

issued in compliance with procedures contained in the Departmental Manual.

§ 26.34 What are the special regulations concerning public access, use, and recreation for individual national wildlife refuges?

The following refuge units, listed in alphabetical order by State and unit name, have refuge-specific regulations for public access, use, and recreation.

ILLINOIS

Upper Mississippi River National Wildlife and Fish Refuge

Refer to § 26.34 Minnesota for regulations.

IOWA

Upper Mississippi River National Wildlife and Fish Refuge

Refer to § 26.34 Minnesota for regulations.

MINNESOTA

Upper Mississippi River National Wildlife and Fish Refuge

(a) *Wildlife Observation, Photography, Interpretation, Environmental Education, and other General Recreational Uses.* We allow wildlife-dependent uses and other recreational uses such as, but not limited to, sightseeing, hiking, bicycling on roads or trails, picnicking, and swimming, on areas designated by the refuge manager and shown on maps available at refuge offices, subject to the following conditions:

(1) In areas posted and shown on maps as “No Entry—Sanctuary,” we prohibit entry as specified on signs or maps (see § 32.42 of this chapter for list of areas and locations).

(2) In areas posted and shown on maps as “Area Closed,” “Area Closed—No Motors,” and “No Hunting Zone” (Goose Island), we ask that you practice voluntary avoidance of these areas by any means or for any purpose from October 15 to the end of the respective State duck hunting season. In areas marked “no motors,” we prohibit the use of motors on watercraft from October 15 to the end of the respective State duck hunting season (see § 32.42

of this chapter for list of areas and locations).

(3) Commercial tours and filming require a permit issued by the refuge or district manager (see § 27.51 of this chapter).

(4) We allow the collecting of edible fruits, nuts, mushrooms, or other plant parts for personal use (no sale or barter allowed). We limit the amount you may collect to 2 gallons by volume per person, per day (see § 27.51 of this chapter). We also allow the collecting of shed deer antlers for personal use.

(5) We prohibit the harvest of wild rice; plant and animal specimens; and other natural objects, such as rocks, stones, or minerals. We only allow the collection of plants or their parts for ornamental use by permit issued by the refuge or district manager (see § 27.51 of this chapter).

(6) We prohibit the cutting, removal, or damage of any tree or vegetation on the refuge without a permit from the refuge or district manager. We prohibit attaching nails, screws, or other hardware to any tree (see § 27.51 and § 32.42 of this chapter).

(7) We prohibit all vehicle use on or across refuge lands at any time except on designated routes of travel or on the ice over navigable waters accessed from boat landings. We prohibit parking beyond vehicle control barriers or on grass or other vegetation. We prohibit parking or operating vehicles in a manner that obstructs or impedes any road, trail, fire lane, boat ramp, access gate, or other facility, or in a manner that creates a safety hazard or endangers any person, property, or environmental feature. We may impound any vehicle left parked in violation at the owner’s expense (see § 27.31(h) of this chapter).

(8) We allow dogs and other domestic animals on the refuge subject to the following conditions:

(i) We prohibit dogs disturbing or endangering wildlife or people while on the refuge.

(ii) While on the refuge, all dogs must be under the control of their owners/handlers at all times or on a leash.

(iii) We prohibit allowing dogs to roam.

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(iv) All dogs must be on a leash when on hiking trails, or other areas so posted.

(v) We allow working a dog in refuge waters by tossing a retrieval dummy or other object for out-and-back exercise.

(vi) We encourage the use of dogs for hunting (see § 32.42 of this chapter), but we prohibit field trials and commercial/professional dog training.

(vii) Owners/handlers of dogs are responsible for disposal of dog droppings in refuge public use concentration areas such as trails, sandbars, and boat landings.

(viii) We prohibit horses and all other domestic animals on the refuge unless confined in a vehicle, boat, trailer, kennel or other container (see § 26.21 of this chapter).

(9) We prohibit the carrying, possessing, or discharging of firearms (including dog training pistols and dummy launchers), air guns, or any other weapons on the refuge, unless you are a licensed hunter or trapper engaged in authorized activities during established seasons, in accordance with Federal, State, and local regulations. We prohibit target practice on the refuge (see §§ 27.42 and 27.43 of this chapter).

(10) We prohibit the use or possession of glass food and beverage containers on lands within the refuge.

(11) We require that you keep all refuge lands clean during your period of use or occupancy. At all times you must keep all refuse, trash, and litter contained in bags or other suitable containers and not left scattered on the ground or in the water. You must remove all personal property, refuse, trash, and litter immediately upon vacating a site. We require that human solid waste and associated material be either removed and properly disposed of off-refuge or be buried on site to a depth of 6–8 inches (15–20 cm) and at least 50 feet (15 m) from water's edge (see § 27.94 of this chapter).

