

**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:** Final rule.

**SUMMARY:** This rule governs winter visitation and certain recreational use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr. Memorial Parkway. This final rule is issued to implement the Record of Decision (ROD) for the Winter Use Plans Final Environmental Impact Statement (FEIS) approved November 20, 2007, and will ensure that visitors have an appropriate range of winter recreation opportunities that are appropriate to the national park setting, and that these activities do not impair park resources and values. The rule requires that most recreational snowmobiles and snowcoaches operating in the parks meet certain air and sound emissions requirements, that snowmobilers and snowcoach riders in Yellowstone be accompanied by a commercial guide, and sets daily entry limits on the numbers of snowmobiles and snowcoaches that may enter the parks. Traveling off designated oversnow routes will remain prohibited. The FEIS, ROD, and other documents pertaining to winter use management in the parks can be found at <http://www.nps.gov/yell/planyourvisit/winteruse.htm>.

**DATES:** This regulation is effective on December 19, 2007.

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**SUPPLEMENTARY INFORMATION:** The National Park Service (NPS) has been managing winter use issues in Yellowstone National Park, Grand Teton National Park, and the John D. Rockefeller, Jr. Memorial Parkway (the Parks) for several decades. In 1997, the Fund for Animals and others filed suit, alleging 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 Parks. On October 10, 2000, a Winter Use Plans Final Environmental Impact Statement (2000 FEIS) was published. A Record of Decision (2000 ROD) was signed on

November 22, 2000, and subsequently distributed to interested and affected parties. The 2000 ROD was to eliminate both snowmobile and snowplane use from the Parks by the winter of 2003-2004 and provide 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 2000 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 were named as defendants in a lawsuit brought by the International Snowmobile Manufacturers' Association (ISMA) and others. The States of Wyoming and Montana subsequently intervened on behalf of the plaintiffs. The lawsuit asked for the decision, as reflected in the 2000 ROD, to be set aside. The lawsuit alleged, among other things, a violation of NEPA. A 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 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, public and employee health and safety, natural soundscapes, 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 was not at issue in the lawsuit or the resulting settlement and because the

NPS had no 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 2000 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 2000 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, which called for 950 snowmobiles in Yellowstone and 190 in Grand Teton. Most would be subject to air and sound emission requirements, and 80% of the Yellowstone snowmobiles would be commercially guided and 20% would be non-commercially guided. In addition, the final SEIS included changes to the alternatives, changes in modeling assumptions and analysis, and incorporated additional new information. Effective on March 25, 2003, NPS signed a ROD for the SEIS, which 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 be likely to 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 subject 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. Based on that injunction and using 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.

On June 30, 2004, the DC court ordered that NPS promulgate a new rule governing the 2004–05 winter use season at least 30 days prior to the start of the season, and that the new rule be consistent with the DC court’s 2003 ruling. On October 14, 2004, the Wyoming court vacated and remanded the 2000 FEIS, 2000 ROD, and the 2001 implementing rule, based on violations of NEPA and the Administrative Procedure Act.

Because of the DC court’s order, and because there were 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 3 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. Its provisions included 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 NPS air and sound emissions 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 was to prepare a long-term winter use plan and EIS for the Parks.

Several entities then filed separate lawsuits challenging the temporary plan in the District Court in Wyoming and the District Court in the District of Columbia, respectively. On three separate occasions, Congress subsequently 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. In October 2005, the Wyoming District Court upheld the validity of the 2004 temporary winter use rule in *Wyoming Lodging and Restaurant Association v. U.S. Department of the Interior*. As a result of these legislative actions, on September 24, 2007, the DC District Court dismissed as moot the pending claims against the temporary plan. Additionally, in June 2007 the Wyoming District Court, in a separate lawsuit filed by Save Our Snowplanes, upheld the prohibition on the use of snowplanes on Jackson Lake. An appeal of that decision by the plaintiffs is currently pending before the United States Court of Appeals for the 10th Circuit.

A proposed rule was published in the **Federal Register** on May 16, 2007 (72 FR 27499). This Final Rule is issued in conjunction with the FEIS and the ROD. Absent this rulemaking, the authority to operate snowmobiles and snowcoaches in the Parks would have expired after the 2006–2007 winter season.

#### Rationale for the Final Rule

This rule strikes a balance between the use of snowmobiles and snowcoaches in the Parks and is designed to protect against the adverse impacts that occurred from the historical types and numbers of snowmobiles used. Experience over the past several winters, during which a temporary plan has guided winter use management of the Parks, has shown that the combination of strict limits on the numbers of snowmobiles allowed to enter the Parks, the use of snowmobiles that meet NPS requirements for air and sound emissions (generally referred to in the FEIS as Best Available Technology or BAT, but here referred to simply as NPS requirements, to avoid confusion with use of the term best available technology under other environmental laws), the requirement that visitors touring Yellowstone on snowmobiles be accompanied by a commercial guide, and the availability of snowcoaches, allows for an

appropriate range of visitor experiences while ensuring that the integrity of park resources and values is not harmed. The NPS found that the interim regulations that were in effect over the past three winter seasons resulted in quieter conditions, cleaner air, fewer wildlife impacts, and much improved visitor and employee safety and experiences. This rule reduces the daily number of snowmobiles allowed to enter the Parks in order to better protect park soundscapes and other resources, includes new requirements for snowcoach air and sound emissions, and eliminates certain oversnow vehicle routes. In addition to the actual experiences of the last several winters, the decisions underlying the Record of Decision and this rule have also been informed by new analysis and information presented in the FEIS.

This rule is consistent with the 2006 NPS Management Policies. In managing units of the National Park System, 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 defined in the 2006 NPS Management Policies in section 1.4.5 as 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 and values.

Since the impact threshold at which impairment occurs is not always readily apparent, the NPS applies a standard that offers greater assurances that impairment will not occur. The NPS does this by avoiding impacts that it determines to be unacceptable. These are impacts that fall short of impairment but are still not acceptable within a particular park’s environment. Unacceptable impacts are defined in the 2006 NPS Management Policies in section 1.4.7.1., available online at <http://www.nps.gov/policy/MP2006.pdf>.

The NPS received over 122,000 comments on the DEIS and about 1,500 comments on the proposed rule. In many cases the comments received on the proposed rule were very similar in content to those received on the DEIS. Numerous commentors expressed concerns that the preferred alternative in the DEIS, and its implementation through rulemaking, would violate the NPS Organic Act, would be inconsistent with the 2006 NPS Management Policies, and in some cases explicitly referenced the concept of unacceptable

impacts. The NPS addressed these concerns in a number of ways, including new modeling and analysis to more clearly show the environmental impacts of winter use, a revision of the preferred alternative from the DEIS to that in the Final EIS which reduced the number of snowmobiles allowed in Yellowstone from 720 per day to 540 per day, which is reflected in the ROD and Final Rule, and affirmation in both the ROD and this rule that implementation of the preferred alternative will not result in impairment of park resources and values, nor will it result in unacceptable impacts on the Parks. This rule implements that decision.

This rule includes strict limits on the number of snowmobiles allowed to enter the Parks each day. Prior to the implementation of a managed winter use program with the winter of 2003–2004, an average of 795 snowmobiles entered Yellowstone each day, with peak days averaging approximately 1,400. This rule allows for 540 snowmobiles per day in Yellowstone, a reduction from the 720 snowmobiles authorized over the previous 3 winters, and which would have been allowed under the proposed rule. In response to public comment and the analysis presented in the FEIS, which included the results of both modeling and monitoring over the past several winters, the NPS determined that a limit of 540 snowmobiles per day, along with the availability of snowcoaches, will best protect the integrity of park resources and values while providing an appropriate range of visitor experiences. In particular, the lower number of snowmobiles will reduce the impacts on the natural soundscapes of the park, which the NPS found to be somewhat greater than expected even with the reduced number of snowmobiles that used the park over the last several winters. Similarly, the number of snowmobiles authorized in Grand Teton and the Parkway is limited under this rule to 65 per day, allowing access to ice fishing opportunities on Jackson Lake and to the recreational opportunities on the adjacent Targhee National Forest. The rule also allows for up to 50 snowmobiles to enter Yellowstone on the Cave Falls Road, an approximately one-mile segment extending into the southwest corner of the park from the Targhee National Forest. Use of this route is incidental to recreational use of the national forest lands, is far removed from the recreational snowmobiling and the resulting impacts that occur within the interior of Yellowstone, and is

therefore considered separately from the 540 snowmobile limit.

Adjustments to the daily entry limits for snowmobiles and snowcoaches through an adaptive management program is one of several tools available to park managers to ensure that the goals and objectives of the winter use plans are maintained. Through adaptive management, if monitoring of use levels of snowmobiles and snowcoaches allowed under the Record of Decision indicates acceptable conditions, the NPS will increase use levels to the extent acceptable conditions can be maintained. Conversely, if monitoring of use levels of snowmobiles and snowcoaches allowed under the Record of Decision indicates unacceptable conditions, the NPS will reduce use levels to an extent that acceptable conditions can be maintained. In some cases, additional rulemaking would be required in order to adjust numbers.

To mitigate impacts to air quality and the natural soundscape, the NPS is continuing the requirement that all recreational snowmobiles meet strict air and sound emissions requirements to operate in the parks, with limited exceptions. For air emissions, 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 73 dBA as measured at full throttle according to Society of Automotive Engineers (SAE) J192 test procedures (revised 1985). The Superintendent will maintain a list of approved snowmobile makes, models, and years of manufacture that meet NPS requirements. For the winter of 2006–2007, the NPS certified 35 different snowmobile models (from various manufacturers; model years 2002–2007) as meeting the NPS requirements. With one exception described later in this section, the certification is good for 6 years from the date on which a model is certified as meeting the requirements.

The NPS is continuing 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 (HC) and 120 g/kW-hr for carbon monoxide (CO). Snowmobiles must be tested on a five-mode engine dynamometer consistent with the test procedures specified by the EPA (40 CFR 1051 and 1065). Other test methods could be approved by the NPS.

The NPS is retaining the use of the FEL method for demonstrating

compliance with its emissions requirements because it has several advantages. First, use of FEL will ensure that all individual snowmobiles entering the parks achieve the NPS's emissions requirements, unless modified or damaged (under this regulation, snowmobiles which are modified in such a way as to increase air or sound emissions will not be in compliance with NPS requirements and therefore not permitted to enter the parks). Use of FEL will also minimize any administrative burden on snowmobile manufacturers to demonstrate compliance with NPS requirements, because they already provide FEL data to the EPA. Further, the EPA has the authority to ensure 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 NPS emissions requirements are consistent with these labels. The use of FEL will avoid potential confusion for consumers.

The air emissions requirements for snowmobiles allowed to operate in the Parks should not be confused with standards adopted by the EPA in a final rule published in the **Federal Register** on November 8, 2002 (67 FR 68242). The EPA regulations require manufacturers to meet certain fleet averages for HC and CO emissions. For example, the Phase 1 standards required all snowmobile manufacturers to meet a fleet-wide average in 2007 of 275 g/kW-hr for CO and 100 g/kW-hr for HC, which represents a 30-percent reduction from the baseline emission rates for uncontrolled snowmobiles. Any particular make/model may emit more or less than the standard as long as the fleet average does not exceed the standard. Phase 2 and Phase 3 standards will be implemented in 2010 and 2012,

respectively, effectively requiring the equivalent of a 50% reduction in both HC and CO as compared to average baseline levels. By comparison, NPS requires that all snowmobiles operating in the Parks meet a FEL of 120 g/kW-hr for CO and 15 g/kW-hr for HC. This means that snowmobiles operating in the Parks represent the cleanest that are commercially available.

