

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**Boeing:** Docket No. FAA-2007-28160; Directorate Identifier 2007-NM-006-AD.

#### Comments Due Date

(a) The FAA must receive comments on this AD action by July 2, 2007.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Boeing Model 757-200 and 757-300 series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 757-30-0024, dated July 24, 2006.

#### Unsafe Condition

(d) This AD results from a report of charred insulation blankets and burned wires around the forward gray water composite drain mast found during an inspection of the forward cargo compartment on a Model 767-300F airplane. We are issuing this AD to prevent a fire near a composite drain mast and possible disruption of the electrical power system due to a lightning strike on a composite drain mast, which could result in the loss of several functions essential for safe flight.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Bonding Jumper Installation

(f) Within 60 months after the effective date of this AD: Install a 135-ampere copper bonding jumper between a ground and the clamp on the tube of the forward and aft gray water composite drain mast, in accordance with the Accomplishment instructions of Boeing Special Attention Service Bulletin 757-30-0024, dated July 24, 2006.

#### Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on May 7, 2007.

**Stephen P. Boyd,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E7-9390 Filed 5-15-07; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 100

**[USCG-2007-27373](Formerly [USCG-2207-2737])**

**RIN 1625-AA08**

#### Regattas and Marine Parades; Great Lakes Annual Marine Events

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; correction.

**SUMMARY:** This document contains a correction to the docket number of the Notice of Proposed Rulemaking entitled "Regattas and Marine Parades; Great Lakes Annual Marine Events" published on April 6, 2007, in the **Federal Register** (72 FR 17062).

**DATES:** The NPRM is corrected as of May 16, 2007.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2007-27373 to the Docket Management Facility at the U.S. Department of Transportation. Two different locations are listed under the mail and delivery options below because the Document Management Facility is moving May 30, 2007. To avoid duplication, please use only one of the following methods:

(1) *Web site:* <http://dms.dot.gov>.

(2) *Mail:*

• Address mail to be delivered before May 30, 2007, as follows: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590-0001.

• Address mail to be delivered on or after May 30, 2007, as follows: Docket

Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.

(3) *Fax:* 202-493-2251.

(4) *Delivery:*

• Before May 30, 2007, deliver comments to: Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

• On or after May 30, 2007, deliver comments to: Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590.

At either location, deliveries may be made between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(5) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Amy Bunk, Attorney-Advisor, Coast Guard, 2100 Second Street, SW., Washington, DC 20593 at 202-372-3864.

**SUPPLEMENTARY INFORMATION:** On April 6, 2007, the Coast Guard published a Notice of Proposed Rulemaking entitled "Regattas and Marine Parades; Great Lakes Annual Marine Events" **Federal Register** (72 FR 17062). In that document the last digit of the docket number USCG-2007-2737 was inadvertently shortened. The correct docket number for this NRPM is USCG-2007-27373.

In rule FR Doc. E7-6425 published on April 6, 2007, (72 FR 17062) make the following corrections:

1. On page 17062, in the first column, in the heading change the docket number to read as follows: "[USCG-2007-27373]"

Dated: May 9, 2007.

**Stefan G. Venckus,**

*Chief, Office of Regulations and Administrative Law, United States Coast Guard.*

[FR Doc. E7-9349 Filed 5-15-07; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF THE INTERIOR

##### National Park Service

##### 36 CFR Part 7

**RIN 1024-AD55**

#### Special Regulations; Areas of the National Park System

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service is proposing this rule to manage winter visitation and recreational use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway. This proposed rule would require that recreational snowmobiles and snowcoaches operating in the parks meet certain air and sound restrictions, that snowmobilers in Yellowstone be accompanied by a commercial guide, and proposes certain revisions to the daily entry limits on the numbers of snowmobiles and snowcoaches that may enter the parks. Traveling off designated oversnow routes will remain prohibited.

**DATES:** Comments must be received by July 16, 2007.

**ADDRESSES:** You may submit your comments, identified by Regulatory Information Number 1024-AD55 (RIN), by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Yellowstone National Park, Winter Use Proposed Rule, P.O. Box 168, Yellowstone NP, WY 82190.
- *Hand Deliver to:* Management Assistant's Office, Headquarters Building, Mammoth Hot Springs, Yellowstone National Park, Wyoming.

All submissions received must include the agency name and RIN. For additional information see "Public Participation" under **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** John Sacklin, Management Assistant's Office, Headquarters Building, Yellowstone National Park, 307-344-2019 or at the address listed in the **ADDRESSES** section.

**SUPPLEMENTARY INFORMATION:**

**Background**

The National Park Service (NPS) has been managing winter use issues in Yellowstone National Park (YNP), Grand Teton National Park (GTNP), and the John D. Rockefeller, Jr., Memorial Parkway (the Parkway) for several decades. In 1997 the Fund for Animals and others filed suit, alleging violations of non-compliance with the National Environmental Policy Act (NEPA), among other laws. The suit resulted in a settlement agreement in October 1997 which, among other things, required the NPS to prepare a new winter use plan for the three park units. On October 10, 2000, a Winter Use Plans Final Environmental Impact Statement (FEIS) was published for YNP, GTNP, and the Parkway. A Record of Decision (ROD) was signed by the Intermountain Regional Director on November 22, 2000, and subsequently distributed to

interested and affected parties. The ROD selected FEIS Alternative G, which eliminated both snowmobile and snowplane use from the parks by the winter of 2003-2004, and provided access via an NPS-managed, mass-transit snowcoach system. This decision was based on a finding that the snowmobile and snowplane use existing at that time, and the snowmobile use analyzed in the FEIS alternatives, impaired park resources and values, thus violating the statutory mandate of the NPS.

Implementing aspects of this decision required a special regulation for each park unit in question. Following publication of a proposed rule and the subsequent public comment period, a final rule was published in the **Federal Register** on January 22, 2001 (66 FR 7260). That rule became effective on April 22, 2001.

On December 6, 2000, the Secretary of the Interior, the Director of the National Park Service and others in the Department of the Interior and the NPS were named as defendants in a lawsuit brought by the International Snowmobile Manufacturers' Association (ISMA) and several groups and individuals. The States of Wyoming and Montana subsequently intervened on behalf of the plaintiffs. Following promulgation of final regulations, the original complaint was amended to also challenge the regulations. The lawsuit asked for the decision, as reflected in the ROD, to be set aside. The lawsuit alleged among other things, a violation of NEPA. A procedural settlement was reached on June 29, 2001, under which, NPS agreed to prepare a Supplemental Environmental Impact Statement (SEIS) incorporating "any significant new or additional information or data submitted with respect to a winter use plan." Additionally, the NPS provided the opportunity for additional public participation in furtherance of the purposes of NEPA. A Notice of Intent to prepare a Supplemental Environmental Impact Statement was published in the **Federal Register** on July 27, 2001 (66 FR 39197).

A draft SEIS was published on March 29, 2002, and distributed to interested and affected parties. NPS accepted public comments on the draft for 60 days, and 357,405 pieces of correspondence were received. The draft SEIS examined four additional alternatives: two alternatives to allow some form of snowmobile access to continue, a no-action alternative that would implement the November 2000 ROD, and another alternative that would implement the no-action alternative one year later to allow additional time for

phasing in snowcoach-only travel. The SEIS focused its analysis only on the issues relevant to allowing recreational snowmobile and snowcoach use in the parks. These impact topics included air quality and air quality related values, employee health and safety, natural soundscapes, public health and safety, socioeconomics, wildlife (bison and elk), and visitor experience. The SEIS did not re-evaluate the decision to ban snowplane use on Jackson Lake because this issue had not been raised in the lawsuit or its resulting settlement agreement and because the NPS did not have any reason to doubt the validity of its finding that snowplane use impaired park resources.

On November 18, 2002, the NPS published a final rule (67 FR 69473) ("delay rule") based on the FEIS, which generally postponed implementation of the phase-out of snowmobiles in the parks for one year. This rule allowed for additional time to plan and implement the NPS-managed mass-transit, snowcoach-only system outlined in the FEIS as well as time for completion of the SEIS. The rule delayed the implementation of the daily entry limits on snowmobiles until the winter of 2003-2004 and the complete prohibition on snowmobiles until 2004-2005. The 2001 regulation's transitional requirement that snowmobile parties use an NPS-permitted guide was also delayed until the 2003-2004 winter use season.

Other provisions under the January 2001 regulation concerning licensing requirements, limits on hours of operation, Yellowstone side road use and the ban on snowplane use remained effective for the winter use season of 2002-2003.

The Notice of Availability for the final SEIS was published on February 24, 2003 (68 FR 8618). The final SEIS included a new alternative, alternative 4, consisting of elements which fell within the scope of the analyses contained in the Draft SEIS and which were identified in the preferred alternative. In addition, the final SEIS included changes to the alternatives, changes in modeling assumptions and analysis, and incorporated additional new information. The Intermountain Regional Director signed a ROD for the SEIS, which became effective on March 25, 2003. The ROD selected final SEIS alternative 4 for implementation, and enumerated additional modifications to that alternative. The final SEIS and ROD found that implementation of final SEIS alternatives 1a, 1b, 3, or 4 would not likely impair park resources or values due to motorized oversnow recreation. On December 11, 2003, the new

regulation governing winter use in the parks was published.

On December 16, 2003, the U.S. District Court for the District of Columbia, ruling in *Fund for Animals v. Norton*, vacated and remanded the December 11, 2003, regulation and SEIS. The court effectively reinstated the January 22, 2001, regulation phasing out recreational snowmobiling pursuant to the delay rule. Specifically, up to 493 snowmobiles a day were to be allowed into Yellowstone for the 2003–2004 season, and another 50 in Grand Teton and the Parkway combined. All snowmobiles in Yellowstone were required to be led by a commercial guide. Snowmobiles were to be phased out entirely from the parks in the 2004–2005 season.

ISMA and the State of Wyoming reopened their December 2000 lawsuit against the Department of the Interior and the NPS. On February 10, 2004, the U.S. District Court for the District of Wyoming issued a preliminary injunction in *ISMA v. Norton* preventing the NPS from continuing to implement the snowmobile phase-out. The court also directed the superintendents of Yellowstone and Grand Teton to issue emergency orders that were “fair and equitable” to all parties to allow visitation to continue for the remainder of the winter season. Under the authority of 36 CFR 1.5, the superintendents authorized up to 780 snowmobiles a day into Yellowstone, and up to 140 into Grand Teton and the Parkway combined. In Yellowstone, the requirement that all snowmobilers travel with a commercial guide remained in effect.

Because it had no clear rules under which to manage the parks for the winter season of 2004–2005, the NPS prepared a Temporary Winter Use Plans Environmental Assessment in 2004. The temporary plan was intended to provide a framework for managing winter use in the parks for a period of three years, and was approved in November 2004 with a “Finding of No Significant Impact” (FONSI). An interim rule was published in the **Federal Register** implementing the temporary plan for the 2004–2005 winter season. Its provisions include a limit of 720 snowmobiles per day for Yellowstone and 140 snowmobiles for Grand Teton and the Parkway; a requirement that all recreational snowmobiles in Yellowstone must be accompanied by a commercial guide; and a requirement that all recreational snowmobiles operating in the parks must meet Best Available Technology (BAT) requirements for reducing noise and air pollution (with limited

exceptions at Grand Teton and the Parkway).

The interim rule was effective through the winter season of 2006–2007, while the NPS is preparing a long-term winter use plan and EIS for the park. The proposed rule is issued in conjunction with the Winter Use Plans Draft Environmental Impact Statement (DEIS). Thus, without a rulemaking, the use of snowmobiles and snowcoaches would not be allowed after the 2006–2007 winter season.

Several litigants filed lawsuits challenging the temporary plan in both the District Court in Wyoming and the District Court in the District of Columbia. In October 2005, the Wyoming District Court upheld the validity of the 2004 temporary winter use rule in *The Wyoming Lodging and Restaurant Association v. U.S. Department of the Interior*. Litigation is still pending in the U.S. District Court for the District of Columbia and Wyoming, including a lawsuit filed in 2005 captioned *Save Our Snowplanes v. Norton*.

Congress has three times included language in appropriations legislation for the Department of the Interior requiring that the temporary winter use rules remain in effect for the winter seasons of 2004–2005, 2005–2006, and 2006–2007.

#### **Park Resource Issues**

The Draft Environmental Impact Statement (DEIS) supporting this proposed rule focuses on analyzing the environmental impacts of six alternatives for the management of winter use in the parks. The major issues analyzed in the DEIS include social and economic issues, human health and safety, wildlife, air quality, natural soundscape, visitor use and access, and visitor experience. The impacts associated with each of the alternatives are detailed in the DEIS and are available at the following site: <http://parkplanning.nps.gov>. Additional information is available online at: <http://www.nps.gov/yell/planyourvisit/winteruse.htm> and <http://www.nps.gov/grte>.

#### **Impairment to Park Resources and Values**

In addition to determining the environmental consequences of the alternatives, NPS policy requires analysis of potential effects to determine whether actions would impair park resources. In managing National Park System units, the NPS may undertake actions that have both beneficial and adverse impacts on park resources and values. However, the NPS is generally

prohibited by law from taking or authorizing any action that would or is likely to impair park resources and values. Impairment is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values.

The FEIS ROD, dated November 22, 2000, concluded that, of the seven alternatives evaluated in the FEIS, only one (alternative G), which called for a phase-out of snowmobile use in the parks, did not impair park resources. This was the basis for selecting this alternative, as described in the rationale for the decision in the November 2000 ROD. In all other FEIS alternatives, the existing snowmobile use in Yellowstone was found to impair air quality, wildlife, the natural soundscape, and opportunities for the enjoyment of the park by visitors. In Grand Teton, impairment to the natural soundscape and opportunities for enjoyment of the park was found to result from the impacts of snowmobile and snowplane use. In the Parkway, impairment was found to result from snowmobile use on air quality, the natural soundscape, and opportunities for enjoyment of the park. It was determined that there was no way to mitigate the impairment short of reducing the amount of use as determined by an effective carrying capacity analysis, or by imposing a suitable limit unsupported by such an analysis.

