

complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise paragraph (f) in temporary § 165.T11–077, to read as follows:

#### § 165.T11–077 Security Zones; High Interest Vessels, San Francisco Bay and Delta ports, California.

\* \* \* \* \*

(f) *Effective period.* This section is effective at 11:59 p.m. PST on February 10, 2003, and will terminate at 11:59 p.m. PST on March 31, 2004.

Dated: September 11, 2003.

Gerald M. Swanson,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 03–24365 Filed 9–25–03; 8:45 am]

BILLING CODE 4910–15–P

#### DEPARTMENT OF THE INTERIOR

##### National Park Service

##### 36 CFR Part 7

##### RIN 1024–AC90

##### Glen Canyon National Recreation Area, PWC Use

AGENCY: National Park Service, Interior.

ACTION: Final rule.

**SUMMARY:** This rule designates areas where personal watercraft (PWC) may be used in Glen Canyon National Recreation Area, Utah 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 special regulations. 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.

**EFFECTIVE DATE:** This rule becomes effective September 26, 2003.

**ADDRESSES:** Mail inquiries to Kitty L. Roberts, Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, Arizona 86040.

**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](mailto:Kym_Hall@nps.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *Statutory Authority To Regulate Recreational Use*

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's Organic Act of 1916 (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

vary from park to park. NPS Management Policies states that “the laws do give the Service the management discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impact does not constitute impairment of the affected resources and values.” (1.4.3). NPS Management Policies provide further that, “preserving park resources and values unimpaired is the core, or primary responsibility of NPS managers \* \* \*. In cases of doubt as to impacts of activities on park natural resources, the Service will decide in favor of protecting the natural resources.” (4: 1).

The Organic Act and the other statutory authorities of the NPS vest the NPS with substantial discretion in determining how best to manage park resources and provide for park visitors. “Courts have noted that the Organic Act is silent as to the specifics of park management and that under such circumstances, the NPS has broad discretion in determining which avenues best achieve the Organic Act's mandate \* \* \*. Further, the NPS is empowered with the authority to determine what uses of park resources are proper and what proportion of the park resources are available for each use” *Bicycle Trail Council of Marin v. Babbitt*, 82 F.3d 1445, 1454 (9th Cir. 1996), quoting *National Wildlife Federation v. National Park Service*, 669 F. Supp. 384, 390 (D. Wyo. 1987). In reviewing a challenge to NPS regulations at Everglades National Park, the court stated, “The task of weighing the competing uses of Federal property have been delegated by Congress to the Secretary of the Interior \* \* \*. Consequently, the Secretary has broad discretion in determining how best to protect public land resources.” *Organized Fisherman of Florida v. Hodel*, 775 F.2d 1544, 1550 (11th Cir. 1985), *cert. denied*, 476 U.S. 1169 (1986).

##### *Regulation of PWC Use*

Over the years, NPS areas have been impacted with new, and what often prove to be controversial, recreational activities. These activities tend to gain a foothold in NPS areas in their infancy, before a full evaluation of the possible impacts and ramifications that expanded use will have on the area can be initiated, completed, and considered. PWC use fits this category.

PWC use emerged and gained popularity in park units before the National Park Service could initiate and complete a full evaluation of the possible impacts and ramifications. Although PWC use remains a relatively