weeks after the meeting at Fire Island National Seashore, 120 Laurel Street, Patchogue, NY 11772.

Dated: April 2, 2002.

Constantine J. Dillon,

Superintendent, Fire Island National Seashore.

[FR Doc. 02–11048 Filed 5–3–02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AD02

Assateague Island National Seashore, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service is proposing to designate areas where personal watercraft (PWC) may be used in Assateague Island National Seashore, Maryland and Virginia. This rule is necessary because regulations requires any park allowing the use of PWC to promulgate a special regulation authorizing the use. Furthermore, the NPS Management Policies 2001 also, require individual parks, in order to promulgate a special regulation, to determine that PWC use is appropriate for a specific park area based on that area's enabling legislation, resources, values, other visitor uses, and overall management objectives.

DATES: Comments must be received by July 5, 2002.

ADDRESSES: Comments on the rule and the Environmental Assessment should be sent to Superintendent, Assateague Island National Seashore, 7206 National Seashore Lane, Berlin, Maryland 21811 Email: *Regina Jones-Brake@nps.gov* Fax: (410) 641–1099.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, NW, Room 7413, Washington, DC 20240. Phone: (202) 208–4206. Email: *Kym_Hall@nps.gov.* Fax: (202) 208–6756.

SUPPLEMENTARY INFORMATION:

Purposes of the National Seashore

Assateague Island National Seashore was authorized on September 21, 1965 (Pub. L. 89–195) ''for the purpose of protecting and developing Assateague Island * * * and certain adjacent waters and small marsh islands for public outdoor recreation, use and enjoyment * * *'' The 1965 Act went on to state ''* * * the Secretary shall administer the Assateague Island National Seashore for the general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In the administration of the seashore * * * the Secretary may utilize such statutory authorities relating to areas administered * * * through the National Park Service * * * for conservation and management of natural resources as he deems appropriate * * *''.

This purpose was amended by the Act of October 21, 1976 (Pub. L. 94–578) that directed the Secretary of the Interior to prepare a ''comprehensive plan'' which would include, among other things, ''Measures for the full protection and management of natural resources and natural ecosystems of the seashore.'' The General Management Plan that evolved from this mandate reflects a systematic approach to park management whereby recreational use and development is balanced with the need to ensure long-term protection of natural resources and values.

Description of the National Seashore

Assateague Island National Seashore is an important national resource visited by more than 1.8 million people annually, showcasing one of the few remaining undeveloped barrier island environments along the Mid-Atlantic Coast. The National Park Service shares responsibility for land management on Assateague Island with the State of Maryland, which operates Assateague State Park, and the U.S. Fish and Wildlife Service, which manages Chincoteague National Wildlife Refuge on the Virginia portion of the island.

Assateague Island is a 37-mile long coastal barrier island located along the Delaware-Maryland-Virginia (Delmarva) peninsula, extending from Ocean City Inlet, Maryland to Chincoteague Inlet, Virginia. The Island varies in width from less than 1000 feet along portions of the northern end to more than 4300 feet adjacent to Toms Cove in Virginia. Elevation is generally very low, averaging approximately 7 feet, but can exceed 35 feet on isolated dunes. The ocean shoreline has a smooth curving configuration while the bay shoreline is a highly irregular mosaic of terrestrial and aquatic habitats created by numerous small landforms lying adjacent to Assateague Island proper.

The boundary of the National Seashore includes approximately 48,700 acres, most of which are adjacent oceanic and estuarine waters. The boundary extends offshore from Assateague Island approximately one-half mile on the ocean side, and a variable distance on the bay side ranging from less than 600 feet to more than 5,000 feet. On the Island itself, approximately 9,000 acres (predominantly in Virginia) and 700 acres (Maryland) fall under the jurisdiction of the U.S. Fish and Wildlife Service and State of Maryland, respectively, with the balance, some 8,100 acres (predominantly in Maryland), managed by the National Park Service.

