



United States Department of the Interior

ALASKA REGION
NATIONAL PARK SERVICE
240 W. 5th Avenue, Room 114
Anchorage, Alaska 99501



IN REPLY REFER TO:

November 21, 2003

Dear Reader:

Enclosed is the *Record of Decision (ROD) for Vessel Quotas and Operating Requirements in Glacier Bay National Park and Preserve*. This ROD documents the National Park Service (NPS, also "the Park Service") decision regarding vessel quotas and operating requirements in Glacier Bay National Park and Preserve. Implementation of the decision will require promulgation of regulations, revising 36 Code of Federal Regulations 13.65. Draft regulations are anticipated in 2004 and final regulations are anticipated in early 2005.

The decision addresses the continuing demand for motor vessel access into Glacier Bay in a manner that protects park resources and values while also providing a range of rewarding opportunities for visitors consistent with park purposes and values. It also improves the current system used to manage motorized vessel traffic in Glacier Bay. It is based on the Environmental Impact Statement (EIS) prepared for this action, as required by Congress, and includes consideration of environmental effects, the park's purposes and mission, NPS policies, and comments received throughout the EIS process. The Park Service believes the decision best meets the objectives expressed in the EIS. The rationale for this decision is described in the section of the ROD entitled, "Basis for Decision."

Thank you very much for participating in this important planning effort for Glacier Bay National Park and Preserve.

Sincerely,

Marcia Blaszak
Acting Regional Director

GLACIER BAY NATIONAL PARK AND PRESERVE, ALASKA

Vessel Quotas and Operating Requirements



NATIONAL PARK SERVICE

GLACIER BAY NATIONAL PARK AND PRESERVE, ALASKA
UNITED STATES DEPARTMENT OF THE INTERIOR

United States Department of the Interior
National Park Service

RECORD OF DECISION

Vessel Quotas and Operating Requirements
Glacier Bay National Park and Preserve
Alaska

This record of decision documents the National Park Service decision regarding vessel quotas and operating requirements in Glacier Bay National Park and Preserve. Implementation of the decision will require promulgation of regulations, revising 36 Code of Federal Regulations 13.65. Draft regulations are anticipated in 2004 and final regulations are anticipated in early 2005.

TABLE OF CONTENTS

Introduction.....	1
Background.....	1
Alternatives Considered.....	3
Decision	5
Basis for the Decision.....	10
Environmentally Preferred Alternative.....	14
Measures to Minimize Harm	16
Studies and Monitoring.....	17
Public Involvement	19
Conclusion	21

TABLES

1	Summary of Vessel Quotas for Glacier Bay, May 1–September 30	6
2	Vessel Operating Requirements	7
3	Definitions	8
4	Summary of Studies for Glacier Bay.....	17

FIGURE

Planning Area	2
---------------------	---

United States Department of the Interior
National Park Service

RECORD OF DECISION

Vessel Quotas and Operating Requirements for Glacier Bay National Park and Preserve

INTRODUCTION

This record of decision documents the National Park Service (NPS, also “the Park Service”) decision to modify quotas and operating requirements for four types of motorized watercraft – cruise ships and tour, charter, and private vessels – in Glacier Bay National Park and Preserve. The decision addresses the continuing demand for motorized watercraft access into Glacier Bay in a manner that protects park resources and values while also providing a range of rewarding opportunities for visitors consistent with park purposes and values.

The decision improves the current system used to manage motorized vessel traffic in Glacier Bay. The need to review vessel quotas stems from legislation enacted in 2001, wherein the U.S. Congress directed the Park Service to set the maximum level of motorized vessel entries in accordance with the analysis in an environmental impact statement (EIS). Based on the results of public and internal scoping in spring 2002, the Park Service expanded the review to include vessel quotas and operating requirements and to address Glacier Bay and Dundas Bay (see figure). The Park Service prepared an EIS, as required, under the National Environmental Policy Act (NEPA) of 1969 and Council of Environmental Quality regulations (40 *Code of Federal Regulations* [CFR] 1500). The draft EIS (DEIS) was issued in March 2003. A *Federal Register* (FR) notice announcing the availability of the final EIS (FEIS) was published by the U.S. Environmental Protection Agency (EPA) on October 10, 2003, commencing the required 30-day no-action period (62 FR 3681).

Implementation of the decision will require promulgation of regulations, revising 36 CFR 13.65. Draft regulations should be published for public comment in 2004. Final regulations are anticipated by early 2005.

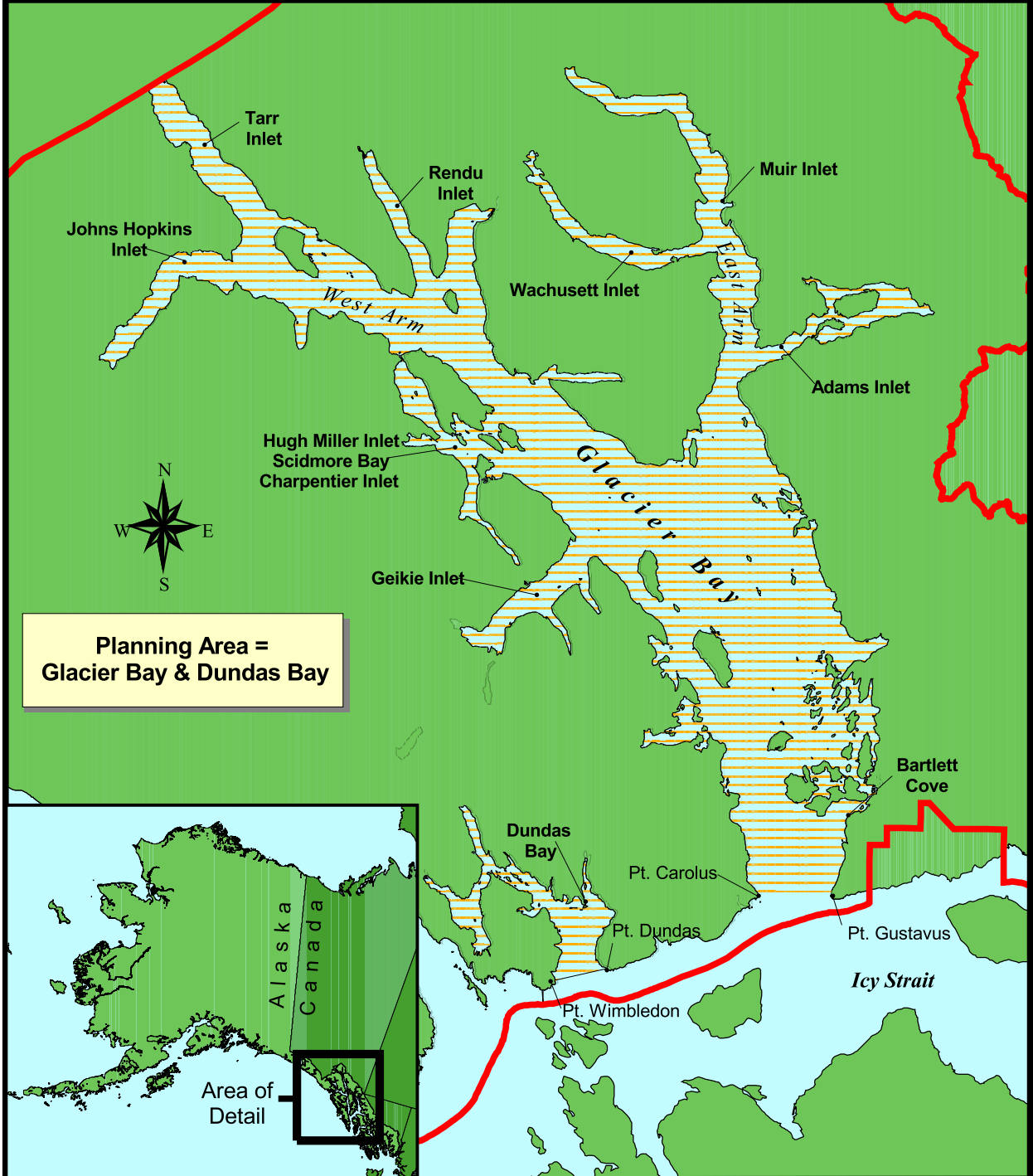
BACKGROUND

Measures to address vessel traffic in Glacier Bay were first implemented in 1979 to respond to concerns regarding the effects of motor vessels on the endangered humpback whale. Regulations went into effect in 1980, and additional regulations were promulgated in 1985. Since then, concerns have broadened to encompass potential effects on other biota, the physical environment, and visitor experience.

