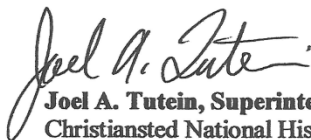
Who to Contact: If you are interested in providing input on the General Management Plan/Environmental Impact Statement, you are invited to attend any of the above meetings, or respond by mail or telephone to:

Mr. Joel A. Tutein, Superintendent
Buck Island Reef National Monument
2100 Church Street #100
Christiansted, St. Croix, VI 00820-4611
(340) 773-1460
CHRI_Superintendent@nps.gov

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Submitting comments will ensure that you are included on the mailing list for further information. If you do not wish to comment at this time, but want to remain on the mailing list, you must notify the planning team at the address listed above. Although your comments are always welcome, comments received by July 26, 2004, are requested.

Supplementary Information: The Draft and Final General Management Plan/Environmental Impact Statement will be made available to known interested parties and appropriate agencies. A regional map of the park is available on the internet at <http://www.nps.gov/buis/pphtml/maps.html> and is also attached for your convenience. Please visit our website for additional information: <http://www.nps.gov/buis/index.htm>. Full public participation by federal, territorial, and other agencies as well as other concerned organizations and private citizens are invited throughout the preparation of this document. The National Park Service would like to thank you for reviewing this letter, and for preparing and submitting your written comments.

Sincerely,



Joel A. Tutein, Superintendent
Christiansted National Historic Site
Buck Island Reef National Monument
Salt River Bay National Historical Park & Ecological Preserve

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