To determine compliance with the sound emissions requirements, snowmobiles must be tested using SAE J192 test procedures (revised 1985; or potentially as further revised and adapted for use by NPS). The NPS recognizes that the SAE updated these test procedures in 2003; however, the changes between the 2003 and 1985 test procedures could yield different measurement results. The sound emissions requirement was initially established using 1985 test procedures (in addition to information provided by industry and modeling). To ensure consistency in the test results, the NPS will at this time continue to use the 1985 test. The SAE J192 (revised 1985) test also allows for a tolerance of 2 dBA over the sound limit to account for variations in weather, snow conditions, and other factors. The NPS understands that an update to the 2003 J192 procedures may be underway, and the NPS will continue to evaluate these test procedures and possibly adopt them after these regulations are implemented. Other test methods could be approved by NPS on a case-by-case basis.

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 sound requirement. This allowance for reduced barometric pressure is necessary since snowmobiles were tested at the elevation of Yellowstone National Park, where atmospheric pressure is lower than that under the SAE J192's requirements. Testing data indicate that snowmobiles test quieter at high elevation, and therefore some snowmobiles may comply with the NPS's sound emissions requirements at higher elevations even though they do not when tests are conducted near sea level.

The NPS will annually publish a list of snowmobile makes, models, and years of manufacture that meet its emissions and sound requirements. Snowmobile manufacturers may demonstrate that snowmobiles are compliant with the air emissions requirements by submitting to the NPS a copy of their applications used to

demonstrate compliance with EPA's general snowmobile regulation (indicating FEL). The NPS will accept this application information from manufacturers in support of conditionally certifying a snowmobile as meeting its air emissions requirements, pending ultimate review and certification by EPA at the same emissions levels identified in the application. Should EPA certify a snowmobile at an emission level that would no longer meet the NPS's requirements, this snowmobile would no longer be considered by NPS to be compliant with its requirements and would be phased-out according to a schedule that will be determined by the NPS to be appropriate. For sound emissions, snowmobile manufacturers may 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 continue to rely on certified air and sound emissions data from the private sector rather than establish its own independent testing program. When the NPS certifies snowmobiles as meeting its requirements, it will announce how long that certification applies. Generally, each snowmobile model will be approved for entry into the parks for 6 winter seasons after it is first listed. Based on NPS experience, 6 years represents the typical useful life of a snowmobile, and thus 6 years provides purchasers with a reasonable length of time where operation is allowed once a particular model is listed as being compliant. It is also based on EPA snowmobile emission regulations and the deterioration factors that are part of those regulations (EPA requires that if a manufacturer certifies its snowmobile will comply with EPA's emission regulations, the snowmobile will meet those regulations for a period of 5 years or 5,000 miles). The NPS recognizes that some privately owned snowmobiles used predominantly for ice fishing on Jackson Lake may have relatively low mileages even after 6 years of use, and therefore may not have experienced the type of deterioration that would cause them to fail NPS air and sound emissions requirements. The

certification period for snowmobiles being operated on Jackson Lake will still be considered to be 6 years, but it may be extended up to a total of 10 years as long as the snowmobile's mileage does not exceed 6,000 miles.

Individual snowmobiles modified in such a way as to increase sound and air emissions of hydrocarbons (HC) and carbon monoxide (CO) beyond the proposed emission restrictions will be denied entry to the parks. It is the responsibility of end users and guides and outfitters to ensure that their oversnow vehicles, whether snowmobiles or snowcoaches, comply with all applicable restrictions. Air and sound emission requirements for snowcoaches are described below. The requirement in Yellowstone that all snowmobilers travel with commercial guides will assist NPS in enforcing these 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 snowmobiles that meet the NPS's requirements. 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 snowmobiles are properly maintained.

Snowmobiles being operated on the Cave Falls Road, which extends approximately one mile into the Yellowstone from the adjacent national forest, will be exempt from air and sound emissions requirements. Since use of the Cave Falls Road is relatively light and incidental to recreational use of the surrounding national forest, it is not necessary to require these users to comply with requirements that address issues associated with use of the interior portions of the park.

In Grand Teton, all recreational snowmobiles operating on Jackson Lake will be required to meet NPS air and sound emissions requirements.

During the winter season of 2007–2008, snowmobiles being operated on the portion of the Continental Divide Snowmobile Trail (CDST) between Moran Junction and Flagg Ranch, within both Grand Teton and the Parkway, must also meet NPS air and sound emissions requirements. Beginning with the winter season of 2008–2009, that portion of the CDST will no longer be maintained or designated for oversnow vehicle use. The segment of the CDST between the east boundary of Grand Teton and Moran is exempt from NPS air and sound emissions requirements. 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 the use of snowmobiles not meeting air and sound emissions requirements is allowed in order to provide access to adjacent public and private lands. In light of the small amount of such use that typically occurs along this segment, as well as the context in which that use occurs (i.e., immediately alongside a heavily used highway), the NPS has determined that the impacts of this use of snowmobiles that do not meet NPS air and sound emissions requirements are acceptable.

For the winter of 2007–2008, snowmobiles being operated on the Grassy Lake Road within the Parkway are required to meet NPS air and sound emissions requirements, except that snowmobiles originating in the Targhee National Forest will be allowed to travel eastbound to Flagg Ranch and return westbound without meeting the NPS requirements; however, these snowmobiles may 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. Beginning with the 2008–2009 winter season, snowmobiles being operated on the Grassy Lake Road will not be required to meet air and sound emissions requirements regardless of whether they originate travel at Flagg Ranch or in the national forest. In light of the relatively short length of this segment and the very limited amount of snowmobile use, the NPS has determined that the impacts of this use of snowmobiles that does not meet NPS air and sound emissions requirements are acceptable.

Under concession contracts issued in 2003, 78 snowcoaches are currently authorized to operate in Yellowstone (and in the parkway between Flagg Ranch and Yellowstone's South Entrance). 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.

As of the winter of 2008–2009, all snowcoaches must be commercially guided. These trained, knowledgeable

operators help ensure that air and sound emission requirements are met, wildlife impacts are minimized, and visitor and employee safety is assured.

In comparison with four-stroke snowmobiles, snowcoaches operating within EPA's Tier I standards can be substantially cleaner, especially given that snowcoaches currently carry an average of 7 times more passengers than snowmobiles. In 2004, EPA began phasing in Tier II emissions standards for multi-passenger vans which will be fully phased in by 2009. Tier II standards will require that vehicles be even cleaner than under Tier I. Tier II standards would also significantly reduce the open loop mode of operation, which is the most polluting mode of engine operation.

Beginning in the 2011–2012 season, all snowcoaches in the Parks 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's class (size and weight) as a wheeled vehicle. The NPS will encourage, through contract and permit, that snowcoaches 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. Such components may only be replaced with original equipment manufacturer (OEM) components where possible. If OEM parts are not available, aftermarket parts may be used if they do not 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 73 dBA; test procedures will 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 Section 310 of the Clean Air Act.

Since 2001, the Parks have been converting their own administrative fleet of snowmobiles to four-stroke machines. These machines have proven successful in fulfilling most of the Service's administrative needs throughout the Parks. However, the 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 NPS's air and sound emissions requirements. In such limited cases, the NPS will sometimes need to use snowmobiles that do not meet the requirements this rule imposes upon recreational snowmobiles (which do not have these special needs because they travel only upon groomed roads).

In order to mitigate impacts to natural soundscapes and wildlife, and for visitor and employee safety, all recreational snowmobiles operated in Yellowstone 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 that oversnow vehicles are audible. Commercial guides are educated in safety, knowledgeable about park rules, and are required to exercise reasonable control over their clientele, which has reduced unsafe and illegal snowmobile use. Commercial guides with contractual obligations to the NPS also allow for more effective enforcement of park rules by the NPS. These guides receive rigorous multi-day training and perform guiding duties as employees of a business. They also 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, a system 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. Guides are thus well-equipped to ensure that park regulations are enforced and to provide a safer overall 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 have been proven to be very 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 visiting 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 is also beneficial to wildlife, since guides are trained to respond appropriately when encountering wildlife.

No more than eleven snowmobiles will be permitted in a group, including that of the guide. 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. These size and distance limits will ensure that guided parties do not become separated, 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. NPS thus expects that the continuation of the guiding requirement will help ensure compliance with park regulations and protect park resources.

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. As part of its adaptive management of winter use activities, NPS will close selected areas of the Parks to visitor use, including sections of roads, 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 ordinarily be provided before any such closure is 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 will be implemented only after at least one or 2 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.

The adaptive management program described in the ROD provides park managers with a wide variety of tools to ensure that the goals and objectives of the winter use plans are being achieved. Some of the techniques available include adjustments in snowmobile or snowcoach use levels (up or down), adjustments in air and sound emissions requirements, visitor and guide education, timing of entries, and group sizes. Also, the future improvements in snowcoach air and sound emissions will assist park managers in meeting goals and objectives. Through adaptive management, if monitoring of use levels of snowmobiles and snowcoaches allowed under the Record of Decision indicates acceptable conditions, the NPS will increase use levels to an extent acceptable conditions can be maintained. Conversely, if monitoring of use levels of snowmobiles and snowcoaches allowed under the Record of Decision indicates unacceptable conditions, the NPS will reduce use levels to an extent acceptable conditions can be maintained. In some cases, additional rulemaking would be required in order to implement certain changes.

The NPS is implementing a multi-year research proposal intended to specifically address the question of whether grooming of the Madison to Norris road segment in Yellowstone has led to alterations of bison movements and distribution. The question was identified in a report by Dr. Cormack Gates et al., entitled "The Ecology of Bison Movements and Distribution in and Beyond Yellowstone National Park" (2005). The research program will involve a linked series of experiments

that will enable researchers to gain insight into how road grooming and other factors currently affect bison travel. Initially, the research program will include the analysis of existing data on GPS-collared bison, the tracking of additional GPS-collared bison, and the deployment of cameras along travel routes to gain information on the relationship between road grooming and bison travel, without necessitating the closure of the Gibbon Canyon road segment to public oversnow vehicle travel. During the 5 year period, other roads or routes may be investigated to help understand the relationship between snow depth, grooming, and bison movement. For example, the Firehole Canyon Drive may be closed to oversnow travel and the Grand Loop Road gated in that area to allow snowmobile and snowcoach travel, but not bison movement on the main road. Bison would then be forced to travel cross country or along the ungroomed Firehole Canyon Road. Similarly, the Madison to Norris Road may be fenced or gated in the vicinity of the new bridge over the Gibbon River to restrict bison movement on the Madison to Norris Road and force bison to travel cross country. Thus bison movement and snow depth and roads may be tested without closing a main road. However, following the 5 years of data gathering and analysis, the NPS, in consultation with the researchers, will consider closing the main Madison to Norris route to observe bison response. That decision will rely on the results of the data gathering and analysis and whether such a closure would be likely to yield informative data or conclusions. If implemented, such a closure would likely last several seasons.

Snowmobiles and snowcoaches will continue to be restricted to designated routes, which are a subset of the same roads that are traveled by motor vehicles during the remainder of the year, or in the case of Jackson Lake, by motorboats during the summer. In Yellowstone, in addition to most of the Grand Loop Road, certain side roads will be open for snowmobile use after noon, based on the successful experience of the NPS with temporal zoning on Firehole Canyon Drive. Virginia Cascades will be accessible only via ski and snowshoe.

