9. In evaluating the applicability of incentive rate treatment for structures allowing equity interests by market participants, the Commission will not limit its consideration to passive participation by integrated sellers who wish to retain a financial stake. The Commission will also consider ownership structures that facilitate participation by municipalities, cooperatives, and other transmission dependent users of the grid to the degree that corporate governance structures provide for independent operation, planning and investment. The Commission has approved the creation of a stand-alone transmission company, and allowed innovative rate treatments, for American Transmission Company (ATC), which is jointly-owned by investor-owned utilities which contributed their systems, and by public power customers which contributed cash in return for equity stakes in ATC with limited voting and governance rights.[6] The Commission remains comfortable that the governance structure of ATC allows some degree of participation by market participants, but ensures the operational and managerial independence of the stand-alone transmission company.

Document Availability

10. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. E.t.) at 888 First Street, NE., Room 2A, Washington DC 20426.

11. From FERC's Home page on the Internet, this information is available in the eLibrary. The full text of this document is available on elibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

12. User assistance is available for eLibrary and the FERC's website during normal business hours from our Help line, toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659. The Public Reference Room may be reached at (202) 502–8371, or by e-mail at, *public.referenceroom@ferc.gov.*

Effective Date

13. This Policy Statement is effective immediately.

By the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. 05–13200 Filed 7–5–05; 8:45 am]

BILLING CODE 6717–01–P

272 F.3d 607 (D.C. Cir. 2001), where the Commission stated:

We reaffirm the NOPR proposal that the RTO, its employees and any non-stakeholder directors must not have any financial interests in market participants. As noted in the NOPR, our focus will be on current financial interests. Since this principle raises a number of specific issues, especially with respect to pension rights and benefits, we will continue our current policy of implementing this principle on a case-by-case basis.

Order No. 2000 at 31,063.

[6] See American Transmission Co. and Midwest Independent Transmission Operator, Inc., 105 FERC ¶ 61,388 at P 24–31 (2003) (allowing ATC to apply innovative rate treatment, but only to projects that are accepted by Midwest ISO's Transmission Expansion Plan, and providing that ATC's incentive rates could remain effective only so long as ATC remains a member of Midwest ISO), order dismissing reh'g as moot, providing clarification and approving uncontested settlement, 107 FERC ¶ 61,117 (2004) (ATC), which is also discussed further in the Appendix to this Policy Statement; see also Docket No. AD05–5–000, Tr. 195–96 (Dale Landgren, ATC) (''Our form of governance is a variation on passive ownership in that the larger owners each have a seat on our board along with independent members. ATC demonstrates that this form of governance does not inhibit us from operating independently from market participants, which is after all the real objective.''). Further, each ATC board member has one vote per owner, regardless of their size. Docket No. AD05–5–000, Tr. 196 (Dale Landgren, ATC).

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC94

Fire Island National Seashore, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule designates areas where personal watercraft (PWC) may be used in Fire Island National Seashore, New York. This rule implements the provisions of the National Park Service (NPS) general regulations authorizing parks 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.

EFFECTIVE DATE: This rule is effective July 6, 2005.

ADDRESSES: Mail inquiries to Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, NY 11772. E-mail: *michael_reynolds@nps.gov.* (631) 289 4810 x225.

FOR FURTHER INFORMATION CONTACT: Jerry Case, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7241, Washington, DC 20240. Phone: (202) 208–4206. E-mail: *Jerry_Case@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Personal Watercraft Regulation

On March 21, 2000, the National Park Service published a regulation on the management of 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 waterbased 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 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.

Description of Fire Island National Seashore

Fire Island National Seashore is a vital part of America's national system of parks, monuments, battlefields, recreation areas, and other natural and cultural resources. Located on a 32-mile long barrier island off the south shore of Long Island, New York, Fire Island National Seashore encompasses approximately 19,500 acres—many of which are bay and ocean waters—available to more than 4 million visitors each year. The National Seashore is interspersed with 17 local private communities, the William Floyd Estate, a maritime forest known as the Sunken Forest, and the Otis Pike Wilderness Area—the only Federal wilderness area in New York State. Together, these components comprise a seashore ecosystem of wildlife, private communities, and outdoor recreational activities, such as the use of personal watercraft (PWC).

The Fire Island National Seashore extends from the easterly boundary of the main unit of Robert Moses State Park eastward to Moriches Inlet and includes Fire Island proper and the surrounding islands and marshlands in

the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island. Included in the boundaries are Sexton Island, West Fire and East Fire Islands, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and other small and adjacent islands, marshlands, and wetlands that lend themselves to contiguity and reasonable administration within the National Seashore and the waters surrounding the National Seashore to distances of 1,000 feet in the Atlantic Ocean and up to 4,000 feet in Great South Bay and Moriches Bay. The NPS mainland terminal and headquarters are on the Patchogue River within Suffolk County, New York.

Fire Island National Seashore is fragmented by public and private beaches. Fire Island National Seashore includes the Otis Pike Wilderness Area established in 1981, the Sunken Forest, Watch Hill, Sailors Haven, the Fire Island Lighthouse (placed on the National Register of Historic Places in 1981), and the William Floyd Estate (placed on the National Register of Historic Places in 1980).

The resources and values that define the natural environment of Fire Island National Seashore include a diverse assemblage of wildlife, vegetation communities, water resources, geological features, and physical processes reflecting the complexity of the land/sea interface along the North Atlantic coast. Wildlife resources are a myriad of aquatic and terrestrial species inhabiting estuarine, dune and beach habitats. The indigenous plant communities reflect the adaptive extremes necessary for survival on a barrier island, where exposure to salt spray, lack of freshwater, and shifting sands create a harsh and dynamic environment.

