

**PART 1656—ALTERNATIVE SERVICE**

1. The authority citation for part 1656 continues to read as follows:

**Authority:** Military Selective Service Act (50 U.S.C. App. 451 *et seq.*); E.O. 11623.

2. Amend part 1656, Alternative Service, to remove the words “Civilian Review Board” and add, in their place, the words “District Appeal Board”, in the following places:

- a. Section 1656.11(b)(4)
- b. Section 1656.13(d) and (f) and (g) and (h)
- c. Section 1656.18(c)

**§ 1656.1 [Amended]**

3. Amend § 1656.1 to remove paragraph (b)(6) and redesignate paragraphs (b)(7) through (14) as paragraphs (b)(6) through (13).

**§ 1656.3 [Amended]**

4.–5. Amend § 1656.3 to remove paragraph (a)(10) and redesignate paragraphs (a)(11) through (13) as paragraphs (a)(10) through (12).

**§ 1656.13 [Amended]**

6.–7. Amend § 1656.13 by removing paragraph (e) and by redesignating paragraphs (f) through (h) as paragraphs (e) through (g).

**§ 1656.18 [Amended]**

8. Amend § 1656.18(c) by revising the phrase “§ 1656.13(c) or (g)” to read “§ 1656.13(c) or (f)”.

Dated: January 28, 2004.

**Lewis C. Brodsky,**

*Acting Director of Selective Service.*

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**DEPARTMENT OF THE INTERIOR****National Park Service****36 CFR Part 7**

**RIN 1024–AD01**

**Lake Roosevelt National Recreation Area, Personal Watercraft Use**

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service (NPS) is proposing to designate areas where personal watercraft (PWC) may be used in Lake Roosevelt National Recreation Area, Washington. This proposed rule implements the provisions of the NPS general regulations authorizing park areas to allow the use of PWC by promulgating a special regulation. The NPS *Management Policies 2001* require

individual parks to 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, and overall management objectives.

**DATES:** Comments must be received by April 6, 2004.

**ADDRESSES:** Comments on the proposed rule should be sent or hand delivered to Superintendent, Lake Roosevelt National Recreation Area, 1008 Crest Drive, Coulee Dam, WA 99116. E-mail comments may also be sent to [laro@den.nps.gov](mailto:laro@den.nps.gov). If you comment by e-mail, please include “PWC rule” in the subject line and your name and return address in the body of your Internet message.

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

**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***Additional Alternatives*

The information contained in this proposed rule supports implementation of portions of the preferred alternative in the Environmental Assessment published April 28, 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. The regulation established a 2-year grace period for 21 park units with existing PWC use to consider whether PWC use should be permitted to continue.

*Description of Lake Roosevelt National Recreation Area*

Lake Roosevelt National Recreation Area was established in eastern Washington State in 1946 following the Secretary of the Interior’s approval of a Tri-Party Agreement among the National Park Service, the Bureau of Reclamation, and the Bureau of Indian Affairs. The reservoir and related lands were administered as the recreation area under this agreement until 1974 when Interior Secretary Rogers C.B. Morton directed that the agreement for the management of the lake be expanded to include the Confederated Tribes of the Colville Reservation and the Spokane Tribe of Indians. Secretary Morton’s directive was prompted by the Interior Solicitor’s opinion that the tribes have exclusive rights to hunting, boating, and fishing within those areas of the reservoir that are within the boundaries of the two Indian reservations. An accord was reached on April 5, 1990, when the Secretary of the Interior approved the Lake Roosevelt Cooperative Management Agreement. The agreement confirmed and established management authority of the two Indian tribes over the portions of Lake Roosevelt and related lands within the boundaries of their respective reservations that were previously administered as part of the national recreation area. In 1997, the name of the park was changed from Coulee Dam National Recreation Area to Lake Roosevelt National Recreation Area.

With the approval of the Lake Roosevelt Cooperative Management Agreement, Lake Roosevelt National Recreation Area was defined as the waters and lands managed by the National Park Service. Lake Roosevelt National Recreation Area consists of 312 miles of shoreline along the Columbia River. The National Park Service administers 47,438 acres of the 81,389-acre water surface (at full pool), and 12,936 acres of adjacent land. The lands of Lake Roosevelt National Recreation Area consist primarily of a narrow band of shore above the maximum high water mark (1,290 feet), which was originally purchased by the Bureau of Reclamation for construction of the reservoir. The national recreation area also includes shoreline along about 29 miles of the Spokane River Arm of the lake and about 7 miles along the Kettle River Arm. Most of the remainder of the shoreline and surface area of Lake Roosevelt lies within the reservation boundaries of the Spokane Tribe and the Colville Confederated Tribes and is not part of the national recreation area. The Bureau of Reclamation retains the

management of the dam, an area immediately around the dam, and a few other locations that are necessary for operating the reservoir.

The NPS at Lake Roosevelt preserves and protects a rich cultural history throughout the park. 9,000 years of human use of the area is evident throughout the park through a variety of archeological resources. Historical features such as St. Paul's Mission and Fort Spokane attest to a more recent history. The natural features around the lake tell the story of the Ice Age Floods that shaped this landscape about 13,000 years ago. The recreation area is home to many species of wildlife and fish, including bald eagles, peregrine falcons, black bear, kokanee salmon and walleye. Ponderosa Pine and Douglas Fir are plentiful. Popular types of recreation include fishing, swimming, boating, water skiing, picnicking, and camping from boats and vehicles.

#### *Purpose of Lake Roosevelt National Recreation Area*

The purpose and significance statements below are from Lake Roosevelt's Strategic Plan (NPS 2000) and General Management Plan (NPS 2000). Lake Roosevelt National Recreation Area was established for the following purposes:

- (1) To provide opportunities for diverse, safe, quality, outdoor recreational experiences for the public.
- (2) To preserve, conserve, and protect the integrity of natural, cultural, and scenic resources.
- (3) To provide opportunities to enhance public appreciation and understanding about the area's significant resources.

The Recreation Area has no specific enabling legislation and was created under an act passed in 1946 authorizing the administration of the areas by the NPS pursuant to cooperative agreements. [Act of August 7, 1946, ch. 788, 60 Stat. 855; 16 U.S.C. 17j-2(b)].

#### *Significance of Lake Roosevelt National Recreation Area*

The following statements summarize the significance of Lake Roosevelt National Recreation Area:

- (1) It offers a wide variety of recreation opportunities in a diverse natural setting on a 154-mile-long lake that is bordered by 312 miles of publicly owned shoreline that is available for public use.
- (2) It contains a large section of the upper Columbia River and a record of continuous human occupation dating back more than 9,000 years.
- (3) It is contained within three distinct geologic provinces—the

Okanogan Highlands, the Columbia Plateau, and the Kootenay Arc, which were sculpted by Ice Age floods.

The park's mission statement is as follows: As a unit of the national park system, Lake Roosevelt National Recreation Area is dedicated to conserving, unimpaired, the natural and cultural resources and recreational and scenic values of Lake Roosevelt for the enjoyment, education, and inspiration of this and future generations. The recreation area also shares responsibility for advancing a great variety of programs designed to help extend the benefits of natural and cultural resource conservation and outdoor recreation.

#### *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

\* \* \*

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 \* \* \*

As with the United States Coast Guard, the NPS's regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters and areas within their ordinary reach, 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 Lake Roosevelt National Recreation Area**

A variety of watercraft can be found on Lake Roosevelt during the summer season, e.g., ski boats, PWC, runabouts, day cruisers, sailboats (some with auxiliary motors), houseboats, and, to a

lesser degree, canoes, kayaks, and rowboats. Activities on the lake associated with boating include sightseeing, water skiing, fishing, swimming, camping, picnicking, and sailing. The park estimates that there were over 50,000 boat launches during the 2001 primary boating season based on the launch fees counted at the park. Most boaters reside within 100 miles of Lake Roosevelt but others come from cities and communities throughout Washington, as well as from Idaho, Oregon and Canada. PWC use is estimated at approximately 56 PWC users on a peak use summer day in 2002, increasing to an average of 62 PWC users per peak use day by 2012.

