

■ 2. Add new paragraph (d) to § 7.79 to read as follows:

§ 7.79 Amistad Recreation Area.

* * * * *

(d) *Personal Watercraft (PWC).*

(1) PWCs are allowed within Amistad National Recreation Area with the following exceptions:

(i) The following areas are closed to PWC use:

(A) Hidden Cave Cove (where marked by buoys), located on the Rio Grande.

(B) Painted Canyon (where marked by buoys), located on the Rio Grande.

(C) Seminole Canyon, starting 0.5 miles from the mouth of the Rio Grande.

(D) Government coves at Diablo East and Rough Canyon to include the water and shoreline to the top of the ridge/property line.

(E) All terrestrial cave and karst features.

(F) The Lower Rio Grande area below Amistad Dam.

(G) The water area extending 1000 feet out from the concrete portion of Amistad Dam.

(ii) PWC are prohibited from landing on any island posted as closed.

(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: May 21, 2004.

Paul Hoffman,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AC97

Lake Meredith National Recreation Area, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule designates areas where personal watercraft (PWC) may be used in Lake Meredith National Recreation Area, Texas. This rule implements the provisions of the National Park Service (NPS) general regulations authorizing park units to allow the use of PWC by promulgating a special regulation. Individual parks determine whether PWC use is appropriate based on an evaluation of

that park's enabling legislation, resources and values, other visitor uses, and overall management objectives.

DATES: *Effective Date:* This rule is effective May 27, 2004.

ADDRESSES: Mail inquiries to the Superintendent, Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, TX 79036-1460, Fax: (806) 857-2319, e-mail: *LAMR_Superintendent@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Special Assistant, National Park Service, 1849 C Street, NW., Room 3145, Washington, DC 20240. Phone: (202) 208-4206. E-mail: *Kym_Hall@nps.gov*.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking and Environmental Assessment

On December 12, 2003, the National Park Service published a Notice of Proposed Rulemaking for the operation of PWC at Lake Meredith National Recreation Area (68 FR 17292). The proposed rule for PWC use was based on alternative B in the Environmental Assessment (EA) prepared by NPS for Lake Meredith NRA. The EA was available for public review and comment from March 10 to April 9, 2003, and the NPRM was available for public comment from December 12, 2003 to February 10, 2004.

The purpose of the Environmental Assessment was to evaluate a range of alternatives and strategies for the management of PWC use, ensuring the protection of park resources and values, and offering recreational opportunities as provided for in the National Recreation Area's enabling legislation, purpose, mission, and goals. The analysis assumed an alternative would be implemented beginning in 2002 and considered a 10-year use period, from 2002 to 2012. The Environmental Assessment evaluated three alternatives concerning the use of PWC at Lake Meredith National Recreation Area. Alternative A allows PWC use under a special regulation that includes certain current provisions of the Superintendent's Compendium. Alternative B allows continued PWC operation similar to alternative A, but use is further restricted to reduce conflicts between fishermen and PWC operators in lake areas and to protect water resources by designating and marking "Flat Wake" zones in a number of the canyons. In addition to the two alternatives for allowing restricted PWC use, a no-action alternative was considered that would continue the prohibition of all PWC use within the National Recreation Area. All three alternatives were evaluated with respect to PWC impacts on water quality, air

quality, soundscapes, wildlife and wildlife habitat, threatened, endangered, or special concern species, shoreline vegetation, visitor experience, visitor conflict and safety, and cultural resources.

Based on the Environmental Assessment, NPS determined that alternative B is the park's preferred alternative for managing PWC use. Alternative B is also considered the environmentally preferred alternative.

Summary of Comments

The proposed rule was published for public comment on December 12, 2003 (68 FR 69358), with the comment period lasting until February 10, 2004. The National Park Service received 2,870 timely written responses regarding the proposed regulation. Of the responses, 2,512 were form letters in 7 separate formats, 345 were signatures on a petition, and 14 were separate letters. Of the 14 separate letters, 9 were from individuals, 4 from organizations, and 1 from a public agency. Within the following discussion, the term "commenter" refers to an individual, organization, or public agency that responded. The term "comments" refers to statements made by a commenter.

General Comments

1. Several commenters, including Bluewater Network and the American Canoe Association, stated that the Environmental Assessment failed to use the best data available and picked Alternative B without adequate scientific justification.

NPS Response: None of the alternatives evaluated in the Environmental Assessment resulted in significant adverse or beneficial impacts. The NPS chose the preferred alternative, continued PWC use with restrictions, because it appears to meet the needs of most park visitors while continuing to protect the environment. If the EA process would have discovered significant impacts from PWC use at LAMR than an EIS would have been prepared or a different course of action would have been pursued. To the contrary the environmental impacts discovered during the EA process revealed no significant reasons for not moving forward with the preferred alternative. A summary of the NPS rulemaking and associated personal watercraft litigation is provided in chapter 1, Purpose of and Need for Action, Background, of the EA. NPS believes it has complied with the National Environmental Policy Act (NEPA) and has properly assessed the impacts of personal watercraft on the resources of Lake Meredith National

Recreation Area using the best available data for the analysis. This analysis was done for every applicable impact topic with the best available data, consistent with the Council on Environmental Quality regulations (40 CFR 1502.22). Where data was lacking, best professional judgment prevailed using assumptions and extrapolations from scientific literature, other park units where personal watercraft are used, and personal observations of park staff.

The NPS believes that the Environmental Assessment is in full compliance NEPA, and the Finding of No Significant Impact (FONSI) demonstrates that decision has been adequately analyzed and explained.

