

On March 2, 1976 (41 FR 8956), EPA amended 40 CFR 52.1070 for the purposes of clarification. The revised format provides a more detailed explanation of each approved revision submitted by the State, rather than merely listing the submittal date. Accordingly, the Administrator hereby amends 40 CFR 52.1070(c) to include an additional description of the amended State regulations approved by the Administrator on March 1, 1976 as a revision to the Maryland SIP.

In addition, paragraph 5 of the March 1, 1976 FEDERAL REGISTER notice erroneously referred to the Administrator's approval of Maryland Regulations 10.03.36.04B(3) and (4) which pertain to sulfur content of other fuel products. At the present time, EPA is still considering the acceptability of these amendments as a revision to the Maryland SIP. Hence, the Administrator hereby withdraws all references with respect to final determination of these regulations at this time.

(42 U.S.C. 1857c-5)

Dated: July 22, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. Section 52.1070 is amended by adding paragraph (c) (16) as follows:

§ 52.1070 Identification of Plan.

(c) * * *

(16) Amendments to Sections .04B(1) and .04B(2) of Maryland Regulations 10.03.37, 10.03.40 and 10.03.41, submitted on July 1, 1975 by the Governor.

[FR Doc.76-21879 Filed 7-28-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5594]

[OR-9540]

WASHINGTON

Correction of Public Land Order No. 5515; Amendment of Public Land Order No. 5515 To Include Additional Lands for the San Juan Islands National Wildlife Refuge

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Paragraph 2 of Public Land Order No. 5515 of August 27, 1975, FR Doc. 75-23394 which appeared in the September 4, 1975, issue of the FEDERAL REGISTER at pages 40811-13, is hereby corrected to delete all reference to Executive Order No. 1959 and Public Land Order No. 2249.

2. Paragraph 1 of Public Land Order No. 5515 which withdrew certain public

lands and reserved them for the San Juan Islands National Wildlife Refuge, is hereby amended to include the following described lands:

Willamette Meridian

No.	Name	Description	Acres
1	Small Island	48°29'45" N., 122°51'42" W.	0.1
6	Boulder Island	48°25'54" N., 122°48'00" W.	6.9
10	Aleck Rocks	48°25'27" N., 122°50'55" W. Includes two groups of rocky islets situated at the south side of the entrance to Aleck Bay.	3.2
15	Hall Island	T. 34 N., R. 2 W., sec. 15, lot 8; sec. 22, lot 1.	3.9
16	Unnamed Island	48°26'09" N., 122°54'48" W.	.5
17	Seac Rock	T. 34 N., R. 2 W., sec. 14, lot 11.	.9
21	Mummy Rocks	T. 34 N., R. 2 W., sec. 10, lots 8 and 9; sec. 15, lots 5 and 7.	.8
22	Islets and rocks associated with Deadman Island.	48°27'33" N., 122°56'33" W. They are about 350 yards offshore from Lopez Island, and separated from Deadman Island by 50 to 100 yd.	1.0
39	Flattop Island	T. 36 N., R. 3 W., sec. 4, lot 1, sec. 5, lot 1.	40.0
49	Unnamed Islet	48°35'43" N., 122°58'31" W.	0.2
50	Tift Rocks	48°34'42" N., 122°59'48" W. A group of five rock clusters about 200 yd off the south shore of Shaw Island.	1.5
51	Unnamed rock	48°31'42" N., 122°57'46" W. A barren rocky islet off Reef Point, San Juan Island.	0.2
52	Turn Rock	48°32'09" N., 122°57'45" W.	0.1
60	Brown Rock	48°36'18" N., 122°48'30" W.	0.2
69	Unnamed Islands	48°35'30" N., 122°02'06" W. Consists of a group of bare rocks offshore from Yellow Island.	0.5
72	Unnamed Island	48°35'14" N., 122°00'24" W.	0.5

The areas described contain 69.5 acres in San Juan County.

3. The lands described in paragraph 2 of this order are hereby made expressly subject to all of the terms and conditions of Public Land Order No. 5515.

