

or within 500 flight hours after the effective date of this AD, whichever occurs later.

(3) For Airbus Model A320 series airplanes on which Airbus Modification 22881 has been accomplished, and on which Airbus Modification 22841 or the modification specified in Airbus Service Bulletin A320-27-1050 has not been accomplished: Inspect within 500 flight hours after the effective date of this AD.

(b) For airplanes on which no protective half-shell is installed over area 1 of the left or right inboard flap trunnion: Within 500 flight hours after the effective date of this AD, perform a detailed visual inspection of areas 1 and 2 of the inboard flap trunnion to detect wear on the trunnion, in accordance with Airbus Service Bulletin A320-27-1066, Revision 4, dated July 15, 1997 (for Model A320 series airplanes), or A320-27-1097, Revision 01, dated July 15, 1997 (for Model A321 series airplanes).

(c) Except as provided by paragraph (d) of this AD: Following the accomplishment of any inspection required by either paragraph (a) or (b) of this AD, perform the follow-on repetitive inspections and/or corrective actions, as applicable, in accordance with Airbus Service Bulletin A320-27-1066, Revision 4, dated July 15, 1997 (for Model A320 series airplanes); A320-27-1097, Revision 01, dated July 15, 1997 (for Model A321 series airplanes); or A320-27-1108, Revision 01, dated July 15, 1997 (for Model A319, A320, and A321 series airplanes); as applicable; at the compliance times specified in the applicable service bulletin.

(d) If the applicable service bulletin specifies to contact Airbus for an appropriate action, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, or the Direction Générale de l'Aviation Civile (or its delegated agent).

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators shall submit requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

**Note 3:** The subject of this AD is addressed in French airworthiness directive 96-271-092(B) R1, dated October 8, 1997.

Issued in Renton, Washington, on September 9, 1998.

**Darrell M. Pederson,**

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24656 Filed 9-14-98; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Parts 1 and 3

RIN 1024-AC65

#### Personal Watercraft Use Within the NPS System

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service (NPS) is proposing regulations that will prohibit personal watercraft (PWC) in units of the National Park System unless the NPS determines that PWC use is appropriate for a specific unit based on that unit's enabling legislation, resources and values, other visitor uses and overall management objectives. This regulation will describe a process that will allow continued PWC use in some areas. This proposed rule would enable the NPS to better manage the use of personal watercraft in units of the NPS.

**DATES:** Written comments will be accepted until November 16, 1998.

**ADDRESSES:** Mail comments to: NPS—Ranger Activities Division—PWC, Room 7408, 1849 C Street NW, Washington, D.C. 20240. E-mail comments by selecting Hotdocs and Personal Watercraft Use in the NPS System at <http://www.nps.gov/refdesk> on the NPS website.

**FOR FURTHER INFORMATION CONTACT:** Chip Davis at the above address or by calling 202-208-4874.

#### SUPPLEMENTARY INFORMATION:

##### Background

The NPS is granted broad statutory authority under 16 U.S.C. 1 *et seq.* (National Park Service Organic Act) and 16 U.S.C. 1a-2(h) to “\* \* \* regulate the use of the Federal areas known as national parks, monuments, and reservations \* \* \* by such means and measures as conform to the fundamental purpose of the said parks \* \* \* 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”. Conserving the resources of the parks is the primary responsibility of the NPS, while compatibly providing for the enjoyment of the visitor, without impairing the resources or the visitor experience. The appropriateness of a visitor use or recreational activity will vary from park to park. *NPS Management Policies* states

that “\* \* \* because of differences in individual park enabling legislation and resources and differences in the missions of the NPS and other federal agencies, an activity that is entirely appropriate when conducted in one location may be inappropriate if conducted in another” (Chapter 8:2-3).