2. Several commenters stated that allowing PWC use with additional restrictions violates the park's enabling legislation and NPS mandate to protect resources from harm.

NPS Response: NPS analysis in the EA shows that PWC use will not violate the Lake Meredith National Recreation Area's enabling legislation or NPS' mandate to protect resources in the Organic Act. The authorizing legislation for Lake Meredith was considered when developing alternatives for the Environmental Assessment. The objective of the Environmental Assessment, as described in the "Purpose and Need" Chapter, was derived from the enabling legislation for Lake Meredith. As further stated in that chapter, a special analysis on the management of personal watercraft was also provided under each alternative to meet the terms of the settlement agreement between the Bluewater Network and the National Park Service. As required by NPS policies, the impacts associated with personal watercraft and other recreational uses are evaluated under each alternative to determine the adverse impacts, including the potential for impairment to park resources. The recreation area's enabling legislation also states that the "Secretary shall administer Lake Meredith National Recreation Area for general purposes of public outdoor recreation." The recreation area was established by Congress "to provide for public outdoor recreation use and enjoyment of the lands and waters associated with Lake Meredith in the State of Texas and to protect the scenic, scientific, cultural, and other values contributing to the public enjoyment of such lands and waters." The NPS must allow for appropriate public uses of the national recreation area while effectively managing park resources. The EA did not determine that any of the resource areas would be adversely impacted by the preferred alternative.

3. One commenter stated that in preparing the Environmental Assessment, the NPS did not adequately consult with and seek the expertise of various agencies, which appears to violate the NPS' PWC regulations.

NPS Response: The final PWC regulation published by the NPS in March 2000 indicates that we intend to seek the expertise of the U.S. Environmental Protection Agency (EPA), OSHA and other relevant agencies and literature when deciding whether to allow continued PWC use in units of the National Park System. The Environmental Assessment references EPA and OSHA regulations and studies throughout. For example, the EPA Web site was visited and LAMR information was retrieved and studied. EPA rated LAMR as a "IWI", #1 on the watershed health scale ("better quality/less vulnerability"). In addition, we sent out 123 letters to other federal, state, local agencies including U.S. Fish and Wildlife, Texas Parks and Wildlife, Bureau of Reclamation, Texas Commission on Environmental Quality (the state agency charged with application of EPA regulations in Texas), U.S. Coast Guard, Department of Energy/Pantex Environmental Division, U.S. Department of the Army Corps of Engineers, Quachita National Forest, numerous Indian tribes, several Audubon groups, Biodiversity Legal Foundation, Environmental Defense, Lake Meredith Aquatic and Wildlife Museum, Marina at Lake Meredith, several museums, Natural Resources Conservation Service, Texas Nature Conservancy, Wilderness Society, State and Federal representatives and senators, Canadian River Municipal Water Authority, Hutchison County Historical Commission, Groundwater Conservation District No. 3, Chamber of Commerce, Archeologists from Intermountain Support Office, Texas Archeology Society, Texas General Land Office, Palo Duro State Park. We feel we have conducted consultation as required by various Acts and Executive Orders as well as the intent of the March 2000 PWC regulations.

4. Several commenters stated that the decision violates the Organic Act and will result in the impairment of resources.

NPS Response: The "Summary of Laws and Policies" section in the "Environmental Consequences" chapter of the PWC Use EA summarizes the three overarching laws that guide the National Park Service in making decisions concerning protection of park resources. These laws, as well as others, are also reflected in the NPS Management Policies. An explanation of

how the Park Service applied these laws and policies to analyze the effects of personal watercraft on Lake Meredith National Recreation Area resources and values can be found under "Impairment Analysis" in the "Methodology" section.

An impairment is an impact that, in the professional judgement of the NPS manager, would harm the integrity of park resources or values. In the analysis used in the PWC use EA, an impairment to a particular park resource or park value must rise to the magnitude of a major impact, as defined by factors such as context, duration, and intensity. For each resource topic, the Environmental Assessments establish thresholds or indicators of magnitude of impact. An impact approaching a "major" level of intensity is one indication that impairment could result. For each impact topic, when the intensity approached "major," the park would consider mitigation measures to reduce the potential for "major" impacts, thus reducing the potential for impairment.

The National Park Service has determined that under the preferred alternative, Alternative B, there will be no negative impacts on park resources or values.

Comments Related to Water Quality

5. Several commenters stated that research indicated that direct-injection 2-stroke engines are dirtier than 4-stroke engines.

NPS Response: It is agreed that two-stroke carbureted and two-stroke DI engines generally emit greater amounts of pollutants than four-stroke engines. However, as a result of the EPA rule requiring the manufacturing of cleaner PWC engines, the existing carbureted two-stroke PWC will, over time, be replaced with either two-stroke direct injection or 4-stroke PWCs and both are less-polluting engines. This replacement, with the anticipated resultant improvement in air quality, is parallel to that experienced in urban environments as the automobile fleet becomes cleaner over time.

6. One commenter stated that the analysis disregarded or overlooked relevant research regarding impacts to water quality from PWC use as well as the impact to downstream resources and long term site specific water quality data on PWC pollutants.

NPS Response: The protection of water quality within the national recreation area has been addressed in the EA in a conservative evaluation of surface water quality impacts. Because site-specific water quality data on organic compounds were not available for Lake Meredith and collection of

these data was beyond the scope of the EA, therefore a conservative modeling approach was developed and applied to evaluate impacts to water quality from PWC and other motorized vessel use.