The aquatic habitats of Fire Island and the adjacent coastal bays are central to the significance of the National Seashore. The inshore waters are part of a network of coastal lagoons that parallel the south shore of the Long Island coast from Breezy Point, off the tip of southern Manhattan, over 100 miles east to South Hampton. Fire Island lies in the middle of this complex system. The bays are uniformly shallow with an average depth of 1.2 meters (4 feet) and are generally characterized as poorly flushing due to restricted inlet tidal exchange.

From a regional perspective, Fire Island National Seashore includes the highest percentage of remaining undeveloped barrier islands of the south shore of the Long Island barrier island system. Extensive salt marshes, intertidal flats, and the broad shallow margins of the coastal bays within and adjacent to Fire Island are key components of an estuarine system crucial to the maintenance of regional biological diversity and ecosystem health.

Fire Island National Seashore provides important habitat for a number of federally listed threatened and endangered species, including but not limited to the peregrine falcon, roseate tern, loggerhead, Kemp's ridley, leatherback, hawksbill, and green sea turtles, bald eagle, piping plover, and sea beach amaranth. Of these species, the National Seashore provides critical habitat for piping plover and sea beach amaranth and is a focal point for North Atlantic conservation and restoration efforts. The eastern 8 miles of the park provide the most favorable conditions for piping plover breeding activity and support a majority of the local population of the species.

In addition to the piping plover, the National Seashore provides important habitat for a multitude of bird species throughout the year. The island is renowned for the autumn migration of hawks and abundance of wintering waterfowl and is of critical importance as wintering, staging, and breeding habitat for a myriad of bird species. Shorebirds, colonial waterbirds, neotropical migratory songbirds, and a variety of wading birds intensively utilize park habitats, and in general, occur in greater abundance and diversity than on the adjacent mainland.

The coastal waters within Fire Island National Seashore are regularly used by a variety of marine mammals on a seasonal or transitory basis. More than fifteen species have been documented in the National Seashore, all of which are protected under the Marine Mammal Protection Act of 1972. The most commonly observed species are seals, harbor porpoise, and bottlenose dolphin, generally occurring in ocean nearshore waters. Seals are most commonly observed during the fall and winter months, while bottlenose dolphins are present largely during the summer.

Oceanic and estuarine waters and their associated animal and plant life (biota) also play a dominant role in recreational use of the National Seashore. Over 90 percent of visits to the park involve the use of aquatic habitats. The primary recreational activities include swimming, walking, sightseeing, wildlife photography and observation, picnicking, and saltwater fishing.

Purpose of Fire Island National Seashore

Fire Island National Seashore was authorized on September 11, 1964 (Pub. L. 88–587) ''for the purpose of conserving and preserving for the use of future generations certain relatively unspoiled and undeveloped beaches, dunes, and other natural features within Suffolk County, New York, which possess high values to the Nation as examples of unspoiled areas of great natural beauty * * * to establish an area to be known as the 'Fire Island National Seashore.' ''

The purposes of Fire Island National Seashore, as stated in its *Strategic Plan* (available at *http://www.nps.gov/fiis/stratplanFY01–05.htm*), are as follows:

- Preserve the natural and cultural resources within administrative boundaries.
- Permit hunting, fishing, and shellfishing within boundaries in accordance with U.S. and New York State laws.
- Preserve the Sunken Forest tract from bay to ocean without developing roads therein.
- Preserve the main dwelling, furnishings, grounds, and outbuildings of the William Floyd Estate, home of the Floyd family for eight generations.
- Administer mainland ferry terminal and headquarters sites not to exceed 12 acres on the Patchogue River.
- Preserve the Otis Pike Fire Island High Dunes Wilderness.
- Provide for public access, use, and enjoyment.
- Work with the communities within the park to mutually achieve the goals of both the park and the residents.

Authority and Jurisdiction

The National Park Service is granted broad authority under 16 U.S.C. 1 *et seq.*, the NPS' ''Organic Act,'' to regulate the use of the Federal areas known as national parks. In addition, the Organic Act (16 U.S.C. 3) authorizes 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 * * *''

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 Fire Island National Seashore

PWC use at Fire Island National Seashore is a relatively recent phenomenon, paralleling the national trend of increasing popularity and sales of PWC during the 1980s and 1990s.

Personal watercraft use began within the Fire Island National Seashore boundaries in the Great South Bay over 20 years ago, as soon as they were available and on the market. PWC users can access Fire Island National Seashore in a variety of ways; however, there are no public boat ramps or public roads located within the National Seashore boundaries. PWC users access the National Seashore via marinas located in the private communities and by landing on and launching from undeveloped beaches or larger vessels.

A variety of sources within the region provided estimates of typical PWC use in the Great South Bay and Fire Island National Seashore area. Staff from the Suffolk County Department of Parks and the Police Marine Bureau, local municipalities, local dealerships, and local marinas provided estimates of PWC use ranging from 5 to 25% of all watercraft on the water at any given time of the day during peak season. Although no annual counts are conducted of visitors accessing the park by boat or personal watercraft, the National Park Service conducted an informal survey on Saturdays and Sundays during the month of July 1999. During this survey, NPS staff counted the number of boats, including PWC, that were present. Based on the 1999 survey, the estimated number of boats during that time period was between 200 and 300 watercraft. Approximately 20% of the total, or between 40 and 60 watercraft, were PWC. The waterways on the bayside of Fire Island are often congested, with a variety of recreational and fishing boats accessing the waters of the National Seashore from the Great South Bay.

