

retire from Division C. In 2000, X amends its health plan to provide coverage for employees who retire from Division B as a result of a plant shutdown, but only for the 2-year period coinciding with their severance pay. Also in 2000, X amends the health plan to provide that employees who retire from Division A as a result of a plant shutdown receive health coverage only for the 2-year period coinciding with their severance pay. A plant shutdown that affects Division A and Division B employees occurs in 2000. The number of individuals receiving coverage for applicable health benefits as of the last day of 2001 is 200. In 2002, Employer X makes a qualified transfer under section 420. As of the last day of 2002, applicable health benefits are provided to 170 individuals, because the 2-year period of benefits ends for 10 employees who retired from Division A and 20 employees who retired from Division B as a result of the plant shutdown that occurred in 2000.

(ii) There is no significant reduction in retiree health coverage in 2002. Coverage for the 10 retirees from Division A who lose coverage as a result of the end of the 2-year period is treated as having ended by reason of employer action, because coverage for those Division A retirees ended by reason of a plan amendment made after December 17, 1999. However, the terms of the health plan that limit coverage for employees who retired from Division B as a result of the 2000 plant shutdown (to the 2-year period) were adopted contemporaneously with the provision under which those employees became eligible for retiree coverage under the health plan. Accordingly, under the rule provided in paragraph (b)(4)(ii) of this section, coverage for those 20 retirees from Division B is not treated as having ended by reason of employer action. Thus, the number of individuals whose health benefits ended by reason of employer action in 2002 is 10. Since the number of individuals receiving coverage for applicable health benefits as of the last day of 2001 is 200, the employer-initiated reduction percentage for 2002 is 5% (10/200), which is less than the 10% annual limit.

(e) *Effective date.* This section is applicable December 18, 1999, for qualified transfers occurring on or after that date.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AC82

Special Regulations, Areas of the National Park System

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to amend regulations specific to Rocky Mountain National Park that designate snowmobile routes inside the park. The routes currently designated are inconsistent with the protection of the resources and values of this park, management objectives, with the requirements of two executive orders, and NPS general regulations that govern snowmobile use in the National Park System. This amendment would eliminate three of the four routes currently designated for snowmobile use and bring the remaining route into compliance with the general regulations.

DATES: Written comments will be accepted through March 6, 2001.

ADDRESSES: Comments should be addressed to: National Park Service, Ranger Activities Division, 1849 C Street, NW., Room 7408, Washington, DC 20240. Fax (202) 208-6756. Email: WASO_Regulations@nps.gov.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, N.W., Room 7413, Washington, DC 20240. Telephone: (202) 208-4206; Fax: (202) 208-6756; Email: Kym_Hall@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

In January 1999, the NPS received a petition for rulemaking from the Bluewater Network, representing some 60 conservation organizations, requesting that we begin immediate rulemaking to prohibit snowmobile use within units of the National Park System. To gather information on how to respond, NPS conducted a survey of those parks in which snowmobile use is currently allowed. The survey gathered information from each relevant park on such matters as the basis on which a decision was originally made to allow snowmobile use in that park; how extensive that use is; what is known about the impacts of that use on park resources and values, including the enjoyment of other visitors; and what monitoring, if any, is conducted to determine those impacts. Additionally, the NPS held a two-day snowmobile "summit" in January 2000 at which officials from the Department of the Interior (including the Office of the Solicitor) and the National Park Service (including all but one affected park) reviewed the snowmobile use now occurring in the National Park System. We learned through the survey and the snowmobile "summit" that much of the snowmobile use that occurs in the

National Park System is not consistent with management objectives or the protection of park resources and value, and is not in compliance with the requirements of the two executive orders and the NPS general regulations on snowmobile use.

In April 2000, the Department and NPS publicly announced an intention to propose changes in the snowmobile use allowed in parks, to protect park resources and values, to meet management objectives and to come into compliance with the legal requirements applying to that use. Consistent with that announcement, this is a proposed regulatory action to make those changes in the park-specific regulations governing snowmobile use in Rocky Mountain National Park, by repealing the current designation of three routes in the park as open to snowmobiles. Only one of those routes is currently open to snowmobile use. For the other two, this proposal would amend the park-specific regulations to conform to previous decisions by the park management to close the routes to snowmobile use. This proposed rule will leave one route in the park, the North Supply Creek Snowmobile Access Trail, designated for snowmobile use. An environmental analysis and a draft economic analysis have been prepared.