JOHN KYL,
Assistant Secretary
of the Interior.

[FR Doc.76-21976 Filed 7-28-76;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-118]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Miscellaneous Amendments

The purposes of this amendment are to—

1. Delegate to the Federal Aviation Administrator certain functions vested in the Secretary with regard to the Interagency Group on International Aviation (IGIA); and

2. Delegate to the Director of the Transportation Systems Center authority to issue invitational travel orders for person attending meetings approved by the Assistant Secretary for Systems Development and Technology.

Since this amendment relates to Departmental management, practice, and procedure notice and public comment thereon are unnecessary and it may be made effective in fewer than thirty days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49 of the Code of Federal Regulations is amended as follows:

1. In § 1.47, a new paragraph (1) is added at the end thereof to read as follows:

§ 1.47 Delegations to Federal Aviation Administrator.

The Federal Aviation Administrator is delegated authority to—

(1) Serve, or designate a representative to serve, as Vice Chairman and alternate member of the Interagency Group on International Aviation (IGIA) pursuant to

interagency agreement of December 9, 1960, and Executive Order 11382, and provide for the administrative operation of the IGIA Secretariat.

2. In paragraph (h) of § 1.62, the words "and invitational travel", appearing after the words "except overseas travel", are deleted, and a second sentence is added to read as follows:

§ 1.62 Delegations to Director of the Transportation Systems Center.

The Director of the Transportation Systems Center is delegated authority to—

(h) * * * The authority for issuing invitational travel orders under this delegation is limited to travel to attend meetings which have been approved by the Assistant Secretary for Systems Development and Technology.

Effective date: This amendment is effective July 29, 1976.

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e))).

Issued in Washington, D.C., on July 23, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.76-21955 Filed 7-28-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 20—MIGRATORY BIRD HUNTING

Amendment of Basic Regulations Governing Hunting of Migratory Birds

On March 3, 1976, notice was given of certain proposed amendments to the regulations governing the hunting of migratory birds (41 FR 9177). The notice

proposed three amendments to the basic regulations. First, it was proposed to redefine the term "commercial preservation facility" and to clarify the tagging requirements for migratory birds in custody at the redefined preservation facilities. Second, it was proposed to amend § 20.25, Wanton waste of migratory game birds, to clearly specify that it should be illegal for hunters to fail to make a reasonable effort to retrieve birds or to discard them in certain situations.

Third, it was proposed to amend the provisions for the emergency closure or suspension of hunting seasons for migratory game birds.

Public comments were requested on these proposed rules, and all comments received no later than May 1, 1976, were considered. The Service has reviewed the proposed rules, and the comments on the proposal, and hereby promulgates final rules on these subjects.

SUMMARY OF COMMENTS

Of the seven comments received on the three proposals mentioned above, four comments were on the proposal to amend § 20.25, the wanton waste rule. All comments were favorable to the proposal as proposed. Three comments were from State agencies and one comment was from a conservation organization.

The other three comments received were on the proposal to redefine "commercial preservation facility." One comment, from a Regional Office of the Service, suggested a modification of the proposal in order to allow hunting clubs the option of either fully processing the migratory birds and keeping the required records, or leaving a head and/or a fully feathered wing on the bird and not having to keep the records. This suggestion has been adopted in the final rule. There were no comments on the proposal to amend the rules on emergency closures of hunting seasons.

Based on the above comments, the proposals have been adopted as final rules, with the modification referred to above, as reflected herein.

EFFECT OF THE RULES

The redefinition of "commercial preservation facility" more clearly defines those facilities and operations in which birds are processed in a manner so as to remove the identifying characteristics from the bird. These preservation facilities will be allowed to continue processing birds as they do at present; however, they will have to keep proper records. This amendment also makes clear that except for hunting clubs which dress birds in the normal course of operations, this exception to the species identification rule is intended to apply to persons who do this for hire or other consideration at their residence or place of business, or cold storage facilities or lockers which are in the business of processing birds. This will avoid the field dressing of birds without the keeping of proper records, which makes it impossible to tell the species of the bird. There are consequential changes in §§ 20.35, 20.39, 20.43, 20.63, 20.81, 20.82, and 20.83. Section

20.82 has been modified from the proposal to indicate that hunting clubs would have a choice of either fully processing the migratory birds and keeping the required records, or leaving either a head or a fully feathered wing on the bird for species identification and not keeping the required records.