PWC use is typically localized within Fire Island National Seashore, occurring in areas near the private communities, ferryways and navigation channels, and in areas near boat ramps. Park staff indicate that the heaviest usage and highest general visitation area for watercraft of any type is the western end of the island. PWC use is also prevalent along the eastern boundary in Moriches Bay near Smith Point County Park.

As previously stated, on April 20, 2000, the NPS adopted a final rule for managing PWC use in areas of the National Park System. The rule was implemented to ensure a prudent approach to PWC management that would potentially allow their use, yet protect park resources, sensitive natural areas, plants and wildlife, and reduce conflicts between park visitors. The final rule prohibited PWC use in all National Park System areas unless the NPS determined that this type of waterbased activity was appropriate for a specific park based upon the legislation establishing the area, the park's resources and values, other visitor uses of the area, and overall management objectives.

Prior to April 22, 2002, PWC use was allowed throughout Fire Island National Seashore. On April 22, 2002 all of the waters within the National Seashore were closed to PWC use consistent with the 2000 NPS PWC rule (36 CFR 3.24).

Notice of Proposed Rulemaking and Environmental Assessment

On August 23, 2004, the National Park Service published a Notice of Proposed Rulemaking (NPRM) for the operation of PWC at Fire Island National Seashore (69 FR 51788). The proposed rule for PWC use was based on alternative C (one of four alternatives considered) in the Environmental Assessment (EA) prepared by NPS for Fire Island National Seashore. The EA was available for public review and comment from September 3, 2002, through November 11, 2002, and the NPRM was available for public comment from August 23, 2004, through October 22, 2004.

The purpose of the EA was to evaluate a range of alternatives and strategies for the management of PWC use at Fire Island National Seashore to ensure the protection of park resources and values while offering recreational opportunities as provided for in the National Seashore's enabling legislation, purpose, mission, and goals. In March 2004 an errata was issued. The changes to the EA described in the errata were made to modify the preferred alternative and its analysis, to address public comments on the draft EA, and to clarify the text.

The four alternatives considered included three alternatives to continue PWC use under certain conditions: Alternative A would establish, through regulation, the PWC policies that existed prior to 2000 when PWC use was permitted throughout Fire Island National Seashore; alternative B would limit PWC use to areas adjacent to beach communities; and modified alternative C would continue to allow PWC access to the national seashore with additional management and geographic restrictions. The additional geographic restrictions west of Sunken Forest would include a 1,000 foot buffer around all shorelines, with access to beach communities only through established access channels and ferryways. East of the western boundary of Sunken Forest PWC use would be forbidden in Seashore waters, except for access to beach communities only through established access channels and ferryways. In addition, a no-action alternative was considered that would discontinue all PWC use within the National Seashore. The four alternatives were evaluated with respect to PWC impacts on water quality, air quality, soundscapes, wildlife, wildlife habitat, shoreline vegetation, visitor conflicts, and visitor safety.

Based on the analysis NPS determined that modified alternative C is the environmentally preferred alternative. (For the remainder of this document ''alternative C'' refers to modified alternative C.) Alternative C best fulfills NPS responsibilities as trustee of Fire Island National Seashore's 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. Alternative C is the preferred alternative for fulfilling the park's environmental mission without restricting valid and lawful use. This final rule contains regulations to implement alternative C at Fire Island National Seashore.

Summary of Comments

A proposed rule was published for public comment on August 23, 2004, with the comment period lasting until October 22, 2004. The National Park Service received 528 timely written responses regarding the proposed regulation. Of the responses, 527 were signatures on a petition supporting the no action alternative and one was from an individual opposing PWC use in national parks. The National Park Service received approximately 4,600

comment letters regarding the EA. More than 1,300 were in support of continuing PWC use as currently managed and approximately 740 supported the no action alternative, or the complete ban of PWC within Fire Island National Seashore. Approximately 1,600 comments opposed the preferred alternative as originally proposed, prompting the development of the modified alternative C. While the proposed rule reflected changes to alternative C made as a result of comments on the EA, the NPRM did not describe or discuss responses to those comments. Therefore, this preamble addresses those comments. Within the following discussion, the term ''commenter'' refers to an individual, organization, or public agency that responded. The term ''comments'' refers to statements made by a commenter.

General Comments

1. Several commenters stated that PWC should not be singled out for analysis and restriction.

NPS Response: The EA was not designed to determine if personal watercraft caused more environmental damage to park resources than other boats, but rather, to determine if personal watercraft use was consistent with the park's enabling legislation and management goals and objectives.

2. One commenter stated that allowing PWC use violates the park's enabling legislation and NPS mandate to protect resources from harm.

NPS Response: No part of the settlement agreement or NPS analysis of PWC use has violated or overturned Fire Island National Seashore's enabling legislation. Both the personal watercraft settlement agreement and the authorizing legislation for Fire Island were considered when developing alternatives for the EA. The objective of the EA, as described in the ''Purpose and Need'' chapter, was derived from the enabling legislation for the national seashore. As further stated in that chapter, a special analysis on the management of personal watercraft was also provided under each alternative to meet the terms of the settlement agreement between the Bluewater Network and the National Park Service. As a result, the alternatives presented in the EA protect resources and values while providing recreational opportunities at Fire Island National Seashore. As required by NPS policies, the impacts associated with personal watercraft and other recreational uses are evaluated under each alternative to determine the potential for impairment to park resources. Alternative C would not result in impairment of park resources and values for which the national seashore was established.

The seashore's mission statement grows from the park's legislative mandate and is a synthesis of the park's mandated purpose and its primary significances. It includes a commitment ''to providing access and recreational and education opportunities to Fire Island National Seashore visitors in this natural and cultural setting close to densely populated urban and suburban areas.''

