

**DEPARTMENT OF THE INTERIOR****National Park Service**

[NPS-IMR-YELL-12061] [PPWONRADE2, PMP00E105.YP0000]

**36 CFR Part 7**

RIN 1024-AE15

**Special Regulations; Areas of the National Park System; Yellowstone National Park; Winter Use**

**AGENCY:** National Park Service, Interior.  
**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service is proposing this rule to establish a management framework that allows the public to experience the unique winter resources and values at Yellowstone National Park. This rule includes provisions that allow greater flexibility for commercial tour operators, provide mechanisms to make the park cleaner and quieter than what has been authorized during the previous four winter seasons, reward oversnow vehicle innovations and technologies, and allow increases in visitation. It also would require snowmobiles and snowcoaches operating in the park to meet air and sound emission requirements and be accompanied by a guide.

**DATES:** Comments must be received by June 17, 2013.

Comments on the information collection requirements must be received by May 16, 2013.

**ADDRESSES:** If you wish to comment on this rule, you may submit your comments, identified by Regulation Identifier Number (RIN) 1024-AE15, by any of the following methods:

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

*Instructions:* All submissions received must include the agency name and RIN for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For additional instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the electronic docket to read comments received, go to <http://www.regulations.gov>.

Send your comments and suggestions on the information collection requirements to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-5806 (fax) or [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) (email). Please provide a copy of your comments to the Information Collection Clearance Officer, National Park Service, 1201 I Street NW., MS 1237, Washington, DC 20005 (mail); or [madonna\\_baucum@nps.gov](mailto:madonna_baucum@nps.gov) (email). Please reference OMB Control Number 1024-AE15 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Wade Vagias, Management Assistant's Office, Headquarters Building, Yellowstone National Park, 307-344-2035, or at the address listed in the **ADDRESSES** section.

**SUPPLEMENTARY INFORMATION:****Executive Summary**

This rule would establish a new and more flexible method for managing oversnow vehicle (OSV) access to the park.

Under 36 CFR 2.18(c) the use of snowmobiles is prohibited in parks unless a special regulation allowing such use is promulgated. Therefore, in order to allow OSV use for the upcoming and future winter seasons, a special regulation must be in place. This proposed rule, when finalized, will authorize snowmobile and snowcoach use under § 2.18.

Beginning with the 2014-2015 winter season, the rule would replace the former concept of a fixed maximum number of vehicles allowed in the park each day with a new, more flexible concept of transportation events. Within an allowable number of daily transportation events, commercial tour operators would have the opportunity to combine snowcoach and snowmobile trips in a way that protects park resources and provides flexibility to respond to fluctuations in visitation demand. By relying upon user demand to determine the best mix of OSV use and focusing on the impacts of OSV use upon park resources, the transportation event concept strikes a common-sense balance between allowing adequate access and protecting park resources. This rule would also require snowmobiles and snowcoaches to meet new sound and air emissions standards, established by the National Park Service (NPS) under the authority granted by the NPS Organic Act (16 U.S.C. 1), which authorizes the Secretary of the

Interior to "promote and regulate" the use of national parks.

The new approach would allow commercial tour operators to exchange transportation event allocations within the same entrance, adjust the proportion of snowcoaches or snowmobiles in the park each day, increase the size of snowmobile groups to meet demand on peak days, and increase the vehicle group size per transportation event if voluntary enhanced emission standards are met.

Some specific changes in the proposed rule include:

- A transportation event would initially equal one group of snowmobiles (maximum group size of 10, average of 7 over the winter season) or one snowcoach. The group size of transportation events may increase from a seasonal average of 7 to 8 for snowmobiles and from a maximum of 1 to 2 for snowcoaches, not to exceed a seasonal average of 1.5 snowcoaches, if commercial tour operators use vehicles that meet voluntary enhanced emission standards. This encourages the adoption of improved OSV innovations and technologies.

- Up to 110 total transportation events would be authorized each day. Commercial tour operators would decide whether to use their daily allocation for snowmobiles or snowcoaches, but no more than 50 transportation events each day could come from snowmobiles.

- OSV use would continue to be 100% guided. For snowmobiles, up to 46 transportation events would be commercially guided. Four non-commercially guided snowmobile transportation events of up to 5 snowmobiles per group would also be permitted daily, one from each park entrance.

- Sound and air emission requirements for snowmobiles would continue unchanged until the 2017-2018 winter season, when the maximum allowable sound and carbon monoxide (CO) emissions would be lowered.

- Sound and air emission requirements would also begin in the 2017-2018 winter season for existing snowcoaches, and would apply to all new snowcoaches brought into service starting in the 2014-2015 winter season.

**Background**

The National Park Service (NPS) has been managing winter use in Yellowstone National Park for several decades. A detailed history of the winter use issue, past planning efforts, and litigation is provided in the background section of the 2013 Final Winter Use Plan/Supplemental Environmental

Impact Statement (final SEIS), available online at <http://parkplanning.nps.gov/yell>, by clicking on the link entitled “2012/2013 Supplemental Winter Use Plan EIS,” and then clicking on the link entitled “Document List.” Additional information about the history of winter use at Yellowstone National Park is available online at <http://www.nps.gov/yell/planyourvisit/winteruse.htm>.

The park has most recently operated under an interim winter use rule that was originally in effect for the 2009–2010 and 2010–2011 winter seasons. The interim rule allowed up to 318 commercially guided snowmobiles and 78 commercially guided snowcoaches in the park per day. In November 2011, the NPS released a Winter Use Plan/Final Environmental Impact Statement (FEIS) with a preferred alternative. Under this alternative, the park would operate under the interim rule for one additional season. In December 2011, a Record of Decision (ROD) and final rule (76 FR 77131) were issued, implementing this one-year portion of the preferred alternative and extending the interim rule for the 2011–2012 winter season. This rule expired by its own terms on March 15, 2012.

On June 29, 2012, the NPS released a Draft Winter Use Plan/Supplemental Environmental Impact Statement (draft SEIS) and published a Notice of Availability in the **Federal Register** (77 FR 38824). Public comment on the draft SEIS closed on August 20, 2012. The response from the public and stakeholders was robust. A majority of the substantive comments addressed the proposal in the draft SEIS’s preferred alternative to manage snowmobiles and snowcoaches by transportation events. Numerous commenters requested additional time to consider this new management concept and to respond substantively to it. Accordingly, the NPS decided to reopen public comment on the draft SEIS for an additional 30 days. Mindful of the short amount of time left before the opening of the 2012–2013 winter season on December 15, 2012, and desiring to take the time necessary to make a reasoned long-term decision on winter use, the NPS decided to amend the December 2011 ROD and extend the interim rule for an additional year. On December 12, 2012, the NPS published a Notice of Availability of Amended Record of Decision for the FEIS (77 FR 74027) and a final rule (77 FR 73919) extending the 2011–2012 daily entry limits and operating requirements for one additional winter season.

With publication of this proposed rule, the NPS is soliciting public

comment on a long-term rule for winter use in Yellowstone National Park. Implementing a long-term winter use rule will create a stable regulatory environment for snowmobile and snowcoach commercial tour operators, many of which are small businesses in the communities surrounding the park. A long-term rule will allow these businesses to make prudent decisions and capital investments, such as investing in new vehicles for their fleets, offering employment to area residents, preparing advertising and marketing materials, and purchasing equipment and accessories such as snowcoaches, snowmobiles, snowmobile suits, helmets, and boots. A long-term rule will also provide certainty to visitors, allowing them to make advance plans to visit the park, and would ensure that park resources are protected.

#### **Final SEIS and the Preferred Alternative**

The final SEIS analyzed the issues and environmental impacts of four alternatives for the management of winter use in the park. Major issues analyzed in the final SEIS include social and economic issues, human health and safety, wildlife, air quality, natural soundscapes, visitor use and experience, and park operations. Impacts associated with each of the alternatives are detailed in the final SEIS, which is available online at <http://parkplanning.nps.gov/yell>, by clicking on the link entitled “2012/2013 Supplemental Winter Use Plan EIS” and then clicking on the link entitled “Document List.”

Alternative 1, the no-action alternative, would prohibit public OSV use in Yellowstone but would allow for approved non-motorized use to continue. Alternative 1 has been identified as the environmentally preferable alternative. Alternative 2 would manage OSV use at the same levels as the interim rule (318 commercially guided snowmobiles and 78 snowcoaches per day). Alternative 3 would initially allow for the same level of use as Alternative 2 (318 snowmobiles and 78 snowcoaches per day) but would transition to allowing only snowcoaches over a 3-year period beginning in the 2017–2018 winter season. Upon completing the transition, there would be zero snowmobiles and up to 120 snowcoaches per day in the park. The final SEIS also describes several other alternatives that were considered but eliminated from further study.

The final SEIS identified Alternative 4 as the preferred alternative, which this

rule proposes to implement. This alternative provides for motorized winter use while protecting park resources. Traveling through the park on snowmobiles and snowcoaches allows visitors to experience and access the park’s unique and stunning winter landscape and access areas that cannot be reached using non-motorized means of transportation. The NPS believes that, through proper management, motorized winter use is an appropriate activity in the park.

The preferred alternative:

- Manages OSV use by transportation events, prescribes air and sound emission requirements, and continues the 100% guiding requirement to help ensure that the purpose and need for the final SEIS are met. This will allow for increases in visitation while making the park cleaner and quieter than what has been allowed under the interim rule.

- Requires snowmobiles and snowcoaches to meet new air and sound emission requirements and encourages commercial tour operators to meet voluntary enhanced emission standards by adopting improved vehicle innovations and technologies.

- Contains market-based elements that give commercial tour operators greater flexibility to respond to fluctuations in visitation demand across the 91-day winter season. The rule allows commercial tour operators to exchange transportation event allocations within the same entrance, adjust the proportion of snowcoaches or snowmobiles in the park each day (a transportation event could be used for either snowmobiles or snowcoaches, but no more than 50 transportation events each day could come from snowmobiles), increase the size of snowmobile groups on peak days, and increase the size of transportation events if voluntary enhanced emission standards are met.

- Demonstrates the NPS commitment to monitor winter use and to use the results to adjust the winter use OSV management program. The results of past monitoring, including data regarding air quality, wildlife, soundscapes, and health and safety, were used in formulating the alternatives in the final SEIS.

- Applies the lessons of the last several winters, which demonstrate, among other things, that requiring all snowmobile and snowcoach trips to be guided reduces accidents and law enforcement incidents, and offers the best opportunity for achieving goals of protecting park resources and allowing balanced use of the park.

### Summary of the Proposed Rule

Snowmobile and snowcoach use at Yellowstone National Park is referred to as oversnow vehicle or OSV use. The proposed rule is similar in many respects to plans and rules that have been in effect for the last eight winter seasons. Thus, many of the regulations regarding operating conditions, designated routes, and restricted hours of operation are similar to regulations enforced by the NPS for nearly a decade. One notable difference is a new proposal in this rule to manage OSV use by transportation events instead of placing strict limits on the number of OSVs allowed in the park on any day.

Managing OSV use by transportation events gives snowcoach and snowmobile commercial tour operators greater flexibility, allows for higher numbers of visitors, and is designed to make the park cleaner and quieter than what has been authorized during the previous four winter seasons. Under the proposed rule, up to 110 transportation events would be allowed in the park on any day during the winter season. A transportation event would consist of one snowcoach or a group of snowmobiles (seasonal average of 7 snowmobiles per group; individual groups could not exceed a maximum of 10 snowmobiles) travelling together within the park. Commercial tour operators would be able to decide whether to use their allocation of transportation events for snowmobiles or snowcoaches, but no more than 50 transportation events may come from snowmobiles on any day. Incentives based upon voluntary enhanced emission standards would allow the size of a transportation event to increase from 1 to 2 snowcoaches per event, not to exceed a seasonal average of 1.5 snowcoaches per event, and from a seasonal average of 7 to 8 snowmobiles per event.

The NPS is also proposing changes to air and sound emission requirements for OSVs as part of the proposed rule, in order to reduce impacts on park resources and help ensure the impacts from snowmobile and snowcoach transportation events are comparable. Managing OSV use by transportation events represents a shift from an approach focused on the number of vehicles allowed in the park to an approach focused on the impacts of those vehicles upon park resources. The NPS believes this would:

- Result in a cleaner and quieter park than what has been allowed under the previous four winter seasons, enhance visitor experience, and permit growth in

the number of visitors able to experience the park;

- Allow for greater flexibility for commercial tour operators;
- Reward OSV innovations, adoption of new technologies, and commitment to lowering impacts from OSVs;
- Create more extended periods of limited or no OSV-related impacts; and
- Potentially result in an increase in vehicles and visitors without increasing impacts on the park.

