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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-GUIS-41942; PPSEGUISA0 PPMPSAS1Z.Y00000]

RIN 1024-AE55

Gulf Islands National Seashore; Personal Watercraft

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service revises special regulations governing the use of personal watercraft at Gulf Islands National Seashore. This rule reduces the distance of flat wake speed zones from certain shorelines and codifies existing closures at West Petit Bois Island and the Fort Pickens ferry pier.

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The comments received on the proposed rule are available on *http://www.regulations.gov* in Docket ID: NPS-2021-0001.

FOR FURTHER INFORMATION CONTACT: Richard A. Clark, Superintendent, Gulf Islands National Seashore, rick_clark@nps.gov, (850) 934-2600 / (228) 230-4100. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background.

Gulf Islands National Seashore (the Seashore) encompasses the longest stretch of federally protected seashore in the United States. The Seashore includes seven barrier islands that span nearly 160 miles, coastal mainland, and adjacent waters in the northeastern part of the Gulf of Mexico. The Seashore comprises 139,175 acres within Mississippi and Florida, 4,630 acres of which (consisting of Horn and Petit Bois Islands) are designated wilderness. The resources of the Seashore vary widely, including marine, bayou, salt marsh, live oak, and southern magnolia forests.

Congress established the Seashore in 1971 in order to preserve for public use and enjoyment areas possessing outstanding natural, historic, and recreational values. 16 U.S.C. 459h(a). The National Park Service (NPS) administers the Seashore as a unit of the National Park System and has the authority to regulate the use of and management of the Seashore as it considers necessary or proper. 54 U.S.C. 100751(a). This includes the authority to regulate boating and other activities on waters located within System units that are subject to the jurisdiction of the United States. 54 U.S.C. 100751(b).

The Seashore is one of the most heavily visited units in the National Park System. The Seashore attracts several million visitors from throughout the nation, who come to enjoy the beach and cultural and historic features. More than 80% of the Seashore is marine habitat and accessible only by boat or other watercraft. Many visitors use personal watercraft (PWC) to access and enjoy the Seashore.

Compliance and PWC Regulations.

NPS general regulations at 36 CFR 3.9 state that PWC may be used only where authorized by special regulation and only in the 21 System units that are identified in those regulations, including the Seashore. In 2006, the NPS promulgated special regulations to manage the use of PWC at the Seashore. 71 FR 26244 (May 4, 2006). These regulations, which are codified at 36 CFR 7.12, establish where PWC may be used, how they may be operated, and where they may be landed. Among other things, they

permit PWC use in all waters of the Seashore where other motorized vessels are allowed.

In 2008, Bluewater Network and The Wilderness Society filed a lawsuit claiming that the environmental assessment (EA) supporting the special regulations was inadequate and violated the National Environmental Policy Act, the NPS Organic Act, and the Administrative Procedure Act. In 2010, the U.S. District Court for the District of Columbia held that the impact analysis in the EA was inadequate and remanded the EA to the NPS. *Bluewater Network v. Salazar*, 721 F. Supp.2d 7 (D.D.C. 2010). The court did not vacate the special regulations, however, which have continued to govern the use of PWC within the Seashore.

In June 2019, consistent with the court's decision, the NPS completed a Final Personal Watercraft Plan / Environmental Impact Statement (FEIS) that contains a more comprehensive analysis of the impacts of PWC use within the Seashore. The Record of Decision (ROD) for this project was originally approved by the NPS Regional Director of Interior Region 2 on August 13, 2019. The NPS then revised the selected alternative to remove a prohibition on PWC landing below the mean high tide on Horn and Petit Bois Islands. On December 17, 2020, the Acting Regional Director signed an amended ROD with the PWC landing prohibition removed but all other elements of the original selected action retained. The NPS believes the selected alternative will protect natural and cultural resources at the Seashore, minimize conflicts between various users, and promote visitor safety while allowing for a variety of recreational experiences. A copy of the FEIS, ROD, and amended ROD which contain a full description of the purpose and need for taking action, the alternatives considered, maps, the environmental impacts associated with the rule, and the basis for the selected alternative, can be found online at https://parkplanning.nps.gov/guis-PWC-EIS, by clicking on the link entitled "Document List."

Final Rule.

This rule implements the selected alternative identified in the amended ROD for the management of PWC use within the Seashore. The selected alternative maintains the existing special regulations at 36 CFR 7.12, except as explained below.