*NPS Management Policies* provide further direction in implementing the intent of the congressional mandate and other applicable Federal legislation. The policy of the NPS regarding protection and management of natural resources is “The National Park Service will manage the natural resources of the national park system to maintain, rehabilitate, and perpetuate their inherent integrity” (Chapter 4:1). Where conflict arises between human use and resource protection, where the NPS has a “reasonable basis to believe a resource is or would become impaired, the Park Service may, \* \* \* otherwise place limitations on public use” (Chapter 1:3).

The Organic Act and the other statutory authorities of the NPS vest the NPS with substantial discretion in determining how best to manage park resources and provide for park visitors. “Courts have noted that the Organic Act is silent as to the specifics of park management and that ‘under such circumstances, the Park Service has broad discretion in determining which avenues best achieve the Organic Act’s mandate \* \* \*. Further, the Park Service is empowered with the authority to determine what uses of park resources are proper and what proportion of the park resources are available for each use.’” *Bicycle Trails Council of Marin v. Babbitt*, 82 F.3d 1445, 1454 (9th Cir. 1996), quoting *National Wildlife Federation v. National Park Service*, 669 F. Supp. 384, 390 (D.Wyo. 1987). In reviewing a challenge to NPS regulations at Everglades National Park, the court stated, “The task of weighing the competing uses of federal property has been delegated by Congress to the Secretary of the Interior \* \* \*. Consequently, the Secretary has broad discretion in determining how best to protect public land resources.” *Organized Fishermen of Florida v. Hodel*, 775 F.2d 1544, 1550 (11th Cir. 1985), *cert. denied*, 476 U.S. 1169 (1986).

Over the years, NPS areas have been impacted with new, and what often prove to be controversial, recreational activities. These recreational activities tend to gain a foothold in NPS units in their infancy, before a full evaluation of the possible impacts and ramifications that expanded use will have on the unit can be initiated, completed and

considered. Personal watercraft (PWC) use fits this category.

PWC use is a relatively new recreational activity that has been observed in about 32 of the 87 units of the National Park System that allow motorized boating. PWC refers to a vessel, usually less than 16 feet in length (measured from end to end over the deck excluding sheer) which uses an inboard, internal combustion engine powering a water jet pump as its primary source of propulsion. The vessel is intended to be operated by a person or persons sitting, standing or kneeling on the vessel, rather than within the confines of the hull. PWCs are high performance vessels designed for speed and maneuverability and are often used to perform stunt-like maneuvers. PWC includes vessels commonly referred to as jet ski, waverunner, wavejammer, wetjet, sea-doo, wet bike and surf jet. Over 1.3 million PWCs are in use today with annual sales of approximately 200,000. The Personal Watercraft Industry Association (PWIA), which consists of about five or six PWC manufacturers, coined the term "Personal Watercraft".

This proposed rule takes a conservative approach to PWC use in units of the National Park System based on consideration of the potential resource impacts, conflicts with other visitors' uses and enjoyment, and safety concerns. The proposed rule prohibits PWC use in units of the National Park System unless the NPS determines that PWC use is appropriate for a specific unit based on that unit's enabling legislation, resources and values, other visitor uses, and overall management objectives. The proposed rule incorporates and distinguishes two methods of authorizing PWC use. The first method is available for a relatively small group of park units where authorization might be appropriately and successfully accomplished through locally based procedures. The second method, unit-specific rulemaking through the **Federal Register**, is available for all other park units where authorization is deemed appropriate.

The first, or locally-based, method of authorizing PWC use would be available to allow PWC use to continue in certain park units identified in the proposed rule, namely, eleven national recreation areas (NRA's): Amistad, Bighorn Canyon, Chickasaw, Curecanti, Gateway, Glen Canyon, Golden Gate, Lake Mead, Lake Meredith, Lake Roosevelt and Whiskeytown-Shasta-Trinity, and two national seashores: Gulf Islands and Padre Island. In these park units, the superintendent could invoke the procedures established by 36

CFR 1.5 and 1.7 to allow specified PWC use to continue. These procedures authorize the superintendent to restrict or allow activities, among other things, "for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, \* \* \* or the avoidance of conflict among visitor use activities." 36 CFR 1.5(a). These procedures authorize the superintendent to take such actions using locally based methods, unless the proposed action "is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, adversely affect the park's natural, aesthetic, scenic or cultural values, require a long-term or significant modification in the resource management objectives of the unit, or is of a highly controversial nature \* \* \*" 36 CFR 1.5 (b), (e); 1.7. In these circumstances, the superintendent must elevate the authorization to a unit-specific rulemaking through the **Federal Register**, which is the authorization procedure required of all other units of the National Park System where PWC use might be appropriate.