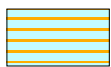
In 1996, the Park Service completed an environmental assessment (EA) and issued a finding of no significant impact (FONSI) regarding vessel quotas and operating requirements that, among other things, provided for increases in quotas for cruise ships, charter vessels, and private vessels in Glacier Bay. The decision allowed for 139 cruise ships throughout the June-through-August season, with potential for incremental increases to 184 ships (i.e., up to two cruise ships per day), based on scientific and other information and applicable authorities.

Planning Area

National Park Service
U.S. Department
of the Interior



**Planning Area =
Glacier Bay & Dundas Bay**



Planning Area of the Vessel Quotas and Operating Requirements Environmental Impact Statement



Boundary of Glacier Bay National Park & Preserve

Glacier Bay National Park and Preserve

Vessel Quotas and Operating Requirements Record of Decision

5 0 5 10 Miles



In a May 1997 complaint filed in the U.S. District Court, the National Parks Conservation Association (NPCA) challenged the validity of the Park Service's 1996 FONSI. The U.S. District Court upheld the decision made by the Park Service. Following an appeal, the U.S. Court of Appeals for the Ninth Circuit determined in February 2001 that the portion of the vessel management plan and EA and the implementing regulations that authorized an increase in vessels into Glacier Bay violated NEPA because an EIS was not prepared. The court prohibited vessel traffic above the pre-1996 levels unless an EIS was prepared. The court decision went into effect in late summer 2001. Following this decision, the U.S. Congress, as part of the U.S. Department of the Interior Appropriations Act of 2002 (section 130 of Public Law 107-63), changed the requirements established by the court decision and required the Park Service to: (1) prepare an EIS by January 1, 2004, to identify and analyze the possible effects of the 1996 increases; and (2) set the maximum level of vessel entries into Glacier Bay based on the analysis in the EIS. Until the Park Service sets the level of vessel entries based on the new EIS, Congress provided that the number of vessel entries into Glacier Bay would be the same as those in effect during the 2000 calendar year, and that the Park Service's 1996 decision and the final rule, issued in May 1996, were approved and would be in effect. In January 2002, the U.S. District Court modified the previous injunction.

ALTERNATIVES CONSIDERED

Six alternatives, including a no-action alternative, were considered in the FEIS; they are described below. Alternatives 1, 2, and 3 apply vessel quotas and operating requirements to Glacier Bay proper only; they include the operating requirements in current regulations. Alternatives 4, 5, and 6 apply vessel quotas and operating requirements to Glacier Bay proper and Dundas Bay, and include revised operating requirements.

Alternative 1, the no-action alternative, would maintain the current vessel quotas, quota season (June 1 through August 31), and operating requirements for Glacier Bay.

Alternative 2 would set vessel quotas for Glacier Bay in accordance with the quotas in place in 1995, maintain the current vessel quota season, and maintain current operating requirements.

Alternative 3 would maintain the current vessel quotas and quota season for Glacier Bay with one exception: it would include a provision to increase the number of cruise ships during the quota season to a maximum of 184, based on scientific and other information and applicable authorities. This alternative would maintain the current vessel operating requirements.

Alternative 4, the environmentally preferred alternative, would maintain the current daily quota for cruise ships and decrease the daily vessel quotas for tour, charter, and private vessels in Glacier Bay. Seasonal entry quotas would not apply. Seasonal-use day quotas would continue to apply. This alternative would decrease the number of seasonal-use days for cruise ships and tour and charter vessels and increase the number of seasonal-use days for private vessels in Glacier Bay. The quota season would be May 1 through September 30. Closures for cruise ships would be extended to include Beardslee Entrance and the East Arm (defined by line from southern Sebree Island to the mainland). Closures for tour vessels would be extended to include Fingers Bay, Berg Bay, Beardslee Entrance, and Muir Inlet (defined by line from Muir Point to the mainland).

Neither cruise ships nor tour vessels would be permitted in Dundas Bay year-round. Daily and seasonal-use day quotas would be initiated for charter vessels for Dundas Bay during a quota season from May 1 through September 30. No quotas would be set for private vessels.

Operating requirements would be modified.

Alternative 5 would maintain the current daily quotas and quota season for all four vessel types in Glacier Bay. Seasonal entry quotas would not apply. Seasonal-use day quotas would continue to apply. This alternative would maintain the current number of seasonal-use days for cruise ships, tour vessels, and charter vessels in Glacier Bay during a June 1 through August 31 quota season, but decrease the number of seasonal-use days for cruise ships during May and September. It would increase the number of seasonal-use days for private vessels during a June through August quota season. Closures for cruise ships and tour vessels would be extended to include Beardslee Entrance and the entrance to Adams Inlet in Glacier Bay.

Cruise ships would not be permitted in Dundas Bay, and tour vessels would not be permitted in the wilderness waters of Dundas Bay (the upper Bay) on a year-round basis. A daily and seasonal quota would be initiated for tour vessels in the non-wilderness waters of Dundas Bay (the lower Bay) and a seasonal quota would be set for charter vessels in Dundas Bay during a June 1 through August 31 quota season. No quotas would be set for private vessels in Dundas Bay.

Operating requirements would be modified.

Alternative 6, identified as the NPS preferred alternative in the FEIS, would maintain the daily quotas and quota season (June through August) for all four vessel types in the Glacier Bay. Seasonal entry quotas would not apply. Seasonal-use day quotas would continue to apply. This alternative would maintain the current number of seasonal-use days for cruise ships during the current quota season; however, it would include a provision to increase the number of cruise ships during the quota season to a maximum of two ships per day each day (to a maximum of 184 ships during the season), based on scientific and other information and applicable authorities. It would establish a seasonal-use day quota for cruise ships for May and September, with a provision to increase the number of cruise ships to a maximum of two per day each day, based on scientific and other information and applicable authorities. It would maintain the current number of seasonal-use days for tour and charter vessels and increase the number of seasonal-use days for private vessels during the current quota season. Closures for cruise ships and tour vessels would be extended to include Beardslee Entrance and the entrance to Adams Inlet in Glacier Bay.

Cruise ships would not be permitted in Dundas Bay, and tour vessels would not be permitted in the wilderness waters of Dundas Bay (the upper Bay) on a year-round basis. A daily and seasonal-use day quota would be initiated for tour vessels in the non-wilderness waters of Dundas Bay (the lower Bay) and a seasonal-use day quota would be set for charter vessels in Dundas Bay during a June 1 through August 31 quota season. No daily quota would be set for charter vessels. No quotas would be set for private vessels in Dundas Bay.

Alternative 6 was developed in response to public comment on the DEIS and additional NPS consideration. It combines elements of alternatives 3 and 5. This alternative is within the spectrum of the alternatives discussed in the DEIS. It does not present any vessel quotas or operating requirements not already analyzed in the DEIS. Alternative 6, with modifications, is the alternative that the NPS has selected. The NPS decision is described fully in the following section.