The resources and values that define the natural environment of Assateague Island National Seashore include a diverse assemblage of wildlife, vegetation communities, water resources, geological features and physical processes reflecting the complexity of the land/sea interface along the Mid-Atlantic coast. Wildlife resources range from a myriad of aquatic and terrestrial species inhabiting estuarine habitats to the free roaming feral horses for which Assateague is famous. The indigenous plant communities reflect the adaptive extremes necessary for survival on a barrier island, where exposure to salt spray, lack of freshwater, and shifting sands create a harsh and dynamic environment. Throughout the Seashore, the relationship of land and water is paramount and change is the only constant.

The aquatic habitats of Assateague Island and the adjacent coastal bays are central to the significance of the National Seashore. The inshore waters are part of a relatively small network of coastal lagoons that parallel the Atlantic coast from Delaware to Virginia. Assateague Island forms the eastern boundary of the Sinepuxent/Chincoteague bays complex, the largest component of the system. Combined, these two bays have a total surface area of approximately 36,000 acres and a watershed of approximately 150 square miles. The bays are uniformly shallow with an average depth of 1.2 meters (4 feet) and are generally characterized as poorly flushing due to the limited freshwater inflow, restricted tidal exchange through two inlets, and a tidal range of less than 1 foot.

From a regional perspective, Assateague Island National Seashore includes the only remaining undeveloped barrier island in the State of Maryland, and a significant portion of the region's highest-quality marine/estuarine habitat. A substantial portion of the submerged aquatic vegetation (SAV) occurring in Maryland's coastal bays is found within park boundaries. Extensive salt marshes, inter-tidal flats, and the broad shallow margins of the

coastal bays adjacent to Assateague are key components of an estuarine system crucial to the maintenance of regional biological diversity and ecosystem health.

Assateague Island National Seashore provides important habitat for a number of federally listed threatened and endangered species, including but not limited to the peregrine falcon, loggerhead, green, and leatherback sea turtles, bald eagle, Delmarva fox squirrel, piping plover, and sea beach amaranth. Of these species, the National Seashore provides critical habitat for piping plover and sea beach amaranth, and is a focal point for mid-Atlantic conservation and restoration efforts. The northern 6 miles of the park provides the most favorable conditions for piping plover breeding activity and supports a majority of the local population. Recently re-discovered after an absence of more than 30 years, sea beach amaranth is the subject of an ongoing restoration effort to develop a sustainable population on Assateague Island.

In addition to the piping plover, the National Seashore provides important habitat for a multitude of bird species throughout the year. The island is renowned for the autumn migration of peregrine falcons and abundance of wintering waterfowl, and because of its importance as wintering, staging, and breeding habitat, has been designated a component of the Western Hemisphere Shorebird Reserve Network and a Globally Important Bird Area. Shorebirds, colonial waterbirds, neotropical migratory songbirds, and a variety of wading birds intensively utilize park habitats, and in general, occur in greater abundance and diversity than on the adjacent mainland.

The coastal waters within Assateague Island National Seashore are regularly utilized by a variety of marine mammals on a seasonal or transitory basis. More than fifteen species have been documented to occur in the National Seashore, all of which are protected under the Marine Mammal Protection Act of 1972. The most commonly observed species are the harbor porpoise and bottlenose dolphin, generally occurring in ocean nearshore waters. Harbor porpoise are most commonly observed during the winter months, while bottlenose dolphins are present largely during the summer.

Oceanic and estuarine waters and their associated biota also play a dominant role in recreational use of the National Seashore. More than 65% of visits to the park involve the use of aquatic habitats. The primary recreational activities include swimming, walking for pleasure, sightseeing, wildlife photography and observation, picnicking, and saltwater fishing.

Authority and Jurisdiction

The National Park Service is granted broad authority under 16 U.S.C. 1 *et seq.*, the NPS ''Organic Act'', to regulate the use of the Federal areas known as national parks. In addition, the Organic Act (16 U.S.C. 3) allows the NPS, through the Secretary of the Interior, to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks * * *''

16 U.S.C. 1a–1 states, ''The authorization of activities shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established * * *''

As with the United States Coast Guard, NPS regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters and areas within their ordinary reach, is based upon the Property and Commerce Clauses of the U.S. Constitution. In regards to the NPS, Congress in 1976 directed the NPS to ''promulgate and enforce regulations concerning boating and other activities on or relating to waters within areas of the National Park System, including waters subject to the jurisdiction of the United States * * '' (16 U.S.C. 1a–2(h)). In 1996 the NPS clarified its authority to regulate activities within the park boundaries occurring on waters subject to the jurisdiction of the United States by publishing a final rule, 36 CFR 1.2(a)(3).