The proposed rule makes available the locally-based approach of 36 CFR 1.5 and 1.7 to the thirteen park units listed above based on a determination that (a) PWC use in portions of these units appears consistent with these units' enabling legislation, resources and values, other visitor uses, and overall management objectives, and (b) the superintendent may be able to authorize such PWC use without triggering the provisions of 36 CFR 1.5(b) that would require elevating the action to a **Federal Register** rulemaking. In the event that rulemaking is required, the effective date of this regulation is delayed for two years for the park units listed above. All thirteen areas were established for water-related recreation and characterized by substantial motorized use: nine contain man-made lakes created by the construction of dams, and four have open ocean or bay waters, and visitors to all thirteen areas appear generally to accept a variety of motorized boating. The superintendent has the authority under 36 CFR 1.5 to regulate PWC use within these units, e.g., by area closures or operating conditions.

The second method for authorizing PWC use in park units is a unit-specific rulemaking in the **Federal Register**. This method provides nationwide notice and opportunity to comment on any proposal to authorize PWC use in a unit of the NPS other than the thirteen listed above. This approach is similar to the

NPS's approach to certain other activities that raise questions of resource impacts, visitor use conflicts, or significant controversy, such as snowmobile and off-road vehicle use, bicycle use in undeveloped park zones, aircraft landing, and hang-gliding. (See, e.g., 36 CFR 2.17, 2.18, and 4.30).

The proposed rule recognizes that promulgation of unit-specific regulations can be time-consuming. Therefore, the rule would establish a two-year "grace period" following final rule publication to provide certain listed park units where PWC use is presently occurring sufficient time to develop and finalize special regulations as appropriate. During this two-year period, the superintendents of the following park units would be able to authorize PWC use to continue by complying with the procedures of 36 CFR 1.5 and 1.7:

#### **National Seashores**

Assateague Island  
Canaveral  
Cape Cod  
Cape Hatteras  
Cape Lookout  
Cumberland Island  
Fire Island

#### **National Lakeshores**

Indiana Dunes  
Pictured Rocks  
Sleeping Bear Dunes

#### **National Recreation Areas**

Delaware Water Gap  
Chattahoochee River

NPS is presently adopting interim management measures to govern PWC use in units of the National Park System during the rulemaking period. These interim management measures are intended to prohibit the introduction of PWC use into park units, which have not experienced significant PWC use before this year. NPS is directing all park units with water resources capable of being used by PWCs, but where PWCs are not being used, to designate such water resources closed to PWC use through the procedures of 36 CFR 1.5 and 1.7 pending promulgation of a final rule. In addition, superintendents in park units with some level of PWC use continue to have the authority to close areas to PWC use using these same procedures while the rulemaking process is taking place. As discussed above, the final rule, to the extent that it reflects the proposed rule, will prohibit PWC use throughout the National Park System except where specifically authorized through appropriate authorization procedures.

The NPS's conservative approach to authorizing PWC use in units of the NPS

reflects many concerns that have been raised about such use. These concerns, described below, lead NPS to presume that, as a general matter, PWC is inappropriate in most units of the National Park System. NPS also recognizes, however, that PWC use appears appropriate in certain park units; for example, Congress intended the NPS to manage an active motorized water-based recreation program on the large man-made lakes of Lake Mead and Glen Canyon National Recreation Areas. The proposed rule requires NPS to determine that PWC use is consistent with a park unit's enabling legislation, resources and values, other visitor uses, and overall management objectives before authorizing PWC use in the park unit.