PWC use began on Lake Roosevelt during the 1980s but did not become fairly common until the mid-1990s. PWC are often used as a houseboat accessory. Activities undertaken by PWC on Lake Roosevelt include running up and down sections of the lake, towing skiers, jumping wakes, and general boating activities. Surveys of boat trailers conducted in 2001 and 2002 estimate the number of PWC to be approximately 4% of all boating use at Lake Roosevelt. PWC are allowed to launch, operate, and beach from dawn to dusk throughout the national recreation area. The primary PWC use season is June through September with some use from April through May and October through December, but no use in winter months because the weather and water is generally too cold.

In the past, PWC were regulated as vessels under the Superintendent's Compendium and, along with other vessels, were allowed in all areas of the lake. The Superintendent's Compendium is terminology the NPS uses to describe the authority provided to the Superintendent under 36 CFR 1.5 and 1.7. It allows for local, park-specific regulations for a variety of issues and under specific criteria. Before the closure, areas 100 feet around swim beaches, marinas, and narrow sections of the lake had speed or "flat-wake" restrictions applicable to all boats based on Washington State boating regulations. In addition, before the closure, flat-wake zones on the lake included Hawk Creek from the waterfall at the campground to an area called "the narrows" and on the Kettle River above the Napoleon Bridge. Crescent Bay Lake, located near Lake Roosevelt but not a connected waterway, was closed to all motorized craft. In flat-wake zones boats and PWC could not exceed flat-wake speed which is defined as a minimal disturbance of the water by a vessel in order to prevent damage or injury.

None of the concessioners at Lake Roosevelt currently rent PWC. Within 60 to 100 miles of the park, a total of five PWC dealerships were identified in Wenatchee, Spokane, and Okanogan. No PWC dealerships were identified closer to the park. A total of three rental shops were found within 30 miles of the park including Banks Lake, Sun Lake, and Blue Lake.

Within 100 miles of Lake Roosevelt National Recreation Area there are several major lakes and many smaller lakes that allow PWC. The larger lakes include Banks Lake and Lake Chelan in Washington and Lake Coeur d'Alene and Lake Pend Oreille in Idaho.

Some research suggests that PWC are viewed by some segments of the public as a "nuisance" due to their noise, speed, and overall effects on the environment while others view PWC as no different from other watercraft and that PWC users have a "right" to enjoy their sport. There has been some conflict between PWC and fishermen, canoeists, and swimmers at Lake Roosevelt.

Due to their ability to reach speeds in the 60 miles per hour range and their ability to access shallow-draft areas, PWC can create wakes that pose a conflict for both shore and boat fishermen and a safety hazard to other users such as canoeists, kayakers and windsurfers. At Lake Roosevelt National Recreation Area, some complaints by fisherman, canoeists or swimmers have been received concerning wakes created by PWC. Some complaints have also been received concerning the operating speed of PWC.

A total of only eight safety incidents involving PWC were reported on Lake Roosevelt during the years 1997 through 2002.

### Resource Protection and Public Use Issues

#### *Lake Roosevelt National Recreation Area Environmental Assessment*

In addition to this proposed rule, NPS has issued the *Personal Watercraft Use Environmental Assessment for Lake Roosevelt National Recreation Area*. The Environmental Assessment (EA) was open for public review and comment from April 28, 2003 to May 28, 2003. Copies of the EA may be downloaded at <http://www.nps.gov/laro> or by calling 509-633-9441 ext. 110 or by writing to the Superintendent, Lake Roosevelt National Recreation Area, 1008 Crest Drive, Coulee Dam, WA 99116.

The purpose of the EA was to evaluate a range of alternatives and strategies for the management of PWC use at Lake

Roosevelt to ensure the protection of park resources and values while offering recreational opportunities as provided for in the National Recreation Area's enabling legislation, purpose, mission, and goals. The analysis assumed alternatives would be implemented beginning in 2002 and considered a 10-year use period, from 2002 to 2012. In addition, the analysis assumes that PWC annual use will increase approximately 1% annually and due to the narrow and linear characteristics of the reservoir, each PWC that launches is assumed to recreate on waters managed by both NPS and tribal entities during an average trip, regardless of launch point. The NPS assumes no jurisdiction over tribal waters and generally does not enforce regulations in those areas, however, because of existing Memorandums of Understanding with the tribes the park may respond to law enforcement or emergency situations on tribal waters.

The EA evaluates three alternatives concerning the use of PWC at Lake Roosevelt National Recreation Area.

Alternative A would allow PWC use under a special NPS regulation in accordance with NPS *Management Policies 2001*, park practices, and state regulations. That is, after the effective date of a final rule, PWC use would be the same as it was before the closure on November 7, 2002. Therefore, under Alternative A, PWC use would be allowed throughout the recreation area, with limitations only in areas where restrictions existed before the closure. These areas include the following: Crescent Bay Lake (motorized watercraft restricted), Upper Kettle River, above the Napoleon Bridge (flat wake), and Upper Hawk Creek from the waterfall near the campground through the area known as the "narrows" (flat wake). Launch and retrieval of PWC would continue to be permitted only at designated boat launch ramps within Lake Roosevelt National Recreation Area. PWC users would be able to land anywhere along the shoreline, except in designated swimming areas. All non-conflicting State and Federal watercraft laws and regulations would continue to be enforced.

As with Alternative A, Alternative B would reinstate PWC use under a special regulation, but specific limits and use areas would be defined. However, based on comments received from the public during the EA scoping process and through the comment period, this proposed rule would implement Alternative B with one modification; the Kettle River would be closed to PWC above the Hedlund Bridge. The EA does not discuss this

modification but impacts from this additional closure have been analyzed by the NPS and will be discussed in the decision document for this EA and we are soliciting additional comments on this closure in this proposed rule. Throughout this proposed rule, the preferred alternative will continue to be referred to as Alternative B however it differs slightly from the Alternative B referred to in the EA.

Under Alternative B, PWC use would be reinstated within Lake Roosevelt in most locations of the recreation area where it was allowed prior to November 7, 2002 with some new restrictions. Under this alternative, the current flat-wake zone in Hawk Creek and the restriction on motorized watercraft use on Crescent Bay Lake would remain. In addition, extra flat-wake speed zoning would be implemented. These flat-wake restrictions would apply to the following areas: Within 200 feet from launch ramps, marina facilities, campgrounds, beaches occupied by swimmers, water skiers and other persons in the water and the Spokane Arm from 100 feet west of the Two Rivers Marina on the downstream end, to 100 feet east of the Fort Spokane launch ramp on the upstream end, above the vehicle bridge. In addition to the extra flat-wake zones, PWC use would be prohibited on the Kettle River from Hedlund Bridge, north to the headwaters. Except for Napoleon Bridge launch on the Kettle River where PWC launching would be prohibited, launch and retrieval of PWC would be permitted only at designated boat launch ramps within Lake Roosevelt National Recreation Area. As with Alternative A, PWC users would be able to land anywhere along the shoreline, except in designated swimming areas and all state and federal watercraft laws and regulations would continue to be enforced.

The no-action alternative would continue the current closure on PWC use within this national park system unit.

Based on the environmental analysis prepared for PWC use at Lake Roosevelt National Recreation Area, Alternative B is the preferred alternative and is also considered the environmentally preferred alternative because it would best fulfill park responsibilities as trustee of this sensitive habitat; ensuring safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and attaining a wider range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences.

This document proposes regulations to implement Alternative B at Lake Roosevelt National Recreation Area.

