submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal regulation involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, Or Use Of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) Considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (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. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 26, 2004.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 04–6735 Filed 3–24–04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC98

Chickasaw National Recreation Area, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to designate areas where personal watercraft (PWC) may be used in Chickasaw National Recreation Area, Oklahoma. This proposed rule implements the provisions of the NPS general regulations authorizing park areas to allow the use of PWC by promulgating a special regulation. The NPS *Management Policies 2001* require individual parks to determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, and overall management objectives.

DATES: Comments must be received by May 24, 2004.

ADDRESSES: Comments on the proposed rule should be sent to Connie Rudd, Acting Superintendent, Chickasaw National Recreation Area, 1008 W. Second Street, Sulphur, OK 73086, e-mail: *chic@den.nps.gov.*

If you comment by e-mail, please include ''PWC rule'' in the subject line and your name and return address in the body of your Internet message. Also, you may hand deliver comments to the Superintendent, Chickasaw National Recreation Area, 1008 W. Second Street, Sulphur, OK.

For additional information see ''Public Participation'' under **SUPPLEMENTARY INFORMATION** below.

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:

Background

Additional Alternatives

The information contained in this proposed rule supports implementation of portions of the preferred alternative in the Environmental Assessment published March 10, 2003. The public should be aware that three other alternatives were presented in the EA, including a no-PWC alternative, and those alternatives should also be reviewed and considered when making comments on this proposed rule.

Personal Watercraft Regulation

On March 21, 2000, the National Park Service published a regulation (36 CFR 3.24) on the management of PWC use within all units of the National Park System (65 FR 15077). This regulation prohibits PWC use in all National Park System units unless the NPS determines that this type of water-based recreational activity is appropriate for the specific park unit based on the legislation establishing that park, the park's resources and values, other visitor uses of the area, and overall management objectives. The regulation banned PWC use in all park units effective April 20, 2000, except 21 parks, lakeshores, seashores, and recreation areas. The regulation established a 2-year grace period following the final rule publication to provide these 21 park units time to consider whether PWC use should be permitted to continue.

Description of Chickasaw National Recreation Area

Chickasaw National Recreation Area is a part of America's national system of parks, monuments, battlefields, recreation areas, and other natural and cultural resources. Chickasaw National Recreation Area is located in Murray County, near U.S. Highway 177, just south of the town of Sulphur, Oklahoma, approximately 90 miles south of Oklahoma City. Chickasaw National Recreation Area encompasses 9,888.83 acres of land and water and is created by the Arbuckle Dam. The recreation area includes many lakes and creeks, with the largest water areas being the Lake of the Arbuckles and Veterans Lake.

Chickasaw National Recreation Area is the first national park in the state of Oklahoma. It is also one of the most heavily visited parks for its size in the National Park System, with over 3 million total visits including 1.5 million visits a year to use the park's recreational facilities. Chickasaw remains relatively undeveloped. Summer visitors engage in camping, picnicking, hiking, mountain biking, horseback riding, hunting, sightseeing, auto touring, nature viewing, photography, boating, waterskiing, fishing, and swimming.

The significance of Chickasaw stems from the following resources and values of the park:

- The availability of both mineral and fresh water, which come from one of the most complex geological and hydrological features in the United States.
- The presence of the cultural landscape of Platt Historic District, which reflects the era of 1933–1940 when the Civilian Conservation Corp (CCC) implemented NPS ''rustic'' designs.
- The availability of recreational opportunities for visitors to experience a wide range of outdoor experiences—swimming, boating, fishing, hiking, observing nature, hunting, camping, biking, horseback riding, family reunions, and picnicking.
- The presence of a transition zone where the eastern deciduous forest and the western prairies meet, which is unique to the central part of the United States.

Purpose of Chickasaw National Recreation Area

Chickasaw National Recreation Area was originally established by act of Congress as Sulphur Springs Reservation in 1902 near Sulphur, Oklahoma. Congress enlarged Sulphur Springs Reservation slightly and established it as Platt National Park in 1906. Later, it was combined with Lake of the Arbuckles to create the present day Chickasaw National Recreation Area.

The purpose of the park is addressed in the following statements that are excerpts from the park's *Strategic Plan.* The laws establishing Chickasaw provided for the National Park Service to:

- Provide for the proper utilization and control of springs and waters of its creeks.
- Provide for efficient administration of other adjacent areas containing scenic, scientific, natural, and historic values.
- Provide public outdoor recreation use and enjoyment of Arbuckle Reservoir.
- Permit hunting and fishing in some areas.

Therefore, the purpose of Chickasaw is the protection of springs and waters; the preservation of sites of archaeological or ethnological interest; the provision of outdoor recreation; the administration of scenic, scientific, natural, and historic values; the memorialization of the Chickasaw Indian Nation; and the provision for hunting and fishing.

Authority and Jurisdiction

Under the National Park Service's Organic Act of 1916 (Organic Act) (16 U.S.C. 1 *et seq.*) Congress granted the NPS broad authority 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's 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 regard 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 published a final rule (61 FR 35136, July 5, 1996) amending 36 CFR 1.2(a)(3) to clarify its authority to regulate activities within the National Park System boundaries occurring on waters subject to the jurisdiction of the United States.