The NPS is aware that the use of PWCs has raised controversy in numerous locations throughout the nation. Not surprisingly, this controversy is also affecting NPS units. PWCs clearly differ from conventional watercraft in terms of design, use, safety record, controversy and visitor and resource impacts. They are high performance vessels designed for speed and maneuverability and are often operated in an aggressive manner. They have a disproportional thrust capability and horsepower to vessel length and/or weight, in some cases four times that of conventional vessels. They are designed to be capable of operation at high speed and are able to perform stunt-like maneuvers. The complaint most often voiced by the boating public about PWCs is the seeming disregard for other boaters and unsafe boating activity. Complaints include PWCs operating too close to other boaters in order to jump the wake of the other boats, buzzing swimmers, failure to control their vessels, going in circles in the same area for long periods of time, underage operators and not observing "no wake" zones. Studies also show the disturbance of fish and wildlife associated with PWC use.

The use of PWCs as a recreational pursuit in and of itself is not necessarily an appropriate use in units of the National Park System, especially where it has the potential to affect adversely the resources and values of that unit or other visitors' enjoyment of those resources and values. Such use of PWCs for excitement and thrills is to be distinguished from use of motorized vehicles for access and enjoyment of the statutorily protected resources and values of the park unit. For example, motor boats provide access for touring, fishing and transport on some park lakes, and snowmobiles provide visitor transportation on unplowed snow-

covered park roads that are open to other motorized vehicles at other times of the year.

While PWCs make up about eleven percent of the vessels registered in the country, they comprise over 35 percent of the vessels involved in accidents. Forty-four percent of the boating injuries reported in 1996 involved PWCs (National Association of State Boating Law Administrators). The majority of these accidents are attributed to rider inexperience and lack of skill, operation and use patterns, excessive speed, alcohol use and conflicts with other vessels in congested use areas. Also, PWCs are considered too dangerous to operate at night and are explicitly prohibited from night operation by some States. The number of PWC accidents has created enough concern that the United States Coast Guard (USCG), as well as many of the States, is looking into their use and operation. At least 34 States have implemented or are contemplating some type of legislation or regulation specific to PWC use, including minimum age requirement, education and training requirement, wake jumping, use in specific areas, speed limits, adult presence and night use.

PWCs have a shallow draft, which gives them the ability to penetrate areas that are not available to conventional motorized watercraft. This access has the potential to adversely impact wildlife and aquatic vegetation in these shallow areas. Wildlife impacts may include interruption of normal activity and alarm or flight; avoidance and displacement, loss of habitat use, decreased reproductive success, interference with movement, direct mortality, interference with courtship, alteration of behavior, change in community structure and nest abandonment. Other potential impacts on the environment include elevated noise levels and the discharge of oil and gas mixture into the water.

NPS began to recognize the need to address PWC use and its potential to impact park resources, values, and purposes several years ago. In 1994, the NPS prohibited the use of PWCs at Everglades National Park through a special regulation (59 FR 58781). Studies conducted at the Everglades determined that the use of PWC over emergent vegetation, shallow grass flats and mud flats commonly used by feeding shore birds, damaged the vegetation, adversely impacted these shore birds, disturbed the life cycles of other wildlife and was inconsistent with the resources, values and purpose for which the park was established. Everglades was established to protect a

unique natural ecosystem. NPS determined that activities such as water skiing and the use of PWCs are incompatible with protecting such natural resources and preserving wilderness qualities such as serenity. The studies conducted by the Everglades recommended that the potential impact of PWCs be studied before their use is permitted within other areas of the National Park System.

