



UNITED STATES
DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
OUTER BANKS GROUP

Cape Hatteras National Seashore Cape Lookout National Seashore
Fort Raleigh National Historic Site Wright Brothers National Memorial
Route 1, Box 675, Manteo, North Carolina 27954-2708

IN REPLY REFER TO:

L3425 (CAHA)

April 27, 1999

Memorandum

To: Files

From: Superintendent, Outer Banks Group

Subject: Determination on Appropriateness of Personal Watercraft Use at Cape Hatteras National Seashore

Introduction

Cape Hatteras National Seashore (the Seashore) is part of the North Carolina Outer Banks. It lies on three coastal barrier islands; Bodie, Hatteras, and Ocracoke Islands. These islands are linked by North Carolina State Highway 12 and the Hatteras Inlet ferry operated by the State of North Carolina. The Seashore contains 30,000 acres of land and 70 miles of virtually unspoiled beach. Pea Island National Wildlife Refuge is contained within the boundaries of the Seashore. The refuge is managed to provide habitat for migratory waterfowl and other water-dependent birds. It is a major wintering ground and stop over point for migratory waterfowl on the Atlantic flyway.

These barrier islands are a dynamic system, migrating and evolving in response to coastal processes, winds, storms, and rising sea level. Shoreline configuration and location may change dramatically in response to storms. Seashore vegetation is adapted to varying degrees of ocean overwash, fresh water availability, salt spray, and wind blown sand. Vegetative adaptations have resulted in interdune meadows, shrub thickets, maritime forests, and fresh and salt water marshes. This variety of vegetative communities provides habitat for many animal species, some dependent on specific vegetative types and others benefiting from an ability to utilize multiple communities. The interrelationship of Seashore terrestrial and aquatic systems is complex and extensive. Hardly any terrestrial area is more than a few meters from water or wetland. The health of one system clearly impacts that of the other.

Three species, listed under the Endangered Species Act of 1973, inhabit or use the Seashore for reproduction, nesting, brooding, migration, or foraging. These are the loggerhead sea turtle, piping plover, and seabeach amaranth. A federal species of concern, the dune blue curl, also is indigenous to the Outer Banks. Occasionally the endangered leatherback turtle may nest on the Seashore and the endangered peregrin falcon, roseate tern, and bald eagle use the Seashore for migration. The soundside marshes and wetlands of the Seashore serve as nesting and feeding grounds for numerous water-dependent avian species during the summer months. The soundside waters of the Seashore are important spawning grounds for several commercially and recreationally important fish and provide vital habitat for many species of locally-harvested shellfish and crabs.

Nine villages are located within or adjacent to Seashore boundaries on non-federal land. The main revenues of these villages derive directly or indirectly from summer tourism or commercial fishing. The lifestyle and culture of these villages is also largely directly attributable to the nature of the barrier islands and their relationship with the sea.

Purpose and Significance of Cape Hatteras National Seashore

The enabling legislation of Cape Hatteras National Seashore, dated August 17, 1937 (50 Stat. 669), provides in part:

Sec. 4. Except for certain portions of the area, deemed to be especially adaptable for recreational uses, particularly swimming, boating, sailing, fishing, and other recreational activities of similar nature, which shall be developed for such uses as needed, the said area shall be permanently reserved as a primitive wilderness and no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing in this area...

Background

Personal watercraft (PWC) can be differentiated from other watercraft and are operated differently. PWCs are usually less than 16 feet in length and use an inboard internal combustion engine that powers a water jet pump. PWCs generally are operated by a person or persons sitting, standing or kneeling on the PWC rather than within the confines of the hull. They are high performance vessels designed for speed and maneuverability and are often used to perform stunt-like maneuvers. PWCs include vessels commonly referred to as jet ski, waverunner, wavejammer, wetjet, sea-doo, wet bike and surf jet. They are the fastest growing segment of the boating industry in the U.S. accounting for one-third of all boat sales. The PWC industry sells approximately 140,000 units per year. Cumulative sales topped 1.2 million units as of 1998.