This rule addresses Sylvan Pass in Yellowstone. For the winter season of 2007–2008 the pass will be managed continuing the combined program outlined in the 2004 Temporary Plan. After the winter of 2007–2008, in order to maximize risk reduction, the pass would be open and managed using full avalanche forecasting (as defined in the Sylvan Pass Operational Risk

Management Assessment and may be viewed at: <http://www.nps.gov/yell/parkmgmt/winterusetechnicaldocuments.htm>). When full forecasting indicates the pass is safe, the pass would be open to oversnow travel (both motorized and non-motorized access).

The National Park Service will, in good faith, work cooperatively with the State of Wyoming, Park County, Wyoming and the town of Cody to determine how to provide continued snowmobile and snowcoach motorized oversnow access to Yellowstone National Park through the East Gate via Sylvan Pass in the winter use seasons beyond 2007–2008.

The National Park Service will meet with representatives of the State of Wyoming, Park County, Wyoming and the town of Cody to further explore reasonable avalanche and access mitigation safety measures and costs. In order to provide adequate time to implement actions that reflect a potential consensus of the parties, and to promulgate a new regulation, if necessary, that reflects an amended decision for the 2008–2009 winter use season and beyond, consensus should be reached by June 1, 2008.

If the pass is closed at times to oversnow vehicle travel, the segment of road from the East Entrance to a point about four miles west, short of the Sylvan Pass avalanche zone, will be groomed and/or tracked for cross-country skiing. The commercial snowmobiles or snowcoaches authorized to operate from East Entrance may be allowed on that segment in order to provide skier drop-offs or shuttles. In addition, when the pass is not open due to safety, the road segment between Fishing Bridge and Lake Butte Overlook will be maintained for oversnow vehicle travel.

Beginning with the winter season of 2008–2009, the NPS will discontinue maintaining the Continental Divide Snowmobile Trail (CDST) as an oversnow vehicle route through most of Grand Teton and the Parkway, in essence converting this portion of the CDST into a trailered segment. Experience over the past several winters strongly suggests that the minimal amount of use on this route would not substantially increase since much of the previous use of the CDST was associated with visitors traveling through Yellowstone. The NPS recognizes that the guiding and air and sound emissions requirements for Yellowstone have contributed to a substantial reduction in the use of the CDST, since visitors have not been able to continue into Yellowstone without a

guide and a snowmobile that meets the emissions requirements, as well as being subject to the daily entrance caps.

The NPS also recognizes, however, that snowmobile access to and from the Targhee National Forest is important to some visitors. While the CDST will no longer be maintained or designated for snowmobile use, the air and sound emissions requirements for the Grassy Lake Road will be removed beginning with the 2008–2009 winter season. Snowmobilers will be able to transport their machines by trailer between Moran and Flagg Ranch using plowed roads, in order to connect to the Grassy Lake Road and the national forest lands to the west of the Parkway. The daily entry limit of 25 is similar to the level of use that occurred in the past.

### Summary of and Responses to Public Comments

The NPS published a proposed rule on May 16, 2007 (72 FR 27499) and accepted public comments through July 16, 2007. Comments were accepted through the mail, hand delivery, and through the Federal eRulemaking Portal: <http://www.regulations.gov>. A total of 1,450 people commented on the proposed rule, and 1,481 comment documents were received (some commentors submitted multiple letters). Thirty-seven letters were submitted electronically, and the remainder were submitted in paper form. Approximately 42% of commentors submitted form letters while the remaining 58% were unique letters.

#### *Snowmobiles and Snowcoaches*

1. *Comment:* The NPS should revise the proposed rule to prohibit the use of snowmobiles and require that all oversnow access to the parks be via snowcoaches.

*Response:* Snowcoaches and snowmobiles provide two very different types of experiences for park visitors seeking to enjoy Yellowstone during the winter. The use of both types of travel is well-established in the Parks, extending back more than 4 decades. In seeking to provide a range of opportunities and means to enjoy the Parks, the NPS believes that the managed use of both types of oversnow travel best meets that purpose and, as described in the FEIS and ROD, can be accomplished without harming the integrity of park resources or values. In addition, both types of access facilitate a wide range of non-motorized activities within the park by providing access to interior destinations such as Old Faithful and other areas that would otherwise be unreachable by the vast majority of visitors.

2. *Comment:* The use of snowmobiles results in a waste of resources and contributes to climate change.

*Response:* As disclosed in the FEIS, snowmobiles that currently meet the NPS's air and sound emissions requirements are more fuel-efficient than conventional snowmobiles and therefore contribute less to climate change. On a per capita basis, snowmobiles meeting NPS air and sound emissions requirements are slightly more fuel-efficient than snowcoaches, based on NPS analysis of current ridership and gas mileage within Yellowstone.

3. *Comment:* The proposed rule would continue to allow the use of snowcoaches, which would result in adverse impacts on air quality and the natural soundscape of Yellowstone.

*Response:* The NPS fully evaluated the impacts of snowcoaches on the air quality and natural soundscapes of Yellowstone, as described in the FEIS. The NPS recognizes that certain types of snowcoaches, predominantly the historic Bombardier models with upright exhaust stacks, operate with relatively high levels of noise and have been responsible for a large percentage of the instances in which sound levels exceeded adaptive management thresholds established by the NPS. Beginning with the 2011–2012 winter season, the NPS will require that all snowcoaches meet a noise emissions requirement of no greater than 73 dBA and an air emissions requirement that is the functional equivalent of having EPA Tier I emissions control equipment into the engine and drive train for the vehicle class (size and weight) as a wheeled vehicle. The NPS, through contracts and permits, will encourage snowcoaches to have EPA Tier II emissions control equipment for the vehicle class.

4. *Comment:* The NPS should require all snowcoaches to meet air and sound emissions requirements sooner than the 2011–2012 winter season.

*Response:* The NPS believes that the 4-year period allowed for the phase-in of air and sound emissions requirements is reasonable given the expense of upgrading snowcoaches to meet these requirements, and is necessary in order to avoid a disruption of visitor services.

#### *Park Resource Issues*

5. *Comment:* The use of snowmobiles under the proposed rule will continue to result in adverse impacts on air and water quality, natural soundscapes, vegetation, wildlife, visitor experience, and public health and safety.

*Response:* The NPS fully evaluated the environmental impacts of

snowmobile use in the Final Environmental Impact Statement (FEIS). The combination of daily entry limits, strict air and sound emissions requirements for snowmobiles, and the requirement that all snowmobilers travel with a commercial guide while visiting Yellowstone significantly mitigates the impacts of snowmobile use in the Parks. In order to further mitigate these impacts, the NPS has reduced the daily entry limits on snowmobiles to 540 per day in Yellowstone and 65 per day in Grand Teton and the Parkway. As stated in the FEIS and the ROD, the impacts resulting from the use of snowmobiles in the Parks will not harm the integrity of park resources and values.

6. *Comment:* Road grooming has unnaturally altered bison ecology.

*Response:* The NPS fully evaluated the impacts of snowmobile and snowcoach use on bison in the FEIS and responded to comments on this issue. As discussed above, the NPS is also implementing a research program to further study aspects of this issue.

7. *Comment:* The improvements in air quality as well as other improvements in environmental conditions in Yellowstone over the last several winters are attributable more to the lower numbers of snowmobiles that have been present rather than to the air and sound emissions requirements, guiding requirements, and daily entry limits (which allowed for more use than actually occurred).

*Response:* The NPS recognizes that the level of snowmobile use that occurred over the last three winters contributed to improvements in air quality and other environmental conditions. As described in the FEIS, however, these improvements are also attributable to the air and sound emissions requirements, guiding, and other elements of the temporary plan that has been in effect for the past several winters.

8. *Comment:* The NPS should not be attempting to manage for an unreasonable expectation that visitors may expect to enjoy natural quiet along with motorized travel within the Parks.

*Response:* Natural soundscapes are an important element of the Parks' resources and of visitors' enjoyment of the Parks. The NPS believes that it is obligated to protect that resource and allow for its enjoyment to the greatest extent possible, recognizing that in certain areas human-caused sounds will be evident much of the time. The sound emissions and guiding requirements, group sizes, daily entry limits, and other elements of the Winter Use Plan all contribute to reasonable opportunities

for visitors to experience the natural soundscapes of the Parks, even along travel corridors.

9. *Comment:* Snowmobiles that meet the air and sound emissions requirements of the proposed rule do not produce intrusive sounds and have no adverse impacts on the Parks' natural soundscapes.

*Response:* As disclosed in the FEIS, snowmobiles meeting the NPS air and sound emissions requirements do produce noise, although at a reduced level from conventional two-stroke snowmobiles. In addition, the tonal qualities of these snowmobiles are different from conventional snowmobiles and may be perceived as less intrusive, and at the limits of audibility the low pitched sounds may not be distinguishable from natural sounds such as the wind. The requirement that most snowmobiles operating in the Parks meet NPS air and sound emissions requirements mitigates, but does not eliminate, impacts on the natural soundscapes.

10. *Comment:* The use of snowmobiles does not result in any environmental impacts on the parks.

*Response:* The environmental impacts of snowmobiles and snowcoaches were identified in the FEIS.

11. *Comment:* The analysis supporting the proposed rule did not properly consider recent studies, in particular the Bishop studies from 2006 and 2007, showing that snowcoaches and snowmobiles can have the same extremes in emissions—both high and low—and the proposed rule relies on studies not cited in the DEIS (C.C. Lela and J.J. White/Southwest Research Institute, "Laboratory Testing of Snowmobile Emissions, Final Report," 2002).

*Response:* The proposed rule did use the Bishop studies and the FEIS in its analysis (Gary A. Bishop, Daniel A. Burgard, Thomas R. Dalton, Donald H. Stedman, and John D. Ray, 2006 "In-use Emission Measurements of Snowmobiles and Snowcoaches in Yellowstone National Park," and Gary A. Bishop, Ryan Stadtmuller, and Donald H. Stedman, 2007 "Portable Emission Measurements of Snowcoaches and Snowmobiles in Yellowstone National Park"). The 2006 study has been published (Winter Motor-Vehicle Emissions in Yellowstone National Park, Environmental Science & Technology (April 15, 2006): 2505–2510), and the 2007 study has been submitted for peer review. Both of these studies support the conclusion that although snowcoaches as a class can have both high and low emissions, the cleanest of

the snowcoaches would produce emissions well below that of four-stroke snowmobiles, on a per capita basis. The NPS, in requiring Tier I emissions controls for snowcoaches with this rule (and encouraging the stricter Tier II emissions controls through contracts, as indicated in the FEIS), will be implementing snowcoach emissions requirements intended to be equal to or better than the emissions Bishop found in the cleanest group of snowmobiles, as detailed in the FEIS.

#### Guiding

12. *Comment:* The requirement over the last several winters that all visitors entering Yellowstone by snowmobile be accompanied by a commercial guide has resulted in adverse economic impacts on gateway communities, and these impacts will be perpetuated by the proposed rule.

*Response:* These and other economic impacts were disclosed and analyzed in the FEIS and in the economic analysis report that is summarized below. The NPS acknowledges that there have been some negative economic impacts to gateway communities and individual businesses located within those communities over the past several winters as a result of a decrease in snowmobile visitation to the Parks.