Another notable difference in the proposed rule concerns guiding requirements for snowmobiles. Although the proposed rule maintains the existing requirement that all snowmobile trips be guided, it reserves four snowmobile transportation events each day for groups of non-commercially guided snowmobiles. All snowmobile operators taking part in a non-commercially guided trip would be required to comply with requirements under a Non-commercially Guided Snowmobile Access Program to be developed by the park before the start of the 2014–2015 winter season.

### Phased Transition to New Management Paradigm

The new management paradigm under the proposed rule would be phased in over five winter seasons to provide the park and commercial tour operators sufficient time to adjust to the new emission requirements and the management of OSVs by transportation events. The NPS specifically seeks comment on this phased transition to the new management paradigm and whether the proposed implantation schedule for the new emission requirements provides snowmobile manufacturers and commercial tour operators sufficient time to respond, or if the implementation schedule could be accelerated as described following the air and sound emission requirements that are discussed later in this rule.

#### *Phase One (2013–2014 Season)*

A one-season transition period to prepare for the implementation of the new winter use plan would be in place for the 2013–2014 winter season to allow commercial tour operators sufficient time to prepare for the proposed shift to management by transportation events. During this transition period, provisions of the 2012–2013 interim plan would be extended, allowing up to 318 snowmobiles and 78 snowcoaches per day for the first year of the new plan only.

#### *Phase Two (2014–2015 Through 2016–2017 Seasons)*

Starting in the 2014–2015 winter season, the park would begin managing OSV use by transportation events instead of daily limits. Sound and air emission requirements would apply to all new snowcoaches brought into service starting in the 2014–2015 winter season.

In response to public comments on the draft SEIS that the NPS should not increase the number of snowmobiles allowed in the park before the new air and sound emission standards are required, the average size of commercially guided snowmobile transportation events for Phase Two (the next three winter seasons, 2014–2015 through the 2016–2017 winter season) may not exceed 7 snowmobiles, averaged daily (i.e., a maximum of 322 commercially guided snowmobiles in the park per day, and an additional 4 non-commercially guided transportation events per day not to exceed 5 snowmobiles each, a maximum of 342 snowmobiles in total). This limit would apply to any snowmobile transportation event that includes a snowmobile that does not meet the new air or sound emission requirements that would apply to all snowmobiles beginning in the 2017–2018 season. Commercial tour operators would be allowed to have up to 10 snowmobiles per single event, provided the average daily event size was 7 or less. For example, a commercial tour operator that is allocated 3 snowmobile transportation events per day could meet the daily average requirement through a combination of 3 snowmobile transportation events of 7 snowmobiles each, or 2 snowmobile transportation events of 8 snowmobiles each and 1 transportation event of 5 snowmobiles.

However, if commercial tour operators voluntarily upgrade their fleets to meet the new air and sound emission standards during the 2014–2015, 2015–2016, or 2016–2017 winter seasons (before these limits become mandatory in the 2017–2018 season), their group sizes will be more flexible. The average group size for commercially guided snowmobile transportation events consisting entirely of snowmobiles meeting the new air and sound emission requirements would be averaged seasonally (instead of daily), which allows greater flexibility in daily group sizes. A group still could not exceed the maximum group size of 10 snowmobiles. For example, a commercial tour operator that is allocated 3 snowmobile transportation events per day may have 3 groups of up

to 10 snowmobiles each in a single day, provided there are smaller groups on other days during the winter season that bring the seasonal average group size to 7 or less. This would encourage voluntary early adoption of improved vehicle technologies that meet the new air and sound emission requirements, and would help ensure that impacts to park resources during the 2014–2015 through 2016–2017 winter seasons are minimized.

#### *Phase Three (2017–2018 Season and Beyond)*

Starting with the 2017–2018 winter season, the proposed rule would implement all elements of the new management paradigm, including a requirement that all OSVs, including vehicles that had been operating in the park during prior seasons, meet the new air and sound emission requirements.

#### *Voluntary Enhanced BAT Upgrade*

In addition to the above opportunities and requirements, the proposed rule offers operators an opportunity to voluntarily upgrade their fleets further and receive an additional OSV per transportation event. As of December 15, 2014, commercial tour operators may voluntarily upgrade their fleets to meet enhanced air and sound emission standards that are more stringent than the new 2017–2018 season air and sound emission requirements described above. If these voluntary enhanced standards are met, the size of a transportation event for that commercial tour operator may increase from a seasonal average of 7 to 8 snowmobiles per event and from 1 to 2 snowcoaches per event, not to exceed a seasonal average of 1.5 snowcoaches per event.

#### **Monitoring Will Continue**

As part of the park's adaptive management program for winter use, monitoring of winter visitor use and park resources would continue under this proposal. The park may take adaptive management actions, including the closure of selected areas of the park or sections of roads, if monitoring indicates that human presence or activities have a substantial effect that cannot be mitigated on wildlife or other park resources. A list of adaptive management actions that may be taken by the park is provided in Appendix D to the final SEIS. The NPS would provide public notice before any closure would be implemented under one or more of the methods listed in 36 CFR 1.7(a). The Superintendent would continue to have the authority under either this rule or 36 CFR 1.5 to take

emergency actions to protect park resources or values.

#### **Air Emission Requirements**

##### *Snowmobiles*

The proposed rule retains the requirement from previous winter use plans that all recreational snowmobiles comply with air emission standards. While the past 7 years of monitoring has shown that air quality has improved following implementation of air emissions standards for snowmobiles, the NPS believes that implementation of new air emission standards for snowmobiles and snowcoaches would improve air quality in the world's first national park (a designated Class I area under the Clean Air Act) even further, and will help ensure the impact of a snowmobile transportation event and a snowcoach transportation event to air quality are comparable. The NPS believes that snowmobile and snowcoach commercial tour operators can meet the air emission requirements in the proposed rule through the typical turnover of their fleets and that the technology to meet the new air emission standards for both types of OSVs is currently available in the commercial marketplace. One snowmobile manufacturer currently produces 23 different snowmobile models (across three model years, 2011–2013) that meet the new air emission standards. However, the NPS specifically seeks comment on the likelihood of other manufacturers producing OSVs that meet the new air emission requirements by the proposed deadline, and any significant additional costs for commercial tour operators to update their fleets with compliant vehicles. The NPS also seeks comments from industry and other knowledgeable parties regarding the implementation schedule for the new emission requirements and if the schedule could be accelerated.

Air and sound emission requirements for snowmobiles and snowcoaches in Yellowstone National Park are park entrance requirements. The restrictions on air and sound emissions in this rule are not restrictions on what manufacturers may produce, but instead are end-use restrictions on which commercially produced snowmobiles and snowcoaches may be used in the park. 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.” These requirements are not to be confused with Environmental Protection Agency (EPA) emission standards for these vehicles. The exercise of the NPS Organic Act authority is not an effort by the NPS to regulate manufacturers and is consistent with Section 310 of the Clean Air Act (42 U.S.C. 7610).

During the late 1990s, when an average of 795 snowmobiles entered the park each day, elevated levels of carbon monoxide (CO), particulate matter (PM), and hydrocarbons (HC) were detected. To mitigate these emissions, the NPS implemented snowmobile air emission requirements beginning in 2004 that called for emission levels no greater than 120 grams per kilowatt hour (g/kW-hr) of CO and 15 g/kW-hr for HC. There are no emission requirements for PM because monitoring over the past several winter seasons has indicated that PM levels are extremely low and therefore are not an issue of concern at this time. The NPS proposes to maintain the existing air emission requirements through the 2016–2017 season, and then lower the emission standard for CO to 90 g/kW-hr beginning with the 2017–2018 season. However, the NPS specifically seeks comment on the likelihood of snowmobile manufacturers producing vehicles that meet the new air emission requirements by the proposed deadlines, and any significant additional costs for commercial tour operators to update their fleets with compliant vehicles. The NPS also seeks comments from industry and other knowledgeable parties regarding the implementation schedule for the new emission requirements and if the schedule could be accelerated.

The requirements in place since December 2004 have significantly reduced CO, PM, and HC emissions. As compared to EPA baseline emissions assumptions for conventional two-stroke snowmobiles, the NPS air emission requirements have achieved a 70% reduction in CO and a 90% reduction in HC. Daily use limits and guiding (which helps assure use of NPS-certified snowmobiles and keeps idling to a minimum) have also improved air quality in the park.

All new snowmobiles manufactured for sale in the United States must be certified to EPA's emission standards. The NPS encourages each snowmobile

manufacturer to demonstrate that its snowmobile(s) will meet the NPS air emission requirements by submitting to the NPS a copy of their EPA applications (which include the engine's Family Emissions Limits, i.e., the emission levels a given snowmobile is certified as meeting) used to demonstrate compliance with EPA's snowmobile emission regulation at the same time they submit the application to EPA. The NPS would accept the application and information from a manufacturer, while review and certification by EPA is pending, in support of the NPS conditionally certifying a snowmobile as meeting the NPS's emission requirements. Should EPA certify the snowmobile at emissions levels that would no longer meet the NPS requirements, this snowmobile would no longer be considered NPS-compliant and its use in the park would be prohibited or phased out according to a schedule determined by the NPS. If the NPS does not receive a request for conditional certification, the NPS will rely on the emission levels determined and certified by EPA to determine if a NPS/ Yellowstone certification is warranted.

A snowmobile that has been modified from the manufactured design may increase emissions of HC and CO to greater than the proposed emission restrictions and therefore would not be allowed to enter the park. It would be the responsibility of the commercial tour operator and guide to ensure that a snowmobile complies with all applicable restrictions. A snowmobile may be subject to periodic and unannounced inspections to measure tailpipe air emissions. To the extent possible, the NPS will conduct snowmobile inspections when it is mutually convenient for the commercial tour operator and the NPS.

Snowmobiles operating on the Cave Falls Road, which extends approximately 1 mile into the park from the adjacent Caribou-Targhee National Forest, would continue to be exempt from the air-emission requirements. The Cave Falls Road does not connect to other park roads and snowmobile use on this road is independent of the other oversnow routes in the park.

#### *Snowcoaches*

Under concessions contracts issued in 2003, 78 snowcoaches are currently authorized to operate in the park. Approximately 21 of these snowcoaches, known in the park as "historic snowcoaches," were manufactured by Bombardier before 1983 and designed specifically for oversnow travel. These historic

snowcoaches, and several late-model snowcoaches also designed specifically for oversnow travel, are considered purpose-built snowcoaches. All other snowcoaches are passenger vans, sport utility vehicles, or light- or medium-duty buses that have been converted for oversnow travel using tracks or skis. The conditions and requirements applicable to snowcoaches under the proposed rule apply to both purpose-built snowcoaches and snowcoaches converted from other types of vehicles.

In 2004, EPA began phasing in new and cleaner emissions standards for light-duty vehicles, light-duty trucks, and medium-duty passenger vehicles, and in 2008 for heavy duty spark and compression ignition vehicles (the vehicle classes most converted snowcoaches meet). These standards are called Tier 2 (for lighter-duty vehicles) or "engine configuration certified" (for heavier duty, diesel vehicles). Implementation of these standards was completed in 2010 (65 FR 6698, February 10, 2000).

The proposed rule would require that diesel-fueled snowcoaches with a gross vehicle weight rating (GVWR) less than 8,500 pounds meet the functional equivalent of 2010 (or newer) EPA Tier 2 Model Year engine and emission control technology requirements. This includes items such as engine control module (ECM) computers, onboard diagnostics system (OBD), sensors, and exhaust after-treatment equipment that is standard original equipment manufacturer (OEM) equipment included with on-road vehicles or engines. Diesel-powered snowcoaches must also be equipped with applicable ceramic particulate filters and afterburners.

A diesel-fueled snowcoach with a GVWR of 8,500 pounds or more would need to comply with EPA model year 2010 "engine configuration certified" diesel air emission standards. However, if the diesel snowcoach has a GVWR between 8,500 and 10,000 pounds, there may be a configuration that meets the functional equivalent of 2010 (or newer) EPA Tier 2 Model Year technology standards for an on-road vehicle that would achieve the best results from an emissions perspective. This particular type of configuration would require review and approval by the NPS.