Personal Watercraft Use in the National Seashore

PWC use at Assateague Island National Seashore is a relatively recent phenomenon, paralleling the national trend of increasing popularity and sales during the 1980s and 1990s. During that period, the preponderance of PWC use within the National Seashore occurred in the ocean and bay waters surrounding the northernmost 6 miles of Assateague Island. This area is immediately adjacent to the town of Ocean City which, with its summertime population of 300,000 and numerous marinas and boat launching facilities, generates significant amounts of water-based recreation, including boating and PWC use.

While systematic counts of PWC operating within the National Seashore have not been conducted, regional surveys indicate that general boating activity increased significantly between 1970 and 1990. Informal observations by NPS staff suggest a continuation of this trend through the 1990s, particularly in the use of PWC. In 1999, surveys conducted by the Maryland Department of Natural Resources over consecutive August weekends reported the total number of all vessels using Sinepuxent Bay and Ocean City Inlet ranged from 172–376. PWC use during the same surveys ranged from 63 to 137. Most of this use was in the Ocean City Inlet, going to or returning from the ocean, and close to but outside the park boundaries.

The predominate season of PWC use in the Assateague region is May through September. Operators have tended to be non-residents vacationing in the Ocean City area, although rapid population growth in the coastal counties of Maryland and Virginia is continually increasing the number of resident boaters using local waterways.

On April 20, 2000, the National Park Service adopted a final rule for managing PWC use in areas of the National Park System. The rule was implemented to ensure a prudent approach to PWC management that would potentially allow their use, yet protect park resources, sensitive natural areas, plants and wildlife, and reduce conflicts between park visitors. The final rule prohibited PWC use in all National Park System areas unless the NPS determined that this type of water-based activity was appropriate for a specific park based upon the legislation establishing the area, the park's resources and values, other visitor uses of the area, and overall management objectives.

Prior to 2000, PWC use was allowed throughout Assateague Island National Seashore, although as previously noted, the vast majority occurred adjacent to the northern end of the Island. In May 2000, most of the waters within the National Seashore were closed to PWC use consistent with the National Park Service PWC rule and a local determination that their continued use threatened the resources and values for which the park was established to protect. The authority for this closure was based upon 36 CFR Section 1.5, Closure and Public Use Limits.

Three areas within the boundary of the National Seashore were designated to remain open to PWC use. The first was a small area (approximately 26 acres) located in the Ocean City Inlet adjacent to the north shore of Assateague Island. The second was a larger area (approximately 224 acres) located near the southern end of the

Island between Assateague Point and Horse Marsh. The third was located in Sinepuxent Bay, just north of Verrazano Bridge, and included waters lying between the Park's authorized boundary and a roughly parallel line of State of Maryland buoys marking submerged aquatic vegetation (SAV) beds adjacent to Assateague Island.

Development of the Proposed Rule

As established by the April 2000 National Park Service rule, PWC use is prohibited in all National Park System areas unless determined appropriate. The process used to identify appropriate PWC use at Assateague Island National Seashore considered the known and potential effects of PWC on park natural resources, traditional uses, public health and safety. The proposed rule is designed to manage PWC use within the National Seashore in a manner that achieves the legislated purposes for which the park was established while providing reasonable access to the park by PWC.

The use of motor vessels is a traditional method of accessing Assateague Island for land-based recreational activities. As such, providing PWC owners with this opportunity was considered both desirable and compatible with park purposes, assuming that such use would not result in unacceptable impacts. To identify areas of potential use, the effects of PWC were evaluated against a number of resource and public use issues. Given the high value and significance of National Seashore resources, a precautionary approach was employed. Only those areas with minimal, if any, potential for resource and visitor use impacts were selected. A summary of the issues considered and evaluation results are presented in the next section.