PWC Use at Chickasaw National Recreation Area

Visitation at Chickasaw has remained relatively stable the last three years, with an average of 3 million visitors annually, including traffic passing through the park on U.S. Highway 177. Approximately 1.5 million visitors annually use the recreation area's facilities, including visitors pursuing recreational activities on the reservoir and those engaging in other recreational opportunities. Based on ranger observations and contacts, most PWC users are from the immediate region; within a radius of about 200 miles are Oklahoma City and the Dallas/Fort Worth area, with a population of about 5.5 million.

The majority of PWC use occurs primarily from April through September, although PWC users may be on the lake year-round. PWC users spend an average of four hours on the lake during a daily visit.

The park began counting PWC in 1996, and through the end of June 2001 approximately 1,820 PWC had been counted in the park (on a cumulative basis), compared to about 7,150 boats. Based on the number of annual launch ramp permits issued, PWC use declined from 1997 to 2000. In addition to annual permits, day use permits are also issued. These do not specify the type of boat being used and, based on staff observations, the percent of PWC entering the lake is higher for day use permits during the warm weather season. On busy summer weekends in 2001 and 2002, park staff observed between 34 and 94 PWC per day in the recreation area.

According to park records, approximately 59 PWC per day were observed during the midweek July 4, 2002, holiday period (Wednesday through Friday). Approximately 114 PWC per day were observed on Saturday and Sunday during that holiday weekend.

Lake of the Arbuckles is the only lake in Chickasaw open to PWC use; the ''Superintendent's Compendium'' (1.5 and 1.7) has closed all lakes of 100 acres or less to PWC use, including Veterans Lake (67 acres). The central part of the main body of the lake is a high-use area for PWC. Four areas of Lake of the Arbuckles are closed to all vessels to protect swimmers. Those areas are: the Goddard Youth Camp Cove, a 150 foot wide zone around the picnic area at the end of Hwy 110 (known as ''The Point'') beginning at the buoy line on the north side of the picnic area and extending south and east into the cove to the east of the picnic area, the cove located directly north of the north branch of the F Loop Road, and the Buckhorn Campground D Loop beach shoreline. These closures are sometimes violated in the Buckhorn and The Point areas when visitors on PWC and boats access picnic sites.

There are several areas designated as flat wake zones and are described as: the Guy Sandy arm upstream (north) of the east/west buoy line located near Masters pond, the Guy Sandy Cove (boat launch) west of the buoy marking the entrance to the cove, Rock Creek upstream (north) of the east/west buoy line at approximately 034°27′50″ north latitude, the Buckhorn Ramp bay, east of the north/south line drawn from the Buckhorn Ramp Breakwater Dam, a 150 foot wide zone along the north shore of the Buckhorn Creek arm starting at the north end of the Buckhorn Boat Ramp Breakwater Dam and continuing southeast to the Buckhorn Campground D Loop Beach, the cove south and east of the Buckhorn Campground C and D Loops, the cove located east of Buckhorn Campground B Loop and adjacent to Buckhorn Campground A Loop, the second cove east of Buckhorn Campground B Loop, fed by a creek identified as Dry Branch, and Buckhorn Creek upstream (east) of the east/west buoy line located at approximately 096°59′3.50″ longitude, know as the G Road Cliffs area.

Conflicts in visitor use can arise in areas that restrict boats of any kind, such as the end of Highway 110 and along the Buckhorn Pavilion to the F Loop picnic areas along the lake. These areas attract swimmers who may or may not be associated with a boat or PWC, and the conflict occurs when these vessels come into the areas to beach, pick up passengers, or change operators.

From 1995 to 2000 there were 20 vessel accidents in the recreation area, eight of which involved PWC. Four of the PWC accidents were collisions with boats, two were collisions with other PWC, and two involved PWC operators falling or being thrown off their vessels. Six of the eight accidents resulted in personal injury, and two only in property damage. The accidents occurred in the following areas: Buckhorn Arm (4), Guy Sandy Arm (2), Point Arm (1), and the central lake area (1). From 2001 to present, a total of seven accidents have been reported, five boat-only accidents and two PWC-only accidents.

Resource Protection and Public Use Issues

Chickasaw National Recreation Area Environmental Assessment

As a companion document to this NPRM, NPS has issued the *Personal Watercraft Use Environmental Assessment for Chickasaw National Recreation Area*. The Environmental Assessment (EA) was open for public review and comment from March 10, 2003, through April 8, 2003. The EA has been posted on the NRA's Web site (*http://www.nps.gov/chic/CHICPWCEA.pdf*). A copy may be requested by calling Susie Staples at 580–622–3161, extension 1–220, or by writing the Superintendent, Chickasaw National Recreation Area, 1008 W. 2nd Street, Sulphur, OK 73086.

The purpose of the environmental assessment was to evaluate a range of alternatives and strategies for the management of PWC use at Chickasaw National Recreation Area to ensure the protection of park resources and values while offering recreational opportunities as provided for in the National Recreation Area's enabling legislation, purpose, mission, and goals. The analysis assumed alternatives would be implemented beginning in 2002 and considered a 10–year period, from 2002 to 2012.