The proposed rule would require that all gasoline-fueled snowcoaches greater than 10,000 GVWR meet the functional equivalent of 2008 (or newer) EPA Tier 2 Model Year engine emission control technology requirements. This includes items such as ECM computers, OBD, sensors, and exhaust after-treatment equipment that is standard OEM

equipment included with on-road vehicles or engines. The proposed rule would require that all gasoline-fueled snowcoaches less than 10,000 GVWR meet the functional equivalent of 2007 (or newer) EPA Tier 2 Model Year engine emission control technology requirements.

The NPS recognizes that some existing snowcoaches will likely need to be replaced or retrofitted with new engines and emissions equipment to comply with these air emission requirements. The NPS believes that this can be accomplished through the typical turnover of snowcoach fleets. As a result, these requirements would apply to existing snowcoaches beginning in the 2017–2018 winter season, and to new snowcoaches put into service beginning in the 2014–2015 winter season. The NPS specifically seeks comment on whether the proposed implantation schedule to the new air emission requirements for snowcoaches provides commercial tour operators sufficient time to meet the new requirements or if the implementation schedule could be accelerated. The NPS notes that the technology to meet the new air emission standards for snowcoaches is currently available in the commercial marketplace and is based upon the Environmental Protection Agency's Tier II emission standard, and at least 18 of the 78 snowcoaches in the commercial fleet already meet the new air emission requirement.

To ensure compliance with EPA air emission standards, all emission-related exhaust components must be installed and functioning properly. Malfunctioning emissions-related components must be replaced with the OEM components where possible. If new or functional used OEM parts are not available, aftermarket parts may be used. Catalysts that have exceeded their useful life must be replaced unless the commercial tour operator can demonstrate that the catalyst is functioning properly. Operating a snowcoach that has its original pollution control equipment modified or disabled would be prohibited.

A snowcoach may be subject to periodic and unannounced inspections to determine compliance with emission requirements. To the extent possible, the NPS will conduct snowcoach inspections when it is mutually convenient for the commercial tour operator and the NPS. This could include off-hours, on days the snowcoach is not being used to support concessions operations, or during the snowcoach 'testing days' held annually in the park prior to the first day of the

winter season. The NPS specifically seeks comment on these ideas and other means and mechanisms for carrying out periodic snowcoach inspections that will minimize potential burdens on commercial tour operators.

The University of Denver (in 2005 and 2006) and North Carolina State University (in 2012) collected emissions data from various snowcoaches. Results indicated that snowcoaches could be modernized to reduce CO and HC emissions. These studies found that in general, newer snowcoaches are cleaner than older models and have emission controls that reduce tailpipe pollutants. By implementing air emission requirements for snowcoaches that call for newer engine and emission controls, the NPS expects continued improvements in the park's air quality.

### Sound Emission Requirements

#### *Snowmobiles*

Through March 15, 2017, sound restrictions would continue to require a snowmobile to operate at or below 73 decibels while at full throttle, as measured using the A scale (dB(A)) according to the 1985 version of the Society of Automotive Engineers (SAE) J192 test procedures. Beginning with the 2017–2018 winter season, the maximum decibel level allowed for snowmobiles would be reduced to 67 dB(A) according to the applicable (as of November 1, 2013) version of SAE J1161 test procedures. The SAE J1161 test procedures allow for a tolerance of 2 dB(A) over the sound level limit to provide for variations in test sites, temperature gradients, wind velocity gradients, test equipment, and inherent differences in nominally identical vehicles. To operate in the park after March 15, 2015, a population of measurements for a snowmobile model may not exceed a mean output of 67 dB(A), and a single measurement may not exceed 69 dB(A), using the J1161 test procedures.

Because the current NPS sound emission requirements were established using a slightly modified version of the 1985 J192 test procedures (as a result of information provided by industry and modeling), the park would initially continue to use the 1985 test procedures to be consistent with these existing requirements. This rule proposes to transition to the SAE J1161 test procedures for all snowmobiles seeking to demonstrate compliance with the new sound emission requirement of 67 dB(A). As a result, in the 2017–2018 winter season, the mean dB(A) output of a snowmobile must not exceed 67 dB(A) using the J1161 test procedures to

demonstrate voluntary early compliance with the new sound emission requirements, but a snowmobile may still operate in the park if its mean dB(A) output does not exceed 73 dB(A) using the J192 test procedures.

The SAE J1161 test procedures would be modified from the current 15 mph steady throttle (cruising speed) to the typical cruising speed of snowmobiles in Yellowstone (approximately 35 mph), consistent with OSV noise emissions tests conducted by the John A. Volpe National Transportation Systems Center, U.S. Department of Transportation, in 2008 and 2009.

To provide certainty to the commercial tour operators and the park, the NPS would identify the version of the SAE J1161 test procedures in place on November 1, 2013, as the version that would apply beginning in the 2017–2018 season. This would give the NPS and industry sufficient time to test snowmobiles that are in development and production well ahead of the 2017–2018 winter season. This rule proposes that the Superintendent may periodically update testing procedures based upon new information or updates to SAE J1161 standards and procedures. To provide certainty to commercial tour operators, the Superintendent would not require certification under an updated version of J1161 test procedures that is adopted by SAE less than 2 years prior to the start of any winter season.

In past rules, the NPS has allowed an exception to the barometric pressure requirements of the SAE J192 procedures to determine if a snowmobile meets sound emission requirements. With the adoption of SAE J1161 test procedures for snowmobiles meeting the new sound emission requirements, the NPS believes it would be an appropriate time to bring all aspects of testing into conformance with the SAE J1161 procedures.

Accordingly, for the first four winters of implementation of this rule (2013–2014 through 2016–2017), snowmobiles that do not meet the new sound emission requirements 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 continues the exception to the 1985 SAE J192 test procedures, which require barometric pressure between 27.5 and 30.5 inches Hg. This exception maintains consistency with the testing conditions previously used to determine compliance with the sound emissions requirement. The reduced barometric pressure allowance was necessary since snowmobiles were tested at the high elevation of the park, where

atmospheric pressure is lower than the SAE J192's requirements. Testing data indicate that snowmobiles test quieter at higher elevations, and therefore may be able to pass this test at higher elevations but fail when tests are conducted near sea level. In order to demonstrate compliance with the new sound emission standard of 67dB(A), which is voluntary prior to December 15, 2017, but mandatory thereafter, snowmobiles must comply with the requirements of the applicable (as of November 1, 2013) SAE J1161 test procedures with no barometric pressure (high altitude) exception. The SAE J1161 test procedures require barometric pressure between 27.5 and 30.5 inches Hg.

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, snowmobile models are certified by an independent testing company as complying with all SSCC safety standards, including sound standards. In order to certify a snowmobile model for use in Yellowstone National Park, the SSCC form must certify that a population of measurements for that model does not exceed the maximum mean dB(A) values required by the proposed rule. The proposed rule would not require the SSCC form specifically, as there could be other acceptable documentation in the future. The NPS intends to work cooperatively with the snowmobile manufacturers on appropriate documentation. Other certification methods could be approved by the NPS on a case-by-case basis.

The NPS is specifically seeking comment on the merits of changing how snowmobiles are noise emission tested from the SAE J192 test procedures to the modified SAE J1161 test procedures, and setting the maximum allowable decibel level for snowmobiles to 67 dB(A) under the SAE J1161 test procedures beginning in the 2017–2018 winter season. The SAE J1161 test procedures measure the sound output of snowmobiles at cruising speed. In contrast, the SAE J192 test procedures are designed to measure the maximum sound output of a snowmobile. The NPS proposes to switch to the J1161 test procedures for several reasons. The J1161 test procedures are more representative of actual operating conditions in the park, where operating snowmobiles at full throttle (as measured by the J192 test procedures) is a rare event. Compliance with the J1161 test procedures is also easier to monitor because park personnel would be able to spot-check the sound output of

snowmobiles as they travel through the park at cruising speed. In contrast, the J192 test procedures require the construction of artificial testing conditions to measure maximum sound output. Also, using the J1161 test procedures for snowmobiles makes it easier for the park to accurately compare the sound output of snowmobiles with the sound output of snowcoaches, which would also be measured using the J1161 test procedures. The NPS specifically seeks comment on the merits of this proposal and welcomes input of industry and other knowledgeable parties on current noise pollution control measures across the snowmobile industry and research and development concerning improvements in noise measurement and control measures. The NPS will evaluate information submitted by industry and other knowledgeable parties in determining how to best achieve noise pollution control and protection in the park.

Because modifications made to an individual snowmobile may increase sound emissions beyond the proposed emission restrictions, individual snowmobiles that have been modified would be denied entry to the park. It would be the responsibility of the commercial tour operator and guide to ensure that a snowmobile complies with all applicable restrictions.

Snowmobiles being operated on the Cave Falls Road would continue to be exempt from the sound emission requirements.

#### **Snowcoaches**

As of December 15, 2017, the proposed rule would require that the mean dB(A) output of snowcoaches in Yellowstone National Park not exceed 75 dB(A) when measured by operating the snowcoach at typical cruising speed for the test cycle following the SAE J1161 test procedures. Since there are no testing standards specific to the snowcoach industry, snowcoach measurements for sound are based on emissions testing conducted using SAE J1161 test procedures.

The NPS believes that commercial tour operators can meet the updated snowmobile and new snowcoach sound emission requirements in the proposed rule through the typical turnover of their fleets, as opposed to prematurely removing vehicles from service. However, the NPS specifically seeks comment on the likelihood of OSVs being available that meet the new sound emission requirements by the proposed deadlines, and any significant additional costs associated with complying with these new

requirements. The NPS also seeks comment on whether the implantation schedule to the new sound emission requirements for snowcoaches could be accelerated. The NPS notes that the technology to meet the new sound emission standards for snowcoaches is currently available in the commercial marketplace that at least 17 of the 78 snowcoaches in the commercial fleet already meet the new sound emission requirement.

#### **Alternative Accelerated Emission Implementation: Comments Requested**

The NPS believes that given existing and demonstrated OSV technology, an accelerated schedule to implement new air and sound emission requirements is reasonable and achievable. The NPS suggests as an alternative to the schedule proposed by this rule that: by the 2015–2016 winter season (rather than the proposed 2017–2018 winter season), the NPS should require all snowmobiles operating in the park to meet the new air and sound emission requirements; and, by the 2016–2017 winter season (rather than the proposed 2017–2018 winter season), the NPS should require all existing snowcoaches operating in the park to meet the new air and sound emission requirements. The NPS believes that this alternative, accelerated, but staggered implementation schedule, which recognizes the higher capital cost of investing in snowcoach engines and exhaust equipment and the fact that commercial tour operators replace snowmobile fleets more frequently than snowcoach fleets, is reasonably achievable. The NPS notes that the technology to meet the new air and sound emission standards for snowcoaches is currently available in the commercial marketplace, that at least 17 of the 78 snowcoaches in the commercial fleet already meet the new sound emission requirement, and as many as 18 of the 78 snowcoaches in the commercial fleet already meet the new air emission requirement. For snowmobiles, the NPS notes that one snowmobile manufacturer currently produces 23 different snowmobile models (across three model years, 2011–2013) that meet the new air emission standards. Therefore, the NPS invites comments on this alternative from industry and other knowledgeable and interested parties.

#### **NPS Will Continue To Certify Snowmobiles and Snowcoaches**

An NPS-certified OSV would be a vehicle that has been approved by the NPS for use in Yellowstone National Park by demonstrating that it meets the

air and sound emission requirements in this proposed rule. The Superintendent would maintain and annually publish a list of approved snowmobiles by make, model, and year of manufacture that meet NPS requirements. For the winter of 2012–2013, the NPS certified 77 different snowmobile models (from model years 2008–2013, and various manufacturers) as meeting the requirements. When certifying a new snowmobile as meeting NPS requirements, the NPS would also publish how long the certification applies, which would be 6 consecutive winter seasons following its manufacture or until the snowmobile travels 6,000 miles, whichever occurs later. Based on NPS experience, six years or 6,000 miles represents the typical useful life of a snowmobile, and thus provides a purchaser with a reasonable length of time when operation may be allowed within the park. The NPS invites comments on this proposal.