Currently PWC use in Cape Hatteras National Seashore is significant and growing rapidly. For example, park rangers counted in excess of 200 PWCs in the water or on the beach at Oregon Inlet on July 4, 1997. This may be due, in part, to PWC restrictions or prohibitions enacted by nearby jurisdictions. The potential exists for considerable expansion of this use if left unregulated.

On June 22, 1998, Director Bob Stanton signed an Interim Management Policy for Personal Watercraft Use until regulations could be developed regarding PWC use for all units in the National Park System. This interim policy ordered the Seashore and other national park units that have had significant PWC use prior to 1998 to begin management of PWC use (e.g. prohibitions, restrictions, limits). Superintendents were to use the authorities provided in 36 CFR 1.5 and 1.7 to initiate PWC regulation within their respective parks.

A work group of Cape Hatteras Group NPS employees met in Manteo, NC, in July 1998, to consider the following PWC management options to meet the Director's Interim Management Policy:

- (1) total PWC prohibition
- (2) no restrictions
- (3) limit PWC numbers by permit fees
- (4) expansion of use
- (5) limited access points
- (6) limit use areas by sound versus ocean side
- (7) allow sound side use but no launching from NPS land
- (8) authorize only park concessioners to provide for PWC use
- (9) limit PWC access by season or time of day
- (10) launch conditions or restrictions
- (11) identify recreation use zones
- (12) combination of the above

This group found that either options (1) or a combination of options (5) and (10) most closely met the interim policy while conforming to the enabling legislation and other constraints. These recommendations were made to the Group Superintendent in a report dated July 28, 1998. Cape Hatteras Group staff spent the months between July 1998 and April 1999 locating, assembling, and studying available research on PWC use and seeking public input.

Authority to Act

Park management determines what types of activities are appropriate in units of the National Park System. This is not an arbitrary decision process. It is guided by a codified body of laws and policies that have their roots in the congressional legislation that created the National Park Service in 1916, and subsequent policy decisions, congressional mandates, and legal decisions which are summarized below.

The NPS is granted broad authority under 16 U.S.C. Section 1 *et seq.* (National Park Service Organic Act, as amended) to "...regulate the use of the Federal areas known as national parks, monuments, and reservations...by such means and measures as conform to the fundamental purposes of said parks...which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations" (16 U.S.C. Section 1). 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, monuments, and reservations under the jurisdiction of the National Park Service...."

In 1970, Congress amended the NPS Organic Act of 1916 to clarify its intentions as to the overall mission of the National Park Service. Through the General Authorities Act of 1970 (16 U.S.C. 1a-1 through 1a-8), Congress brought all areas administered by the NPS into one National Park System and directed the NPS to manage all areas under its administration consistent with the Organic Act of 1916.

In 1978 Congress amended the General Authorities Act of 1970 and reassured System-wide the high standard of protection defined in the original Organic Act by stating, "Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 1 of this title, shall be consistent with and founded in the purpose established by section 1 of this title, to the common benefit of all people of the United States." 16 U.S.C. Section 1c defines the National Park System as "... any area of land and water now or hereafter administered by the Secretary of Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes."

16 U.S.C. Section 1a-1 states, "The authorization of activities shall be conducted in the 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, except as may have been or shall be directly and specifically provided by Congress."

As with the U.S. Coast Guard, NPS 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 regards to the NPS, Congress in 1976 amended the 1970 Act for Administration (known as the General Authorities Act) and authorized and 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 clarified that NPS regulations otherwise applicable within the boundaries of a National Park System unit apply on and within waters subject to the jurisdiction of the United States by publishing a final rule 36 CFR 1.2(a) which states,

"The regulations contained in this chapter apply to all persons entering, using, visiting, or otherwise within:...(3) Waters subject to the jurisdiction of the United States located within the boundaries of the National Park System including navigable waters and waters within their ordinary reach (up to mean high water line in places subject to the ebb and flow of the tide and up to the ordinary high water mark in other places) and without regard to the ownership of submerged lands, tidelands, or lowlands."

