

determined it is necessary to regulate the use of PWC in order to protect the resources of Assateague Island National Seashore and is consistent with the statutory direction to regulate boating and related activities.

*Comment 8:* One organization commented that the PWC industry has claimed that PWC are recognized by the U.S. Coast Guard (USCG) as "Class A" vessels and therefore cannot be regulated differently than other motorboats. However, the USCG states that the term "class A vessel" has no meaning insofar as USCG regulations are concerned. To date, the USCG has refrained from defining PWC and encourages other government agencies to define the craft. The NPS determined that PWC are different from conventional motorboats and finalized PWC-specific regulations in March of 2000.

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

The NPS agrees that PWC have sufficient individual characteristics to warrant regulations specific to this type of craft. With this in mind, the NPS evaluated and chose the best regulatory approach in the preferred alternative in order to maintain the opportunities for various types of recreation while protecting the resources of Assateague Island National Seashore.

### Changes to the Final Rule

Based on the preceding comments and responses, the NPS does not intend to make any changes to the provisions of this rule with regard to PWC operations.

### Compliance With Other Laws

#### *Regulatory Planning and Review* (Executive Order 12866)

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

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

The National Park Service has completed the report "Economic

Analysis of Personal Watercraft Regulations in Assateague Island National Seashore" (Law Engineering and Environmental Sciences, Inc.) dated March 2002. The report found that this proposed rule would not have a negative economic impact. In fact this rule, which will not impact local PWC dealerships and rental shops, may have an overall positive impact on the local economy. This positive impact to the local economy is a result of an increase of other users, most notably canoeists, swimmers, anglers and traditional boaters seeking solitude and quiet, and improved water quality. The economic analysis estimates that PWC users and related businesses to experience a net present value of \$475,000–\$506,600 in benefits over the next ten years as a result of implementing the preferred alternative. True social benefits are expected to be somewhat lower, since this estimate does not include increased park enforcement costs or potential adverse effects to non-PWC users due to lack of data.

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

Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule raises novel policy issues. The proposed regulation was the first special regulation 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. This regulation, and other PWC rules have generated considerable public interest because of potential environmental and economic impacts from these rules.

### Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based upon the finding in a report prepared by the National Park Service entitled, "Economic Analysis of

Personal Watercraft Regulations in Assateague Island National Seashore" (Law Engineering and Environmental Sciences, Inc., March 2002). The focus of this study was to document the impact of this rule on two types of small entities, PWC dealerships and PWC rental outlets. This report found that small businesses would experience a small economic gain as a result of implementing the preferred alternative.

### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

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

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

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

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

### *Unfunded Mandates Reform Act*

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

### *Takings (Executive Order 12630)*

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

### *Federalism (Executive Order 13132)*

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This proposed rule only effects 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