The NPS will consider the comments received on this proposal, as well as the comments received on the EA. In the final rule, the NPS will implement Alternative B as proposed, or choose a different alternative or combination of alternatives. Therefore, the public should review and consider the other alternatives contained in the EA when making comments on this proposed rule.

The following summarizes the predominant resource protection and public use issues associated with reinstating PWC use at Lake Roosevelt National Recreation Area under the proposed rule which implements Alternative B. Each of these issues is analyzed in the *Lake Roosevelt National Recreation Area, Personal Watercraft Use Environmental Assessment*.

#### Water Quality

Most research on the effects of PWC on water quality focuses on the impacts of two-stroke engines, and it is assumed that any impacts caused by these engines also apply to the PWC powered by them. There is general agreement that two-stroke engines discharge a gas-oil mixture into the water. Fuel used in PWC engines contains many hydrocarbons, including BTEX. Polycyclic aromatic hydrocarbons (PAH) also are released from boat engines, including those in PWC. These compounds are not found appreciably in the unburned fuel mixture, but rather are products of combustion. Discharges of these compounds—BTEX and PAH—have potential adverse effects on water quality. A common gasoline additive, MTBE, is currently being used in the state of Washington; however, a ban on its use took effect on December 31, 2003. A small percentage of all types of boaters may come from surrounding states or Canada and could potentially be carrying fuel that contains MTBE but the numbers of these users would be low.

A typical conventional (*i.e.*, carbureted) two-stroke PWC engine discharges as much as 30% of the unburned fuel mixture directly into the water. At common fuel consumption rates, an average two-hour ride on a PWC may discharge 3 gallons of fuel into the water. According to the California Air Resources Board, an average PWC can discharge between 1.2 and 3.3 gallons of fuel during one hour at full throttle. However, hydrocarbon (HC) discharges to water are expected to decrease substantially over the next 10

years due to mandated improvements in engine technology by the EPA.

Under this proposed rule, PWC use would be reinstated within Lake Roosevelt in all locations where it was allowed prior to November 7, 2002 except on the Kettle River. In addition to the current flat wake zone on Hawk Creek, and the restriction on motorized watercraft use on Crescent Bay Lake, additional flat wake speed zoning would be implemented. These flat wake restrictions would apply to the following areas: Within 200 feet of launch ramps, marina facilities, campgrounds, beaches occupied by swimmers, water skiers, and other persons in the water and on the Spokane Arm from 100 feet west of the Two Rivers Marina on the downstream end, to 100 feet east of the Fort Spokane launch ramp on the upstream end, above the vehicle bridge.

Since PWC are assumed to operate for only short periods of time in flat-wake zones, effects from low throttle operation in these areas would likely be insignificant. Therefore, calculations only address full throttle operation in the main body of the reservoir. However, it is acknowledged that emissions could potentially build up in areas where use is heavy such as around launch facilities and shallow water high activity areas where flat-wake zoning would be extended. Retention time for waters contained in the lake range from 28 to 52 days depending on the time of year and how much water the dam is releasing. This proposal would also establish a resource monitoring program addressing water quality sampling for watercraft emissions in areas of high PWC and motorized vessel use. These efforts would assist in the detection and future prevention of adverse impacts from PWC and other boating use in the above flat-wake zones.

Under this proposed rule, cumulative adverse impacts from PWC and other watercraft would be negligible and long-term for benzo(a)pyrene, benzene and MTBE. (For an explanation of terms such as “negligible” and “adverse” in regard to water quality, see page 93 of the EA.) The proposed additional flat-wake zone restrictions would not change the cumulative impacts on water quality in NPS or tribal managed waters. The impacts to water quality on the Kettle River would result in localized, long-term, minor, beneficial impacts due to the elimination of pollutant loads.

PWC use under this proposed rule would have negligible adverse effects on water quality based on ecotoxicological threshold volumes. Cumulative pollutant loads in 2002 and 2012 from

PWC and other motorboats would be well below ecotoxicological benchmarks and criteria. Adverse water quality impacts from PWC from benzo(a)pyrene, benzene and MTBE based on human health (ingestion of water and fish) benchmarks would be negligible in both 2002 and 2012, based on Environmental Protection Agency (EPA) and state of Washington water quality criteria. Cumulative adverse impacts from PWC and other watercraft would be negligible for benzo(a)pyrene, benzene and MTBE. Cumulative impacts from PWC and other motorboats to water quality would also be applicable to tribal managed waters. Therefore the implementation of this proposed rule would not result in an impairment of the water quality resource at Lake Roosevelt.

#### Air Quality

PWC emit various compounds that pollute the air. In the two-stroke engines commonly used in PWC, the lubricating oil is used once and is expelled as part of the exhaust; and the combustion process results in emissions of air pollutants such as volatile organic compounds (VOC), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM), and carbon monoxide (CO). PWC also emit fuel components such as benzene that are known to cause adverse health effects. Even though PWC engine exhaust is usually routed below the waterline, a portion of the exhaust gases go into the air. These air pollutants may adversely impact park visitor and employee health, as well as sensitive park resources.

For example, in the presence of sunlight VOC and NO<sub>x</sub> emissions combine to form ozone. Ozone causes respiratory problems in humans, including cough, airway irritation, and chest pain during inhalations. Ozone is also toxic to sensitive species of vegetation. It causes visible foliar injury, decreases plant growth, and increases plant susceptibility to insects and disease. Carbon monoxide can affect humans as well. It interferes with the oxygen carrying capacity of blood, resulting in lack of oxygen to tissues. NO<sub>x</sub> and PM emissions associated with PWC use can also degrade visibility. NO<sub>x</sub> can also contribute to acid deposition effects on plants, water, and soil. However, because emission estimates show that NO<sub>x</sub> from PWC are minimal (less than 5 tons per year), acid deposition effects attributable to PWC use are expected to be minimal.

In this proposed rule, negligible adverse impacts for HC, PM<sub>10</sub>, and NO<sub>x</sub>, and minor impacts for CO would occur for 2002 and 2012. (For an explanation of terms such as “negligible” and

“adverse” in regard to air quality, see page 105 of the EA.) The risk from PAH would also be negligible in 2002 and 2012. Cumulative adverse impacts from PWC and other boating emissions within the national recreation area would be moderate for CO and HC, and negligible for PM<sub>10</sub> and NO<sub>x</sub> in 2002. In 2012, NO<sub>x</sub> impact would increase to minor; impacts for the other pollutants would remain at 2002 levels. A beneficial impact to regional ozone emissions would occur due to a reduction in HC emissions.

This proposed rule would not interfere with, maintain or improve existing human health air quality conditions, with future reductions in PM<sub>10</sub> and HC emissions due to improved emission controls from EPA. The PWC contribution to emissions of HC is estimated to be 10% to 11% of the cumulative boating emissions in 2002 and 2012. Cumulative impacts from watercraft emissions would also be applicable to adjacent areas under tribal jurisdiction. All impacts would be long term. Therefore, the implementation of this proposed rule would not result in an impairment of air quality.

#### *Soundscapes*

The primary soundscape issue relative to PWC use is that other visitors may perceive the sound made by PWC as an intrusion or nuisance, thereby disrupting their experiences. This disruption is generally short term because PWC travel along the shore to outlying areas. However, as PWC use increases and concentrates at beach areas, related noise becomes more of an issue, particularly during certain times of the day. Additionally, visitor sensitivity to PWC noise varies from fishermen (more sensitive) to swimmers at popular beaches (less sensitive).

The biggest difference between noise from PWC and noise from motorboats is that the PWC repeatedly leave the water during use, which magnifies noise in two ways. Without the muffling effect of water, the engine noise is typically 15 dBA louder and the smacking of the craft against the water surface results in a loud “whoop” or series of them. With the rapid maneuvering and frequent speed changes, the impeller has no constant “throughput” and no consistent load on the engine. Consequently, the engine speed rises and falls, resulting in a variable pitch. This constantly changing noise is often perceived as more disturbing than the constant noise from motorboats.