Under this proposed rule, two of the three areas where PWC use now exists, the Ocean City Inlet and Horse Marsh areas, will remain open for PWC use, primarily to provide transportation corridors. Both areas have physical and biological characteristics that minimize the potential for adverse impacts to park resources and values, and both are located immediately adjacent to population centers and currently experience high levels of general boat traffic. The intended effect is to provide island access for persons wanting to use a PWC to travel to the National Seashore or for persons for whom a PWC is the only form of water access to Assateague Island.

The third area where PWC use now exists (Sinepuxent Bay) was re-evaluated against the resource protection and public use issues described below. The area was found to be comparable to the majority of park waters, and did not possess the physical and biological characteristics that would minimize the potential for adverse impacts. As such, the use of PWC in this area is incompatible with the resource protection objectives of the National Seashore. However, the closure will have minimal impact on PWC use in the majority of Sinepuxent Bay because the largest portion of the Bay is outside NPS jurisdiction and will remain open to PWC use, subject to the state of Maryland laws and regulations.

The closure of most National Seashore waters to PWC use does not adversely effect the public's ability to operate PWC in the region as a whole. More than two-thirds of Chincoteague Bay, Sinepuxent Bay and the Ocean City Inlet, and all of Isle of Wright and Assawoman Bays are outside National Park Service jurisdiction. These areas are currently available to PWC and constitute alternative use areas for operators who had previously utilized waters within the National Seashore that are now closed.

Resource Protection and Public Use Issues

The following summarizes the predominant resource protection and public use issues associated with PWC use at Assateague Island National Seashore. Each of these issues is analyzed in the companion environmental assessment.

Water Quality

The main issues associated with PWC use and water resources at Assateague Island are those related to water quality. Chemical impacts to water quality draw from PWC emissions of hydrocarbons including benzene, toluene, ethylbenze, xylene (BTEX), polycyclic aromatic hydrocarbon (PAH) and of methyl tertiary butyl ether (MTBE) directly into the water. Yet, the impacts to water quality from pollutants vary according to the PWC use areas. Areas of high tidal flushing dispel pollutants faster than areas of low tidal flushing. Assateague Island's inlets experience very high flushing while its bays experience low flushing. Thus, toxic pollutants remain in the bays for longer periods of time than they do in the inlets.

The two locations proposed for continued use by PWC are both located adjacent to ocean inlets with high tidal flushing and contain less than 1% of the water surface area of the National Seashore. As such, allowing PWC use in these areas will have negligible to minor adverse impacts on water quality. When analyzed with relation to all vessels in these areas, the cumulative impacts of all vessels will be negligible to moderate adverse.

Air Quality

PWC emit various compounds that pollute the air even though the exhaust is usually routed below the waterline. As much as one third of the fuel delivered to current two-stroke PWC remains unburned and is discharged as gaseous hydrocarbons (HC); the lubricating oil is used and expelled as part of the exhaust; the combustion process results in emissions of air pollutants such as volatile organic compounds (VOC), nitrogen oxides (NO_X), particulate matter (PM), and carbon monoxide (CO) (US EPA).

NPS analyzed two categories of airborne pollution impacts: Impacts on human health and impacts on air quality related values in Assateague Island. Pollutants emitted from PWC that affect human health includes VOC and NO_X, which in sunlight form ozone. Ozone can cause or contribute to respiratory illness (Wark and Warner 1981). Carbon monoxide (CO) also affects humans by interfering with the oxygen carrying capacity of blood.

With regard to impacts on human health, continuation of PWC use in the two locations proposed at Assateague Island would result in minor adverse impacts for CO and negligible adverse impacts for other pollutants of concerns including PM, HC, and VOC. When considering cumulative impacts of all boating activities, emissions would result in moderate adverse for CO and negligible to minor adverse for all other pollutants of concern.