13. *Comment:* The requirement in the proposed rule that all snowmobilers be accompanied by a commercial guide while visiting Yellowstone largely eliminates the ability to experience the park on one's own terms, independent of a guided tour, thus diminishing the enjoyment of visiting the park.

*Response:* The NPS recognizes that the guiding requirement diminishes the opportunity to travel freely through the park independent of a commercially guided trip, but believes that such a requirement is a fundamental element of the successful approach to mitigating the impacts of motorized winter use. While some individuals may be discouraged from visiting the park because of this requirement, the NPS also recognizes that by traveling with a commercial guide, visitors have the ability to increase their understanding and appreciation of the park through frequent interaction with a knowledgeable and experienced trip leader.

14. *Comment:* Commercial guiding does not mitigate the impacts to natural soundscapes, wildlife, and safety.

*Response:* The effects of guiding on these resource topics were analyzed in the FEIS. Guiding has resulted in substantial noise-free intervals in the park because snowmobiles are clustered in groups and travel in more predictable



patterns. Commercial guiding is effective in minimizing human-wildlife conflicts, and the number of law enforcement and safety-related incidents has substantially decreased since the initiation of the commercial guiding requirement.

15. *Comment:* Commercially guided groups should continue to have a maximum size of 10 snowmobilers plus the guide on a separate snowmobile, rather than the 8 or 17 snowmobiles (depending on whether 1 or 2 guides are present) described in the proposed rule.

*Response:* In response to public comment and further discussions within the NPS, this section of the proposed rule has been revised to continue the existing maximum group size of 10 snowmobiles plus one guide, for a total of 11 snowmobiles.

16. *Comment:* The NPS should specify a minimum group size of two persons.

*Response:* The NPS does not believe it is necessary to designate a minimum group size since there will always be at least one person plus a guide.

17. *Comment:* The analysis supporting the proposed rule does not support the NPS's conclusions that the requirement for commercial guides results in mitigation of the impacts on soundscapes, wildlife, and safety. The analysis is flawed because groups accompanied by a non-commercial guide have not been allowed in Yellowstone since implementation of managed winter use in 2003, and therefore was not analyzed.

*Response:* The NPS believes that commercial guiding has been extremely successful and helped address problems that historically arose. A number of actions in the range of alternatives considered in the EIS have not occurred in practice, such as non-commercial guiding, road closures, improved air and sound emissions requirements for snowmobiles, and air and sound requirements for snowcoaches. This does not mean that those actions were not analyzed. Modeling and professional judgment were used to analyze these actions.

#### Sylvan Pass

18. *Comment:* The reasons and rationale presented by the NPS in the proposed rule for the closure of Sylvan Pass to oversnow vehicle travel are insufficient to support such an action. The rule should be revised to continue the use of Sylvan Pass as an oversnow route for snowmobiles and snowcoaches.

*Response:* The NPS and others have extensively studied the avalanche hazards at Sylvan Pass as well as

potential ways of addressing those hazards. The NPS has concluded that there are serious risks to park employees, contractors, and visitors, and there may not be reasonable ways of ensuring that visitors or concessioners could depend on the pass being consistently open in light of the avalanche hazards, weather conditions, and other factors. However, the National Park Service will, in good faith, work cooperatively with the State of Wyoming, Park County, Wyoming and the town of Cody to determine how to provide continued snowmobile and snowcoach motorized oversnow access to Yellowstone National Park through the East Gate via Sylvan Pass.

The National Park Service will meet with representatives of the State of Wyoming, Park County, Wyoming and the town of Cody to further explore reasonable avalanche and access mitigation safety measures and costs. In order to provide adequate time to implement actions that reflect a potential consensus of the parties for the 2008–2009 winter use season and beyond, consensus should be reached by June 1, 2008. Consistent with the decision explained in the ROD, the NPS has revised the final rule to reflect that the East Entrance Road through Sylvan Pass will continue to be designated as an oversnow vehicle route beyond the 2007–2008 winter season. The NPS will cease active avalanche control activities beginning with the 2008–2009 season, and the pass would be open to motorized and non-motorized travel when avalanche forecasting indicates that travel through the pass is safe.

19. *Comment:* The NPS has used the low number of visitors using the East Entrance during the winter as a reason for proposing to close Sylvan Pass to oversnow vehicle use.

*Response:* Although the number of visitors using the East Entrance has been fairly low recently and historically, the basis for the proposal to close Sylvan Pass to oversnow vehicle use was that avalanche hazards to employees and visitors exist. As described above and in the ROD, the National Park Service will, in good faith, work cooperatively with the State of Wyoming, Park County, Wyoming and the town of Cody to determine how to provide continued snowmobile and snowcoach motorized oversnow access to Yellowstone National Park through the East Gate via Sylvan Pass.

20. *Comment:* The NPS is inconsistent in its approach to public health and safety at Sylvan Pass because the proposed rule prohibits the use of oversnow vehicles through the pass due to the danger of avalanches, while

permitting non-motorized users to ski or snowshoe through the same area in the absence of any avalanche control efforts.

*Response:* In the Final Rule, motorized and non-motorized travel over Sylvan Pass are treated the same.

21. *Comment:* Closure of the East Entrance to Yellowstone for the winter season would result in negative socioeconomic impacts on communities that depend on winter tourism.

*Response:* The National Park Service has revised the final rule, and will in good faith work cooperatively with the State of Wyoming, Park County, Wyoming and the town of Cody to determine how to provide continued snowmobile and snowcoach motorized oversnow access to Yellowstone National Park through the East Gate via Sylvan Pass. The NPS recognizes that the closure of the East Entrance during the winter would result in some economic impacts on Cody and Park County, Wyoming. While some individual businesses would likely be adversely affected by the closure of the East Entrance, the overall effect on the area's economy would have been minor since winter tourism is only one component of the economy (see FEIS, pages 207–210). These and other economic impacts were disclosed and analyzed in the FEIS and in the economic analysis report that is summarized below. The full documents are available online at <http://www.nps.gov/yell/planyourvisit/winteruse.htm>.

22. *Comment:* An economically sustainable winter recreation program for Cody and the North Fork area would not be supportable if Sylvan Pass were to be closed.

*Response:* The NPS acknowledges that some economic impacts on Cody and the North Fork area would result from the closure of Sylvan Pass, and that some individual businesses could be particularly impacted. The NPS believes that a variety of recreation opportunities would continue to be available in Cody and the North Fork area. As described above, the National Park Service has revised the final rule, and will in good faith work cooperatively with the State of Wyoming, Park County, Wyoming and the town of Cody to determine how to safely provide continued snowmobile and snowcoach motorized oversnow access to the interior of Yellowstone National Park through the East Gate via Sylvan Pass.

23. *Comment:* Closure of Sylvan Pass to oversnow vehicles would deprive visitors of the opportunity to experience and enjoy that area of the park.

*Response:* As discussed above, our revised decision will provide such access during periods when it is safe to do so. During the periods when Sylvan Pass is closed due to avalanche risk, the first several miles of the road between the East Entrance and Sylvan Pass will continue to be maintained for persons wishing to experience the area on skis or snowshoes, with drop-offs possible by snowcoach or snowmobile.

24. *Comment:* The following statement on page 27510 of the proposed rule is not true for communities and businesses in Park County, Wyoming: "The preferred alternative also supports the communities and businesses both near and far from the park and will encourage them to have an economically sustainable winter recreation program that relies on a variety of modes and access to the parks in the winter."

*Response:* The NPS has in both the FEIS and ROD stated its support for working with communities and businesses in Park County in a variety of ways to mitigate the impacts of changes in access to the East Entrance. As described above, the National Park Service has revised the final rule, and will in good faith work cooperatively with the State of Wyoming, Park County, Wyoming, and the town of Cody to determine how to safely provide continued snowmobile and snowcoach motorized oversnow access to Yellowstone National Park through the East Gate via Sylvan Pass.

25. *Comment:* What is the rationale for the one-year delay in implementing the closure of Sylvan Pass and who would benefit from that delay?

*Response:* The NPS believes that a delay in transitioning to a different method of managing risk on Sylvan Pass is appropriate in order to give local businesses and communities that may be affected by the change in access time to adjust. Also the one year delay provides the opportunity for the National Park Service, in good faith, to work cooperatively with the State of Wyoming, Park County, Wyoming and the town of Cody to determine how to provide continued snowmobile and snowcoach motorized oversnow access to Yellowstone National Park through the East Gate via Sylvan Pass in the winter use seasons beyond 2007–2008.

The National Park Service will meet with representatives of the State of Wyoming, Park County, Wyoming, and the town of Cody to further explore reasonable avalanche and access mitigation safety measures and costs. In order to provide adequate time to implement actions that reflect a

potential consensus of the parties, consensus should be reached by June 1, 2008.

#### *Socioeconomics*

26. *Comment:* The analysis supporting the proposed rule did not properly consider the long-term socioeconomic impacts on gateway communities.

*Response:* The potential socioeconomic impacts are described in Section 4.2.2 of the FEIS.

27. *Comment:* The economic analysis indicates that Alternative 2, the "snowcoach only" alternative, has the second highest level of quantified net benefits, which seems high since combined skier and snowcoach entries have never accounted for more than about 20 percent of total park winter visitation.

*Response:* Quantified net benefits, as represented by consumer surplus, is different from total number of visitors and total spending by visitors. Consumer surplus is the monetized measure of the value or enjoyment of the visit to the visitor. Under Alternative 2, snowcoach riders placed a very high value on visiting the park without snowmobiles. Also, according to actual visitation statistics presented in the FEIS, car passengers are by far the largest group of winter visitors in Yellowstone, composing almost 50%. Collectively, car riders, snowcoach riders and skiers make up a little over 2/3 of the winter visitors. Finally, skiers are not just people who entered the park by ski, but people for whom skiing was the primary activity in YNP (6% of visitors according to the 2002–2003 survey). These people may have actually entered the park driving a car or riding a snowcoach or snowmobile.

28. *Comment:* The analysis supporting the proposed rule is inconsistent because it uses historical snowmobile use levels as the baseline for some resources but does not use that baseline for the economic analysis.

*Response:* The Office of Management and Budget requires that for rulemaking purposes the economic analysis use as a baseline a condition that is absent the federal rulemaking. In this case, that corresponds to a situation where no oversnow vehicle use would be authorized in the Parks. For other impact topics, the comparison to historical conditions was intended to allow the reader to understand the differences between each alternative and conditions that previously existed, and between the alternatives themselves, including the no action alternative.

29. *Comment:* The Parks are important economically to the surrounding counties, and citizens expect reasonable access to the Parks.

*Response:* The NPS agrees with this statement and recognizes the economic significance of the Parks to the surrounding communities, which is described in the economic analysis in the FEIS, and summarized in this rule. The NPS believes that the management of winter use that will occur under this rule provides visitors with an appropriate range of activities and experiences while ensuring that the integrity of park resources and values is not harmed.

#### *Designated Routes and Daily Entry Limits*

30. *Comment:* The NPS should restrict the number of snowcoaches to no more than 50 per day in order to maximize the occupancy of each coach.