The final rule implementing FEIS alternative G, published in the **Federal Register** on January 22, 2001, recognized that, “achieving compliance with the applicable legal requirements while still allowing snowmobile use would require very strict limits on the numbers of both snowmobiles and snowcoaches.” Thus, the January 2001 rule recognized that some snowmobile and snowcoach use could possibly be accommodated in the parks through appropriate management actions without resulting in impairment of park resources and values. The SEIS and March 25, 2003 ROD reinforced these conclusions.

On November 10, 2004, the NPS published a final rule in the **Federal Register** implementing Alternative 4 of the Temporary Winter Use Plans Environmental Assessment. Publication of the rule was preceded by a Finding of No Significant Impact in which the NPS determined that the winter use activities allowed in the parks under Alternative 4 would not result in the impairment of park resources or values. Under the temporary plan, winter use

activities are intensively managed in order to prevent the impairment of park resources and values. The plan employs strict requirements on snowmobiles and snowcoaches, along with a comprehensive monitoring program. Monitoring efforts include air quality, natural soundscapes, wildlife, employee health and safety, and visitor experience. Daily entry limits have been established that represent use levels slightly below the historic average numbers of snowmobiles entering Yellowstone, while eliminating the much higher peak use days experienced in the past. Limits on the numbers of snowmobiles have resulted in fewer conflicts with wildlife, fewer air and noise emissions, and improved road conditions. Limits on the numbers of snowmobiles also provide park managers with more predictable winter use patterns and an assurance that use cannot increase.

Under the temporary plan, all snowmobilers entering Yellowstone were accompanied by a commercial guide. This requirement reduced conflicts with wildlife along roadways because guides are trained to lead visitors safely around the park with minimal disturbance to wildlife. Commercial guides must also have control over their clientele, which greatly reduces unsafe and illegal snowmobile use. In this way, guides ensure that park regulations are enforced and provide a safer experience for visitors. The requirement that all snowmobilers travel with commercial guides also benefits natural soundscapes, since commercially guided parties tend to travel in relatively large groups, resulting in longer periods when snowmobile sound is not audible.

Finally, the temporary plan requires that all recreational snowmobiles entering the parks meet best available technology (BAT) requirements. This requirement, along with air emissions requirements for snowcoaches, ensures that the vast majority of recreational over-snow vehicles operating in the parks employ current emissions control equipment, and has resulted in improvements in air quality and natural soundscapes.

This proposed rule is based on Alternative 1 of the DEIS and in large part on the November 10, 2004 rule implementing the temporary winter use plan currently in effect. The NPS believes implementation of Alternative 1 and the proposed rule would not result in the impairment of park resources or values for the same reasons as described above.

This proposed rule is issued in conjunction with the Winter Use Plans Draft Environmental Impact Statement (DEIS) and will ensure that visitors to the parks have an appropriate range of winter recreational opportunities. In addition, the proposed rule will ensure that these recreational activities are in an appropriate setting and that they do not impair or irreparably harm park resources or values. The proposal provides a structure for winter use management in the parks and will replace an interim rule that has been in effect since the winter season of 2004–2005. The Rule is intended to continue providing certainty about winter use management in the parks that has existed for the last several years among the public and local communities.

#### **Description of the Proposed Rule**

The DEIS analyzes six alternatives with regard to winter use. These regulations propose to implement Alternative 1 from the DEIS. Alternative 1 and the proposed regulations are similar in most respects to the temporary winter use plan and the rules that guide its implementation. Thus, many of the regulations regarding operating conditions, designated routes, and restricted hours of operation have been in effect and enforced by the NPS for several years under the authority of 36 CFR part 7 or 36 CFR 1.5. Other aspects of the proposed rule are new, including new requirements to utilize Best Available Technology for snowcoaches, certain changes to the designated routes that are open to oversnow vehicle use, and adjustments to the daily entry limits.

The NPS has found that the interim regulations that have been in effect for the past three winter seasons have resulted in quieter conditions, clean air, fewer wildlife impacts, and much improved visitor safety and experiences. The NPS believes that these proposed regulations will continue to produce similar results.

#### **Monitoring**

Scientific studies and monitoring of winter visitor use and park resources (including air quality, natural soundscapes, wildlife, employee health and safety, water quality, and visitor experience) will continue. Selected areas of the parks, including sections of roads, will be closed to visitor use if these studies indicate that human presence or activities have a substantial adverse effect on wildlife or other park resources that cannot otherwise be mitigated. A one-year notice will be provided before any such closure would be implemented unless immediate

closure is deemed necessary to avoid impairment of park resources. Most non-emergency changes in park management implemented under the adaptive management framework would be implemented only after at least one or two years of monitoring, followed by a 6- to 12-month implementation period. The superintendent will continue to have the authority under 36 CFR 1.5 to take emergency actions to protect park resources or values.

#### **Best Available Technology Restrictions**

To mitigate impacts to air quality and the natural soundscape, the NPS is proposing to continue the requirement that all recreational snowmobiles meet air and sound emission restrictions, hereafter referred to as Best Available Technology (BAT) restrictions, to operate in the parks, with limited exceptions. For air emissions restrictions, BAT means all snowmobiles must achieve a 90% reduction in hydrocarbons and a 70% reduction in carbon monoxide, relative to EPA's baseline emissions assumptions for conventional two-stroke snowmobiles. For sound restrictions, snowmobiles must operate at or below 73dB(A) as measured at full throttle according to Society of Automotive Engineers J192 test procedures (revised 1985). The superintendent will maintain a list of approved snowmobile makes, models, and year of manufacture that meet BAT restrictions. For the winter of 2006–2007, the NPS certified 35 different snowmobile models (from various manufacturers; model years 2002–2007) as meeting the BAT requirements. The BAT certification is good for six years from the date on which a model is certified as meeting the BAT requirements.

To comply with the BAT air emission restrictions, the NPS proposes to continue the requirement that began with the 2005 model year, that all snowmobiles must be certified under 40 CFR 1051 to a Family Emission Limit (FEL) no greater than 15 g/kW-hr for hydrocarbons and 120 g/kW-hr for carbon monoxide. Snowmobiles must be tested on a five-mode engine dynamometer, consistent with the test procedures specified by EPA (40 CFR 1051 and 1065). Other test methods could be approved by the NPS.

The NPS proposes to retain the use of the FEL method for demonstrating compliance with BAT requirements because it has several advantages. First, use of FEL will ensure that all individual snowmobiles entering the parks achieve our emissions requirements, unless modified or

damaged (under this proposed regulation, snowmobiles which are modified in such a way as to increase air or sound emissions will not be in compliance with BAT requirements and therefore not permitted to enter the parks). Use of FEL will also represent the least amount of administrative burden on the snowmobile manufacturers to demonstrate compliance with NPS BAT requirements because FEL data is already provided to EPA by the manufacturers. Further, the EPA has the authority to insure that manufacturers' claims on their FEL applications are valid. EPA also requires that manufacturers conduct production line testing (PLT) to demonstrate that machines being manufactured actually meet the certification levels. If PLT indicates that emissions exceed the FEL levels, then the manufacturer is required to take corrective action. Through EPA's ability to audit manufacturers' emissions claims, the NPS will have sufficient assurance that emissions information and documentation will be reviewed and enforced by the EPA. FEL also takes into account other factors, such as the deterioration rate of snowmobiles (some snowmobiles may produce more emissions as they age), lab-to-lab variability, test-to-test variability, and production line variance. In addition, under the EPA's regulations, all snowmobiles manufactured must be labeled with FEL air emissions information. This will help to ensure that our emissions requirements are consistent with these labels and the use of FEL will avoid potential confusion for consumers.

To determine compliance with the BAT sound emission restrictions, snowmobiles must be tested using SAE J192 (revised 1985) test procedures. The NPS recognizes that the SAE updated these test procedures in 2003, however, the changes between the 2003 and 1985 test procedures could alter the measurement results. The BAT requirement was initially established using 1985 test procedures (in addition to information provided by industry and modeling). Therefore, to be consistent with our BAT requirements, we will continue to use the 1985 test. We also understand that an update to the 2003 J192 procedures may be underway. We are interested in transitioning to the newer J192 test procedures, and we will continue to evaluate this issue after these regulations are implemented. Other test methods could be approved by NPS on a case-by-case basis.

The BAT requirement for sound was established by reviewing individual machine results from side-by-side

testing performed by the NPS' contractor, Harris Miller Miller & Hanson Inc. (HMMH) and the State of Wyoming's contractor, Jackson Hole Scientific Investigations (JHSI). Six four-stroke snowmobiles were tested for sound emissions. These emission reports independently concluded that all the snowmobiles tested between 69.6 and 77.0 dB(A) using the J192 protocol. On average, the HMMH and JHSI studies measured four-strokes at 73.1 and 72.8 dB(A) at full throttle, respectively. The SAE J192 (revised 1985) test also allows for a tolerance of 2 dB(A) over the sound limit to account for variations in weather, snow conditions, and other factors.

Snowmobiles may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected (as measured at or near the test site). This exception to the SAE J192 test procedures maintains consistency with the testing conditions used to determine the BAT requirement. This reduced barometric pressure allowance is necessary since snowmobiles were tested at the high elevation of Yellowstone National Park, where atmospheric pressure is lower than the SAE J192's requirements due to the park's elevation. Testing data indicates that snowmobiles test quieter at high elevation, and therefore may be able to pass our BAT requirements at higher elevations but fail when tests are conducted near sea level.

NPS will annually publish a list of snowmobile makes, models, and year of manufacture that meet BAT restrictions. Snowmobile manufacturers may demonstrate that snowmobiles are compliant with the BAT air emissions requirements by submitting a copy of their application used to demonstrate compliance with EPA's general snowmobile regulation to the NPS (indicating FEL). We will accept this application information from manufacturers in support of conditionally certifying a snowmobile as BAT, pending ultimate review and certification by EPA at the same emissions levels identified in the application. Should EPA certify the snowmobile at a level that would no longer meet BAT requirements, this snowmobile would no longer be considered to be BAT compliant and would be phased-out according to a schedule determined by the NPS to be appropriate. For sound emissions, snowmobile manufacturers could submit their existing Snowmobile Safety and Certification Committee (SSCC) sound level certification form. Under the SSCC machine safety standards program, snowmobiles are certified by

an independent testing company as complying with all SSCC safety standards, including sound standards. This regulation does not require the SSCC form specifically, as there could be other acceptable documentation in the future. The NPS will work cooperatively with the snowmobile manufacturers on appropriate documentation. The NPS intends to rely on certified air and sound emissions data from the private sector rather than establish its own independent testing program. When certifying snowmobiles as BAT, NPS will announce how long the BAT certification applies. Generally, each snowmobile model would be approved for entry into the parks for six winter seasons after it was first listed. Based on NPS experience, six years represents the typical useful life of a snowmobile, and thus six years provides purchasers with a reasonable length of time where operation is allowed once a particular model is listed as being compliant.

Individual snowmobiles modified in such a way as to increase sound and air emissions of HC and CO beyond the proposed emission restrictions would be denied entry to the parks. It would be the responsibility of the end users, and guides and outfitters to ensure that their oversnow vehicles, whether snowmobiles or snowcoaches, comply with all applicable restrictions. Emission and sound requirements for snowcoaches are described below. The requirement in Yellowstone that all snowmobilers travel with commercial guides will assist NPS in enforcing BAT requirements, since businesses providing commercial guiding services in the parks are responsible under their contracts with the park to ensure that their clients' use only BAT snowmobiles. In addition, these businesses are required to ensure that snowmobiles used in the park are not modified in such a way as to increase sound or air emissions, and that BAT snowmobiles are properly maintained.

All commercially guided recreational snowmobiles operating within YNP would be required to meet the BAT restrictions. Snowmobiles being operated on the Cave Falls road, which extends approximately one mile into the park from the adjacent national forest, would be exempt from BAT requirements. In GTNP and the Parkway, all recreational snowmobiles operating on the Continental Divide Snowmobile Trail (CDST), Jackson Lake, and the Grassy Lake Road must meet the BAT restrictions, with two exceptions. The first exception is for snowmobiles operating on the portion of the CDST between the east boundary of GTNP and

Moran Junction. Because this portion of the CDST passes in and out of the park boundary and is generally adjacent to other public and private lands where snowmobile use is permitted, this section is being managed similarly to other routes where non-BAT snowmobile use is allowed in order to provide access to adjacent public and private lands. The second exception is for the Grassy Lake Road, where snowmobiles originating in the Targhee National Forest would be allowed to travel eastbound to Flagg Ranch and return westbound without meeting the BAT requirement; however, these snowmobiles could not travel further into the Parkway than Flagg Ranch. The NPS is allowing this exception in order to ensure that visitors to the remote Grassy Lake area of the Targhee National Forest are able to access food, fuel, emergency services, and other amenities available at Flagg Ranch. Any commercially guided snowmobiles authorized to operate in the Parkway or Grand Teton will be required to meet BAT restrictions.

The University of Denver conducted winter emissions measurements in YNP that involved the collection of emissions data from in-use snowcoaches and snowmobiles in February 2005 and February 2006. Results from that work indicate that while most snowcoaches have lower emissions per person than two-stroke snowmobiles, the snowcoach fleet could be modernized to reduce carbon monoxide (CO) and hydrocarbon (HC) emissions. This work also supports snowmobile BAT and the development of snowcoach air emission requirements.