The NPS would also maintain a list of approved snowcoaches that meet the air and sound emissions requirements. Once approved, a snowcoach may operate in the park through the winter season that begins no more than 10 years following its engine manufacture date. To continue to operate in the park during future winter seasons, a snowcoach must be retrofitted with a new engine and emissions equipment to meet existing EPA Tier 2 engine and emission requirements, and re-certified for air and sound emissions. The 10-year clause provides a mechanism to ensure that the least polluting snowcoaches are used in the park and reflects the concept that over time, the efficiency of engines and exhaust emission control systems degrade due to wear and tear. In consultations with the Environmental Protection Agency, it was determined that after 10 years of use, snowcoach engines would emit more pollution than when they first entered service such that they should be replaced. For example, a snowcoach with a model year 2010 engine could operate through the 2020–2021 winter season and would cease to be allowed to operate in the park as of March 15, 2021, if it is not retrofitted with a new engine and re-tested. A snowcoach with a model year 2007 engine could operate through the 2017–2018 winter season and would cease to be allowed to operate in the park as of March 15, 2018, if it is not retrofitted with a new engine and re-tested. A snowcoach with a model year 2006 or earlier engine manufacture date would need to be retrofitted with upgraded engine and

emissions control equipment prior to the start of the 2017–2018 winter season. Because of the large investment in individual snowcoaches, the NPS believes that a 10-year certification period is appropriate. The NPS specifically seeks comments regarding the economic impacts of a 10-year certification period and mandatory retrofit and whether such a requirement is necessary if snowcoaches can demonstrate compliance with current EPA Tier 2 requirements at the end of the 10 year period.

Once the new air and sound emission requirements apply, all snowmobiles and snowcoaches would be required to meet them in order to enter the park. This would include snowmobiles that meet current air and sound emission requirements but do not meet the new requirements, even if they were certified for periods that extend beyond the 2017–2018 season.

#### **Use of Guides Would Still Be Required**

To mitigate impacts to wildlife, air quality, natural soundscapes, and visitor and employee safety, the NPS is proposing to continue the requirement that all recreational OSVs operating in the park be accompanied by a guide, except for those operating on the segment of the Cave Falls Road that extends 1 mile into the park from the adjacent national forest. The park would continue to prohibit unguided snowmobile access.

Since the winter of 2004–2005, all snowmobiles and snowcoaches have been led by commercial guides. Commercial guides are employed by commercial tour operators, not by the NPS. Guides have proven effective at keeping groups under speed limits, staying on the groomed road surfaces, reducing conflicts with wildlife, and ensuring other behaviors that are appropriate for visitors to safely and responsibly visit the park. Since implementation of the 100% guiding requirement in December 2004, Yellowstone has observed a pronounced reduction in the number of accidents and law enforcement incidents associated with the use of OSVs, even when accounting for the reduced number of snowmobilers relative to pre-guided use levels.

#### **Non-Commercial Guides Would Be Allowed**

In a change from the provisions that have governed OSV use since December 2004, the proposed rule would allow 4 snowmobile transportation events per day of not more than 5 snowmobiles each (including the non-commercial guide) to be led through the park by a

non-commercial guide. Each entrance would be allocated 1 non-commercially guided transportation event each day.

Non-commercial guides and the snowmobile operators taking part in non-commercially guided transportation events would be required to comply with certification requirements under a Non-commercially Guided Snowmobile Access Program to be developed and implemented by the park. The certification process would emphasize park rules and regulations, park values and environmental education, required documentation (i.e., documentation of course completion, a special park use entrance permit, valid motor vehicle driver's license, and snowmobile registration and insurance), safety and proper procedures when encountering wildlife and other visitors, safety and emergency protocol, accident causes and mitigation techniques, road conditions, snowmobile operations, and mechanical repair. Educational components of the program would be reinforced during an onsite orientation session on the day of the trip.

To participate in this program, non-commercial guides and snowmobile operators would be required to obtain and possess an entry permit authorizing a non-commercial snowmobile transportation event. These permits would be issued under the Non-commercially Guided Snowmobile Access Program, which would allow non-commercially guided groups to enter the park for a specific date range. The maximum length of a non-commercially guided snowmobile trip would be 2 days and 1 night. These permits would be awarded through an annual lottery system.

Non-commercial snowmobile guides would be directly responsible for the actions of their group. Each non-commercial guide may lead no more than 2 trips per winter season, and must be at least 18 years of age by the first day of the trip. Non-commercial guides would be required to have working knowledge of snowmobile safety, general first aid, snowmobile repair, and navigational technique. It would be preferable that non-commercial guides, or another member of the trip, be familiar with Yellowstone National Park. Non-commercial snowmobile guides would not be allowed to advertise concerning their "service" or accept a fee or any type of compensation for organizing or leading a trip. Collecting a fee (monetary compensation) or compensation of any kind payable to an individual, group, or organization for conducting, leading, or guiding a non-commercially guided snowmobile trip would not be allowed

(see 36 CFR 5.3). Violating the compensation or advertising restriction may result in administrative revocation of a non-commercial guiding permit or privilege.

These requirements would ensure that the Non-commercially Guided Snowmobile Access Program would result in the same benefits to park resources and management that have resulted from the requirements applicable to commercial guides.

Further details about the Non-commercially Guided Snowmobile Access Program can be found in Appendix C to the final SEIS, available online at <http://parkplanning.nps.gov/yell>, by clicking on the link entitled "2012/2013 Supplemental Winter Use Plan EIS," and then clicking on the link entitled "Document List." Consistent with adaptive management principles, the Superintendent may adjust or terminate this program based upon impacts to park resources and visitor experiences after providing notice in accordance with one or more methods listed in 36 CFR 1.7(a), which include posting signs, making maps available, or publication in a newspaper.

In both commercially and non-commercially guided groups, a snowmobile may not be operated separately from a group within the park. Except in emergency situations, guided parties must travel together and remain within one-third of a mile of the first snowmobile in the transportation event. This would ensure that groups of snowmobiles do not become separated. One-third of a mile would allow for sufficient and safe spacing between individual snowmobiles within the group, and allow the guide to maintain control over the group and minimize impacts.

#### **Designated Routes Remain on Roads Only**

Yellowstone's oversnow routes remain entirely on roads used by motor vehicles during other seasons and thus are consistent with the requirements in 36 CFR 2.18(c). OSV use would continue to be allowed only on designated routes. All main road segments would generally remain open for OSV use, but certain side roads would be reserved for ski and snowshoe use only. Certain main road segments would be closed to all OSV travel during parts of the winter, including early season closure for plowing at the North Entrance, and seasonal closures of the East Entrance from December 15–21 and March 2–15. The proposed rule would allow the Superintendent to open or close oversnow routes after taking into consideration the location of

wintering wildlife, appropriate snow cover, public safety, avalanche conditions, and other factors.

### What are transportation events?

#### *Size of Transportation Events*

The proposed rule manages OSV use by transportation events. A transportation event consists of a group of no more than 10 snowmobiles (including the guide's snowmobile) or one snowcoach. The NPS will implement OSV management by transportation events starting with the 2014–2015 winter season (Phase II). For the first three years, the proposed rule would require the average size of a commercially guided snowmobile transportation event not exceed 7 snowmobiles (including the guide), averaged daily. However, if commercial tour operators voluntarily upgrade their fleets to meet the new air and sound emission standards during the 2014–2015, 2015–2016, or 2016–2017 winter seasons (before these limits become mandatory in the 2017–2018 season), their group sizes will be more flexible. The average group size for a commercially guided snowmobile transportation event consisting entirely of snowmobiles meeting the new air and sound emission requirements would be averaged seasonally (instead of daily), which allows greater flexibility in daily group sizes. As discussed below, this average may increase to 8 if voluntary enhanced emission standards are met during this Phase of the transition. A group still could not exceed the maximum group size of 10 snowmobiles.

Beginning with the 2017–2018 winter season (Phase III), the average size of a commercially guided snowmobile transportation event may not exceed 7 snowmobiles (including the guide), averaged over the course of a winter season. As discussed below, this average may increase to 8 if voluntary enhanced emission standards are met. Authorizing up to 10 snowmobiles per transportation event with a seasonal average of 7 snowmobiles per transportation event (up to a seasonal average of 8 if voluntary enhanced emission standards are met) would allow commercial tour operators to respond to fluctuating visitor demand for access. For example, commercial tour operators may choose to maximize group sizes during busy times, such as holidays, with groups of 10. If this is done, group sizes would need to be smaller later in the season to ensure that the average group size over the course of each season is no more than 7 (or 8 if the voluntary enhanced emission standards are met).

In order for the park to monitor compliance with this rule, each commercial tour operator would be responsible for keeping track of its daily use on a NPS form, including group size and other variables of interest to the NPS, and reporting these numbers to the NPS on a monthly basis. For each transportation event, commercial tour operators would be required to report the departure date, the duration of the trip (in days), the event type (snowmobile or snowcoach), the number of snowmobiles or snowcoaches, the number of visitors and guides, the route and primary destination, and if the transportation event allocation was from another commercial tour operator. Operators would also be required to report their transportation event size averages for the previous month and for the season to-date. Commercial tour operators that exceed the allowed average size of snowmobile transportation events would receive an unsatisfactory rating with potential to temporarily or permanently suspend the commercial tour operator's concession contract or commercial use authorization. In addition to the reporting requirements in the proposed rule, commercial tour operators would still be subject to reporting requirements contained in their concession contracts or commercial use authorizations. The park will use the information in the report described above to track the average and actual use of each commercial tour operator throughout the season, in order to ensure maximum daily limits and seasonal average limits are not exceeded, and to help ensure that commercial tour operators do not receive an unsatisfactory rating or suspension of their contracts. By closely monitoring this information the park can also ensure that commercial tour operators do not run out of authorizations before the end of the season and create a gap when prospective visitors cannot be accommodated. Therefore, the NPS is considering the option of requiring the report referenced above to be submitted every 2 weeks, rather than monthly, and is also exploring options that would allow the report to be submitted through a web-based system. The NPS specifically seeks comment on these potential options, and other means and mechanisms for complying with the reporting requirement.

NPS does not consider it necessary to require a minimum size per transportation event because the use of any number of snowmobiles, no matter how small, would constitute 1

snowmobile transportation event. Since the 2004–2005 winter season (managed use era), snowmobile group size has averaged 6.6 snowmobiles per group.

#### *Voluntary Enhanced Emission Standards for Snowcoaches and Snowmobiles*

For commercial tour operators who meet voluntary enhanced emission standards, the size of a snowcoach transportation event and the average size of a snowmobile transportation event will be allowed to increase above those described in the prior section. The NPS believes the enhanced emission standards are attainable, and that the potential for increased revenues from larger transportation events would provide a strong incentive for commercial tour operators to meet these voluntary standards. These incentives would reward commercial tour operators that demonstrate a commitment to lowering the impacts of OSVs by increasing business opportunities and park visitation, while lessening impacts to park resources.

A commercial tour operator would be allowed to include 2 snowcoaches rather than 1 per transportation event, if both snowcoaches emit no more than 71 dB(A) as measured using the SAE J1161 test procedures. This is 4 dB(A) less than the maximum allowed under the proposed sound emission requirements. To be considered one transportation event, the 2 snowcoaches would be required to travel closely together while keeping a safe distance between them. If this enhanced sound emission standard is met by all snowcoaches, commercial tour operators could have an additional 60 snowcoaches in the park on a particular day (if all 50 snowmobile transportation events are used); however, they could not exceed an average of 1.5 snowcoaches per event over the course of a winter season.

Starting in December 2014, the average size of a commercial tour operator's snowmobile transportation events over the course of a winter season would be permitted to increase from 7 to 8 if all snowmobiles in a group emit no more than 65 dB(A) measured using the SAE J1161 test procedures, and no more than 60 g/Kw-hr CO. This is 2 dB(A) less and 30 g/Kw-hr less than the maximum allowed under sound and air emission requirements to be implemented beginning in the 2017–2018 season. Evidence from the SAE Clean Snowmobile Challenge, held annually in Houghton, Michigan, has shown that production snowmobiles fitted with catalytic converters and other pollution minimization devices are able to reduce CO and hydrocarbons

plus oxides of nitrogen (HC + NO<sub>x</sub>) tailpipe emissions by up to 98% to an average specific mass of 12.04 and 0.17 g/kW-hr respectively. If these enhanced emission standards are met by all commercially guided snowmobiles, commercial tour operators could lead up to 46 additional snowmobiles through the park each day, averaged over an entire winter season.