At about the same time as the Everglades rulemaking, the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration (NOAA) were addressing the impact of PWCs on similarly sensitive resources and adopting regulations to manage PWCs. NOAA has already regulated the use of PWCs in most National Marine Sanctuaries. (See, e.g., 50 CFR 922). In *PWIA v. the Department of Commerce, NOAA*, 48 F.3d 540, (D.C. Cir. 1995), concerning PWC use in the Monterey Bay National Marine Sanctuary, the U.S. Court of Appeals for the District of Columbia Circuit held that Federal officials could regulate certain types of vessels (i.e., PWCs) differently from other types of vessels.

In February 1997, the Tahoe Regional Planning Agency (TRPA), a governing body consisting of representatives from the States of Nevada and California, held hearings on the adverse environmental impacts of PWCs. Lake Tahoe, which straddles the border of California and Nevada in the Sierra Nevada mountains, is world renowned for its cobalt blue waters. TRPA is charged with protecting these waters against degradation. The hearings focused in particular on the impacts to water quality of two-stroke, non-fuel-injected engines on the marine environment of Lake Tahoe. The vast majority of PWCs in use today operate two-stroke, non-fuel injected engines. Studies have shown that these two-stroke engines discharge as much as 25 percent of their gas and oil emissions directly into the water. At the conclusion of testimony, the TRPA voted unanimously to ban all two-stroke, internal combustion engines (PWCs and outboards) from all of Lake Tahoe beginning in the year 2000.

PWC use has a significant potential to conflict with other visitors' enjoyment of park values and purposes. Many people complain about the noise and pitch changes associated with PWC use. There are additional concerns when high speed PWCs are operated in park areas used almost exclusively by slow moving canoes and rafts in back water areas, inlets or in river corridors. The visitor experience related to a

traditional river, secluded lake or cove, where the number of launches or number of users is limited to protect the remote quality and expectations of solitude and where parties encounter each other infrequently, would be greatly compromised with the introduction of PWCs into the same area. Fishermen have also voiced concerns over the introduction of PWC use in areas historically known for their isolation, solitude and overall fishing experience.

In proposing this rulemaking, NPS has considered certain legal issues brought to its attention about PWC regulation. The Personal Watercraft Industry Association believes that PWCs are Class A vessels according to the USCG, and therefore cannot be singled out and regulated differently than any other Class A vessel. However, USCG officials state that the term "Class A" vessel no longer has any significant meaning other than with respect to certain fire extinguisher and life preserver requirements. Indeed, the Recreational Boating Product Assurance Division of the USCG has determined as a practical matter that the term "Class A" has no meaning insofar as Coast Guard regulations are concerned, except with regard to fire extinguisher regulations. No matter how PWCs are classified, NPS and other agencies believe PWCs can be regulated differently from other vessels because of the unique performance capabilities and operational characteristics of PWCs.

### Impact of This Proposal

NPS expects PWC use to be authorized to continue in several units of the National Park System. Because these are precisely the areas likely to get the preponderance of PWC usage in units of the National Park System, the NPS expects little, if any, economic impact on PWC users or the PWC industry on a regional or national basis. The NPS completed a threshold analysis, as required by the Regulatory Flexibility Act, to examine the impacts on small entities and consider alternatives to minimize such impact. Significant impacts on commercial PWC operations in and adjacent to NPS units are not expected from this rule and a substantial number of small entities will not be affected. Moreover, from the point of view of both users and the industry, it is quite likely that any restrictions in one area would only shift usage to other areas, either within or outside the park unit. And while such restrictions may reduce the quality of experience of some PWC users, by and large, the impact of this proposed rule on non-PWC visitors of NPS units is

expected to be positive since their visitor experience would, if anything, be enhanced.

### Drafting Information

The principal authors of this proposed rule are Dennis Burnett and Chip Davis, Washington Office of Ranger Activities, National Park Service, Michael Tiernan, Office of the Solicitor, Department of the Interior and Molly N. Ross, Office of the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, Washington, D.C.

### Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of this rulemaking. The NPS will review all comments and consider making changes to the rule based upon analysis of the comments.