3. One commenter states that the EA does not use the best available data and violates the court settlement with the Bluewater Network.

NPS Response: A summary of the NPS rulemaking and associated personal watercraft litigation is provided in Chapter 1, Purpose of and Need for Action, Background of the EA. NPS believes it has complied with the court order and has assessed the impacts of personal watercraft on those resources specified, as well as other resources that could be affected. This analysis was done for every applicable impact topic with the best available data, as required by Council on Environmental Quality Regulations (40 CFR 1502.22). Where data was lacking, best professional judgment prevailed using assumptions and extrapolations from scientific literature, other park units where personal watercraft are used, and personal observations of park staff. The NPS believes that the EA is in full compliance with the settlement agreement and that the rationale for limited PWC use within the national recreation area has been adequately analyzed and explained.

4. One commenter is concerned about the use of Federal Aid in Sport Fish Restoration Act (FASFRA) funds to construct boat launches and facilities.

NPS Response: There are no provisions within the proposed alternative for boat launches and facilities. Landing zones are designated by the NPS for access only by PWC users. No FASFRA funds are used within the national recreation area to construct boat launches.

5. Several commenters stated that the decision violates the Organic Act, and other NPS laws, and will result in the impairment of resources.

NPS Response: The ''Summary of Laws and Policies'' section in the ''Environmental Consequences'' chapter of the EA summarizes the three overarching laws that guide the National Park Service in making decisions concerning protection of park resources. These laws, as well as others, are also reflected in the NPS *Management Policies.* An explanation of how the Park Service applied these laws and policies to analyze the effects of personal watercraft on Fire Island National Seashore resources and values can be found under ''Impairment Analysis'' in the ''Methodology'' section of the EA.

An impairment to a particular park resource or park value must rise to the magnitude of a major impact, as defined by its context, duration, and intensity and must also affect the ability of the National Park Service to meet its mandates as established by Congress in the park's enabling legislation. For each resource topic, the EA establishes thresholds or indicators of magnitude of impact. An impact approaching a ''major'' level of intensity is one indication that impairment could result. For each impact topic, when the intensity approached ''major,'' the park would consider mitigation measures to reduce the potential for ''major'' impacts, thus reducing the potential for impairment.

The PWC Use Environmental Assessment is a proactive measure to protect national seashore resources from harm. The purpose of the EA is to assess the impacts of PWC use on identified resources within the seashore boundaries. The National Park Service finds that the revised preferred alternative (alternative C), when implemented under this final rule, will not result in an impairment of park resources and values for which the Fire Island National Seashore was established.

Comments Regarding the Preferred Alternative

6. Approximately 36 percent of all EA comments on the alternatives addressed alternative A. The 1,320 comments received regarding alternative A included one petition with 1,228 respondents and one petition with four respondents in support of Alternative A. Less than one percent of all EA comments on the alternatives addressed alternative B. Approximately 44 percent of all EA comments on the alternatives concerned Alternative C. Comments included a petition with 73 respondents that opposed Alternative C. Many comments questioned the enforceability of a buffer and suggested a ban would be more effective. Approximately 20 percent of all EA comments on the alternative were in favor of the no-action alternative. Three petitions in favor of this alternative were received including 44 respondents from the Bluewater Network, 297 respondents from an unknown source, and 66 respondents from another unknown

petition. The majority of comments received for the no-action alternative were in support of a complete ban on PWC. All 528 comments received on the proposed rule were in favor of the no-action alternative.

Several commenters stated that the area restrictions in the preferred alternative seem arbitrary and difficult to enforce.

NPS Response: Alternative C, the preferred alternative, was revised before issuance of the NPRM to address the public comments received on the EA. The revised alternative C, as adopted in this final rule, will continue to allow PWC in the areas adjacent for access to the national seashore with additional management and geographic restrictions. PWC will be allowed to operate in Great South Bay from the western boundary of the national seashore adjacent to Robert Moses State Park, east to the western boundary of the Sunken Forest, excluding any area within 1,000 feet of the shoreline including East Fire Island and West Fire Island; navigation channels marked by buoys or identified on the NOAA navigational chart (12352) to include access channels to and from Fair Harbor, Dunewood, Lonelyville, Atlantique, Cherry Grove, Fire Island Pines, Davis Park, Great Gun Beach, Moriches Inlet, and to the communities of Kismet, Saltaire, Ocean Beach, Ocean Bay Park, Point O'Woods, Oakleyville, and Water Island at ''flat wake speed'; and the Long Island Intracoastal Waterway within the park boundaries.

PWC will be prohibited from operation in all waters from the shoreline to 1,000 feet offshore between the west boundary of Moriches Inlet to the east boundary of Robert Moses State Park on the Atlantic Ocean side of the national seashore.

Alternative C, as implemented in this final rule, allows for access throughout the park in designated channels and ferryways; thus, maintaining an equilibrium between visitor use and the protection of resources.

Comments Regarding Water Quality

7. One commenter stated that the analysis disregarded or overlooked relevant research regarding impacts to water quality from PWC use.

NPS Response: The protection of water quality within the national seashore has been addressed in the EA in a conservative evaluation of surface water quality impacts. Estimated minimum threshold volumes of water were determined for the PWC use areas where concentrations of gasoline constituents discharged from personal watercraft and other outboard engines could potentially be toxic to aquatic organisms or humans. Using the estimated threshold volumes, volumes of the areas being evaluated, PWC and other motorboat high-use-day loadings of chemicals identified as constituents of gasoline, and water quality benchmarks, it is possible to identify potentially unacceptable impacts to human health or the environment. Chronic water quality benchmarks protective of aquatic populations and protective of human health were acquired from various sources, including U.S. EPA water quality criteria. Potential impacts to wildlife and plants from personal watercraft were addressed in other sections of the EA.