Flat Wake Zones.

The existing special regulations prohibit the use of PWC at more than flat wake speed less than 0.5 miles from (i) either side of the pier of West Ship Island, and (ii) the shorelines of West Ship Island and the designated wilderness islands of Horn and Petit Bois. The existing flat wake speed zone extends 300 yards from all other shorelines within the Seashore. This rule reduces the size of the flat wake zone to (i) 300 yards from any shoreline in Mississippi (including the shorelines of Ship, Horn and Petit Bois islands) and (ii) 150 yards from any shoreline in Florida. Establishing consistent flat-wake zone distances within each district of the Seashore (Florida and Mississippi) should result in increased compliance with and easier enforcement of flat-wake zones. Reducing the size of the flat-wake zones will benefit visitors who use PWC by creating more freedom to operate PWC at higher speeds. The boundaries of the flat wake zones are based on near-shore bathymetric information and research on PWC impacts to submerged aquatic vegetation that shows that in a water depth of 3 feet or more, PWC have little negative impact to seagrass beds (Continental Shelf Associates 1997; MDNR 2002). The average distance from shorelines in the Florida district to the 3-foot depth contour is 150 yards. The 300 yard flat wake zone in the Mississippi district is based on the average distance to the 4-foot depth contour because similar 3-foot bathymetric data were not available for Mississippi. NPS law enforcement staff may place temporary floating buoys in the water as reference points to show PWC users what 150 yards and 300 yards from the shoreline looks like. This will be done on an as-needed basis, determined by NPS personnel, and will likely occur on select high-use days and weekends.

Other Modifications.

The existing special regulations allow PWC use anywhere within the Seashore except at specific locations listed in the regulations. 36 CFR 7.12(c)(1). This rule adds two locations to the list of closed areas: (i) the lakes, ponds, lagoons, and inlets of West Petit Bois Island in the Mississippi District; and (ii) within 200 feet of the ferry pier at Fort Pickens in the Florida District. West Petit Bois Island is a fast-changing barrier island. According to historic aerial imagery at the time the existing special regulations were promulgated in 2006, West Petit Bois Island did not have lakes, ponds, or inlets as it does now. The Fort Pickens ferry pier did not exist in 2006. Construction was completed in 2012. These closures have been implemented for years using the superintendent's discretionary authority in 36 CFR 1.5 to establish closures that are necessary for the protection of public safety and natural resources. They are consistent with existing closures in the special regulations that prohibit PWC use (i) in the lakes, ponds, lagoons, and inlets of other islands within the Seashore; and (ii) within 200 feet of the fishing piers at Fort Pickens. 36 CFR 7.12(c)(1).

This rule also replaces references to West Ship Island and East Ship Island in the existing regulations with a reference to Ship Island. In 2019, West Ship Island and East Ship Island were restored to a single island as part of the Mississippi Coastal Improvements Program Comprehensive Barrier Island Restoration Project.

Summary of Public Comments.

The NPS published a proposed rule in the *Federal Register* on January 15, 2021 (86 FR 3903). The NPS accepted public comments on the proposed rule for 60 days via the mail, hand delivery, and the Federal eRulemaking Portal at *https://www.regulations.gov*. Comments were accepted through March 16, 2021. The NPS received eight comments on the proposed rule. Several comments supported the proposed rule and did not raise any issues or suggest any changes. A summary of the pertinent issues raised in other comments and responses to them are provided below.

Several comments raised concerns about the environmental impacts of PWC use. The NPS provides a brief response to these comments below. More information about the environmental impacts of PWC use under the selected alternative can be found in the FEIS, including responses to comments on the FEIS that are available in Appendix J. After considering the public comments on the proposed rule and after additional review, the NPS did not make any changes in the final rule.

1. Comment: One commenter recommended the NPS ban PWCs on all public waterways within the National Park System.

NPS Response: Although PWC use may not be appropriate in some units of the National Park System that have navigable waters, there are other units where it may be appropriate and creates another way for the American public to responsibly recreate and access park areas. The NPS prepared the FEIS and conducted a robust scientific analysis of the impacts of PWC use at the Seashore. Although the impact analysis in the FEIS indicates that resources at the Seashore would be affected as a result of continued PWC use, it concludes that those impacts would not rise to an unacceptable level, and that park resources would continue to exist in a condition that would allow visitors to enjoy them now and into the future.