There is no change in the proposal to amend the wanton waste rule in § 20.25. As it will now be amended, the wanton waste rule will require a hunter to retain his birds in his actual custody at the place where taken or between that place and either his car, his home or place of temporary lodging, a migratory bird preservation facility, the post office or a common carrier.

There is no change in the proposed amendment to the emergency closure regulations. This new rule will allow the Service to institute an emergency closure upon a finding that a continuation of the hunting season would constitute an imminent threat to the safety of any endangered or threatened species or other migratory bird populations. In the event that such a closure could not be announced in the FEDERAL REGISTER in time to be effective, a special procedure is provided. This procedure would be supplemented by notice in the FEDERAL REGISTER as soon as possible. The effect of the amendment is to broaden the emergency closure provision to other migratory bird populations, in addition to endangered or threatened species.

These rules shall become effective August 30, 1976.

Dated: July 26, 1976.

GEORGE W. MILIAS,
Acting Director,
Fish and Wildlife Service.

Accordingly, Part 20 of Chapter I, Title 50, Code of Federal Regulations, is amended as follows:

§ 20.11 [Amended]

1. Amend § 20.11 by deleting the definition of "commercial preservation facility" and inserting in its place the following new definition:

"Migratory bird preservation facility" means:

(i) Any person who, at his residence or place of business and for hire or other consideration; or

(ii) Any cold-storage facility or locker plant which, for hire or other consideration; or

(iii) Any hunting club which, in the normal course of operations;

receives, possesses, or has in custody any migratory game birds belong to another person for purposes of picking, cleaning, freezing, processing, storage, or shipment."

2. Amend the table of sections to delete the word "commercial" from the designation for Subpart I, and replace it with the words "Migratory bird."

3. Amend § 20.25 to read as follows:

§ 20.25 Wanton waste of migratory game birds.

No person shall kill or cripple any migratory game bird pursuant to this part without making a reasonable effort to retrieve the bird, and retain it in his actual custody, at the place where taken or between that place and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a migratory bird preservation facility; or (d) a post office; or (e) a common carrier facility.

4. Amend § 20.26 to read as follows:

§ 20.26 Emergency closures.

(a) The Director may close or temporarily suspend any season established under Subpart K of this part:

(1) Upon a finding that a continuation of such a season would constitute an imminent threat to the safety of any endangered or threatened species or other migratory bird populations.

(2) Upon issuance of local public notice by such means as publication in local newspapers of general circulation, posting of the areas affected, notifying the State wildlife conservation agency, and announcement on local radio and television.

(b) Any such closure or temporary suspension shall be announced by publication of a notice to that effect in the FEDERAL REGISTER simultaneous with the local public notice referred to in paragraph (a) (2) of this section. However, in the event that it is impractical to publish a FEDERAL REGISTER notice simultaneously, due to the restriction in time available and the nature of the particular emergency situation, such notice shall follow the steps outlined in paragraph (a) of this section as soon as possible.

(c) Any closure or temporary suspension under this section shall be effective on the date of publication of the FEDERAL REGISTER notice; or if such notice is not published simultaneously, then on the date and at the time specified in the local notification to the public. Every notice of closure shall include the date and time of closing of the season and the area or areas affected. In the case of a temporary suspension, the date and time when the season may be resumed shall be provided by a subsequent local notification to the public, and by publication in the FEDERAL REGISTER.

5. In § 20.35 delete the word "commercial" and replace it with the words "migratory bird." As revised § 20.35 reads as follows:

§ 20.35 Field possession limit.

No person shall possess, have in custody, or transport more than the daily bag limit or aggregate daily bag limit, whichever applies, of migratory game birds, tagged or not tagged, at or between the place where taken and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a migratory bird preser-

vation facility; or (d) a post office; or (e) a common carrier facility.