PWC emissions also impact air quality related values. For example, ozone, which is toxic to sensitive vegetative species, causes visible injury to foliage, decreases plant growth, and increases plant susceptibility to insects and disease. NO_X and PM emissions associated with PWC use can degrade visibility. NO_X also contributes to acid deposition effects on plants, water, and soil. With respect to air quality related values in the areas at Assateague Island proposed for continued use under this rule, annual PWC emissions would result in negligible adverse impacts with no perceptible qualitative visibility impacts or injury to plants. Impacts on visibility, wildlife, and plants from airborne pollutants are negligible. When considering all boating activity, emissions result in negligible to minor adverse impacts.

Soundscapes Values

Studies by many organizations on different types of PWC have found noise levels associated with PWC to vary and range from about 71 to 105 dB. However, unlike motorboats, PWC are highly maneuverable and are used for stunts, which often result in quickly varying noise levels due to changes in acceleration and exposure of the jet exhaust when crossing waves. The frequent change in pitch and noise levels, especially if operated closer to land, make the noise from PWC more noticeable to human ears (Asplund 2001).

One of the Seashore's natural resources is the natural soundscape, also referred to as ''natural ambient sounds'' or ''natural quiet.'' The natural soundscape includes all of the naturally occurring sounds of the National Seashore. Conversely, ''noise'' is defined as unwanted sound. Sounds are described as noise if they interfere with an activity or disturb the person hearing them. The level of sound generated by watercraft using the national seashore area is expected to affect recreation users differently. For example, visitors participating in less sound-intrusive activities such as bird watching and/or hiking would likely be more adversely affected by PWC noise than another PWC or motorboat user.

Noise levels vary from the north and south ends of the island. Noise levels at the north end of the island are affected by PWC use in the transportation corridor and outside the national seashore boundary. Noise sources at the Ocean City Inlet area include powerboats, PWC, commercial vessels, background noise from the town of Ocean City, and small aircraft. In general, the use of PWC would result in minor adverse impacts where other users are concentrated in the northern inlet landing area. At the Ocean City Inlet landing area, PWC noise would be heard throughout the day but ambient sounds are predominant.

Little Beach (southern end of Assateague Island) is quieter with fewer PWC and/or watercraft generating noise in the area. It is assumed to have lower ambient noise levels due to its location away from urban environments. Little Beach is sensitive to noise disturbances due to the abundant bird population in the area. PWC noise levels would be expected to have moderate adverse impacts in the area of Little Beach potentially disturbing wildlife. Overall, noise levels from PWC would be expected to have negligible to moderate adverse impacts at certain locations within the Assateague Island National Seashore boundary.

The cumulative impacts of boating noise, ambient noise levels, and PWC would continue to range from negligible to moderate dependant on location within the park boundary. The northern landing area in the Ocean City Inlet experiences elevated noise levels due to the presence of Ocean City and the level of boat traffic within the inlet. Impacts to noise levels would be minor with the continuation of noise from PWC in the inlet.

Submerged Aquatic and Shoreline Vegetation

PWC have the potential to impact submerged aquatic vegetation and shoreline vegetation as a result of operating in shallow waters or adjacent to wetland habitats. Submerged aquatic vegetation (SAV) benefit the aquatic ecosystems because they provide a protective habitat for fish and shellfish; food for waterfowl, fish, and mammals; and aid in oxygen production; absorb wave energy and nutrients; and improve the clarity of the water. In addition, SAV beds stabilize bottom sediments and reduce suspended sediments present in the water column. However, SAV beds do not exist in the areas proposed for continued PWC use at Assateague Island; therefore in these areas, PWC use will have no impact.

Short-term, minor adverse direct and indirect impacts to shoreline vegetation are expected under the proposed rule in the northern landing area. While direct impacts from PWC use to shoreline vegetation at the northern PWC landing area are not expected because the shoreline is characterized by an unvegetated beach, an access trail to the beach may allow some trampling of vegetation as a result of foot travel off trail. This however, would only occur if PWC operators disembark at the landing area and travel by foot along the island, as do other visitors.