ANALYSIS

Noise Pollution

A traditional motorized watercraft traverses through an area and, within a few minutes, is out of the area. PWC use typically consists of groups of riders who traverse the same area over and over again. Because they tend to stay in one area for longer periods of time, the noise from PWCs is constant. Noise problems are compounded by PWC operating characteristics. The jet drive may emerge from the water when a PWC goes over a wave or wake resulting in changes in loudness and pitch which complainants cite as more disturbing than constant sounds. The erratic changes in engine pitch, the pulsation of sound produced by jumping wakes, and frequent changes in speed, in addition to the volume of the sound, create noise that is perceived as both irritating and an intrusion upon the park experience. The PWC industry has argued that new models are much quieter than older models, but this does not alleviate the noise pollution of the PWCs already in use at the Seashore. Additionally, aftermarket modifications to PWCs are common practice with many PWCs having exhaust systems modified to increase horsepower and thrust. This can render useless attempts by manufacturers to reduce noise levels.

Hydrocarbon Pollution

Nearly all PWCs currently in use are powered by two-stroke engines, which do not completely burn the mixture of oil and gasoline delivered to the combustion chamber. According to studies cited in the U.S. Environmental Protection Agency (EPA) gasoline spark-ignited engine rulemaking, these two-stroke engines discharge as much as 25% of their gas and oil emissions directly into the water. On a per-gallon basis, PWCs can emit a minimum of 23% more ambient hydrocarbon (gas and oil) emissions than other two-stroke engine watercraft (USEPA, 1991). An average two-hour ride on a PWC emits three gallons of gas and oil into the water.

PWCs have twice the hourly annual usage rate of other water vessels, double the load factor (rpm, pay load, etc.), and significantly more horsepower than a typical two-stroke outboard. For these reasons, PWCs emit eight times more pollution than equivalent motorboats. The California Air Resources Board reports that a two-hour ride on a 100-horsepower PWC emits the same pollution as driving 139,000 miles in a 1998 passenger car. The PWC industry counters that the EPA data include older, less efficient PWCs and almost all 1998 models meet new hydrocarbon and oxides of

nitrogen emission standards. It will be many years, however, before the older models are no longer used.

Wildlife Impacts

Extensive published research has shown that human intrusion on foot, boat, 4-wheeler, etc., disturbs birds feeding or nesting in estuarine areas, sometimes to the point that birds abandon nests and eggs. Research has shown that propeller-driven boats also impact turbidity of water near shore as well as sea grass communities growing there. The most prominent researcher in the area of PWC effects on estuarine birds is Jim Rogers of the Florida Game and Freshwater Fish Commission. In 1997, Rogers recommended minimum "setback" distances for outboard motorboats to avoid disturbing nesting and feeding birds. He is currently studying setback distances for PWCs and his unpublished findings show that the minimum PWC setback for long-billed dowitchers is a little over 150'. The minimums for all other birds he has studied are much greater, some in excess of 450'. Based on Rogers' research, the sound-side 150' NPS boundary would be inadequate to protect most species of estuarine birds on the Seashore. However, in the absence of jurisdiction to impose greater setbacks to protect estuarine species, prohibition of PWC operation within Seashore waters would appear to be the maximum protection that the NPS can afford these species.

Safety Concerns

A report in the August 27, 1997 *Journal of the American Medical Association* stated in part:

Based on national estimates, injuries associated with PWC use have increased 4-fold ($P < .001$) from an estimated 2860 in 1990 to more than 12,000 in 1995.... During the same period, there was a 3-fold ($P < .001$) increase in the number of PWC in operation from approximately 241,500 in 1990 to an estimated 760,000 in 1995.

The same report also states:

Based on these data [1992], 14,062 injuries were associated with PWC use treated in EDs [Emergency Departments]... The rate of injuries related to PWC treated in EDs was about 8.5 times higher... than the rate of ED-treated injuries from motorboats.