The environmental assessment evaluated four alternatives concerning the use of PWC at Chickasaw National Recreation Area. Three of the alternatives considered in the environmental assessment would permit PWC use in the park under certain conditions. Alternative A would reestablish the PWC policies that existed prior to November 6, 2002, when PWC use was permitted in Chickasaw National Recreation Area under the current Superintendent's Compendium (1.5 and 1.7) (Revised October 23, 2002, *http://www.nps.gov/chic/compen02.htm*) Alternative B would permit PWC use in roughly the same areas as Alternative A with some additional restrictions, and monitoring and enforcement policies. Alternative C would build on the enforcement and monitoring policies and other restrictions in Alternative B, by adding additional area and operating restrictions to further limit the use of PWC.

In addition to these three alternatives for permitting restricted PWC use, a no-action alternative was considered that would prohibit all PWC use within the National Recreation Area. All four alternatives were evaluated with respect to PWC impacts on water quality, air quality, soundscapes, wildlife, wildlife habitat, shoreline vegetation, visitor conflicts, visitor safety, and cultural resources.

Based on the analysis, NPS determined that Alternative B is the park's preferred alternative. Alternative B best accomplishes the objectives of managing PWC use and fulfilling the park's mission without restricting lawful use. This document proposes regulations to implement portions of Alternative B at Chickasaw National Recreation Area.

The NPS will consider the comments received on this proposal, as well as the comments received on the Environmental Assessment. In the final rule, the NPS will implement Alternative B, as proposed, or choose a different alternative or combination of alternatives. Therefore, the public should review and consider the other alternatives contained in the Environmental Assessment when

making comments on this proposed rule.

The following summarizes the predominant resource protection and public use issues associated with PWC use at Chickasaw National Recreation Area. Each of these issues is analyzed in the *Chickasaw National Recreation Area, Personal Watercraft Use Environmental Assessment*.

Water Quality

The vast majority of PWC in use today are powered by conventional two-stroke, carbureted engines, which discharge as much as 30% of their fuel unburned directly into the water. Hydrocarbons, including benzene, toluene, ethyl benzene, and xylene (BTEX) and polyaromatic hydrocarbons (PAHs), are released. These discharges have potential adverse effects on water quality.

PAHs, including those from PWC emissions, adversely affect water quality by means of harmful phototoxic effects on ecologically sensitive plankton and other small water organisms. This in turn can affect aquatic life and ultimately aquatic food chains. The primary concern is in shallow water ecosystems.

Lake of the Arbuckles, located completely within Chickasaw National Recreation Area, serves as a potable water supply for the cities of Ardmore, Davis, and Wynnewood, as well as the Wynnewood Refining Company, through water allocations from the Arbuckle Master Conservancy District. Additionally, the city of Dougherty and the Goddard Youth Camp contract with the Water Conservancy District for potable water. PWC emissions may cause impacts on water quality and subsequent concerns from entities using Lake of the Arbuckles as a potable water supply.

Continuing PWC use with the additional management restrictions proposed in this NPRM would have negligible adverse impacts on water quality in 2002 and 2012 based on all ecotoxicological benchmarks and on the human health benchmark for benzo(a)pyrene. PWC impacts on water quality from benzene in Lake of Arbuckles would be minor in 2002 and 2012; impacts in the flat wake zones would be potentially moderate in 2002, decreasing to minor in 2012. (For an explanation of terms such as ''negligible'' and ''adverse,'' see page 68 of the Environmental Assessment.)

Cumulative water quality impacts from all boating activity would be negligible in 2002 and 2012 except for benzene under the human health benchmark. Cumulative impacts from benzene could be potentially major in 2002, decreasing to moderate in 2012 as a result of improved engine technology. Benzene impacts in Lake of the Arbuckles could be greater if a strong thermocline became established, reducing the volume of water available for mixing and dilution. Conversely, impacts in the flat wake zones could be reduced by the inflow of water from the streams feeding the lake. Testing of water quality for benzene in Lake of the Arbuckles would be necessary in order for the recreation area to confirm the estimates of impacts following a high-use day. Impacts would also be reduced by prohibiting refueling of PWC while in the water.

The PWC use being proposed is not expected to result in an impairment of the water quality resource.

Air Quality

PWC emit various compounds that pollute the air. In the two-stroke engines commonly used in PWC, the lubricating oil is used once and is expelled as part of the exhaust; and 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). PWC also emit fuel components such as benzene that are known to cause adverse health effects. Even though PWC engine exhaust is usually routed below the waterline, a portion of the exhaust gases go into the air. These air pollutants may adversely impact park visitor and employee health, as well as sensitive park resources.

For example, in the presence of sunlight VOC and NO_X emissions combine to form ozone. Ozone causes respiratory problems in humans, including cough, airway irritation, and chest pain during inhalation. Ozone is also toxic to sensitive species of vegetation. It causes visible foliar injury, decreases plant growth, and increases plant susceptibility to insects and disease. Carbon monoxide can affect humans as well. It interferes with the oxygen carrying capacity of blood, resulting in lack of oxygen to tissues. NO_X and PM emissions associated with PWC use can also degrade visibility. NO_X can also contribute to acid deposition effects on plants, water, and soil. However, because emission estimates show that NO_X from PWC are minimal (less than 5 tons per year), acid deposition effects attributable to PWC use are expected to be minimal.