Commercial tour operators would be required to demonstrate to the park that their snowcoaches or snowmobiles meet these enhanced emission standards prior to the start of a winter season so that the park can accurately measure that operator's compliance with all of the requirements.

The NPS specifically seeks comment on the merits of this voluntary market-based pollution minimization proposal, and welcomes input of industry and other knowledgeable parties on current pollution control measures across the snowmobile industry, research and development concerning improvements in pollution control measures, as well as the feasibility of various pollution minimization approaches. The NPS will evaluate all of this information in determining how to best achieve air pollution control and protection in the park.

*Number of Transportation Events Allowed in the Park*

Up to 110 transportation events would be allowed in the park on any given day during the winter season. Four transportation events would be reserved for non-commercially guided tours of no more than 5 snowmobiles, and up to 106 transportation events would be distributed to commercial tour operators via concessions contracts or commercial use authorizations. Commercial tour operators may decide to use their allocation of transportation events for snowmobiles or snowcoaches, but no more than 46 transportation events may consist of commercially guided snowmobile groups per day. If a commercial or non-commercial guide runs an overnight trip into the park, each day of the trip would be considered a separate transportation event.

Consistent with adaptive management principles, the Superintendent may decrease the maximum number of transportation events allowed in the park each day, adjust or terminate the Non-commercially Guided Snowmobile Access Program, redistribute non-commercially guided transportation events, or make limited changes to the transportation events allocated to each entrance, based upon impacts to park resources and visitor experiences after providing public notice in accordance with one or more methods listed in 36

CFR 1.7(a). Before taking any of these actions, the NPS will determine if any additional environmental compliance is required.

*Allocation and Maximum Number of Snowmobiles Allowed in the Park*

The actual number of snowmobiles and snowcoaches each day in the park would depend upon visitor demand and how commercial tour operators use their transportation events, subject to the maximum limit of 110 transportation events per day. If more than 60 snowcoach transportation events are used, the result would be fewer snowmobiles allowed in the park. If the maximum number of snowmobile transportation events is used, the result would be only 60 snowcoaches allowed in the park, or 120 snowcoaches that meet the voluntary, enhanced sound emission standards.

The proposed rule allocates transportation events to Old Faithful since a commercial tour operator provides snowmobile rentals and commercial guiding services originating there. For example, some visitors choose to enter the park on a snowcoach tour, spend 2 or more nights at the Old Faithful Snow Lodge, and depart for a commercially guided snowmobile tour of the park from the lodge.

Table 1 below shows the daily allocations and entrance distributions for snowmobile transportation events.

TABLE 1

| Park Entrance/Location | Daily number of transportation events for commercially guided snowmobiles | Daily number of transportation events for non-commercially guided snowmobiles | Maximum daily number of commercially guided snowmobiles | Seasonal average number of commercially guided snowmobiles | Seasonal average number of commercially guided snowmobiles if all meet enhanced standards* |
|------------------------|---|---|---|--|--|
| West Entrance .....    | 23  | 1   | 230   | 161  | 184  |
| South Entrance .....   | 16  | 1   | 160   | 112  | 128  |
| East Entrance .....    | 3   | 1   | 30  | 21   | 24   |
| North Entrance .....   | 2   | 1   | 20  | 14   | 16   |
| Old Faithful .....     | 2   | 0   | 20  | 14   | 16   |
| Total .....            | 46  | 4   | 460   | 322  | 368  |

\* In order for a commercial tour operator's snowmobile transportation events to average 8 snowmobiles in a winter season, all of the snowmobiles in those transportation events must comply with the enhanced air and sound emission standards.

At the highest potential level of use, if all 50 snowmobile transportation events are used in a single day, there could be a maximum of 480 snowmobiles in the park (46 commercially guided groups of 10 snowmobiles each, plus 4 non-commercially guided groups of 5 snowmobiles each). Although this is the maximum number of snowmobiles that

could be permitted into the park on a single day, this level of use could not occur every day because commercially guided snowmobile transportation event sizes may not exceed an average of 7 snowmobiles over the course of the season. Maximum average use would be 342 snowmobiles per day (46 commercially guided groups of at the seasonal average of 7, plus 4 non-

commercially guided groups of 5 snowmobiles each). If all snowmobiles meet the voluntary enhanced emission standards described above, the maximum average size of snowmobile transportation events over the course of a winter season could increase from 7 to 8 snowmobiles, resulting in an average maximum daily use of 388 snowmobiles per day (46 commercially guided groups

of eight snowmobiles each, plus 4 non-commercially guided groups of 5 snowmobiles each).

Table 2 below shows the maximum number of snowmobiles in the park on

any day if all snowmobile transportation events are used.

TABLE 2

|   | 46 Transportation events from commercially guided groups | 4 Transportation events from non-commercially guided groups | Total snowmobiles in the park |
|---|--|---|-------------------------------|
| Peak Day (10 snowmobiles per commercially guided group; 5 per non-commercially guided group)  | 460  | 20  | 480                           |
| Average Day (7 snowmobiles per commercially guided group; 5 per non-commercially guided group)  | 322  | 20  | 342                           |
| Average Day if all Snowmobiles meet Enhanced Standards (8 snowmobiles per commercially guided group; 5 per non-commercially guided group) | 368  | 20  | 388                           |

*Allocation and Maximum Number of Snowcoaches Allowed in the Park*

At the highest potential level of use (with current sound-emission standards), if all 106 transportation events are used by snowcoaches in a single day, there would be 106 snowcoaches in the park. If the maximum allocation of snowmobile transportation events is used in a single day, there could be a maximum of 60 snowcoaches in the park. At some point

in the future, if all snowcoaches meet the voluntary enhanced sound emission standards described above, the maximum number of snowcoaches in the park on a particular day could range from 212 snowcoaches (if no snowmobile allocations are used) to 120 snowcoaches (if all snowmobile allocations are used). Although this is the maximum number of snowcoaches that could be permitted into the park on a single day, this level of use could not occur every day because snowcoach

transportation events consisting of snowcoaches that meet the voluntary enhanced emission standards may not exceed an average of 1.5 snowcoaches over the course of the season. These scenarios represent the extreme allocation potentials, and it is likely that actual use would end up somewhere in between these scenarios.

Table 3 below shows the maximum number of snowcoaches in the park on any day by park entrance/location.

TABLE 3

| Park entrance/location | Number of snowcoaches if all 50 snowmobile transportation events are used | Number of snowcoaches if all 50 snowmobile transportation events are used and snowcoaches meet enhanced sound standards* | Number of snowcoaches if zero commercially guided snowmobile transportation events are used | Number of snowcoaches if zero commercially guided snowmobile transportation events are used and all snowcoaches meet enhanced sound standards* |
|------------------------|---|--|---|--|
| West Entrance          | 26  | 52   | 47  | 94   |
| South Entrance         | 10  | 20   | 17  | 34   |
| East Entrance          | 2   | 4  | 2   | 4  |
| North Entrance         | 10  | 20   | 17  | 34   |
| Old Faithful           | 12  | 24   | 23  | 46   |
| Total                  | 60  | 120  | 106   | 212  |

\*Two snowcoaches can be allowed in a transportation event if both comply with the voluntary enhanced sound standards.

**Flexible Allocations at Each Entrance**

Commercial tour operators may cooperatively exchange allocations of snowmobile and snowcoach transportation events within an entrance, but transportation event allocations may not be exchanged among different entrances. For example, a commercial tour operator at the West Entrance who has additional transportation event allocations available may trade those allocations to another commercial tour operator at the West Entrance, but an allocation at the

West Entrance could not be traded to a commercial tour operator at the South Entrance. These exchanges would provide additional flexibility to commercial tour operators and allow them to respond to visitor demand, while ensuring that the number of transportation events at any particular entrance does not exceed the total number authorized for that day. The NPS envisions that a system for exchanging allocations would be created and controlled by those commercial tour operators who receive entrance allocations under this plan. Commercial

tour operators must notify the NPS when transportation event allocations are exchanged.

**Avalanche Management—Sylvan Pass**

The proposed rule designates the East Entrance road as an OSV route. As with other OSV routes, the Superintendent has the ability to close this route, or portions of it, after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, avalanche conditions, and other factors. This authority would be used to manage Sylvan Pass in the manner

described in the preferred alternative in the final SEIS.

### Section-by-Section Analysis

#### § 7.13(l)(1) *What is the scope of this regulation?*

The regulations apply to the use of snowcoaches and snowmobiles. Except where indicated, the regulations do not apply to non-administrative OSV use by NPS employees, contractors, concessioner employees, or other non-administrative use authorized by the Superintendent.

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

The NPS has included definitions for a variety of terms, including commercial guides, commercial tour operator, non-commercially guided groups, oversnow vehicle, oversnow route, unguided snowmobile access, and transportation event.

For snowmobiles, the NPS is continuing to use the definition found at 36 CFR 1.4. The proposed rule would also include language that makes it clear that all-terrain vehicles and utility-type vehicles are not snowmobiles or snowcoaches, even if they have been adapted for use on snow with track and ski systems. These vehicles were not originally designed to operate oversnow and may not meet NPS air and sound emission requirements.

Earlier regulations governing winter use at the park referred only to snowmobiles or snowcoaches. Since there is a strong likelihood that new forms of oversnow motorized vehicles will be developed in the future, a definition for “oversnow vehicle” was developed to ensure that any such new technology is subject to this regulation. When a particular requirement or restriction only applies to a certain type of OSV, the specific vehicle is stated and the restriction only applies to that type of vehicle, not all OSVs. However, OSVs that do not meet the strict definition of a snowcoach (i.e., both weight and passenger capacity) would be subject to the same requirements as snowmobiles. These definitions may be clarified in future rulemakings based on changes in technology.

In earlier regulations, the NPS specified a size and weight limit for snowcoaches. As the number of larger and heavier snowcoaches has increased, the NPS has observed serious rutting of the groomed road surface caused by heavier snowcoaches. Rutting creates safety issues for other snowcoaches and snowmobiles using the oversnow routes. The NPS is evaluating a suite of management actions to address rutting,

which may include placing vehicle weight and size limits in the concession agreements and commercial use authorizations that govern the use of snowcoaches in the park.

#### § 7.13(l)(3) *When may I operate a snowmobile in Yellowstone National Park?*

Provided that the Superintendent has determined there is adequate snow cover, the proposed rule would continue to authorize operation of a snowmobile within the park from December 15 to March 15 each winter season subject to use limits, guiding requirements, operating hours, equipment requirements, emission requirements, and operating conditions. Snowmobile and snowcoach use between Flagg Ranch and the South Entrance of Yellowstone occurs in the John D. Rockefeller, Jr. Memorial Parkway, and is addressed in regulations pertaining to that unit of the National Park System at 36 CFR 7.21(a). Any OSV that enters Yellowstone would be subject to the terms and conditions of this proposed rule.

#### § 7.13(l)(4) *When may I operate a snowcoach in Yellowstone National Park?*

Provided that the Superintendent has determined there is adequate snow cover, the proposed rule would continue to authorize operation of snowcoaches in the park from December 15 to March 15 each winter season, subject to the conditions in this proposed rule. It would require that they be commercially operated under a concessions contract or commercial use authorization and meet the applicable air, weight, and sound emission requirements. Snowcoaches must not exceed 75 dB(A) when measured by operating the snowcoach at cruising speed using the SAE J1161 test procedures. Existing snowcoaches must meet these requirements beginning in the 2017–2018 winter season, while new snowcoaches must meet these requirements upon being put into service beginning in the 2014–2015 winter season.

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

Except for some exemptions that apply to the Cave Falls Road, the proposed rule would continue to require that only snowmobiles that meet NPS air and sound emissions requirements may be operated in the park.

#### § 7.13(l)(6) *What standards will the Superintendent use to approve snowmobile makes, models, and year of manufacture for use in the park?*

Snowmobiles must continue to meet existing air and sound emission requirements through the 2016–2017 winter season. As of December 15, 2017, snowmobiles must operate at or below 67 dB(A) as measured at cruising speed and must be certified under 40 CFR 1051 to a FEL no greater than a total of 15 g/kW-hr for HC and a FEL of no greater than 90 g/kW-hr for CO.

#### § 7.13(l)(7) *Where may I operate a snowmobile in Yellowstone National Park?*

Specific routes are listed where snowmobiles may be operated, but the proposed rule also provides latitude for the Superintendent to close and reopen routes when necessary. When determining what routes are available for use, the Superintendent would take into consideration weather and snow conditions, public safety, protection of park resources, and other factors.