(b) *Watercraft Use.* We allow the use of watercraft of all types and means of propulsion on all navigable waters of the refuge in accordance with State regulations subject to the following conditions:

(1) In areas posted and shown on maps as "Electric Motor Area," we

prohibit motorized vehicles and watercraft year-round except watercraft powered by electric motors or nonmotorized means. We do not prohibit the possession of other watercraft motors in these areas, only their use. These areas are named and located as follows:

(i) Island 42, Pool 5, Minnesota, 459 acres.

(ii) Snyder Lake, Pool 5A, Minnesota, 182 acres.

(iii) Mertes Slough, Pool 6, Wisconsin, 222 acres.

(iv) Browns Marsh, Pool 7, Wisconsin, 827 acres.

(v) Hoosier Lake, Pool 10, Wisconsin, 162 acres.

(2) In areas posted and shown on maps as "Slow No Wake Area," we require watercraft to travel at slow, no-wake speed from March 16 through October 31. We apply the applicable State definition of slow, no-wake operation in these areas. We also prohibit the operation of airboats or hovercraft in these areas from March 16 through October 31. These areas are named and located as follows:

(i) Nelson-Trevino, Pool 4, Wisconsin, 2,626 acres (takes effect March 16, 2009).

(ii) Denzers Slough, Pool 5A, Minnesota, 83 acres.

(iii) Black River Bottoms, Pool 7, Wisconsin, 815 acres.

(iv) Blue/Target Lake, Pool 8, Minnesota, 1,834 acres.

(v) Root River, Pool 8, Minnesota, 695 acres.

(vi) Reno Bottoms, Pool 9, Minnesota, 2,536 acres.

(vii) Nine Mile Island, Pool 12, Iowa, 454 acres.

(viii) Princeton, Pool 14, Iowa, 327 acres.

(3) In water access and travel routes posted and shown on maps as "Slow No Wake Zone," we require watercraft to travel at slow, no-wake speed at all times unless otherwise posted. We apply the respective State definition of slow, no-wake operation in these areas.

(4) In portions of Spring Lake and Crooked Slough—Lost Mound, Pool 13, Illinois, posted as "Slow, 5 mph When Boats Present" and marked on maps as "Speed/Distance Regulation," we require watercraft operators to reduce the speed of their watercraft to less

than 5 mph (8 kph) when within 100 feet (30 m) of another watercraft that is anchored or underway at 5 mph (8 kph) or less.

(5) We prohibit the mooring, beaching, or storing of watercraft on the refuge without being used at least once every 24 hours. We define "being used" as a watercraft moved at least 100 feet (30 m) on the water with operator on board. We prohibit the mooring of watercraft within 200 feet (60 m) of refuge boat landings or ramps. We may impound any watercraft moored in violation at the owner's expense (see §27.32 of this chapter).

(6) Conditions A1, A2, and A11 apply.

(c) *Camping.* We allow camping on all lands and waters of the refuge as designated by the refuge manager and shown on maps available at refuge offices subject to the following conditions:

(1) We define camping as erecting a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle or mooring or anchoring of a vessel, for the apparent purpose of overnight occupancy, or, occupying or leaving personal property, including boats or other craft, at a site anytime between the hours of 11 p.m. and 3 a.m.

(2) We prohibit camping at any one site for a period longer than 14 days during any 30-consecutive-day period. After 14 days, you must move all persons, property, equipment, and boats to a new site located at least 0.5 mile (0.8 km) from the previous site.

(3) We prohibit camping within 200 feet (60 meters) of any refuge boat landing, access area, parking lot, structure, road, trail, or other recreation or management facility.

(4) We prohibit camping during waterfowl hunting seasons within areas posted "No Entry—Sanctuary," "Area Closed," "Area Closed—No Motors," and "No Hunting Zone" or on any sites not clearly visible from the main commercial navigation channel of the Mississippi River (see §32.42 of this chapter).

(5) You must occupy campsites daily. We prohibit the leaving of tents, camping equipment, or other property unattended at any site for over 24 hours,

and we may impound any equipment left in violation at the owner's expense. We define occupy and attended as being present at a site for a minimum of 2 hours daily.

(6) You must remove any tables, fireplaces, or other facilities erected upon vacating a camping or day-use site.