Under concessions contracts issued in 2003, 78 snowcoaches are currently authorized to operate in Yellowstone. Approximately 29 of these snowcoaches were manufactured by Bombardier and were designed specifically for oversnow travel. Those 29 snowcoaches were manufactured before 1983 and are referred to as "historic snowcoaches" for the purpose of this rulemaking. All other snowcoaches are passenger vans or light buses that have been converted for oversnow travel using tracks and/or skis. During the winter of 2005–2006, an average of 29 snowcoaches entered Yellowstone each day.

In comparison with four-stroke snowmobiles, snowcoaches operating within EPA's Tier 1 standards are cleaner, especially given their ability to carry up to seven times more passengers (Lela and White 2002). In 2004, EPA began phasing-in Tier 2 emissions standards for multi-passenger vans, and they will be fully phased-in by 2009. Tier 2 standards will require that

vehicles be even cleaner than Tier 1. Tier 2 standards would also significantly reduce the open loop mode of operation.

Beginning in the 2011–2012 season, all snowcoaches must meet air emission requirements, which will be the functional equivalent of having EPA Tier I emissions control equipment incorporated into the engine and drive train for the vehicle class (size and weight) as a wheeled vehicle. The NPS will encourage, through contract and permit, snowcoaches to have EPA Tier II emissions control equipment for the vehicle class. In addition, all critical emission and sound-related exhaust components that were originally installed by the manufacturer must be in place and functioning properly. Malfunctioning components must be replaced with original equipment manufacturer (OEM) components where possible. If OEM parts are not available, aftermarket parts may be used if they are certified not to worsen emission and sound characteristics from OEM levels. In general, catalysts that have exceeded their typical useful life as stated by the manufacturer must be replaced unless the operator can demonstrate the catalyst is functioning properly.

Beginning in the 2011–2012 season, snowcoaches must meet a sound emissions requirement of no greater than 73dBA; test procedures to be determined by the NPS.

The restrictions on air and sound emissions proposed in this rule are not a restriction on what manufacturers may produce but an end-use restriction on which commercially produced snowmobiles and snowcoaches may be used in the parks. The NPS Organic Act (16 U.S.C. 1) authorizes the Secretary of the Interior to "promote and regulate" the use of national parks "by such means and measures as conform to the fundamental purpose of said parks \* \* \* which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." Further, the Secretary is expressly authorized by 16 U.S.C. 3 to "make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks. \* \* \*" This exercise of the NPS Organic Act authority is not an effort by NPS to regulate manufacturers and is consistent with Sec. 310 of the Clean Air Act.

Since 2001, Yellowstone and Grand Teton National Parks have been converting their own administrative

fleet of snowmobiles to four-stroke machines. These machines have proven successful in use throughout the parks. NPS now uses these snowmobiles for most administrative uses. However, NPS recognizes that some administrative applications, such as off-trail boundary patrols in deep powder, towing heavy equipment or disabled sleds, search and rescue, or law enforcement uses may require additional power beyond that supplied by currently available snowmobiles that meet the BAT restrictions. In these limited cases, NPS may use snowmobiles that do not meet BAT restrictions proposed in this rule.

#### *Use of Commercial Guides*

To mitigate impacts to natural soundscapes and wildlife, and for visitor and employee safety, all recreational snowmobiles operated in YNP must be accompanied by a commercial guide, except for those being operated on the one-mile segment of the Cave Falls road that extends into the park from the adjacent national forest. This guiding requirement will reduce conflicts with wildlife along roadways because guides are trained to lead visitors safely around the park with minimal disturbance to wildlife. Commercially guided parties also tend to be larger in size, which reduces the overall number of encounters with wildlife and reduces the amount of time over-snow vehicles are audible. Commercial guides are educated in safety and are knowledgeable about park rules. Commercial guides are required to exercise reasonable control over their clientele, which has proven to greatly reduce unsafe and illegal snowmobile use. Commercial guides with contractual obligations to the NPS also allows for more effective enforcement of park rules by the NPS. These guides receive rigorous multi-day training, perform guiding duties as employees of a business, and are experts at interpreting the resources of the parks to their clients. Commercial guides are employed by local businesses; those jobs are not performed by NPS employees.

Commercial guides use a "follow-the-leader" approach, stopping often to talk with the group. They lead snowmobiles single-file through the park, using hand signals to pass information down the line from one snowmobile to the next, which has proven to be effective. Signals are used to warn group members about wildlife and other road hazards, indicate turns, and when to turn on or off the snowmobile. Further, all commercial guides are trained in basic first aid and CPR. In addition to first aid kits, they often carry satellite or cellular

telephones, radios, and other equipment for emergency use. In this way, guides will ensure that park regulations are enforced and will provide a safer experience for visitors.

Since the winter of 2003–2004, all snowmobilers in Yellowstone have been led by commercial guides, resulting in significant positive effects on visitor health and safety. Guides are effective at enforcing proper touring behavior, such as adherence to speed limits, staying on the groomed road surfaces, and other snowmobiling behaviors that are appropriate to safely and responsibly visit the park. Since implementation of the guiding program there have been pronounced reductions in the number of law enforcement incidents and accidents associated with the use of snowmobiles, even when accounting for the reduced number of snowmobilers relative to historic use levels. The use of guides has also had beneficial effects on wildlife since guides are trained to respond appropriately when encountering wildlife.

No more than eight snowmobiles would be permitted in a group with one commercial guide; no more than 17 snowmobiles would be permitted in a group with two commercial guides on separate snowmobiles. Group numbers include the guide’s machine. Individual snowmobiles may not be operated separately from a group within the park. The maximum group sizes of eight and 17 were established so that no one party would be so large that a single guide, or in the case of a larger group two guides, could not safely direct and manage all party members. No minimum group size requirement is necessary since commercially guided parties always have at least two snowmobiles—that of the guide and the customer.

Except in emergency situations, guided parties must travel together and remain within a maximum distance of one-third mile of the first snowmobile in the group. This will ensure that guided parties do not become separated. One-third mile will allow for sufficient and safe spacing between individual snowmobiles within the guided party, allow the guide(s) to maintain control over the group and minimize the impacts on wildlife and natural soundscapes.

In the Parkway, all snowmobile parties traveling north from Flagg Ranch must be accompanied by a commercial guide. Otherwise, snowmobilers in Grand Teton and the Parkway do not have to be accompanied by a guide. The use of guides in Grand Teton and the Parkway is generally not required due to the low volume of use, the conditions for access to Jackson Lake for winter fishing, the nature of the CDST, as well as the inter-agency jurisdiction on the Grassy Lake Road.

*Designated Routes*

In Yellowstone, a number of changes are proposed in routes designated for snowmobile use based on analyses in the Draft EIS and experience with the temporary plan over the past three winters. Certain additional side roads will be open for snowmobile use in the afternoons, based on the successful experience of NPS with this time of day use on Firehole Canyon Drive. Virginia Cascades would be accessible only via ski and snowshoe, returning it to an earlier type of non-motorized use. As of the 2008–2009 winter season, the East Entrance road would be closed to through travel by oversnow vehicles in order to address the avalanche risk at Sylvan Pass that cannot be reasonably mitigated. The one-year delay in

implementing the change on the East Entrance road is proposed in response to comments received from cooperating agencies who expressed concern for communities and businesses to make appropriate adjustments. Reallocation of snowmobile numbers to reflect the change at the East Entrance would also be delayed until 2008–2009.

*Daily Snowmobile Limits*

The number of snowmobiles and snowcoaches that could operate in the parks each day would be limited under this rule. These limits are intended to mitigate impacts to air quality, employee and visitor health and safety, natural soundscapes, wildlife, and visitor experience. The daily entry limits for snowmobiles and snowcoaches in Yellowstone are identified in Table 1, and for Grand Teton and the Parkway in Table 2. Use limits identified in Table 1 include guides since commercial guides are counted towards the daily limits. For Yellowstone, the daily limits are identified for each entrance and location; for Grand Teton and the Parkway, the daily limits apply to total snowmobile use on the road segment and on Jackson Lake.

Limits are specifically identified for Old Faithful in this proposed rule since a park concessioner provides snowmobile rentals and commercial guiding services originating there. The limits for the North Entrance and Old Faithful allow additional flexibility in offering visitors the opportunity to experience the park. For example, some visitors choose to enter the park on a snowcoach tour, spend two or more nights at the Old Faithful Snow Lodge, and go on a commercially guided snowmobile tour of the park during their stay at Old Faithful.

TABLE 1.—YELLOWSTONE DAILY SNOWMOBILE AND SNOWCOACH ENTRY LIMITS

| Entrance*              | Commercially guided snowmobiles | Commercially guided snowcoaches |
|------------------------|---------------------------------|---------------------------------|
| West Entrance .....    | 424                             | 34                              |
| South Entrance** ..... | 256                             | 13                              |
| East Entrance .....    | 0                               | ***0                            |
| North Entrance .....   | 20                              | 13                              |
| Old Faithful .....     | 20                              | 1 18                            |
| Cave Falls .....       | ****50                          | 0                               |

\*For the winter of 2007–2008 only, the following allocations would be in effect: West Entrance, 400; South Entrance, 220; East Entrance, 40; North Entrance, 30; and Old Faithful, 30.

\*\*Includes portion of the Parkway between Flagg Ranch and South Entrance.

\*\*\*Does not include a limited number of snowcoaches that would be allowed to provide skier shuttles between East Entrance and Sylvan Pass.

\*\*\*\*This use occurs on a short (approximately 1-mile segment) of road and is incidental to other snowmobiling activities in the Targhee National Forest. These users do not have to be accompanied by a guide.

<sup>1</sup> Parkwide.

TABLE 2.—GRAND TETON AND THE PARKWAY DAILY SNOWMOBILE ENTRY LIMITS

| Entrance                                   | Snowmobiles |
|--|-------------|
| CDST* .....                                | 50          |
| Grassy Lake Road (Flagg-Ashton Road) ..... | 50          |
| Jackson Lake .....                         | 40          |

\*The Continental Divide Snowmobile Trail lies within both GTNP and the Parkway. The 50 daily snowmobile use limit applies to total use on this trail in both parks.

The purpose of these daily entry limits is to impose strict limits on the numbers of snowmobiles and snowcoaches that may use the parks in order to minimize resulting impacts. Compared to historical use where peak days found as many as 1,700 snowmobiles in the parks, these limits represent a considerable reduction in peak day use, and are slightly less than the historic seasonal daily average of Yellowstone entries. These limits would reduce snowmobile usage well below historic levels that were of particular concern in the 2000 ROD.

The daily snowmobile and snowcoach limits are based on the analysis contained in the DEIS, which concluded that these limits, combined with other elements of this rule, would prevent unacceptable impacts thus preventing impairment to park resources and values while allowing for an appropriate range of experiences available to park visitors.

**Section-by-Section Analysis**

*Section 7.13(l)(2) What terms do I need to know?*

The NPS has included definitions for a variety of terms, including oversnow vehicle, designated oversnow route, and commercial guides. These definitions are also applicable to Grand Teton and the Parkway, § 7.22(g)(2) and § 7.21(a)(2), respectively. For snowmobiles, NPS is continuing to use the definition found at 36 CFR 1.4, and sees no need to alter that definition at this time. Earlier regulations specific to Yellowstone, Grand Teton and the Parkway referenced “unplowed roadways” but that terminology was changed to “designated oversnow routes” to more accurately portray the condition of the route being used for oversnow travel. These routes remain entirely on roads or water surfaces used by motor vehicles and motorboats during other seasons and thus are consistent with the requirements in § 2.18. Earlier regulations also referred only to snowmobiles or snowcoaches. Since there is a strong likelihood that

new forms of machines will be developed in the future that can travel on snow, a definition for “oversnow vehicle” was developed to ensure that such new technology is subject to this regulation. When a particular requirement or restriction only applies to a certain type of machine (for example, some concession restrictions only apply to snowcoaches) then the specific machine is stated and only applies to that type of vehicle, not all oversnow vehicles. However, oversnow vehicles that do not meet the strict definition of a snowcoach (i.e., both weight and passenger capacity) would be subject to the same requirements as snowmobiles. The definitions listed under § 7.13(l)(2) will apply to all three parks. These definitions may be clarified in future rulemakings based on changes in technology.

*Section 7.13(l)(3) May I operate a snowmobile in Yellowstone National Park?*

The authority to operate a snowmobile within Yellowstone, subject to use limits, guiding requirements, operating hours and dates, equipment requirements, and operations established elsewhere in this section, is provided in § 7.13(l)(3). Similarly, it is provided for Grand Teton in § 7.22(g)(3) and for the Parkway in § 7.21(a)(3). Limitations in the 2004 rule that terminated the authority to operate snowmobiles (and snowcoaches) in the Parks following the winter season of 2006–2007 have been removed.

*Section 7.13(l)(4) May I operate a snowcoach in Yellowstone National Park?*

This paragraph continues the authority to operate snowcoaches in Yellowstone, but requires that they be commercially operated under a concessions contract. Similarly, the authority to operate snowcoaches in the Parkway is provided in § 7.21(a)(4). For Grand Teton, § 7.22(g)(4) continues the current prohibition on the operation of snowcoaches.

The NPS proposes to establish entry requirements for snowcoaches relating to both air emissions and noise. Initially, the NPS would continue to require non-historic snowcoaches to meet the applicable EPA emission standards for the vehicle at the time it was manufactured. Beginning with the 2011–2012 season, all snowcoaches, both historic and non-historic, would be required to meet the functional equivalent of having EPA Tier 1 emissions control equipment incorporated into the engine and drive train for the vehicle class (size and

weight) as a wheeled vehicle. Also beginning with the 2011–2012 season, all snowcoaches would be required to meet a sound emissions requirement of no greater than 73 dBA.

*Section 7.13(l)(5) Must I operate a certain model of snowmobile?*

This paragraph continues the requirement that only commercially available snowmobiles that meet NPS air and sound emissions requirements may be operated in Yellowstone. Similarly, this requirement is described for Grand Teton and the Parkway in § 7.22(g)(5) and § 7.21(a)(5), respectively.