Continuing PWC use at Chickasaw as proposed would result in a moderate adverse impact from CO, a minor adverse impact from VOC, and negligible adverse impact from PM_{10} and NO_X in 2002. In 2012 the impact level for CO would remain moderate adverse, and VOC, PM_{10}, and NO_X impacts would be negligible. Extending the flat wake zone in the area of the Buckhorn development area would reduce the emissions of all pollutants except NO_X in comparison to the PWC use under the Superintendent's Compendium (1.5 and 1.7) which has less flat wake restrictions.

Cumulative emissions levels for CO would be moderate adverse in both 2002 and 2012. Impact for VOC would decrease from moderate in 2002 to minor in 2012, while impacts for PM_{10} and NO_X would be negligible. This proposed rule would maintain existing air quality conditions, with future reductions in PM_{10}, HC, and VOC emissions due to improved emission controls.

The PWC use being proposed would not result in an impairment of air quality.

Soundscapes Values

The primary soundscape issue relative to PWC use is that other visitors may perceive the sound made by PWC as an intrusion or nuisance, thereby disrupting their experiences. This disruption is generally short term because PWC travel along the shore to outlying areas. However, as PWC use increases and concentrates at beach areas, related noise becomes more of an issue, particularly during certain times of the day. Additionally, visitor sensitivity to PWC noise varies from anglers (more sensitive) to swimmers at popular beaches (less sensitive).

The biggest difference between noise from PWC and that from motorboats is that the former frequently leave the water, which magnifies noise in two ways. Without the muffling effect of water, the engine noise is typically 15 dBA louder and the smacking of the craft against the water surface results in a loud ''whoop'' or series of them. With the rapid maneuvering and frequent speed changes, the impeller has no constant ''throughput'' and no consistent load on the engine. Consequently, the engine speed rises and falls, resulting in a variable pitch. This constantly changing noise is often perceived as more disturbing than the constant noise from motorboats.

Under the proposed rule, PWC noise would continue to have minor to moderate, temporary, adverse impacts over the short and long term at most locations on Lake of the Arbuckles and the immediate surrounding area. Impact levels would be related to the number of PWC operating, as well as the

sensitivities of the other visitors. Expanding the flat wake zone around Buckhorn developed area would have a beneficial effect, although it would not change overall impact types of threshold levels. Over the long term PWC noise levels would be reduced with the introduction of newer engine technologies.

Cumulative noise impacts from PWC, motorboats, and other visitors would be minor to moderate because these sounds would be heard occasionally throughout the day, and they could predominate on busy days during the high-use season.

The PWC use being proposed would not result in an impairment of the park's soundscape.

Wildlife and Wildlife Habitat

PWC use affects wildlife by interrupting normal activities, causing alarm or flight, causing animals to avoid habitat, displacing habitat, and affecting reproductive success. This is thought to be caused by PWC speed, noise, and access to sensitive areas, especially in shallow water. Waterfowl and nesting birds are the most vulnerable to PWC. Fleeing a disturbance created by a PWC user may force birds to abandon eggs during crucial embryo development stages, prevent nest defense from predators, and contribute to stress and associated behavior changes. Impacts on sensitive species, such as the bald eagle, are documented below under ''Threatened, Endangered, or Special Concern Species.''

At Chickasaw, wildlife typically stay near the shoreline due to habitat constraints, with some species present on the water surface 200 feet (or more) from shore. No cases of PWC operators deliberately harassing or chasing birds or other wildlife on the Lake of the Arbuckles have been documented, nor have collisions with waterfowl or wildlife. Additionally, bird breeding season occurs in the early spring when few PWC are present. Most mammals are either transient visitors from inland parts or the recreation area or are already acclimated to human intrusion. Aquatic mammals such as beaver are mobile and avoid nose and disturbance associated with PWC use. Their breeding areas are typically backwater areas not frequented by PWC.

With respect to effects on wildlife, PWC use under this proposed rule would have a similar impact as PWC use under the current requirements and under the Superintendent's Compendium (1.5 and 1.7). PWC use would have negligible to minor, temporary, adverse effects on wildlife and wildlife habitat. Continued use of PWC at Chickasaw would have negligible to no adverse effects on fish, and negligible to minor impacts on waterfowl and other wildlife.

Cumulative impacts on wildlife from all visitor activities would be negligible to minor.

This proposed rule would not result in an impairment of wildlife or wildlife habitat.

Threatened, Endangered, or Special Concern Species

PWC use could potentially affect special status species similar to other wildlife by inducing flight and alarm responses, disrupting normal behaviors and causing stress, degrading habitat quality, and potentially affecting reproductive success.

The animal species at Chickasaw that have the potential to be affected by proposed PWC regulation include the federally listed bald eagle (threatened), whooping crane (endangered) and interior least tern (endangered). The two rare species, not legally protected under the Endangered Species Act, include the alligator snapping turtle and the Oklahoma cave amphipod. No Federal or State listed plant species are known to occur in Chickasaw.

The Bald Eagle, Interior Least Tern, and Whooping Crane are primarily winter residents at Chickasaw, although whooping cranes were sighted over Lake of the Arbuckles in October 2002 (NPS 2002c). There is no documented evidence of breeding or nesting by these species in Chickasaw. Off-season PWC use would have negligible or minor effects on the birds occasionally feeding in the area. The alligator snapping turtle could be exposed to PWC use along the shoreline during the nesting season; however, the turtles are only likely to occur within the flat wake zones which would minimize adverse effects because of reduced vessel speed in those zones. There would be no direct impact to the amphipod, which may occur in the caves along the shoreline, since PWC could not access those waters since the caves are too small.