(7) We allow campfires in conjunction with camping and day-use activities subject to the following conditions (see §27.95 and §32.42 of this chapter):

(i) You may only use dead wood on the ground, or materials brought into the refuge such as charcoal or firewood. You must remove any unused firewood brought into the refuge upon departure due to the threat of invasive insects.

(ii) We prohibit building, attending, and maintaining a campfire without sufficient clearance from flammable materials so as to prevent its escape.

(iii) We prohibit building a fire at any developed facility including, but not limited to, boat landings, access areas, parking lots, roads, trails, or any other recreation or management facility or structure.

(iv) We prohibit burying live fires or hot coals when vacating a campfire site.

(v) We prohibit burning or attempting to burn any nonflammable materials or any materials that may produce toxic fumes or leave hazardous waste. These materials include, but are not limited to, metal cans, plastic containers, glass, fiberglass, treated wood products, wood containing nails or staples, wire, flotation materials, or other refuse.

(8) Conditions A4 through A11 apply.

VIRGINIA

Back Bay National Wildlife Refuge

ACCESS

(a) *Access qualifications and specifications.* (1) As provided for in Pub. L. 96-315, permanent, full-time residents who can furnish to the refuge manager, Back Bay NWR, adequate proof of continuous and continuing residency, commencing prior to December 31, 1979, 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 south boundary of the area for access consideration is defined as a straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point 1,600 feet due south of the Currituck lighthouse. "Residence" means a place of general abode; "Place of general abode" means a person's principal, actual dwelling place in fact, without regard to intent. A "dwelling" means a residential structure occupied on a year-round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied.

(2) As provided for in Pub. L. 98-146, "Up to 15 additional permits shall be granted to those persons meeting any one of the following conditions:"

(i) A resident as of July 1, 1982, who held a valid Service access permit for improved property owners at any time during the period from July 29, 1976, through December 31, 1979.

(ii) Anyone in continuous residency since 1976, in the area bounded on the north by the refuge boundary, and on the south by a straight line passing through a point in the east-west prolongation of the centerline of Albacore Street, Whaleshead Club Subdivision, Currituck County, North Carolina.

(iii) Any permanent, full time resident as of April 1, 1983, residing in the area outlined in paragraph (a)(2)(ii) of this section and not otherwise eligible, who can substantiate to the Secretary of the Interior that access is essential to their maintaining a livelihood; so long as they maintain full-time continuous employment in the Norfolk, Virginia, area may qualify for access.

(3) The burden of proving that the prospective permittee meets these criteria shall be on the applicant by presentation of adequate documentation to the refuge manager. Permittees may be required to submit additional documentation of their eligibility to the refuge manager in order to maintain access. Permits will be issued only to those who legally qualify for them.

(4) Only one permit will be issued per family. All permits issued will be terminated in the event that alternate ac-

cess becomes available during the permit period.

(5) Permits are issued for the purpose of providing ingress and egress across the refuge beach to the permittee's residence. Personal access is limited to permittees, their families, relatives, and guests while being transported in the permittee's vehicle. "Personal access" means private, non-commercial use. Permits are not transferable by sale or devise.

(6) All vehicle occupants must provide positive identification upon the request of any refuge official.

(b) *Routes of travel.* Access to, and travel along, the refuge beach by motorized vehicles may be allowed between the dune crossing at the key card operated gate near the refuge headquarters, and the south boundary of the refuge only after a permit has been issued or authorization provided by the refuge manager. Travel along the refuge beach by motorized vehicle shall be below the high tide line, within the intertidal zone, to the maximum extent practicable. This may require permittees to adjust their travel times to avoid high tides which would require the use of the emergency storm access/evacuation route over the east dike.

(c) *Number of trips allowed.* Permittees and members of their immediate families residing with them are limited to a total of two round trips per day per household.

(d) *Hours of travel.* Travel along the designated route is permitted 24 hours per day from October 1 through April 30. Travel is restricted to the hours of 5:00 a.m. to 12:00 midnight from May 1 through September 30.

(e) *Medical emergencies.* Private vehicles used in a medical emergency will be granted access. A "medical emergency" means any condition that threatens human life or limb unless medical treatment is immediately obtained.

The vehicle operator is required to provide the refuge manager with a doctor's statement confirming the emergency within 36 hours after the access has occurred.

(f) *Military, fire or emergency vehicles.* Military, fire, emergency or law enforcement vehicles used for emergency

purposes may be granted access. Vehicles used by an employee/agent of the Federal, State or local government, in the course of official duty other than for emergency purposes, may be granted access upon advance request to the refuge manager. Continuous or recurring use of the refuge beach for other than emergency purposes shall require the issuance of a permit from the refuge manager.