DECISION

The decision described below is based on consideration of the park's purposes and mission, resources and values, NPS policies, comments received throughout the EIS process, including comments on the DEIS, and information and analysis in the EIS. The Park Service believes this option best meets the objectives expressed in the EIS. It addresses the continuing demand for motor vessel access into Glacier Bay and will ensure continuing protection of resources and values, improve visitor opportunities, and simplify and clarify vessel operating requirements. The rationale for this decision is described in the section following this one entitled, "Basis for the Decision."

The NPS has selected alternative 6, as described in the FEIS, with the following modifications:

The July 1 through August 31 timeframe during which a 0.25-nautical-mile vessel approach distance to a seal hauled out on ice in Johns Hopkins Inlet waters will be retained as in current regulations and will not be extended to year-round. This was evaluated under alternatives 1, 2, and 3 in the DEIS and FEIS.

A 13-knot speed limit for vessels greater than or equal to 262 feet (80 meters) will be in effect in Glacier Bay *as needed* rather than on a year-round basis. A 13-knot year-round speed limit throughout Glacier Bay for this vessel size was evaluated in the DEIS under alternatives 4 and 5 and in the FEIS under alternatives 4, 5, and 6. Current regulations do not require this, and the current situation was evaluated under alternatives 1, 2, and 3 in the DEIS and FEIS.

Studies and monitoring are insufficient to warrant immediate implementation of motor vessel limits for Dundas Bay at this time. This represents current conditions, and the effects of continuing under current conditions were evaluated under alternatives 1, 2, and 3 in the DEIS and FEIS. The effects of vessel limits in Dundas Bay were evaluated in the DEIS under alternatives 4 and 5, and in the FEIS under alternatives 4, 5, and 6.

Vessel Quotas

The current daily vessel quotas in Glacier Bay will not change. They will continue as follows: two cruise ships, three tour vessels, six charter vessels, and 25 private vessels. Daily quotas for cruise ships and tour vessels will continue to apply year-round. Daily quotas for charter and private vessels will continue to apply from June 1 through August 31.

Seasonal entry quotas will be eliminated. Seasonal-use day quotas will continue to apply. For cruise ships, the seasonal-use day quota will be 139 from June 1 through August 31, with potential for increases to a maximum of 184. In May and September, the seasonal-use day quota for cruise ships will be 92, with potential for increases up to 122 (see table 1). Any increases will be incremental and based on scientific and other information and applicable authorities (see the "Studies and Monitoring" section).

The seasonal-use day quota for tour, charter, and private vessels is the allowable daily vessel quota multiplied by the number of days in the season. The season during which seasonal-use days will apply for

these three types of vessels is June 1 through August 31 (92 days). Thus, the seasonal-use day quotas for tour, charter, and private vessels are:

- 276 for tour vessels (three per day multiplied by 92 days).
- 552 for charter vessels (six per day multiplied by 92 days).
- 2,300 for private vessels (25 per day multiplied by 92 days).

TABLE 1: SUMMARY OF VESSEL QUOTAS FOR GLACIER BAY, MAY 1–SEPTEMBER 30^a

Vessel Class	Daily Vessel Quota		Seasonal-Use Days	
	June–Aug.	May and Sept.	June–Aug.	May and Sept.
Cruise ship ^a	2	2	139 (potentially up to 184)	92 (potentially up to 122)
Tour vessel ^a	3	3	276	183
Charter vessel ^b	6	No limit	552	No limit
Private vessel ^b	25	No limit	2,300	No limit

a. Cruise ships and tour vessels are limited to the daily vessel quota year-round.
b. Charter and private vessels are not subject to quotas from September through May.

Vessel Operating Requirements

The Park Service is revising operating requirements, as described below. These revisions are intended to protect park resources and values, improve visitor experience, and simplify regulations, where possible. Table 2 lists the operating requirements that are included in the decision. Table 3 lists definitions pertinent to the decision.

Permitting Procedures. Permits will be issued to a designated individual for a specific vessel over a specific period of time, rather than issued to a vessel.

The exemption for private vessels based in Bartlett Cove to enter and exit Glacier Bay (these are not currently counted as daily entries) without a permit will be eliminated.

Up to 10 permits may be issued to private vessels on “short-notice” daily. This number may be adjusted annually through use of the park compendium. These permits will be issued, on a space available basis, to any individual who requests a permit within 48 hours of entering Glacier Bay.

Speed Restrictions.

- The superintendent may impose a 13-knot speed limit, as necessary, for motor vessels greater than or equal to 262 feet (80 meters) in length throughout Glacier Bay due to the presence of humpback whales. Park Service staff will monitor whale abundance, movements, and distribution, and provide this information to the park superintendent, who will then determine whether to set a 13-knot speed limit for vessels of this length or greater.

TABLE 2: VESSEL OPERATING REQUIREMENTS

Quota Season	Glacier Bay: June 1 through August 31 for tour, charter, and private vessels. May 1 through September 30 for cruise ships.
Speed Restrictions	<p>Year-round, as needed, in Glacier Bay the following is prohibited for motor vessels ≥ 262 feet (80 meters) in length: Operating at more than 13 knots speed through the water, to reduce risks of vessel collisions with whales.</p> <p><u>May 15 through September 30</u>, in waters of lower Bay whale waters, the following is prohibited for motor vessels < 262 feet (80 meters) in length: Operating at more than 20 knots speed through the water.</p> <p><u>May 15 through September 30</u> in waters of Glacier Bay and Dundas Bay the following is prohibited: Operating a motor vessel at more than 13 knots speed through the water when the superintendent has designated a maximum speed of 13 knots due to the presence of whales.</p>
Whale Water Geographic Locations	<p>May 15 through September 30: Lower Glacier Bay waters.</p> <p>The superintendent may designate temporary whale waters and impose motor vessel speed restrictions in whale waters in any portion of Glacier Bay and Dundas Bay.</p>
Measurement of Vessel Speed	Vessel speed is measured "through the water."
Non-Motorized (Closed) Waters for Cruise Ships	Same as in existing regulations and the following additional closed waters in Glacier Bay: Beardslee Entrance and the entrance to Adams Inlet.
Non-Motorized (Closed) Waters for Tour Vessels	Same as in existing regulations and the following additional closed waters in Glacier Bay: Beardslee Entrance and the entrance to Adams Inlet.
Ferry Vessel Operating Requirements	Same as in existing regulations and, in addition, cannot deviate from a direct course between the mouth of Glacier Bay and Bartlett Cove.
Vessel Routes	None except in designated whale waters where: Operators of motor vessels over 18 feet in length will in all cases where the width of the water permits, maintain a distance of at least one nautical mile from shore, and, in narrower areas will navigate in mid-channel: Provided, however, that unless other restrictions apply, operators may perpendicularly approach or land on shore (i.e., by the most direct line to shore) through designated whale waters.
Harbor Seal Vessel Approach Distance in Johns Hopkins Inlet	Cruise ships, tour vessels, charter vessels, and private vessels must maintain a 0.25 nautical mile distance from all harbor seals hauled out on ice in Johns Hopkins Inlet from July 1 through August 31.
Short-Notice Private Vessel Permits	Ten permits for private vessels would be issued on a short-notice. This number may be adjusted annually through use of the park compendium. Private vessel operators could obtain one of these permits by making a reservation within 48 hours of when they desired to enter Glacier Bay.
Permit Exemption for Vessels Based in Bartlett Cove	Entrance and egress exemptions for vessels based in Bartlett Cove are eliminated. A permit is not required for a vessel that is operated in Bartlett Cove in waters bounded by the public and administrative docks.
Deviation from Vessel Operating Requirements	Deviation from vessel operating requirements may be made when the safety of passengers or the vessel is immediately threatened. Where possible, operators should notify the National Park Service prior to the deviation. In all cases, notifications must be made as soon as it is safe to do so.

