

**Background**

The proposed regulations that are the subject of these corrections are under section 41 of the Internal Revenue Code.

**Need for Correction**

As published, the notice of proposed rulemaking contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of the notice of proposed rulemaking (REG-133791-02; REG-105606-99), which was the subject of FR Doc. 03-17870, is corrected as follows:

1. On page 44500, column 1, in the preamble under the caption **ADDRESSES**, last paragraph, second line, the language "IRS Auditorium (7th Floor), Internal" is corrected to read "Room 4718, Internal".

**§ 1.41-6 [Corrected]**

2. On page 44503, column 3, § 1.41-6(d), paragraph (ii)(B) (3) of *Example 1*, last line in column 3, the language "minimum). The group's fixed-base" is corrected to read "maximum). The group's fixed-base".

3. On page 44504, column 3, § 1.41-6(d), paragraph (ii)(B)(3) of *Example 2*, column 3 fourth line from the bottom the language "(the statutory minimum). The group's fixed" is corrected to read "(the statutory maximum). The group's fixed".

Cynthia E. Grigsby,

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 301**

[REG-110385-99]

RIN 1545-AX39

**Partial Withdrawal of Proposed Regulations Relating to Changes in Entity Classification.**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Partial withdrawal of notice of proposed rulemaking.

**SUMMARY:** This document withdraws a portion of a notice of proposed rulemaking published on November 29, 1999, addressing certain transactions

that occur within a specified period before or after a foreign entity changed its classification to disregarded-entity status.

**DATES:** Proposed § 301.7701-3(h) is withdrawn as of October 22, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ronald M. Gootzeit, (202) 622-3860 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

On December 18, 1996, Treasury and IRS published in the **Federal Register** (61 FR 66584) final regulations (TD 8697) relating to the classification of business entities under section 7701 (check-the-box regulations). On November 29, 1999, Treasury and the IRS published in the **Federal Register** (64 FR 66591) a notice of proposed rulemaking (REG-110385-99) proposing to amend §§ 301.7701-2 and 301.7701-3 of the current check-the-box regulations (proposed regulations). A public hearing on the proposed regulations was held on January 31, 2000. In addition, written comments were received. Most of the written and oral comments related to proposed § 301.7701-3(h), which provided a rule that would have operated to change the classification of a foreign disregarded entity if a so-called "extraordinary transaction" occurred one day before or within one year after the election to treat the entity as disregarded. In general, commentators criticized the approach adopted in this rule as overly broad and expressed concern that it would mitigate the increased certainty promoted by the check-the-box regulations in 1996.

After considering the comments received, Treasury and the IRS issued Notice 2003-46 (2003-28 IRB 53) on June 26, 2003, announcing the intention to withdraw the extraordinary transaction rule in proposed § 301.7701-3(h) and to finalize the remaining provisions of the proposed regulations addressing grandfathered entities and the relevancy of classification status.

With the publication of this document, proposed § 301.7701-3(h) is withdrawn. Final regulations adopting without substantive change the portions of the proposed regulations relating to grandfathered entities and the relevancy of classification status are being published in the Rules and Regulations section elsewhere in this issue of the **Federal Register**. These final regulations do not adopt the extraordinary transaction rule in proposed § 301.7701-3(h).

**Drafting Information**

The principal author of this withdrawal notice is Ronald M. Gootzeit, Office of Associate Chief Counsel (International). However, other personnel from Treasury and the IRS participated in its development.

**List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

**Partial Withdrawal of a Notice of Proposed Rulemaking**

Accordingly, under the authority of 26 U.S.C. 7805, § 301.7701-3(h) of the notice of proposed rulemaking published in the **Federal Register** on November 29, 1999, (64 FR 66591) is withdrawn.

Robert E. Wenzel,

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 03-26546 Filed 10-21-03; 8:45 am]

BILLING CODE 4830-01-P

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

RIN 1024-AD00

**Amistad 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 Amistad National Recreation Area, Texas. 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* directs 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 December 22, 2003.