*Response:* We believe that the ROD and this rule reflect an adequate balance between snowmobile and snowcoach access to the interior of Yellowstone in the winter while protecting park resources and values. The number of snowcoaches operating in Yellowstone over the past several winters has been less than the 78 per day that were authorized, although snowcoach ridership has been on an upward trend. While snowcoach operators strive to maximize occupancy, the actual number of people per coach is dependent on a number of factors such as group sizes, scheduling, charters, and equipment availability. The NPS expects that as demand for snowcoach tours increases, the number of coaches operating in the park will increase commensurate with the demand, and occupancy rates may also increase to some degree. The NPS retains the flexibility to defer the increase from 78 to 83 to the next snowcoach contracts.

31. *Comment:* The NPS should manage snowmobile use by regulating the number of groups instead of individual snowmobiles.

*Response:* The NPS recognizes that managing by the number of snowmobile groups using the parks rather than the actual number of snowmobiles is another possible method that could be used to allocate daily entries. Such an alternative was considered but dismissed from detailed consideration in the FEIS. The NPS believes that allocating a set number of snowmobile entries per entrance with an upper limit on the number of snowmobiles per group provides guides with the greatest flexibility. Under a daily group limit, some groups would not be filled to the group size limit. Managing visitor use

by a daily entrance limit allows more visitors to tour the park. Also, an inherent part of the analysis, especially for soundscapes, was the concept of grouping snowmobiles. Nonetheless, the NPS does not wish to discourage operators from taking smaller groups or charters since this type of individual service is desired by some visitors.

32. *Comment:* The NPS should extend the hours for access to Firehole Canyon, North Canyon Rim Drive, and Riverside Drive in Yellowstone to provide more flexibility for guided tours.

*Response:* The NPS believes that restricting the hours during which snowmobiles may access these areas allows for a separation of snowmobile and snowcoach use which provides opportunities for an enhanced experience for some visitors.

33. *Comment:* The NPS should either prohibit the use of snowmobiles in the parks, or if they are allowed, the daily entry limits should be very low.

*Response:* The NPS has reduced the number of snowmobiles allowed to enter Yellowstone each day from 720 in the proposed rule to 540 in the final rule. Similarly, the number of snowmobiles allowed in Grand Teton and the Parkway was reduced from 140 per day in the proposed rule to 65 per day in the final rule. The numbers of snowmobiles allowed in the parks under this rule take into account the analysis of public comment, feedback from public meetings, review of the 2006 NPS Management Policies, additional monitoring data, and additional analysis and modeling completed since publication of the proposed rule and DEIS.

34. *Comment:* The NPS should allow some percentage of the daily snowmobile entries for Yellowstone to consist of either unguided or non-commercially guided groups, perhaps in conjunction with a certified leader program.

*Response:* The NPS considered two distinct alternatives that allowed either 20 or 25 percent of snowmobiles to enter Yellowstone either with a non-commercial guide or unguided. Based on the experience of the past several winters and additional analysis presented in the FEIS in support of this rulemaking, the NPS concluded that the requirement that 100% of the snowmobile use be commercially guided is both appropriate and necessary to adequately mitigate the impacts of the use on park resources and values.

35. *Comment:* The use of snowmobiles and snowcoaches should be restricted to certain designated routes.

*Response:* Consistent with the requirements of 36 CFR 2.18(c), the use of snowmobiles and snowcoaches under the proposed rule was, and this final rule continues to be, restricted to designated routes that are the same as roads that are used by motor vehicles during other seasons of the year, or in the case of Jackson Lake, by motorboats during the summer months. Only a portion of the Parks' road systems is groomed for oversnow vehicle use. The use of snowmobiles or snowcoaches off of designated routes is prohibited.

#### *Grand Teton and the John D. Rockefeller, Jr. Memorial Parkway*

36. *Comment:* The NPS should allow the use of "EPA Compliant" snowmobiles on Jackson Lake, the Continental Divide Snowmobile Trail, and the Grassy Lake Road. EPA compliant would be defined as a 2007 model year or later snowmobile that meets or exceeds the Environmental Protection Agency's requirements for air emissions.

*Response:* The NPS considered this concept but believes that it would not be as effective in mitigating the noise associated with snowmobiles as the air and sound emissions requirements described in the proposed rule. The EPA regulations pertain only to air emissions and therefore would not necessarily result in any noticeable reduction of noise. In addition, EPA air emission regulations are not as strict as NPS air requirements in this rule.

37. *Comment:* The NPS should consider the CDST and Grassy Lake Road as one segment and manage it primarily for the use of long-distance snowmobile tours that originate and terminate outside of the parks in order to facilitate travel between points in Wyoming and destinations in Idaho and Montana.

*Response:* The NPS considered but rejected this concept because it would have also involved the use of "EPA Compliant" snowmobiles on the CDST, which would not address noise issues as discussed in the previous response. In lieu of this proposal, however, the NPS will allow two-way use of the Grassy Lake Road without any restrictions on the type of snowmobiles that may be used, and allow a daily limit of 25 per day. While snowmobiles will have to be hauled by trailer between Moran Junction and Flagg Ranch, this change will improve access to the adjacent public lands in the Targhee National Forest and beyond.

#### *Consistency With Laws and Policies*

38. *Comment:* By allowing for the use of snowmobiles in the Parks, the

proposed rule is inconsistent with the NPS Management Policies 2006, which require that conservation must be the priority when there is a choice between visitor access and use of the parks and protection of park resources and values.

*Response:* Throughout the planning process that supports this rulemaking, the concept of providing a range of appropriate activities and experiences for park visitors has remained constant. For the reasons stated in the ROD, this concept as well as this rule are fully in accordance with the NPS Organic Act, the NPS Management Policies 2006, executive orders, and other authorities pertaining to management of the National Park System. The NPS believes that the carefully regulated and monitored use of snowmobiles is part of an appropriate range of winter activities. Throughout the process supporting this rulemaking, the NPS has heard from and listened to commentors expressing a wide variety of viewpoints on the issue, and recognizes the difficulty in reconciling the many differences in opinion.

39. *Comment:* Implementation of the proposed rule would result in the NPS violating the NPS Organic Act and other applicable mandates.

*Response:* The NPS determined in the FEIS and the ROD that the actions that are to be implemented under this rule will not result in unacceptable impacts or impairment and thus will not violate the Organic Act, or any other law, regulation or policy.

40. *Comment:* The Clean Air Act and NPS Management Policies 2006 require the National Park Service to maintain the best possible air quality in the parks.

*Response:* At present, with oversnow vehicle use levels similar to what would likely be experienced under these rules (including the air quality on the busiest days, with oversnow vehicle numbers at or near the maximum that will be allowed under these rules), air quality in the parks has been in full compliance with the requirements of the Clean Air Act and NPS Management Policies. Under the interim plan, NPS found that both carbon monoxide and particulate levels were well below national standards; carbon monoxide levels were a tenth of the national standard and particulate levels were less than one-fourth of the standard, as documented in the FEIS.

#### *Miscellaneous*

41. *Comment:* The NPS should establish December 15 and March 15 as fixed dates for the opening and closing dates of the winter use season in Yellowstone.

*Response:* Beginning with the winter season of 2008–2009, Yellowstone's winter season is defined as the period from December 15 to March 15. Actual opening and closing dates for oversnow travel, however, will continue to be determined based on the presence of adequate snowpack or snow water equivalency as has been done for a number of years. Additionally, an early March closing of Yellowstone's Mammoth Terraces oversnow entrance and the roads from Norris to Madison and Norris to Canyon will continue to occur to facilitate spring plowing.

42. *Comment:* The NPS should use a lottery system for allocating entries into Yellowstone.

*Response:* The NPS believes that the existing system of allocating entries through concessions contracts and permits is the most appropriate method, especially in the context of the guiding requirement.

43. *Comment:* The NPS should consider expanding opportunities for non-motorized recreation in the parks by grooming additional areas for cross country skiing.

*Response:* This rulemaking does not affect the ability of the NPS to consider such actions.

44. *Comment:* The NPS should continue to provide a preferential right of renewal of long-time, small concessioners.

*Response:* Concessions contracting issues are beyond the scope of this rulemaking and are addressed in 16 U.S.C. 5951–5966 and 36 CFR part 51.

45. *Comment:* The analysis supporting the proposed rule did not properly consider the long-term impacts from climate change on winter activities in the parks.

*Response:* The NPS addressed climate change in Section 1.5 of the FEIS. Climate change may affect winter precipitation patterns and amounts in the parks, but it would be speculative to predict changes in snow water equivalency or average winter temperatures. The FEIS did analyze the impacts of plowing Yellowstone's lower elevation roads, which may be a viable adaptive management strategy in response to changing weather patterns.

46. *Comment:* The analysis supporting the proposed rule did not adequately consider the cumulative environmental impacts to nearby national forest lands.

*Response:* The potential direct, indirect, and cumulative effects on lands, including national forests, within the Greater Yellowstone Area are discussed in Section 4.4 of the FEIS. The U.S. Forest Service was a cooperating agency on this FEIS in order

to provide technical information and provide technical review on topics related to their special expertise, including cumulative impacts on adjacent forest lands.

47. *Comment:* The NPS should require snowmobilers to purchase park entrance permits in the gateway communities rather than at the entrance stations in order to reduce congestion and air pollution at the park entrances.

*Response:* The park entrance fee is included in the package that visitors purchase from the commercial tour operators prior to entering the park, which also typically includes the costs of the snowmobile rental and snowmobile suit rental, as well as the guide fee. Guides provide a voucher to the NPS indicating the number of visitors, and the operator is subsequently billed the appropriate amount. This procedure eliminates the need for a separate transaction at the gate for each visitor. The requirement that all snowmobilers be part of a commercially guided tour facilitates this practice.

48. *Comment:* Gateway communities, concessioners, visitors, and snowmobile-related businesses have suffered economic impacts as a result of restrictions on use and misinformation regarding the extent to which the parks were open.

*Response:* The NPS recognizes that some of the decrease in winter visitation to the parks over the past several winters may have been the result of potential visitors to the parks being confused or unaware as to whether and to what extent the parks were open. The NPS has made every effort to ensure that the public was aware that the parks were open and that an appropriate range of activities for their enjoyment was available, and will continue to do so in the future.

49. *Comment:* Revenue from snowmobile use of the parks provides funds that may be used by the NPS to support operations of the park throughout the year.

*Response:* The parks retain 80% of the entrance fee revenue generated by visitation, with the remaining funds distributed for use elsewhere in the National Park System. While the funds derived from the winter season are a relatively small component of the Parks' budgets, those funds are important to operation and management of the Parks, and are used in accordance with applicable laws, regulations, and policies.

50. *Comment:* The NPS should strictly enforce park regulations.

*Response:* The NPS strictly enforces applicable federal laws and regulations

within the Parks. Under the temporary plan that has been in effect the past three winters, NPS found that there was a significant increase in compliance with park regulations which is attributable to the commercial guiding requirement.

51. *Comment:* The NPS should not have initiated the rulemaking process until after the FEIS and Record of Decision were completed.

*Response:* Publication of the proposed rule shortly after release of the DEIS provided the public with two separate opportunities to comment on the winter use planning and regulation processes prior to the NPS reaching a decision, and did not limit the NPS in its decision-making. In fact, as a logical outgrowth of these comment processes, the NPS developed and presented a new preferred alternative in the FEIS and released the ROD and this final rule based on that new alternative.

52. *Comment:* The fees that park visitors must pay for commercial guiding services represent the unlawful levy of a tax.

*Response:* The fees paid by visitors to commercial guides are for services rendered and are not a tax.