Existing Regulations

Executive Order 11644, issued by President Nixon in 1972, provides, among other things, that snowmobile use may be allowed in the National Park System only on areas and trails designated by NPS for that purpose, and only if NPS determines that the snowmobile use on those areas and trails will not adversely affect the park's natural, aesthetic, or scenic values. It requires NPS to monitor the effects of authorized snowmobile use in parks. It also requires NPS, on the basis of the information gathered through that monitoring, to amend or rescind designations of those areas and trails open to snowmobile use as necessary to avoid adverse effects on the park's natural, aesthetic, or scenic values.

Executive Order 11989, issued by President Carter in 1977, requires NPS, whenever it determines that the use of snowmobiles will cause or is causing considerable adverse effects on the natural resources of a park, to take steps to prevent those effects, including immediately halting that use.

NPS general regulations on snowmobile use, 36 CFR 2.18(c), state that:

The use of snowmobiles is prohibited, except on designated routes and water surfaces that are used by motor vehicles or

motorboats during other seasons. Routes and waters surfaces designated for snowmobile use shall be promulgated as special regulations. Snowmobiles are prohibited except where designated and only when their use is consistent with the park's natural, cultural, scenic and aesthetic values, safety considerations, park management objectives, and will not disturb wildlife or damage park resources.

Rocky Mountain National Park currently has four routes where snowmobile use has been designated via a special regulation: the Summerland Park Snowmobile Trail; the North Supply Creek Access Snowmobile Trail (identified in the regulation as the Supply Creek Snowmobile Access Trail); sixteen miles of Trail Ridge Road, including both a plowed stretch from the Kawuneeche Visitor Center to the Timber Lake Trailhead (ten miles) that is also open to other motor vehicles and an unplowed stretch (six miles) from the Timber Lake Trailhead to Milner Pass (these stretches are identified as separate routes in the current special regulation for the park); and the Bowen Gulch Access Route. All of these routes are in the Colorado River District, or western portion, of the park.

Two of these routes, the Bowen Gulch Access Route and the Summerland Park Snowmobile Trail, are not now open to snowmobile use, since they have been closed by prior park action reflected in the Superintendent's compendium.

On the two designated trails that are open to snowmobile use, 28,417 snowmobiles entered the park in the winter of 1999–2000, making Rocky Mountain one of the parks with the highest levels of snowmobile use in the national park system. By contrast, 88 snowmobiles entered the park in 1967, the first year for which use figures are available. Approximately 85 percent of the current use occurs on the North Supply Creek Snowmobile Access Trail, a route of approximately two miles in length that provides snowmobile access to adjacent national forest lands. The remainder of the use occurs on Trail Ridge Road, which provides snowmobile access into the interior of the park.

This proposed rule would repeal the designations of all designated snowmobile routes in Rocky Mountain other than the North Supply Creek Access Trail.

Explanation of Rule

Repealing the designations of all routes except the North Supply Creek Access Trail is necessary to comply with the requirements of the applicable Executive Orders and NPS's general regulation on snowmobile use, 36 CFR

2.18, to protect park resources and values, and to meet park management objectives.

Repealing the designations of the Bowen Gulch Access Trail and the Summerland Park Snowmobile Trail is justified for the same reasons that snowmobile use has not been allowed on those routes since 1981 and 1997, respectively. The Bowen Gulch Access Route historically provided snowmobile access to adjacent national forest lands that were open to snowmobile use, but that adjacent use ended in 1980 when Congress designated the national forest lands as part of the Never Summer Wilderness. The Summerland Park Snowmobile Trail was closed in 1997, because its inaccessibility made the area difficult for park rangers to patrol and monitor; its use led to off-road snowmobile use in violation of NPS regulations; and its use led to incidents of trespass onto adjacent private lands.

Ending snowmobile use on Trail Ridge Road will reduce the adverse impacts of snowmobile noise on the natural soundscape of the park, on wildlife, and on other visitors to the park. Natural quiet will be restored to the area that extends from the Timber Lake Trailhead parking lot to Milner Pass. The long-term integrity of wilderness values in the Kawuneeche Valley in the vicinity of Trail Ridge Road will be protected and enhanced. The restored natural quiet will allow wildlife to exist in a more natural setting. Bighorn sheep that may have been avoiding Milner Pass during the winter because of noisy snowmobiles may return. The many visitors who come to Rocky Mountain in the winter seeking solitude, serenity, and tranquility (as documented by visitor use surveys) will have their enjoyment of the park enhanced.

Eliminating snowmobile use on Trail Ridge Road will also reduce air pollution in the interior of the park, eliminate any possible impacts to soils or vegetation from snowmobile use along this route, and eliminate emissions that settle onto the snow and get carried into the park's streams and lakes by snowmelt.