(g) *Public utility vehicles.* Public utility vehicles used on official business will be granted access. A permit specifying the times and types of access will be issued by the refuge manager. A "public utility vehicle" means any vehicle owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(h) *Essential commercial service vehicles.* (1) Essential commercial service vehicles on business calls during the hours of 8 a.m.-5 p.m. Monday through Friday will be granted access, only upon prior approval of the refuge manager when responding to a request from a permittee. Such requests may be verbal or in writing. Access by essential commercial service vehicles will be granted only after all other reasonable alternatives to access through the refuge have been exhausted as determined by the refuge manager.

(2) "Commercial service vehicle" means any vehicle owned or operated by or on behalf of an individual, partnership, or corporation that is properly licensed to engage entirely in the business of furnishing emergency repair services, including but not limited to plumbing, electrical, and repairs to household appliances.

(3) Emergency situations. The refuge manager, upon reasonable notification, will be able to authorize essential service/emergency repair access, outside the prescribed time periods, for emergency situations should they arise.

(i) *False Cape State Park employees.* False Cape State Park and Virginia Game Commission employees who are residents in the park will be considered as permanent, full-time residents as defined in §26.34(a) with access privileges identical to those of other permittees with beach access privileges.

(j) *Commercial fishermen, businesses and their employees.* (1) Commercial fishermen who have verified that their fishing operations on the Outer Banks of Virginia Beach, Virginia, or Currituck County, North Carolina, have been dependent since 1972 on ingress and egress to or across the refuge are granted permits for access. Travel through the refuge by commercial fishermen from Currituck County, North Carolina, will be permitted only when directly associated with commercial fishing operations. Drivers and passengers on trips through the refuge are limited to commercial fishing crew members. A *commercial fisherman* means one who harvests finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing businesses continuously since 1972. Commercial permits are not transferable by sale or devise. The level of commercial permittee travel across the refuge shall not increase above the average yearly levels maintained in the 1985-1987 period.

(2) Other businesses who have verified that their business operations on the Outer Banks of Currituck County, North Carolina, have been dependent since 1972 on ingress and egress to or across the refuge will be granted permits for access in accordance with the limitations outlined in paragraph (j)(1) of this section.

(3) Each commercial fisherman or other business may be granted a maximum of five designated employees to travel the refuge beach for commercial fishing or other business-related purposes only. Commercial fishing employees may carry only other commercial fishing employees as passengers. Other business employees may carry only other employees of that business. The hauling of trailers associated with the conduct of commercial fishing or other business activities is authorized.

(4) Employees of commercial fishermen and/or other businesses who apply for access permits shall have the burden of proving, by the presentation of appropriate documentation to the refuge manager, that they are an "employee" for purposes of this section of the regulations. Appropriate documentation is defined as the submission

of standardized and verifiable employment forms including: Signed W-2 and W-4 forms, IRS form #1099, official earnings statements for specified periods, employee income tax withholding submissions to State and Federal tax offices (e.g., IRS form W-3 with W-2s attached), State unemployment tax information or other proof of actual employment. Documentation for each employee must be submitted in advance of access being granted, or, for new employees, within 30 days of their starting date. Failure to provide verification of employment for new employees within 30 days will result in termination of access privileges.

(k) *Suspension or waiver of rules.* (1) In an emergency, the refuge manager may suspend any or all of the foregoing restrictions on vehicular travel and announce each suspension by whatever means are available. In the event of adverse weather conditions, the refuge manager may close all or any portion of the refuge to vehicular traffic for such periods as deemed advisable in the interest of public safety.

(2) The refuge manager may make exceptions to access restrictions, if they are compatible with refuge purposes, for qualified permittees who have demonstrated to the refuge manager a need for additional access relating to health or livelihood.

(3) The refuge manager may grant one-time use authorization for vehicular access through the refuge to individuals, not otherwise qualified above, who have demonstrated to the refuge manager that there is no feasible alternative to the access requested. Authorization for access under this provision will not be based on convenience to the applicant.

(4) Medical access waiver permits may be issued under the following conditions:

(i) The Regional Director may grant access to non-eligible permanent residents who can show proof that their physical health is such that life-threatening situations may result from more arduous travel conditions. The submission of substantiating medical records is required to be considered for a medical access waiver.

(ii) All medical access waiver permittees will be required to prove that their

medical condition is or continues to be such that a life-threatening situation would result from more arduous travel conditions. Such proof shall be required prior to the issuance of an access permit, and at 3-year intervals thereafter.