The evaluation of water quality impacts examined impacts from PWCs alone and in combination with other outboard motorboats. Impacts are estimated to range from ''negligible'' to ''major'' for the various combinations of alternatives, chemicals, PWCs and/or boats, and years (2002 and 2012). The descriptions for each level of water quality impacts are provided on page 95 of the EA. There is no conclusion in the EA that PWC would have ''little impact'' on water quality in Fire Island National Seashore as described in the comment. Further, it is not conjectured that ''all petroleum compounds evaporate into the atmosphere.''

8. One commenter stated that the analysis represents an outdated look at potential emissions from an overstated PWC population of conventional 2-stroke engines, and underestimated the accelerating changeover to 4-stroke and newer 2-stroke engines. The net effect is that the analysis overestimates potential PWC hydrocarbon emissions, including benzene and polyaromatic hydrocarbons (PAHs).

NPS Response: The NPS recognizes that the assumption of all personal watercraft using 2-stroke engines in 2002 is conservative but believes it was appropriate to be protective of park resources. The assumption is consistent with emission data available in California Air Resources Board (CARB) (1998) and Bluewater Network (2001). The emission rate of 3 gallons per hour at full throttle is a mid-point between 3 gallons in two hours (1.5 gallons per hour; NPS 1999) and 3.8 to 4.5 gallons per hour for an average 2000 model year personal watercraft (Personal Watercraft and Bluewater Network 2001). The assumption also is reasonable in view of the initiation of production line testing in 2000 (EPA 1997) and expected full implementation of testing by 2006 (EPA 1996).

Reductions in emissions used in the water quality impact assessment are in accordance with the overall hydrocarbon emission reduction projections published by the EPA (1996). EPA (1996) estimates a 52% reduction by personal watercraft by 2010 and a 68% reduction by 2015. The 50% reduction in emissions by 2012 (the future date used in the EA) is a conservative interpolation of the emission reduction percentages and associated years (2010 and 2015) reported by the EPA (1996) but with a one-year delay in production line testing (EPA 1997).

The estimate of 2.8 mg/kg for benzo(a)pyrene in gasoline used in the calculations is considered conservative, yet realistic, since it is within the range of concentrations measured in gasoline, according to Gustafson *et al.* (1997).

Comments Regarding Air Quality

9. One commenter stated that the analysis failed to mention the impact of PWC permeation losses on local air quality.

NPS Response: Permeation losses of volatile organic compounds (VOCs) from personal watercraft were not included in the calculation of air quality impacts primarily because these losses are insignificant relative to emissions from operating personal watercraft. Using the permeation loss numbers in the comment (estimated to be half the total of 7 grams of losses per 24 hours from the fuel system), the permeation losses per hour are orders of magnitude less than emissions from operating personal watercraft. Therefore, including permeation losses would have no effect on the results of the air quality impact analyses. Also, permeation losses were not included because of numerous related unknown contributing factors, such as the number of personal watercraft refueling at the reservoir and the location of refueling (inside or outside of the airshed).

10. One commenter stated that the use of the study by Kado et al to suggest that the changeover from two-stroke carbureted to two-stroke direct injection engines may increase emissions of PAH is in error.

NPS Response: The criteria for analysis of impacts from PWC to human health are based on the National Ambient Air Quality Standards (NAAQSs) for criteria pollutants, as established by the U.S. Environmental Protection Agency (EPA) under the Clean Air Act, and on criteria pollutant annual emission levels. This methodology was selected to assess air quality impacts for all NPS EAs to promote regional and national

consistency, and identify areas of potential ambient standard exceedances. PAHs are not assessed specifically as they are not a criteria pollutant. However, they are indirectly included as a subset of Total Hydrocarbons (THC), which are assessed because they are the focus of the EPA's emissions standards directed at manufacturers of spark ignition marine gasoline engines (see 61 FR 52088; October 4, 1996). Neither peak exposure levels nor NIOSH nor OSHA standards are included as criteria for analyzing air quality related impacts except where short-term exposure is included in a NAAQS. The methodology for assessing air quality impacts was based on a combination of annual emission levels and the NAAQSs, which are aimed at protection of the public. OSHA and NIOSH standards are intended primarily for workers and others exposed to airborne chemicals for specific time periods. The OSHA and NIOSH standards are not as suitable for application in the context of local and regional analysis of a park or recreational area as are the ambient standards, nor are they intended to protect the general public from exposure to pollutants in ambient air.

11. One commenter expressed concern on the use of SUM06 data and requested a more detailed analysis of the air quality impacts associated with opening corridors to PWC use because the alternatives considered in the EA, other than the no action alternative, do not comply with General Conformity Regulations.

NPS Response: To assess the impact of ozone on plants, the 5-year ozone index value was calculated and is represented as SUM06. The Air Resources Division of the National Park Service, based on local monitoring site data, developed SUM06 values used in each analysis.

The air quality impacts of the various alternatives were assessed by considering the existing air quality levels and the air quality related values present, and by using the estimated emissions and any applicable, EPA-approved air quality models. Cumulative impacts were analyzed quantitatively for all recreational watercraft. Fire Island National Seashore maintains vehicular access to the park for cars, trucks, and recreational vehicles; emissions from these vehicles and other local and regional sources of air pollutants were not assessed quantitatively but were considered qualitatively in the cumulative impact assessment.

Located within the ozone non-attainment area, the proposed actions are subject to the requirements and emission threshold set by the Federal conformity rules (40 CFR part 93), in which the emission threshold set for ozone precursor pollutants—nitrogen oxides (NO_X) or volatile organic compounds (VOC)—is 25 tons/year. All ambient air quality levels except ozone meet the national ambient air quality standards.