**ADDRESSES:** Comments on the proposed rule should be sent to the Superintendent, Amistad National Recreation Area, HRC 3 Box 5J, Del Rio, Texas 78840. Comments may also be sent by email to [amis@den.nps.gov](mailto:amis@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. 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](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 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  
\* \* \*

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

(a holiday), when 33 PWC trailers were observed parked at boat ramp parking lots throughout the recreation area. On that same day, 88 non-PWC boat trailers were observed in the same parking lots.

The highest use for a non-holiday weekend occurred on Saturday, June 23, 2001, when 26 PWC trailers were observed in parking lots throughout the recreation area, compared to 270 non-PWC boat trailers in the same parking lots. Visitors were attracted by the 12 largemouth black bass tournaments taking place at the lake that day and the pleasant weather conditions (bass tournaments occur every weekend during the summer). The highest holiday weekend use day was Sunday, May 26, 2002, when 38 PWC trailers (and 296 non-PWC boat trailers) were observed at launch ramps.

On busy summer weekends, PWC use can comprise between 8% and 20% of total boating activity. On summer weekdays this percentage tends to increase due to fewer out-of-town bass tournament fishermen on the lake. PWC use on summer weekdays can comprise between 19% and 40% of total boating activity in the evenings after 6:30 p.m., when local PWC owners visit the lake after work.

PWC use occurs primarily between May and September, with April and October also showing steady visitation. Weekday PWC users are primarily local residents who arrive after work, while weekend users come from areas farther away. PWC users are usually on the water all day on weekends. Park staff has indicated that PWC users generally operate for two to three hours on weekday evenings, and from four to eight hours on weekends. The increased amount of time in the water can be attributed to users taking turns riding one craft.

PWC operators have been observed traveling throughout the lake, either singly, in pairs, in small groups, or in association with a motorboat or houseboat. Within Amistad National Recreation Area, PWC use has been allowed wherever motorized boats have had access. This includes the arm of the Rio Grande, the Devils River, San Pedro Canyon, and the Pecos River.

Areas of heaviest PWC use are Devils River north of buoy P and San Pedro Canyon east of buoy A. Most of the personal watercraft launching from Rough Canyon travel up Devils River. In addition, many personal watercraft launching from Diablo East and Spur 454 travel up Devils River past buoy P. In contrast, only one or two watercraft travel up the Rio Grande past buoy 28. No PWC have been seen using the Pecos River.

The San Pedro arm of the lake (at the end of Spur 454) attracts a large number of PWC operators because it is one of the few areas where bystanders, usually friends and relatives of the PWC operators, can drive close to the shoreline to observe PWC activity or take turns riding. As a result, this location is one of the primary destinations for PWC operators. Another popular destination for PWC operators is the Indian Springs area in the upper Devils River section of the lake. While en route to Indian Springs, PWC operators tend to either travel in a direct line or explore some or all of the coves between their launch and destination points.

People who rent the 56- to 65-foot houseboats from Amistad Lake Marina often tow personal watercraft with the houseboat (two or three personal watercraft have been observed being towed). The boats are permitted to travel to most areas, so PWC use is dispersed. These tagalongs are the only personal watercraft likely to use the upper Rio Grande area (north of buoy 28).

Park staff has never seen personal watercraft used on the Pecos River. However, some PWC users may access the Pecos River without park staff knowledge. The park estimates that if PWC use occurs in the Pecos River, it would amount to less than 10 craft per year.

#### **Resource Protection and Public Use Issues**

##### *Amistad National Recreation Area Environmental Assessment*

As a companion document to this proposed rule, NPS has issued the *Personal Watercraft Use Environmental Assessment for Amistad National Recreation Area*. The Environmental Assessment (EA) was open for public review and comment from April 3, 2003, through 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.

The purpose of the environmental assessment was to evaluate a range of alternatives and strategies for the management of PWC use at Amistad 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 period, from 2002 to 2012.

The environmental assessment evaluates three alternatives concerning the use of personal watercraft at Amistad National Recreation Area. Alternative A would allow PWC use under an NPS special regulation in accordance with past 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 November 7, 2002 when the park closed to PWC use under the service-wide regulations at 36 CFR 3.24. Alternative B would continue PWC use under a special regulation, but specific limits and use areas would be defined. The no-action alternative would eliminate PWC use entirely within this national park system unit.