TABLE 3: DEFINITIONS

Term	Definition
Adams Inlet (wilderness boundary)	East of the wilderness boundary at the mouth of the inlet.
Administrative Use	Any motor vessel engaged in official government business.
Administrative Vessel	Any vessel involved in administrative use.
Bartlett Cove Passenger Ferry ^a	A motor vessel of less than 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) permitted by the superintendent to engage in the transport of passengers for hire into Bartlett Cove from Juneau with sole purpose of accessing park or other authorized visitor services or facilities at, or originating from, the public dock area at Bartlett Cove.
Beardslee Entrance (wilderness boundary)	East of the wilderness boundary at the Beardslee Entrance and south of the wilderness boundary extending from Sita Reef to Beartrack Cove.
Charter Vessel	Any motor vessel of less than 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) engaged in transport of passengers for hire and rated to carry up to 12 passengers overnight or up to 49 passengers for daytime use, except when operating as an administrative vessel. Charter vessels also include any uninspected vessel of less than 200 tons gross (U.S. Simplified Measurement System) and not more than 24 meters (79 feet) in length engaged in transport of passengers for hire, except when operating as an administrative vessel.
Cruise Ship	Any motor vessel of at least 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) carrying more than 12 passengers for hire, except when operating as an administrative vessel (administrative vessels are those engaged in official government business, including research).
Daily Vessel Quota	The number of vessel-use days allowed in an area on any one calendar day.
Dundas Bay	All waters inside a line drawn between Point Dundas and Point Wimbledon.
Glacier Bay	All marine waters inside a line drawn between Point Gustavus and Point Carolus.
Private Vessel	Any motor vessel used for recreation that is not engaged in commercial transport of passengers, commercial fishing, or official government business.
Seasonal-Use Days	The number of vessel-use days allowed during a specific seasonal period.
Short-Notice Private Vessel Permits	Permits available to private vessels on short notice. Private vessel operators could obtain one of these permits by making a reservation within 48 hours of when they desire to enter Glacier Bay.
Speed Through the Water	The speed at which a vessel moves through the water (which itself may be moving), as distinguished from "speed over the ground." ^b
Tour Vessel	Any motor vessel of less than 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) engaged in transport of passengers for hire and rated to carry more than 12 passengers overnight or greater than 49 passengers for daytime use, except when operating as an administrative vessel.
Vessel-Use Days	When a motor vessel is in Glacier Bay or Dundas Bay operating under its permit for that calendar day.
Whale Waters	Any portion of Glacier Bay, designated by the superintendent, having a high probability of whale occupancy, based upon recent sighting or past patterns of occurrence.

a. See Title I, section 127, of the Department of the Interior and Related Agencies Appropriations Act of 1988 (Public Law 105-83), which authorizes one entry per day for a passenger ferry into Bartlett Cove from Juneau.

b. The term "speed over the ground" is referenced in the current regulations, but no definition is provided. It is presumed to be speed measured in relation to a fixed point on the earth.

NA = Not applicable.

CFR = Code of Federal Regulations.

- From May 15 through September 30, in lower Bay whale waters, the following will be prohibited: operating a motor vessel at more than 20 knots through the water.
- At any time of year in waters of Glacier Bay or Dundas Bay, the following will be prohibited: operating a motor vessel at more than 13 knots through the water when and where the superintendent has designated a maximum speed of 13 knots because of the presence of whales.

Whale Water Geographic Locations. Whale waters will be designated within the current lower Glacier Bay waters from May 15 through September 30. As authorized in current regulations, the superintendent may designate temporary whale waters in any portion of Glacier Bay or Dundas Bay.

Measurement of Vessel Speed. Vessel speed will be measured as “through the water,” the same as specified in current regulations.

Closed Waters, Islands, and Other Areas. No additional waters, islands, or other areas will be closed to all motor vessels under this decision.

Non-Motorized (Closed) Waters for Cruise Ships. Additional waters closed to cruise ships are Beardslee Entrance and the entrance to Adams Inlet in Glacier Bay.

Non-Motorized (Closed) Waters for Tour Vessels. Additional waters closed to tour vessels are Beardslee Entrance and the entrance to Adams Inlet in Glacier Bay.

Ferry Vessel Operating Requirements. Per section 127, Public Law 105-83, the ferry is restricted to the sole purpose of accessing the Bartlett Cove dock. The ferry will be subject to speed, distance from coastlines, and other operating requirements common to all vessel types. The ferry may not deviate from a direct course between the mouth of Glacier Bay and Bartlett Cove.

Vessel Routes. No vessel routes will be established except in designated whale waters (i.e., the lower Bay whale waters), and the following language in the current regulations will remain unchanged: “Except on vessels actually fishing as otherwise authorized by the superintendent or vessels operating solely under sail, while in transit, operators of motor vessels over 18 feet in length will in all cases where the width of the water permits, maintain a distance of at least one nautical mile from shore, and, in narrower areas will navigate in mid-channel: Provided, however, that unless other restrictions apply, operators may perpendicularly approach or land on shore (i.e., by the most direct line to shore) through designated whale waters.”

Harbor Seal Vessel Approach Distance in Johns Hopkins Inlet. This will remain unchanged from the current regulations. That language is as follows: “The following is prohibited: operating a vessel or a seaplane on Johns Hopkins Inlet waters south of 58 degrees 54.2 latitude (an imaginary line running approximately due west from Jaw Point), within 0.25 nautical mile of a seal hauled out on ice; except when safe navigation requires, and then with due care to maintain the 0.25 nautical mile distance from concentrations of seals.” This regulation will continue to apply from July 1 through August 31. (Note: In accordance with the current regulations, which will not be changed with this decision, Johns Hopkins Inlet waters are closed to cruise ships from May 1 to August 31 and to all vessels from May 1 to June 30.)

Deviation from Vessel Operating Requirements. Deviation from vessel operating requirements may be made when the safety of passengers or the vessel is immediately threatened. Where possible, operators shall notify the Park Service before the deviation. In all cases, notifications must be made as soon as it is safe to do so.

BASIS FOR THE DECISION

This section provides the rationale for the decision described in the previous section. The basis for the decision stems from the objectives, purposes, and need for vessel management in Glacier Bay National Park and Preserve, including:

- protecting park resources and values.
- providing for visitor demand for motor vessel access to Glacier and Dundas Bays.
- providing a range of visitor experiences consistent with the purposes and values of Glacier Bay National Park and Preserve.
- improving operating requirements to make them more effective and easier to understand and implement.

The Park Service considered six sets of quotas and operating requirements that would meet these objectives in various ways and to varying degrees. Based on the analysis presented in the FEIS, public input, and discussions among park staff and management, the option selected was determined to meet these objectives best.

As mentioned above, this decision modifies alternative 6. Among other things, alternative 6 would impose: 1) a year-round, 13-knot speed limit for vessels greater than or equal to 262 feet (80 meters) throughout Glacier Bay for protection of humpback whales, 2) a year-round, 0.25 nautical mile vessel approach distance to a seal hauled out on ice in Johns Hopkins Inlet, and 3) motor vessel limits in Dundas Bay.

Year-round 13-knot speed limit throughout Glacier Bay for large vessels. The Park Service has decided to impose, as necessary, a 13-knot, Glacier Bay wide speed limit for vessels greater than or equal to 262 feet (80 meters). This approach will eliminate an unnecessary imposition of the speed restriction on cruise ships during times when and in areas where whales are not present. The restriction would be imposed as necessary during the year to protect whales; for example, when whales are abundant and dispersed throughout the Bay.