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

Snowcoaches may be operated on the specific routes open to snowmobile use. In addition, rubber-tracked snowcoaches may be operated in the Mammoth Hot Springs developed area. This proposed rule also provides latitude for the Superintendent to close and reopen routes when necessary. When determining what routes are available for use, the Superintendent would take into consideration weather and snow conditions, public safety, protection of park resources, and other factors.

#### § 7.13(l)(9) *Must I travel with a guide while snowmobiling in Yellowstone and what other guiding requirements apply?*

The proposed rule retains the existing requirement that, except on the Cave Falls Road, all recreational snowmobile operators must be accompanied by a guide. In addition to commercially guided trips, the proposed rule allows 4 groups of up to 5 snowmobiles to be led into the park by non-commercial guides who have been certified under the Non-commercially Guided Snowmobile Access Program. The proposed rule maintains the requirements that guided parties must travel together and not be separated by more than one-third of a mile from the first snowmobile in the group to ensure groups stay together for safety considerations.

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

As described above, the park will manage OSV use by limiting the size and number of snowmobile and snowcoach transportation events on any given day. No more than 110 transportation events would be allowed in the park on any day. Four transportation events would be reserved for non-commercially guided groups, and up to 106 transportation events would be allocated to commercial tour operators via concession contracts or commercial use authorizations. Commercial tour operators may use their transportation events for snowmobiles or snowcoaches, provided that no more than 46 commercially guided transportation events may consist of snowmobiles. The maximum size of a commercially guided snowmobile transportation event would be 10 snowmobiles, with a maximum average size of 7 over the course of a winter season. The maximum average size of a snowmobile transportation event may increase from 7 to 8 if all of the snowmobiles in a group meet voluntary, enhanced emission standards. The maximum size of a snowcoach transportation event will initially be 1 snowcoach, but may increase to 2 snowcoaches, not to exceed a seasonal average of 1.5 snowcoaches per event, if the vehicles meet voluntary, enhanced sound emission standards.

*§ 7.13(l)(11) How will the park monitor compliance with the required average and maximum size of transportation events?*

In order for the park to monitor compliance with this rule, each commercial tour operator would be responsible for keeping track of its daily use on a NPS form, including group size and other variables of interest to the NPS, and reporting these numbers to the NPS on a monthly basis. For each transportation event, commercial tour operators would be required to report the departure date, the duration of the trip (in days), the event type (snowmobile or snowcoach), the number of snowmobiles or snowcoaches, the number of visitors and guides, the route and primary destination, and if the transportation event allocation was from another commercial tour operator. Operators would also be required to report their transportation event size averages for the previous month and for the season to-date.

*§ 7.13(l)(12) How will I know when I can operate a snowmobile or snowcoach in the park?*

The proposed rule would not change the methods the Superintendent would use to determine operating hours. In the past, the Superintendent has set the opening and closing hours at 7:00 a.m. and 9:00 p.m. respectively. Early and late entries were granted on a case-by-case basis. The proposed rule allows the Superintendent to manage operating hours, dates, and use levels with public notice provided through one or more methods listed in 36 CFR 1.7(a). These methods could include signs, maps, public notices, or other publications. Except for emergency situations, any changes to operating hours, dates, or use levels will be made on an annual basis. Initially, the Superintendent intends to set the operating hours as 7:00 a.m. to 9:00 p.m. with no early entries or late exits allowed except for administrative travel and emergencies.

*§ 7.13(l)(13) What other conditions apply to the operation of OSVs?*

The proposed rule maintains existing requirements regarding the operation of OSVs in the park, such as driver's license and registration requirements, operating procedures, requirements for headlights, brakes, and other safety equipment, length of idling time (which has been reduced from 5 to 3 minutes), maximum speed limit (35mph), towing of sleds, and other requirements related to safety and impacts to resources. Towing people, especially children, is a potential safety hazard and health risk due to road conditions, traffic volumes, and direct exposure to snowmobile emissions. This rule does not affect supply sleds attached by a rigid device or hitch pulled directly behind snowmobiles or other OSVs as long as no person or animal is hauled on them.

*§ 7.13(l)(14) What conditions apply to alcohol use while operating an OSV?*

The proposed rule does not change the conditions applicable to the use of alcohol while operating OSVs. Although the regulations in 36 CFR 4.23, concerning the operation of motor vehicles in units of the National Park System while under the influence of alcohol or drugs, apply to snowmobiles under 36 CFR 2.18(a), the proposed rule maintains the additional regulations that address under-age drinking while operating a snowmobile, and operation under the influence by snowcoach operators or snowmobile guides while performing services for others. Many states have adopted similar alcohol standards for under-age and commercial

operators, and the NPS believes it is necessary to specifically include these regulations to help mitigate potential safety concerns.

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

In the case of snowcoach operators or snowmobile guides, a low BAC limit is also necessary. Persons operating a snowcoach are likely to be carrying 8 or more passengers in a vehicle. Vehicles on tracks or skis are more challenging to operate than a wheeled vehicle, and on oversnow routes that can present significant hazards, especially if the driver has impaired judgment. Similarly, persons guiding others on a snowmobile have put themselves in a position of responsibility for the safety of other visitors and for minimizing impacts to park wildlife and other resources. If the guide's judgment is impaired, hazards such as wildlife on the road or snow-obscured features could endanger all members of the group in an unforgiving climate. For these reasons, the proposed rule would continue to require that all guides be held to a stricter than normal standard for alcohol consumption. Therefore, the proposed rule continues a BAC limit of .04 for snowcoach operators and snowmobile guides. This limit applies for both commercial guides and non-commercial guides. This is consistent with other federal and state rules pertaining to BAC thresholds for someone with a commercial driver's license.

*§ 7.13(l)(15) Do other NPS regulations apply to the use of OSVs?*

The proposed rule does not change the applicability of other NPS regulations concerning OSV use. Relevant portions of 36 CFR 2.18, including § 2.18(c), have been incorporated into these proposed regulations. Some portions of 36 CFR 2.18 and 2.19 would be superseded by the proposed rule, which governs maximum operating decibels, operating hours, and operator age in this park only. In addition, 36 CFR 2.18(b), which adopts non-conflicting state snowmobile laws, would not apply in Yellowstone. The proposed rule would also supersede 36 CFR 2.19(b). The proposed rule

similarly prohibits the towing of persons on skis, sleds, or other sliding devices by motor vehicle or snowmobile, but does not permit designation of routes or areas for those activities. It also includes exceptions for emergency situations and for the administrative use of trailers specifically designed for towing passengers. Other provisions of 36 CFR Chapter I would continue to apply to the operation of OSVs unless specifically superseded by the proposed rule.

*§ 7.13(l)(16) What forms of non-motorized oversnow transportation are allowed in the park?*

Non-motorized travel consisting of skiing, skating, snowshoeing, and walking is generally permitted. The park has specifically prohibited dog sledding and ski-joring (the practice of a skier being pulled by dogs, a horse, or a vehicle) to prevent disturbance or harassment to wildlife and for visitor safety. These restrictions have been in place for several years and would be reaffirmed by this rule.

*§ 7.13(l)(17) May I operate a snowplane in Yellowstone National Park?*

Snowplanes may not be used in Yellowstone National Park.

*§ 7.13(l)(18) Is violating a provision of this section prohibited?*

Violating a term, condition, or requirement of paragraphs (l)(1) through (l)(17) of § 7.13 is prohibited.

**Compliance With Other Laws, Executive Orders, and Department Policies**

**Regulatory Planning and Review (Executive Orders 12866 and 13563)**

Executive Order 12866 provides that the Office of Information and Regulatory Affairs will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available

science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

**Regulatory Flexibility Act (RFA)**

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on the cost-benefit and regulatory flexibility analysis found in the report entitled "Economic Analysis of Winter Use Regulations in Yellowstone National Park (2012)" which can be viewed on the park's planning Web site, <http://parkplanning.nps.gov/yell>, by clicking on the link entitled "2012/2013 Supplemental Winter Use Plan EIS," and then clicking on the link entitled "Document List."

From the analysis of costs and benefits using Baseline 1, the NPS concludes that the action alternatives would mitigate the impacts on most small businesses relative to the impacts under Baseline 1. In cases where the action alternatives cause reduced revenues for a few specific firms compared to Baseline 1, the NPS expects that the declines would be very small. From the analysis using Baseline 2, the NPS concludes the following points:

Relative to Baseline 2, Alternatives 3 and 4 are estimated to result in increased revenues for the snowmobile rental and snowcoach sectors.

Alternative 1 has the potential to generate significant losses for small businesses.

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

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rulemaking has no effect on methods of manufacturing or production and specifically affects the Greater Yellowstone Area, not national or U.S.-based enterprises.

These conclusions are based upon the cost-benefit and regulatory flexibility analysis found in the report entitled "Economic Analysis of Winter Use Regulations in Yellowstone National

Park (2012)" which can be viewed on the park's planning Web site, <http://parkplanning.nps.gov/yell>, by clicking on the link entitled "2012/2013 Supplemental Winter Use Plan EIS," and then clicking on the link entitled "Document List."

**Unfunded Mandates Reform Act (UMRA)**

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. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

**Takings (Executive Order 12630)**

Under the criteria in section 2 of Executive Order 12630, the rule does not have significant takings implications. Access to private property located adjacent to the park will be afforded the same access during winter as before this rule. No other private property is affected. A takings implication assessment is not required.

**Federalism (Executive Order 13132)**

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A federalism summary impact statement is not required.

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

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

**Consultation With Indian Tribes (Executive Order 13175 and Department Policy)**

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to

consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. Numerous tribes in the area were consulted in the development of the previous winter use planning documents.

**Paperwork Reduction Act (PRA)**

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements associated with NPS special park use permits and assigned OMB Control Number 1024-0026, which expires 06/30/2013. This rule contains new reporting and recordkeeping requirements that must be approved by the Office of Management and Budget (OMB) under the PRA (44 U.S.C. 3501 *et seq.*).

(1) To ensure that snowcoaches and snowmobiles meet NPS emission and sound standards, we are proposing that, before the start of each winter season:

(a) Snowcoach manufacturers or commercial tour operators must demonstrate, by means acceptable to the

Superintendent, that their snowcoaches meet the standards.

(b) Snowmobile manufacturers must demonstrate, by means acceptable to the Superintendent, that their snowmobiles meet the standards.

(2) So that we can monitor compliance with the required average and maximum size of transportation events, we propose that as of December 15, 2014, each commercial tour operator must:

(a) Maintain accurate and complete records of the number of snowmobiles and snowcoaches he or she brings into the park on a daily basis. These records must be made available for inspection by the park upon request.

(b) Submit a monthly report to the park that includes the following information about snowmobile and snowcoach use:

- Average group size for allocated transportation events during the previous month and for the winter season to date. Any transportation events that have been exchanged among commercial tour operators must be noted and the receiving party must include these transportation events in his or her reports.

- For each transportation event, the departure date, the duration of the trip (in days), the event type (snowmobile or snowcoach), the number of snowmobiles or snowcoaches, the number of visitors and guides, the route and primary destination(s), and if the

transportation event allocation was from another commercial tour operator.

(3) To qualify for the increased average size of snowmobile transportation events or increased maximum size of snowcoach transportation events, each commercial tour operator must:

- Before the start of the winter of the winter season, demonstrate to the park Superintendent that his or her snowmobiles or snowcoaches meet the enhanced emission standards.

- Maintain separate records for snowmobiles and snowcoaches that meet enhanced emission standards and those that do not.

*Title:* Reporting and Recordkeeping for Snowcoaches and Snowmobiles, Yellowstone National Park, 36 CFR 7.13(l).

*OMB Control Number:* 1024-XXXX.

*Service Form Number:* None.

*Type of Request:* Request for a new OMB Control Number.

*Description of Respondents:* Commercial businesses operating OSVs in Yellowstone National Park, and OSV manufacturers.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* Monthly for reports; ongoing for recordkeeping; annually to demonstrate that OSVs meet or exceed emission standards.