Based on the environmental analysis prepared for PWC use at Amistad National Recreation Area, alternative A 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; ensure safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and attain 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 A at Amistad National Recreation Area.

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

The following summarizes the predominant resource protection and public use issues associated with PWC use at Amistad National Recreation Area. Each of these issues is analyzed in the *Amistad National Recreation Area, Personal Watercraft Use Environmental Assessment*.

##### *Water Quality*

Most research on the effects of personal watercraft 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 personal watercraft powered by them. There is general agreement that two-stroke engines (including personal watercraft) discharge a gas-oil mixture into the water. Fuel used in PWC engines contains many hydrocarbons, including benzene, toluene, ethylbenzene, and xylene (collectively referred to as BTEX). Polycyclic aromatic hydrocarbons (PAHs) also are released from boat engines, including those in personal watercraft. These compounds are not found appreciably in the unburned fuel mixture, but rather are products of combustion. Discharges of all these compounds—BTEX and PAHs—have potential adverse effects on water quality.

Under the proposed regulation, PWC would be allowed within Amistad National Recreation Area with some locational restrictions. Numbers of personal watercraft using the reservoir and adjoining waters during a high-use day would likely increase from an average of 32 per day in 2002 to 37 per day in 2012, an average increase of 1.5% per year. Based on current observations it is assumed that 14 personal watercraft would operate in the Amistad Reservoir and Rio Grande upstream of the reservoir in 2002, increasing to 16 by 2012; and 18 personal watercraft would operate in Devils River and San Pedro Canyon, increasing to 21 by 2012.

Continuing PWC use under this regulation, as it was before November 7, 2002, was evaluated in the EA and the analysis determined that PWC use would have negligible adverse effects on water quality because of improved emissions controls from EPA in place by 2012. (For an explanation of terms such as “negligible” and “adverse” in regard to water quality, see page 91 of the Environmental Assessment.) The EA analysis found that all pollutant loads would be well below ecotoxicological benchmarks and human health criteria. Cumulative impacts from PWC and motorized boat use would also be negligible through improved emission controls. This proposed rule was also reviewed as required by NPS Management Policies to determine if park resources would be impaired. Based upon the findings in the EA, the NPS has concluded that PWC use would not result in an impairment of the water quality resource.

#### *Air Quality*

PWC emit various compounds that pollute the air. In the two-stroke engines commonly used in personal watercraft, 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). Personal watercraft 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 personal watercraft are minimal (less than 5 tons per year), acid deposition effects attributable to personal watercraft use are expected to be minimal.

Under the proposed rule, PWC use would be allowed to operate under the same conditions as were in effect before November 7, 2002. PWC users could operate wherever motorized vessels are authorized. The number of personal watercraft using Amistad is predicted to increase annually by approximately 1.5%, based on current trends at the unit. Baseline data for the 2001/2002 season at Amistad indicate annual use at approximately 640 personal watercraft, with each machine assumed to operate on the water for an average of four hours per day. The predominantly two-stroke engine technology would be replaced gradually over time in accordance with the Environmental Protection Agency's (EPA) requirements for engine manufacturers so that by 2012 most personal watercraft will be the cleaner burning four-stroke type.

Allowing PWC use at Amistad National Recreation Area at the previous levels would result in negligible adverse impacts for all pollutants. (For an explanation of terms such as “negligible” and “adverse” in regard to air quality see page 100 of the Environmental Assessment.) Cumulative emission levels would be

negligible for PM<sub>10</sub>, HC, VOC, and NO<sub>x</sub>. Cumulative CO emissions would be at a moderate adverse level for both the short and long term. Over the long term NO<sub>x</sub> emissions would increase slightly, with a negligible adverse effect. This alternative would not alter existing air quality conditions, with future reductions anticipated in PM<sub>10</sub>, HC, and VOC emissions due to improved emission controls. Therefore, the 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 personal watercraft as an intrusion or nuisance, thereby disrupting their experiences. This disruption is generally short term because personal watercraft 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 backcountry users (more sensitive) to swimmers at popular beaches (less sensitive). Amistad's backcountry visitors consist of boaters who camp at undesignated campsites along the shoreline.