Estimated minimum threshold volumes of water were determined for the PWC use areas where concentrations of gasoline constituents discharged from personal watercraft and other outboard engines could potentially be toxic to aquatic organisms or humans. Using the estimated threshold volumes, volumes of the areas being evaluated, PWC and other motorized vessel high-use-day loadings of inorganic chemicals identified as constituents of gasoline, and water quality benchmarks, it is possible to identify potentially unacceptable impacts to human health or the environment. Chronic water quality benchmarks protective of aquatic populations and protective of human health were acquired from various sources, including USEPA water quality criteria.

The EA states that in 2002 under both Alternative A and B, impacts to water quality in Lake Meredith from PWCs on a high-use day would be negligible for all chemicals evaluated based on ecological benchmarks and human health benchmarks. In 2012, impacts would also be negligible based on all ecological and human health benchmarks. "Impairment" is clearly defined in the EA on page 75 and is the most severe of the five potential impact categories. The other impact categories starting with the least severe are: negligible, minor, moderate, and major.

7. One commenter stated that the analysis represents an outdated look at potential emissions from an overstated PWC population of conventional 2-stroke engines, and underestimated the accelerating changeover to 4-stroke and newer 2-stroke engines. The net effect is that the analysis overestimates potential PWC hydrocarbon emissions, including benzene and PAHs, to the water in Lake Meredith.

NPS Response: NPS agrees. The NPS water quality impact assessment utilized conservative (protective) assumptions where site-specific data were missing or incomplete. For some variables such as the number of PWC (total of 70), this number was based on the number of vessels expected on a high-use day. It can be considered a conservative estimate, but it is not "unrealistic" since it was based on State of Texas and Lake Meredith National Recreation Area data. Despite these conservative estimates, impacts to water quality from personal watercraft are judged to be negligible for all alternatives evaluated. Cumulative

impacts from personal watercraft and other outboard motorized vessels are expected to be negligible to moderate. If the assumptions used were less than conservative, the conclusions could not be considered protective of the environment, while still being within the range of expected use.

The assumption of all personal watercraft using 2-stroke engines in 2002 is recognized as conservative. It is protective of the environment yet follows the emission data available in CARB (1998) and Bluewater Network (2001) at the time of preparation of the EA. The emission rate of 3 gallons per hour at full throttle is a mid-point between 3 gallons in two hours (1.5 gallons per hour; NPS 1999) and 3.8 to 4.5 gallons per hour for an average 2000 model year personal watercraft (Personal Watercraft and Bluewater Network 2001). The assumption also is reasonable in view of the initiation of production line testing in 2000 (EPA 1997) and expected full implementation of testing by 2006 (EPA 1996).

Reductions in emissions used in the water quality impact assessment are in accordance with the overall hydrocarbon emission reduction projections published by the EPA (1996). EPA (1996) estimates a 52% reduction by personal watercraft by 2010 and a 68% reduction by 2015. The 50% reduction in emissions by 2012 (the future date used in the EA) is a conservative interpolation of the emission reduction percentages and associated years (2010 and 2015) reported by the EPA (1996) but with a one-year delay in production line testing (EPA 1997).

The NPS used emission reduction estimates from the EPA (1996) that are readily available for public review and not confidential sales information. Because the Sierra Research analysis is based on "* * * confidential sales information* * *", the NPS cannot evaluate the assumptions in the Sierra Research analysis. The NPS did not "ignore" the manufacturers' confidential sales data.

Use of the Sierra information, if verified, could have potentially reduced the calculated water quality threshold volumes. However, impact estimates for personal watercraft are already negligible (EA pages 34 and 75-80), using the impact threshold descriptions provided on page 75 of the EA. Impacts to water quality from other motorized vessels are potentially more significant than those due to personal watercraft. Therefore, cumulative impacts from personal watercraft and other motorized vessels, which are negligible to moderate, would not be reduced

substantially by the inclusion of the Sierra emission reduction projections for personal watercraft.

8. One commenter stated that the water quality analysis uses assumptions that result in overestimation of potential PWC hydrocarbon emission to the water in Lake Meredith. For example benzo(a)pyrene concentrations in gasoline range from 0.19 to 2.8 mg/kg but the NPS chooses the highest figure for the analysis.

NPS Response: As stated in responses to earlier comments, protection of water quality in the national recreation area was addressed in a conservative evaluation. Therefore, the use of 2.8 mg/kg as an estimated concentration of benzo(a)pyrene in gasoline is a reasonable assumption that is in range of possible concentrations. Even with this and other conservative assumptions, impacts from PWC were determined to be negligible. Evaporation of benzene was not factored into the discussion because water quality impacts already were negligible and could not be reduced to a lower impact threshold.

Comments Related to Air Quality

9. One commenter stated that the analysis failed to mention the impact of PWC permeation losses on local air quality.

NPS Response: Permeation losses of VOCs from personal watercraft were not included in the calculation of air quality impacts primarily because these losses are insignificant relative to emissions from operating watercraft. Using the permeation loss numbers in the comment (estimated to be half the total of 7 grams of losses per 24 hours from the fuel system), the permeation losses per hour are orders of magnitude less than emissions from operating personal watercraft. Therefore, including permeation losses would have no effect on the results of the air quality impact analyses. Also, permeation losses were not included because of numerous related unknown contributing factors such as number of personal watercraft refueling at the reservoir and the location of refueling (inside or outside of the airshed).