PWC use under the proposed rule may affect, but is not likely to adversely affect, any listed wildlife or plant species at Chickasaw. While some disturbances could occur to transient wildlife species from off-season PWC use, the impacts would not be of sufficient duration or intensity to cause adverse impacts. No impacts would occur in areas where PWC use would be prohibited.

Cumulative impacts from all park visitor activities are not likely to adversely affect listed species. Listed wildlife species are only transient winter residents, and any impacts on individual plants would not jeopardize species populations within the park.

No impairment to any listed species would occur under this proposed rule.

Shorelines and Shoreline Vegetation

PWC provide access to the shoreline, and operators may disembark to explore or sunbathe. As a result, shoreline vegetation could be trampled in order to access shoreline trails or to explore along the shore. PWC users are able to access areas where most other motorcraft cannot go, which may disturb sensitive plant species such as water willow and a variety of water grasses. In addition, wakes created by PWC may affect shorelines and cause erosion.

The increased flat wake zone around the Buckhorn developed area would reduce impacts on shoreline vegetation in that area. In all other areas of the lake, PWC use and impacts under the proposed rule would be the same as those under previous use conditions. Overall, PWC use would result in a negligible to minor, localized, adverse impact on shoreline vegetation over the short and long term, with no perceptible changes in plant community size, integrity, or continuity.

Therefore, under the proposed rule, PWC use would have negligible to minor, localized, adverse impacts on sensitive shoreline vegetation over the short and long term, with no perceptible changes in plant community size, integrity, or continuity. The proposed PWC use restrictions would not result in an impairment of shoreline vegetation.

Visitor Experience

PWC use is viewed by some segments of the public as a nuisance due to the noise, speed, and overall environmental effects of PWCs, while others believe that PWC are no different from other motorized vessels and that people have a right to enjoy the sport. The primary concern involves changes in noise, pitch, and volume due to the way PWC are operated. Additionally, the sound of any watercraft can carry for long distances, especially on a calm day.

To determine impacts, the level of PWC use was calculated for areas of the national recreation area. Other recreational activities and visitor experiences that are proposed in these locations were also identified. Visitor surveys and staff observations were evaluated to determine visitor attitudes and satisfaction in areas where PWC are used. Baseline visitor survey data at Chickasaw suggest that the vast majority of visitors are satisfied with their current and past experiences.

Impacts on PWC Users. Other than the increased flat wake zone around the Buckhorn developed area, no additional areas would be closed to PWC use except on an as-needed basis, such as seasonal or permanent closures to protect threatened or endangered species and/or sensitive park resources. Fueling personal watercraft away from the water surface would possibly result in a minor inconvenience. Management restrictions under this proposed rule would result in minor to moderate adverse impacts on visitors who use PWC at Chickasaw.

Impacts on Other Boaters. Impacts on other boaters would be very similar to those previously experienced, because restrictions under the proposed rule would be specific only to PWC operators and would not affect areas or hours of operation or the number of users permitted on the lake. There could be fewer PWC users on the lake, and this would reduce conflicts with boaters. Impacts on other boaters would continue to be negligible to minor, long term, and adverse.

Impacts on Other Visitors. Impacts on other shoreline users would be similar to those previously experienced. Other visitors, particularly swimmers, may notice a slight beneficial impact due to the extended flat wake zone around the Buckhorn developed area and PWC operators refueling their watercraft in areas away from the shoreline. Impacts on other visitors would continue to have negligible to minor adverse impacts on the experiences of these shoreline visitors.

Visitor Conflicts and Safety

The National Transportation Safety Board reported that in 1996 PWC represented 7.5% of all state-registered recreational boats, but were involved in 36% of all boating accidents. In the same year, PWC operators accounted for more than 41% of people injured in boating accidents. PWC operators accounted for approximately 85% of the persons injured in accidents studied in 1997.

In part, this is believed to be a boater education issue (*e.g.*, inexperienced operators lose control of the craft), but it also is a function of the PWC operation (*e.g.*, 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.

Under the proposed rule, there would be the following impacts on swimmers and other boaters:

PWC User / Swimmer Conflicts. Impacts would be similar to the previous situation, since the number of PWC operating within the recreation area probably would not change. Extending the flat wake zone around the Buckhorn developed area, along with continued PWC use, would result in a negligible change in visitor experiences or conflicts with swimmers. However, continued violations of the flat wake zone and an expected increase of 1% per year in PWC use at congested locations, particularly boat launches near popular swim areas, could affect swimmers in the long term. Swimmers would benefit from PWC operators having to fuel their watercraft away from the water surface since it is likely that less raw fuel would be present in the water. Based on this analysis, PWC activity at Lake of the Arbuckles would have minor adverse impacts on the experiences of swimmers. Swimmers at other Chickasaw locations would continue to experience negligible adverse impacts because of the lower level of PWC use in other areas in Chickasaw.

PWC User/Other Boater Conflicts. Impacts would be similar to the previous situation. Overall, PWC use would continue to have minor to moderate adverse impacts on other motorized boat users at Chickasaw. Impacts would be concentrated at localized areas, primarily launches at The Point, Buckhorn, and Guy Sandy.