The biggest difference between noise from PWC and that from motorboats is that PWC repeatedly leave the water, which magnifies noise in two ways. Without the muffling effect of water, the engine noise is typically 15 dBA louder than it would be while operating continually underwater and the smacking of the craft against the water surface results in a loud “whoop” noise 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 the proposed rule, noise from personal watercraft would continue to

have short-term, minor, adverse impacts at most locations throughout the use season, and short-term, minor to moderate, adverse impacts along the reservoir shoreline and at shoreline camping locations because personal watercraft could be heard occasionally throughout the day during the peak visitor season. (For an explanation of terms such as “negligible” and “adverse” in regard to soundscape see page 111 of the Environmental Assessment.) Impact levels would be related to the number of personal watercraft, as well as the sensitivity of other visitors. Over the long term newer engine technologies could result in reduced noise levels.

Cumulative noise impacts from personal watercraft, motorboats, and other visitors would be short term and minor to moderate because these sounds would be heard occasionally throughout the day. For the most part, natural sounds would still predominate at most locations within the national recreation area. The highest sound impacts would occur near boat launches, beaches, and marinas. Therefore, this alternative would not result in an impairment of the Amistad National Recreation Area’s soundscape.

#### *Wildlife and Wildlife Habitat*

Some research suggests that personal watercraft affect wildlife by interrupting normal activities. This is thought to be caused by PWC speed, noise, and access. Flight response is the most likely impact of PWC use. PWC use can affect an animal’s ability to feed, rest, and breed if it is unable to adapt to the disturbance caused by PWC operations. Impacts to threatened or endangered or sensitive species are documented under “Threatened, Endangered, or Special Concern Species.”

Under the proposed rule, PWC use could affect wildlife wherever use is authorized. Numbers of personal watercraft using the reservoir during a high-use day would likely increase from an average of 32 per day in 2002 to 37 per day in 2012, an average increase of 1.5% per year. While some PWC use occurs year-round, most use occurs from May to September. PWC use is most frequent during weekends, followed by weekday evening hours. While personal watercraft would be distributed throughout the reservoir, the primary location for potential impacts would be where PWC use is most prevalent: the San Pedro arm of the reservoir (at the end of Spur 454) and the Indian Springs area in the upper Devils River. Disturbance could occur on the Rio Grande from PWC users beaching their craft. The Pecos River contains rocks

that would make it difficult for PWC operators to disturb wildlife there, and only about 10 PWC visits occur there each year. Since no PWC operation would be allowed between sundown and sunrise, impacts are less likely for nocturnal than for diurnal species.

Wildlife are most likely to be found near the shoreline due to habitat constraints, with few non-aquatic species present on the water surface 200 feet (or more) from shore. Under 36 CFR part 3, Amistad adopts Texas State laws and regulations. Texas boating regulations require that when a PWC user travels to a shoreline destination, the watercraft must be slowed to a flat wake speed, thus allowing wildlife to easily move out of the way or wildlife on land are less disturbed by the PWC presence. There have been no documented cases of PWC operators deliberately harassing or chasing birds or other wildlife on Lake Amistad, and no documented collisions with waterfowl or wildlife.

Waterfowl migrate to Amistad during the winter when there is less PWC use. The primary season for PWC use is May to September and most personal watercraft are not used in the early spring due to water and air temperatures. Therefore it is unlikely that most wildlife would be disturbed during the breeding season. During rearing, PWC use could cause short-term temporary effects when the craft are beached on land. Due to the low habitat productivity, as well as the low number of PWC users, impacts to wildlife and wildlife habitat would be negligible at most locations. (For an explanation of terms such as “negligible” and “adverse” in regard to wildlife and wildlife habitat see pages 116–117 of the Environmental Assessment.)

As noted in the “Water Quality” section, continued use of PWC would create pollutant loads that are well below water quality criteria and ecotoxicological benchmarks, so there would likely be no or negligible impacts to fish related to water contamination. Also, fish generally will flee to avoid personal watercraft, and PWC use is not expected to significantly disrupt any spawning areas, since a majority of the spawning activity occurs during the shoulder season of PWC use (February through April).