10. One commenter stated that the use of air quality data from Amarillo, 45 miles from Lake Meredith, in the analysis does not provide the best representation of air quality at the lake.

NPS Response: The Amarillo monitoring station is the closest air quality monitoring site to the study area. The data from this site were discussed in the EA; however, these data were not used in the impact analysis. The analysis was based on the results of an

EPA air emission model, which used estimated PWC and vessel usage at Lake Meredith NRA as inputs.

11. One commenter expressed concern that PWC emissions were declining faster than forecasted by the EPA. As the Sierra Report documents, in 2002, HC + NO_x emissions from the existing fleet of PWC were already 23% lower than they were before the EPA regulations became effective, and will achieve reductions greater than 80% by 2012.

NPS Response: The U.S. EPA's data incorporated into the 1996 Spark Ignition Marine Engine rule were used as the basis for the assessment of air quality, and not the Sierra Research data. It is agreed that these data show a greater rate of emissions reductions than the assumptions in the 1996 Rule and in the EPA's NONROAD Model, which was used to estimate emissions. However, the Sierra Research report has not been used in the EA for reasons of consistency and conformance with the model predictions. Most states use the EPA's NONROAD Model for estimating emissions from a broad array of mobile sources. To provide consistency with state programs and with the methods of analysis used for other similar NPS assessments, the NPS has elected not to base its analysis on focused research such as the Sierra Report for assessing PWC impacts.

It is agreed that the Sierra Research report also provides data on "worst case" scenarios. However worst case or short-term scenarios were not analyzed for air quality impacts in this or other NPS EAs.

It is agreed that the relative quantity of HC + NO_x are a very small proportion of the county based emissions and that this proportion will continue to be reduced over time. The EA takes this finding into consideration in the analysis.

Improved PWCs may be used in increasing numbers; however the data of overall use of this engine type nationwide is not well established. For consistency and conformity in approach, the NPS has elected to rely on the assumptions in the 1996 S.I Engine Rule which are consistent with the widely used NONROAD emissions estimation Model. The outcome is that estimated emissions from combusted fuel may be in the conservative range, if compared to actual emissions.

Comments Related to Soundscapes

12. One commenter stated that continued PWC use in the Lake Meredith NRA will not result in sound emissions that exceed the applicable federal or state noise abatement

standards, and technological innovations by the PWC companies will continue to result in substantial sound reductions.

NPS Response: The EA provides an analysis of impacts of personal watercraft on many aspects of the environment. The level of impact predicted for many of the resources or values included in the assessment is negligible to minor, or minimal impact. However, in some cases moderate or potentially major impacts are predicted, and this is based on the specific resource or value affected and the impact threshold levels used in the analysis.

13. One commenter stated that the NPS places too much hope in new technologies significantly reducing PWC noise since there is little possibility that the existing fleet of more than 1.1 million machines (most of which are powered by conventional two-stroke engines) will be retooled to reduce noise.

NPS Response: The analysis of the preferred alternative states that noise from PWC would continue to have minor, short-term adverse impacts, and that impact levels would be related to number and type (age) of PWC and sensitivity of park visitors. This recognizes that noise will occur and will bother some visitors, but site-specific modeling was not needed to make this assessment. The availability of noise reduction technologies is also growing, and we are not aware of any scientific research that shows these technologies do not reduce engine noise levels to some extent. Also, the analysis did not rely heavily on any noise reduction technology. It recognizes that the noise from the operation of PWC will always vary, depending on the speed, manner of use, and wave action present.

Additionally, the average operating life of a PWC is 5 to 10 years, depending upon the source. As a result, it is expected that the majority of existing PWC will be replaced with quieter, new technology PWC in the near future.

Comments Related to Wildlife, Wildlife Habitat, and Threatened or Endangered Species

14. One commenter stated that the analysis lacked site-specific data for impacts to wildlife, fish, and threatened and endangered species at Lake Meredith.

NPS Response: The EA did not include site specific studies regarding potential effects of PWC use on wildlife species at Lake Meredith National Recreation Area. Analysis of potential impacts of PWC use on wildlife at the national recreation area was based on

best available data, input from park staff, and the results of analysis using that data.

15. One commenter stated that PWC use and human activities associated with their use may not be any more disturbing to wildlife species than any other type of motorized or non-motorized vessels. The commenter cites research by Dr. James Rodgers, of the Florida Fish and Wildlife Conservation Commission, whose studies have shown that PWC are no more likely to disturb wildlife than any other form of human interaction. PWC posed less of a disturbance than other vessel types. Dr. Rodgers' research clearly shows that there is no reason to differentiate PWC from motorized vessels based on claims on wildlife disturbance.

NPS Response: Based on the documents provided as part of this comment, it appears that personal watercraft are no more apt to disturb wildlife than are small outboard motorized vessels. In addition to this conclusion, Dr. Rodgers recommends that buffer zones be established, creating minimum distances between vessels (personal watercraft and outboard motorized vessels) and nesting and foraging waterbirds. In Lake Meredith National Recreation Area, a 50-foot wide area along the shoreline is already established under the Texas Water Safety Act where the use of personal watercraft is restricted to flat wake speed only. With this restriction in mind, impacts to wildlife and wildlife habitat under all three alternatives were judged to be negligible at most locations along the shoreline.