53. *Comment:* The NPS should not rely on, nor make reference to the 2000 FEIS and related Record of Decision in this rulemaking since both of these documents were invalidated by the Wyoming District Court, and the conclusion within them that snowmobile use impaired park resources was legally and factually wrong.

*Response:* The references to the 2000 FEIS and Record of Decision are necessary to properly explain the history and context of the winter use issue and this rulemaking. The NPS does not dispute that both of these documents were vacated by the Wyoming District Court and remanded to the agency on procedural grounds. The Wyoming District Court did not find the conclusions regarding impairment to be incorrect, and found that the Record of Decision was within the discretion of the NPS under the Organic Act. This rulemaking does not rely on either document.

54. *Comment:* The Wyoming Department of Game and Fish should be allowed to access Jackson Lake for purposes associated with management of the fishery.

*Response:* Except where noted, the rule applies to the use of recreational snowmobiles in the Parks. The NPS has previously indicated to the Wyoming Department of Game and Fish that the use of 2-stroke snowmobiles for administrative purposes will be allowed

on Jackson Lake, but strongly encourages the use of snowmobiles meeting NPS air and sound emissions requirements unless necessary under the circumstances.

#### Changes to the Final Rule

After taking the public comments into consideration and after additional internal review, several changes were made to the final rule, in addition to non-substitutive editorial changes made to improve clarity of the rule. These changes are as follows:

First, paragraphs 7.13(l)(6)(ii), 7.21(a)(6)(ii), and 7.22(g)(6)(ii) for Yellowstone, the Parkway, and Grand Teton, respectively, have been revised to indicate that the NPS may in the future utilize an updated SAE J192 procedure in order to certify which makes and models of snowmobiles meet NPS sound emissions requirements.

Second, paragraph (7) in § 7.13(l) has been revised to reflect the decision that the East Entrance Road through Sylvan Pass will continue to be designated for oversnow vehicle use beyond the 2007–2008 winter season.

Third, paragraph (9) of both § 7.13(l) and § 7.21(a) has been revised to require that group sizes may not exceed eleven snowmobiles, including that of the guide. This change was based in large part on public comment that indicated that groups of this size worked well and that the proposed change was not necessary.

Fourth, the tables in § 7.13(l), § 7.21(a), and § 7.22(g) have been revised to reflect the reduction in the number of snowmobiles permitted each day in each of the 3 park units, as well as the slight increase in the number of snowcoaches allowed in Yellowstone. As described earlier, these changes were made primarily in order to provide greater protection of the Parks' air quality and natural soundscapes while ensuring that visitors are afforded an appropriate range of experiences. The tables have also been revised to reflect an allocation of 30 snowmobiles and two snowcoaches per day to the East Entrance, thereby slightly reducing the allocations at the North and South Entrances. Footnotes to Table 1 in § 7.13(l) have also been revised to indicate that the specific allocations for each entrance of Yellowstone may be adjusted based on concession contract requirements, not to exceed 540 snowmobiles and 83 snowcoaches per day. Fifth, paragraph (6) of § 7.21(a) has been revised to indicate that beginning with the winter season of 2008–2009, air and sound emissions requirements will not apply to snowmobiles being operated on the Grassy Lake Road,

regardless of whether travel originates at Flagg Ranch or in the Targhee National Forest. The purpose of this change is to improve access to the recreational opportunities in the adjacent national forest lands.

Sixth, paragraph (7) of § 7.21(a) has been revised to indicate that the Continental Divide Snowmobile Trail and the route between the Snake River Bridge and Flagg Ranch is designated for oversnow vehicle use only through the winter season of 2007–2008.

Seventh, paragraph (7) of § 7.22(g) has been revised to reflect that the segment of the Continental Divide Snowmobile Trail between the Moran Entrance Station and the north boundary of Grand Teton is designated for snowmobile use only through the winter season of 2007–2008.

#### Summary of Economic Analysis

##### Introduction

This section summarizes an analysis conducted by the National Park Service of the costs and benefits, and impacts on small entities associated with this rule. The analysis is contained in the report titled "Economic Analysis of Winter Use Regulations in the Greater Yellowstone Area" (RTI International, September 2007), which is available at <http://www.nps.gov/yell/planyourvisit/winteruse.htm>. It should be noted that the report was based upon the preferred alternative in the FEIS, which was Alternative 7. Under this alternative, Sylvan Pass would have been closed to oversnow vehicle use beginning with the winter season of 2008–2009. The Record of Decision, however, allows for Sylvan Pass to remain open, and therefore presents a slightly different scenario than contained in the economic analysis. The costs and benefits presented in the economic analysis are therefore likely to be slightly different than if the report was based on the pass being kept open, but not significantly enough to require a new economic analysis.

The analysis examines seven action alternatives for winter use plans in the Greater Yellowstone Area (Yellowstone National Park, Grand Teton National Park, and John D. Rockefeller, Jr. Memorial Parkway). In Yellowstone National Park, Alternative 1 represents conditions under the temporary winter use rule with some exceptions, including closing the East Entrance. Alternative 2 prohibits snowmobile access but allows for snowcoaches, while leaving the East Entrance closed. Alternative 3a allows guided snowmobile and snowcoach use, but only through the South Entrance. The

other four action alternatives allow snowmobile and snowcoach use subject to daily entrance limits and with some guided tour requirements. Alternatives 4 and 5 allow for 25% and 20% unguided or non-commercially guided use, respectively, along with snowcoach use. Alternative 6 allows for another winter use of Yellowstone National Park—commercially guided wheeled vehicle use through the West Entrance, which would be plowed from Mammoth to the West Entrance to Old Faithful. Guided snowmobile and snowcoach use would be allowed out of the South Entrance and from Old Faithful and Norris. Alternative 7 allows for 540 snowmobiles and 83 snowcoaches per day in Yellowstone and closes the East Entrance to oversnow vehicle use beginning with the 2008–2009 winter season. Alternative 7 also allows 65 snowmobiles per day for Grand Teton and the Parkway.

In Grand Teton National Park, Alternatives 1, 3, 5, and 6 allow for all snowmobiles to ride unguided up to varying daily caps. Alternative 4 allows a mixture of guided and unguided snowmobiles, while Alternative 2 bans snowmobiles. Under Alternatives 1, 4, and 5, the Grassy Lake Road, the Continental Divide Snowmobile Trail (CDST), and Jackson Lake remain open for snowmobiles. Only the Grassy Lake Road is open under Alternative 3a, while Alternative 6 allows snowmobiles on the Grassy Lake Road and Jackson Lake.

The National Park Service identified Alternative 7 as the preferred alternative in the FEIS, and adopted that alternative, with some modifications, in the ROD. Alternative 7 combines aspects of several of the other alternatives, especially Alternatives 1 and 5. In Yellowstone National Park, snowmobiles must be on guided tours, as in Alternative 1. The total daily limit for snowmobiles is the same as Alternative 5, although the limit is distributed differently across the entrances and the East Entrance is closed to snowmobiles. In Grand Teton National Park, the CDST will no longer be maintained, and snowmobiles traveling the trail must be hauled by trailer across it. With the closing of the CDST in Grand Teton National Park, the daily limit on snowmobiles is lower than the other alternatives.

The analysis estimates the benefits and costs associated with these seven action 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 and snowcoach 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 and snowcoach users have little or no incentive to adjust their behavior accordingly. The proposed regulations are needed to correct this situation.

The quantitative results of the analysis are summarized below. It is important to note that the 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 the 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 the 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 seven action alternatives. In previous rulemakings involving winter use plans in the Greater Yellowstone Area, this uncertainty was addressed by making bounding assumptions to place upper and lower limits on a reasonable range of visitation. For this rulemaking, 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 seven action alternatives.

The primary beneficiaries of Alternatives 1, 2, 3a, 4, 5, 6, and 7 relative to the Alternative 3b baseline are the park visitors who ride snowmobiles or snowcoaches in the park and passengers on the proposed commercial bus tours and the businesses that serve them. Benefits and losses accruing to individual visitors are called consumer surplus changes and those accruing to businesses are called producer surplus changes. Consumer surplus measures the net economic benefit obtained by individuals from participating in their chosen activities, while producer surplus measures the net economic benefit obtained by businesses from providing services to individuals.

Overall, Alternative 6 is estimated to provide the greatest consumer surplus benefits due to the commercial bus access. The daily caps on snowmobile use vary across the seven alternatives, with Alternative 4 allowing the most snowmobiles per day into the parks. Alternatives 1, 3a, 6, and 7 require snowmobilers to be part of a guided tour in Yellowstone National Park, a requirement that is expected to reduce the consumer surplus gains to snowmobilers who prefer unguided tours or who face additional expenses from taking a guided tour. Alternatives 4 and 5 allow for at least 20 percent of the tours to be unguided or led by non-commercial guides, which may somewhat mitigate the potential loss in consumer surplus associated with the guided tour requirement.

The primary consumer group that would incur costs under Alternatives 1, 2, 3a, 4, 5, 6, and 7 would be the park

visitors who do not ride oversnow vehicles. Alternative 2 results in the smallest losses for these visitors. Out of the set of alternatives that allow for continued snowmobile access to the parks, Alternative 6 is expected to impose the lowest costs on non-snowmobile users because of the lower daily limits, guided tour requirements, and restriction of oversnow vehicles to the South Entrance.

For businesses, the producer surplus gains relative to the Alternative 3b baseline are expected to be ordered similar to the way consumer surplus gains are for snowmobilers and snowcoach riders because they are driven largely by the number of visitors. Alternative 6 is expected to have the greatest positive impact on local businesses because the bus access is expected to result in the largest increase in visitation. Alternative 4, which allows the most snowmobiles and the most unguided snowmobiles, offers the second highest benefit to producers.

The average net benefit levels quantified in the analysis 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. These average net benefit levels are entirely positive for all seven action alternatives, relative to the Alternative 3b baseline.

**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> ..... | \$63,396,000                                   |
| Discounted at 7% <sup>a</sup> ..... | 51,836,000                                     |
| Alternative 2:                      |  |
| Discounted at 3% <sup>a</sup> ..... | 142,994,000                                    |
| Discounted at 7% <sup>a</sup> ..... | 117,328,000                                    |
| Alternative 3a:                     |  |
| Discounted at 3% <sup>a</sup> ..... | 52,101,000                                     |
| Discounted at 7% <sup>a</sup> ..... | 42,704,000                                     |
| Alternative 4:                      |  |
| Discounted at 3% <sup>a</sup> ..... | 36,656,000                                     |
| Discounted at 7% <sup>a</sup> ..... | 30,016,000                                     |
| Alternative 5:                      |  |
| Discounted at 3% <sup>a</sup> ..... | 39,344,000                                     |
| Discounted at 7% <sup>a</sup> ..... | 32,329,000                                     |
| Alternative 6:                      |  |
| Discounted at 3% <sup>a</sup> ..... | 248,834,000                                    |
| Discounted at 7% <sup>a</sup> ..... | 204,405,000                                    |
| Alternative 7:                      |  |
| Discounted at 3% <sup>a</sup> ..... | 63,387,000                                     |

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

|                                     | Total present value of quantified net benefits |
|-------------------------------------|--|
| Discounted at 7% <sup>a</sup> ..... | 51,823,000                                     |

Note: All values are in 2003 dollars, and have been rounded to the nearest \$1,000.