Since PWC users are required to operate at flat wake speed within 50 feet of the shoreline (in accordance with Texas Water Safety Act), impacts on wildlife and wildlife habitat would be negligible at most locations. The effects from PWC speed and noise or proximity to wildlife would be limited as well. In addition, few wildlife occur on the open

water, where speeds are higher. On a cumulative basis, all visitor activities would continue to have negligible to minor adverse effects on wildlife and wildlife habitat. All wildlife impacts would be temporary and short term. Implementation of this proposal would not result in an impairment to wildlife or wildlife habitat.

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

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. With regard to the federal status species, the American peregrine falcon, black-capped vireo, brown pelican, interior least tern, and whooping crane (all listed as endangered) may occur within Amistad National Recreation Area. The arctic peregrine falcon, bald eagle, and piping plover, and Devils River minnow (all listed as threatened) may also occur within the park.

Among the listed species, the interior least tern has habitat closest to the use areas. Interior least terns lay eggs in the ground and often use the islands within the lake as nesting areas. The park closes all tern nesting areas to public use, including PWC and other vessel access, by posting signs in the water. Other species of birds always nest high enough above ground not to be affected by PWC-related wave action or shoreline access.

Overall, PWC use at Amistad under this proposed rule would have no effect or would not likely adversely affect any federal or state listed species, since most identified species are either not present as permanent residents, do not have preferred habitat in PWC use areas, or are not normally accessible. (For an explanation of terms such as “negligible” and “adverse” in regard to threatened, endangered, or special concern species see page 122 of the Environmental Assessment.) Cumulative effects from all park visitor activities are not likely to adversely affect these species since the identified species are not present, do not nest in the park, or are not accessible during the course of normal visitor activities, which are primarily water-based recreation. Therefore, this proposed rule would not result in an impairment of

threatened, endangered, or special concern animal or plant species.

#### *Shoreline Vegetation*

Under the proposed regulation, PWC operators would be allowed to travel along the shoreline wherever motorized vessels are allowed so long as they are operated at flat wake speed within 50 feet of the shore. Hidden Cave Cove, Painted Canyon, and Seminole Canyon would remain closed under the proposed rule to all vessels. Vessels would be prohibited from landing on islands during Interior Least Tern nesting activities. All vessels operating within harbors, mooring areas, and any other areas marked by buoys, are required to operate at flat wake speed only. While personal watercraft use occurs throughout the reservoir, the primary location for potential impacts would be where PWC use is most prevalent. These areas include the San Pedro arm of the reservoir (at the end of Spur 454) and the Indian Springs area in the upper Devils River arm of the lake. Other impacts include negligible short-term wave action and trampling caused by PWC operators landing their craft and walking on the shore.

Fluctuating water levels create more potential for short- and long-term erosion and impacts to shoreline vegetation than any other sources, followed by wind, other motorized boats, and personal watercraft. Fluctuating water levels greatly deter the development of hydrophytic shoreline vegetative or aquatic vegetation and largely prevent the growth of shoreline vegetation.

Allowing PWC use at Amistad National Recreation Area would have negligible adverse impacts to shoreline vegetation over the short and long term, with no perceptible changes in plant community size, integrity, or continuity. (For an explanation of terms such as "negligible" and "adverse" in regard to shorelines see page 130 of the Environmental Assessment.)

#### *Visitor Experience*

*Impacts on PWC Users.* There would be no change to PWC use or activity as compared to the conditions during 2002. Therefore, the proposed rule would have no new effects on the experiences of PWC users at Amistad National Recreation Area.

*Impacts on Other Boaters.* Other boaters to Amistad National Recreation Area would continue to interact with PWC operators. Generally, few nonmotorized craft use Lake Amistad (sea kayaks and canoes), so interactions with these user groups are infrequent. Motorboats are more likely to interact

with PWC. There are three locations with the potential for boat/PWC interactions: near the Spur 454 boat ramp, on the Devils River upstream from the Rough Canyon boat ramp, and directly in front of the Diablo East harbor. Although no accidents or conflicts have been documented in these areas, the potential exists. Based on this analysis, the proposed rule would have negligible adverse effects on the visitor experience of other boaters for the existing and future conditions. (For an explanation of terms such as "negligible" and "adverse" in regard to visitor experience see page 130 of the Environmental Assessment.)