Year-round vessel approach distance to harbor seals. The year-round vessel approach distance of less than 0.25 mile to harbor seals hauled out on ice in Johns Hopkins Inlet was not included because, based on a review of existing information and consultation with harbor seal biologists, it was determined that extending the vessel approach distance timeframe from July 1 through August 31 to year-round would not substantially benefit harbor seals and may unnecessarily restrict vessel traffic. Three principal factors form the basis of the decision not to extend the timeframe:

- Harbor seal presence in Johns Hopkins Inlet declines significantly outside the summer months.
- Vessel traffic declines in fall and winter, so the risk of vessel disturbance to harbor seals is lower.
- Harbor seals tend to spend less time out of the water during fall and winter, so vessel disturbance has less of an energetic cost for them.

Motor vessel limits in Dundas Bay. Existing conditions do not support immediate implementation of motor vessel limits in Dundas Bay. Studies and monitoring are insufficient to support the need for limits at this time. The Park Service will impose limits when a clearer need is established. The Park Service will undertake study and monitoring of use and resource conditions in Dundas Bay.

Protection of Park Resources and Values

Although the selected alternative potentially provides for the highest vessel numbers in Glacier Bay during the current quota season (June 1 through August 31), increased resource protection is provided by extending the seasonal-use day quota season for cruise ships to include May and September, requiring the superintendent to carefully evaluate studies before allowing any increase in cruise ship numbers, and revising operating requirements.

The revised operating requirements included in the selected alternative to improve protection of park resources include:

- the extension, to September 30, of the speed limit and vessel routes (mid-channel or 1 nautical mile from shoreline) in the designated whale waters of lower Glacier Bay.
- the 13-knot speed limit for vessels greater than or equal to 262 feet (80 meters) throughout Glacier Bay when the superintendent has designated a reduced speed due to the presence of humpback whales.
- the closure of Beardslee Entrance and the entrance to Adams Inlet to cruise ships.
- the closure of Beardslee Entrance and the entrance to Adams Inlet to tour vessels.

The following paragraphs provide the basis for each of these revised operating requirements.

Speed Limits for Whale Protection. Current regulations restrict vessel speeds to 20 knots from May 15 through August 31 in the lower Glacier Bay whale waters and require that all vessels remain mid-channel or less than 1 nautical mile from shoreline. Under the decision, the timeframe for the lower Glacier Bay speed limit and vessel route will be extended to September 30. The extension would increase protection to humpback whales, which are quite often abundant in Glacier Bay through September.

As is already authorized by current regulations, the superintendent may designate temporary whale waters and impose motor vessel speed restrictions in all whale waters. Avoidance of vessel/whale collisions is one of the main determining factors for vessel speed limits in whale waters. A recent study indicated that vessels greater than or equal to 262 feet (80 meters) in length traveling at speeds of less than 14 knots are less likely to result in whale mortality if a collision occurs. In keeping with the results of this study, when the superintendent designates temporary whale waters, the imposed speed limit will be 13 knots rather than the current 10 knots. In addition, the superintendent may also impose, as necessary, a 13-knot speed limit for motor vessels greater than or equal to 262 feet (80 meters) in all of Glacier Bay when humpback whales are abundant and widely distributed.

Non-Motorized (Closed) Waters for Cruise Ships and Tour Vessels. In addition to areas closed under current regulations, the Park Service will close the entrance to Adams Inlet and Beardslee Entrance in Glacier Bay to cruise ships and tour vessels. The reasons for these closures are to reduce the chance of cruise ship and/or tour vessel groundings and to enhance opportunities for charter and private vessels and backcountry visitors to experience these areas without larger vessels. In terms of vessel safety:

- Glacial rebound and silting from Casement Glacier has caused Adams Inlet to become very shallow and unsafe. Closing the entrance to Adams Inlet to cruise ships and tour vessels would reduce the likelihood of large-vessel accidents in this area.
- The Beardslee Entrance has a narrow configuration and shallow depth which can result in strong tide rips and opposing currents. These factors can pose a safety hazard for large vessels traveling in the area. Beardslee Entrance also is close to the Beardslee Islands Wilderness complex, a marine wilderness area that is seasonally closed to all motorized use and home to sensitive resources. A vessel grounding in the entrance could cause catastrophic environmental damage to wildlife within these protected waters of the Beardslee Islands.

Providing for Visitor Demand for Motor Vessel Access

In terms of vessel quotas, the analysis presented in the EIS provided no compelling reason to either increase or decrease vessel numbers in Glacier Bay. The Park Service does not wish to unnecessarily restrict or regulate motorized vessel traffic. One of the objectives of vessel management is to respond to increasing demand for motorized vessel access in Glacier and Dundas Bays. Based on the analysis presented in the FEIS, the existing level of vessel traffic in Glacier Bay has not resulted in “impairment” or unacceptable levels of adverse effects. The option selected provides the opportunity to increase cruise ships to the number decided upon in the 1996 FONSI. This allows the Park Service the flexibility to provide more opportunities for people to visit Glacier Bay. Currently, over 90 per cent of park visitors experience the park on board cruise ships. Studies and monitoring are insufficient to warrant immediate implementation of motor vessel limits for Dundas Bay at this time.

Visitor demand for motor vessel access will be met by an increase in seasonal-use days for private vessels and the potential for increases in seasonal-use days for cruise ships during the current quota season (June 1 through August 31). In addition, the elimination of a seasonal entry quota while retaining the seasonal-use day quota provides more versatility by allowing the opportunity for vessels to leave and reenter Glacier Bay on one permit within the same vessel-use day.

The way permits are issued also will be improved for private vessels: in addition to the elimination of the seasonal entry quota, a limited number of short-notice permits also will be available. Under the current regulations, most permits are made available 60 days in advance of the entry date and are in high demand, so obtaining a permit on short notice is very difficult. A short-notice permit system will allow vessel operators to obtain a permit within 48 hours of entry to Glacier Bay, on a space available basis.

Under this decision, the current permit exemption for vessels based in Bartlett Cove (which is where the NPS dock and headquarters are located) will be eliminated. The based in Bartlett Cove exemption allowed vessels which were home-based out of Bartlett Cove to enter and exit Glacier Bay without obtaining a vessel permit. Elimination of the based in Bartlett Cove exemption will result in optimizing the use of available private vessel permits. With the elimination of this exemption and the seasonal entry quota, these vessels will be able to obtain a short-notice permit and enter and exit as many times as needed during the same vessel-use day under the same permit, on a space available basis.

A research framework, developed with the assistance of a scientific advisory board, will help ensure that appropriate studies and monitoring will be undertaken to guide vessel management. This will include any decision(s) regarding possible increases in seasonal-use day numbers for cruise ships in Glacier Bay.

Range of Opportunities for Visitors

The decision provides the superintendent with the ability to increase cruise ship seasonal-use days during the peak demand season (June through August). Initially, total allowable cruise ship seasonal-use days would decrease opportunities to visit Glacier Bay during May and September as compared to the current situation. However, cruise ships seasonal-use days could be increased in May and September up to the current number under the authority of the superintendent. The Park Service found no reason to either increase or decrease daily quotas for tour vessels, charter vessels, and private vessels. The elimination of the seasonal entry quota would increase the number of seasonal-use days for private vessels and, consequently, the opportunity for visitors to travel in Glacier Bay via private vessel.