PWC users tend to operate close to shore, to operate in confined areas, and to travel in groups, making noise more noticeable to other recreationists.

Motorboats traveling back and forth in one area at open throttle or spinning around in small inlets also generate complaints about noise levels; however, most motorboats tend to operate away from shore and to navigate in a straight line, thus being less noticeable to other recreationists.

Under this proposal, PWC use would be reinstated with new restrictions to enhance overall visitor experience. This proposal would result in a reduction in noise levels from PWC to park visitors, including fishermen and near shoreline users of the swimming, picnic, and camping areas, as flat-wake speed would be implemented in these areas, resulting in beneficial impacts.

Overall, minor to moderate adverse impacts would result from PWC use on the soundscape of the recreation area. Impacts would generally be short-term, although they could periodically be more consistent and bothersome at shoreline areas on the very high use days, where motorized watercraft noise may predominate off and on for most of the day. Most visitors to Lake Roosevelt National Recreation Area during those high use periods expect to hear motorized craft during the day, as the lake is known by the mostly local and regional users for providing this type of recreational opportunity, in addition to other activities.

Noise from PWC would have minor to moderate adverse impacts at most locations at Lake Roosevelt National Recreation Area and the immediate surrounding area. (For an explanation of impact terms such as “minor”, “moderate” and “adverse” in regard to soundscape, see page 118 of the EA.) Impact levels would relate to the number of PWC operating as well as the sensitivity of other visitors. The new proposed restrictions on PWC use and proposed flat-wake areas would have beneficial impacts to some park visitors from reduced noise levels. Cumulative adverse noise impacts from PWC and other watercraft, automobiles on SR 25, aircraft, lumber operations, and other visitor activities would be minor to moderate because these sounds would be heard occasionally throughout the day, and may predominate on busy days during the high use season. Cumulative impacts to the soundscape at adjacent tribal managed visitor use areas would be similar to impacts in NPS-managed areas. Therefore, implementation of this proposed rule would not result in an impairment of the park’s soundscape.

#### *Wildlife and Wildlife Habitat*

Some research suggests that PWC use affects wildlife by causing interruption of normal activities, flight and alarm

responses, avoidance or degradation of habitat, and effects on reproductive success. This is thought to be a result of a combination of PWC speed, noise and ability to access sensitive areas, especially in shallow-water depths. Waterfowl and nesting birds are the most vulnerable to PWC. Fleeing a disturbance created by PWC may force birds to abandon eggs during crucial embryo development stages, prevent nest defense from predators, and contribute to stress and associated behavior changes. Impacts to sensitive species, such as the bald eagle, are documented under “Threatened, Endangered, or Special Concern Species.”

Under the proposed rule, PWC use would occur in the recreation areas with additional limitations such as an extension of the previous 100’ zone to 200’ flat-wake restrictions around activity areas and along a small stretch of the Spokane Arm and a prohibition of PWC use on the Kettle River. The added flat-wake restrictions would be implemented in areas where visitor activities are currently high, precluding the existence of prime wildlife habitat. Therefore, these flat-wake restrictions would have beneficial impacts through a decrease in noise and disturbance by PWC.

Impacts to mammals would be negligible to minor because most species rarely use the shoreline. Most are either transient visitors from inland parts of the recreation area or are generally acclimated to human intrusion. Primary habitat areas for large mammals such as deer and elk are typically located further inland. Small mammals common to the area such as marmots, skunks, and chipmunks generally acclimate easily to human activity and have the ability to avoid use areas. Suitable breeding habitat for birds is located in the Hawk Creek and Kettle and Colville Rivers, but these locations are protected by flat-wake designations or are inaccessible to PWC. In addition, most PWC are not used in the spring due to low water and air temperatures, further minimizing the potential for disturbance to breeding individuals. Fish could potentially be affected through pollutant loads and/or physical disturbance but reinstated use of PWC would create pollutant loads that are well below ecotoxicological benchmarks. Adverse impacts from physical disturbance by PWC use to fish populations and spawning areas at Lake Roosevelt would be short-term, negligible to minor.

Under the proposal adverse impacts to fish and wildlife from PWC use at Lake Roosevelt National Recreation

Area would be negligible to minor. (For an explanation of terms such as “negligible” and “adverse” in regard to wildlife and wildlife habitat see pages 123–124 of the EA.) All wildlife impacts would be temporary and short term. Cumulative impacts would also be adverse, and minor to moderate. Therefore, implementation of this proposed rule would not result in impairment to wildlife or wildlife habitat.

#### *Threatened, Endangered, or Special Concern Species*

This proposed regulation aims to protect threatened or endangered species, or species of special concern, and their habitats from PWC disturbances. The same issues described for PWC use and general wildlife also pertain to special status species. Potential impacts from PWC include inducing flight and alarm responses, disrupting normal behaviors and causing stress, degrading habitat quality, and potentially affecting reproductive success. Special status species at the recreation area include federal or state listed threatened, endangered, or candidate species. Additionally, some species at Lake Roosevelt are designated by the state or other local governments as species of special concern.

The Endangered Species Act (16 U.S.C. 1531 *et seq.*) mandates that all federal agencies consider the potential effects of their actions on species listed as threatened or endangered. If the National Park Service determines that an action may adversely affect a federally listed species, consultation with the U.S. Fish and Wildlife Service is required to ensure that the action will not jeopardize the species' continued existence or result in the destruction or adverse modification of critical habitat. No consultation with USFWS is required under this proposed rule.

PWC use at Lake Roosevelt may affect, but is not likely to adversely affect the following species with federal or state status: bald eagle, bull trout, California bighorn sheep, American peregrine falcon, American white pelican, black tern, moose, least bladderly milkvetch, Nuttall's pussytoes, or giant helleborine. The identified special status species are either not permanent residents that are present during times of PWC use, do not have preferred habitat in the areas used by PWC, are not usually accessible, or are generally acclimated to human activity. (For an explanation of terms such as “negligible” and “adverse” in regard to threatened, endangered, or special concern species see pages 129–130 of the EA.)

There would be no effect to all other federal or state listed species including the Canada lynx, gray wolf, grizzly bear, or woodland caribou. None of these species are believed to have resident populations within the recreation area, although habitat may exist in undeveloped forested areas near northern portions of the park.

For example, Lake Roosevelt provides opportunities for wintering activity for bald eagles. The over-wintering population is large while the resident population is low. The highest PWC use occurs in July and August, which does not coincide with wintering bald eagle activity. PWC use may affect, but is not likely to adversely affect bald eagles or their habitat.

Ute ladies'-tresses is not known to occur within the recreation area and potential habitat for the orchid is limited to side drainages where PWC use would not likely occur or would be restricted. Columbia crazyweed historically occurred along shoreline however, these populations were extirpated with the construction of the Grand Coulee Dam and no known populations occur in the recreation area now.

As outlined in the EA, and stated previously, several of the listed species that may occur in the Lake Roosevelt area are either not permanent residents that are present during times of PWC use, do not have preferred habitat in the areas used by PWC, are not usually accessible, or are generally acclimated to human activity. Reinstatement of PWC use within the national recreation area with additional management strategies may affect, but is not likely to adversely affect, any of the listed wildlife or plant species due to additional flat-wake restrictions and prohibited PWC use on the Kettle River. While some disturbance to special status species could occur from PWC use, other visitor activities on the lake and shoreline, or lake operations, these cumulative impacts would not be of sufficient duration or intensity to cause adverse impacts. Reduced impacts would occur in designated areas where PWC would be prohibited or where additional speed or flat-wake restrictions would be enforced.

