

“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 Amistad National Recreation Park, 4121 Highway 90 West, Del Rio, Texas.

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

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, 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 April 3, 2003. The public should be aware that two 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 personal watercraft (PWC) use within all units of the national park system (65 FR 15077). This regulation prohibits PWC use in all national park 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 that a grace period was provided for 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 allowed to continue.

Description of Amistad National Recreation Area

Amistad National Recreation Area lies along the United States-Mexico border near Del Rio, Texas. The unit consists of 57,292 acres of land and water and is a man-made reservoir resulting from the construction of a dam at the confluence of Devils River and the Rio Grande. The reservoir is 1,117 feet above sea level at the normal conservation level, and the park boundary continues 83 miles

northwest up the Rio Grande, 25 miles north up the Devils River, and 14 miles north up the Pecos River. The park boundary varies but is generally at the elevation mark of 1,144.3 feet above mean sea level, and the lake level fluctuates in relation to this. The international boundary between the United States and Mexico falls in the middle of the Rio Grande River. The International Boundary and Water Commission has placed buoys in the center of the channel for the first 28 miles but the reservoir is otherwise unmarked. The Mexico side of the reservoir does not have any protected status, thus the NPS does not generally consult with Mexican officials on matters such as boating management in a formal sense.

Amistad is home to a rich archeological record and world-class rock art. Within or immediately adjacent to park boundaries are four archeological districts and one site listed on the National Register of Historical Places.

Amistad National Recreation Area supports a wide variety of boating activities throughout the year, including PWC use, powerboating, waterskiing, houseboating, boat fishing, sightseeing by boat, sailboating, sailboarding, canoeing, and kayaking. Amistad receives over 1,000,000 visitors a year and issues approximately 5,000 lake use permits annually.

Purpose of Amistad National Recreation Area

The purpose of Amistad National Recreation Area is to provide visitors and neighbors with opportunities and resources for safe, high-quality public outdoor recreation and use of Lake Amistad; to develop and maintain facilities necessary for the care and accommodation of visitors; and to support the concepts of stewardship and protection of resources and environmental sustainability by practicing and interpreting their application in a unit of the national park system.

Significance of Amistad National Recreation Area

According to Amistad's 2001–2005 strategic plan, the primary significance of Amistad National Recreation Area can be summarized as: (1) Offering diverse water-based recreational opportunities, especially fishing; (2) interpreting exceptional examples of Lower Pecos archeology and rock art and; (3) commemorating a water conservation partnership between the United States and Mexico.

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

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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 * * *

NPS' regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters and areas within their ordinary reach—as with the United States Coast Guard; and non-navigable waters that are administered by the NPS, 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 Amistad National Recreation Area

The park began regularly documenting PWC use on July 4, 1992, but the earliest record is from March 1989, when a violation notice was issued to an operator for reckless and negligent behavior near a swim beach. PWC use became more common between 1990–91, and in May 2001 park staff began collecting more specific PWC use data. The highest use generally occurs in summer from Friday through Sunday, and in 2001 ranged from as low as 1 PWC per day up to 35 per day. Park staff believes that PWC use is increasing at approximately 1.5% per year.

Data collected during 2001 and 2002 show that PWC users are a consistent part of the total boating population of the lake, and holidays show the highest amount of use. The highest PWC-use weekday was Wednesday, July 4, 2001