The establishment of a “short-notice” permit system for private vessels will improve the opportunity for private vessel owners to obtain a vessel permit for Glacier Bay within a short period of time. The elimination of the seasonal entry quota will eliminate the need for the current internal allocation system for private vessel permits and the potential for the seasonal-use day limit for private vessels to be reached before the end of the summer season. It also will bring the private vessel quotas in line with the other vessel categories, in which the maximum number of vessel-use days during the June through August season equals the total seasonal-use day quota. (For private vessels that means 25 vessels per day times 92 days equals 2,300.) This adjustment to the current system will simplify the regulations, reduce the potential for denied access to private vessel owners, and reduce visitor confusion and frustration associated with the current system.

Closing the entrance to Adams Inlet and Beardslee Entrance to cruise ships and tour vessels will provide opportunity for charter and private vessels and backcountry visitors to experience these areas free from larger vessels.

Improving Vessel Operating Requirements

The NPS decision will simplify or clarify operating requirements for vessel operators as follows:

Whale Water Geographic Locations. Currently, four areas are designated as whale waters: Whidbey Passage, Russell Island Passage, East Arm Entrance, and lower Glacier Bay. With the exception of lower Glacier Bay, whale use in these waters has been variable, and the Park Service has found that, with the exception of the lower Bay whale waters, these designations unnecessarily restrict vessel operators and complicate vessel management. Thus, the Park Service has decided to include only the waters of the lower Glacier Bay as designated whale waters. Experience since 1996 has shown that designating whale waters in the other areas where humpback whale presence is not consistent detracts from the effectiveness of the whale protection regulations because it makes the entire system overly complicated for park visitors, including commercial vessel operators. Protection of the areas formerly designated as whale waters will be accomplished via the superintendent’s authority to designate temporary whale waters, as necessary; that is, anywhere whales are found to be gathering and staying for several days.

Ferry Vessel Operating Requirements. A definition of the passenger ferry service from Juneau to Bartlett Cove is not included in the current regulations because the law requiring this service was not enacted until after the regulations were promulgated in 1996. The Park Service believes it is appropriate to include a definition for this motor vessel service in the vessel regulations for Glacier Bay National Park and Preserve. The definition included is consistent with the language in law.

The Park Service considered other potential revisions to operating requirements meant to simplify the regulations in other alternatives in the EIS, but these were not included in this decision for the following reasons:

Measurement of Vessel Speed. Alternative 5 in the EIS includes a change in the way speed is measured, from “through the water” to “over the ground.” Many private vessel operators use Global Positioning System technology to monitor their speed, and this change was included to reflect how many vessel operators now measure their speed. However, using ground speed does not account for currents, and Glacier Bay is known for extreme currents. For example, if a vessel travels against a 6-knot current, the vessel’s speed through the water would be 6 knots faster than ground speed, and moving with such a current, a vessel’s speed through the water would be 6 knots slower than ground speed. It was determined that this system of measurement could result in a hazardous situation in an extreme current. In addition, studies of vessel speed and its effects on humpback whales in Glacier Bay use speed as measured “through the water” rather than “over the ground.” Continuing to measure speed as “through the water” will ensure comparability of study results. Taking these factors into consideration, speed will continue to be measured as “through the water.”

Vessel Routes. Alternative 4 in the EIS included defined cruise ship routes as a way to reduce exposure of shorelines to the sight and sounds of cruise ships. However, the Park Service determined that defined cruise ship routes are not necessary, except in designated whale waters. In general, cruise ship operators travel in mid-channel and are required to have professional marine pilots on board, and the Park Service has found no reason to establish a new requirement.

ENVIRONMENTALLY PREFERRED ALTERNATIVE

Alternative 4, identified as the environmentally preferred alternative in both the DEIS and FEIS, includes closure of more waters to cruise ships and tour vessels and provides more protection of resources through revised operating requirements than the other alternatives considered. In addition, by allowing the fewest numbers of cruise ships, tour vessels, and charter vessels, alternative 4 would provide for the lowest number, intensity, and duration of adverse effects to natural resources in Glacier Bay and Dundas Bay.

Vessel Quotas

Alternative 4 calls for the greatest reduction in cruise ships and tour and charter vessels in Glacier Bay of the alternatives considered in the FEIS and regulates vessel traffic in Dundas Bay. Under alternative 4, seasonal limits would change from June through August as follows:

- a 33% reduction in cruise ship seasonal entries (from 139 to 92).
- a 33% reduction in the daily quota for tour vessels (from three to two) and a 33% reduction in seasonal-use days (from 276 to 184).
- a 17% reduction in the charter vessel daily vessel quota (from six to five) and a 17% reduction in charter vessel seasonal-use days (552 to 460)
- a 12% reduction in the private daily vessel quota (from 25 to 22)
- a 3% increase in private vessel seasonal-use days (from 1,971 to 2,024), due to the elimination of the seasonal entry quota.

In addition, alternative 4 would expand seasonal limits to include May and September, which would result in a 50 per cent reduction in cruise ships and a 33 per cent reduction in tour vessels during May and September, compared to the current situation. Daily limits for charter and private vessels also would be restricted in May and September to five and 22 vessels, respectively. Currently, no limits are set for charter or private vessels during May and September.

Under alternative 4, Beardslee Entrance and most of the East Arm in Glacier Bay, and Dundas Bay would be closed to cruise ships and tour vessels to protect sensitive resources and provide additional opportunities for small boat visitors to experience these areas without the presence of larger vessels. In addition, Fingers and Berg Bays in Glacier Bay would be closed to tour vessels. Charter vessels would be limited to three per day and 460 seasonal-use days from May through September. No limit would be placed on private vessels.

Vessel Operating Requirements

Vessel Speed. Placing speed limits on vessels is one of the main methods the Park Service uses to reduce the risk of vessels colliding with marine life. Underwater noise level also is related to vessel speed; lower speed equates to less underwater noise.

Vessel speed regulations would change in two fundamental ways under alternative 4. First, vessel speed limits would be based on vessel length. A year-round speed limit of 13 knots through the water would be placed on all vessels greater than or equal to 262 feet (80 meters) to reduce risks of vessel collisions with whales. Second, the timeframe for speed limits in whale waters (lower Glacier Bay only) would be extended to May 1 through September 30 (currently May 15 through August 31) to protect humpback whales that are present in this area throughout this timeframe. Motorized vessels less than 262 feet (80 meters) long would be prohibited from operating at more than 20 knots in lower Glacier Bay whale waters from May 15 through September 30. Under this alternative, all motor vessels would be subject to operating at no more than 10 knots through the water when the superintendent has designated a maximum of 10 knots because of the presence of whales. The regulatory language would read as follows:

From May 1 through September 30 in the designated whale waters of the lower Bay, as defined above, for vessels less than 262 feet (80 meters) in length, the following is prohibited:

1) Operating at more than 20 knots speed through the water. 2) Operating at more than 10 knots speed through the water, when the superintendent has designated a maximum speed of 10 knots (due to the presence of humpback whales in the area).

For vessels 262 feet (80 meters) or greater in length, the following is prohibited: 1) Operating at more than 13 knots speed through the water, everywhere within Glacier Bay. 2) Operating at more than 10 knots speed through the water when the superintendent has designated a maximum speed of 10 knots (due to the presence of humpback whales in the area).

Whale Waters. Designated whale waters would be lower Glacier Bay waters only from May 1 through September 30. In addition, the superintendent also may designate any portion(s) of Glacier Bay and Dundas Bay as temporary whale waters and impose motor vessel speed restrictions in whale waters.

Vessel Routes and Destinations. Routes for cruise ships in Glacier Bay would be defined to provide more assurance of resource protection, provide a potentially improved backcountry visitor experience, better separate the various vessels in Glacier Bay, and provide an increased margin of safety for avoidance of nearshore collisions. A cruise ship route would be identified using the current typical cruise ship traffic pattern (generally in mid-channel).