*Estimated number of respondents:* 17 (15 commercial tour operators and 2 manufacturers).

| Activity   | Estimated number of annual responses | Completion time per response (hours) | Estimated total annual burden hours* |
|--|--------------------------------------|--------------------------------------|--------------------------------------|
| Meet Emission/Sound Standards—Snowcoaches (7.13(l)(4)(vi)) | 12                                   | .5                                   | 6                                    |
| Meet Emission/Sound Standards—Snowmobiles (7.13(l)(5))     | 2                                    | .5                                   | 1                                    |
| Report and Recordkeeping (7.13(l)(11)(i)–(iii))            | 45                                   | 2                                    | 90                                   |
| Meet Enhanced Emission Standards (7.13(l)(11)(iv))         | 5                                    | .5                                   | 3                                    |
| <b>Total</b>   | <b>64</b>                            |                                      | <b>100</b>                           |

\* rounded.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Send your comments and suggestions on this information collection by the date indicated in the **DATES** section to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-5806 (fax) or [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) (email). Please provide a copy of your comments to the Information Collection Clearance Officer, National Park Service, 1201 I Street NW., MS 1237, Washington, DC 20005 (mail); or [madonna\\_baucum@nps.gov](mailto:madonna_baucum@nps.gov) (email).

Please reference OMB Control Number 1024-AE15 in the subject line of your comments.

**National Environmental Policy Act**

This rule constitutes a major federal action with the potential to significantly affect the quality of the human environment. We have prepared the final SEIS under the National Environmental Policy Act of 1969. The final SEIS is available by contacting the Yellowstone National Park Management Assistant's Offices and online at <http://parkplanning.nps.gov/yell>, by clicking on the link entitled "2012/2013

Supplemental Winter Use Plan EIS,” and then clicking on the link entitled “Document List.”

### Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

### Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you believe we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

### Drafting Information

The primary authors of this regulation are: Jay P. Calhoun, Regulations Program Specialist; and Russel J. Wilson, Chief, Regulations and Special Park Uses, National Park Service, Washington Office; David Jacob, Environmental Protection Specialist, National Park Service, Environmental Quality Division; and Wade Vagias, Management Assistant, Yellowstone National Park.

### Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section. All comments must be received by midnight of the close of the comment period. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted.

We are particularly interested in comments concerning:

(1) The likelihood of OSVs being available by the stated deadlines that meet either the sound or air emissions BAT requirements and any significant additional costs associated with meeting the sound and air emissions BAT.

(2) Whether the deadlines are:

(a) Sufficiently in the future to allow concessioners to update fleet with BAT-compliant vehicles, as opposed to prematurely removing vehicles from service, or

(b) Too far into the future such that the implementation schedule for meeting the air and sound emission BAT requirements should be accelerated. Specifically, the NPS seeks comments from industry and other knowledgeable parties regarding the implementation schedule for the new emission requirements and if the implementation schedule could be accelerated because the technology necessary to meet these new requirements will be available sooner than the start of the 2017–2018 season.

The NPS believes that given existing and demonstrated OSV technology, an accelerated schedule to implement new air and sound emission requirements is reasonable and achievable. The NPS suggests as an alternative to the schedule proposed by this rule that: by the 2015–2016 winter season (rather than the proposed 2017–2018 winter season), NPS should require all snowmobiles operating in the park to meet the new air and sound emission requirements; and, by the 2016–2017 winter season (rather than the proposed 2017–2018 winter season), NPS should require all existing snowcoaches operating in the park to meet the new air and sound emission requirements. The NPS believes that this alternative, accelerated, but staggered implementation schedule, which recognizes the higher capital cost of investing in snowcoach engines and exhaust equipment and the fact that commercial tour operators replace snowmobile fleets more frequently than snowcoach fleets, is reasonably achievable. The NPS notes that the technology to meet the new air and sound emission standards for snowcoaches is currently available in the commercial marketplace, that at least 17 of the 78 snowcoaches in the commercial fleet already meet the new sound emission requirement and as many as 18 of the 78 snowcoaches in the commercial fleet already meet the new air emission requirement. For snowmobiles, the NPS notes that one snowmobile manufacturer currently produces 23 different snowmobile models (across three model years, 2011–2013) that meet the new air emission

standards. Therefore, the NPS invites comments on this alternative from industry and other knowledgeable and interested parties.

(3) Whether air quality goals can be attained more cost-effectively without making the BAT requirements for CO more stringent and instead managing entry times and access in areas of the park where air quality has been degraded.

(a) If it is more cost-effective to improve air quality through managed access, what would be a feasible approach?

(4) Given the small number of transportation events, the impact of not making BAT requirements more stringent for the non-commercial guided program.

(5) Whether there are more cost-effective performance-based approaches that could be used to meet emissions requirements, as opposed to prescribing certain design specifications for snowmobiles and snowcoaches?

### Public Availability of Comments

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

### List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR Part 7 as follows:

### 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, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, D.C. Code 10–137 (2001) and D.C. Code 50–2201.07 (2001).

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

#### § 7.13 Yellowstone National Park.

\* \* \* \* \*

(l)(1) *What is the scope of this regulation?* The regulations contained in paragraphs (l)(2) through (1)(15) of this section apply to the recreational use of snowcoaches and snowmobiles. Except where indicated, paragraphs (1)(2)

through (l)(15) do not apply to non-administrative oversnow vehicle use by NPS employees, contractors, concessioner employees, or other non-administrative 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 oversnow vehicle use by NPS employees, contractors, concessioner employees, or other non-administrative users authorized by the Superintendent.

*Commercial guide* means a person who operates as a snowmobile or snowcoach guide for a monetary fee or other compensation and is authorized to operate in the park under a concession contract or a commercial use authorization.

*Commercial tour operator* means a person authorized to operate oversnow vehicle tours in the park under a concession contract or a commercial use authorization.

*Enhanced emission standards* means for snowmobiles, a maximum of 65 dB(A) as measured at cruising speed (approximately 35 mph) in accordance with the Society of Automotive Engineers (SAE) J1161 test procedures and certified under 40 CFR Part 1051 to a Family Emission Limit no greater than 60 g/kW-hr for carbon monoxide; and for snowcoaches, a maximum of 71 dB(A) when measured by operating the snowcoach at cruising speed for the test cycle in accordance with the SAE J1161 test procedures.

*Guide* means a commercial guide or a non-commercial guide.

*Non-commercial guide* means a person who has successfully completed the Yellowstone Snowmobile Education Certification Program and is certified as having the requisite knowledge and skills to operate a snowmobile in Yellowstone National Park. Non-commercial guides must be at least 18 years of age by the day of the trip and possess a valid state-issued motor vehicle driver's license and a non-commercial snowmobile access permit before entering the park.

*Non-commercially guided group* means a group of no more than five snowmobiles, including a non-commercial guide, permitted to enter

the park under the Non-commercially Guided Snowmobile Access Program.

*Non-commercially Guided Snowmobile Access Program* means a program that permits authorized parties to enter Yellowstone National Park without a commercial guide.

*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.

*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. All-terrain vehicles and utility-type vehicles are not oversnow vehicles, even if they have been modified for use on snow with track or ski systems

*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, having a capacity of at least 8 passengers and no more than 32 passengers, plus a driver.

*Snowcoach transportation event* means one snowcoach that does not meet enhanced emission standards traveling in Yellowstone National Park on any given day, or two snowcoaches that both meet enhanced emission standards traveling together in Yellowstone National Park on any given day.

*Snowmobile* means a self-propelled vehicle intended for travel solely on snow, with a maximum curb weight of 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.

*Snowmobile transportation event* means a group of 10 or fewer commercially guided snowmobiles

traveling together in Yellowstone National Park on any given day or a non-commercially guided group, which is defined separately. Snowmobiles entering Cave Falls Road are not considered snowmobile transportation events.

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

*Transportation event* means a snowmobile transportation event or a snowcoach transportation event.

(3) *When may I operate a snowmobile in Yellowstone National Park?* Provided that the Superintendent has determined there is adequate snow cover, you may operate a snowmobile in Yellowstone National Park from December 15 through March 15 each winter season only in compliance with use limits, guiding requirements, operating hours, equipment, and operating conditions established under this section. The operation of snowmobiles under a concessions contract or commercial use authorization is subject to the conditions stated in the concessions contract or commercial use authorization. The Superintendent may establish additional operating conditions after providing notice of those conditions in accordance with one or more methods listed in 36 CFR 1.7(a).

(4) *When may I operate a snowcoach in Yellowstone National Park?* (i) Provided that the Superintendent has determined there is adequate snow cover, a snowcoach may be operated in Yellowstone National Park only under a concessions contract or commercial use authorization from December 15 through March 15 each winter season. Snowcoach operation is subject to the conditions stated in the concessions contract or commercial use authorization and all other conditions identified in this section. The requirements in paragraphs (l)(4)(ii)–(iii) of this section apply to existing snowcoaches as of December 15, 2017, and to new snowcoaches put into service on or after December 15, 2014.

(ii) The following air emission requirements apply to snowcoaches:

|   |   |
|---|---|
| A snowcoach that is a . . .   | Must meet the following standard . . .  |
| (A) Diesel-fueled snowcoach with a gross vehicle weight rating (GVWR) less than 8,500 pounds. | The functional equivalent of 2010 (or newer) EPA Tier 2 model year engine and emission control technology requirements.   |
| (B) Diesel-fueled snowcoach with a GVWR greater than or equal to 8,500 pounds.                | The EPA model year 2010 "engine configuration certified" diesel air emission requirements. Alternately, a snowcoach in this category may be certified under the functional equivalent of 2010 (or newer) EPA Tier 2 model year engine and emission control technology requirements if the snowcoach:<br>(1) Has a GVWR between 8,500 and 10,000 pounds; and |

|  |   |
|--|---|
| A snowcoach that is a . . .  | Must meet the following standard . . .  |
| (C) Gasoline-fueled snowcoach greater than or equal to 10,000 GVWR | (2) Would achieve better emission results with a configuration that meets the Tier 2 requirements.<br>The functional equivalent of 2008 (or newer) EPA Tier 2 model year engine and emission control technology requirements. |
| (D) Gasoline-fueled snowcoach less than 10,000 GVWR .....          | The functional equivalent of 2007 (or newer) EPA Tier 2 model year engine and emission control technology requirements.   |

(iii) A snowcoach may not exceed a sound level of 75 dB(A) when measured by operating the snowcoach at cruising speed for the test cycle in accordance with the SAE J1161 test procedures.

(iv) All emission-related exhaust components (as listed in 40 CFR 86.004–25(b)(3)(iii) through (v)) must function properly. These emission-related components must be replaced with the original equipment manufacturer (OEM) component, if practicable. If OEM parts are not available, aftermarket parts may be used.

(v) Operating a snowcoach with the original pollution control equipment disabled or modified is prohibited.

(vi) Before the start of a winter season a snowcoach manufacturer or a commercial tour operator must demonstrate, by means acceptable to the Superintendent, that its snowcoach(s) meet the air and sound emission standards. A snowcoach meeting the requirements for air and sound emissions may be operated in the park through the winter season that begins no more than 10 years from the engine manufacture date.

(vii) Snowcoaches are subject to periodic and unannounced inspections to determine compliance with the requirements of paragraph (l)(4) of this section.

(viii) This paragraph (l)(4) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, concessioner employees, or other non-administrative users authorized by the Superintendent.

(5) *Must I operate a certain model of snowmobile?* Only snowmobiles that meet NPS air and sound emissions requirements in this section may be operated in the park. Before the start of a winter season a snowmobile manufacturer must demonstrate, by means acceptable to the Superintendent, that its snowmobile(s) meet the air and sound emission standards. 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) *What standards will the Superintendent use to approve*

*snowmobile makes, models, and years of manufacture for use in the park?* (i) Snowmobiles must meet the following air emission requirements:

(A) Through March 15, 2017, 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.

(B) As of December 15, 2017, 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 90 g/kW-hr for carbon monoxide.

(ii) Snowmobiles must meet the following sound emission requirements:

(A) Through March 15, 2017, snowmobiles must operate at or below 73 dB(A) as measured at full throttle according to SAE J192 test procedures (revised 1985). During this period, snowmobiles may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected.

(B) As of December 15, 2017, snowmobiles must operate at or below 67 dB(A) as measured at cruising speed (approximately 35mph) in accordance with SAE J1161 test procedures. Sound emissions tests must be accomplished within the barometric pressure limits of the test procedure; there will be no allowance for elevation. The Superintendent may revise these testing procedures based on new information or updates to the SAE J1161 testing procedures.

(iii) A snowmobile meeting the requirements for air and sound emissions may be operated in the park for a period not exceeding 6 years from the manufacturing date, or after the snowmobile has travelled 6,000 miles, whichever occurs later.