6. In § 20.39 delete the word "commercial" and replace it with the words "migratory bird." As revised § 20.39 reads as follows:

§ 20.39 Termination of possession.

Subject to all other requirements of this part, the possession of birds taken by any hunter shall be deemed to have ceased when such birds have been delivered by him to another person as a gift; or have been delivered by him to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or a common carrier to some person other than the hunter.

7. In § 20.43 delete the word "commercial" and replace it with the words "migratory bird." As revised § 20.43 reads as follows:

§ 20.43 Species identification requirement.

No person shall transport within the United States any migratory game birds, except doves and band-tailed pigeons (*Columba fasciata*), unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

8. In § 20.63 delete the word "commercial" and replace it with the words "migratory bird." As revised § 20.63 reads as follows:

§ 20.63 Species identification requirement.

No person shall import migratory game birds unless each such bird has one fully feathered wing attached, and such wing must remain attached while being transported between the port of entry and the personal abode of the possessor or between the port of entry and a migratory bird preservation facility.

9. In the title of Subpart I delete the word "commercial" and replace it with the words "migratory bird." As revised the title of Subpart I reads as follows:

Subpart I—Migratory Bird Preservation Facilities

10. In § 20.81 delete the word "commercial" and replace it with the words "migratory bird." As revised § 20.81 reads as follows:

§ 20.81 Tagging requirement.

(a) No migratory bird preservation facility shall receive or have in custody any migratory game birds unless such birds are tagged as required by § 20.36.

(b) In § 20.82 delete the word "commercial" and replace it with words "migratory bird." Add the following to § 20.82(a), after the words "unless accurate records are maintained": " * * * which can identify each bird in the custody of the facility to the name of the

person from whom the bird was obtained, and * * * "

11. Amend § 20.82 by adding a new record keeping requirement as number (2), renumbering the other requirements, and adding a new paragraph (c); as amended, § 20.82 will read as follows:

§ 20.82 Records required.

No migratory bird preservation facility shall:

(a) Receive or have in custody any migratory game birds unless accurate records are maintained which can identify each bird in the custody of the facility to the name of the person from whom the bird was obtained, and showing (1) the number of each species; (2) the location where taken; (3) the date such birds were received; (4) the name and address of the person from whom such birds were received; (5) the date such birds were disposed of; and (6) the name and address of the person to whom such birds were delivered, or

(b) Destroy any records required to be maintained under this section for a period of 1 year following the last entry on the record.

(c) Record keeping as required by this section will not be necessary at hunting clubs which do not fully process migratory birds by removal of both the head and wings.

12. In § 20.83 delete the word "commercial" and replace it with the words "migratory bird." As revised § 20.83 reads as follows:

§ 20.83 Inspection of premises.

No migratory bird preservation facility shall prevent any person authorized to enforce this part from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried.

[FR Doc.76-22003 Filed 7-28-76; 8:45 am]

**PART 26—PUBLIC ENTRY AND USE
Back Bay National Wildlife Refuge, Virginia**

Final special regulations were published in the FEDERAL REGISTER on June 3, 1976, (41 FR 22361-64), concerning public access, use, and recreation at the Back Bay National Wildlife Refuge, Virginia. The regulations, which will expire on December 31, 1976, modify previous criteria for granting vehicular access privileges across the refuge beach and further restrict the hours and extent of vehicular access.

As indicated in the preamble to the final rulemaking, the modification in criteria was designed to "extend limited access privileges to owners of certain improved property, in addition to previous permittees * * * " 41 FR 22361. Generally, persons owning habitable, improved property as of October 6, 1975, the day that former litigation over access ended, were to be afforded access if taxes had been "levied and paid" on the property as of that date. Additionally, permittees under the 1975 program who were full-time, permanent residents of the Outer Banks were to be given permits.