Under the proposed rule, PWC are only allowed shore access to the area designated as Little Beach in the southern landing area. Areas of sparse shrubland habitat, naturally occurring unvegetated beaches, maritime/coastal loblolly pine wetland forest, grass shrubland, and a few small areas of dune grassland characterize Little Beach. Impacts to shoreline vegetation are expected to result primarily from foot traffic. Adverse effects are expected to be minor due to limited use of the southern landing area. Cumulative impacts to shoreline vegetation are not expected if PWC and other watercraft are restricted to designated use areas.

Wildlife and Habitats

Some research suggests that PWC impact wildlife by interrupting normal activities, causing alarm or flight, causing animals to avoid habitat, displacing habitat, and affecting reproductive success. PWC may have a greater impact on waterfowl and nesting birds because of their noise, speed, and ability to access shallow-water areas more readily than other types of watercraft. Literature suggests that PWC can access sensitive shorelines, disrupting riparian habitat areas critical to wildlife.

The northern landing area is located in an area that experiences a high level of use by PWC. Yet, PWC use in the vicinity of the northern landing area would have minor adverse effects on terrestrial wildlife, such as shorebirds using the landing area and adjacent areas and other species such as fish that use nearshore habitats to forage for food. However, effects would be minor because species sensitive to a high level of noise and human activity are not expected to regularly use the landing area or immediately adjacent habitats during high PWC use periods.

The intensity of PWC use in the vicinity of the southern landing area is much less than at the northern landing area. Wildlife species using marsh and shoreline areas on and in the vicinity of the southern landing area would be less accustomed to high levels of human activity and noise. Occasional nearshore PWC use in the vicinity of the southern landing area would have minor adverse effects to wading and shorebirds, waterfowl, and other wildlife by disrupting normal nesting, foraging, or resting activities.

Threatened and Endangered Species and Species of Concern

Numerous Federal and state listed threatened and endangered species and protected species utilize habitats within Assateague Island National Seashore on either a permanent, seasonal, or transitory basis. Federally listed species documented on Assateague Island include the piping plover, bald eagle, loggerhead sea turtle, the Delmarva fox squirrel, and the seabeach amaranth. The Maryland listed threatened black skimmer, peregrine falcon, gull-billed tern, royal tern, white tiger beetle, little white tiger beetle, and least tern also occurs on the Island.

The federally listed piping plover's nesting areas are located several hundred feet from the northern landing area. However, access to shore areas adjacent to the landing area with the potential to provide nesting areas for the

piping plover is prohibited during the nesting season. Piping plover are not likely to be adversely affected by PWC use at the northern or southern landing areas due to the distance of the landing areas from nesting areas and access restrictions around piping plover nesting areas during the nesting season.

Several Federal and state endangered and threatened turtles including Kemp's Ridley sea turtle, green sea turtle, leatherback sea turtle and the loggerhead sea turtle have been documented by the NMFS to occur in the waters off of Assateague Island during the warmer summer months. Sea turtles are not likely to be adversely affected by PWC use in the northern and southern landing areas because the proposed use areas represent a very small portion of the overall habitat available in both the park and region.

The Federal and Virginia threatened bald eagle is documented to have two active nests in the Chincoteague National Wildlife Refuge. Foraging activities of bald eagles could potentially be affected by PWC use in the area of the southern landing area; however, because PWC use in this area is limited, adverse effects on the species are not likely.

No effects to the Delmarva fox squirrel or seabeach amaranth are expected as a result of PWC use because these species do not occur in areas affected by PWC use. Cumulative impacts are not likely to adversely affect federally listed threatened or endangered species on Assateague Island National Seashore.

Visitor Experience

A survey of recreational boaters operating in the waters within and adjacent to Assateague Island National Seashore reports a high frequency of conflicts between the boating public and PWC users. Problems reported include the presence of PWC in fishing areas, noise, PWC operation too close to anchored boats, and excessive speed (University of Delaware 2000).

Of visitors who access Assateague Island by vehicle, swimmers, hikers and other visitors to the north end of the island and the hiking trails to the south would have slightly more contact with PWC operators than visitors to the oceanside of the park. Noise generated by PWC would reach visitors to the marshes and hiking trails at the southern end of the island. Impacts to visitor experience, specifically bird watching, would be moderate adverse towards the end of the season when the first waves of migratory birds begin to show their presence on the island and PWC users are still present.

