

MEMORANDUM

Department of Fish and Game

333 Raspberry Road
Anchorage, Alaska 99518-1599

To: David Rogers, Director, Division of Habitat
Bruce Dale, Director, Division of Wildlife Conservation

From: Tammy Massie, Habitat Biologist, Division of Habitat *TMM*
Joe Meehan, Lands & Refuges Program Coordinator, Division of Wildlife Conservation *JM*

Date: May 9, 2017

Subject: Personal Watercraft Regulations, Kachemak Bay Critical Habitat Area

In 2001, after extensive public and agency outreach and review, the department adopted regulations to prohibit the use of personal watercraft (PWC) in Kachemak Bay and Fox River Flats Critical Habitat Areas (5 AAC 95.310). Since that time, there have been several requests from PWC advocates (individuals and organizations) to review the regulation and consider revising or rescinding it.

Background: During the 2016 public scoping period for the revision of the Kachemak Bay and Fox River Flats CHA Management Plan, a primary topic of public input was whether or not to retain the prohibition on PWCs, even though these regulations were not intended to be part of the management plan revision. The following table summarizes those comments as well as those received during the original regulation adoption period.

Comment period	For PWC ban	Against PWC ban
December 1999 to February 2000	292 (+12 organizations)	86 (+2 organizations)
September 2000 to October 2000	1,474 (+76 business owners petition)	361
2000 (Referenced in other public comments, but not direct comments)	1,692 Moratorium on PWC petition	1,269 Pro-access petition
September to November 2016	133	78

Table 1. Summary of readily available counts of public comments from ADF&G public comment periods pertaining to PWC use in Kachemak Bay CHA.

During the original regulation adoption period (1999-2001), 85 published sources of literature were reviewed including scientific and popular publications; federal, state and local agency management documents and staff reports; publications and reports from private organizations; and statement and testimony from biological and physical scientists and resource managers. These citations were summarized and provided to the public and department managers during the regulation adoption process (Enclosure 1).

Since the original 2000 literature review, there has been considerable new research on the potential impacts of PWCs to protected areas. An annotated bibliography containing approximately 140 articles not reviewed in the 2000 literature review was recently compiled, reviewed and summarized (Enclosure 2). The topics addressed in this bibliography include effects of PWC and other recreational boating impacts on marine mammals, birds, fish, and other organisms; ecological and water quality impacts; PWC noise; user group conflicts and other management and legal implications. Much of the information available from this literature review does not precisely match the conditions of Kachemak Bay or Fox River Flats CHAs in that it is not specific to northern latitude marine waters with a wide range of biological and human uses. However, several generalizations can be drawn from the literature as a whole and they may assist department leadership on how to approach PWC regulation in Kachemak Bay and Fox River Flats CHAs. (Enclosure 3)

Recommendation: Based on the updated literature review, most of the concerns that led to the adoption of the PWC prohibition in Kachemak Bay and Fox River Flats CHAs in 2001 continue to be valid today. Improvements in technology have addressed the pollution from 2-stroke engines that were one of the primary environmental concerns with PWC during the original 2000 literature review. However, the nature of PWC traffic, especially the capability to execute rapid changes in speed and direction in nearshore shallow waters, continues to have a high potential to impact habitats, marine organisms, wildlife, and other traditional user groups and those cannot be easily mitigated.

The current available information indicates that significant, specialized research into impacts of PWC on marine organisms in nearshore tidal areas, disturbance to overwintering waterbirds, disturbance to marine mammals, and managing user conflicts and compliance would have to be completed before the regulatory ban on PWC in Kachemak Bay and Fox River Flats CHAs should be relaxed. In addition to research necessary to identify potential buffer zones, any partial opening (such as for a transit corridor) of Kachemak Bay and Fox River Flats CHAs to personal watercraft would require considerable investment of department and Alaska Wildlife Trooper staff time for education and enforcement.

In summary, based on our review of information available since the PWC prohibition was adopted in 2001, we feel there is no new information that would warrant rescinding the prohibition, and in fact the newer information highlights most of the concerns identified when the prohibition was adopted. A draft of this memo was circulated to affected staff in all department divisions (DWC, HAB, CF, SF) and this recommendation was widely supported.

Please let us know if you have any questions or need additional details.

cc: Al Ott
Ginny Litchfield
Maria Gladziszewski
Jeff Selinger
Sue Goodglick
Mark Fink

Megan Marie
Tony Kavalok
Howard Golden
Jason Herreman
Jason Schamber