The safety record for PWCs shows a disproportionate level of PWC accidents and injuries relative to the numbers of PWCs. In California in 1996, 16% of all registered vessels were PWCs, yet PWCs were involved in 45% of all boating accidents and 55% of all injuries. In a May 1998 report, the National Transportation Safety Board noted that, while the overall number of recreational boating fatalities has been declining in recent years, the number of PWC-related fatalities has been increasing. The majority of these accidents are attributed to rider inexperience and lack of skill, operation and use

patterns, excessive speed, alcohol use, and conflicts with other vessels in congested areas. This would appear to be especially problematic in the Oregon Inlet area of Cape Hatteras National Seashore.

Public Comment

Public comment was solicited by notices in regional newspapers. The public comment opened on February 18 and closed March 22, 1999. All comments received by the Seashore prior to the public notice were recorded and analyzed along with those comments received during the comment period.

The Seashore analyzed a total of 1,034 responses. 948 responses opposed continued unregulated PWC use at the Seashore with 901 of these favoring a complete ban on PWC operation. 86 responses opposed a total ban, but 65 of those opposed to a total ban also believed some sort of regulation was needed. This resulted in a 10.5-to-1 ratio of those favoring prohibition of PWC use versus those opposed to prohibition of PWC operation.

280 responses came from Dare County residents, 685 came from outside Dare County, and 69 were of unknown origin. 255 Dare County responses favored some form of PWC regulation, most preferring a total ban, while 25 responses liked PWC operation, opposed a total ban, but saw the need for some regulation. This resulted in a 10.2-to-1 ratio of Dare County responses generally opposed to continued PWC operation within the Seashore versus Dare County responses favoring continued PWC operation within the Seashore. Non-local (from outside Dare County) responses mirrored local responses with a 10.6-to-1 ratio opposed to PWCs versus those favoring PWCs.

We received a total of 1003 responses from individuals, 4 responses from businesses, 27 responses from organizations, and no responses from federal, state, county or local governmental agencies.

Visitor Use Conflicts

Conflicts between PWC users and other Seashore visitors generate the majority of visitor use conflict complaints. For example, rangers have responded to complaints of PWCs operating within the confines of lifeguarded beaches. Surf fishermen regularly complain about PWCs cutting fishing lines and blasting through fishing areas, scaring away fish. Surfers and sailboarders have complained that PWC intrusion into areas used by these groups has forced them to leave or to modify their activities within the areas to avoid collision or operation in close proximity to PWCs.

Probably the strongest complaints come from land-based visitors. Beach walkers, people looking for shells, birdwatchers, sunbathers, artists, photographers, or those who simply stand on the shore to appreciate the visual beauty and natural sounds of the Seashore voice frequent complaints about the behavior of PWC operators and the noise

PWCs produce. The natural sounds of the barrier island environment are a prime component of the seashore experience and PWCs often intrude upon this experience.

Appropriateness

PWC use is a recreational activity in and of itself and, other than a need for a sufficiently wide and deep body of water, PWC use is not dependent on resources within NPS jurisdiction. As such, it is not necessarily an appropriate use in all National Park System units, especially where the protection of quiet and solitude are prime management objectives. The use of PWCs must be distinguished from other motorized use that provides access to enjoy primary park resources. In the Seashore, those uses might include motorized watercraft for access to wildlife viewing, fishing, swimming, or simple transport from point to point. Since the Seashore's enabling legislation requires the Seashore to be managed almost entirely as a "primitive wilderness", and since natural quiet and solitude are integral to a primitive wilderness experience, the enabling legislation is consistent with prohibiting PWC use. This case is strengthened by application of 16 U.S.C. 1a-1 in that authorization of PWC use would be in direct derogation of the values and purposes for which the Seashore has been established.

FINDINGS AND DETERMINATION

The NPS Organic Act, as amended, along with other pertinent laws and regulations, gives the NPS and individual park managers the authority to regulate use within the National Park System units. In fact, 16 U.S.C. 1a-1 gives managers the charge that "...The authorization of activities shall...not be in derogation of the values and purposes for which these various areas have been established...". The NPS is not by law or practice obligated to accommodate every new recreational activity and in the past has limited or restricted activities that are not either resource-based, or that impact park resources and values.