Cultural Resources

The National Park Service has a responsibility to consider the impact its actions have on cultural resources (archeological and ethnographic) in the park system. Chickasaw has cultural resources potentially eligible for listing on the National Register of Historic Places near Lake of the Arbuckles. These known sites may indicate the presence of other, unknown sites along the shores of the lake. Shoreline erosion and uncontrolled visitor access may affect these resources since riders are able to access / beach / launch in areas less accessible to most motorized vessels. Archeological sites may exist on the shoreline and under water. Erosion could cause problems with sites protected under the Native American Graves Protection and Repatriation Act.

Native American resources or use areas may be affected by erosion along shorelines, or by uncontrolled visitor access since riders are able to access / beach / launch in areas less accessible to most motorized vessels.

Potential impacts on archaeological and submerged cultural resources directly attributable to unrestricted PWC use are difficult to quantify. The most likely impact on archaeological and submerged cultural sites would result from PWC users landing in areas otherwise inaccessible to most other national recreation area visitors and illegally collecting or damaging artifacts. According to park staff, looting and vandalism of cultural resources is not a substantial problem. A direct causal relationship between impacts and PWC use is difficult to identify, since many of these areas are also accessible to backcountry hikers or other watercraft users.

Continuing PWC use under a special regulation with additional prescriptions is not expected to adversely affect the overall condition of cultural resources because project-by-project inventories and mitigation would still be conducted. This proposed rule would not result in an impairment of cultural resources.

Appropriate Native American tribes were contacted and no concerns have been expressed regarding PWC use at Lake of the Arbuckles. The following tribes were contacted; Apache Tribe of Oklahoma, Caddo Tribal Council, The Chickasaw Nation, The Choctaw Nation of Oklahoma, Comanche Tribal Business Committee, The Pawnee Business Council, The Wichita Executive Committee. None of the tribes had any comments on the proposed action. In addition, the Oklahoma Archeological Survey was contacted. There comment was that they had no objections to the project. An ethnographic study of the Platt District has been initiated and that portion of the national recreation area is a significant ethnographic resource. However, it would appear that the activity areas in the Platt District are far enough from the lake so as not to be influenced by PWC use. A specific survey for ethnographic resources in the Lake of the Arbuckles District has not been undertaken, but no specific concerns about this area have been expressed.

The proposed rule would not impact any known ethnographic resources or traditional use areas along the shoreline of Lake of the Arbuckles. No cumulative impacts on ethnographic resources have been identified and the proposed rule would not impair ethnographic resources.

The Proposed Rule

As established by the April 2000 National Park Service rule (36 CFR 3.24), PWC use is prohibited in all National Park System areas unless

determined appropriate. The process used to identify appropriate PWC use at Chickasaw National Recreation Area 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 Recreation Area in a manner that achieves the legislated purposes for which the park was established while providing reasonable access to the park by PWC.

NPS proposes to continue PWC use at Chickasaw National Recreation Area under a special regulation in § 7.50(b) with additional management restrictions. The following provisions are included in the proposed rule and would remain the same as those previously enforced in the Superintendent's Compendium (36 CFR 1.5 and 1.7): prohibited launch areas and safety/operating restrictions.

The following Oklahoma State regulations would also apply and be enforced pursuant to 36 CFR 3.1:

- 12-year-old and younger PWC operators must be accompanied by an adult.
- PWC may not be operated within 50 feet of another vessel while traveling at 10 mph or faster.
- Use of a manufacturer installed cutoff switch is required.
- Towing a water-skier is prohibited unless a cutoff switch is installed.
- PWC must have an observer in addition to the operator.
- PWC are not allowed to operate from sunset to sunrise.
- PFD are mandatory for all PWC riders.

Under this proposed rule the following additional PWC restrictions would be enforced:

- The fueling of PWC would be prohibited on the water surface. The proposed rule required that fueling be allowed only while the PWC is on a trailer and away from the water surface.
- Flat wake zones would be established around the Buckhorn developed area and would extend from the existing launch ramp cove to the Buckhorn C Loop Cove in a 150-foot buffer along the shoreline and in the Buckhorn Ramp bay, east of the north/south line drawn from the Buckhorn Ramp Breakwater Dam. Several other flat wake areas would also be established around developed areas throughout the Lake including the Guy Sandy arm near Masters Pond, the Guy Sandy Cove and Rock Creek.
- Four exclusion areas would also be established in Goddard Youth Camp Cove, near The Point, the cove north of the north branch of F Loop Road and the shoreline around Buckhorn Campground D Loop. The exclusion areas are popular swimming areas and these closures will improve visitor safety.

Economic Summary

Alternative A would permit PWC use as previously managed within the park before the ban, while Alternatives B and C would permit PWC use with additional requirements. Alternative B is the preferred alternative, and includes monitoring and closures to protect park resources, state boater registration requirements, no-wake zones, and restrictions on fueling and operator age. In addition to those requirements, Alternative C also includes an education requirement and restrictions on the number of permits issued, time and area of operation, and emissions. Alternative D is the no-action alternative and represents the baseline conditions for this economic analysis. Under that alternative, all PWC use would remain prohibited from the park. All benefits and costs associated with Alternatives A, B, and C are measured relative to that baseline.