16. One commenter stated that wildlife biologists are finding that PWC cause lasting impacts to fish and wildlife.

NPS Response: It is anticipated that more combustion-efficient engines in personal watercraft will reduce pollutant emissions to air and water in the same manner as increased efficiencies in automobile engines combined with catalytic converters and other technologies decreased the amount and types of automobile exhaust emissions. EPA-sponsored evaluations of different personal watercraft engine designs and emissions concluded that emission reductions would result with implementation of the EPA emission standards for marine engine. The preferred alternative provides for further protection of wildlife in the recreation area. Establishing new flat wake zones under the preferred alternative (Alternative B) would reduce impacts to aquatic and shoreline species by reducing the discharge of fuel components into the water. These

reductions should indirectly benefit wildlife by reducing some of the contaminant loading of surface waters.

PAH toxicity to fish and wildlife species is a complicated topic because PAHs consists of dozens of different chemical compounds, each of which has substantially different toxicity characteristics in water, sediment, and soils, and toxicity varies dramatically among different fish and wildlife species. The ecological toxicity analysis for PAHs reported in the Environmental Assessment explains the chemical, physical, and biological conditions that were used to conduct the assessment of PAH effects to fish species.

Comments Related to Shoreline/ Submerged Aquatic Vegetation

17. One commenter stated that there has been no documentation of any adverse effects to shoreline vegetation from PWC use.

NPS Response: The NPS recognizes that scientists do not agree on the potential for impacts to aquatic vegetation from personal watercraft. However, personal watercraft, because of their design, can potentially operate in shallower water than conventional outboard motorized vessels, and it is not possible to say if all operators fully adhere to manufacturer's recommendations. Impacts to shoreline vegetation are expected to be negligible.

Comments Related to Visitor Experience, Visitor Conflict, and Safety

18. Several commenters stated that the NPS analysis downplayed the threat PWC pose to the visiting public.

NPS Response: According to the National Marine Manufacturers Association, PWC manufacturers have sold roughly 1.2 million personal watercraft during the last ten years. Out of 1.2 million PWC sold the U.S. Coast Guard had only 90 reports of fires/explosions in the years from 1995–1999. This is less than 1% of PWCs having reports of problems associated with fires/explosions. As far as the recall campaigns conducted by Kawasaki and Bombardier, the problems that were associated with fuel tanks were fixed. Kawasaki conducted a recall for potentially defective fuel filler necks and fuel tank outlet gaskets on 23,579 models from the years 1989 and 1990. The fuel tank problems were eliminated in Kawasaki's newer models, and the 1989 and 1990 models are most likely not in use anymore since life expectancy of a PWC is only five to seven years according to PWIA. Bombardier also did a recall for its 1993, 1994, and 1995 models to reassess possible fuel tank design flaws.

However, the number of fuel tanks that had to be recalled was a very small percent of the 1993, 1994, and 1995 fleets because fuel tank sales only amounted to 2.16% of the total fleet during this period (Bombardier Inc.). The replacement fuel tanks differed from those installed in the personal watercraft subject to the recall in that the replacement tanks had revised filler neck radiuses, and the installation procedure now also requires revised torque specifications and the fuel system must successfully complete a pressure leak test. Bombardier found that the major factor contributing to PWC fires/explosions was over-torquing of the gear clamp. Bombardier was legally required by the U.S. Coast Guard to fix 9.72% of the recalled models. Out of 125,349 recalls, the company repaired 48,370 units, which was approximately 38% of the total recall, far exceeding their legal obligation to repair units with potential problems.

Further fuel tank and engine problems that could be associated with PWC fires has been reduced significantly since the National Marine Manufacturers Association set requirements for meeting manufacturing regulations established by the U.S. Coast Guard. Many companies even choose to participate in the more stringent Certification Program administered by the National Marine Manufacturers Association (NMMA). The NMMA verifies annually, or whenever a new product is put on the market, vessel model lines to determine that they satisfy not only the U.S. Coast Guard Regulations but also the more rigorous standards based on those established by the American Boat and Yacht Council.

19. One commenter stated that the presence of PWC monopolizes the recreational environment and adversely impacts the wide range of diverse uses favored by a majority of visitors and therefore allowing PWC use is not the best course of action.

NPS Response: PWC account for approximately 20% of all watercraft used on Lake Meredith each year. Additionally, during 2001 PWC were approximately 2% of total Lake Meredith NRA visitation. None of the alternatives evaluated in the Environmental Assessment resulted in substantial adverse or beneficial impacts. The NPS chose the preferred alternative, Continued PWC Use with Restrictions, because it appeared to meet the needs of most park visitors while continuing to protect the environment.

20. One commenter stated that Alternative B would require more

permanent staff and vessels to enforce the new restrictions.

NPS Response: The NPS believes that operation of PWC in the recreation area would not require more staff than that required for increased monitoring of all vessels because (1) the number of PWC operating within the recreation area is small in comparison to the number of other motorized vessels, (2) the location of PWC operation is separated from most other visitors (excluding motorized vessels) and (3) the increased patrols necessary to monitor all boating traffic would increase the observed presence of policing such that all infractions would likely decrease.

21. One commenter stated that the conclusion that PWC use poses a health and safety risk "primarily to the operators" themselves is mistaken and the analysis does not adequately assess the safety threat posed to park visitors by PWC use.

NPS Response: Incidents involving vessels of all types, including personal watercraft, are reported to and logged by National Park Service staff. A very small proportion of incidents on the lake are estimated to go unreported. The accident data for the five-year period of 1997 through 2001 displays a consistent pattern and differs from nationally reported results for all vessels. In the "Visitor Conflicts and Visitor Safety" section of the "Affected Environment" chapter, it is reported that personal watercraft represent 20 percent of the vessels on the lake but did not exceed 3 percent of all vessel accidents over the five year time period.