*Section 7.13(l)(6) How will the Superintendent approve snowmobile makes, models, and year of manufacture for use in the park?*

The NPS is not proposing any changes to the hydrocarbon and carbon monoxide emissions requirements for snowmobiles operating in the park. Snowmobiles must be certified under 40 CFR part 1051 to a Family Emission Limit (FEL) no greater than 15 g/kW–hr for hydrocarbons and an FEL no greater than 120 g/kW–hr for carbon monoxide. Changes are not proposed to the current requirement that snowmobiles must operate at or below 73 dBA.

For Grand Teton and the Parkway, the same requirements are contained in § 7.22(g)(6) and § 7.21(a)(6), respectively.

*Section 7.13 (l)(7) Where may I operate my snowmobile in Yellowstone National Park?*

See also § 7.22 (g)(7) and § 7.21 (a)(7) for Grand Teton and the Parkway. Specific routes are listed where snowmobiles may be operated, but this proposed rule also provides latitude for the superintendent to modify those routes available for use. When determining what routes are available for use, the superintendent will use the criteria in § 2.18(c), and may also take other issues into consideration including, for example, the most direct route of access, weather and snow conditions, the necessity to eliminate congestion, the necessity to improve the circulation of visitor use patterns, and in the interest of public safety and protection of park resources.

The proposed rule would designate that portion of the East Entrance Road in Yellowstone between Fishing Bridge Junction and Lake Butte Overlook as open for use by snowmobiles and snowcoaches. The remaining portion of the road, however, between the East Entrance and Lake Butte Overlook would not be open to oversnow vehicle



use, except for the 6-mile section between the East Entrance and Sylvan Pass which would remain open to snowcoaches only. The NPS proposes this change in recognition of the significant avalanche hazards that exist at Sylvan Pass that cannot be safely or cost effectively mitigated.

Snowmobiles authorized to operate on the frozen surface of Jackson Lake may gain access to the lake by trailering their snowmobiles to the parking areas near the designated access points via the plowed roadway. There is no direct access from the Continental Divide Snowmobile Trail to Jackson Lake, and use limits established for each area are entirely separate.

*Section 7.13(l)(8) What routes are designated for snowcoach use?*

See also § 7.21(a)(8) for the Parkway. In addition to the specific routes open to snowmobile use, snowcoaches may be operated on several other specific routes in Yellowstone. This proposed rule also provides latitude for the superintendent to modify those routes available for use. When determining what routes are available for use, the superintendent will use the criteria in § 2.18(c), and may also take other issues into consideration including the most direct route of access, weather and snow conditions, the necessity to eliminate congestion, the necessity to improve the circulation of visitor use patterns, and in the interest of public safety and protection of park resources.

The NPS proposes to designate that portion of the East Entrance Road in Yellowstone between Fishing Bridge Junction and Lake Butte Overlook as open for use by both snowmobiles and snowcoaches. The remaining portion of the road, however, between the East Entrance and Lake Butte Overlook would not be open to oversnow vehicle use, except for the 6-mile section between the East Entrance and Sylvan Pass which would remain open to snowcoaches only. The NPS proposes this change in recognition of the significant avalanche hazards that exist at Sylvan Pass that cannot be safely or cost effectively mitigated. The segment of road between the East Entrance and Sylvan Pass is a popular destination for cross country skiers, although there is a significant gain in elevation between the two points. By designating that portion of the road as open to snowcoaches, a skier shuttle could be provided, thereby enhancing opportunities for skiing without exposing snowcoaches and their passengers to the hazards of crossing the pass itself. This change would not occur until the winter of 2008–2009.

*Section 7.13(l)(9) Must I travel with a commercial guide while snowmobiling in Yellowstone?*

See also § 7.22(g)(8) and § 7.21(a)(9) for Grand Teton and the Parkway. The NPS is proposing to retain the requirement that all recreational snowmobile operators in Yellowstone be accompanied by a commercial guide. Similar to the previous rule, parties must travel in groups of no more than eight snowmobiles including that of the guide, however, the NPS is proposing to allow groups of up to 17 snowmobiles if two guides are present on separate snowmobiles.

No changes are being proposed regarding guiding requirements for Grand Teton and the Parkway, where guides are not currently required except in the Parkway on the route between Flagg Ranch and the South Entrance of Yellowstone.

*Section 7.13(l)(10) Are there limits established for the numbers of snowmobiles and snowcoaches permitted to operate in the park each day?*

The NPS is not proposing to change the total of 720 snowmobiles per day allowed to enter Yellowstone, or the total of 140 per day that are allowed in Grand Teton (see § 7.22(g)(9)) and the Parkway (see § 7.21(a)(10)). The specific daily entry limits for each of Yellowstone's entrances, however, have been adjusted somewhat, primarily to reallocate the 40 snowmobiles per day beginning in 2008–2009 that were previously allocated to the East Entrance, but which would not be allowed under this proposed rule.

The NPS is also proposing to establish a daily entry limit of 78 snowcoaches for Yellowstone. Although a regulatory limit is new this conforms to the existing number authorized in concession contracts and reflects consideration of the analyses of impacts in the DEIS.

*Section 7.13(l)(11) When may I operate my snowmobile or snowcoach?*

See also § 7.22(g)(10) and § 7.21(a)(11) for Grand Teton and the Parkway. The NPS is not proposing any changes to the methods that the Superintendent would use to determine operating hours and dates.

*Section 7.13(l)(12) What other conditions apply to the operation of oversnow vehicles?*

This section includes a variety of requirements regarding the operation of snowmobiles in the parks, such as drivers' license and registration requirements, operating procedures,

requirements for headlights, brakes and other safety equipment, length of idling time, towing of sleds, and other requirements related to safety and resource impact considerations. No changes are being proposed in this section from the previous regulations. See also § 7.22(g)(11) for Grand Teton and § 7.21(a)(12) for the Parkway.

*Section 7.13(l)(13) What conditions apply to alcohol use while operating an oversnow vehicle?*

The NPS is proposing no changes to the conditions applicable to the use of alcohol while operating oversnow vehicles. Although the regulations in 36 CFR 4.23 apply to oversnow vehicles, a provision was included in the 2004 regulations to address the issue of under-age drinking while operating a snowmobile, and snowcoach operators or snowmobile guides operating under the influence while performing services for others. Many states have adopted similar alcohol standards for under-age operators and commercial drivers and the NPS feels it is necessary to specifically include these regulations to help mitigate potential safety concerns.

The alcohol level for minors (anyone under the age of 21) is set at .02. Although the NPS endorses "zero tolerance", a very low Blood Alcohol Content (BAC) is established to avoid a chance of a false reading. Mothers Against Drunk Driving and other organizations have endorsed such a general enforcement posture and the NPS agrees that under-age drinking and driving, particularly in a harsh winter environment, will not be allowed.

In the case of snowcoach operators or snowmobile guides, a low BAC limit is also necessary. Persons operating a snowcoach are likely to be carrying 8 or more passengers in a vehicle with tracks or skis that is more challenging to operate than a wheeled vehicle, and on oversnow routes that could pose significant hazards should the driver not be paying close attention or have impaired judgment. Similarly, persons guiding others on a snowmobile have put themselves in a position of responsibility for the safety of other visitors and for minimizing impacts to park wildlife and other resources. Should the guide's judgment be impaired, hazards such as wildlife on the road or snow obscured features, could endanger all members of the group in an unforgiving climate. For these reasons, the NPS is continuing to require that all guides be held to a stricter than normal standard for alcohol consumption. Therefore, the NPS has established a BAC limit of .04 for snowcoach operators and snowmobile

guides. This is consistent with federal and state rules pertaining to BAC thresholds for someone with a commercial drivers license.

The same conditions apply within Grand Teton and the Parkway; see § 7.22(g)(12) and § 7.21(a)(13), respectively.

*Section 7.13 (l)(14) Do other NPS regulations apply to the use of oversnow vehicles?*

See also § 7.22(g)(13) and § 7.22(a)(14) for Grand Teton and the Parkway, respectively. The NPS is not proposing any changes to the applicability of other NPS regulations concerning oversnow vehicle use.

Relevant portions of 36 CFR 2.18, including § 2.18(c), have been incorporated within these proposed regulations. Some portions of 36 CFR 2.18 and 2.19 are superseded by these proposed regulations, which allows these proposed regulations to govern maximum operating decibels, operating hours, and operator age (this is applicable to these park units only). In addition, 36 CFR 2.18(b) would not apply in Yellowstone, while it would apply in Grand Teton and the Parkway. This is due to the existing concurrent jurisdiction in Grand Teton and the Parkway. These two units are solely within the boundaries of the State of Wyoming and national park rangers work concurrently with state and county officers enforcing the laws of the State of Wyoming. The proposed rule also supersedes 36 CFR 2.19(b) in that it prohibits the towing of persons on skis, sleds, or other sliding devices by motor vehicle or snowmobile, except in emergency situations. Towing people, especially children, is a potential safety hazard and health risk due to road conditions, traffic volumes, and direct exposure to snowmobile emissions. This rule does not affect supply sleds attached by a rigid device or hitch pulled directly behind snowmobiles or other oversnow vehicles as long as no person or animal is hauled on them. Other provisions of 36 CFR Parts 1 and 2 continue to apply to the operation of oversnow vehicles unless specifically excluded here.

*Section 7.13 (l)(15) Are there any forms of non-motorized oversnow transportation allowed in the park?*

See also § 7.22(g)(14) and § 7.21(a)(15) for Grand Teton and the Parkway, respectively. Non-motorized travel consisting of skiing, skating, snowshoeing, and walking are generally permitted. Yellowstone and Grand Teton have specifically prohibited dog sledding and ski-joring (the practice of

a skier being pulled by dogs or a vehicle) to prevent disturbance or harassment to wildlife. These restrictions have been in place for several years and would be reaffirmed under these regulations.

*Section 7.13 (l)(16) May I operate a snowplane in Yellowstone National Park?*

See also § 7.22(g)(15) and § 7.21(a)(16) for Grand Teton and the Parkway. Before the winter of 2002–2003, snowplanes were allowed on Jackson Lake within GTNP under a permit system. Based on the analysis set forth in the 2000 EIS and ROD and incorporated by reference into three subsequent rulemaking processes including the DEIS, the NPS found that the use of snowplanes results in impairment of the natural soundscape and opportunities for enjoyment of the park by visitors in violation of the NPS Organic Act. Additionally, with their unguarded propellers and high travel speeds, snowplanes present unacceptable safety risks. Accordingly, snowplanes have been banned since 2001. To date, NPS is not aware of any new or additional information regarding snowplanes that would suggest their use would not impair park resources and values. As a result, and to avoid any uncertainty based on their previous use on Jackson Lake, this proposed rule includes language that specifically continues the prohibition of snowplanes in each of these parks.

*Section 7.13 (l)(17) Is violating any of the provisions of this section prohibited?*

Some magistrates have interpreted the lack of a specific prohibitory statement in regulations to be ambiguous and therefore unenforceable. Although it would seem to be implicit that each instance of a failure to abide by specific requirements is a separate violation, the proposed regulation contains clarifying language for this purpose. Each occurrence of non-compliance with these regulations is a separate violation. However, it should also be noted that the individual regulatory provisions (i.e., each of the separately numbered subparagraphs throughout these three sections) could be violated individually and are of varying severity. Thus, each subparagraph violated can and should receive an individual fine in accordance with the issuance of the park's bail schedule as issued by the appropriate magistrate. It is not intended that violations of multiple subparagraphs of these regulations be treated as a single violation or subject only to a single fine. See also § 7.22(g)(20) and § 7.21(a)(17) for Grand Teton and the Parkway.

*Section 7.22(g)(16) May I continue to access public lands via snowmobile through the park?*

The NPS is proposing to continue providing access to public lands that are adjacent to Grand Teton National Park, consistent with the requirements found in the park's enabling legislation. Specific routes are designated to provide such access; the requirements established for air and sound emissions, guiding and licensing, snowmobile operator age, and daily entry limits do not apply on these routes. Section 7.22(g)(17) specifies that the routes designated in § 7.22(g)(16) may be used only to gain direct access to public lands located adjacent to the park boundary.

*Section 7.22(g)(18) May I continue to access private property within or adjacent to the park via snowmobile?*

The NPS is proposing to continue providing access to inholdings or private lands adjacent to Grand Teton National Park, consistent with the requirements found in the park's enabling legislation. Specific routes are designated to provide access, and the requirements established for air and sound emissions, guiding and licensing, snowmobile operator age, and daily entry limits do not apply on these routes. Section 7.22(g)(19) specifies that the routes designated in § 7.22(g)(18) may be used only to gain direct access to private lands located within or adjacent to the park boundary, and is authorized only for the landowners and their representatives or guests.

## Summary of Economic Analysis

### Introduction

This analysis examines six alternatives for winter use plans in the Greater Yellowstone Area (Yellowstone National Park, Grand Teton National Park, and John D. Rockefeller, Jr., Memorial Parkway). Alternative 1 is the preferred alternative. It would allow nearly historic levels of snowmobile use, but require the use of commercial guides. Alternative 1 mimics the current temporary winter use plan with three primary changes: (1) Air emission and sound standards for snowcoaches, (2) daily limits for snowcoaches, and (3) the closure of Sylvan Pass to through travel. Alternative 2 would emphasize snowcoach access and prohibit recreational snowmobiling. Road grooming would continue under Alternative 2, but Sylvan Pass would be closed to through travel beginning in the 2008–2009 winter season. Alternative 3a would prohibit road grooming or

packing on most road segments in Yellowstone National Park. Under that alternative, the road from the South Entrance to Old Faithful would be the only oversnow motorized access route in Yellowstone National Park. Alternative 4 would allow increased snowmobile use relative to historic levels. While some non-commercially guided or unguided snowmobile access would be allowed under Alternative 4, commercial guides would be required for most snowmobilers. Alternative 5 would balance snowmobile and snowcoach access and accommodate some unguided snowmobile access. That alternative also features a seasonal limit with flexible daily limits. Finally, Alternative 6 would emphasize plowing mid-elevation, west-side roads in Yellowstone National Park to allow wheeled commercial vehicle access. Alternative 6 would continue to allow oversnow vehicle access through the South Entrance and on the east side of the park, but Sylvan Pass would be closed to through travel beginning in the 2008–2009 winter season.