Since publication of the 1976 special regulations for Back Bay National Wildlife Refuge, it has come to the attention of the Department of the Interior that persons who became improved property owners in 1974 or between January 1, 1975 and October 6, 1975, would not, under state tax requirements, have had taxes "levied and paid" as of October 6, 1975, which is the standard now in effect. The tax criterion was used in connection with qualifying as an improved property permittee in order to provide an objective basis, through established state tax standards, for insuring that land owners on the Outer Banks had constructed improvements on their property by the time the U.S. Fish and Wildlife Service's authority to restrict vehicular access across the refuge was firmly established. This occurred with the exhaustion of all possible court appeals on October 6, 1975. However, under state taxing procedures, taxes on improvements constructed between January 1, 1975 and October 6, 1975, would not be listed until January 1976, and due until December 31, 1976. Taxes on improvements partially or totally completed as of December 31, 1974, would not be listed until January 1975, and due until December 31, 1975. Thus, the regulations must be amended to reflect the tax requirements of the state and the original intent of the Department.

To correct this situation, paragraphs (1) and (2) of 50 CFR 26.34(b)(5)(1) (B) are being changed. For mobile homes, which under county zoning ordinances could not be located on the Outer Banks after March 2, 1972, the most recent obligation to pay taxes was December 31, 1975. The amendment requires that such taxes must have been paid to qualify for a permit. Because some mobile home owners pay personal property taxes on their mobile homes and others pay real property taxes, the term "ad valorem" property taxes is used. The term "ad valorem" means "according to value" and, in this instance, involves the tax upon the value of the property that is subject to taxation.

The improved dwelling criterion is being changed to provide that the improved dwelling must be listed on the tax rolls as of January 31, 1976, to cover those who constructed improvements between January 1, 1975 and October 6, 1975. For those who had completed improvements prior to 1975, they must have paid their improved property taxes as of December 31, 1975.

A further problem has been revealed in that several of last year's permittees who were full-time, permanent residents of the Outer Banks would not qualify for a permit under the "improved property" criteria since they are not actual "owners" of the property on which they live.

To correct this, a second amendment to the special regulations, a new 50 CFR 26.34(b)(5)(1)(C), defines persons eligible for permits to include permanent, full-time residents of the Outer Banks

from the refuge boundary south to and including the Village of Corolla. The criteria for qualifying on this basis are essentially the same as were in effect for the 1975 access program, 40 FR 12090 (March 17, 1975). As in 1975, these residents would have to furnish proof of residency prior to January 12, 1972, the date the Department first published regulations to restrict access through the refuge. Permits would be issued to these individuals under identical access conditions imposed on other improved property permittees.

As a further refinement of the refuge manager's authority under the special regulations, language is added in 50 CFR 26.34(b)(5)(i) to permit him to grant exceptions to the access restrictions for permittees who demonstrate a need to cross the refuge for purposes relating to health or livelihood.

In relation to the final rulemaking previously published, no greater environmental impact or expected numbers of permittees is anticipated as a result of these amendments. The regulations will reflect the original intentions of the Department, the environmental impacts of which were analyzed in an environmental assessment.

Other minor, conforming amendments are made, as well as correction of typographical errors in the June 3, 1976, FEDERAL REGISTER document.

Notice of proposed rulemaking and opportunity for public participation in rulemaking are required under the Administrative Procedure Act, unless an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, 5 U.S.C. 553(b)(B). That finding is hereby made for these amendments to the special regulations for the Back Bay National Wildlife Refuge since (1) the amendments will carry out the expressed intent of the final regulations, (2) the number of people affected by the amendments is within the previously estimated number of anticipated users of the permit program, (3) the specific persons affected by the amendments, who are certain permanent residents of the Outer Banks, North Carolina, were expected to qualify under the 1976 permit program, (4) the permanent residents affected by the amendments are those who were permitted to cross the refuge beach under previous permit programs, and (5) it would be contrary to the public interest if the refuge manager did not have the flexibility to permit access to permittees needing to cross the beach for purposes of health or livelihood.