22. Several commenters stated that there is no basis to impose flat wake restrictions on PWC only, as proposed in Alternative B, and doing so would endanger all boaters. For these reasons, any flat wake zones established under the special regulation in the 11 back coves (or any other areas) should be applied to all motorized vessels, not just PWC.

NPS Response: The proposed flat wake zones under Alternative B would apply to all motorized vessels. The description of Alternative B on p. 24 does not indicate that the flat wake zone applies only to PWC. However, vessels other than PWC are regulated through other mechanisms and are therefore not addressed in the language for this regulation.

23. One commenter stated that the accident data used in the analysis was outdated and incorrect because PWC accidents are reported more often than other boating accidents.

NPS Response: Incidents involving vessels of all types, including personal watercraft, are reported to and logged by

National Park Service staff. A very small proportion of incidents on the lake are estimated to go unreported. The accident data for the five-year period of 1997 through 2001 displays a consistent pattern and differs from nationally reported results for all vessels. In the "Visitor Conflicts and Visitor Safety" section of the "Affected Environment" chapter, it is reported that personal watercraft represent 20 percent of the vessels on the lake but did not exceed 3 percent of all vessel accidents over the five year time period.

Comments Related to Cultural Resources

24. One commenter stated that the analysis refers to a potential concern that the ability of PWC operators to access remote areas of the park unit might make certain cultural, archeological and ethnographic sites vulnerable to looting or vandalism. However, there is no indication of any instances where these problems have occurred. Nor is there any reason to believe that PWC users are any more likely to pose these concerns than canoeists, kayakers, hikers, or others who might access these same areas.

NPS Response: The EA was focused on the analysis of impacts from PWC use. PWC can make it easier to reach some remote upstream areas, compared to hiking to these areas, but we agree that the type of impacts to cultural resources from any users of remote areas

of the park would be similar if they can reach these areas.

Comments Related to Socioeconomics

25. Two commenters commented that the analysis did not adequately assess socioeconomic impacts on the regional economy.

NPS Response: The study looked at the potential effect that the ban would have on the local economy, and the potential effects on socio-economically disadvantaged groups. The socioeconomic study did not address the future potential costs of environmental damage. The preferred alternative does not include an elimination of PWC, but rather restrictions on area of use and speed. If a decrease in PWC use occurred due to the proposed restrictions, there could be some reductions in PWC-related revenues. However, given the low levels of PWC use at Lake Meredith and the fact that a total ban is not proposed, impacts on local and regional economics would not result in significant negative socioeconomic impacts.

Changes to the Final Rule

Based on the preceding comments and responses, the NPS has made no changes to the proposed rule language with regard to PWC operations.

Summary of Economic Impacts

Alternative A would permit PWC use as previously managed within the park before the November 2002 ban, while

Alternative B would permit PWC use with additional management strategies to reduce user conflicts and to protect water resources. Alternative B is the preferred alternative, and includes no-wake zones, PWC fueling requirements, and water quality monitoring. Alternative C is the no-action alternative and represents the baseline conditions for this economic analysis. Under that alternative, the November 2002 ban would be continued. All benefits and costs associated with Alternatives A and B are measured relative to that baseline.

The primary beneficiaries of Alternatives A and B include the individuals who would use PWCs within the park and the businesses that provide services to PWC users such as rental shops, restaurants, gas stations, and hotels. Additional beneficiaries include the individuals who use PWCs in areas outside the park where PWC users displaced from Lake Meredith by the ban may have increased their use. Over a ten-year horizon from 2003 to 2012, the present value of benefits to PWC users is expected to range between \$3,520,980 and \$4,676,120, depending on the alternative analyzed and the discount rate used. The present value of benefits to businesses over the same timeframe is expected to range between \$137,580 and \$1,012,360. These benefit estimates are presented in Table 1. The amortized values per year of these benefits over the ten-year timeframe are presented in Table 2.

TABLE 1.—PRESENT VALUE OF BENEFITS FOR PWC USE IN LAKE MEREDITH NATIONAL RECREATION AREA, 2003–2012 (2001 \$)^a

	PWC users	Businesses	Total
Alternative A:			
Discounted at 3% ^b	\$4,676,120	\$185,180 to \$1,012,360	\$4,861,300 to \$5,688,480.
Discounted at 7% ^b	3,706,280	\$146,770 to \$802,390	\$3,853,050 to \$4,508,670.
Alternative B:			
Discounted at 3% ^b	4,442,330	\$173,590 to \$941,220	\$4,615,920 to \$5,383,550.
Discounted 7% ^b	3,520,980	\$137,580 to \$746,010	\$3,658,560 to \$4,266,990.

^a Benefits were rounded to the nearest ten dollars, and may not sum to the indicated totals due to independent rounding.

^b Office of Management and Budget Circular A-4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.

TABLE 2.—AMORTIZED TOTAL BENEFITS PER YEAR FOR PWC USE IN LAKE MEREDITH NATIONAL RECREATION AREA, 2003–2012 (2001 \$)

	Amortized total benefits per year ^a
Alternative A:	
Discounted at 3% ^b	\$569,893 to \$666,863.
Discounted at 7% ^b	\$548,588 to \$641,933.
Alternative B:	
Discounted at 3% ^b	\$541,127 to \$631,116.
Discounted at 7% ^b	\$520,897 to \$607,523.

^a This is the present value of total benefits reported in Table 1 amortized over the ten-year analysis timeframe at the indicated discount rate.