This analysis estimates the benefits and costs associated with the six alternatives relative to the baseline, which is Alternative 3b. Baseline describes the conditions that would occur if the proposed regulations that are currently under consideration were not implemented. Under those baseline conditions, recreational oversnow vehicle access would cease in all three parks. The estimated benefits and costs summarized here are incremental to the baseline. That is, these estimates are calculated as the additional benefits and costs the public would experience under each of the action alternatives as compared to the baseline conditions described by Alternative 3b.

The purpose for estimating these benefits and costs is to examine the extent to which each action alternative addresses the need for the proposed regulations. These regulations are needed to correct certain “market failures” associated with winter use in the parks. A market failure occurs when park resources and uses are not allocated in an economically efficient manner. For winter use in the parks, market failures occur as a result of “externalities.” An externality exists when the actions of some individuals impose uncompensated impacts on others. For example, snowmobile users impose costs on other park visitors in the form of noise, air pollution, congestion, and health and safety risks. Because these costs are not compensated, snowmobile users have little or no incentive to adjust their behavior accordingly. The proposed

regulations are needed to correct this situation.

The quantitative results of this analysis are summarized below. It is important to note that this analysis could not account for all benefits or costs due to limitations in available data. For example, the costs associated with adverse impacts to park resources such as wildlife, and with law enforcement incidents are not reflected in the quantified net benefits presented in this summary. It is also important to note that this analysis addresses the economic efficiency implications of the different action alternatives and not their distributive equity (i.e., it does not identify the sectors or groups on which the majority of impacts fall). Therefore, additional explanation is required when interpreting the quantitative results of this analysis. An explanation of the selection of the preferred alternative is presented following the summary of quantified benefits and costs.

#### *Quantified Benefits and Costs*

The analysis of benefits and costs critically depends on estimates of visitation for the different user groups. While significant information is available from past visitation records and visitor surveys, a degree of uncertainty exists about how these visitation levels might change in the future under the six action alternatives. In past analyses of winter use plans, this uncertainty was addressed by making bounding assumptions to place upper and lower limits on a reasonable range of visitation. In the present analysis, a more sophisticated approach was used to better characterize uncertainty and to estimate expected levels of visitation. That approach involves specifying probability distributions of key visitation parameters, and then sampling from those distributions in order to estimate visitation levels. By taking multiple samples, measures of central tendency for visitation can be calculated that reflect the uncertainty in the available data. This analysis used 1,000 samples, which were adequate to calculate expected levels of visitation. Those expected visitation levels were then used to estimate the benefits and costs described below for the six action alternatives.

Alternative 6 has the highest level of quantified net benefits (benefits minus costs). That is because this alternative would result in the largest increase in overall visitation due to its emphasis on road plowing. That increased visitation would primarily benefit visitors that access the parks by wheeled vehicles such as buses, and the businesses that serve them, including restaurants, gas

stations, and hotels. Additionally, due to the relative low snowmobile limits associated with Alternative 6, the costs imposed on non-snowmobile users are low.

Alternative 2 has the second highest level of quantified net benefits. This alternative would result in the largest increase of snowcoach visitation due to its emphasis on that mode of access. Additionally, Alternative 2 would yield the largest increase in skiing and snowshoeing visitation primarily as a result of the prohibition of recreational snowmobile use. While the other alternatives would allow some snowmobile use, the benefits from that use are diminished relative to the other modes of access allowed under Alternative 2 due to commercial guiding requirements.

Alternatives 3a, 4, and 5 have the smallest levels of quantified net benefits. Alternative 3a would eliminate most motorized access, which would obviously reduce the benefits associated with that mode of access. While alternatives 4 and 5 would have the largest increases in snowmobile visitation, the benefits of that access are diminished relative to other modes of access due to commercial guiding requirements. Additionally, the increased snowmobile visitation associated with Alternatives 4 and 5 would diminish the benefits of other visitors through crowding. Finally, while not quantified in this analysis, non-snowmobile visitors might prefer that snowmobiles be guided. That preference would further diminish the net benefits of Alternatives 4 and 5 to the extent that they allow unguided snowmobile access.

Alternative 1, the preferred alternative, has the third highest level of quantified net benefits. That level of net benefits generally reflects moderate benefits for visitors and businesses associated with snowmobile and snowcoach access, and moderate costs for other visitors such as skiers and snowshoers. The exception is for visitors arriving by bus, which would receive no benefits or costs under this alternative.

These net benefit levels are presented in Tables 1 and 2 below. Table 1 presents the total present value of quantified net benefits over the ten-year analysis period for winter seasons 2007–2008 through 2016–2017. Table 2 presents quantified net benefits per year for the same analysis period.

Double check upon accepting changes that the following tables are still correct (as rounded).

**TABLE 1.—TOTAL PRESENT VALUE OF QUANTIFIED NET BENEFITS RELATIVE TO THE ALTERNATIVE 3B BASELINE, GREATER YELLOWSTONE AREA, 2007–2008 THROUGH 2016–2017**

|                                     | Total present value of quantified net benefits |
|-------------------------------------|--|
| Alternative 1                       |  |
| Discounted at 3% <sup>a</sup> ..... | \$55,270,000                                   |
| Discounted at 7% <sup>a</sup> ..... | 45,190,000                                     |
| Alternative 2                       |  |
| Discounted at 3% <sup>a</sup> ..... | 122,900,000                                    |
| Discounted at 7% <sup>a</sup> ..... | 100,900,000                                    |
| Alternative 3a                      |  |
| Discounted at 3% <sup>a</sup> ..... | 44,850,000                                     |
| Discounted at 7% <sup>a</sup> ..... | 36,760,000                                     |
| Alternative 4                       |  |
| Discounted at 3% <sup>a</sup> ..... | 32,690,000                                     |
| Discounted at 7% <sup>a</sup> ..... | 26,770,000                                     |
| Alternative 5                       |  |
| Discounted at 3% <sup>a</sup> ..... | 34,530,000                                     |
| Discounted at 7% <sup>a</sup> ..... | 28,370,000                                     |
| Alternative 6                       |  |
| Discounted at 3% <sup>a</sup> ..... | 311,800,000                                    |
| Discounted at 7% <sup>a</sup> ..... | 256,000,000                                    |

<sup>a</sup> Office of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.

**TABLE 2.—QUANTIFIED NET BENEFITS PER YEAR RELATIVE TO THE ALTERNATIVE 3B BASELINE, GREATER YELLOWSTONE AREA, 2007–2008 THROUGH 2016–2017**

|                                     | Quantified net benefits per year <sup>b</sup> |
|-------------------------------------|---|
| Alternative 1                       |   |
| Discounted at 3% <sup>a</sup> ..... | \$6,479,000                                   |
| Discounted at 7% <sup>a</sup> ..... | 6,433,000                                     |
| Alternative 2                       |   |
| Discounted at 3% <sup>a</sup> ..... | 14,410,000                                    |
| Discounted at 7% <sup>a</sup> ..... | 14,360,000                                    |
| Alternative 3a                      |   |
| Discounted at 3% <sup>a</sup> ..... | 5,257,000                                     |
| Discounted at 7% <sup>a</sup> ..... | 5,233,000                                     |
| Alternative 4                       |   |
| Discounted at 3% <sup>a</sup> ..... | 3,832,000                                     |
| Discounted at 7% <sup>a</sup> ..... | 3,811,000                                     |
| Alternative 5                       |   |
| Discounted at 3% <sup>a</sup> ..... | 4,047,000                                     |
| Discounted at 7% <sup>a</sup> ..... | 4,039,000                                     |
| Alternative 6                       |   |
| Discounted at 3% <sup>a</sup> ..... | 36,550,000                                    |
| Discounted at 7% <sup>a</sup> ..... | 36,450,000                                    |

<sup>a</sup> Office of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.

<sup>b</sup> This is the total present value of quantified net benefits reported in Table 1 amortized over the ten-year analysis timeframe at the indicated discount rate.

*Interpretation of Quantified Benefits and Costs*

The National Park Service selected Alternative 1 as the preferred alternative; however, Alternatives 6 and 2 each have higher levels of quantified net benefits. Additional factors beyond economics that are relevant in the selection of the preferred alternative include benefits and costs that could not be quantified and distributive equity concerns. For example, Alternative 6 has moderate, adverse visibility impacts due to road sanding operations, which were not quantified in terms of monetized costs. Those costs would reduce the quantified net benefits of Alternative 6 relative to those of Alternative 1. With respect to distributive equity concerns, Alternative 1 better balances the visitor experiences of all modes of access compared to all other action alternatives. That is, Alternative 1 better distributes the benefits of winter access and enjoyment across different ways of enjoying the park. Alternative 2 concentrates the benefits almost exclusively with snowcoach riders. The preponderance of benefits from Alternative 6 benefits are from wheeled vehicle (bus) access on the west side of Yellowstone. These issues are further explained in the section below.

**Explanation of Selected Preferred Alternative**

The preferred alternative was selected because it best balances winter use with protection of park resources to ensure that adverse impacts from historical types and numbers of snowmobile uses do not occur. It also proactively manages snowcoach operations. The preferred alternative demonstrates the NPS commitment to monitor and use results to adjust the winter use program. The results of the NPS' monitoring program, including data obtained regarding air quality, wildlife, soundscapes, and health and safety were used in formulating the alternatives in the DEIS. The preferred alternative applies the lessons learned over the last several winters relative to commercial guiding, which demonstrated, among other things, that 100% commercial guiding has been very successful and offers the best opportunity for achieving goals of protecting park resources and allowing balanced use of the parks. Law enforcement incidents have been reduced well below historic numbers, even after taking into account reduced visitation. That reduction is attributed to the quality of the guided program.

The preferred alternative uses strictly limited oversnow vehicle numbers, combined with best available technology requirements and 100% commercial guiding to help ensure that the purpose and need for the environmental impact statement is best met. With access via snowmobile, snowcoaches, or non-motorized means, park visitors will have a range of appropriate winter recreational opportunities. Alternative 1 encourages a variety of ways of accessing the park in the winter, as compared to other alternatives that are more single-mode access. With the significant restrictions built into snowmobile and snowcoach use, this plan also ensures that these recreational activities will not impair or irreparably harm park resources or values.

The preferred alternative also supports the communities and businesses both near and far from the parks and will encourage them to have an economically sustainable winter recreation program that relies on a variety of modes for access to the parks in the winter. Peak snowmobile numbers allowed under the preferred alternative are below the historic averages, but the snowmobile limits should provide a viable program for winter access to the parks, and in combination with snowcoach access, support overall historic visitor use levels.

**Compliance With Other Laws**

*Regulatory Planning and Review (Executive Order 12866)*

This document is a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. These conclusions are based on the report "Economic Analysis of Winter Use Regulations in the Greater Yellowstone Area" (RTI International, February 2007).

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Implementing actions under this rule will not interfere with plans by other agencies or local government plans, policies, or controls since this is an agency specific change.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights

or obligations of their recipients. It only affects the use of over-snow machines within specific national parks. No grants or other forms of monetary supplement are involved.

(4) OMB has determined that this rule raises novel legal or policy issues. The issue has generated local as well as national interest on the subject in the Greater Yellowstone Area. The NPS has been the subject of numerous lawsuits regarding winter use management.

#### *Regulatory Flexibility Act*

The Department of the Interior has determined that this document will have a significant positive economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Therefore, an Initial Regulatory Flexibility Analysis has been conducted. This analysis is contained in the report "Economic Analysis of Winter Use Regulations in the Greater Yellowstone Area" (RTI International, February 2007). This initial analysis is available on the Yellowstone National Park website. A Final Regulatory Flexibility Analysis will be available upon publication of the final rule.

Alternative 4, which has the highest daily snowmobile limits and allows for 25 percent of snowmobilers to be on non-commercially guided or unguided tours, would most likely result in the largest number of snowmobilers visiting the parks. Therefore, Alternative 4 would likely be the most beneficial to small businesses associated with that mode of access. However, Alternative 6, which allows for guided commercial wheeled access through the North and West entrances, is forecast to have the highest overall visitation. Nevertheless, Alternative 1 was selected as the preferred alternative in part because it balances the visitor experiences of all modes of access compared to all other action alternatives. NPS believes that balance will benefit small businesses associated with all modes of access.

#### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. 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. This rulemaking has no effect on methods of manufacturing or production and specifically affects the Greater Yellowstone Area, not national or U.S. based enterprises.

#### *Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments.

#### *Takings (Executive Order 12630)*

In accordance with Executive Order 12630, the rule does not have significant takings implications. Access to private property located within or adjacent to the parks will be afforded the same access during winter as before this rule. No other property is affected.

#### *Federalism (Executive Order 13132)*

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. It addresses public use of national park lands, and imposes no requirements on other agencies or governments.

#### *Civil Justice Reform (Executive Order 12988)*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

#### *Paperwork Reduction Act*

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83-I is not required.

#### *National Environmental Policy Act*

A Draft Environmental Impact Statement (DEIS) has been prepared and is available for comment. The DEIS is available for review by contacting Yellowstone or Grand Teton Management Assistant's Offices or at <http://parkplanning.nps.gov/>. Comments are being solicited separately for the DEIS and this proposed rule. See the **Public Participation** section for more information on how to comment on the DEIS.