(iii) A second medical opinion will be required by the Regional Director prior to the issuance or re-issuance of any such permit. This second opinion will be provided for at Service expense, by a government designated physician.

(iv) No additional medical access waiver permits will be issued after December 31, 1987.

(v) Previous holders of medical access waiver permits will retain access subject to paragraph (k)(4) (ii) and (iii) of this section.

(1) *Violation of rules.* Violators of these special regulations pertaining to Back Bay NWR are subject to legal action as prescribed by 50 CFR 25.43 and part 28, including suspension or revocation of all permits issued to the violator or responsible permittee. The refuge manager may deny access permits to applicants who, during the 2 years immediately preceding the date of application, have formally been charged and successfully prosecuted for three or more violations of these or other regulations in effect at Back Bay NWR. Individuals whose vehicle access privileges are suspended, revoked, or denied may, within 30 days, file a written appeal of the action to the Assistant Regional Director-Refuges and Wildlife, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, in accordance with 50 CFR 25.45(c).

(m) *Other access rules.* (1) No permit will remain in effect beyond December 31 of the year in which it was issued. Permits may be renewed upon the submission of appropriate updated information relating to the permit, and a signed statement that the conditions under which the previous permit was issued have not changed. In the event of any changes of conditions under which the permit is granted, the permittee shall notify the refuge manager in writing within 30 days. Failure to report changes may result in suspension/revocation of the permit.

(2) Vehicles shall be operated on the refuge beach only by the permittee or

other authorized drivers. Permit holders shall not tow, transport or operate vehicles owned by non-permit holders through the refuge. Non-commercial permit holders may tow utility and boat trailers when being used for their personal use only. Any towed vehicle shall have advance approval from the refuge manager prior to being brought through the refuge. This access privilege is not to be used for any commercial purpose.

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

(4) A magnetic card will be issued to each authorized driver only for his or her operation of the computer controlled gate. No more than two cards will be issued per family. Only one vehicle will be permitted to pass for each gate opening. Unauthorized use of the magnetic card may result in suspension of the permit. A fee will be charged to replace lost or misplaced cards. Malfunctioning cards will be replaced at no charge.

(5) Access is granted for the purpose of travel to and from the permittee's residence and/or place of business. Access is not authorized for the purpose of transporting individuals for hire, or for the transport of prospective real estate clients to or from the Outer Banks of North Carolina, or for any other purpose not covered in this rule.

GENERAL RULES

(n) *Entry on foot, bicycle or motor vehicle.* Entry on foot, bicycle, or by motor vehicle on designated routes is permitted one-half hour before sunrise to one-half hour after sunset for the purposes of nature observation and study, photography, hiking, surf fishing, and bicycling.

(o) *Beach-oriented uses.* Designated areas of the refuge beach are open to wildlife/wildlands-oriented recreation only as outlined in paragraph (n) of this section. Entry to the beach is via designated access points only.

(p) *Parking.* Limited parking at the refuge office/visitor contact station is permitted only in designated spaces. Parking is available on a first-come, first-serve basis for persons engaged in

wildlife/wildlands-oriented recreation only as outlined in paragraph (n) of this section.

(q) *Fires.* All fires are prohibited.

(r) *Pets.* Dogs and other pets, on a hand-held leash not exceeding 10 feet in length, are permitted from October 1 through March 31.

(s) *Other general rules.* (1) Pedestrians and vehicular traffic in the sand dunes are prohibited.

(2) Use by all groups exceeding 10 individuals will require a Special Use Permit, issued by the refuge manager.

(3) Registered motor vehicles and motorized bicycles (mopeds) are permitted on the paved refuge access road and parking lot at refuge headquarters. All other motorized vehicular use is prohibited, except as specifically authorized pursuant to this rule.

(4) The information collection requirement contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*, and has been assigned the number 1018-0014. The information being collected is used to determine eligibility for issuing a vehicular access permit and a response is required to obtain a benefit.

WISCONSIN

Upper Mississippi River National Wildlife and Fish Refuge

Refer to § 26.34 Minnesota for regulations.

[52 FR 35715, Sept. 23, 1987, as amended at 73 FR 22260, Apr. 24, 2008]

EDITORIAL NOTE: For FEDERAL REGISTER citations to regulations affecting temporary and special regulations on national wildlife refuges, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 26.35 Cabin sites.

(a) There shall be no new private cabin site permits issued for national wildlife refuges. All appropriate provisions of 43 CFR part 21 apply to the phaseout of existing permits on national wildlife refuges.

(b) No new government owned cabin site permits for private recreational purposes shall be issued nor shall existing permits be renewed.