Cruise ships would be allowed to go into the West Arm, into Tarr Inlet, and up to Jaw Point in Johns Hopkins Inlet. In addition to the closed waters defined in current regulations, cruise ships also would not be allowed in Beardslee Entrance or the East Arm (defined by a line drawn from southern Seabee Island to the mainland) in Glacier Bay or in Dundas Bay.

Tour vessels would not be allowed in Beardslee Entrance, Muir Inlet (defined by a line from Muir Point to the mainland), Berg Bay, or Fingers Bay in Glacier Bay or in Dundas Bay.

Johns Hopkins Inlet Seasonal Closure. Under alternative 4, motorized vessels would be required to maintain a 0.25 nautical mile distance from seals hauled out on ice in Johns Hopkins Inlet on a year-round basis.

MEASURES TO MINIMIZE HARM

Many of the operating requirements considered in the EIS are, in fact, measures that minimize harm. The 1996 decision to increase vessel numbers also included many measures to reduce or avoid effects on the resources and values of Glacier Bay. These are defined in the form of vessel operating requirements and are in regulations (36 CFR 13.65), which will continue to be in effect.

Some measures to protect park resources and values included in the current regulations are as follows:

- Non-motorized waters allow backcountry visitors to experience areas of the park without the presence of motorized vessels.
- Regulations protecting vessel speed and approach to humpback whales mitigate potential disturbance to whales, allowing these species enhanced opportunities to forage and travel than would be the case without the regulations.
- The superintendent may designate temporary whale waters and impose motor vessel speed restrictions in whale waters, which provides protection to this endangered species.
- Islands and rocks with nesting seabirds that are closed to close vessel approaches on a year-round basis provide protection of marine bird nesting habitat from vessels and visitors.
- Steller sea lion and harbor seal haul-outs that are closed to close vessel approaches on a year-round and seasonal basis provide protection to the Steller sea lion and harbor seal populations from vessel and visitor disturbance.

Other measures currently in place that also contribute to environmental protection are included in cruise ship concession permits. For example, cruise ship operators submit a pollution minimization plan that documents how each operator implements the industry's Best Management Practices to minimize pollution to air and water and prevent discharges of fuel or other undesirable substances. This has resulted in cruise ship operators submitting pollution minimization plans that incorporate a zero discharge policy for graywater or blackwater. Cruise ship operators also may include in their plan a provision to turn off incinerators while in the park, which eliminates a source of air pollution. If operators discharge fuel or wastewater, the park can take action through criminal or administrative procedures, depending on the severity of the spill or discharge, the appropriateness of the operator's response, and/or cooperation with the park and other agencies.

Environmental practices also are taken into consideration during the evaluation of proposals for tour and charter operators during the concession prospectus process.

Glacier Bay National Park and Preserve will continue to manage vessel quotas and operating requirements through public outreach efforts, educational materials, and ranger patrols in Glacier Bay. Vessel activity in Dundas Bay will be monitored, as necessary, to ensure protection of park resources and values, to better understand use, and to address management and safety considerations. Private vessel operators will still be required to obtain their vessel permits from the Visitor Information Station in Bartlett Cove when they first enter Glacier Bay, where they will also be required to participate in a vessel operator orientation.

The marine vessel emissions program will continue to be used to observe, report, and enforce opacity requirements, in accordance with existing authorities.

Lack of compliance with requirements can be addressed through administrative and/or criminal procedures.

STUDIES AND MONITORING

The 1996 vessel management plan resulted in a research program that identified numerous information and management needs associated with determining appropriate levels of vessel traffic and designing mitigation measures to protect resources in Glacier Bay. A number of the studies identified in the 1996 vessel management plan have been accomplished, and information from those studies is included in the EIS. These include, but are not limited to, studies identified in table 4.

TABLE 4: SUMMARY OF STUDIES FOR GLACIER BAY

Study	Status
Impacts of vessel disturbances on Steller sea lions	Completed in 2000
Disturbance of harbor seals by motorized vessels in Johns Hopkins Inlet	Completed in 2001
Development of coastal monitoring protocols and process-based studies	Completed in 2001
Mapping the benthic habitat in Glacier Bay, Alaska	Partially completed in 2001
Pilot study on humpback whale foraging	Completed in 2002
Underwater ecology of selected marine communities in Glacier Bay	Completed in 2003
Distribution and abundance of small schooling fish	Completed in 2003
Monitoring underwater noise in Glacier Bay National Park	Ongoing
Disturbance of harbor seals at a terrestrial haul-out in Glacier Bay National Park	Ongoing
Population characteristics of humpback whales in Glacier Bay and adjacent waters	Ongoing
Opportunistic sightings of marine mammals in Glacier Bay National Park	Ongoing
Humpback whale vocalizations in Glacier Bay: their frequency and occurrence	Ongoing
Coastal resources inventory and mapping project	Ongoing
Marine predator distribution in Glacier Bay National Park	Ongoing
Fjord oceanographic processes in Glacier Bay, Alaska	Ongoing

Topics for continuing or future studies and monitoring are:

- *Vessel Noise*: Additional information regarding surface and subsurface vessel noise levels, including studies evaluating underwater sound produced by cruise ships traveling at high speeds, will provide a better understanding of the effects of vessel noise on marine mammals and other biota.

- *Humpback Whales:* Continued humpback whale monitoring will add to the existing information base regarding abundance, movement, distribution, and population trends. Monitoring will continue to identify whale concentration areas that could warrant designation as temporary whale waters or imposition of a 13-knot speed limit in Glacier Bay for vessels greater than or equal to 262 feet (80 meters) in length.
- *Air Quality:* Visibility condition observations will assess the effect of vessel emissions, particularly cruise ships, on visibility under various meteorological conditions. These observations also could provide information regarding the presence of haze. Visibility monitoring is scheduled for summer 2004.
- *Harbor Seals:* Studies will examine harbor seals in Glacier Bay, including the effects of predation, vessels, and subsistence harvest outside of Glacier Bay National Park.
- *Visitor Use:* Surveys of visitor expectations will improve the park's understanding of visitor uses and experiences.
- *Vessel Operating Requirements:* A study of the effectiveness of vessel operating requirements will provide information regarding operator compliance and vessel regulatory complexity.

Science Advisory Board and Research Framework

The determination of whether to increase seasonal-use day quotas for cruise ships will rely on criteria that define the environmental and social conditions to be met before any additional seasonal-use days are approved. These criteria will be based on the results of and guidance provided through studies that examine the effects of vessels on all park resources and visitor experience. Studies will be identified in a research framework developed with the assistance of a science advisory board. This research framework will identify the studies necessary to provide information regarding the effects of vessel traffic on the environment and develop monitoring information necessary for park management.

National Oceanic and Atmospheric Administration (NOAA) Fisheries Recommendations

NOAA Fisheries made four conservation recommendations in the 2003 biological opinion:

1. NPS should "continue to monitor the levels of disturbance from vessels and vessel noise in Glacier Bay National Park waters to determine the occurrence at which a take of Steller sea lions and humpback whales occurs as a result of the proposed action." Upon determination of appropriate take levels, and issuance of regulations or authorizations under section 101(a)(5) of the Marine Mammal Protection Act (MMPA) and/or its 1994 amendments, NOAA Fisheries would amend the opinion to include an Endangered Species Act (ESA) incidental take statement for listed species in the action area. No increases in cruise ship entries into Glacier Bay from the 2003 levels should occur until these determinations have been made.
2. NOAA Fisheries expressed concern regarding the potential for collisions to occur, resulting in serious injury or mortality to a whale, especially because as numbers of whales and vessels increase, the probability of collision would likely increase. The Park Service should "continue to monitor the occurrence of whales in nearshore waters to determine if maximizing private vessel-use in Glacier Bay by increasing the number of seasonal-use days for private vessels results in increased disturbances to marine mammals, including sea lions on rocks or foraging whales."