In addition, the dual use of the lower, plowed stretch of Trail Ridge Road by snowmobiles and other motor vehicles, on the same road surface, also presents safety concerns. The State of Colorado prohibits dual use by snowmobiles and other motor vehicles of the same road surface, on roads under state jurisdiction. On the lower stretch of Trail Ridge Road, the NPS has been allowing such dual use. Closing this stretch of road to snowmobile use is consistent with the state policy, and

will improve public safety. In December 1999, there was a collision between a snowmobile and a minivan, with the snowmobile sliding on the ice and striking the van.

Continuing to allow snowmobile use on the North Supply Creek Access Trail is consistent with applicable Executive Orders, the NPS's general snowmobile regulation, the protection of park resources and values, and park management considerations.

The North Supply Creek Access Trail is a two-mile trail that provides access to adjacent national forest lands that are heavily used by snowmobiles. The first 0.87 mile of the trail within the park follows a utility corridor right of way, which is open to NPS, county, and public utility vehicles, and which is maintained as a fire access road. The remaining 1.13 miles follows the Sun Valley Road, which is a county road. This snowmobile trail provides the only safe and reasonable access between the town of Grand Lake and national forest lands west of the park that contain 17 named snowmobile routes with a total length of 92.3 miles. Limiting snowmobile use in the park to the North Supply Access Trail will limit any impacts of that use (primarily any impacts from noise) to this small portion of the park (where noise is already audible from snowmobiles in use on adjacent national forest lands).

When final, this rule would become effective for the winter use season of 2002–2003. In a consolidated appropriations bill given final Congressional approval on December 15, 2000, Congress has provided that, in promulgating any new rules to reduce snowmobile use in units of the national park system, the NPS may not establish an effective date for the reductions any earlier than the winter season of 2002–2003.

Compliance With Other Laws

Regulatory Planning and Review (E.O. 12866)

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

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

Nonetheless, the NPS has prepared a draft study on the economic effects of this proposal on, among others, small businesses. "Proposed Restrictions on Snowmobile Riding in Rocky Mountain

National Park: Draft Report” (LawGibb Group, Arcadis JSA, and Research Triangle Institute, November 2000).

This draft report indicates that the proposed regulation is expected to lead to a reduction in the number of visitor days spent by snowmobilers in Rocky Mountain in the winter, as they would no longer be able to use Trail Ridge Road. There may or may not be a reduction in visitation to the gateway community of Grand Lake, Colorado, depending on (1) how many people who used to snowmobile on Trail Ridge Road will continue to come to the area to snowmobile on other routes, and (2) whether there is an increase in other winter visitors to the park who will have a more enjoyable winter experience there without snowmobile use on Trail Ridge Road.

Examining a likely range of possible reductions in winter visitation to Grand Lake, the report indicates that the total impact on businesses in Grand Lake could range from an annual decrease of \$265,800 to \$728,200 in business revenues. Approximately two-thirds of any impact will be on snowmobile rental businesses, followed by lodging (17.5 percent), restaurants and bars (9.2 percent), gas and oil, souvenirs and other retail trade, and grocery businesses.

You may obtain a copy of the draft economic report by one of several ways:—Internet: <http://www.nps.gov/romo/>—By mail: Bruce Peacock, National Park Service, 1849 C Street, NW., Room 2749, Washington, DC 20240.—By email: Bruce_Peacock@nps.gov

Public comments regarding the economic report may be submitted to Bruce Peacock at one of the addresses above.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

This rule deals specifically with Rocky Mountain National Park, which is administered solely by the NPS, and any rules regarding snowmobile use there would affect only the NPS and not other agencies.

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

There are no budgetary constraints or funding issues associated with this rulemaking at all. This rule pertains only to the recreational uses of areas within the park.

(4) This rule may raise novel legal or policy issues.

Though this rule is but a portion of the total snowmobile use within the

NPS system, the specific issue of snowmobile restrictions in any of the NPS areas has raised concerns from the public regarding policies. Generally the effect of this rulemaking would be a small percentage of change in use patterns within the park.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Nonetheless, the NPS has prepared a draft study on the economic effects of this proposal on, among others, small entities. “Proposed Restrictions on Snowmobile Riding in Rocky Mountain National Park: Draft Report” (LawGibb Group, Arcadis JSA, and Research Triangle Institute, November 2000). Small entities potentially affected will be all six snowmobile rental shops in the Grand Lake area, and all governmental jurisdictions in the area.

For snowmobile rental shops, the proposed regulation could lead to a loss of annual revenue ranging from \$159,554 to \$398,885. This represents nine to 22 percent of their estimated total winter revenue. However, there appears to be excess demand for snowmobile rentals in Grand Lake, with the rental businesses typically renting all available machines on weekends, weather permitting, and during holiday weeks. This could mean that the effects on the rental shops could be less than the ranges estimated.