*Impacts on Other Visitors.* Swimmers, hikers, and other visitors would have contact with PWC users. San Pedro Canyon is a popular PWC destination, and new undesignated swim beaches in this area have become very popular on weekends, with as many as 60 swimmers at one beach. On July 4, 2001 a high of 14 PWC trailers were counted at Spur 454, which serves the San Pedro area. Boat ramps at Diablo East and 277 North also serve the San Pedro Canyon. PWC use would have moderate adverse effects on swimmers in San Pedro Canyon.

Receding lake levels have led to decreased visitation to park campgrounds. Because campgrounds are currently high above the lake level, contact between campers and PWC users is low. However, lake levels could rise, camping visitation could increase, and contact between the two groups could increase. PWC use would have negligible to minor adverse effects on visitors to park campgrounds and minor adverse effects at higher water levels.

Boaters often camp along the shoreline (outside park campgrounds) and may be affected by PWC use. However, because these undesignated campsites are located along the shore, campers would be exposed to motorized boat use as well as PWC use. It is likely that these campers move on after spending the night, and since PWC use is restricted to the hours between sunrise and sunset, they would experience little contact with PWC users. PWC use would have negligible adverse effects to these campers.

The primary activities at Amistad National Recreation Area that may affect visitor experiences include the number and activities of other visitors, and noise from motorboats. No other actions are currently planned that would affect PWC use or visitor experiences within the national recreation area. According to a 2001 visitor survey, most visitors are satisfied with their experiences at the park. Cumulative impacts related to

the use of personal watercraft, motorized boats, and other visitor activities would be negligible over the short and long term because there would be little noticeable change in visitor experiences, even with projected PWC and boat use increases.

Continued PWC use at Amistad National Recreation Area would have negligible adverse impacts on experiences for most visitors in the short and long term. PWC use would have long-term, negligible, adverse impacts on shoreline campers, but long-term, minor adverse impacts on swimmers and other visitors using official park campgrounds and desiring an experience characterized predominantly by natural quiet. When related to other visitor activities, PWC use would not appreciably limit the critical characteristics of visitor experiences.

Cumulative effects of PWC use, other watercraft, and other visitors would continue to result in long-term, negligible to minor, adverse impacts, since there would be little noticeable change in visitor experiences. Most visitors would continue to be satisfied with their experiences at Amistad National Recreation Area.

#### *Visitor Conflict and Safety*

Few PWC accidents have been reported at Amistad National Recreation Area, and there have been some incident reports, most involving PWC users and swimmers or other boaters. Staff receive infrequent calls for assistance in locating a PWC operator who is overdue or "missing." Running out of gas is also a concern and may be hazardous because of the vast size of the park. The park conducts regular boat patrols, which will help to identify potential PWC/visitor safety issues.

Divers may be present within the recreation area at submerged ranch home locations. No conflicts between PWC users and divers have been observed. Divers set buoys to identify their location, so PWC users should be able to avoid these areas and any resulting conflicts.

PWC speeds, wakes, and operations near other users can pose hazards and conflicts, especially to canoeists and sea kayakers. Currently very few nonmotorized boats are used in the national recreation area, but conflicts could occur with personal watercraft, particularly if PWC use increased as predicted. To date, few conflicts have been reported.

*PWC User/Swimmer Conflicts.* In 10 years it is estimated that an average 37 personal watercraft would be in use in the reservoir during peak use days. The

number of swimmers at the reservoir has been decreasing with reductions in lake levels, which has led to the creation of several undesignated swim beaches.

The greatest potential for conflict with swimmers is near Diablo East and San Pedro Canyon. This is where many of the park's visitors swim, and it includes popular PWC boat launches. Buoys warning motorized watercraft to keep out of the official swim areas were vandalized, and PWC users occasionally enter these areas. Amistad is working with the USCG to replace those buoys. Of the five designated swim beaches, all but one are in the area of Diablo East or San Pedro Canyon. Most currently experience little to no use due to low lake levels.