### Paperwork Reduction Act

This rulemaking does not contain collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

### Compliance With Other Laws

The Office of Management and Budget under Executive Order 12866 reviewed this rule. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). The overall economic effects of this rulemaking should be negligible. There are no expected increases in costs or prices for consumers, individual industries, Federal, State or local governments, agencies or geographic regions.

The Regulatory Flexibility Act, as amended, requires agencies to analyze impacts of regulatory actions on small entities (businesses, nonprofit organizations, and governments), and to consider alternatives that minimize such impacts while achieving regulatory objectives. This threshold analysis examines impacts of the proposed regulation that would restrict personal watercraft (PWC) use within the National Park System. A combination of quantitative and qualitative indicators is used to determine whether these regulations would impose significant impacts on a substantial number of small entities.

### Analysis of Impacts

The PWC regulation could potentially impact two types of small businesses: manufacturers and rental shops. Small nonprofit organizations and small governments will not be affected. With respect to small manufacturers, significant impacts are not likely given the relatively low level of PWC use in affected NPS units compared to the overall use of PWCs throughout the United States. Over 1.3 million PWCs are currently in use in the U.S. with annual sales of approximately 200,000. Currently, PWC use has been observed in only 32 NPS units, 13 of which will likely not be affected significantly by these regulations. Those 13 units, which are specifically authorized in their enabling legislation for water recreation, account for the vast majority of PWC use in NPS units. Consequently, PWC use would likely be potentially affected in only 19 NPS units. Those 19 affected units generally have alternative sites nearby where PWC use is allowed. Therefore, it is not anticipated that PWC manufacturers will suffer a significant decrease in sales due to these regulations.

Most, if not all, rental shops that supply PWCs for use within NPS units could be classified as small businesses for purposes of this threshold analysis. In the 19 potentially affected units, where PWCs are currently in use, there are approximately 53 rental shops that could be potentially impacted. However, any impacts from this rulemaking should not be widespread or significant for the following reasons:

1. In 12 of the 19 affected units, a 2-year grace period would allow a locally based determination on PWC use until unit-specific rulemakings can determine appropriate management measures. Such measures would not automatically prohibit PWC use, but could limit use to areas and times that are consistent with a unit's enabling legislation, resources and values, other visitor uses, and overall management objectives. Therefore, not only would potentially affected rental shops benefit from the 2 year grace period, but a determination of appropriate levels of PWC use would be made in these units under future unit-specific regulations.

2. Future rulemakings will solicit and consider public comments on proposed management measures, potentially increasing the flexibility of such measures.

3. The remaining 7 affected units have limited commercial PWC use from rental shops. The primary use is by individuals with privately owned PWCs. Therefore, there would be

limited impacts on rental shops near those units.

4. All of the affected units having commercial PWC rental operations operate on larger bodies of water (oceans, lakes and rivers) of which the NPS managed portions are only a part of the larger body of water. NPS jurisdiction typically extends from the shoreline out to ¼ mile and up to one mile in various units. PWC use is managed by state and local governments in the waters outside NPS jurisdiction and is unaffected by the NPS regulation.

5. NPS managers have reported the existence of significant opportunities for PWC use at alternative sites near each of the 19 affected NPS units. Therefore, potentially affected rental shops would continue to be able to rent PWCs for use at these alternative sites.

6. No direct compliance costs, such as those associated with reporting requirements, would be imposed on rental shops.

Therefore, significant impacts on PWC rental shops are not expected from this rulemaking. Moreover, even if significant impacts were expected, a substantial number of rental shops will not be affected. Currently, there are approximately 133 rental shops that supply PWCs for use in NPS units. However, only 4 rental shops supply PWCs for use in units that would be automatically closed to PWC use by this rulemaking.

There are virtually tens of thousands of water areas nationwide where PWCs may be operated. A very small percentage of the nation's 1.3 million PWCs are used in units of the NPS. Where PWC use already occurs in the NPS, there are anticipated to be few changes that would adversely affect their current activity. Where PWC use does not already occur, the possibility of keeping those areas free of PWC use will not pose any additional economic impact.