The town of Grand Lake does not collect a sales and use tax on snowmobile rentals. The range in reductions in winter visitation examined in the study would lead to a decline in the town’s sales and use tax receipts from retail sales ranging between \$2,479 and \$8,430.

The NPS solicits comments on any alternative approach to the proposed regulation—such as a limitation on the number of snowmobiles that may use Trail Ridge Road, a limitation on the hours of use of such snowmobiles, a restriction on use of snowmobiles to a smaller portion of Trail Ridge Road, technical or mechanical changes to snowmobiles that could be required to reduce air and noise emissions from snowmobiles so as to enable their use on Trail Ridge Road, use fees or other market-based regulatory mechanisms, or a delay in the effective date of the regulations—that could both accomplish the objectives and fulfill the requirements of the laws, executive orders, and regulations applying to snowmobile use in the park and

minimize any possible adverse economic impact of the proposed regulation on small businesses.

Additionally, we solicit comments on the potential impacts that this rule may have on small entities. We welcome comments with information regarding the number and types of entities impacted, the specific costs that may be imposed by this rule on small entities, and whether and why these impacts may be considered significant.

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 rule has been estimated to have a potential impact on small businesses (six rental shops) from approximately \$160,000 to \$400,000 annually.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

There are not likely to be cost increases associated with this rulemaking. The potential economic effect would be a minimal loss of revenue to small businesses and tax revenue to local governments.

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 rule only pertains to recreational uses within a park unit and does not have effects on production between the United States and foreign entities.

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.

This rule poses regulatory requirements only on those visitors that choose to operate a snowmobile within Rocky Mountain National Park, and it does not require any additional expenditures of money by them. Potential impacts to local government could be in the loss of tax revenue estimated between \$2000 and \$8000 annually.

Takings (E.O. 12630)

In accordance with 12630, the rule does not have significant takings implications.

This rulemaking affects only those areas within Rocky Mountain National Park and has no effects on external ownership of lands outside the park boundary.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This rulemaking only affects users who choose to operate snowmobiles within the park. There are no obvious effects on the State of Colorado.

Civil Justice Reform (E.O. 12988)

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

Paperwork Reduction Act

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

National Environmental Policy Act

This rule does not constitute a major federal action significantly affecting the quality of the human environment. A draft Environmental Assessment has been completed. Copies of that assessment may be obtained through one of several methods.

—Internet: <http://www.nps.gov/romo/>

—By email:

romo_superintendent@nps.gov

—By mail: Superintendent, Rocky Mountain National Park, 1000 U.S. Highway 36, Estes Park, Colorado 80517.

Public comments regarding the Environmental Assessment may be submitted to Rocky Mountain National Park at one of the addresses above. Public comments will be accepted at the park through January 13, 2001.

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, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

This rulemaking would not involve any lands or resources administered by Native American Tribes. This rule only

addresses routes inside the boundaries of Rocky Mountain National Park.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, *etc.*) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? A "section" appears in body type and is preceded by the symbol "\$" and a numbered heading; for example, § 7.7 [amended]. (5) Is the description of the rule in the SUPPLEMENTARY INFORMATION section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

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

Public Participation: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the National Park Service, Ranger Activities Division, 1849 C Street, NW., Washington, DC 20240. You may also comment via the Internet to WASO_Regulations@nps.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: 1024-AC82" in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, N.W., Room 7413, Washington DC. Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address for the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous

comments. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements

Accordingly, we propose to amend Part 7 of 36 CFR 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).

§ 7.7 [Amended]

2. Revise § 7.7(e) to read as follows:

* * * * *

(e) *Snowmobiles*—(1) *On what route may I operate a snowmobile?*

Snowmobiles may be operated on the North Supply Creek Snowmobile Access Trail solely for the purpose of gaining access between national forest lands on the west side of the park and the town of Grand Lake. Use of this trail for other purposes is not permitted. This trail will be marked by signs, snow poles or other appropriate means.

(2) *When may I operate a snowmobile on the North Supply Creek Snowmobile Access Trail?* The Superintendent shall determine the opening and closing dates for use of the North Supply Creek Snowmobile Access Trail each year, taking into consideration the location of wintering wildlife, appropriate snow cover, and other factors that may relate to public safety. The Superintendent will notify the public of such dates through normal news media channels. Temporary closure of this route will be initiated through the posting of appropriate signs and/or barriers. This route will be open to snowmobile travel when it is considered to be safe for travel but not necessarily free of safety hazards. Snowmobilers may travel this route with the permission of the Superintendent, but at their own risk.

Dated: December 22, 2000.

Stephen C. Saunders,

Acting Assistant Secretary, Fish and Wildlife and Parks.

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