The primary beneficiaries of Alternatives A, B, and C would be the park visitors who use PWCs and the businesses that serve them such as rental shops, gas stations, restaurants, and hotels. Over a ten-year horizon from 2003 to 2012, the present value of benefits to PWC users is expected to range between $5,399,420 and $8,222,440, 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 $25,560 and $368,570. 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 CHICKASAW NATIONAL RECREATION AREA, 2003–2012 (2001 $) [a]

	PWC Users	Businesses	Total
Alternative A:			
Discounted at 3% [b]	$8,222,440	$48,270 to $368,570	$8,270,710 to $8,591,010.
Discounted at 7% [b]	6,749,250	39,620 to 302,540	6,788,870 to 7,051,790.
Alternative B:			
Discounted at 3% [b]	7,400,220	41,480 to 308,410	7,441,700 to 7,708,630.
Discounted at 7% [b]	6,074,340	34,050 to 253,150	6,108,390 to 6,327,490.
Alternative C:			
Discounted at 3% [b]	6,577,970	31,150 to 208,490	6,609,120 to 6,786,460.
Discounted at 7% [b]	5,399,420	25,560 to 171,140	5,424,980 to 5,570,560.

[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 CHICKASAW NATIONAL RECREATION AREA, 2003–2012 (2001 $)

	Amortized total benefits per year [a]
Alternative A:	
Discounted at 3% [b]	$969,580 to $1,007,128.
Discounted at 7% [b]	966,582 to 1,004,016.
Alternative B:	
Discounted at 3% [b]	872,394 to 903,687.
Discounted at 7% [b]	869,697 to 900,892.

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

	Amortized total benefits per year [a]
Alternative C:	
Discounted at 3% [b]	774,790 to 795,580.
Discounted at 7% [b]	772,395 to 793,122.

[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, B, and C 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 Chickasaw 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.

Because the costs of Alternatives A, B, and C could not be quantified, the net benefits associated with those alternatives (benefits minus costs) also could not be quantified. However, the magnitude of costs associated with PWC use would likely be greatest under Alternative A, and lower for Alternatives B and C, respectively, due to increasingly stringent restrictions on PWC use.

From an economic perspective, the selection of Alternative B as the preferred alternative was considered reasonable even though the quantified benefits are 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. Quantification of those 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 Chickasaw National Recreation Area'' (MACTEC Engineering) dated June 2003. 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 on 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 does not raise novel policy issues. This regulation is one of the special regulations being issued 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 but no significant changes to use are proposed in this rule.

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 Management Alternatives for Personal Watercraft in Chickasaw National Recreation Area'' (MACTEC Engineering) dated June 2003. 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. 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 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 affects 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 an Environmental Assessment (EA). The EA was open for public review and comment from March 10, 2003, through April 8, 2003. The EA has been posted on the NPS Web site (*http://www.nps.gov/chic/CHICPWCEA.pdf*). A copy may be requested by calling Susie Staples at 580–622–3161, extension 1–220, or by writing the Superintendent, Chickasaw National Recreation Area, 1008 W. 2nd Street, Sulphur, OK 73086.

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. The following tribes were contacted; Apache Tribe of Oklahoma, Caddo Tribal Council, The Chickasaw Nation, The Choctaw Nation of Oklahoma, Comanche Tribal Business Committee, The Pawnee Business Council, The Wichita Executive Committee. None of the tribes had any comments on the proposed action.

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, § 7.50 Chickasaw Recreation Area.) (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. E-mail: *Execsec@ios.doi.gov*.

Drafting Information

The primary authors of this regulation are: Sarah Bransom, Environmental Quality Division, Denver; Kym Hall, Special Assistant, Washington, DC; and Steven P. Burrough, Natural Resource Program Manager and Mark Foust, Chief Ranger, Chickasaw NRA.

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, Chickasaw National Recreation Area, 1008 W. Second Street, Sulphur, OK 73086, comment by electronic mail to: *chic@den.nps.gov*, or comment by Fax at: 580–622–2296. Please also include ''PWC rule'' in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to the Superintendent, Chickasaw National Recreation Area, 1008 W. Second Street, Sulphur, OK.

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. Add new paragraph (b) to § 7.50 to read as follows:

§ 7.50 Chickasaw Recreation Area.

* * * * *

(b) *Personal watercraft (PWC).*

(1) PWC may operate on Lake of the Arbuckles except in the following closed areas:

(i) The Goddard Youth Camp Cove.

(ii) A 150 foot wide zone around the picnic area at the end of Highway 110 known as ''The Point'', beginning at the buoy line on the north side of the picnic area and extending south and east into the cove to the east of the picnic area.

(iii) The cove located directly north of the north branch of F Loop Road.

(iv) A 150 foot wide zone around the Buckhorn Campground D Loop shoreline.

(2) PWC may not be operated at greater than flat wake speed in the following locations:

(i) The Guy Sandy arm north of the east/west buoy line located near Masters Pond.

(ii) The Guy Sandy Cove west of the buoy marking the entrance to the cove.

(iii) Rock Creek north of the east/west buoy line at approximately 034°27′50″North Latitude.

(iv) The Buckhorn Ramp bay, east of the north south line drawn from the Buckhorn Ramp breakwater Dam.