These considerations indicate that this rulemaking will not impose significant impacts on a substantial number of small entities.

The Department has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*), that this rule will not impose a cost of \$100 million or more in any given year on local, State or tribal governments or private entities. The threshold economic analysis of commercial PWC activity in relation to NPS areas supports this determination.

The Department has determined that this rule meets the applicable standards provided in Section 3(a) and 3(b)(2) of Executive Order 12988.

This rule is not a major rule under the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)).

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

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce potentially incompatible uses, which compromise the nature and characteristics of the area or cause physical damage to it;

(c) Conflict with adjacent ownership or land uses; or

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

Based on this determination, the regulation is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6, Appendix 7.4D (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

#### List of Subjects

##### 36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

##### 36 CFR Part 3

Marine safety, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS proposes to amend 36 CFR Chapter I as follows:

#### PART 1—GENERAL PROVISIONS

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

**Authority:** 16 U.S.C. 1, 3, 460 1–6a(e), 469(k); D.C. Code 8–137, 40–721 (1981).

2. Section 1.4 is amended by revising the section heading and adding a new definition, in alphabetical order to paragraph (a), to read as follows:

##### § 1.4 What terms do I need to know?

(a) \* \* \*

*Personal watercraft* refers to a vessel, usually less than 16 feet in length, which uses an inboard, internal combustion engine powering a water jet pump as its primary source of propulsion. The vessel is intended to be operated by a person or persons sitting, standing or kneeling on the vessel, rather than within the confines of the

hull. The length is measured from end to end over the deck excluding sheer, meaning a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, and similar fittings or attachments, are not included in the measurement. Length is stated in feet and inches.

\* \* \* \* \*

#### PART 3—BOATING AND WATER USE ACTIVITIES

3. The authority citation for Part 3 continues to read as follows:

**Authority:** 16 U.S.C. 1, 1a–2(h), 3.

4. New § 3.24 is added to read as follows:

##### § 3.24 Where may I use personal watercraft?

(a) The use of personal watercraft in units of the National Park System is allowed only in designated areas.

(b) Designation of areas for personal watercraft use requires the promulgation of a special regulation, except for the following park areas: Amistad, Bighorn Canyon, Chickasaw, Curecanti, Gateway, Glen Canyon, Golden Gate, Lake Mead, Lake Meredith, Lake Roosevelt, Whiskeytown-Shasta-Trinity National Recreation Areas, and Gulf Islands and Padre Island National Seashores, where personal watercraft use may be designated using the procedures of §§ 1.5 and 1.7 of this Chapter.

(c) The provisions of this section do not apply until [ insert date two years from effective date of final regulation ] to the park areas identified in paragraph (b) to allow either designation of personal watercraft use areas pursuant to §§ 1.5 and 1.7 of this chapter or promulgation of a special regulation, and for the following park areas, if determined appropriate, to promulgate a special regulation to designate use areas for personal watercraft:

##### National Seashores

Assateague Island  
Canaveral  
Cape Cod  
Cape Hatteras  
Cape Lookout  
Cumberland Island  
Fire Island

##### National Lakeshores

Indiana Dunes  
Pictured Rocks  
Sleeping Bear Dunes

##### National Recreation Areas

Delaware Water Gap

Chattahoochee River

Dated: July 17, 1998.

**Stephen C. Saunders**

(Acting) Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98-24695 Filed 9-14-98; 8:45 am]

BILLING CODE 4310-70-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

[FRL-6161-4]

#### Regulation of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the St. Louis, Missouri Moderate Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Under section 211(k)(6) of the Clean Air Act, as amended (Act), the Administrator of EPA shall require the sale of reformulated gasoline (RFG) in ozone nonattainment areas upon the application of the Governor of the state in which the nonattainment area is located. This notice proposes to extend the Act's prohibition against the sale of conventional (i.e., non-reformulated) gasoline in RFG areas to the St. Louis, Missouri moderate ozone nonattainment area. The Agency proposes to implement this prohibition on May 1, 1999, for all persons other than retailers and wholesale purchaser-consumers (i.e., refiners, importers, and distributors). For retailers and wholesale purchaser-consumers, EPA proposes to implement the prohibition on June 1, 1999, as requested by Governor Mel Carnahan of the State of Missouri. On June 1, 1999, the St. Louis ozone nonattainment area would be a covered area for all purposes in the federal RFG program.