Based on the foregoing analysis, PWC operation poses considerable threats to estuarine flora and fauna, pollutes waters essential to commercial and recreational fishing in the park, poses unacceptable risk of injury to operators and bystanders, conflicts with the majority of other longstanding uses of the Seashore, and is an inappropriate use of the Seashore since PWC noise intrusion is inconsistent with the "primitive wilderness" intent. Public comment strongly supports these findings.

PWC use is in derogation of the values and purposes for which the Seashore was established by Congress and, pursuant to the authority of 36 CFR 1.5(a)(1), is prohibited within the boundaries of Cape Hatteras National Seashore effective May 17, 1999. This prohibition does not apply to PWCs operated by duly authorized federal, state, and local law enforcement and emergency response agencies whose jurisdictions lie within or adjoin Cape Hatteras National Seashore boundaries and when engaged in training, enforcement or search and rescue activities. This determination is in compliance with the Director's Interim Management Policy for PWC Use dated June 22, 1998.

This determination is found to be categorically excluded from further compliance with the National Environmental Policy Act under Departmental exclusion 1.5 in Appendix 1, 516 DM 2, and the National Park Service exclusion 7.4D(2) and (4) in Appendix 7, 516 DM 6. In compliance with Section 7 of the Endangered Species Act of 1973, as amended, the National Park Service has determined that this action will not adversely affect any Federally listed threatened or endangered species, or designated critical habitat.



Robert W. Reynolds
Group Superintendent
Outer Banks Group

4/27/99

Date

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Frequently Asked Questions About...

The New Personal Watercraft Prohibition at Cape Hatteras

Q: What does the new personal watercraft (PWC) prohibition say?

A: Personal watercraft launching or landing on any lands or boat ramps within the boundaries of Cape Hatteras National Seashore is prohibited. Personal watercraft may not be towed on trailers on ocean beaches within the boundaries. Personal watercraft operation on waters within the boundaries of the Seashore is prohibited. This prohibition does not apply to personal watercraft operated by duly authorized federal, state, and local law enforcement and emergency response agencies whose jurisdictions lie within or adjoin Cape Hatteras National Seashore boundaries and when engaged in training, enforcement or search and rescue activities.

Q: How can I get a copy of this prohibition?

A: You request a copy of the Superintendent's Compendium by calling the Chief Ranger's Office, Cape Hatteras National Seashore at (252) 473-2111 extension 118, by email addressed to caha_ranger_activities@nps.gov, or by writing to Chief Ranger, Cape Hatteras National Seashore, Route 1, Box 675, Manteo, NC 27954.

Q: Who made this decision?

A: The National Park Service acting through Outer Banks Group Superintendent Bob Reynolds.

Q: What gives him the authority to prohibit personal watercraft?

A: Most regulations applicable to units of the National Park System are found in Title 36 of the Code of Federal Regulations. Section 1.5(a)(1) of Title 36 (36 CFR 1.5(a)(1)) gives National Park superintendents authority to close parks to specific uses. Superintendents must maintain a list of all closures enacted under their authority. This list is the Superintendent's Compendium mentioned above.

Q: Are there other prohibitions like the one on personal watercraft?

A: Yes, the Superintendent's Compendium contains restrictions prohibiting entry into beach areas closed because of nesting activities by endangered species, onto parking ramps and runways at Billy Mitchell and Ocracoke airstrips, into the horse pasture on Ocracoke Island, about where to clean fish, about camping for more than 14 days at park campgrounds, etc.

Q: Why did the National Park Service prohibit personal watercraft at Cape Hatteras National Seashore?

A: When Congress creates a national park unit, it passes a federal law that tells the reasons for creation of the unit and how Congress wants it to be managed. Additionally, other federal laws tell the National Park Service how to manage all parks in general. Because of growing concerns about pollution and noise caused

by PWCs, the negative impacts of PWCs on wildlife, plants and commercial and recreational fishing at the Seashore, the high accident rate of PWCs, and frequent visitor with PWCs, the National Park Service evaluated the appropriateness of PWC use at the Seashore. PWC use was found to be incompatible with Congressional mandates for Cape Hatteras National Seashore.

Q: Why didn't the National Park Service ask park users what they would prefer regarding personal watercraft use?