The Administrative Procedure Act also requires that the publication of a substantive rule shall be made not less than 30 days before its effective date except, among other things, a substantive rule which grants or recognizes an exemption or relieves a restriction or as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d). For the same reasons

enunciated in the good cause finding pertaining to 5 U.S.C. 553(b) above and because the amendments would exempt certain persons from the existing general access provisions and relieve them from those restrictions, good cause is found to make this rule change effective on July 29, 1976.

Accordingly, the following amendments to 50 CFR 26.34 are made as to the special regulations issued for the Back Bay National Wildlife Refuge, Virginia, and published in the FEDERAL REGISTER (41 FR 22361-64) on June 3, 1976.

Effective date: These amendments shall become effective July 29, 1976 and will expire with the special regulations on December 31, 1976.

1. In the first sentence of paragraph (b)(5) of § 26.34, the words "as follows" are substituted for the words "only to those owners of property and non-residential users who meet the following qualifications";

2. In the first paragraph of 50 CFR 26.34(b)(5)(i)(B), the word "meets" is substituted for the word "met";

3. Paragraphs (1) and (2) of 50 CFR 26.34(b)(5)(i)(B) are revised to read:

"(1) *Mobile Homes*: A mobile home with minimum dimensions of 8' x 32' located on a lot prior to March 2, 1972, and for which ad valorem property taxes for 1975 had been paid as of December 31, 1975;"

"(2) *Dwellings*: A habitable abode that was properly listed on the tax rolls of Currituck County, North Carolina, by January 31, 1976, for payment of taxes in excess of those paid on unimproved land. Such property improved prior to 1975 shall have been listed on the tax rolls in 1975 and have had taxes paid by December 31, 1975, in accordance with state law, in order for the owner to qualify for a permit."

4. A new paragraph (b)(5)(i)(C) of § 26.34 is added, as follows:

"(C) To permanent, full-time residents who can furnish proof of residency prior to January 12, 1972, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain permanent, full-time residents;"

5. 50 CFR 26.34(b)(5)(i)(B)(3) is amended and repositioned, as follows, immediately following new subsection (C) in § 26.34(b)(5)(i):

"The burden of proof of showing that the property of a prospective permittee meets these criteria shall be on the prospective permittee by presentation of appropriate documentation."

6. A sentence is added to the last paragraph of 50 CFR 26.34(b)(5)(i), as follows:

"The refuge manager may make exceptions to access restrictions for qualified permittees who have demonstrated, to the satisfaction of the refuge manager, a need for access relating to health or livelihood."

7. The citations "(1)" and "(2)" in 50 CFR 26.34(b)(5)(i)(A) are deleted;

8. The citations "(iii)" and "(iv)" in 50 CFR 26.34(b)(5) are deleted;

9. The regulation citation "(6)(5)(i)" in paragraph (b)(5)(ii)(D) of § 26.34 is corrected to read "(b)(5)(i)";

10. The regulation citation "(5)(i)(b)" in paragraph (b)(7) of § 26.34 is corrected to read "(b)(5)(i)".

Dated: July 26, 1976.

KENT FRIZZELL,

Under Secretary,

U.S. Department of the Interior.

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

VIRGINIA

BACK BAY NATIONAL WILDLIFE REFUGE

(a) *General Use*. (1) Entry on foot or by motor vehicle on designated travel routes in public use areas is permitted for the purpose of nature study, sightseeing, wildlife observation, photography, hiking, surf fishing, surfing, swimming, and bicycling during daylight hours.

(2) Swimming and surfing are permitted only on that portion of the beach lying between the north boundary of the refuge and the dune crossing at the field headquarters. No lifeguards are provided. Swimming and surfing will be at the visitor's own risk.

(3) The parking lot at the field headquarters is reserved for persons engaged in surf fishing and nature study. Surf fishing is permitted in accordance with applicable State regulations.

(4) Open fires are not permitted. Portable grills with a contained fuel supply are permitted on the beach north of the field headquarters.

(5) Pets on a leash not exceeding 10 feet in length are permitted on refuge public use areas.