^b Office of Management and Budget Circular A-4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.

The primary group that would incur costs under Alternatives A and B would be the park visitors who do not use PWCs and whose park experiences would be negatively affected by PWC use within the park. At Lake Meredith National Recreation Area, non-PWC uses include boating, canoeing, fishing, and hiking. Additionally, the public could incur costs associated with impacts to aesthetics, ecosystem protection, human health and safety, congestion, nonuse values, and enforcement. However, these costs could not be quantified because of a lack of available data. Nevertheless, the magnitude of costs associated with PWC use would likely be greatest under Alternative A, and lower for Alternative B due to increasingly stringent restrictions on PWC use.

Because the costs of Alternatives A and B could not be quantified, the net benefits associated with those alternatives (benefits minus costs) also could not be quantified. However, from an economic perspective, the selection of Alternative B as the preferred alternative was considered reasonable even though the quantified benefits are somewhat smaller than under Alternative A. That is because the costs associated with non-PWC use, aesthetics, ecosystem protection, human health and safety, congestion, and nonuse values would likely be greater under Alternative A than under Alternative B. Given that the quantified benefits of Alternatives A and B were similar, quantification of the costs could reasonably result in Alternative B having the greatest level of net benefits.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and has not 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 Management Alternatives for Personal Watercraft in Lake Meredith National Recreation Area" (MACTEC Engineering and Consulting, Inc.) dated April 2004.

(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 rule 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 does not raise novel legal or policy issues. This rule is one of the special regulations being issued for managing PWC use in National Park Units. The National Park Service published 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 requirement of the general regulation continues to generate interest from the public concerning the overall effect of authorizing PWC use and National Park Service policy and park management but is not a significant controversy for this park.

Regulatory Flexibility Act

The Department of the Interior certifies that this rulemaking 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 on a report entitled "Economic Analysis of Management Alternatives for Personal Watercraft in Lake Meredith National Recreation Area" (MACTEC Engineering and Consulting, Inc. April 2004). The focus of this study was to document the impact of this rule on ten PWC related businesses in the vicinity of Lake Meredith that may be affected by any restriction of PWC use, including PWC dealerships, a PWC rental shop, and convenience stores offering PWC storage and other boating related services. This report found that the potential loss for these businesses as a result of this rule would be minimal, as PWC users account for a very small fraction of economic activity in the region.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

- a. Does not have an annual effect on the economy of \$100 million or more.
- b. Will not cause a major increase in costs or prices for consumers,

individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have 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 does not impose any 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 takings implications. A taking implication assessment is not required. No taking 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 rule only affects use of NPS administered lands and waters. It has no outside effects on other areas by allowing PWC use in specific areas 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 an Environmental Assessment (EA). The EA was available for public review and comment March 10 to April 9, 2003. Additionally, a Finding of No Significant Impact (FONSI) was completed and signed on May 21, 2004.

A copy of the EA and the FONSI is available by contacting the Superintendent, Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, TX 79036, or by downloading it from the Internet at <http://www.nps.gov/lamr>.

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

During the consultation process in late 2002, the NPS consulted with the tribes that claim some affiliation with Lake Meredith National Recreation Area, in writing about the development of this rule and the supporting Environmental Assessment. Those Tribes include the Wichita and Affiliated Tribes; Kiowa Indian Tribe of Oklahoma; Comanche Indian Tribe, Oklahoma; Cheyenne-Arapaho Tribe, Oklahoma; Caddo Indian Tribe of Oklahoma; Jicarilla Apache Tribe, NM; Mescalero Apache Tribe, NM; Apache Tribe of Oklahoma; and, the Fort Sill Apache Tribe of Oklahoma. To date no comments have been received from any of the Native American Tribes.

Administrative Procedure Act

This final rule is effective upon publication in the **Federal Register**. In accordance with the Administrative Procedure Act, specifically, 5 U.S.C. 553(d)(1), this rule, 36 CFR 7.57(h), is exempt from the requirement of publication of a substantive rule not less than 30 days before its effective date.

As discussed in this preamble, the final rule is a part 7 special regulation for Lake Meredith National Recreation Area that relieves the restrictions imposed by the general regulation, 36 CFR 3.24. The general regulation, 36 CFR 3.24, prohibits the use of PWC in units of the national park system unless an individual park area has designated the use of PWC by adopting a part 7 special regulation. The proposed rule was published in the **Federal Register** (68 FR 69358) on December 12, 2003, with a 60-day period for notice and comment consistent with the requirements of 5 U.S.C. 553(b). The Administrative Procedure Act, pursuant to the exception in paragraph (d)(1), waives the section 553(d) 30-day waiting period when the published rule "grants or recognizes an exemption or relieves a restriction." In this rule the NPS is authorizing the use of PWCs,

which is otherwise prohibited by 36 CFR 3.24. As a result, the 30-day waiting period before the effective date does not apply to the Lake Meredith National Recreation Area final rule.