The Fire Island National Seashore area, located in Suffolk County, New York, is designated by the U.S. Environmental Protection Agency as in severe nonattainment for ozone, and as in attainment for all other criteria pollutants (CO, NO_X, SO_2, PM_{10}, and lead). The Division of Air Resources within the New York State Department of Environmental Conservation has included control measures and has accounted for limited growth related to ozone precursor sources, such as nonroad marine engines, in the State Implementation Plan. The Division of Air Resources predicts that Suffolk County will attain the national air quality standard for ozone by 2007 (allowances for emissions of these pollutants are documented in appendix N of the State Implementation Plan). The proposed action and alternatives are subject to Federal conformity review but are not predicted to add pollutants not already included in the State plan; therefore, the proposed action and alternatives are presumed to conform with the State plan, and a conformity determination is not required (40 CFR 93.158).

12. Several commenters stated that research indicated that direct-injection 2-stroke engines are dirtier than 4-stroke engines.

NPS Response: It is agreed that two-stroke carbureted and two-stroke DI engines generally emit greater amounts of pollutants than four-stroke engines. Only 4 of the 20 PAHs included in the analyses were detected in water: naphthalene, 2-methylnaphthalene, fluorene, and acenaphthylene. Some pollutants (benzene, toluene, ethylbenzene, and xylene, collectively referred to as BTEX, and formaldehyde) were reported by CARB in the test tanks after 24 hours at approximately 50% the concentrations seen immediately following the test. No results for PAH concentrations after 24 hours were seen in the CARB (2001) results, but a discussion of sampling/analyses of PAHs in the six environmental compartments was presented.

EPA NONROAD model factors differ from those of CARB. As a result of the EPA rule requiring the manufacturing of cleaner PWC engines, the existing carbureted 2-stroke PWC will, over time, be replaced with PWC with less-polluting models. This replacement, with the anticipated resultant improvement in air quality, is parallel to that experienced in urban environments as the automobile fleet becomes cleaner over time.

13. One commenter stated that the EA erroneously assumes that none of the PWC operating in Fire Island National Seashore would meet the CARB standards. The quantitative emissions analysis performed by Sierra Research also refutes the EA's use of the term ''major'' to describe current impact of ozone precursors emitted by PWC.

NPS Response: The NPS emissions calculations are conservative only in the sense that they do not specifically account for watercraft that have already been or will be converted to meet CARB standards. Any reductions in emissions resulting from implementing control strategies were taken into account, as were changes in emissions resulting from increased or decreased usage. In addition, located within the ozone non-attainment area, the proposed actions are subject to the requirements and emission threshold set by the Federal conformity rules (40 CFR part 93), in which the emission threshold set for ozone precursor pollutants—nitrogen oxides (NO_X) or volatile organic compounds (VOC)—is 25 tons/year. All ambient air quality levels except ozone meet the national ambient air quality standards.

Comments Regarding Soundscapes

14. One commenter stated that continued PWC use at Fire Island National Seashore will not result in sound emissions that exceed the applicable Federal or State noise abatement standards since technological innovations by the PWC companies will continue to result in substantial noise reductions.

NPS Response: The NPS concurs that on-going and future improvements in engine technology and design would likely further reduce the noise emitted from PWC. However, given that the ambient noise levels at the national seashore are negligible to minor in most cases, improved technology reductions would not significantly reduce ambient noise levels.

15. One commenter stated that the NPS methodology was unclear and should clarify between decibels and A-weighting.

NPS Response: The impacts for the EA were weighed in decibels.

16. One commenter stated that the EA fails to recognize seashore visitor's desires to hear natural sounds.

NPS Response: The EA considered the cumulative impact of PWC and other

watercraft, while qualitatively considering ambient noise levels; which could include airplanes, etc. While specific background noise studies are not available at Fire Island National Seashore, certain conditions have been taken into account given the number of PWC users in the identified study areas and land use patterns surrounding those areas. For example, it is assumed that the soundscape throughout the majority of area I is that of an active suburban area, while area II is an area of day use, and area III is more characteristic of a quiet rural town with associated tourism.

17. One commenter stated that the analysis did not include *Drowning in Noise: Noise Costs of PWC in America* and therefore the noise analysis under represents the actual impacts.

NPS Response: One of the initial tasks in developing the Fire Island National Seashore EA was a literature search. *Drowning in Noise: Noise Costs of Jet Skis in America* was one of the many studies reviewed. The reference to that study (Komanoff and Shaw 2000) was discussed in the ''Summary of Available Research on the Effects of Personal Watercraft'' section of the EA.

Comments Regarding Shoreline/ Submerged Aquatic Vegetation

18. One commenter stated that there has been no documentation of any adverse effects to shoreline vegetation from PWC use.

NPS Response: We agree there has been no current adverse impact to shoreline vegetation. The analysis recognizes that PWC use to date has resulted in only negligible adverse impacts to this vegetation, mostly from PWC operators leaving their vessels and trampling vegetation. The regulation creates a 1000′ no PWC use zone from the shoreline to protect shoreline and wetlands vegetation.

Comments Regarding Wildlife and Wildlife Habitat

19. Two commenters stated that the analysis lacked site-specific data for impacts to fish, wildlife, and threatened and endangered species at Fire Island National Seashore.

NPS Response: The scope of the EA did not include conducting site specific studies regarding potential effects of PWC use on wildlife species at Fire Island National Seashore. Analysis of potential impacts of PWC use on wildlife at the national seashore was based on best available data and input from park staff.