A: In February of this year, the National Park Service published press releases and/or legal notices in local and regional newspapers in North Carolina and Virginia. Additionally, press releases were sent to local radio and television stations. These press releases and public notices asked the public to comment on personal watercraft use within the Seashore. The National Park Service started accepting comments on February 18 and stopped accepting comments on March 26, 1999.

Q: What were the results of the comments?

A: We received 1034 responses, 1003 of which were from individuals. 948 of the respondents were opposed to PWC use at Cape Hatteras with most favoring a total ban. 86 were in favor of PWC use at Cape Hatteras, but with some form of regulation. Dare county residents split 255 to 25 against personal watercraft.

Q: Why weren't the public comments gathered during summer months? It would have made a difference in the results.

A: The comments were collected in winter so that the National Park Service would be able to decide on an appropriate PWC management alternative and implement this alternative prior to the major 1999 visitor use season. The comments were solicited by press releases and legal notices from across broad regions of North Carolina and Virginia. Comments came from as far away as California and Alaska. All park visitors and persons with interest in the issue had the same opportunity to comment.

Q: When does the prohibition take effect?

A: May 17, 1999.

Q: Where are the National Park Service waters that this prohibition applies to?

A: In general, the prohibition applies to waters extending 150' into Pamlico Sound from any National Park Service land on Cape Hatteras National Seashore. It does not apply to oceanside waters or to Silver Lake on Ocracoke Island. It also does not prohibit passage of PWCs through Oregon, Hatteras, or Ocracoke Inlets to access either ocean or sound waters.

Q: Does the prohibition apply to PWCs operated by local enforcement authorities?

A: No. Duly authorized local, state, and federal enforcement and search and rescue agencies are not prohibited from using PWCs in National Park Service waters while conducting their operations.

Q: Can I refuel my personal watercraft at Oregon Inlet Fishing Center?

A: No.

Q: What is a personal watercraft? What will the rangers use as the definition for enforcement purposes?

A: A vessel meeting two or more of these criteria will be considered a personal watercraft:

1. The operator sits astride the vessel rather than within the confines of the vessel's hull
2. The watercraft is powered by an internal combustion engine driving a water pump for propulsion
3. The operator steers by handlebars
4. The watercraft is capable of stunt-like maneuvers
5. The watercraft is commonly referred to as jet ski, waverunner, wavejammer, wetjet, sea-doo, wet bike or surf jet.

Jet boats, conventionally hulled vessels powered by internal combustion engines driving water jet pumps, are not considered to be personal watercraft for purposes of this prohibition.

Q: I pay taxes and boat registration fees. How can you legally prohibit me from operating at Cape Hatteras National Seashore?

A: Operating a personal watercraft, or any other vessel, is like driving a motor vehicle on the road. It is a privilege, not a right. Just as your privilege to drive is regulated by the State and you do not have the "right" to drive anywhere you want, so it is with your boating privileges, except, in this case, the National Park Service has the authority to regulate the boating privilege. As with driving a motor vehicle, the privilege to operate isn't dependent on whether you pay taxes or registration fees. 36 CFR 1.5(a)(1) gives the National Park Service authority to restrict or prohibit certain activities including boating activities.

Q: Isn't it discrimination to single out personal watercraft when the Coast Guard doesn't distinguish them from other vessels of the same size and when outboard motorboats make as much noise and pollution as personal watercraft?

A: The National Park Service is *required* to distinguish between activities in parks and prohibit those that are inconsistent with Congressional intent for the parks. For example, though they are both heavy motor vehicles that pay road taxes, tour buses are allowed to operate through most parks while commercial trucks are prohibited. The National Park Service's authority to regulate uses is

not dependent on Coast Guard or State classifications. It instead comes from our Congressional mandate to do what is necessary to protect park resources and see that the parks are used as Congress intended.