3. Given that vessel length and speed are important factors in the severity of whale/vessel collisions, and that NOAA Fisheries included waters immediately adjacent to the park entrance in Icy Strait and at Point Adolphus as part of the action area examined in the biological opinion, and that the large whale concentration at Point Adolphus, a popular whale-watching location for vessels entering and exiting NPS waters, is not protected by vessel speed limits, NOAA Fisheries made the following recommendation. “The Park Service should work with NOAA Fisheries, the U.S. Coast Guard, and the State of Alaska to implement vessel speed limits, or exclusion zones in nearshore waters of Icy Strait (i.e., within 1 mile [1.6 kilometers] of Point Adolphus) adjacent to park waters that contain known concentrations of whales, or establish agreements with cruise ship and tour vessel concessioners whereby vessel speed and course restrictions are adopted beyond the NPS boundaries in these areas where whales are known to forage and occur in large numbers.”
4. NOAA Fisheries concluded that the proposed increases in vessel traffic are occurring in an area where disturbance and collision risk are already a concern, and in absence of a quantitative determination of ESA and MMPA take levels. “It is NOAA Fisheries’ recommendation, therefore, that the Park Service should monitor and evaluate its vessel operating requirements to determine whether they are effective at protecting whales in these nearshore waters.” Two essential elements of this recommendation are measurements of compliance and effectiveness of regulations.

The Park Service will continue to work with NOAA Fisheries to address these recommendations.

PUBLIC INVOLVEMENT

The NPS has sought public comment throughout the EIS process, and the EIS was modified as a result of public comments received. The alternatives and topics considered in the DEIS resulted from comments received during the public scoping process and internal agency discussions. The NPS preferred alternative in the DEIS was modified for the FEIS based on public comments received on the DEIS. In reaching a decision, NPS has carefully considered the comments and concerns expressed by the public. The modifications NPS has made to the preferred alternative presented in the FEIS, as discussed previously, also were made in response to public comments as well as additional agency consideration.

A *Notice of Intent* to prepare an EIS, published in the *Federal Register* on February 22, 2002 (67 FR 8313), formally initiated the Park Service’s planning and EIS effort and public scoping. Another notice, extending the public scoping period through June 7, 2002, was published in the *Federal Register* on May 6, 2002 (67 FR 30399). Public input was solicited early in the project through distribution of a newsletter, telephone communications, electronic mail, media announcements, and meetings. A series of public open houses in Anchorage, Juneau, Gustavus, Hoonah, Pelican, and Elfin Cove, Alaska, and in Seattle, Washington, provided opportunity for the interested public to learn about and provide suggestions regarding the issues and information to be included in the DEIS.

Several consultations took place with government agencies, including the Hoonah Indian Association, a federally recognized tribal government; the State of Alaska; NOAA Fisheries; and the U.S. Fish and Wildlife Service. Formal endangered species consultation took place with NOAA Fisheries for the endangered humpback whale, the endangered western stock of Steller sea lions, and the threatened

eastern stock of Steller sea lions. NOAA Fisheries issued a biological opinion concluding that none of these species would be jeopardized as a result of implementing the NPS preferred alternative.

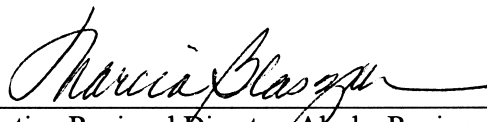
Notices announcing the availability of the DEIS were published in the *Federal Register* in mid-March 2002. The NPS notice was published on March 14, 2003 (68 FR 12366), and the EPA notice, which commenced the comment period for the DEIS, was published on March 21, 2003 (68 FR 13912). The 54-day public comment period ended on May 14, 2003. Postcards announcing availability of the DEIS were mailed to approximately 700 addresses, and an electronic mail announcement was sent to those on the project's electronic mailing list (several thousand). Several hundred copies of the EIS, a compact disc, and/or an executive summary were mailed to interested individuals, organizations, businesses, and agencies. The DEIS was made available for review on the park's website, and electronic comments were accepted.

Written and verbal comments were received from approximately 1,300 individuals, businesses, organizations, and government agencies. Of these, approximately 1,200 were form letters initiated by the NPCA. Public hearings on the DEIS were conducted in April 2003 in Anchorage, Juneau, Gustavus, Hoonah, Pelican, and Elfin Cove, Alaska, and in Seattle, Washington. The comments addressed a broad range of topics. Many individuals and environmental groups expressed concerns regarding the effects of vessel traffic on marine wildlife and other park resources, and on the visitor experience. In particular, concern was expressed regarding the consequences of potentially increasing the number of seasonal-use days for cruise ships to 184 during the June-through-August season. Many requested that additional information be included in the FEIS to explain the basis on which the NPS would make a decision to increase the number of cruise ships. Some commenters questioned the adequacy of the existing resource information base to support an increase. Regardless of the alternative selected for vessel quotas, many expressed support for the operating requirements included as part of the environmentally preferred alternative (most of these are included in the selected alternative), including the NPCA. Some suggested that the quotas from alternative 3 (potential cruise ship increases) be combined with the operating requirements from alternative 5 (simplifies and improves operating requirements based on several years of experience implementing the requirements approved in 1996). Comments were received from three cruise ship companies. The cruise ship industry favored increasing the number of cruise ship seasonal-use days to 184 and some of the operating requirements from alternatives 4 and 5. However, they expressed concern regarding a possible year-round, 13-knot, Glacier-Bay-wide speed limit for large vessels; a year-round 0.25-nautical-mile approach distance to harbor seals hauled out on ice in Johns Hopkins Inlet; and an extension of the quota season for cruise ships to include May and September. One company supported access for the smaller-size cruise ships to Dundas Bay. Some asked that a Dundas Bay permit not be associated with having a Glacier Bay permit. Support was expressed for simplifying the current regulations to reduce confusion and ensure better compliance, although many also wanted to ensure that park resources would not be adversely affected by doing this. All substantive comments on the DEIS were addressed in the FEIS: alternative 6 was developed based on public comment on the DEIS; new information was incorporated into the EIS; corrections and clarifications were made; and comment letters and portions of public hearing transcripts containing substantive comments were reproduced, and responses were provided in an appendix to the FEIS.

Notices announcing the availability of the FEIS were published in the *Federal Register* in October 2003. The NPS notice was published on October 6, 2003 (68 FR 57707), and the EPA notice, which commenced a 30-day no-action period, was published on October 10, 2003 (68 FR 58668). The FEIS, compact disc, and/or executive summary were mailed to several hundred individuals, organizations, businesses, and agencies. An electronic mail announcement was sent to those on the electronic mailing list, and the FEIS and executive summary were made available on the park's website.

CONCLUSION

The vessel quotas and operating requirements described in the "Decision" section of this record of decision are supported by the factors and considerations presented above and are hereby approved.

Approved:  **Effective Date:** 11/21/03
Acting Regional Director, Alaska Region
National Park Service

Recommended:  **Effective Date:** 11/21/03
Superintendent,
Glacier Bay National Park and Preserve

The National Park Service cares for special places
saved by the American people
so that all may experience our heritage.

EXPERIENCE YOUR AMERICA.



As the nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural and cultural resources. This includes fostering the wisest use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for enjoyment of life through outdoor recreation. The department assesses our energy and mineral resources and works to assure that their development is in the best interests of all. The department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.

Mention by the U.S. Department of the Interior, National Park Service of trade names or commercial products does not constitute endorsement or recommendation for use.

November 2003