#### *Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, "Government to Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2:

The NPS has evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. Numerous tribes in the area were consulted in the development of the previous winter use planning documents. Their major concern was to reduce the adverse effects on wildlife by snowmobiles. This rule does that through implementation of the guiding requirements and disbursement of snowmobile use through the various entrance stations.

#### *Clarity of Rule*

Executive Order 12866 requires each agency to write regulations that are easy to understand. The NPS invites your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example § 7.13 Yellowstone National Park.) (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: [Exsec@ios.doi.gov](mailto:Exsec@ios.doi.gov).

**Drafting Information:** The primary authors of this regulation are Gary Pollock, Management Assistant, Grand Teton National Park; John Sacklin, Management Assistant, Yellowstone National Park, and; Jerry Case, Regulations Program Manager, National Park Service, Washington DC.

#### **Public Participation**

If you wish to comment, you may submit your comments by any one of several methods.

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• Mail: Yellowstone National Park, Winter Use Proposed Rule, P.O. Box 168, Yellowstone NP, WY 82190.

• Hand Deliver to: Management Assistant's Office, Headquarters Building, Mammoth Hot Springs, Yellowstone National Park, Wyoming.

All comments must be received by midnight of the close of the comment period.

As noted previously, a DEIS is also available for public comment. Those wishing to comment on both this proposed rule and the DEIS should submit separate comments for each. Comments regarding the DEIS may be submitted online via the NPS' Planning, Environment, and Public Comment (PEPC) Web site at <http://parkplanning.nps.gov/>, or they may be addressed to: Winter Use Plans DEIS, P.O. Box 168, Yellowstone National Park, WY 82190. Additional information about the DEIS is available online at: <http://www.nps.gov/yell/planyourvisit/winteruse.htm>.

#### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

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

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

**Authority:** 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137(1981) and D.C. Code 40–721 (1981).

2. In § 7.13, revise paragraph (l) to read as follows:

#### § 7.13 Yellowstone National Park.

\* \* \* \* \*

(l)(1) *What is the scope of this regulation?* The regulations contained in paragraphs (l)(2) through (l)(17) of this section apply to the use of recreational

and commercial snowmobiles. Except where indicated, paragraphs (l)(2) through (l)(17) do not apply to non-administrative snowmobile or snowcoach use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(2) *What terms do I need to know?* The definitions in this paragraph (l)(2) also apply to non administrative snowmobile use by the NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(i) *Commercial guide* means a guide who operates as a snowmobile or snowcoach guide for a fee or compensation and is authorized to operate in the park under a concession contract. In this regulation, "guide" also means "commercial guide."

(ii) *Historic snowcoach* means a Bombardier snowcoach manufactured in 1983 or earlier. Any other snowcoach is considered a non-historic snowcoach.

(iii) *Oversnow route* means that portion of the unplowed roadway located between the road shoulders and designated by snow poles or other poles, ropes, fencing, or signs erected to regulate over-snow activity. Oversnow routes include pullouts or parking areas that are groomed or marked similarly to roadways and are adjacent to designated oversnow routes. An oversnow route may also be distinguished by the interior boundaries of the berm created by the packing and grooming of the unplowed roadway. The only motorized vehicles permitted on oversnow routes are oversnow vehicles.

(iv) *Oversnow vehicle* means a snowmobile, snowcoach, or other motorized vehicle that is intended for travel primarily on snow and has been authorized by the Superintendent to operate in the park. An oversnow vehicle that does not meet the definition of a snowcoach or a snowplane must comply with all requirements applicable to snowmobiles.

(v) *Snowcoach* means a self-propelled mass transit vehicle intended for travel on snow, having a curb weight of over 1000 pounds (450 kilograms), driven by a track or tracks and steered by skis or tracks, and having a capacity of at least 8 passengers. A snowcoach has a maximum size of 102 inches wide, plus tracks (not to exceed 110 inches overall); a maximum length of 35 feet; and a Gross Vehicle Weight Rating (GVWR) not exceeding 25,000 pounds.

(vi) *Snowmobile* means a self-propelled vehicle intended for travel on snow, with a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the

snow, and which may be steered by a ski or skis in contact with the snow.

(vii) *Snowplane* means a self-propelled vehicle intended for oversnow travel and driven by an air-displacing propeller.

(3) *May I operate a snowmobile in Yellowstone National Park?* (i) You may operate a snowmobile in Yellowstone National Park in compliance with use limits, guiding requirements, operating hours and dates, equipment, and operating conditions established under this section. The Superintendent may establish additional operating conditions and must provide notice of those conditions in accordance with § 1.7(a) of this chapter or in the **Federal Register**.

(4) *May I operate a snowcoach in Yellowstone National Park?* (i) Snowcoaches may only be operated in Yellowstone National Park under a concessions contract. Snowcoach operation is subject to the conditions stated in the concessions contract and all other conditions identified in this section.

(ii) All non-historic snowcoaches must initially meet NPS air emissions requirements. These requirements are the applicable EPA emission standards for the vehicle at the time it was manufactured. Beginning in the 2011–2012 season, all snowcoaches (historic and non-historic) must meet NPS air emission requirements, which are the functional equivalent of having EPA Tier I emissions control equipment incorporated into the engine and drive train for the vehicle class (size and weight) as a wheeled vehicle.

(iii) All critical emission-related exhaust components (as defined in 40 CFR 86.004–25(b)(3)(iii) through (v)) must be functioning properly. Malfunctioning critical emissions-related components must be replaced with the original equipment manufacturer (OEM) component, where possible. Where OEM parts are not available, aftermarket parts may be used if they are certified not to worsen emission and sound characteristics.

(iv) Modifying or disabling a snowcoach's original pollution control equipment is prohibited except for maintenance purposes.

(v) Beginning in the 2011–2012 season, all snowcoaches must meet a sound emissions requirement of no greater than 73 dBA.

(vi) Individual snowcoaches may be subject to periodic inspections to determine compliance with the requirements of paragraphs (l)(4)(ii) through (l)(4)(v) of this section.

(5) *Must I operate a certain model of snowmobile?* Only commercially

available snowmobiles that meet NPS air and sound emissions requirements as set forth in this section may be operated in the park. The Superintendent will approve snowmobile makes, models, and year of manufacture that meet those requirements. Any snowmobile model not approved by the Superintendent may not be operated in the park.

(6) *How will the Superintendent approve snowmobile makes, models, and year of manufacture for use in the park?* (i) Beginning with the 2005 model year, all snowmobiles must be certified under 40 CFR part 1051, to a Family Emission Limit no greater than 15 g/kW-hr for hydrocarbons and to a Family Emission Limit no greater than 120 g/kW-hr for carbon monoxide.

(A) 2004 model year snowmobiles may use measured emissions levels (official emission results with no deterioration factors applied) to comply with the emission limits specified in paragraph (1)(6)(i) of this section.

(B) Snowmobiles manufactured before the 2004 model year may be operated only if they have been shown to the Superintendent to have emissions no greater than the limits specified in paragraph (1)(6)(i) of this section.

(C) The snowmobile test procedures specified by EPA (40 CFR 1051 and 1065) must be used to measure air emissions from model year 2004 and later snowmobiles. Equivalent procedures may be used for earlier model years.

(ii) For sound emissions, snowmobiles must operate at or below 73dB(A) as measured at full throttle according to Society of Automotive Engineers J192 test procedures (revised 1985). Snowmobiles may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected.

(iii) Snowmobiles meeting the requirements for air and sound emissions may be operated in the park for a period not exceeding six years from the date upon which first certified.

(iv) The Superintendent may prohibit entry into the park of any snowmobile that has been modified in a manner that may adversely affect air or sound emissions.

(v) These air and sound emissions requirements do not apply to snowmobiles being operated on the Cave Falls Road.

(7) *Where may I operate my snowmobile in Yellowstone National Park?* (i) You must operate your

snowmobile only upon designated oversnow routes established within the park in accordance with § 2.18(c) of this chapter. The following oversnow routes are so designated for snowmobile use:

(A) The Grand Loop Road from its junction with Upper Terrace Drive to Norris Junction.

(B) Norris Junction to Canyon Junction.

(C) The Grand Loop Road from Norris Junction to Madison Junction.

(D) The West Entrance Road from the park boundary at West Yellowstone to Madison Junction.

(E) The Grand Loop Road from Madison Junction to West Thumb.

(F) The South Entrance Road from the South Entrance to West Thumb.

(G) The Grand Loop Road from West Thumb to its junction with the East Entrance Road.

(H) The East Entrance Road from Fishing Bridge Junction to Lake Butte Overlook.

(I) The Grand Loop Road from its junction with the East Entrance Road to Canyon Junction.

(J) The South Canyon Rim Drive.

(K) Lake Butte Road.

(L) In the developed areas of Madison Junction, Old Faithful, Grant Village, West Thumb, Lake, Fishing Bridge, Canyon, Indian Creek, and Norris.

(M) Firehole Canyon Drive, between noon and 9 p.m. each day.

(N) North Canyon Rim Drive, between noon and 9 p.m. each day.

(O) Riverside Drive, between noon and 9 p.m. each day.

(P) The East Entrance Road from Fishing Bridge Junction to the East Entrance for the winter of 2007–2008 only.

(Q) Cave Falls Road.

(ii) The Superintendent may open or close these routes, or portions thereof, for snowmobile travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, and other factors. Notice of such opening or closing will be provided by one or more of the methods listed in § 1.7(a) of this chapter.

(iii) This paragraph (1)(7) also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(iv) Maps detailing the designated oversnow routes will be available from Park Headquarters.

(8) *What routes are designated for snowcoach use?* (i) Authorized

snowcoaches may be operated on the routes designated for snowmobile use in paragraphs (1)(7)(A) through (1)(7)(P) of this section. The restricted hours of snowmobile use described in paragraphs (1)(7)(M) through (1)(7)(O) do not apply to snowcoaches.

Snowcoaches may also be operated on the following additional oversnow routes:

(A) Fountain Flat Road.

(B) Riverside Drive.

(C) That portion of the Grand Loop Road from Canyon Junction to Washburn Hot Springs overlook.

(D) East Entrance Road from the park entrance to a point approximately six miles west of the entrance.

(ii) The Superintendent may open or close these oversnow routes, or portions thereof, or designate new routes for snowcoach travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, and other factors. Notice of such opening or closing shall be provided by one of more of the methods listed in § 1.7(a) of this chapter.

(iii) This paragraph (1)(8) also applies to non-administrative snowcoach use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(9) *Must I travel with a commercial guide while snowmobiling in Yellowstone and what other guiding requirements apply?* (i) All recreational snowmobile operators must be accompanied by a commercial guide.

(ii) Snowmobile parties must travel in a group of no more than eight snowmobiles, including that of the guide, or, if two guides are present, no more than 17 snowmobiles, including those of the guides.

(iii) Guided parties must travel together within a maximum of one-third mile of the first snowmobile in the group.

(iv) The guiding requirements described in this paragraph (1)(9) do not apply to snowmobiles being operated on the Cave Falls Road.

(10) *Are there limits established for the numbers of snowmobiles and snowcoaches permitted to operate in the park each day?* The numbers of snowmobiles and snowcoaches allowed to operate in the park each day is limited to a certain number per entrance or location. The limits are listed in the following table:

TABLE 1. TO § 7.13.—DAILY SNOWMOBILE AND SNOWCOACH LIMITS

| Park entrance/location*    | Commercially guided snowmobiles | Commercially guided snowcoaches |
|----------------------------|---------------------------------|---------------------------------|
| (i) North Entrance .....   | ** 20                           | 13                              |
| (ii) West Entrance .....   | 424                             | 34                              |
| (iii) South Entrance ..... | 256                             | 13                              |
| (iv) East Entrance .....   | 0                               | ***0                            |
| (v) Old Faithful .....     | ** 20                           | <sup>1</sup> 18                 |
| (vi) Cave Falls .....      | ***50                           | 0                               |

\* For the winter of 2007–2008 only, the following allocations would be in effect: West Entrance, 400; South Entrance, 220; East Entrance, 40; North Entrance, 30; and Old Faithful, 30.

\*\* These limits may be reallocated between these two areas as necessary, so long as the total daily number of snowmobiles for the two areas does not exceed 40.

\*\*\* A limited number of snowcoaches are allowed to operate between the East Entrance and Sylvan Pass in order to provide skier shuttles

\*\*\*\* These snowmobiles operate on an approximately one-mile segment of road within the park and the use is incidental to other snowmobiling activities in the Targhee National Forest. These snowmobiles do not need to be guided.

<sup>1</sup> Parkride.

(11) *When may I operate my snowmobile or snowcoach?* The Superintendent will determine operating hours and dates. Except for emergency situations, changes to operating hours may be made annually and the public will be notified of those changes through one or more of the methods listed in § 1.7(a) of this chapter.

(12) *What other conditions apply to the operation of oversnow vehicles?* (i) The following are prohibited:

- (A) Idling an oversnow vehicle for more than 5 minutes at any one time.
- (B) Driving an oversnow vehicle while the driver's motor vehicle license or privilege is suspended or revoked.
- (C) Allowing or permitting an unlicensed driver to operate an oversnow vehicle.

(D) Driving an oversnow vehicle in willful or wanton disregard for the safety of persons, property, or park resources or otherwise in a reckless manner.

(E) Operating an oversnow vehicle without a lighted white headlamp and red taillight.

(F) Operating an oversnow vehicle that does not have brakes in good working order.

(G) The towing of persons on skis, sleds or other sliding devices by oversnow vehicles, except in emergency situations.

(ii) The following are required:

(A) All oversnow vehicles that stop on designated routes must pull over to the far right and next to the snow berm. Pullouts must be used where available and accessible. Oversnow vehicles may not be stopped in a hazardous location or where the view might be obscured, or operated so slowly as to interfere with the normal flow of traffic.

