

■ f. On page 14332, in paragraph (a)(15) on lines 14 and 15 remove the word "east" and add, in its place, the word "west".

Dated: March 27, 2003.

James M. Farley,

Captain, U.S. Coast Guard, Captain of the Port Tampa.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AC91

Personal Watercraft Use at Lake Mead National Recreation Area

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule designates areas where personal watercraft (PWC) may be used in Lake Mead National Recreation Area, Nevada and Arizona. This rule implements the provisions of the National Park Service (NPS) general regulation authorizing parks to allow the use of PWC by promulgating a special regulation. The *NPS Management Policies 2001* provides that individual parks should 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, overall management objectives, and consistent with the criteria of the NPS for managing visitor use. This rule authorizes the use of PWC at Lake Mead National Recreation Area consistent with the Record of Decision for Lake Management Plan.

EFFECTIVE DATE: This rule becomes effective April 9, 2003.

ADDRESSES: Mail Inquiries to: Jim Holland, Management Assistant, Lake Mead National Recreation Area, 601 Nevada Way, Boulder City, Nevada 89005.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7413, Washington, DC 20240. Phone: (202) 208-4206.

SUPPLEMENTARY INFORMATION:

Personal Watercraft Use and Regulatory Background

In May 1998 the Bluewater Network, a coalition of more than 70 organizations, filed a petition urging the National Park Service to initiate the

rulemaking process to prohibit PWC use throughout the National Park System. In response to the petition, the NPS proposed a specific PWC regulation premised on the notion that PWC use should be evaluated by the individual park area to determine if the use is an appropriate use of the park (63 FR 49312, Sept. 15, 1998).

The NPS envisioned the servicewide regulation as an opportunity to evaluate impacts from PWC use before authorizing the use. The preamble to the servicewide regulation calls the regulation a "conservative approach to managing PWC use" considering the resource concerns, visitor conflicts, visitor enjoyment, and visitor safety. During a 60-day comment period, the NPS received nearly 20,000 comments.

After reviewing the public comments and further review, the NPS promulgated a final regulation that prohibited PWC use in all units, until the individual park areas determine PWC appropriateness for continued use (36 CFR 3.24(a), 65 FR 15077-90, Mar. 21, 2000). The final rule provided a 2-year grace period for 21 parks. Specifically, the regulation allowed the NPS to designate PWC areas and to continue PWC use by promulgating a special regulation in park areas, including Lake Mead National Recreation Area. Ten NRA's were given an additional option of authorizing PWC use through the units' superintendents' compendium (36 CFR 3.24(b)), but only if the requirements of 36 CFR 1.5 were met. This additional designation method was provided for in the units because of their congressional designation as national recreation areas and specific congressional intent to provide for motorized watercraft use in these parks.

In response to the PWC final regulation, Bluewater Network sued the NPS. The organization challenged the National Park Service decision to provide a 2-year grace period allowing continued PWC use in 21 park units while prohibiting PWC use in other park units. In addition, the organization also disputed the National Park Service decision to allow 10 park units the additional option of authorizing continued PWC use after 2002 using the procedures of the superintendents' compendium (36 CFR 1.5), which would not require the opportunity for public input through a notice and a comment rulemaking process.

In response to the suit, the National Park Service and the environmental group negotiated a settlement. The resulting settlement agreement accepted by the court on April 12, 2001, required each of those parks authorizing

continued PWC use must promulgate a park-specific special regulation. The settlement agreement acknowledged that the NEPA analysis must, at a minimum, evaluate PWC impacts on water quality, air quality, soundscapes, wildlife, wildlife habitat, shoreline vegetation, visitor conflicts, and visitor safety.

In 2001 the National Park Service adopted its revised NPS Management Policies (NPS 2001) for the National Park System. The policy document included a provision addressing PWC use in park units and the need for proper evaluation before authorizing use in a specific park unit (8.2.3.3). The policy states that the use should be evaluated based on the park's enabling legislation, resources, values, other park uses, and overall management strategies.

On September 5, 2002, the National Park Service published a draft rule for the operation of PWC at Lake Mead NRA (67 FR 56785-94). The proposed rule for PWC use was based on alternative C (the preferred alternative) in the Draft Environment Impact Statement/Lake Management Plan (DEIS/LMP). The 60-day public comment period on the proposed rule ran from September 5 to November 4, 2002.

Overview of Recreational Use and Personal Watercraft

The NPS is granted broad statutory authority under various acts of Congress to manage and regulate water activities in areas of the National Park System, 16 U.S.C. 1, 1a-2(h) and 3. The NPS Organic Act, 16 U.S.C. 1 *et seq.*, authorizes the NPS to " * * * regulate the use of Federal areas known as national parks, monuments, and reservations * * * by such means and measures as conform to the fundamental purpose of the said parks * * * which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." Congress has also emphasized that the " * * * authorization of activities shall be construed and the protection, management, and administration of these areas 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, except as may have been or shall be directly and specifically provided by Congress." 16 U.S.C. 1a-1. The appropriateness of a visitor use or recreational activity will