PWC users would have little or no noticeable change in their visitor experience or visitor satisfaction, since restrictions would allow for access to portions of the park and not affect PWC activity outside the park boundary. Visitors who use PWC at Assateague Island National Seashore would experience negligible adverse impacts. Elimination of PWC in Sinepuxent Bay portion of the park would affect those who would be precluded from using PWC there, but because the use is relatively low and other opportunities exist for PWC use, these impacts would be minor. Cumulative impacts related to PWC, other boats, and visitors on the visitor experience would be negligible adverse, since there would be little noticeable change in the visitor experience overall.

Visitor Conflicts and Safety

PWC comprise 9% of all registered ''vessels'' in the United States, but are involved in 36% of all boating accidents (NTSB 1998). In part, this is believed to be a boater education issue (i.e., inexperienced riders lose control of the craft), but it also is a function of the PWC operation (i.e., no brakes or clutch; when drivers let up on the throttle to avoid a collision, steering becomes difficult). Newer models will reportedly have improved safety devices such as better steering and braking systems, however it will take time to infuse the market with these types of newer machines.

Although the study conducted by National Transportation Safety Board indicates PWC related fatalities increasing in the United States, PWC related fatalities in the Assateague Island National Seashore area have been few in recent years. There were 46 PWC-related accidents including one fatality in Maryland in 2000. The primary causes of these accidents were excessive speed, operator inexperience, operator inattention, and machinery failure. There were 37 PWC-related accidents resulting in one fatality in Virginia in 2000.

The potential for accidents with other boaters (canoes, kayaks, sailboats and motorboats) in the Ocean City Inlet is considered to be of a moderate to major level due to the level of activity. The nature of PWC use poses threats to the safety of the PWC operator and occupants of vessels with slow reaction times such as sailboats, canoes, and kayaks. However, the areas proposed to be open to PWC use are intended to be used primarily as transportation corridors which may mitigate these potential hazards. Potential accidents involving PWC and swimmers may occur in nearshore waters at the extreme northeast and northwest sections of the island adjacent to the PWC landing area (most swimmers do not venture farther than 200 feet from shore). However, due to the small number of visitors utilizing these shores, adverse impacts are predicted to continue at a minor to moderate level. At the southern end of the island at Little Beach, potential accidents may occur involving PWC and swimmers. The number of PWC in this area is much more limited than at the northern end of the island. Consequently, the potential adverse impacts to swimmers at Little Beach are considered to be negligible to minor adverse.

Cumulative impacts under the proposed rule would continue at minor to potentially major levels over the next 10 years as congestion increases. As the number of motorized watercraft in the water continues to increase, the potential for accidents would escalate as well. This is particularly visible in the Ocean City Inlet where the potential for accidents between PWC and other motorboats exists.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

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

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The National Park Service has completed the report ''Economic Analysis of Personal Watercraft Regulations in Assateague Island National Seashore'' (Law Engineering and Environmental Sciences, Inc) dated March 2002. The report found that this proposed rule will not have a negative economic impact. In fact this rule, which will not impact local PWC dealerships and rental shops, may have an overall positive impact on the local economy. This positive impact to the local economy is a result of an increase of other users, most notably canoeists, swimmers, anglers and traditional boaters seeking solitude and quiet, and improved water quality.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

Actions taken under this rule will not interfere with other agencies or local

government plans, policies, or controls. This is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule raises novel policy issues.

This regulation is the first of thirteen special regulations for managing PWC use in National Park Units. The National Park Service published the general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirements of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and National Park Service policy and park management.

Regulatory Flexibility Act

The Department of the Interior certifies 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.*). This certification is based upon the finding in a report prepared by the National Park Service entitled, ''Economic Analysis of Personal Watercraft Regulations in Assateague Island National Seashore'' (Law Engineering and Environmental Sciences, Inc., March 2002). The focus of this study was to document the impact of this rule on two types of small entities, PWC dealerships and PWC rental outlets. This report found that the potential loss for these types of businesses as a result of this rule would be minimal to none.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The National Park Service has completed an economic analysis to make this determination. This rule:

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

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

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

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule is an agency specific rule and imposes no other requirements on other agencies, governments, or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant taking implications. A taking implication assessment is not required. No takings of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule only effect use of NPS administered lands and waters. It has no outside effects on other areas and only allows use within a small portion of the park.