(B) Oversnow vehicle drivers must possess a valid motor vehicle driver's license. A learner's permit does not

satisfy this requirement. The license must be carried by the driver at all times.

(C) Equipment sleds towed by a snowmobile must be pulled behind the snowmobile and fastened to the snowmobile with a rigid hitching mechanism.

(D) Snowmobiles must be properly registered and display a valid registration from the United States or Canada.

(iii) The Superintendent may impose other terms and conditions as necessary to protect park resources, visitors, or employees. The public will be notified of any changes through one or more methods listed in § 1.7(a) of this chapter.

(iv) This paragraph (I)(12) also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(13) *What conditions apply to alcohol use while operating an oversnow vehicle?* In addition to the regulations contained in 36 CFR 4.23, the following conditions apply:

(i) Operating or being in actual physical control of an oversnow vehicle is prohibited when the driver is under 21 years of age and the alcohol concentration in the driver's blood or breath is 0.02 grams or more of alcohol per 100 milliliters of blood or 0.02 grams or more of alcohol per 210 liters of breath.

(ii) Operating or being in actual physical control of an oversnow vehicle is prohibited when the driver is a snowmobile guide or a snowcoach driver and the alcohol concentration in the operator's blood or breath is 0.04 grams or more of alcohol per 100 milliliters of blood or 0.04 grams or more of alcohol per 210 liters of breath.

(iii) This paragraph also applies to non-administrative snowmobile use by

NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(14) *Do other NPS regulations apply to the use of oversnow vehicles?* (i) The use of oversnow vehicles in Yellowstone is subject to §§ 2.18(a) and (c), but not subject to §§ 2.18 (b), (d), (e), and 2.19(b) of this chapter.

(ii) This paragraph (I)(14) also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(15) *Are there any forms of non-motorized oversnow transportation allowed in the park?* (i) Non-motorized travel consisting of skiing, skating, snowshoeing, or walking is permitted unless otherwise restricted under this section or other provisions of 36 CFR Part 1.

(ii) The Superintendent may designate areas of the park as closed, reopen such areas, or establish terms and conditions for non-motorized travel within the park in order to protect visitors, employees, or park resources.

(iii) Dog sledding and ski-joring are prohibited.

(16) *May I operate a snowplane in Yellowstone National Park?* The operation of a snowplane in Yellowstone is prohibited.

(17) *Is violating any of the provisions of this section prohibited?* Violating any of the terms, conditions or requirements of paragraphs (I)(1) through (I)(16) of this section is prohibited. Each such occurrence of non-compliance with these regulations is a separate violation.

\* \* \* \* \*

3. In § 7.21, revise paragraph (a) to read as follows:

**§ 7.21 John D. Rockefeller, Jr., Memorial Parkway.**

(a)(1) *What is the scope of this regulation?* The regulations contained in



paragraphs (a)(2) through (a)(17) of this section are intended to apply to the use of recreational and commercial snowmobiles. Except where indicated, paragraphs (a)(2) through (a)(17) do not apply to non-administrative snowmobile or snowcoach use by NPS, contractor or concessioner employees who live or work in the interior of Yellowstone, or other non-recreational users authorized by the Superintendent.

(2) *What terms do I need to know?* All the terms in § 7.13(l)(2) of this part apply to this section. This paragraph also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(3) *May I operate a snowmobile in the Parkway?* (i) You may operate a snowmobile in the Parkway in compliance with use limits, guiding requirements, operating hours and dates, equipment, and operating conditions established under this section. The Superintendent may establish additional operating conditions and will provide notice of those conditions in accordance with § 1.7(a) of this chapter or in the **Federal Register**.

(4) *May I operate a snowcoach in the Parkway?* (i) Commercial snowcoaches may be operated in the Parkway under a concessions contract. Snowcoach operation is subject to the conditions stated in the concessions contract and all other conditions identified in this section.

(ii) All non-historic snowcoaches must initially meet NPS air emissions requirements. These requirements are the applicable EPA emission standards for the vehicle at the time it was manufactured. Beginning in the 2011–2012 season, all snowcoaches (historic and non-historic) must meet NPS air emission requirements, which are the functional equivalent of having EPA Tier I emissions control equipment incorporated into the engine and drive train for the vehicle class (size and weight) as a wheeled vehicle.

(iii) All critical emission-related exhaust components (as defined in 40 CFR 86.004–25(b)(3)(iii) through (v)) must be functioning properly. Malfunctioning critical emission-related components must be replaced with the original equipment manufacturer (OEM) component, where possible. Where OEM parts are not available, after-market parts may be used if they are certified not to worsen emission and sound characteristics.

(iv) Modifying or disabling a snowcoach's original pollution control

equipment is prohibited except for maintenance purposes.

(v) Beginning in the 2011–2012 season, all snowcoaches must meet a sound emissions requirement of no greater than 73dBA.

(vi) Individual snowcoaches may be subject to periodic inspections to determine compliance with the requirements of paragraphs (a)(4)(ii) through (a)(4)(v) of this section.

(5) *Must I operate a certain model of snowmobile?* Only commercially available snowmobiles that meet NPS air and sound requirements as set forth in this section may be operated in the Parkway. The Superintendent will approve snowmobile makes, models and year of manufacture that meet those restrictions. Any snowmobile model not approved by the superintendent may not be operated in the Parkway.

(6) *How will the Superintendent approve snowmobile makes, models, and year of manufacture for use in the Parkway?* (i) Beginning with the 2005 model year, all snowmobiles must be certified under 40 CFR part 1051, to a Family Emission Limit no greater than 15 g/kW-hr for hydrocarbons and to a Family Emission Limit no greater than 120 g/kW-hr for carbon monoxide.

(A) 2004 model year snowmobiles may use measured air emissions levels (official emission results with no deterioration factors applied) to comply with the air emission limits specified in paragraph (a)(6)(i) of this section.

(B) Snowmobiles manufactured before the 2004 model year may be operated only if they have shown to have air emissions no greater than the restrictions identified in paragraph (a)(6)(i) of this section.

(C) The snowmobile test procedures specified by EPA (40 CFR parts 1051 and 1065) must be used to measure air emissions from model year 2004 and later snowmobiles. Equivalent procedures may be used for earlier model years.

(ii) For sound emissions, snowmobiles must operate at or below 73dB(A) as measured at full throttle according to Society of Automotive Engineers J192 test procedures (revised 1985). Snowmobiles may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected.

(iii) Snowmobiles meeting the requirements for air and sound emissions may be operated in the Parkway for a period not exceeding 6 years from the date upon which first certified.

(iv) These air and sound emissions restrictions do not apply to snowmobiles originating in the Targhee National Forest and traveling on the

Grassy Lake Road to Flagg Ranch. However, these snowmobiles may not travel further into the Parkway than Flagg Ranch, unless they meet the air and sound emissions and all other requirements of this section.

(v) The Superintendent may prohibit entry into the Parkway of any snowmobile that has been modified in a manner that may adversely affect air or sound emissions.

(7) *Where may I operate my snowmobile in the Parkway?* (i) You must operate your snowmobile only upon designated oversnow routes established within the Parkway in accordance with § 2.18(c) of this chapter. The following oversnow routes are so designated for snowmobile use:

(A) The Continental Divide Snowmobile Trail (CDST) along U.S. Highway 89/191/287 from the southern boundary of the Parkway north to the Snake River Bridge.

(B) Along U.S. Highway 89/191/287 from the Snake River Bridge to the northern boundary of the Parkway.

(C) Grassy Lake Road from Flagg Ranch to the western boundary of the Parkway.

(D) Flagg Ranch developed area.

(ii) The Superintendent may open or close these routes, or portions thereof, for snowmobile travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety and other factors. The Superintendent will provide notice of such opening or closing by one or more of the methods listed in § 1.7(a) of this chapter.

(iii) This paragraph also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(iv) Maps detailing the designated oversnow routes will be available from Park Headquarters.

(8) *What routes are designated for snowcoach use?* (i) Authorized snowcoaches may only be operated on the route designated for snowmobile use in paragraph (a)(7)(i)(B) of this section. No other routes are open to snowcoach use.

(ii) The Superintendent may open or close this oversnow route, or portions thereof, or designate new routes for snowcoach travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, and other factors. The Superintendent will provide notice of such opening or closing by one or more of the methods listed in § 1.7(a) of this chapter.

(iii) This paragraph (a)(8) also applies to non-administrative snowcoach use by

NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(9) *Must I travel with a commercial guide while snowmobiling in the Parkway, and what other guiding requirements apply?* All recreational snowmobile operators using the oversnow route along U.S. Highway 89/287 from Flagg Ranch to the northern boundary of the Parkway must be

accompanied by a commercial guide. A guide is not required in other portions of the Parkway.

(i) Guided snowmobile parties must travel in a group of no more than eight snowmobiles, including that of the guide, or, if two guides are present, no more than 17 snowmobiles, including those of the guides.

(ii) Guided snowmobile parties must travel together within a maximum of

one-third mile of the first snowmobile in the group.

(10) *Are there limits established for the numbers of snowmobiles and snowcoaches permitted to operate in the Parkway each day?* (i) The numbers of snowmobiles and snowcoaches allowed to operate in the Parkway each day is limited to a certain number per road segment. The limits are listed in the following table:

TABLE 1 TO § 7.21.—DAILY SNOWMOBILE AND SNOWCOACH ENTRY LIMITS

| Park entrance/road segment                           | Snowmobiles | Commercial snowcoaches |
|--|-------------|------------------------|
| (ii) CDST* .....                                     | 50          | 0                      |
| (iii) Grassy Lake Road (Flagg-Ashton Road) .....     | 50          | 0                      |
| (iv) Flagg Ranch to Yellowstone South Entrance ..... | ** 256      | 13                     |

\*The Continental Divide Snowmobile Trail lies within both GTNP and the Parkway. The 50 daily snowmobile use limit applies to total use on this trail in both parks.

\*\*Commercially guided; during the winter of 2007–2008 only, the daily entrance limit is 220.

(11) *When may I operate my snowmobile or snowcoach?* The Superintendent will determine operating hours and dates. Except for emergency situations, changes to operating hours may be made annually and the public will be notified of those changes through one or more of the methods listed in § 1.7(a) of this chapter.

(12) *What other conditions apply to the operation of oversnow vehicles?* (i) The following are prohibited:

(A) Idling an oversnow vehicle more than 5 minutes at any one time.

(B) Driving an oversnow vehicle while the operator's motor vehicle license or privilege is suspended or revoked.

(C) Allowing or permitting an unlicensed driver to operate an oversnow vehicle.

(D) Driving an oversnow vehicle in willful or wanton disregard for the safety of persons, property, or parkway resources or otherwise in a reckless manner.

(E) Operating an oversnow vehicle without a lighted white headlamp and red taillight.

(F) Operating an oversnow vehicle that does not have brakes in good working order.

(G) Towing persons on skis, sleds or other sliding devices by oversnow vehicles, except in emergency situations.

(ii) The following are required:

(A) All oversnow vehicles that stop on designated routes must pull over to the far right and next to the snow berm. Pullouts must be used where available and accessible. Oversnow vehicles may not be stopped in a hazardous location or where the view might be obscured, or

operated so slowly as to interfere with the normal flow of traffic.

(B) Oversnow vehicle drivers must possess a valid motor vehicle operator's license. The license must be carried by the driver at all times. A learner's permit does not satisfy this requirement.

(C) Equipment sleds towed by a snowmobile must be pulled behind the snowmobile and fastened to the snowmobile with a rigid hitching mechanism.

(D) Snowmobiles must be properly registered and display a valid registration from the United States or Canada.

(iii) The Superintendent may impose other terms and conditions as necessary to protect parkway resources, visitors, or employees. The Superintendent will notify the public of any changes through one or more methods listed in § 1.7(a) of this chapter.

(iv) This paragraph (a)(12) also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(13) *What conditions apply to alcohol use while operating an oversnow vehicle?* In addition to the regulations in 36 CFR 4.23, the following conditions apply:

(i) Operating or being in actual physical control of an oversnow vehicle is prohibited when the driver is under 21 years of age and the alcohol concentration in the driver's blood or breath is 0.02 grams or more of alcohol per 100 milliliters of blood or 0.02 grams or more of alcohol per 210 liters of breath.

(ii) Operating or being in actual physical control of an oversnow vehicle

is prohibited when the driver is a snowmobile guide or a snowcoach driver and the alcohol concentration in the operator's blood or breath is 0.04 grams or more of alcohol per 100 milliliters of blood or 0.04 grams or more of alcohol per 210 liters of breath.

(iii) This paragraph (a)(13) also applies to non-administrative snowmobiles use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(14) *Do other NPS regulations apply to the use of oversnow vehicles?* (i) The use of oversnow vehicles in the Parkway is subject to §§ 2.18(a), (b), and (c), but not to §§ 2.18(d), (e), and 2.19(b) of this chapter.

(ii) This paragraph (a)(14) also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(15) *Are there any forms of non-motorized oversnow transportation allowed in the Parkway?* (i) Non-motorized travel consisting of skiing, skating, snowshoeing, or walking is permitted unless otherwise restricted under this section or other provisions of 36 CFR part 1.

(ii) The Superintendent may designate areas of the Parkway as closed, reopen such areas, or establish terms and conditions for non-motorized travel within the Parkway in order to protect visitors, employees, or park resources.

(16) *May I operate a snowplane in the Parkway?* The operation of a snowplane in the Parkway is prohibited.

(17) *Is violating any of the provisions of this section prohibited?* Violating any of the terms, conditions, or requirements of paragraphs (a)(1)

through (a)(16) of this section is prohibited. Each occurrence of non-compliance with these regulations is a separate violation.