Of the three new undesignated swim beaches, one is also popular with PWC users. All are located in the San Pedro Canyon area. A total of approximately 80 to 120 swimmers use these beaches on busy summer weekend days. An estimated 20 to 25 personal watercraft are launched in this area during peak use days. The potential exists for an accident involving a swimmer, particularly if lake levels rise and swimmer visitation increases to previous levels. Due to the number of visitors involved, impacts at this location are predicted to be moderate adverse. Amistad maintains the authority to close areas to swimming or PWC use should the conflicts escalate. The NRA will also be seeking to increase buoys in swimming areas and work to coordinate land-based and water-based patrols to further mitigate the possibility of swimmer/PWC conflicts.

The remaining reservoir locations would have little or no conflict between PWC users and swimmers because designated and undesignated swim beaches are concentrated in the Diablo East and San Pedro Canyon areas. There is one designated swim beach at Rough Canyon, but the swim area currently has no water due to low lake levels. Thus, conflicts in other areas would constitute negligible, adverse impacts over the short and long term. All motorized vessels are prohibited from entering designated swimming areas. The recreation area continues to work with the USCG to install buoys informing boaters to "Keep Out" of swimming areas.

Overall, PWC use would have minor adverse impacts on swimmers at Amistad National Recreation Area. Impacts would be perceptible to a relatively small number of visitors at localized areas, primarily at San Pedro

Canyon where the undesignated beaches exist.

*PWC Users/Other Boater Conflicts.* Other motorized watercraft are distributed throughout the reservoir. Their use patterns are not exactly the same as those for personal watercraft, but the two groups do use the same areas. Motorboats are concentrated in the Castle Canyon area, the Devils River area between the Devils Shores subdivision and Indian Springs, and the area in front of Amistad Dam. The same launch ramps that are popular with PWC users are also popular with motorboaters. The Spur 454 boat ramp, Devils River upstream of the Rough Canyon boat ramp, and the area in front of the Diablo East harbor have the most potential for conflicts between PWC users and motorboaters. These three launch areas experience the highest visitor use. Traffic gets congested in these areas, which increases the risk of collision and the potential for conflicts. Because both motorized boat and PWC use are projected to increase each year (2% and 1.5% respectively), the potential for conflicts could increase in this area, resulting in minor to moderate adverse impacts.

The remaining areas of the reservoir would experience negligible conflicts between PWC users and other motorboaters, due to the small number of watercraft being launched at these areas.

Overall, PWC use would continue to have minor adverse impacts on other motorized boat users at Amistad National Recreation Area. Impacts would be perceptible to visitors at localized areas, primarily at Spur 454, Devils River upstream of Rough Canyon, and the Diablo East harbor. Conflicts at other locations would remain negligible because use is lower, and conflicts would be less likely to occur.

Allowing PWC use would have short- and long-term, minor to moderate adverse impacts on visitor conflicts and safety in the areas near Spur 454, the Devils River upstream of Rough Canyon, and in front of the Diablo East harbor due to the number of visitors and boats present on high use days. Conflicts at other locations would remain negligible because use is lower, and conflicts would be less likely to occur.

Cumulative impacts related to visitor conflicts and safety would be minor to moderate for all user groups in the short and long term, particularly near the three areas listed above. Cumulative impacts in other segments would be negligible because of reduced use.

### *Cultural Resources*

Under the proposed rule, PWC use would be allowed within Amistad National Recreation Area with few locational restrictions. PWC users would continue to have access to archeological and submerged cultural resources under this alternative. Four national historic districts within the national recreation area are listed on the National Register of Historic Places; additional sites are located outside the districts. Not all identified sites have been formally evaluated for national register eligibility.

The most likely impact to archeological and submerged cultural sites would result from PWC users landing in areas and illegally collecting or damaging artifacts. According to park staff, looting and vandalism of cultural resources is not a substantial problem. A direct correlation of impacts attributed to PWC users is difficult to draw, since many of these areas are also accessible to hikers or other watercraft users. Under this proposed rule the low number of PWC users within the national recreation area would have only minor adverse impacts on potentially listed archeological resources.

Allowing PWC use under this proposed regulation is not expected to negatively affect the overall condition of cultural resources because site specific condition inventories, surveys and mitigation would still be conducted. To further reduce the likelihood of damage to cultural resources, this rule proposes to close all or a portion of Hidden Cave Cove, Painted Canyon, Seminole Canyon and all terrestrial cave and karst features. Closing these areas will protect a variety of resources but most notably the cultural resources located in these areas including cave drawings and lithic artifacts.