#### *Shoreline Vegetation*

PWC use would result in negligible adverse effects on shoreline vegetation because shoreline vegetation is generally lacking. (For an explanation of terms such as “negligible” and “adverse” in regard to shorelines see page 135 of the EA.) Sensitive wetland and riparian areas are located in inaccessible or protected areas with

regulated PWC access such as in the Kettle River and Crescent Bay Lake. Watercraft activity could cause negligible adverse impacts to shorelines through watercraft-induced wave action or visitor access. Wind-caused wave action and lake level fluctuation could cause negligible impacts through erosion to the shoreline of the open areas of the reservoir. Lake level fluctuations could also have minor adverse impacts to sensitive vegetation in side drainages. Cumulative impacts to tribal managed shorelines at Lake Roosevelt from motorized boating and PWC use would be similar to impacts on NPS-managed areas. Therefore, implementation of this proposed rule would not result in an impairment of shoreline vegetation.

#### *Visitor Experience*

In proposing this regulation for Lake Roosevelt, NPS aims to minimize conflicts between PWC users, other park visitors, and other water recreationists.

#### *Impacts on PWC Users*

Designation of the flat-wake zones and prohibited use on the Kettle River would have negligible to minor adverse impacts on most PWC users within the national recreation area since these areas would either not be accessible or would not be available for use. (For an explanation of terms such as “negligible” and “adverse” in regard to visitor experience see page 139–140 of the EA.) However, the majority of the lake surface would still be accessible and available to PWC users. PWC use was low on the Kettle River prior to the November 2002 closure; therefore, the restricted PWC use under the proposed rule would cause negligible adverse impacts to PWC users. Other visitors to the national recreation area would experience long-term benefits since conflicts between PWC users and other visitors, primarily fishermen using the Kettle River, would be reduced. PWC use on the Kettle River and use of the Napoleon Bridge boat launch has been very low. At times of low water in Lake Roosevelt, such as during the spring drawdown, the upper reaches of the Kettle River are unnavigable by boat because the river becomes too shallow to navigate. Impacts on alternative boat launches located on the main body of Lake Roosevelt within 10 river miles of the mouth of the Kettle River would be minimal. Visitors wanting to launch PWC in the area can use Snag Cove, approximately 6 river miles from the mouth of the Kettle River of the Marcus Island boat launch that is located approximately 2 river miles from the mouth of the Kettle River.

*Impacts on Other Boaters.* Other boaters at Lake Roosevelt National Recreation Area would interact with PWC operators on an increasing basis as overall boating numbers likely increase over the next ten years. PWC use is expected to increase at the same rate as other boat use; however, PWC would still only comprise approximately 4% of total boats on Lake Roosevelt by 2012. High-use areas for PWC users and boaters include Porcupine Bay, Fort Spokane, Kettle Falls, and Bradbury Beach.

Generally, few non-motorized watercraft (sea kayaks, canoes, and windsurfers) use Lake Roosevelt, so interactions with these user groups would be infrequent. In addition, prohibition of PWC use on Kettle River and the flat wake zone on upper Hawk Creek would provide calmer waters that lead to creeks favored by canoeists and kayakers. Motorized boats are more likely to interact with PWC. The most common area for PWC/boater interaction is near the boat launches, as the majority of motorized boats enter the water at the marinas and then motor into the main body of the lake.

Under this proposed rule, the 200-foot flat-wake zone around launch ramps, marina facilities, and the flat-wake zone on the stretch of the Spokane River at Two Rivers Marina would benefit other boaters (motorized and non-motorized). The prohibited use of PWC on the Kettle River would also benefit other motorized and non-motorized boaters since there would be less physical disturbance to other boaters. Boaters in other areas of the lake would see impacts similar to those previous to the closure to PWC use. Overall, long-term impacts on the experience of other boaters would be beneficial.

*Impacts on Other Visitors.* Campers, swimmers, water skiers, anglers, hikers, and other shoreline visitors to the lake would interact with PWC users and experience impacts similar to those previous to the closure on PWC use. Swimmers and other persons in the water at shoreline areas that are also popular with PWC would experience beneficial impacts as a result of the increased flat-wake zone designations and areas where PWC use is prohibited. Shoreline campers would experience a beneficial impact especially in areas along the Kettle River due to restrictions on PWC use. Shoreline hikers would experience impacts similar to before the closure or negligible to minor adverse. All visitors would experience negligible to minor beneficial impacts. Overall, implementation of this proposed rule would result in long-term negligible to

minor beneficial impacts on other visitors.

Designation of the flat-wake zones, increasing the zone from 100' to 200', and prohibited PWC use on the Kettle River would have negligible to minor adverse impacts on most PWC users within the national recreation area since these areas would not be available for normal PWC use; however, the majority of the lake surface would still be accessible and available to PWC users. Other boaters and shoreline users would experience long-term, negligible to minor, beneficial impacts, especially at launch areas and high-use facilities. Swimmers, water skiers, and other persons in the water would experience beneficial impacts on their experience.

Cumulative effects of PWC use, other motorized boats, and other visitors would result in long-term, negligible to minor adverse impacts, while plans to improve or expand facilities would have long-term beneficial impacts on visitor experience within the national recreation area. Cumulative impacts from PWC use, motorized boats, and other visitors would also be applicable to adjacent tribal managed visitor use areas.

#### *Visitor Conflict and Safety*

Of the 46 incidents on Lake Roosevelt reported to the National Park Service between 1997 and 2002, 17% (or eight incidents) involved a PWC. Further, 55% of the incidents that involved two vessels making contact with each other (five out of nine incidents) involved at least one PWC, and three of the five two-vessel incidents (or 33%) involved two PWC striking each other. One PWC accident resulted in the death of the operator.

PWC speeds, wakes, and operations near other users can pose hazards and conflicts. Proportionally, there have been more complaints received by park staff about unsafe behavior by PWC users than any other watercraft users. Complaints have also been received from anglers, swimmers, and canoeists concerning speed of, and wakes created by, PWC.

Under this proposed rule, PWC use would be reinstated but PWC operation would be prohibited on Kettle River from Hedlund Bridge north to the headwaters and in other areas PWC use would only be allowed to occur at flat-wake speed within 200 feet of launch ramps, marina facilities, campground areas, beaches occupied by swimmers, water skiers and other persons in the NPS designated waters, and on the stretch of the Spokane Arm from 100 feet west of the Two Rivers Marina to 100 feet east of the Fort Spokane launch

ramp above the vehicle bridge. In addition, the National Park Service would establish a monitoring program to determine if and when additional regulations would be needed to protect visitor safety. PWC use could potentially be discontinued in certain areas depending on the results of monitoring.

*PWC User/Swimmer Conflicts.* The greatest potential for conflict between PWC users and swimmers is at the high-use areas near Spring Canyon, Porcupine Bay, Fort Spokane, Kettle Falls, and Bradbury Beach. The 200-foot flat-wake designation around beaches occupied by swimmers would double the flat-wake zone relative to state regulations and would result in a beneficial impact on swimmers at high-use areas. Increasing the flat wake zone around beaches occupied by swimmers is beneficial to swimmers because the water turbulence created by PWC will dissipate significantly before reaching the shore. The remaining park locations would experience little or no conflict between PWC users and swimmers. There are few swimmers in other areas of the park that are frequented by PWC users, including the Kettle River, which PWC use would be prohibited. Thus conflicts in these segments would constitute negligible adverse impacts. (For an explanation of terms such as "negligible" and "adverse" in regard to visitor conflict and safety see page 146–147 of the EA.) Overall, impacts to the safety of swimmers would be long-term, negligible to minor, and beneficial.