\* \* \* \* \*

4. In § 7.22, revise paragraph (g) to read as follows:

**§ 7.22 Grand Teton National Park.**

\* \* \* \* \*

(g)(1) *What is the scope of this regulation?* The regulations contained in paragraphs (g)(2) through (g)(20) of this section are intended to apply to the use of recreational and commercial snowmobiles. Except where indicated, paragraphs (g)(2) through (g)(20) do not apply to non-administrative snowmobile or snowcoach use by NPS, contractor or concessioner employees who live or work in the interior of Yellowstone, or other non-recreational users authorized by the Superintendent.

(2) *What terms do I need to know?* All the terms in § 7.13(l)(1) of this part apply to this section. This paragraph (g) also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(3) *May I operate a snowmobile in Grand Teton National Park?* (i) You may operate a snowmobile in Grand Teton National Park in compliance with use limits, operating hours and dates, equipment, and operating conditions established under this section. The Superintendent may establish additional operating conditions and provide notice of those conditions in accordance with § 1.7(a) of this chapter or in the **Federal Register**.

(4) *May I operate a snowcoach in Grand Teton National Park?* It is prohibited to operate a snowcoach in Grand Teton National Park except as authorized by the Superintendent.

(5) *Must I operate a certain model of snowmobile in the park?* Only commercially available snowmobiles that meet NPS air and sound emissions requirements as set forth in this section may be operated in the park. The Superintendent will approve snowmobile makes, models, and year of manufacture that meet those requirements. Any snowmobile model not approved by the Superintendent may not be operated in the park.

(6) *How will the Superintendent approve snowmobile makes, models, and year of manufacture for use in Grand Teton National Park?* (i) Beginning with the 2005 model year, all snowmobiles must be certified under 40 CFR part 1051, to a Family Emission Limit no greater than 15 g/kW-hr for hydrocarbons and to a Family Emission

Limit no greater than 120 g/kW-hr for carbon monoxide.

(A) 2004 model year snowmobiles may use measured air emissions levels (official emission results with no deterioration factors applied) to comply with the air emission limits specified in paragraph (g)(6)(i) of this section.

(B) Snowmobiles manufactured before the 2004 model year may be operated only if they have shown to have air emissions no greater than the requirements identified in paragraph (g)(6)(i) of this section.

(C) The snowmobile test procedures specified by EPA (40 CFR Parts 1051 and 1065) must be used to measure air emissions from model year 2004 and later snowmobiles. Equivalent procedures may be used for earlier model years.

(ii) For sound emissions snowmobiles must operate at or below 73dB(A) as measured at full throttle according to Society of Automotive Engineers J192 test procedures (revised 1985). Snowmobiles may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected.

(iii) Unless authorized by the superintendent for a longer period, snowmobiles meeting the requirements for air and sound emissions may be operated in the park for a period not exceeding six years from the date upon which first certified.

(iv) These air and sound emissions requirements do not apply to snowmobiles while in use to access lands authorized by paragraphs (g)(16) and (g)(18) of this section.

(v) The Superintendent may prohibit entry into the park of any snowmobile that has been modified in a manner that may adversely affect air or sound emissions.

(7) *Where may I operate my snowmobile in the park?* (i) You must operate your snowmobile only upon designated oversnow routes established within the park in accordance with § 2.18(c) of this chapter. The following oversnow routes are so designated for snowmobile use:

(A) The frozen water surface of Jackson Lake for the purposes of ice fishing only. Those persons accessing Jackson Lake for ice fishing must possess a valid Wyoming fishing license and the proper fishing gear. Snowmobiles may only be used to travel to and from fishing locations on the lake.

(B) The Continental Divide Snowmobile Trail (CDST) along U.S. 26/287 from Moran Junction to the eastern park boundary and along U.S. 89/191/287 from Moran Junction to the north park boundary.

(ii) The Superintendent may open or close these routes, or portions thereof, for snowmobile travel, and may establish separate zones for motorized and non-motorized use on Jackson Lake, after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety and other factors. The Superintendent will provide notice of such opening or closing by one or more of the methods listed in § 1.7(a) of this chapter.

(iii) This paragraph (g)(7) also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(iv) Maps detailing the designated oversnow routes will be available from Park Headquarters.

(8) *Must I travel with a commercial guide while snowmobiling in Grand Teton National Park?* You are not required to use a guide while snowmobiling in Grand Teton National Park.

(9) *Are there limits established for the numbers of snowmobiles permitted to operate in the park each day?* The numbers of snowmobiles allowed to operate in the park each day are limited to a certain number per road segment or location. The snowmobile limits are listed in the following table:

TABLE 1 TO § 7.22.—DAILY SNOWMOBILE LIMITS

| Road segment/location                                 | Total number of snowmobiles |
|---|-----------------------------|
| (i) GTNP and the Parkway—<br>Total Use on CDST* ..... | 50                          |
| (ii) Jackson Lake .....                               | 40                          |

\*The Continental Divide Snowmobile Trail lies within both GTNP and the Parkway. The 50 daily snowmobile use limit applies to total use on this route in both parks; however the limit does not apply to the portion described in paragraph (16)(iii) of this section.

(10) *When may I operate my snowmobile?* The Superintendent will determine operating hours and dates. Except for emergency situations, changes to operating hours or dates may be made annually and the public will be notified of those changes through one or more of the methods listed in § 1.7(a) of this chapter.

(11) *What other conditions apply to the operation of oversnow vehicles?* (i) The following are prohibited:

(A) Idling an oversnow vehicle more than 5 minutes at any one time.

(B) Driving an oversnow vehicle while the operator's motor vehicle license or privilege is suspended or revoked.

(C) Allowing or permitting an unlicensed driver to operate an oversnow vehicle.

(D) Driving an oversnow vehicle in willful or wanton disregard for the safety of persons, property, or park resources or otherwise in a reckless manner.

(E) Operating an oversnow vehicle without a lighted white headlamp and red taillight.

(F) Operating an oversnow vehicle that does not have brakes in good working order.

(G) The towing of persons on skis, sleds or other sliding devices by oversnow vehicles.

(ii) The following are required:

(A) All oversnow vehicles that stop on designated routes must pull over to the far right and next to the snow berm. Pullouts must be used where available and accessible. Oversnow vehicles may not be stopped in a hazardous location or where the view might be obscured, or operated so slowly as to interfere with the normal flow of traffic.

(B) Oversnow vehicle drivers must possess a valid motor vehicle operator's license. The license must be carried by the driver at all times. A learner's permit does not satisfy this requirement.

(C) Equipment sleds towed by a snowmobile must be pulled behind the snowmobile and fastened to the snowmobile with a rigid hitching mechanism.

(D) Snowmobiles must be properly registered and display a valid registration from the United States or Canada.

(iii) The Superintendent may impose other terms and conditions as necessary to protect park resources, visitors, or employees. The Superintendent will notify the public of any changes through one or more methods listed in § 1.7(a) of this chapter.

(iv) This paragraph also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(12) *What conditions apply to alcohol use while operating an oversnow vehicle?* In addition to the regulations in 36 CFR 4.23, the following conditions apply:

(i) Operating or being in actual physical control of an oversnow vehicle is prohibited when the driver is under 21 years of age and the alcohol concentration in the driver's blood or breath is 0.02 grams or more of alcohol per 100 milliliters of blood or 0.02 grams or more of alcohol per 210 liters of breath.

(ii) Operating or being in actual physical control of an oversnow vehicle

is prohibited when the driver is a snowmobile guide or a snowcoach operator and the alcohol concentration in the driver's blood or breath is 0.04 grams or more of alcohol per 100 milliliters of blood or 0.04 grams or more of alcohol per 210 liters of breath.

(iii) This paragraph (g)(12) also applies to non-administrative snowmobile use by NPS, contractor or concessioner employees, or other non-recreational users authorized by the Superintendent.

(13) *Do other NPS regulations apply to the use of oversnow vehicles?* The use of oversnow vehicles in Grand Teton is not to §§ 2.18(d) and (e) and 2.19(b) of this chapter.

(14) *Are there any forms of non-motorized oversnow transportation allowed in the park?* (i) Non-motorized travel consisting of skiing, skating, snowshoeing, or walking is permitted unless otherwise restricted under this section or other provisions of 36 CFR part 1.

(ii) The Superintendent may designate areas of the park as closed, reopen such areas, or establish terms and conditions for non-motorized travel within the park in order to protect visitors, employees, or park resources.

(iii) Dog sledding and ski-joring are prohibited.

(15) *May I operate a snowplane in the park?* The operation of a snowplane in Grand Teton National Park is prohibited.

(16) *May I continue to access public lands via snowmobile through the park?* Reasonable and direct access, via snowmobile, to adjacent public lands will continue to be permitted on designated routes through the park.

Requirements established in this section related to air and sound emissions, snowmobile operator age, guiding, and licensing do not apply on these oversnow routes. Only the following routes are designated for access via snowmobile to public lands:

(i) From the parking area at Shadow Mountain directly along the unplowed portion of the road to the east park boundary.

(ii) Along the unplowed portion of the Ditch Creek Road directly to the east park boundary.

(iii) The Continental Divide Snowmobile Trail, from the east park boundary to Moran Junction.

(iv) The superintendent may designate additional routes if necessary to provide access to other adjacent public lands.

(17) *For what purpose may I use the routes designated in paragraph (g)(16) of this section?* You may only use those routes designated in paragraph (g)(16) of

this section to gain direct access to public lands adjacent to the park boundary.

(18) *May I continue to access private property within or adjacent to the park via snowmobile?* Until the United States takes full possession of an inholding in the park, the Superintendent may establish reasonable and direct snowmobile access routes to the inholding or to private property adjacent to park boundaries for which other routes or means of access are not reasonably available. Requirements established in this section related to air and sound emissions, snowmobile operator age, licensing, and guiding do not apply on these oversnow routes. The following routes are designated for access to properties within or adjacent to the park:

(i) The unplowed portion of Antelope Flats Road off U.S. 26/89/191 to private lands in the Craighead Subdivision.

(ii) The unplowed portion of the Teton Park Road to the piece of land commonly referred to as the "Clark Property."

(iii) From the Moose-Wilson Road to the land commonly referred to as the "Barker Property".

(iv) From the Moose-Wilson Road to those two pieces of land commonly referred to as the "Halpin Properties."

(v) From the south end of the plowed sections of the Moose-Wilson Road to that piece of land commonly referred to as the "JY Ranch."

(vi) From Highway 26/89/191 to those lands commonly referred to as the "Meadows", the "Circle EW Ranch", the "Moulton Property", the "Levinson Property" and the "West Property."

(vii) From Cunningham Cabin pullout on U.S. 26/89/191 near Triangle X to the piece of land commonly referred to as the "Lost Creek Ranch."

(viii) The superintendent may designate additional routes if necessary to provide reasonable access to inholdings or adjacent private property.

(ix) Maps detailing designated routes will be available from Park Headquarters.

(19) *For what purpose may I use the routes designated in paragraph (g)(18) of this section?* Those routes designated in paragraph (g)(18) of this section are only to access private property within or directly adjacent to the park boundary. Use of these roads via snowmobile is authorized only for the landowners and their representatives or guests. Use of these roads by anyone else or for any other purpose is prohibited.

(20) *Is violating any of the provisions of this section prohibited?* Violating any of the terms, conditions or requirements of paragraphs (g)(1) through (g)(19) of

this section is prohibited. Each occurrence of non-compliance with these regulations is a separate violation.

Dated: April 10, 2007.

**David M. Verhey,**

*Acting Assistant Secretary, Fish and Wildlife and Parks.*

[FR Doc. E7-9351 Filed 5-15-07; 8:45 am]

BILLING CODE 4312-CT-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 20, and 43

[WC Docket No. 07-38; FCC 07-17]

#### Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnected Voice Over Internet Protocol (VoIP) Subscriberhip

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission requests comment about how it can continue to acquire the information it needs to develop and maintain appropriate broadband policies. In particular, it seeks comment on: How best to ensure that it receives sufficient information about the availability and deployment of broadband services nationwide, particularly in rural and other hard-to-serve areas; how it can improve the data about wireless broadband Internet access services that it currently collects on FCC Form 477; and whether it should modify the speed-tier information it currently collects. It also requests comment on how it can best collect information about subscribership to interconnected voice over Internet Protocol service, or VoIP.

**DATES:** Comments must be filed on or before June 15, 2007, and reply comments must be filed on or before July 16, 2007.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 07-38, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable

accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [fcc504@fcc.gov](mailto:fcc504@fcc.gov), phone: 202-418-0530, or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

#### FOR FURTHER INFORMATION CONTACT:

Alan Feldman or Ellen Burton, Wireline Competition Bureau, Industry Analysis and Technology Division, 202-418-0940.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rulemaking (NPRM)* in WC Docket No. 07-38, released April 16, 2007. The complete text of this document, including attachments, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. It is available on the Commission's Web site: [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-07-17A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-17A1.pdf), [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-07-17A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-17A1.doc), and [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-07-17A1.txt](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-17A1.txt). The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room, CY-B402, Washington, DC 20554, via Web site: <http://www.bcpweb.com> or phone: 800-378-3160. When ordering documents from BCPI please provide the appropriate FCC document number (in this case: FCC 07-17).

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 15, 2007 and reply comments on or before July 16, 2007. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

• **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

• **For ECFS filers,** if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the

comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number (in this case: 07-38). Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

• **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Paper filings must be addressed to: Marlene H. Dortch, Secretary; Office of the Secretary; Federal Communications Commission.

• **The Commission's contractor** will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• **Commercial overnight mail** (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• **U.S. Postal Service first-class, Express, and Priority mail** must be addressed to 445 12th Street, SW., Washington DC 20554.

• **People with Disabilities:** To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

Comments filed in WC Docket No. 07-38 will be available for public inspection and copying during business hours at the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. They will also be available via the