**DATES:** The Agency will hold a public hearing on today's proposal if one is requested by September 22, 1998. If a public hearing is held, it will take place on Tuesday, September 29, 1998. If a public hearing is held on today's proposal, comments must be received by October 30, 1998. If a hearing is not held, comments must be received by October 15, 1998.

**ADDRESSES:** If a public hearing is requested by September 22, 1998, it will be held from 9 a.m. until noon at the Renaissance St. Louis Hotel—Airport, 9801 Natural Bridge Road, St. Louis, MO. If additional time is needed to hear testimony, the hearing will continue

from 1 until 5 p.m. in the same location. If there are no parties interested in testifying on this proposal, the hearing will be subject to cancellation without further notification. If you wish to testify at this public hearing, or if you want to know if the hearing has been canceled contact Karen Smith at (202) 564-9674. Materials relevant to this document have been placed in Docket A-98-38. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M-1500 Waterside Mall. Documents may be inspected from 8 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket materials.

Written comments should be submitted to Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. A copy should also be sent to Karen Smith at U.S. Environmental Protection Agency, Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460. An identical docket is also located in EPA's Region VII office in Docket A-98-38. The docket is located at 726 Minnesota Avenue, Kansas City, Kansas, 66101. In Region VII contact Wayne G. Leidwanger at (913) 551-7607 or Royan Teter at (913) 551-7609. Documents may be inspected from 9 a.m. to noon and from 1-4 p.m. A reasonable fee may be charged for copying docket material.

**FOR FURTHER INFORMATION CONTACT:** Karen Smith at U.S. Environmental Protection Agency, Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202) 564-9674. An additional contact person is Christine Hawk at (202) 564-9672.

**SUPPLEMENTARY INFORMATION:** Under section 211(k)(6) of the Clean Air Act, as amended (Act), the Administrator of EPA shall require the sale of reformulated gasoline in an ozone nonattainment area classified as Marginal, Moderate, Serious, or Severe upon the application of the Governor of the state in which the nonattainment area is located. This action proposes to extend the prohibition set forth in section 211(k)(5) against the sale of conventional (i.e., non-reformulated) gasoline to the St. Louis, Missouri moderate ozone nonattainment area. The Agency is proposing the implementation date of the prohibition described herein to take effect on May 1, 1999 for all persons other than retailers and wholesale purchaser-consumers (i.e., refiners, importers, and distributors). For retailers and wholesale purchaser-consumers, EPA is proposing

the implementation of the prohibition described herein to take effect June 1, 1999 as requested by Governor Mel Carnahan of the State of Missouri. As of the implementation date for retailers and wholesale purchaser-consumers, the St. Louis ozone nonattainment area will be a covered area for all purposes in the federal RFG program.

The preamble and regulatory language are also available electronically from the EPA internet Web site. This service is free of charge, except for any cost you already incur for internet connectivity. A copy of the **Federal Register** version is made available on the day of publication on the primary Web site listed below. The EPA Office of Mobile Sources also publishes these notices on the secondary Web site listed below.

#### Internet (Web)

<http://www.epa.gov/docs/fedrgstr/EPA-AIR/> (either select desired date or use Search feature)

<http://www.epa.gov/OMSWWW/> (look in What's New or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

**Regulated entities:** Entities potentially regulated by this action are those which produce, supply or distribute motor gasoline. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Petroleum refiners, motor vehicle gasoline distributors and retailers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your business is regulated by this action, you should carefully examine the list of areas covered by the reformulated gasoline program in § 80.70 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.