2. Comment: One commenter stated that reducing the size of the flat wake zones based upon the average distance from shore that reaches a target water depth does not adequately protect submerged resources that are shallower than the target water depth but outside of the flat wake zones. This commenter suggested the NPS extend the flat wake zones further from shore to adequately protect these resources.

NPS Response: As described in Appendix J of the FEIS, the NPS acknowledges that the flat-wake zone distances established by this rule would expose additional submerged aquatic vegetation (SAV) habitat to impacts from PWC use. Although this would allow full throttle PWC use in a greater amount of shallow-water SAV habitat,

impacts to SAV would be minimal because PWCs do not have propellers, which can cause physical damage to SAV, and are operated mostly above water when traveling at full speed. This is consistent with the findings from the PWC studies in 1997 and 2002 (Continental Shelf Associates 1997; MDNR 2002). Impacts could occur as a result of sudden starts in shallow-water SAV habitat, which can cause "blowouts." However, such impacts would be localized and the NPS does not anticipate that those impacts would be noticeable in large areas of SAV.

3. Comment: Several commenters suggested that reducing the size of the flat wake zones will cause erosion to shoreline areas from increased PWC wake.

NPS Response: The FEIS describes the potential impacts to shoreline habitats from erosion. Because of their light hulls and shallow drafts, PWCs cause only relatively small wakes. For this reason, the FEIS concludes that PWC use is not expected to result in a measurable amount of shoreline erosion when compared to storms and other natural events. This rule establishes 300 yard flat-wake zones in the Mississippi District and 150 yard flat wake zones in the Florida District. These distances are considerable and will limit impacts from PWC wake to shorelines.

4. Comment: One commenter stated that reducing the flat wake zones around Horn and Petit Bois islands does not align with the stated goals of the Wilderness Act to preserve the natural conditions of wilderness. This commenter suggested that extending the flat wake zones further from shore would benefit those seeking a quiet and primitive recreational experience on the islands in a manner that would outweigh any adverse impacts to PWC users from having to reduce speed or take a longer route around the islands.

NPS Response: As stated in the FEIS, the NPS recognizes that reducing the size of flat-wake zones from existing conditions would result in increased noise levels from PWC use adjacent to wilderness. The 300 yard flat wake zone around the wilderness

islands, however, will continue to provide a buffer to reduce the effects of PWC noise on visitors to the wilderness areas. The impacts to qualities of wilderness character will be minimal due to the low level of PWC use around the Mississippi District islands (as shown on pages 25– 26 of the FEIS). Also, the NPS expects that continued transition to newer, quieter PWC models over time will result in reduced impacts to wilderness over the long term.

5. Comment: One commenter suggested that the benefits produced by flat wake zones in the form of less erosion and disruption to the shoreline ecosystem outweigh any costs to commercial businesses. This commenter suggested that the goals of increased compliance and more effective enforcement of flat wake zones could be achieved by extending the flat wake zones further from shore in a uniform manner.

NPS Response: As described in the FEIS and discussed above, the NPS does not expect PWC use at the Seashore under this rule to result in measurable erosion impacts or disruption of shoreline ecosystems due to the relatively small wakes created by PWCs and the implementation of 150 and 300 yard flat-wake zones. The economic analysis prepared for this rule concluded that the changes would not have any effect on regional businesses that provide services to PWC users (e.g., PWC rental companies) because the rule is unlikely to affect visitation levels at the Seashore. The revised flat-wake zone distances in the FEIS were based on water depths and limiting impacts to SAV beds. As described in the FEIS, extending flat-wake zones further from the shorelines will not provide substantial environmental benefits. The NPS believes that the scientifically-based flat-wake zones in the rule provide a reasonable balance between environmental protection and recreation and access by the American public.

6. Comment: One commenter recommended the NPS place floating buoys along the entire shoreline in order to reduce confusion by the public about where wake is prohibited.

NPS Response: The NPS considered placing buoys along the entire shoreline but determined that the effort necessary to install and maintain the buoys and their anchors would be too labor intensive and costly. Installing buoys requires anchors to be screwed into the seafloor or set in place with 600-pound anchor blocks, which during installation and storm events could disturb the seafloor sediments, water resources, benthic organisms, seagrass roots, and essential fish habitat. In addition, the visual impacts of large numbers of buoys would hamper the viewshed and the visitor experience. The selected alternative considers the use of a limited number of temporary floating buoys to mark the boundary of the flat-wake zone on high visitation days.