20. One commenter stated that PWC use and human activities associated with their use may not be any more disturbing to wildlife species than any other type of motorized or non-motorized watercraft. The commenter cites research by Dr. James Rodgers of the Florida Fish and Wildlife Conservation Commission, whose studies have shown that PWC are no more likely to disturb wildlife than any other form of human interaction. That PWC use posed less of a disturbance than other vessel types. Dr. Rodgers' research clearly shows that there is no reason to differentiate PWC from motorized boating based on claims of wildlife disturbance.

NPS Response: Based on the documents provided as part of this comment, it appears that personal watercraft are no more apt to disturb wildlife than are small outboard motorboats. In addition to this conclusion, Dr. Rodgers recommends that buffer zones be established, creating minimum distances between boats (personal watercraft and outboard motorboats) and nesting and foraging waterbirds. In Fire Island National Seashore, a 1000-ft buffer and no-wake zones are established by this regulation. With these restrictions in mind, impacts to wildlife and wildlife habitat were judged to be negligible to minor at most locations along the shoreline.

Comments Associated With Visitor Use, Experience, and Safety

21. One commenter stated that the reported accident numbers involving PWC are higher because they get reported more often than other boating accidents.

NPS Response: We disagree. Incidents involving watercraft of all types, including personal watercraft, are reported to and logged by National Park Service staff. A very small proportion of watercraft accidents at Fire Island National Seashore are estimated to go unreported.

22. One commenter stated that the analysis did not adequately address PWC fire hazards.

NPS Response: According to the National Marine Manufacturers Association, PWC manufacturers have sold roughly 1.2 million watercraft during the last ten years. Out of 1.2 million PWC sold, the U.S. Coast Guard had only 90 reports of fires/explosions in the years from 1995–1999. This is less than 1% of PWC boats having reports of problems associated with fires/explosions. As far as the recall campaigns conducted by Kawasaki and Bombardier, the problems that were associated with fuel tanks were fixed. Kawasaki conducted a recall for potentially defective fuel filler necks and fuel tank outlet gaskets on 23, 579 models from the years 1989 and 1990. The fuel tank problems were eliminated in Kawasaki's newer models, and the 1989 and 1990 models are most likely not in use anymore since life expectancy of a PWC is only five to seven years according to PWIA. Bombardier also did a recall for its 1993, 1994, and 1995 models to reassess possible fuel tank design flaws. However, the number of fuel tanks that had to be recalled was a very small percent of the 1993, 1994, and 1995 fleets because fuel tank sales only amounted to 2.16% of the total fleet during this period (Bombardier, Inc.). The replacement fuel tanks differed from those installed in the watercraft subject to the recall in that the replacement tanks had revised filler neck radiuses, and the installation procedure now also requires revised torque specifications and the fuel system must successfully complete a pressure leak test. Bombardier found that the major factor contributing to PWC fires/explosions was over-torquing of the gear clamp. Bombardier was legally required by the U.S. Coast Guard to fix 9.72% of the recalled models. Out of 125, 349 recalls, the company repaired 48,370 units, which was approximately 38% of the total recall, far exceeding their legal obligation to repair units with potential problems.

Further fuel tank and engine problems that could be associated with PWC fires has been reduced significantly since the National Marine Manufacturers Association set requirements for meeting manufacturing regulations established by the U.S. Coast Guard. Many companies even choose to participate in the more stringent Certification Program administered by the National Marine Manufacturers Association (NMMA). The NMMA verifies annually, or whenever a new product is put on the market, boat model lines to determine that they satisfy not only the U.S. Coast Guard Regulations but also the more rigorous standards based on those established by the American Boat and Yacht Council.

Accident data specific to Fire Island National Seashore shows no incidents of PWC catching on fire or exploding at the park. Based on the regulations imposed upon PWC manufacturers by the U.S. Coast Guard and manufacturing associations, and the continued cooperation of manufacturers to assess and fix any potential design flaws, the National Park Service does not think PWC use presents any unusual fire hazard at Fire Island National Seashore.

23. Several commenters stated that the analysis does not adequately assess

the safety threat posed to park visitors by PWC use.

NPS Response: The EA has been revised to acknowledge the reference (ACA 2001). According to New York State PWC accident trends, the number of accidents reported in the State has fluctuated from 31 reported accidents in 1994 to 140 reported accidents in 1996. However, the manufacturers of personal watercraft provide training videos with each watercraft they sell, and to date, 24 States, including New York, require some type of boater education in order to operate a personal watercraft.

Incidents involving watercraft of all types, including personal watercraft, are reported to and logged by the National Park Service, Suffolk County Marine Bureau, and the USCG or local constables. Eleven accidents or incidents involving personal watercraft have been reported at Fire Island National Seashore in the past five years. Accident information generated by the U. S. Coast Guard has been incorporated into the ''Summary of National Information of the Effects of Personal Watercraft'' section of the ''Purpose and Need'' chapter of the Final EA.

The inclusion of a buffer and the requirement of the flat-wake speeds within the specified navigation channels, as detailed in modified alternative C, will provide greater protection for swimmers, fishermen, boats at the shoreline, and people in the water and at the shoreline. Because of these measures under the modified preferred alternative (alternative C), the National Park Service has found personal watercraft use at Fire Island National Seashore to be compatible with park management objectives and values under certain regulation.

24. One commenter states that the EA also falls short of adequately examining the adverse impacts of PWC use to canoeist and kayakers. There is no evidence that NPS surveyed canoeist and kayakers regarding how PWC impact their visitor experience of affect the likelihood of return visits.