PWC use within the national recreation area could have minor adverse impacts on potentially listed archeological sites and submerged resources from possible illegal collection and vandalism. (For an explanation of terms such as "negligible" and "adverse" in regard to cultural resources see page 145 the Environmental Assessment.)

On a cumulative basis impacts to all visitor activities could result in minor to moderate adverse impacts on those resources that are readily accessible, due to the number of visitors and the potential for illegal collection or destruction. PWC use could have minor adverse impacts on cultural resources from possible illegal collection and vandalism.



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



current association with Amistad nor are there any tribes with close geographic ties to the area. Since any actions the park proposes in this rule are not expected to have any effects on these 17 tribes, no consultation has occurred.

### 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 § 7.79 Amistad 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 email the comments to this address: [Exsec@ios.doi.gov](mailto:Exsec@ios.doi.gov).

**Drafting Information:** The primary authors of this regulation are: Mark Morgan, Management Assistant, and Rick Slade, Chief of Interpretation, Amistad NRA; Sarah Bransom, Environmental Quality Division; and Kym Hall, NPS Washington, DC.

### Public Participation

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Amistad National Recreation Area, HCR 3 Box 5J, Del Rio TX 78840. You may also comment via the Internet to [amis@den.nps.gov](mailto:amis@den.nps.gov). Please also include "PWC Rule" in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to Amistad National Recreation Park, 4121 Highway 90 West, Del Rio, Texas.

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. Add new paragraph (d) to § 7.79 to read as follows:

#### § 7.79 Amistad Recreation Area.

\* \* \* \* \*

(d) *Personal Watercraft (PWC).*

(1) PWCs are allowed within Amistad National Recreation Area with the following exceptions:

(i) The following areas are closed to PWC use:

(A) Hidden Cave Cove (where marked by buoys), located on the Rio Grande.

(B) Painted Canyon (where marked by buoys), located on the Rio Grande.

(C) Seminole Canyon, starting 0.5 miles from the mouth of the Rio Grande.

(D) Government coves at Diablo East and Rough Canyon to include the water and shoreline to the top of the ridge/property line.

(E) All terrestrial cave and karst features.

(F) The Lower Rio Grande area below Amistad Dam.

(G) The water area extending 1000 feet out from the concrete portion of Amistad Dam.

(ii) PWC are prohibited from landing on any island posted as closed.

(2) 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: October 14, 2003.

**Paul Hoffman,**

*Acting Assistant Secretary, Fish and Wildlife and Parks.*

[FR Doc. 03–26577 Filed 10–21–03; 8:45 am]

BILLING CODE 4310–70–P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1208

RIN 3095–AB09

### Nondiscrimination in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Proposed rule.

**SUMMARY:** NARA is proposing to modify its regulations on nondiscrimination on the basis of disability to make it clear that the rules apply to recipients of NARA's National Historical Publications and Records Commission (NHPRC) grants, not just programs and activities conducted by NARA. We also propose to add detailed rules on nondiscrimination in employment practices that grant recipients must follow when they hire staff for the programs and projects. This proposed rule also updates compliance procedures, which apply to NARA and NHPRC grant recipients. Last, we are replacing the term "handicap" with "disability" throughout the entire regulation. This part applies to NARA and NHPRC grant recipients.

**DATES:** Comments are due by December 22, 2003.

**ADDRESSES:** Comments must be sent to Regulation Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. They may be faxed to (301) 837–0319. Electronic comments may be submitted through [Regulations.gov](http://Regulations.gov). You may also comment via e-mail to [comments@nara.gov](mailto:comments@nara.gov). See the **SUPPLEMENTARY INFORMATION** for details.

**FOR FURTHER INFORMATION CONTACT:** Kim Richardson at telephone number 301–837–2902.

**SUPPLEMENTARY INFORMATION:** NARA's National Historical Publications and Records Commission (NHPRC) awards approximately 100 grants per year. Our program includes grants to:

- Publish historical editions of the records of the Founding Era;