*PWC Users/Other Boater Conflicts.* Impacts on other boaters on the majority of the lake would be long term, negligible to minor adverse. However, flat-wake restrictions near marinas, launch ramps, and on the stretch of the Spokane Arm near the Two Rivers marina and the prohibition of PWC use on Kettle River from Hedlund Bridge north to the headwaters would reduce the potential for conflict with other boaters in these areas. Impact on other boaters in the launch areas and marinas under this proposed rule would be long-term, negligible to minor beneficial.

Overall, PWC use would have a negligible to minor adverse impact on conflicts and safety of boat users within the national recreation area. The restrictions in this proposed rule would have beneficial impact on conflict and safety on boaters concentrated at high use areas and boat launches.

*PWC Users/Other Visitor Conflicts.* PWC users and other visitors would interact under this proposed rule; however, the prohibited use on the Kettle River, in addition to the 200 foot flat-wake zone designations around

waterskiers, beaches occupied by swimmers and persons in the water would result in a long term beneficial impact on other visitors. Shoreline campers would also experience a beneficial impact on safety and conflict issues under this proposed rule. Overall, implementation of this proposed rule would have a beneficial impact on the safety of swimmers.

Reinstated PWC use with the additional restriction proposed in this rule would have short- and long-term, negligible to minor beneficial impacts on visitor conflicts and safety near the designated swim areas, boat launches, marinas, and campgrounds as well as on other visitors to Lake Roosevelt National Recreation Area. Cumulative impacts to visitor conflict and safety in tribal managed areas would be the same as before the closure on PWC use and the proposed restrictions would not affect tribal managed areas. Cumulative impacts related to visitor conflicts and safety would be negligible to minor adverse for all NPS user groups in the short and long term, particularly near the high use areas.

#### *Cultural Resources*

Under this proposed rule, Lake Roosevelt plans to manage PWC use and access to protect cultural resources including sacred sites important to Native Americans.

Reinstating PWC use within the national recreation area would have the potential to affect archeological resources by providing visitor access to resources or by causing wave action and erosion. However, potential impacts directly attributable to continued unrestricted PWC use are difficult to quantify. The most likely impact to archeological sites would result from PWC users landing in areas otherwise inaccessible to most other national recreation area visitors and illegally collecting or damaging artifacts. According to park staff, looting and vandalism of cultural resources is not a substantial problem. PWC-induced wave action is also not considered to be a large threat to archeological resources within the recreation area, as most PWC use does not occur during lake drawdowns when resources are most vulnerable.

Under the proposed rule, the creation or extension of flat-wake restrictions would reduce PWC-induced wave action. Project by project inventories and a monitoring program would determine if and when additional regulations would be necessary to protect cultural resources, resulting in minor to moderate beneficial impacts. Long-term impacts to archeological

resources would continue to be minor. (For an explanation of terms such as "minor" and "moderate" in regard to cultural resources see pages 152–153 the EA.)

Although additional flat-wake restrictions and use prohibitions on the Kettle River within the national recreation area would reduce wave action in some areas and provide a minor beneficial impact, PWC use could have minor adverse impacts on listed or potentially listed archeological resources from possible illegal collection and vandalism. Continuing PWC use under a special regulation is not expected to negatively affect the overall condition of cultural resources due to resource monitoring that would be conducted. Archeological resources in areas managed by the Colville Confederated Tribes and Spokane Tribe of Indians could experience minor to moderate adverse impacts as a result of PWC and other visitor use. All impacts would occur over the short and long term. Therefore, implementation of this proposed rule would not result in an impairment of cultural resources.

#### *Socioeconomic Effects*

This proposed rule would continue PWC use in a way that would minimize the socioeconomic effects to park visitors and local businesses. Lake Roosevelt National Recreation Area experiences relatively low rates of PWC visitation. PWC make up only approximately 4% of motorized watercraft that recreate on Lake Roosevelt. There are other destinations in the area that are more popular with PWC users such as Lake Chelan and other parks of the Columbia River. No PWC sales or rental shops are located on the banks of Lake Roosevelt, and the nearest rental facility is located on Banks Lake only three miles away.

If PWC use decreases as a result of the restrictions and the closure on the Kettle River, then the suppliers of PWC sales and rental services would be adversely affected. It is unlikely that the proposed restrictions would have substantial impacts on the sales shops because they are located 60 to 100 miles away from the national recreation area and nearby substitute areas are more popular locations for PWC use.

Under the proposed rule it is anticipated that decrease in PWC use as a result of the regulation would be essentially zero because the prohibited use on the Kettle River and implementation of the extension of the flat-wake zones would not affect the number of visitors to the lake that use PWC and the majority of the recreation area would still be open for PWC use.

The economic analysis shows an average annual economic benefit of \$147,000 to the local economy upon implementation of the final rule.

#### *Environmental Justice*

This proposed rule continues PWC use in a manner that would have no adverse effects related to environmental justice. PWC users at the national recreation area represent a cross-section of ethnic groups and income levels from the surrounding counties. Under the proposed rule all PWC user groups would continue to have access to the lake, except Crescent Bay Lake that is closed to all motorized watercraft use and the Kettle River from Hedlund Bridge north to the headwaters that is closed to PWC use.

There would be no adverse effects related to environmental justice since reinstating PWC use within the national recreation area would not disproportionately affect minority or low income populations. Recreational use facilities managed by the Indian Tribes would continue to be available to PWC users, providing long-term beneficial impacts to tribal managed facilities on both NPS and tribal lands from the reinstatement of PWC use. Reduced conflicts with other watercraft would result from the dispersion of PWC use from tribal waters to other areas of the lake, resulting in a long-term beneficial impact.

#### *National Recreation Area Management and Operations*

This proposed rule manages PWC use in a manner that minimizes the conflicts with state, tribal, and local requirements to the extent possible. PWC use under the proposed rule would be managed similar to state boating regulations with additional management prescriptions. These management strategies are more restrictive than state PWC regulations and include additional flat-wake speed zoning and areas of restricted use. The prescriptions are within the NPS legal mandate to regulate recreational activities under their jurisdiction, and there would be minimal conflict with state or other federal policies or regulations. Conflicts with regulations and policies of the Spokane Tribe of Indians and the Confederated Tribes of the Colville Reservation would exist due to differences in restrictions on the National Park Service versus tribal waters, which are contiguous.

Waters adjacent to the NPS-managed waters of Lake Roosevelt are under tribal jurisdiction and would not be included in the prescriptions implemented for PWC use on NPS-administered waters under this



proposed rule. This could potentially cause some confusion to PWC users because of the difference in regulations within the same body of water. Adverse impacts related to differences in tribal requirements or policies would be negligible to minor. The tribes enforce Washington State boating laws and regulations so differences in management prescriptions for the NPS or tribal water areas would be minimal since NPS regulations are generally consistent with state laws and regulations. There would be no conflict with other federal, state, or local PWC regulations or policies, and adverse impacts would be negligible. The NPS will work with the tribes to try to develop regulations that are consistent among all jurisdictions on the waters of Lake Roosevelt to reduce the confusion to the public. In addition, the proposed rule would have negligible to minor adverse impacts on park operations. Staffing would continue at current levels, though increased enforcement efforts would likely be required to implement additional flat-wake zoning and prohibited PWC use on the Kettle River. Additional educational efforts would also be required to inform PWC users of new regulations.

#### The Proposed Rule

Under the proposed rule, PWC use would be allowed throughout the recreation area, with certain restrictions. These restrictions are: Crescent Bay Lake, the Kettle River from Hedlund Bridge north to the headwaters (no PWC use), and Upper Hawk Creek from the waterfall near the campground through the area known as the "narrows" (flat-wake speed restriction). This proposed rule on PWC use on Lake Roosevelt would only apply to waters managed by the National Park Service and would not apply to waters that are managed by the Colville Confederated Tribes and Spokane Tribe of Indians.