(6) Bicycles and registered motor vehicles are permitted on the paved refuge access road and on the parking area at field headquarters. All other types of motorized vehicles are prohibited except as specifically authorized pursuant to these regulations.

(b) *Access Permits*. (1) Access to and travel along the ocean portion of the refuge by motorized vehicles may be allowed between the dune crossing entrance at the field headquarters and the south boundary of the refuge only after a permit has been issued by the refuge manager or his designated representative.

(2) Permits will be issued for such period of time as appears justifiable to the refuge manager, taking into account the need for and duration of access required by the applicant. In no case will the permit remain in effect beyond December 31 of the year in which it is granted. Permits may be renewed upon the submittal of a proper application and the payment of required fees.

(3) No more than one permit per piece of improved property or per owner of multiple properties as defined herein will be issued to owners of such property meeting the specified qualifications, as determined by the refuge manager, except that not more than two permits may be issued for an improved property meeting the specified qualifications having more than one owner of record as of October 6, 1975, provided that such owners are not in the same immediate family, i.e., spouse or minor children. Permits must be permanently displayed at all times while on refuge property in such a manner as to be readily visible on any motor vehicle. Permits shall be non-

transferable. No more than one vehicle owned by the permit holder shall be registered with the refuge manager for use in accordance with these regulations. That vehicle shall be operated only by the permit holder or a member of his immediate family and household on the refuge beach.

(4) All permittees qualifying as described in 5(i) (a) and (b) and (ii) (a) below are required to pay a \$90.00 fee per permit to defray cost of administering the permit program prior to the granting of a permit for the privilege of vehicular access across the refuge beach.

(5) Permits will be issued as follows:

(i) **Residential.** (A) To persons now residing on, owning, or leasing land with permanent habitable dwelling south of the refuge in the False Cape State Park acquisition area, Virginia.

(B) To owners as of October 6, 1975, of improved property on the Outer Banks of Currituck County, North Carolina, from the North Carolina line south to and including, the village of Corolla, North Carolina, which improved property meets the following criteria:

(1) **Mobile Homes:** A mobile home with minimum dimensions of 8' x 32' located on a lot prior to March 2, 1972, and for which *ad valorem* property taxes for 1975 had been paid as of December 31, 1975;

(2) **Dwellings:** A habitable abode that was properly listed on the tax rolls of Currituck County, North Carolina, by January 31, 1976, for payment of taxes in excess of those paid on unimproved land. Such property improved prior to 1975 shall have been listed on the tax rolls in 1975 and have had taxes paid by December 31, 1975, in accordance with state law, in order for the owner to qualify for a permit.

(C) To permanent, full-time residents who can furnish proof of residency prior to January 12, 1972, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain permanent, full-time residents.

The burden of proof of showing that the property of a prospective permittee meets these criteria shall be on the prospective permittee by presentation of appropriate documentation.

Such permitted vehicles shall be restricted to one round trip per day. Travel is restricted to the designated route of travel between the hours of 6 am to 9 am and 5 pm to 8 pm. The refuge manager may make exceptions to access restrictions for qualified permittees who have demonstrated, to the satisfaction of the refuge manager, a need for access relating to health or livelihood.

(ii) **Non-residential:** (A) To full-time commercial fishermen who have verified their dependence for a livelihood since on or before 1972 upon ingress, egress or crossing refuge land. Not more than three (3) special use permits for commercial fishing on the refuge will be in force at one time. Selection of refuge fishing permits will be determined by a lottery when the number of qualified applicants, as described above, exceeds the number of permits available.

Commercial fisherman: a commercial fisherman shall be described as one who performs the act of harvesting finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since on or before 1972.

(B) For a school bus transporting resident students to and from the False Cape area during the school term.

(C) For service vehicles on business calls during the hours of 8 am to 5 pm, Monday through Friday, upon written verification of a request from a resident as described in (b) (5) (i) above.

Service vehicles. Any vehicle owned or operated by or on behalf of an individual, partnership, or corporation engaged entirely in the business of furnishing construction, maintenance, or repair services, including but not limited to building, plumbing, septic tanks, installation or repair of household appliances, carpentry, painting, landscaping, garbage collection, and delivery services.

