

Therefore implementation of this proposed rule would not result in an impairment of cultural resources.

### **The Proposed Rule**

PWC use would be allowed under a special regulation in 36 CFR 7.79 and would be managed consistent with the management strategies in effect before November 7, 2002. PWC users could travel wherever other motorized vessels are allowed. Under the present "Superintendent's Compendium," Hidden Cave Cove, Painted Canyon and Seminole Canyon are closed to all vessels. Due to Homeland Security concerns, the water extending 1000 feet from Amistad Dam is closed to all boating use, motorized and non-motorized. Consistent with the current "Superintendent's Compendium," the proposed rule prohibits all PWC users (and others under the Compendium authority), from landing in areas with interior least tern nesting colonies. Terns nest on islands and peninsulas on the lake from May 1 through August 31. To avoid disturbing nesting activity, these areas are closed to all public use during the nesting season, and signs are posted to warn visitors not to approach. Additionally, the staff at Amistad enforces 36 CFR part 3 regulations. These regulations adopt all non-conflicting State of Texas watercraft laws and regulations.

### **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 Amistad National Recreation Area" (MACTEC Engineering, November 2002).

(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 rule 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 raise novel legal or policy issues. This rule is one of the special regulations being issued for managing PWC use in National Park Units. The National Park Service published 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 requirement 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.

### **Regulatory Flexibility Act**

The Department of the Interior certifies that this rulemaking 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 on a report entitled "Economic Analysis of Personal Watercraft Regulations in Amistad National Recreation Area" (MACTEC Engineering, November 2002).

### **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. This proposed 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 does not impose any 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 takings implications. A taking implication assessment is not required. No taking 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 by allowing PWC use in specific areas 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 a draft Environmental Assessment (EA). The EA was available for public review and comment from April 9, 2003 to May 3, 2003. Copies of the environmental assessment may be downloaded at <http://www.nps.gov/amis/pwc.pdf> or obtained at park headquarters Monday through Friday, 8am to 5pm, just west of Del Rio at 4121 Hwy 90 W. Mail inquiries should be directed to: Amistad National Recreation Area, HCR 3 Box 5J, Del Rio TX 78840, Phone (830) 775-7491.

### **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 have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

There are 17 tribes with historical ties to the lands of the Amistad NRA. However, none of those tribes have any