As was the case prior to the November 2002 closure, Crescent Bay Lake continues to be closed to all motorized uses and Upper Hawk Creek continues to be flat wake for all motorized watercraft. The launch and retrieval of PWC would continue to be permitted only at designated boat launch ramps within Lake Roosevelt National Recreation Area. However, under the proposed rule, launching from Napoleon Bridge Launch would be prohibited because PWC use would not

be allowed in the Kettle River. Previously, the NPS restricted PWCs to flat-wake speed within 100' of launch ramps, marina facilities, campground areas, swim beaches, water skiers, or other persons in the water under Washington State regulations. The proposed rule increases the flat-wake distance in those same areas to 200'. PWC users would be able to land anywhere along the shoreline, except in designated swimming areas. Visitor education programs, such as boater safety education, that are designed to promote safe and environmentally friendly boating practices would continue. The programs would include personal contacts, newspaper articles, posting of information on boat launch bulletin boards and formal educational programs.

In addition to the above restrictions, operation of PWC would only be allowed to occur at flat-wake speeds in the stretch of the Spokane Arm from 100 feet west of the Two Rivers Marina on the downstream end, to 100 feet east of the Fort Spokane launch ramp on the upstream end, above the vehicle bridge.

In the future, PWC use could be discontinued in specific areas managed by National Park Service that experience cultural or natural resource degradation or public safety issues should monitoring of such areas reveal unacceptable impacts.

Finally, other NPS boating regulations and State and other federal watercraft laws and regulations would continue to be enforced, including regulations that address reckless or negligent operation, excessive speed, hazardous wakes or washes, hours of operation, age of driver and distance between vessels.

#### Economic Summary

The preferred alternative (Alternative B) and another alternative (Alternative A) were analyzed to determine the economic impacts of allowing the use of personal watercraft (PWC) in Lake Roosevelt National Recreation Area (LARO).<sup>1</sup> Alternative C, which would maintain a ban on PWC in LARO, represents the baseline for this analysis. The economic impacts of Alternatives A and B are measured relative to that baseline. Alternative A would reinstate PWC use in LARO as previously managed prior to the ban subject to

<sup>1</sup>This summary briefly describes the results of the economic analysis presented in National Park Service 2003.

specific location, flat wake, launch and retrieval, and operating restrictions. Alternative B would also reinstate PWC use, but includes additional location and flat wake restrictions to mitigate watercraft safety and visitor health and safety concerns, and to enhance the overall visitor experience. Additionally, Alternative B would establish a monitoring program to determine any future impacts of allowing PWC use in LARO.

The primary beneficiaries of Alternatives A and B are the visitors who would use PWCs within the recreation area if permitted, PWC users in substitute areas outside LARO where individuals displaced from LARO ride because of the ban, and the businesses that serve PWC users. All visitors using PWCs in LARO prior to the ban are assumed to regain their full economic value for PWC use in LARO under both Alternatives A and B. PWC users who currently ride in substitute areas outside LARO are assumed to gain some economic value if these areas are less crowded than under baseline conditions due to reinstating PWC use in LARO. Finally, suppliers of PWC rentals, sales, and service, as well as local hotels, restaurants, gas stations, and other businesses that serve PWC users, will likely experience an increase in business under Alternatives A and B.

While beneficiaries may gain more economic value under Alternative A than Alternative B due to fewer restrictions, NPS was unable to quantify any differences, and considers the benefits of those two alternatives to be similar. For both Alternatives A and B, PWC users are expected to gain a total present value of benefits between \$1,076,400 and \$1,311,300 over the next ten years, depending on the discount rate used.<sup>2</sup> Businesses are expected to gain a total present value of benefits between \$9,600 and \$78,000, depending on the discount rate used. The total present values of these benefits are presented in Table 1, and their amortized values per year are given in Table 2.

<sup>2</sup>Quantified economic impacts were discounted over the ten-year timeframe using both 3 and 7-percent discount rates. A 3-percent discount rate is indicated by the economics literature (e.g., Freeman, 1993) and by two Federal rule-makings (61 FR 453; 61 FR 20584). A 7-percent discount rate is required by Office of Management and Budget Circular A-94.

TABLE 1.—TOTAL PRESENT VALUE OF BENEFITS (THOUSANDS OF DOLLARS) FOR PERSONAL WATERCRAFT USE IN LAKE ROOSEVELT NATIONAL RECREATION AREA, 2003 TO 2012

	PWC users	Businesses	Total
Alternative A:			
Discounted at 3% <sup>a</sup> .....	\$1,311.3	\$12.1 to \$78.0 .....	\$1,323.5 to \$1,389.3.
Discounted at 7% <sup>b</sup> .....	1,076.4	9.6 to 61.6 .....	1,086.0 to 1,138.0.
Alternative B:			
Discounted at 3% <sup>a</sup> .....	1,311.3	12.1 to 78.0 .....	1,323.5 to 1,389.3.
Discounted at 7% <sup>b</sup> .....	1,076.4	9.6 to 61.6 .....	1,086.0 to 1,138.0.

<sup>a</sup> The economics literature supports a 3-percent discount rate in the valuation of public goods (e.g., Freeman, 1993). Federal rule-makings also support a 3-percent discount rate in the valuation of lost natural resource use (61 FR 453; 61 FR 20584).

<sup>b</sup> Office of Management and Budget Circular A-94, revised January 2003.

TABLE 2.—AMORTIZED BENEFITS PER YEAR (THOUSANDS OF DOLLARS) FOR PERSONAL WATERCRAFT USE IN LAKE ROOSEVELT NATIONAL RECREATION AREA, 2003 TO 2012<sup>a</sup>

	PWC users	Businesses	Total
Alternative A:			
Discounted at 3% <sup>b</sup> .....	\$153.7	\$1.4 to \$9.1 .....	\$155.2 to \$162.9.
Discounted at 7% <sup>c</sup> .....	153.3	1.4 to 8.8 .....	154.6 to 162.0.
Alternative B:			
Discounted at 3% <sup>b</sup> .....	153.7	1.4 to 9.1 .....	155.2 to 162.9.
Discounted at 7% <sup>c</sup> .....	153.3	1.4 to 8.8 .....	154.6 to 162.0.

<sup>a</sup> This is the total present value of benefits reported in Table 1 amortized over the ten-year analysis timeframe at the indicated discount rate.

<sup>b</sup> The economics literature supports a 3-percent discount rate in the valuation of public goods (e.g., Freeman, 1993). Federal rule-makings also support a 3-percent discount rate in the valuation of lost natural resource use (61 FR 453; 61 FR 20584).

<sup>c</sup> Office of Management and Budget Circular A-94, revised January 2003.

The costs associated with Alternatives A and B would accrue primarily to LARO visitors who do not use PWCs and whose recreation area experience is negatively affected by the use of PWCs within the recreation area. At LARO, non-PWC uses include boating, canoeing, fishing, and hiking. Impacts to these users may include the aesthetic costs associated with noise and visibility impacts, human health costs, ecosystem degradation costs, and safety and congestion costs. Average annual visitation to LARO was over 1.4 million people from 1998 to 2002. Most of these visitors are believed to come to the park for some form of water-based recreation. However, non-PWC users accounted for over 99 percent of total visitation.

“Nonusers” of the recreation area may also bear some costs under Alternatives A and B. For example, individuals who do not visit the recreation area may experience a reduction in economic value simply from the knowledge that the natural resources of the recreation area may be degraded by PWC use. Part of this loss may stem from a decreased assurance that the quality of the recreation area’s resources is being protected for the enjoyment of future generations.

Most of the costs associated with Alternatives A and B are believed to be relatively small. Evaluating these costs in monetary terms was not feasible with currently available data, but they are qualitatively described in the economic

analysis. Therefore, the benefits presented in Tables 1 and 2 above overstate the net benefits (benefits minus costs) of the different alternatives. If all costs could be quantified, the indicated net benefits for each alternative would be lower than the benefits indicated in Tables 1 and 2.