(D) For public utility vehicles on official business calls upon written verification of a request from a resident as described in (b) (5) (i) above.

Public utility vehicles: Any vehicles owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(6) Excluded from the restrictions of these regulations are any military, fire, emergency, or law enforcement vehicle when used for emergency purposes and official use by an employee, agent, or designated representative of the Federal, State, or local government in the course of his official duties.

(7) In an emergency, the refuge manager may suspend, for such period or periods as he shall deem advisable, any or all of the foregoing restrictions on vehicular travel, and he may announce such suspension by whatever means are available. In the event of high winds and waves, storms, adverse weather conditions or high tides, the refuge manager may close all or any portion of the refuge to vehicular travel for such period as he shall deem advisable in the interest of public safety, or may adjust the periods of access otherwise prescribed pursuant to (b) (5) (i) above.

(8) (i) The refuge manager may prescribe restrictions as to the types of vehicles to be permitted to insure public safety and adherence to all applicable rules and regulations.

(ii) All vehicles registered with the refuge manager must be equipped with four-wheel drive or oversand tires and carry, at all times on the refuge beach a shovel, jack, tow rope or chain, board or similar support for the jack and a low-pressure tire gauge.

(9) Violators of these special regulations and all other regulations pertaining to the Back Bay National Wildlife Refuge will be subject to legal action as prescribed by 50 CFR 28.31, including mandatory revocation by the refuge manager of such permits for the duration of the permit period. Such revocation shall constitute forfeiture of the \$90.00 permit fee.

(10) All permits issued under 5(i) (a) will be terminated in the event that alternate access is provided during the permit period.

(11) The provisions of this special regulation are effective through December 31, 1976. They supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50.

The refuge, comprising approximately 4,600 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke Bldg., Suite 218, 257 Pembroke Office Park, Virginia Beach, Virginia 23462, from the Regional Director, U.S. Fish and Wildlife Service, U.S. Post Office and Courthouse, Boston, Massachusetts 01209.

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PART 32—HUNTING

Determination That Certain Lands and Waters in Valley County, Montana, Adjacent to the Charles M. Russell National Wildlife Range, Be Closed to the Hunting of Migratory Birds

On May 6, 1976, there was published in the FEDERAL REGISTER (41 FR 18677) a notice of proposed rulemaking designating an area approximately 73.1 acres adjacent to the Charles M. Russell National Wildlife Range, Valley County, Montana, closed to the hunting of migratory game birds.

This action was taken by authority of and pursuant to section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, as amended; (16 U.S.C. 704)), by virtue of the Reorganization Plan II (53 Stat. 1431) and in accordance with section 4(a) of the Administrative Procedure Act (5 U.S.C. 553).

The public was provided a 30-day comment period and no comments were received on the proposed rulemaking.

These regulations shall become effective on August 30, 1976.

Therefore, I hereby designate a closed area comprising approximately 73.1 acres within the following described boundaries, adjacent to Charles M. Russell National Wildlife Range in Valley County, Montana, in or on, which pursuing, hunting, shooting, wounding, killing, trapping, capturing or collecting of migratory game birds, or, attempting to pursue, hunt, shoot, wound, kill, trap, capture, or collect migratory game birds, is not permitted:

Beginning at that point where the west boundary fence of Tract 2D, Da intercepts the Missouri River Dredge Cut in the SW 1/4, NW 1/4, Section 8 T26N, R41E; thence northeast at a compass heading of N 24°E for approximately 1,295 feet to that point where this line intercepts the northwest corner of the small, unnamed island north of Tract 2D, 2Da, thence northeast again at a compass heading of N 67°E for approximately 1,995 feet to that point where this line intercepts the southwest abutment of the bridge on State Highway 24 where it crosses the Dredge Cut, thence southerly and westerly along the high water mark of the Dredge Cut to the beginning point, a distance of approximately 6,910 feet, encompassing approximately 73.1 acres.