<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:                     |   |
| Amortized at 3% <sup>a</sup> ..... | \$7,432,000                                   |
| Amortized at 7% <sup>a</sup> ..... | 7,380,000                                     |
| Alternative 2:                     |   |
| Amortized at 3% <sup>a</sup> ..... | 16,763,000                                    |
| Amortized at 7% <sup>a</sup> ..... | 16,705,000                                    |
| Alternative 3a:                    |   |
| Amortized at 3% <sup>a</sup> ..... | 6,108,000                                     |
| Amortized at 7% <sup>a</sup> ..... | 6,080,000                                     |
| Alternative 4:                     |   |
| Amortized at 3% <sup>a</sup> ..... | 4,297,000                                     |
| Amortized at 7% <sup>a</sup> ..... | 4,274,000                                     |
| Alternative 5:                     |   |
| Amortized at 3% <sup>a</sup> ..... | 4,612,000                                     |
| Amortized at 7% <sup>a</sup> ..... | 4,603,000                                     |
| Alternative 6:                     |   |
| Amortized at 3% <sup>a</sup> ..... | 29,171,000                                    |
| Amortized at 7% <sup>a</sup> ..... | 29,103,000                                    |
| Alternative 7:                     |   |
| Amortized at 3% <sup>a</sup> ..... | 7,431,000                                     |
| Amortized at 7% <sup>a</sup> ..... | 7,378,000                                     |

Note: All values are in 2003 dollars, and have been rounded to the nearest \$1,000.

<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 7 as the preferred alternative; however, Alternatives 2 and 6 each have higher levels of quantified net benefits. Alternative 1 generates essentially the same level of quantified net benefits. Additional factors that are relevant in the selection of the preferred alternative include costs that could not be quantified and distributive equity concerns. With respect to costs that

could not be quantified, Alternative 6 involves road plowing operations and possibly moderate, adverse visibility impacts due to road sanding operations, neither of which were quantified in terms of monetized costs. Monetizing these costs would reduce the quantified net benefits of Alternative 6 relative to those of Alternative 7.

With respect to distributive equity concerns, Alternative 7 better balances the visitor experiences of all visitor groups compared to all other action alternatives. The costs and benefits accruing to the different visitor groups are more evenly distributed in Alternative 7 than in Alternative 2 or Alternative 6. The benefits of Alternative 2 are disproportionately associated with snowcoach riders. The benefits to snowmobile riders in Alternative 6 will be concentrated on riders who have access to the South Entrance. Finally, the lack of any historical precedent for plowing roads and allowing commercial bus tours during the winter leads to large uncertainties as to the magnitude of the benefits associated with Alternative 6. For these reasons, the National Park Service selected Alternative 7 as the preferred alternative.

**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.

(a) This rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis has been completed and is available upon request. These conclusions are based on the report “Economic Analysis of Winter Use Regulations in the Greater Yellowstone Area” (RTI International, September 2007).

(b) This rule will not create inconsistencies with other agencies’ actions. The National Park Service is unaware of any other Federal rules that duplicate, overlap, or conflict with this rule.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) This rule may raise novel legal or policy issues. The issue has generated local as well as national interest on the subject in the Greater Yellowstone Area. The National Park Service has been the subject of numerous lawsuits regarding

its management of winter use in the Parks.

*Regulatory Flexibility Act*

The National Park Service has determined that this rule will have a significant positive economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), in comparison to conditions that would exist absent this rule. Therefore, a Final Regulatory Flexibility Analysis has been conducted and is available upon request. This analysis is contained in the report “Economic Analysis of Winter Use Regulations in the Greater Yellowstone Area” (RTI International, September 2007).

Alternative 4 has the highest daily snowmobile limits and allows for 25% of snowmobilers to be on non-commercially guided or unguided tours; it would most likely result in the largest number of snowmobilers visiting the park. Thus, Alternative 4 would likely be the most beneficial to small businesses overall. However, Alternative 6, which allows guided commercial wheeled access to parts of the park through the North and West Entrances, is forecast to have the highest visitation. Visitation under Alternative 6 is the most uncertain because of the commercial wheeled access provision.

Small businesses near the East Entrance and the town of Cody, Wyoming, would benefit more from Alternatives 4 and 5, which allow snowmobile traffic through the East Entrance. The East Entrance would be closed to snowmobile traffic under both the no-action alternative and Alternative 7.

Nevertheless, a modified version of Alternative 7 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. This conclusion is based on the report “Economic Analysis of Winter Use Regulations in the Greater Yellowstone Area” (RTI International, September 2007).

(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 still 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)*

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

#### *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*

An Environmental Impact Statement (EIS) and Record of Decision (ROD) have been completed. The EIS and ROD are available for review by contacting Yellowstone or Grand Teton superintendent offices or can be found at: [www.nps.gov/yell/parkmgmt/winterusetechnicaldocuments.htm](http://www.nps.gov/yell/parkmgmt/winterusetechnicaldocuments.htm).

#### *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 NEPA processes. Their major concern was to reduce the adverse effects on wildlife by snowmobiles. This rule does that through implementation of the guiding requirements and limits on snowmobile numbers.

#### *Administrative Procedure Act*

This rule is effective on December 19, 2007. The National Park Service recognizes that new rules ordinarily go into effect thirty days after publication in the **Federal Register**. For this regulation, however, we have determined under 5 U.S.C. 553(d) and 318 DM 6.25 that this rule should be effective on December 19, 2007. This rule implements the winter use plans for the Parks and relieves the restrictions on the use of snowmobiles and snowcoaches that would exist in its absence. In addition, good cause exists for the effective date of December 19, 2007, for the following reasons:

(1) The NPS has in good faith since at least March 2006 publicly stated that the 2007–2008 winter season for the Parks would commence on December 19, 2007, and the public and businesses have made decisions based on the widespread public knowledge of this opening date.

(2) Since March 2006, the NPS has consistently and repeatedly stated that the 2007–2008 winter season would be a transition winter. As an action common to all alternatives in the Draft and Final EIS, the NPS stated the Parks would be open during the 2007–2008 winter season and operate under rules substantially the same as those that have been in effect last three winters under the temporary plan. Through this rule, the NPS intends to fulfill that commitment.

(3) Many persons planning to visit the Parks have already made travel plans in anticipation of the Parks being open for snowmobile and snowcoach use, such as reserving time off from work, booking airfares and hotel accommodations, making reservations for snowmobile or snowcoach tours, and the like. For example, in late August, Xanterra Parks

and Resorts (which operates lodging and other services in Yellowstone) reported that 2007–2008 winter bookings were up 18% over last year. The Christmas–New Year period is the most heavily visited time of the 82-day winter season. If the Parks do not open as scheduled on December 19, it would create unnecessary hardship for visitors who have already planned trips, and would likely result in economic losses for some visitors if reservations had to be cancelled. Significant revenue loss for businesses in and around the Parks would also occur. Many businesses in the gateway communities surrounding the Parks, and the people who rely upon them for their livelihoods, are highly dependent upon the Parks being open for the entire duration of the 82-day season.

(4) Snowmobile and snowcoach operators have made business decisions and investments for the winter season premised on an opening date of December 19, 2007. Such actions include purchasing new snowmobiles and snowcoaches for their fleets, making offers of employment, preparing advertising and other materials, and purchasing snowmobile accessories such as suits, helmets, boots, mittens, etc. A delay in the effective date of this regulation would shorten an already brief winter season, thereby depriving these businesses and others that depend on the winter season (such as hotels, restaurants, service stations, and other hospitality-oriented businesses) of revenue that is important to their livelihoods. As recently as November 2, NPS met with snowcoach and snowmobile guides and outfitters to plan for the 2007–2008 winter season based on an opening date of December 19, 2007.

(5) There would be no benefit to the public in delaying the effective date of this rule, given that there has already been substantial notice of the opening date and that the Parks will be open under conditions substantially similar to those in effect for the past three years. The above-described harms to the public resulting from a procedural delay of this rule should therefore be avoided, and an effective date of December 19, 2007, is warranted.

*Drafting Information:* The primary authors of this regulation are Gary Pollock, Management Assistant, Grand Teton National Park; John Sacklin, Management Assistant, Mike Yochim, Outdoor Recreation Planner, Denise Swanke, Outdoor Recreation Planner, Yellowstone National Park; Jason Waanders, Office of the Solicitor, and Jerry Case, Regulations Program



Manager, National Park Service, Washington, DC.

### List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

■ For the reasons given in the preamble, 36 CFR part 7 is amended 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. Amend § 7.13 to 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 snowcoaches and recreational snowmobiles. Except where indicated, paragraphs (l)(2) through (l)(17) do not apply to non-administrative over-snow vehicle 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 over-snow vehicle use by 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 section, “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 oversnow 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 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 1,000 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?* 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) Beginning with the 2008–2009 winter season 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) Beginning in the 2011–2012 season, all snowcoaches (historic and non-historic) must meet NPS air emission requirements, which functionally means that they must have the same EPA Tier I emissions control equipment incorporated into the engine and drive train as would the equivalent class (size and weight) of wheeled vehicle. Through the winter of 2010–2011, all non-historic snowcoaches

must meet NPS air emissions requirements, which are the applicable EPA emission standards for the vehicle at the time it was manufactured.

(iii) All critical emission-related exhaust components (as listed in 40 CFR 86.004–25(b)(3)(iii) through (v)) must be functioning properly. Such critical emissions-related components may only be replaced with the original equipment manufacturer (OEM) component, where possible. Where OEM parts are not available, aftermarket parts may be used if they do not 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. The Superintendent will establish the procedures for determining compliance.

(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 years 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 years 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 (l)(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 (l)(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 73 dBA 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. The Superintendent may revise these testing procedures based on new information and/or updates to the SAE J192 testing procedures.

(iii) Snowmobiles meeting the requirements for air and sound emissions may be operated in the park for a period not exceeding 6 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 in Yellowstone.

(7) *Where may I operate my snowmobile in Yellowstone National Park?* (i) You may 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 the East Entrance.

(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) 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, avalanche conditions, 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 (I)(7) also applies to non-administrative over-snow vehicle 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 (I)(7)(i)(A) through (I)(7)(i)(O) of this section. The restricted hours of snowmobile use described in paragraphs (1)(7)(i)(M) through (1)(7)(i)(O) do not apply to snowcoaches. Snowcoaches may also be operated on the following additional oversnow routes:

(A) Fountain Flat Road.

(B) The Grand Loop Road from Canyon Junction to Washburn Hot Springs overlook.

(C) For rubber-tracked snowcoaches only, the Grand Loop Road from Upper Terrace Drive to the junction of the Grand Loop Road and North Entrance Road, and within the Mammoth Hot Springs developed area.

(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 (I)(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 11 snowmobiles, including that of the guide.

(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 (I)(9) do not apply to snowmobiles being operated on the Cave Falls Road.

(10) *Are there limits established for the number of snowmobiles and snowcoaches permitted to operate in the park each day?* The number 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.—DAILY SNOWMOBILE AND SNOWCOACH LIMITS\*

| Park entrance/location**   | Commercially guided snowmobiles | Commercially guided snowcoaches |
|----------------------------|---------------------------------|---------------------------------|
| (i) North Entrance .....   | ***20                           | 15                              |
| (ii) West Entrance .....   | 300                             | 37                              |
| (iii) South Entrance ..... | 170                             | 10                              |
| (iv) East Entrance .....   | 30                              | 2                               |
| (v) Old Faithful .....     | ***20                           | 19                              |
| (vi) Cave Falls .....      | ****50                          | 0                               |

\* The numbers of snowmobiles and snowcoaches allocated to a particular entrance may be adjusted depending on the results of analysis for concessions contracts, not to exceed a parkwide daily total of 540 snowmobiles and 83 snowcoaches. The snowcoaches allocated to Old Faithful are parkwide.