The Attorney General's Manual on the Administrative Procedure Act explained that the "reason for this exception would appear to be that the persons affected by such rules are benefited by them and therefore need no time to conform their conduct so as to avoid the legal consequences of violation. The fact that an interested person may object to such issuance, amendment, or repeal of a rule does not change the character of the rule as being one 'granting or recognizing exemption or relieving restriction,' thereby exempting it from the thirty-day requirement." This rule is within the scope of the exception as described by the Attorney General's Manual and the 30-day waiting period should be waived. See also, *Independent U.S. Tanker Owners Committee v. Skinner*, 884 F.2d 587 (DC Cir. 1989). In this case, the court found that paragraph (d)(1) is a statutory exception that applies automatically for substantive rules that relieves a restriction and does not require any justification to be made by the agency. "In sum, the good cause exception must be invoked and justified; the paragraph (d)(1) exception applies automatically" (884 F.2d at 591). The facts are that the NPS is promulgating this special regulation for the purpose of relieving the restriction, prohibition of PWC use, imposed by 36 CFR 3.24 and therefore, the paragraph (d)(1) exception applies to this rule.

In accordance with the Administrative Procedure Act, this rule is also excepted from the 30-day waiting period by the "good cause" exception in 5 U.S.C. 553(d)(3) and is effective upon publication in the **Federal Register**. As discussed above, the purpose of this rule is to comply with the 36 CFR 3.24 requirement for authorizing PWC use in park areas by promulgating a special regulation. "The legislative history of the APA reveals that the purpose for deferring the effectiveness of a rule under section 553(d) was 'to afford persons affected a reasonable time to prepare for the effective date of a rule or rules or to take other action which the issuance may prompt.' S. Rep. No. 752, 79th Cong., 1st Sess. 15 (1946); H.R. Rep. No. 1980, 79th Cong., 2d Sess. 25 (1946)." *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977). The persons affected by this rule are PWC users and delaying the implementation of this rule for 30 days will not benefit them; but instead will be counterproductive by denying them, for

an additional 30 days, the benefits of the rule.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, the National Park Service amends 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 DC Code 8-137 (1981) and DC Code 40-721 (1981).

■ 2. Section 7.57 is amended by revising the section heading and adding paragraph (h) to read as follows:

§ 7.57 Lake Meredith National Recreation Area.

* * * * *

(h) *Personal watercraft (PWC)*. (1) PWC may operate on Lake Meredith except in the following closed areas: stilling basin below Sanford Dam, within 750 feet of the Sanford Dam intake tower, and on the waters of the Canadian River.

(2) PWC may operate on Lake Meredith under the following conditions:

(i) Fueling of PWC is prohibited on the lake, except at the marina fuel dock with an attendant providing the fuel service, or onshore and out of the water.

(ii) Carrying of fuel in an external or portable container onboard a PWC is prohibited.

(iii) PWC may only be launched at designated launch sites established by the Superintendent in accordance with 36 CFR 1.5 and 1.7.

(iv) PWC may not operate at greater than flat wake speed in the following designated areas: North Turkey Creek, Bugbee Canyon, North Canyon, North Cove, South Canyon, Sexy Canyon, Amphitheater Canyon, the coves between day markers 9 and 11, Fritch Canyon, Short Creek, Evans Canyon and Canal Canyon. Flat wake areas are designated by buoys marked with "flat wake" or other similar markings. The location of those buoys may be adjusted by the Superintendent based on reservoir water levels.

(3) 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: May 21, 2004.

Paul Hoffman,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04-12054 Filed 5-26-04; 8:45 am]

BILLING CODE 4310-3A-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL222-1a; FRL-7666-1]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is approving a revision to the Illinois State Implementation Plan (SIP) for the Louis Berkman Company, doing business as the Swenson Spreader Company (Swenson). The Illinois Environmental Protection Agency (IEPA) requested on September 19, 2003, that EPA approve into the SIP an adjusted standard for the volatile organic material (VOM) content limit applicable to the painting operations at Swenson's plant located in Lindenwood, Ogle County, Illinois. EPA is approving this request because it satisfies the requirements of the Clean Air Act (Act).

DATES: This "direct final" rule is effective July 26, 2004, unless EPA receives written adverse comment by June 28, 2004. If written adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. IL-222, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *E-mail:* bortzer.jay@epa.gov.

- *Fax:* (312) 886-5824.

- *Mail:* J. Elmer Bortzer, Chief, Criteria Pollutant Section, Air Programs Branch, United States Environmental Protection Agency, Mailcode AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.

- *Hand Delivery:* Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. IL-222. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The federal regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Unit I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in an index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. The Docket Facility is open during normal business hours, Monday through Friday, excluding legal holidays. We recommend that you telephone Christos Panos at (312) 353-8328, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch, United States

Environmental Protection Agency, Region 5, Mailcode AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604; telephone number: (312) 353-8328; fax number: (312) 886-5824; e-mail address: panos.christos@epa.gov.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

- I. General Information
 - A. Does This Action Apply to Me?
 - B. What Should I Consider As I Prepare My Comments for EPA?
 1. Submitting CBI
 2. Tips for Preparing Your Comments
 - II. Review of State Implementation Plan Revision
 1. What Is EPA Approving?
 2. Why Did the State Revise Its Rules?
 3. What Is EPA's Analysis of the State's Submittal?
 4. Did Illinois Hold a Public Hearing?
 - III. EPA's Review of the SIP Revision
 - IV. What Action Is EPA Taking?
 - V. Statutory and Executive Order Reviews

I. General Information

A. Does This Action Apply to Me?

No, this action applies to a single source, the Louis Berkman Company, doing business as the Swenson Spreader Company, in Lindenwood, Ogle County, Illinois. This rulemaking action merely approves an adjusted State standard into the SIP, making it federally enforceable under the Act.

B. What Should I Consider As I Prepare My Comments for EPA?

1. Submitting CBI. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments. When submitting comments, remember to:

- i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

- ii. Follow directions—The Agency may ask you to respond to specific questions or organize comments by