Compliance with Other Laws, E.O.s, and Department Policy.

Regulatory Planning and Review (E.O.s 12866 and 14192).

This rule has been determined to be not significant for purposes of E.O 12866. This rule is a "one-time" enabling regulation that expands consumption options for the American public by increasing opportunities for recreation at the Seashore. As a result, this rule qualifies as an E.O. 14192 deregulatory action pursuant to M-25-20, "Guidance Implementing Section 3 of Executive Order 14192, Titled 'Unleashing Prosperity Through Deregulation'" issued by the Office of Management and Budget, Office of Information and Regulatory Affairs, on March 26, 2025.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This certification is based on information contained in the economic analyses found in the report entitled "Final Economic Analysis of the Personal Watercraft Rule at Gulf Islands National Seashore." The document can be found online at *https://parkplanning.nps.gov/guis-PWC-EIS*, by clicking on the link entitled "Document List."

Congressional Review Act (CRA).

This rule is not a major rule under 5 U.S.C. 804(2), the CRA. 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 (2 U.S.C. 1501 et seq.)

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. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.) is not required.

Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rule only affects use of federally-administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. This rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian Tribes (E.O. 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and has determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes. Nevertheless, in support of the commitment of the Department of the Interior and the NPS for government-to-government consultation, the NPS submitted a letter to 14 Indian tribes during the development of the FEIS. The Choctaw Nation of Oklahoma responded that the locations considered in the FEIS are within the Nation’s area of historic interest, and because of the potential adverse impact to the coastal sites, requested to be a consulting party. NPS staff held a conference call with representatives of the Muscogee Creek Nation, Jena Band of Choctaw Indians, and Choctaw Nation of Oklahoma to discuss their concerns. The tribal representatives expressed concern over looting and vandalism, but were not very concerned about wakes from PWC damaging resources. The NPS explained how law enforcement actions and closures established by the superintendent when necessary could help address their concerns.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not

required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 et seq.)

This rule implements, in part, a comprehensive management action for PWC at the Seashore that constitutes a major Federal action significantly affecting the quality of the human environment. The NPS has prepared the FEIS, ROD and amended ROD under the National Environmental Policy Act of 1969. A copy of the FEIS, ROD and amended ROD, which contain a full description of the purpose and need for taking action, the alternatives considered, maps, the environmental impacts associated with this rule, and the basis for the selected alternative can be found online at *https://parkplanning.nps.gov/guis-PWC-EIS* , by clicking on the link entitled "Document List."

Effects on the Energy Supply (E.O. 13211).

This rule is not a significant energy action under the definition in Executive Order 13211; the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of OIRA as a significant energy action. A Statement of Energy Effects is not required.

List of Subjects

36 CFR Part 7

National parks, Reporting and Recordkeeping requirements.

For the reasons stated in the preamble, and under the authority of 54 U.S.C. 100751, the National Park Service amends 36 CFR part 7, as set forth below:

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

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

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10-137 and D.C. Code 50-2201.07.

2. Amend §7.12 by revising paragraph (c)(1)(i) and (iii), (c)(2), (c)(3) introductory text and (c)(3)(i) to read as follows:

§ 7.12 Gulf Islands National Seashore.

* * * * *

(c) * * *

(1) * * *

(i) The lakes, ponds, lagoons, and inlets of Cat Island, Ship Island, Horn Island, West Petit Bois Island, and Petit Bois Island;

* * * * *

(iii) Within 200 feet from the remnants of the old fishing pier at Fort Pickens, within 200 feet from the new fishing pier at Fort Pickens, and within 200 feet from the ferry pier at Fort Pickens; and

* * * * *

(2) PWC may not be operated at greater than flat wake speed in the following locations:

(i) Within 300 yards from all shorelines in Mississippi; and

(ii) Within 150 yards from all shorelines in Florida.

(3) PWC are allowed to land at any point along the shore except as follows:

(i) PWC are prohibited on any shoreline adjacent to the closed areas listed in paragraph (c)(1) of this section; and

* * * * *

Kevin J. Lilly,
Principal Deputy Assistant Secretary,
Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.
[FR Doc. 2026-17198 Filed: 8/21/2026 8:45 am; Publication Date: 8/24/2026]