Civil Justice Reform (Executive Order 12988)

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

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

National Environmental Policy Act

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and has prepared a Draft Environmental Assessment (EA). The EA is available for public review and comment in conjunction with this proposed rule. A copy of the Draft EA is available by contacting the Superintendent, Assateague Island National Seashore, 7206 National Seashore Lane, Berlin, Maryland 21811, Email: *Regina—Jones-Brake@nps.gov,* Fax: (410) 641–1099, or by downloading it from the internet at *www.nps.gov/asis.*

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2:

We have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example § 7.65 Assateague Island National Seashore. (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240.

Drafting Information: The primary authors of this regulation are:

John C. Burns, Chief Ranger, Carl S. Zimmerman, Chief of Resource Management, Assateague Island National Seashore, Sarah Bransom, Environmental Quality Division, and Kym Hall, Regulations Program Manager.

Public Participation: If you wish to comment, you may submit your comments by any one of several methods. You may mail written comments to: Superintendent, Assateague Island National Seashore, 7206 National Seashore Lane, Berlin, Maryland 21811, comment by electronic mail to: *Regina_Jones-Brake@nps.gov,* or comment by Fax at: (410) 641–1099. Please also include ''PWCrule'' in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver

comments to Superintendent, Assateague Island National Seashore, 7206 National Seashore Lane, Berlin, Maryland. Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

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

For the reasons stated in the preamble, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

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

2. Section 7.65 is amended by adding paragraph (c) to read as follows:

§ 7.65 Assateague Island National Seashore

* * * * *

(c) *Personal Watercraft.* (1) Personal Watercraft (PWC) are allowed in Assateague Island National Seashore within the following locations and under the following conditions:

(i) *Ocean City Inlet.* PWC may operate, transit, launch in water or beach on land between the north shore of Assateague Island and the south margin of the established Ocean City Inlet channel, between Lighted Buoy #10 at approximate latitude 38.19.30N, longitude 75.05.30W and Lighted Buoy #11 at approximate latitude 38.19.16N, longitude 75.09.0W

(ii) *Chincoteague Bay.* PWC may operate, transit or launch in waters between the established Park boundary and the western shore of Assateague Island, from Assateague Point north to that portion of Horse Marsh located due east of the Memorial Park boat ramp on Chincoteague Island.

(iii) *Oceanside.* PWC are allowed to beach along the ocean side of the island only in the case of personal injury or mechanical failure.

(2) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: March 26, 2002.

Craig Manson,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 02–11046 Filed 5–3–02; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Docket No. FEMA–B–7424

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Correction of proposed rule.

SUMMARY: This document contains corrections to the proposed rule (Docket No. FEMA–B–7424), which was published on February 5, 2002. The correction more accurately represents the Flood Insurance Study and Flood Insurance Rate Map for the unincorporated areas of Greene County, Missouri, than previously published.

DATES: The comment period is ninety (90) days following the second publication of this correction to the proposed rule in a newspaper of local circulation in the community.

ADDRESSES: The proposed base flood elevations for the community are available for inspection at the Planning and Zoning Section, 833 Boonville Road, Springfield, Missouri 65802.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of base (1-percent-annual-chance) flood elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a). These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Correction:

In proposed rule FR Doc. 02–2660, published February 5, 2002 (67 FR 5246), make the following correction to the addresses published under the authority of § 67.4. On page 5248, revise the text following the table for Greene County, Missouri, to read as follows:

Maps are available for inspection at the County Environmental Office, County Courthouse, 940 Boonville Avenue, Springfield, Missouri.

Send comments to the Honorable David L. Coonrod, Presiding Commissioner, Greene County Commissioners, County Courthouse, 940 Boonville Avenue, Springfield, Missouri 65802.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: April 5, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–10220 Filed 5–3–02; 8:45 am]

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