\*\* For the winter of 2007–2008 only, the following snowmobile allocations are in effect: West Entrance, 400; South Entrance, 220; East Entrance, 40; North Entrance, 30; and Old Faithful, 30. The following snowcoach allocations will apply in 2007–2008 only: West Entrance, 34; South Entrance, 10; East Entrance, 3; North Entrance, 13; and Old Faithful, 18.

\*\*\* Commercially guided snowmobile tours originating at the North Entrance and Old Faithful are currently provided solely by Xanterra Parks and Resorts. Because this concessionaire is the sole provider at both of these areas, this regulation allows the daily entry limits between the North Entrance and Old Faithful to be adjusted as necessary, so long as the total number of snowmobiles between the two entrances does not exceed 40. For example, the concessionaire could operate 20 snowmobiles at Old Faithful and 20 at the North Entrance if visitor demand warranted it. This will allow the concessionaire to respond to changing visitor demand for commercially guided snowmobile tours, thus enhancing visitor service in Yellowstone.

\*\*\*\* These snowmobiles operate on an approximately 1-mile segment of road within the park where the use is incidental to other snowmobiling activities in the Targhee National Forest. These snowmobiles do not need to be guided or meet NPS air and sound emissions requirements.

(11) *When may I operate my snowmobile or snowcoach?* The Superintendent will determine operating hours and dates. Except for emergency situations, any changes to operating hours will be made on an annual basis, 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 a state or province in the United States or Canada, respectively.

(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 (l)(12) also applies to non-administrative over-snow vehicle 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 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 (l)(13) also applies to non-administrative over-snow vehicle 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 (l)(14) also applies to non-administrative over-snow vehicle 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 NPS regulations.

(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. Notice will be made in accordance with § 1.7(a) of this chapter.

(iii) Dog sledding and ski-joring are prohibited. Bicycles are not allowed on oversnow routes in Yellowstone.

(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 (l)(1) through (l)(16) of this section is prohibited. Each such occurrence of non-compliance with these regulations is a separate violation.

■ 3. Revise § 7.21 to read as follows:

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

(a)(1) *What is the scope of this section?* The regulations contained in paragraphs (a)(2) through (a)(17) of this section apply to the use of snowcoaches and recreational snowmobiles. Except where indicated, paragraphs (a)(2) through (a)(17) do not apply to non-administrative over-snow vehicle use by NPS, contractor, or concessioner employees, or other non-recreational users authorized by the Superintendent.

(2) *What terms do I need to know?* All of the terms in § 7.13(l)(2) of this part apply to this section. This paragraph also applies to non-administrative over-snow vehicle 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?* 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) Snowcoaches may be only 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) Beginning in the 2011–2012 season, all snowcoaches (historic and non-historic) must meet NPS air emission requirements, which functionally means that they must have the same EPA Tier I emissions control equipment incorporated into the engine and drive train as would the equivalent class (size and weight) of wheeled vehicle. Through the winter of 2010–2011, all non-historic snowcoaches must meet NPS air emissions requirements, which are the applicable EPA emission standards for the vehicle at the time it was manufactured.

(iii) All critical emission-related exhaust components (as defined in 40 CFR 86.004–25(b)(3)(iii) through (v)) must be functioning properly. Such critical emission-related components may only 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 do not 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. The Superintendent will establish the procedures for determining compliance.

(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 emissions requirements as set forth in this section may be operated in the Parkway. The Superintendent will approve snowmobile makes, models, and years of manufacture that meet those requirements. 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 years 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 been 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 73 dBA 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. The Superintendent may revise these testing procedures based on new information and/or updates to the SAE J192 testing procedures.

(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) Beginning with the winter season of 2008–2009, these air and sound emissions restrictions do not apply to snowmobiles being operated on the Grassy Lake Road. For the winter season of 2007–2008 only, 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. On all other oversnow routes within the Parkway, snowmobiles must meet these air and sound emissions requirements.

(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 may 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 through the winter season of 2007–2008 only.

(B) Along U.S. Highway 89/191/287 from Flagg Ranch to the northern boundary of the Parkway. Through the winter of 2007–2008 only, this route also includes the segment from the Snake River Bridge to Flagg Ranch.

(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 (a)(6) also applies to non-administrative over-snow vehicle 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 routes designated for snowmobile use in paragraph (a)(7)(i)(B) and (D) of this section. No other routes are open to snowcoach use, except as provided in (ii).

(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. 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?* (i) All recreational snowmobile operators using the oversnow route along U.S. Highway 89/191/287 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.

- (ii) Guided snowmobile parties must travel in a group of no more than 11 snowmobiles, including that of the guide.
  - (iii) 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?* The number 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.—DAILY SNOWMOBILE AND SNOWCOACH ENTRY LIMITS

| Park entrance/road segment                         | Snowmobiles | Commercial snowcoaches |
|--|-------------|------------------------|
| (i) CDST*  | 0           | 0                      |
| (ii) Grassy Lake Road (Flagg-Ashton Road)**        | 25          | 0                      |
| (iii) Flagg Ranch to Yellowstone South Entrance*** | 170         | 10                     |

\* The Continental Divide Snowmobile Trail lies within both Grand Teton and the Parkway. For the winter of 2007–2008 only, a daily entry limit of 50 snowmobiles applies to total use on this route in both parks.

\*\* For the winter season of 2007–2008 only, the daily entry limit for this route is 50 snowmobiles per day.

\*\*\* Commercially guided; during the winter of 2007–2008 only, the daily entrance limit is 220 snowmobiles and 10 snowcoaches. The numbers of snowmobiles and snowcoaches allocated to the Flagg Ranch to Yellowstone South Entrance road segment may be adjusted depending on the results of analysis for concessions contracts.

(11) *When may I operate my snowmobile or snowcoach?* The Superintendent will determine operating hours and dates. Except for emergency situations, any changes to operating hours will be made on an annual basis 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 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 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 over-snow vehicle 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 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 over-snow vehicle 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 over-snow vehicle 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 NPS regulations.

(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. Notice will be made in accordance with § 1.7(a) of this chapter.

(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.

(b) [Reserved]

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

**§ 7.22 Grand Teton National Park.**

\* \* \* \* \*

(g)(1) *What is the scope of this section?* The regulations contained in paragraphs (g)(2) through (g)(20) of this section are intended to apply to the use of snowcoaches and recreational snowmobiles. Except where indicated, paragraphs (g)(2) through (g)(20) do not apply to non-administrative over-snow vehicle use by NPS, contractor, or concessioner employees, 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 (g)(2) also applies to non-administrative over-snow vehicle 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?* 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 years 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 years 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 73 dBA 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. The Superintendent may revise these testing procedures based on new information and/or updates to the SAE J192 testing procedures.

(iii) Snowmobiles meeting the requirements for air and sound emissions may be operated in the park for a period not exceeding 6 years from the date upon which first certified, except that snowmobiles being operated on Jackson Lake may continue to be operated up to 10 years, provided that these snowmobiles' mileage does not exceed 6,000 miles.

(iv) Snowmobiles will be exempt from these air and sound emissions requirements 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 may 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 be licensed or otherwise permitted to fish in Wyoming and possess 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) from the Moran Entrance Station to the north boundary of the park for the winter season of 2007–2008 only.

(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 uses 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 over-snow vehicle 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 number of snowmobiles permitted to operate in the park each day?* The number of snowmobiles allowed to operate in the park each day is limited to a certain number per road segment or location. The snowmobile limits are listed in the following table:

TABLE.—DAILY SNOWMOBILE LIMITS

| Road segment/location                        | Total number of snowmobiles |
|--|-----------------------------|
| (i) GTNP and the Parkway—Total Use on CDST * | 0                           |
| (ii) Jackson Lake                            | 40                          |

\* The Continental Divide Snowmobile Trail lies within both GTNP and the Parkway. For the winter season of 2007–2008 only, a daily limit of 50 snowmobiles will be in effect. The limits established here do not apply to the portion of the CDST described in paragraph (g)(16)(iii) of this section.

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

(iv) This paragraph (g)(11) also applies to non-administrative over-snow vehicle 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 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 or 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 over-snow vehicle 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 subject to §§ 2.18(a), (b), and (c), but not subject 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 NPS regulations.

(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 the designated routes through the park identified in (i)–(iv) below.

Requirements established in this section related to air and sound emissions, daily entry limits, 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 (CDST) along U.S. 26/287 from the east park boundary to a point approximately 2 miles east of Moran Junction. If necessary for the proper administration of visitor use and resource protection, the Superintendent may extend this designated route to the Moran Entrance Station.

(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?* 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 private 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 the property commonly referred to as the "Halpin Property."

(v) 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."

(vi) 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."

(vii) The Superintendent may designate additional routes if necessary

to provide reasonable access to inholdings or adjacent private property.  
(viii) 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?* The 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: December 10, 2007.

**Lyle Laverty,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. E7-24175 Filed 12-12-07; 8:45 am]

**BILLING CODE 4312-CT-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2004-IL-0002; FRL-8503-5]

#### Approval and Promulgation of Implementation Plans; Illinois; Source-Specific Revision for Cromwell-Phoenix, Incorporated

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to the Illinois State Implementation Plan (SIP) to incorporate site-specific Volatile Organic Compounds (VOC) regulations for the Corrosion Inhibiting (CI) packaging production facility of Cromwell-Phoenix, Incorporated (Cromwell-Phoenix) located in Alsip, Illinois (Cook County). The EPA is approving an adjusted standard from Illinois' paper coating regulations for Cromwell-Phoenix's CI packaging production facility.

**DATES:** This "direct final" rule is effective on February 11, 2008, unless EPA receives adverse written comments by January 14, 2008. If an adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2004-IL-0002, by one of the following methods:

1. *http://www.regulations.gov*: Follow the online instructions for submitting comments.

2. *E-mail*: mooney.john@epa.gov.

3. *Fax*: (312) 886-5824.

4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's official hours of operation are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2004-IL-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and should be free of any defects or viruses. For additional instructions on submitting comments,

go to section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hardcopy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hardcopy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. It is recommended that you telephone Edward Doty, Environmental Scientist, at (312) 886-6057, before visiting the Region 5 office.

#### FOR FURTHER INFORMATION CONTACT:

Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886-6057. E-mail address: *doty.edward@epa.gov*.

#### SUPPLEMENTARY INFORMATION:

Throughout this document, whenever "we," "us," or "our" are used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is organized as follows:

- I. General Information
  - Does this action apply to me?
- II. Today's Action
  - A. What action is EPA taking today?
  - B. Why is EPA taking this action?
  - C. What are the alternative control requirements included in the Adjusted Standard?
  - D. What information did Illinois submit in support of this SIP revision?
  - E. Was a public hearing held?
  - F. Why is this SIP revision being approved?
- III. Final Rulemaking Action
- IV. Statutory and Executive Order Reviews

#### I. General Information

*Does this action apply to me?*

This action only applies to Cromwell-Phoenix, Incorporated (Cromwell-Phoenix), and, in particular, to Cromwell-Phoenix's CI packaging production facility located in Alsip, Illinois (Cook County). If you are the owner or operator of this source, this action affects the air pollution control rules that apply to your source as contained in the Illinois SIP.