The costs associated with aesthetics, ecosystem protection, human health and safety, congestion, and nonuse values would likely be greater for Alternative A and for Alternative B due to the additional restrictions on PWC use in Alternative B. Since the quantified benefits for Alternatives A and B were the same, inclusion of these unquantified costs would reasonably result in Alternative B having the greatest level of net benefits. Therefore, based on this analysis, the selection of Alternative B as the preferred alternative was considered reasonable.

#### References

- Freeman, A. M. III. *The Measurement of Environmental and Resource Values: Theory and Methods*. Washington, DC: Resources for the Future, 1993.
- National Park Service. “Economic Analysis of Management Alternatives for Personal Watercraft in Lake Roosevelt National Recreation Area.” Report prepared for the National Park Service by MACTEC Engineering and Consulting, Inc., BBL Sciences, Inc., and RTI International, October 2003.

#### Compliance With Other Laws

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

This document is not a significant rule and has not 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. This determination is based on the report “Economic Analysis of Management Alternatives for Personal Watercraft in Lake Roosevelt National Recreation Area” (MACTEC Engineering and Consulting, Inc., October 2003).

(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.

#### *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 report "Economic Analysis of Management Alternatives for Personal Watercraft in Lake Roosevelt National Recreation Area" (MACTEC Engineering and Consulting, Inc., October 2003).

#### *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*

As a companion document to this NPRM, NPS has issued the *Personal Watercraft Use Environmental Assessment for Lake Roosevelt National Recreation Area*. The Environmental Assessment (EA) was open for public review and comment from April 28, 2003 to May 28, 2003. Copies of the environmental assessment may be downloaded at <http://www.nps.gov/laro> or obtained by calling 509-633-9441 ext. 110 or writing to the Superintendent, Lake Roosevelt National Recreation Area, 1008 Crest Drive, Coulee Dam, WA 99116. Based on comments received from the public during the EA scoping process and through the comment period, a change was made to Alternative B that would close the Kettle River to PWC use above the Hedlund Bridge. The EA does not discuss this modification but impacts from this additional closure have been analyzed by the NPS and will be discussed in the final decision document for this EA.

#### *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 potential effects.

Lake Roosevelt conducted preliminary consultation with the Spokane Tribe of Indians and the Confederated Tribes of the Colville Reservation in 2000 when the original

rulemaking came into effect. Since that time, the park has continued to keep the Tribes informed in writing about various milestones during the PWC process. The Colville Tribes have also commented on the EA which supports this rulemaking and has supported the preferred alternative which is implemented through this rulemaking. The NPS has also consulted with the Tribes on the provisions of the proposed regulation and its possible effects on tribal waters.

#### *Clarity of Rule*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example **§ 7.55 Lake Roosevelt National Recreation Area**.) (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: [Exsec@ios.doi.gov](mailto:Exsec@ios.doi.gov).

*Drafting Information:* The primary authors of this regulation are: Dan Mason, Chief Ranger, and Lynne Brougher, Chief of Interpretation, Lake Roosevelt NRA; Sarah Bransom, Environmental Quality Division; and Kym Hall, Special Assistant, Washington, DC.

#### **Public Participation**

Comments on the proposed rule should be sent or hand delivered to The Superintendent, Lake Roosevelt National Recreation Area, 1008 Crest Drive, Coulee Dam, WA 99116. Comments may also be received by e-mail at [laro@den.nps.gov](mailto:laro@den.nps.gov). If you comment by e-mail, please include "PWC rule" in the subject line and your

name and return address in the body of your Internet message.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

#### List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

#### PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority for Part 7 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8-137 (1981) and D.C. Code 40-721 (1981).

2. Amend § 7.55 by revising the section title and adding new paragraph (c) to read as follows:

#### § 7.55 Lake Roosevelt National Recreation Area.

\* \* \* \* \*

(c) Personal Watercraft (PWC). (1) PWCs are allowed on the waters within Lake Roosevelt National Recreation Area except in the following areas:

- (i) Crescent Bay Lake.
- (ii) Kettle River above the Hedlund Bridge.
- (2) Launch and retrieval of PWC are permitted only at designated launch ramps. Launching of PWC at Napoleon Bridge launch ramp is prohibited.
- (3) PWC may land anywhere along the shoreline except in designated swimming areas.
- (4) PWC may not be operated at greater than flat-wake speeds in the following locations:
  - (i) Upper Hawk Creek from the waterfall near the campground through the area known as the "narrows" to the confluence of the lake, marked by "flat wake" buoy(s).
  - (ii) Within 200 feet of launch ramps, marina facilities, campground areas,

water skiers, beaches occupied by swimmers or other persons in the water.

(iii) The stretch of the Spokane Arm from 100 feet west of the Two Rivers Marina on the downstream end, to 100 feet east of the Fort Spokane launch ramp on the upstream end, above the vehicle bridge.

(5) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: January 20, 2004.

**Craig Manson,**

*Assistant Secretary, Fish and Wildlife and Parks.*

[FR Doc. 04-2556 Filed 2-5-04; 8:45 am]

**BILLING CODE 4310-VL-P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 223

[Docket No. 040127028-4028-01; I.D 012104B]

RIN 0648-AR69

#### Sea Turtle Conservation; Restrictions to Fishing Activities

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to prohibit the use of all pound net leaders from May 6 to July 15 each year in the Virginia waters of the mainstem Chesapeake Bay, south of 37° 19.0' N. lat. and west of 76° 13.0' W. long., and all waters south of 37° 13.0' N. lat. to the Chesapeake Bay Bridge Tunnel at the mouth of the Chesapeake Bay, and the James and York Rivers downstream of the first bridge in each tributary. Additionally, NMFS proposes to prohibit the use of all leaders with stretched mesh greater than or equal to 8 inches (20.3 cm) and leaders with stringers from May 6 to July 15 each year in the Virginia waters of the Chesapeake Bay outside the aforementioned area, extending to the Maryland-Virginia State line and the Rappahannock River downstream of the first bridge, and from the Chesapeake Bay Bridge Tunnel to the COLREGS line at the mouth of the Chesapeake Bay. This action, taken under the Endangered

Species Act of 1973 (ESA), is necessary to conserve sea turtles listed as threatened or endangered.

**DATES:** Comments on this action are requested, and must be received at the appropriate address or fax number (*see ADDRESSES*) by no later than 5 p.m., eastern daylight time, on March 8, 2004.

**ADDRESSES:** Written comments on this action or requests for copies of the literature cited, the draft Environmental Assessment (EA), or Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis should be addressed to the Assistant Regional Administrator for Protected Resources, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments and requests for supporting documents may also be sent via fax to 978-281-9394. Comments will not be accepted if submitted via e-mail or the Internet.

#### FOR FURTHER INFORMATION CONTACT:

Carrie Upite (ph. 978-281-9328 x6525, fax 978-281-9394), or Barbara Schroeder (ph. 301-713-1401, fax 301-713-0376).

#### SUPPLEMENTARY INFORMATION:

#### Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the ESA. Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) sea turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered. Under the ESA and its implementing regulations, taking listed sea turtles—even incidentally—is prohibited, with exceptions identified in 50 CFR 223.206 for threatened sea turtles. The incidental take of endangered species may only legally be authorized by an incidental take statement or an incidental take permit issued pursuant to section 7 or 10 of the ESA.

On June 17, 2002, based upon the best available information on sea turtle and pound net interactions at the time, NMFS issued an interim final rule that prohibited the use of all pound net leaders measuring 12 inches (30.5 cm) and greater stretched mesh and all pound net leaders with stringers in the Virginia waters of the mainstem Chesapeake Bay and portions of the Virginia tributaries from May 8 to June 30 each year (67 FR 41196). Included in this interim final rule was a year-round requirement for fishermen to report all interactions with sea turtles in their