(v) A 150 foot wide zone along the north shore of the Buckhorn Creek arm starting at the north end of the Buckhorn Boat Ramp Breakwater Dam and continuing southeast to the Buckhorn Campground D Loop beach.

(vi) The cove south and east of Buckhorn Campground C and D Loops.

(vii) The cove located east of Buckhorn Campground B Loop and adjacent to Buckhorn Campground A Loop.

(viii) The second cove east of Buckhorn Campground B Loop, fed by a creek identified as Dry Branch.

(ix) Buckhorn Creek east of the east/west buoy line located at approximately 096°59′3.50″ Longitude, known as the G Road Cliffs area.

(x) Within 150 feet of all persons, docks, boat launch ramps, boats at anchor, boats from which people are fishing, and shoreline areas near campgrounds.

(3) PWC may only be launched from the following boat ramps:

(i) Buckhorn boat ramp.

(ii) The Point boat ramp.

(iii) Guy Sandy boat ramp.

(iv) Upper Guy Sandy boat ramp.

(4) The fueling of PWC is prohibited on the water surface. Fueling is allowed only while the PWC is away from the water surface and on a trailer.

(5) 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 11, 2004.

Paul Hoffman,

Deputy Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 04–6640 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–2H–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 51

RIN 1024–AD20

Authentic Native Handicrafts

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: Section 416 of the National Parks Omnibus Management Act of 1998 encourages the sale of authentic United States Indian, Native Alaskan, Native Samoan and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of units of the national park system. This proposed rule would implement this and related requirements in 36 CFR 51.83.

DATES: Written comments must be received on or before May 24, 2004.

ADDRESSES: Written comments should be sent to Cynthia Orlando, Concession Program Manager, National Park Service, 1849 C Street, NW. (2410), Washington, DC 20240. Fax: 202/371–2090. E-mail: *WASO_Regulations@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, 1849 C Street, NW. (2410), Washington, DC 20240.

SUPPLEMENTARY INFORMATION: For many years it has been the policy of the National Park Service (NPS) to encourage its concessioners to sell native handicrafts to park area visitors. The Congress, through Section 416 of the National Parks Omnibus Management Act of 1998 (1998 Act), embodied this policy into law, stating that:

> Promoting the sale of authentic United States Indian, Alaskan Native, Native Samoan, and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of units of the National Park System is encouraged, and the Secretary shall ensure that there is a continuing effort to enhance the handicraft trade where it exists and establish the trade in appropriate areas where the trade currently does not exist.

In furtherance of this objective, Section 416(b) of the 1998 Act exempts the revenue derived by NPS concessioners from the sale of United States Indian, Alaskan Native, Native Samoan and Native Hawaiian handicrafts from concession contract franchise fees. This proposed regulation collectively refers to these handicrafts as ''authentic native handicrafts.''

Also, Section 417 of the 1998 Act requires the Secretary of the Interior (Secretary) to promulgate a regulation that further defines United States Indian, Alaskan Native and Native Hawaiian handicrafts.

Section 409 of the 1998 Act (16 U.S.C. 5958) requires the National Park Service Concessions Management Advisory Board (Advisory Board) to make recommendations to the Secretary regarding the nature and scope of products that qualify as authentic native handicrafts within the meaning of the 1998 Act. This proposed regulation has been developed in consideration of the recommendations of the Advisory Board.

When finalized, the proposed regulation will give guidance to the NPS and NPS concessioners as to what products meet the definition of authentic native handicrafts for purposes of franchise fee exemptions and other elements of the NPS concessions management program.

In developing the proposed regulation, NPS, upon the recommendation of the Advisory Board, incorporated to the extent appropriate the relevant definitions established by the Indian Arts and Crafts Board of the Department of the Interior (IACB) in 25 CFR part 309 in recognition of the native handicraft expertise of the IACB.

Please note that Section 417 of the 1998 Act requires the Secretary to further define ''United States Indian, Alaskan Native, and Native Hawaiian handicraft.'' However, section 416 of the 1998 Act additionally refers to Native Samoan handicraft. Accordingly, although the term ''Native Samoan handicraft'' is not defined in the proposed regulation, the proposed regulation specifies that the sale of Native Samoan handicrafts is encouraged and exempt from NPS concession contract franchise fees. An administrative definition of ''Native Samoan handicraft'' will be developed by NPS in consultation with appropriate Samoans and Samoan organizations.

The source of the definition of ''Alaskan Native'' contained in the proposed regulation is section 1602(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

The source of the term ''arts and crafts objects'' is 25 CFR part 309 (the regulations of the IACB) as adapted for purposes of this regulation.

The source of the definition of ''authentic native handicrafts'' contained in the proposed regulation is 25 CFR part 309 as adapted for the purposes of this proposed regulation.

The source of the term ''Native Hawaiian'' is Section 3001(10) of the Native American Graves Protection Act (25 U.S.C. 3001(10) and Section 14(10)) of the National Museum of the American Indian Act (Pub. L. 101–185).

The source of the term ''United States Indian'' is the applicable portion of the term ''Indian'' as defined in 25 CFR part 309.

Drafting Information

The primary authors of this rule are NPS officials that manage the concession program in units of the national park system with the advice and assistance of the Advisory Board.