NATIONAL PARK SERVICE
Briefing Statement

Submitted: November 29, 1999

State: North Carolina

REGION/OFFICE: Southeast/Cape Hatteras National Seashore

PROJECT/ISSUE: Personal Watercraft (PWC) Ban at Cape Hatteras National Seashore

BACKGROUND:

- The congressional mandate of the National Park Service is to "...preserve and protect..." park resources "...unimpaired for the benefit and enjoyment of future generations..."
- Parts of the Congressional mandate for Cape Hatteras National Seashore (the Seashore) include managing the Seashore as "...a primitive wilderness..." with certain adaptable areas developed for, "...boating, sailing, fishing..."
- PWCs are the fastest growing segment of the boating industry with average annual sales of 140,000 units with approximately 1.2 million already in service.
- PWCs are usually under 16' in length and are operated by sitting or standing astride the vessel rather than within the vessel hull. They are high performance vessels designed for speed and maneuverability and are often used to perform stunt-like maneuvers. The Personal Watercraft Industry Association (PWIA) disputes this description and argues that the NPS cannot differentiate PWCs from other small vessels.
- PWCs have a disproportionately high accident rate compared to other similar classes of vessels.
- Many studies document negative impacts of boats and vehicles on marine and estuarine wildlife, but research specific to PWC impacts are limited.
- Many coastal communities in North Carolina and southern Virginia have banned or heavily regulated PWC use within their jurisdictions due to safety concerns and complaints about noise, user conflicts, harassment of wildlife and interference with sport and commercial fishing. All beach communities north of Cape Hatteras National Seashore on North Carolina's Outer Banks have enacted some PWC restrictions.
- Prohibitions in other areas have forced PWC users to Cape Hatteras to operate PWCs. Park rangers have counted in excess of 200 PWCs at one time in Oregon Inlet on holiday weekends.
- As PWC use has risen at the Seashore, so have complaints from other visitors about user conflicts, unsafe practices and rude behavior by PWC users, impacts on the Seashore's natural resources, pollution, and noise.
- On June 22, 1998, NPS Director Stanton ordered that all NPS units begin active management of PWC use until the servicewide PWC regulation had been promulgated.
- In September 1998 the National Park Service published a draft regulation that would prohibit PWC use in all National Park Service (NPS) units with the exception of 25 areas. Some of the excepted units, Cape Hatteras National Seashore included, would have a two-year moratorium on the prohibition in which to publish park-specific rules if appropriate that would exempt the unit from the general prohibition.
- Pursuant to Director Stanton's June 22, 1998 order, work group at Cape Hatteras considered 12 PWC management alternatives and recommended a general prohibition on PWC operation to Superintendent Bob Reynolds.
- The park staff also sought public comment during a 30-day period during February and March of 1999. Of 1,034 responses, 948 strongly opposed any continued PWC operation. This was an 11-to-1 ratio in opposition to PWCs.

CURRENT STATUS:

- Superintendent Reynolds, in a determination dated April 27, 1999, prohibited the launching and land of PWCs from NPS lands including beaches and public boat ramps. He also prohibited trailering of PWCs across NPS beaches.
- Public compliance has been good with limited increased enforcement demands on park staff.
- The Seashore received a high volume of favorable comments immediately after the ban was enacted. The volume has slowed greatly and is now largely opposes the ban.

POSITION OF INTERESTED PARTIES:

- The National Parks and Conservation Association, the Bluewater Network, various sport fishing, commercial fishing, and land-based Seashore users favor a the total prohibition of PWC use.
- The PWIA, PWC rental shops, and individual PWC users believe the ban was unnecessary and that better enforcement, better education of PWC users, and developing noise and emission-reducing technology eliminate the need for most regulation.

DEPARTMENT/BUREAU PERSPECTIVE:

- PWC use is inconsistent with the congressional mandates of the National Park Service and of Cape Hatteras National Seashore.
- PWC use is directed primarily at enjoying operation of the machine, not the resources of the Seashore and is use therefore is may not be an appropriate use of the Cape Hatteras National Seashore.

FUNDING REQUIREMENTS:

- Minimal additional staffing and equipment have been required to enforce the PWC prohibition.

CONTACT: Jeff Cobb, Chief Ranger, Cape Hatteras National Seashore, Rt.#1, Box 675, Manteo, NC 27954; (252) 473-2111, ext. 119; FAX (252) 473-1847.