NPS Response: The regulation prohibits PWC use within 1000′ of the shoreline between the park's western boundary and the western boundary of Sunken Forest and a complete prohibition in all other waters to the east. These are the area most often used by kayakers and canoeists. The seashore's mission includes a commitment ''to providing access and recreational and education opportunities to Fire Island National Seashore visitors in this natural and cultural setting close to densely populated urban and suburban areas.'' The scope of the EA did not include the conduct of visitor surveys beyond the annual survey conducted by the park. Analysis of potential impacts of PWC use on visitors to the national seashore was based on best available data, input from park staff, and the results of analysis using that data.

Comments Related to Socioeconomics

25. One commenter stated that the economic impacts should not outweigh environmental impacts.

NPS Response: We agree. The national seashore's mission includes a commitment ''to providing access and recreational and education opportunities to Fire Island National Seashore visitors in this natural and cultural setting close to densely populated urban and suburban areas.'' The park and the Superintendent are not just considering economic impacts or environmental impacts, but must also consider the potential impacts to their visitors as well as their park mission.

Changes to the Final Rule

Based on the preceding comments and responses, the NPS has made no changes to the proposed rule language with regard to PWC operations.

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. The National Park Service has completed the report ''Economic Analysis of Personal Watercraft Regulations in Fire Island National Seashore'' (Law Engineering and Environmental Sciences, Inc.) dated March 2002. The report found that this rule will not have a negative economic impact. In fact this rule, which will not directly impact local PWC dealerships and rental shops, may have an overall positive impact on the local economy. This positive impact to the local economy is a result of an increase of other users, most notably canoeists, swimmers, anglers and traditional boaters seeking solitude and quiet, and improved water quality.

(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 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 not raise novel policy issues. This regulation is one of the special regulations being issued for managing PWC use in National Park Units. The National Park Service published the 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 requirements 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 document 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 upon the finding in a report prepared by the National Park Service entitled, ''Economic Analysis of Personal Watercraft Regulations in Fire Island National Seashore'' (Law Engineering and Environmental Sciences, Inc., March 2002). The focus of this study was to document the impact of this rule on two types of small entities, PWC dealerships and PWC rental outlets. This report found that the potential loss for these types of businesses as a result of this rule would be minimal to none.

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. The National Park Service has completed an economic analysis to make this determination. This 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 imposes no 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 taking implications. A taking implication assessment is not required. No takings 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 rule only affects use of NPS administered lands and waters. It has no outside effects on other areas and only allows use within a small portion 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 an Environmental Assessment (EA). The EA was open for public review and comment from September 3, 2002, to November 11, 2002. A copy of the EA and the errata is available by contacting the Superintendent, Fire Island National Seashore,120 Laurel Street, Patchogue, New York 11772. E-mail: *michael_bilecki@nps.gov,* Fax: (631) 289–4898, or on the Internet at *http://www.nps.gov/fiis/pwc.htm.* A Finding of No Significant Impact (FONSI) was approved on May 12, 2005. Copies of the FONSI may be downloaded at *http://www.nps.gov/fiis* or obtained by calling (631) 289 4810 x225 or writing to the Superintendent, Fire Island National Seashore,120 Laurel Street, Patchogue, New York 11772.

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

Administrative Procedure Act

This final rule is effective upon publication in the **Federal Register.** In accordance with the Administrative Procedure Act, specifically, 5 U.S.C. 553(d)(1), this rule, 36 CFR 7.20(d), is exempt from the requirement of publication of a substantive rule not less than 30 days before its effective date.

As discussed in this preamble, the final rule is a part 7 special regulation for Fire Island National Seashore that relieves the restrictions imposed by the general regulation, 36 CFR 3.24. The general regulation, 36 CFR 3.24, prohibits the use of PWC in units of the national park system unless an individual park area has designated the use of PWC by adopting a part 7 special regulation. The proposed rule was published in the **Federal Register** (69 FR 51788) on August 23, 2004, with a 60-day period for notice and comment consistent with the requirements of 5 U.S.C. 553(b). The Administrative Procedure Act, pursuant to the exception in paragraph (d)(1), waives the section 553(d) 30-day waiting period when the published rule ''grants or recognizes an exemption or relieves a restriction.'' In this rule the NPS is authorizing the use of PWCs, which is otherwise prohibited by 36 CFR 3.24. As a result, the 30-day waiting period before the effective date does not apply to the Fire Island National Seashore final rule.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and Recordkeeping requirements.

■ For the reasons stated in the preamble, the National Park Service amends 36 CFR part 7 as follows:

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

■ 1. The authority citation 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 § 7.20 to read as follows:

§ 7.20 Fire Island National Seashore.

* * * * *

(d) *Personal watercraft.* (1) Personal watercraft (PWC) may operate in the following locations and under the following conditions:

(i) Great South Bay from the western boundary of the national seashore adjacent to Robert Moses State Park, east to the western boundary of the Sunken Forest, excluding any area within 1,000 feet of the shoreline, except as provided in (ii), including the area surrounding East Fire Island and West Fire Island.

(ii) Navigation channels marked by buoys or identified on the NOAA navigational chart (12352) to include access channels to and from Fair Harbor, Dunewood, Lonelyville, Atlantique, Cherry Grove, Fire Island Pines, Davis Park, Moriches Inlet, Kismet, Saltaire, Ocean Beach, Ocean Bay Park, Point O'Woods, Oakleyville, and Water Island.

(iii) The Long Island Intracoastal Waterway within the park boundaries.

(iv) At ''flat wake'' speeds (maximum 6 mph) within designated marked channels to access town/community docks and harbors/marinas.

(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: June 24, 2005.

Paul Hoffman,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–13209 Filed 7–5–05; 8:45 am]

BILLING CODE 4312–52–P