(iv) Operating a snowmobile that has been modified in a manner that may adversely affect air or sound emissions is prohibited.

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

(vi) Snowmobiles are subject to periodic and unannounced inspections to determine compliance with the

requirements of paragraph (l)(6) of this section.

(vii) This paragraph (l)(6) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, concessioner employees, or other non-administrative users authorized by the Superintendent.

(7) *Where may I operate a snowmobile in Yellowstone National Park?* (i) You may operate an authorized snowmobile only upon designated oversnow routes established within the park in accordance with 36 CFR 2.18(c). The following oversnow routes are so designated:

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

(B) The Grand Loop Road from 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) Roads 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;

(N) North Canyon Rim Drive;

(O) Riverside Drive; and

(P) Cave Falls Road.

(ii) The Superintendent may open or close these oversnow 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. The Superintendent will provide public notice of any opening or closing by one

or more of the methods listed in 36 CFR 1.7(a).

(iii) This paragraph (l)(7) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, or concessioner employees, or other non-administrative users authorized by the Superintendent.

(iv) Maps detailing the designated oversnow routes are available at Park Headquarters.

(8) *What routes are designated for snowcoach use?* (i) Authorized snowcoaches may be operated on the routes designated for snowmobile use in paragraph (l)(7)(i) of this section.

Rubber-tracked snowcoaches may also be operated on 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, after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, avalanche conditions, and other factors. The Superintendent will provide public notice of any opening or closing by one of more of the methods listed in 36 CFR 1.7(a).

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

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

(ii) Unguided snowmobile access is prohibited.

(iii) The Superintendent will establish the requirements, including training and certification requirements for commercial guides and non-commercial

guides and accompanying snowmobile operators.

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

(v) The guiding requirements described in this paragraph (l)(9) do not apply to Cave Falls Road.

(10) *Are there limits upon the number of snowmobiles and snowcoaches permitted to operate in the park each day?* As of December 15, 2014, the number of snowmobiles and snowcoaches permitted to operate in the park each day will be managed by transportation events, as follows:

(i) A transportation event consists of a group of no more than 10 snowmobiles (including the guide) or one snowcoach (unless enhanced emission standards allow for two).

(ii) No more than 110 transportation events may occur in Yellowstone National Park on any given day.

(iii) No more than 50 of the 110 transportation events allowed each day may be snowmobile transportation events.

(iv) Four of the 50 snowmobile transportation events allowed each day are reserved for non-commercially guided groups, with one such group allowed per entrance each day. The Superintendent may adjust or terminate the Non-commercially Guided Snowmobile Access Program, or redistribute non-commercially guided transportation events, based upon impacts to park resources and visitor experiences, after providing public notice in accordance with one or more methods listed in 36 CFR 1.7(a).

(v) Allocations of transportation events may be exchanged among commercial tour operators, but only for the same entrance or location.

(vi) Commercial tour operators may decide whether to use their daily allocations of transportation events for

snowmobiles or snowcoaches, subject to the limits in this section.

(vii) Transportation events may not exceed the maximum number of oversnow vehicles allowed for each transportation event.

(viii) Snowmobile transportation events conducted by a commercial tour operator may not exceed an average of 7 snowmobiles, averaged over the winter season. However, snowmobile transportation events conducted by a commercial tour operator that consist entirely of snowmobiles meeting enhanced emission standards may not exceed an average of 8 snowmobiles, averaged over the winter season. For the 2014–2015 through 2016–2017 winter seasons, snowmobile transportation events conducted by a commercial tour operator that consist of any snowmobile that does not meet the air emission requirements in paragraph (6)(i)(B) of this section or the sound emission requirements in paragraph (6)(ii)(B) of this section may not exceed an average of 7 snowmobiles, averaged daily.

(ix) Snowcoach transportation events that consist entirely of snowcoaches meeting enhanced emission standards may not exceed an average of 1.5 snowcoaches, averaged over the winter season.

(x) A concessioner that is allocated a transportation event, but does not use it or exchange it can count that event as “0” against that concessioner’s daily and seasonal averages. A concessioner that receives a transportation event from another concessioner, but does not use it, may also count that event as “0” against its daily and seasonal averages.

(xi) Up to 50 snowmobiles may enter Cave Falls Road each day.

(xii) Daily allocations and entrance distributions for transportation events are listed in the following table:

| Park Entrance/location | Commercially guided snowmobile transportation events | Non-commercially guided snowmobile transportation events | Snowcoach transportation events |
|------------------------|--|--|---------------------------------|
| West Entrance .....    | 23   | 1  | 47                              |
| South Entrance .....   | 16   | 1  | 17                              |
| East Entrance .....    | 3  | 1  | 2                               |
| North Entrance .....   | 2  | 1  | 17                              |
| Old Faithful .....     | 2  | 0  | 23                              |
| <b>Total .....</b>     | <b>46</b>  | <b>4</b>   | <b>106</b>                      |

(xiii) The Superintendent may decrease the maximum number of transportation events allowed in the park each day, or make limited changes to the transportation events allocated to

each entrance, after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, avalanche conditions, and other factors. The Superintendent will

provide public notice of changes by one or more of the methods listed in 36 CFR 1.7(a).

(xiv) For the 2013–2014 winter season only, the number of snowmobiles and

snowcoaches allowed to operate in the park each day is limited to a certain number per entrance or location as set forth in the following table. During this period, all recreational snowmobile operators must be accompanied by a commercial guide. Snowmobile parties must travel in a group of no more than 10 snowmobiles, including the guide.

NUMBER OF SNOWMOBILES AND SNOWCOACHES ALLOWED IN THE PARK ON ANY DAY BY PARK ENTRANCE/LOCATION FOR THE 2013–2014 WINTER SEASON

| Park entrance/location | Commercially guided snowmobiles | Commercially guided snowcoaches |
|------------------------|---------------------------------|---------------------------------|
| West Entrance .....    | 160                             | 34                              |
| South Entrance .....   | 114                             | 13                              |
| East Entrance .....    | 20                              | 2                               |
| North Entrance * ..... | 12                              | 13                              |
| Old Faithful * .....   | 12                              | 16                              |

\* Commercially guided snowmobile tours originating at the North Entrance and Old Faithful are currently provided solely by one concessioner. Because this concessioner is the sole provider at both of these areas, this regulation allows reallocation of snowmobiles between the North Entrance and Old Faithful as necessary, so long as the total daily number of snowmobiles originating from the two locations does not exceed 24. For example, the concessioner could operate 6 snowmobiles at Old Faithful and 18 at the North Entrance if visitor demand warranted it. This will allow the concessioner to respond to changing visitor demand for commercially guided snowmobile tours, thus enhancing the availability of visitor services in Yellowstone.

(xv) Paragraph (l)(10)(xiii) remains in effect until March 15, 2014.

(11) *How will the park monitor compliance with the required average and maximum size of transportation events?* As of December 15, 2014: (i) Each commercial tour operator must maintain accurate and complete records of the number of snowmobiles and snowcoaches it has brought into the park on a daily basis.

(ii) The records kept by commercial tour operators under paragraph (l)(11)(i) of this section must be made available for inspection by the park upon request.

(iii) Each commercial tour operator must submit a monthly report to the park that includes the following information about snowmobile and snowcoach use:

(A) Average group size for allocated transportation events during the previous month and for the winter season to date. Any transportation events that have been exchanged among commercial tour operators must be noted and the receiving party must include these transportation events in its reports.

(B) For each transportation event; the departure date, the duration of the trip (in days), the event type (snowmobile or snowcoach), the number of snowmobiles or snowcoaches, the number of visitors and guides, the entrance used, route, and primary destination(s), and if the transportation event allocation was from another commercial tour operator.

(iv) To qualify for the increased average size of snowmobile transportation events or increased maximum size of snowcoach transportation events, a commercial tour operator must:

(A) Demonstrate before the start of a winter season, by means acceptable to

the Superintendent, that his or her snowmobiles or snowcoaches meet the enhanced emission standards; and

(B) Maintain separate records for snowmobiles and snowcoaches that meet enhanced emission standards and those that do not to allow the park to measure compliance with required average and maximum sizes of transportation events.

(12) *How will I know when I can operate a snowmobile or snowcoach in the park?* The Superintendent will:

(i) Determine operating hours, dates, and use levels;

(ii) Notify the public of operating hours, dates, use levels, and any applicable changes through one or more of the methods listed in § 1.7(a) of this chapter; and

(iii) Except for emergency situations, announce annually any changes to the operating hours, dates, and use levels.

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

(A) Idling an oversnow vehicle for more than 3 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 with 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 for

emergency situations or administrative use of a trailer or other mode of conveyance specifically designed for carrying passengers while being towed; and

(H) Racing snowmobiles, or operating a snowmobile in excess of 35 mph, or operating a snowmobile in excess of any lower speed limit in effect under § 4.21(a)(1) or (2) of this chapter or that has been otherwise designated.

(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. Oversnow vehicle may not be operated so slowly as to interfere with the normal flow of traffic.

(B) Oversnow vehicle drivers must possess and carry at all times a valid state-issued motor vehicle driver's license. A learner's permit does not satisfy this requirement.

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

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

(E) The only motor vehicles permitted on oversnow routes are oversnow vehicles.

(F) An oversnow vehicle that does not meet the definition of a snowcoach must comply with all requirements applicable to snowmobiles.

(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 (l)(13) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, or concessioner employees, or other non-administrative users authorized by the Superintendent.

(14) *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 operator is under 21 years of age and the alcohol concentration in the operator'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 operator 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)(14) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, or concessioner employees, or other non-administrative users authorized by the Superintendent.

(15) *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)(15) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, concessioner employees, or other non-administrative users authorized by the Superintendent.

(16) *What forms of non-motorized oversnow transportation are 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 previously closed areas, or establish terms and conditions for non-motorized travel within the park in order to protect visitors, employees, or park resources. The Superintendent will notify the public in accordance with § 1.7(a) of this chapter.

(iii) Dog sledding and ski-joring (a skier being pulled by a dog, horse, or vehicle) are prohibited. Bicycles,

including bicycles modified for oversnow travel, are not allowed on oversnow routes in Yellowstone.

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

(18) *Is violating a provision of this section prohibited?* (i) Violating a term, condition, or requirement of paragraph (l) of this section is prohibited.

(ii) Violation of a term, condition, or requirement of paragraph (l) of this section by a guide may also result in the administrative revocation of guiding privileges.

(19) *Have the information collection requirements been approved?* The Office of Management and Budget has reviewed and approved the information collection requirements in paragraph (l) and assigned OMB Control No. 1024-XXXX. We will use this information to monitor compliance with the required average and maximum size of transportation events. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You may send comments on any aspect of this information collection to the Information Collection Clearance Officer, National Park Service, 1849 C Street NW., Washington, DC 20240.

\* \* \* \* \*

Dated: February 21, 2013.

**Rachel Jacobson,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2013-08893 Filed 4-15-13; 8:45 am]

**BILLING CODE 4312-EJ-P**

## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3010

[Docket Nos. RM2011-2 and RM2013-2; Order No. 1678]

#### Administrative Practice and Procedure; Postal Service; Review of Price Cap Rules

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission is initiating a review of its Price Cap Rules. The review seeks to clarify how to the maximum amount of rate adjustments in postal rate cases is determined and applied. It also seeks to improve other aspects of the process of adjusting rates for market dominant products. This notice informs the public of the review, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* May 16, 2013. *Reply comments are due:* May 31, 2013.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at 202-789-6820.

#### Regulatory History

72 FR 5230, February 5, 2007  
72 FR 29284, May 25, 2007  
72 FR 33261, June 15, 2007  
72 FR 50744, September 4, 2007  
72 FR 63622, November 9, 2007

#### SUPPLEMENTARY INFORMATION:

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I. Introduction  
II. Background  
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#### I. Introduction

With this notice of proposed rulemaking, the Commission is initiating review of its rules in 39 CFR part 3010 and requesting comments and suggestions to clarify or improve the manner in which part 3010 implements statutory directives and policies previously expressed in Commission orders.

The purposes of this rulemaking are to clarify the Commission's rules for determining and applying the maximum amount of rate adjustments in rate cases before the Commission and to improve other aspects of the process of adjusting rates for market dominant products. The proposed rules are intended to provide more certainty for the Postal Service and the mailing community as they make decisions that rely upon the Postal Service's authority to adjust rates for market dominant products under 39 U.S.C. 3622(d) and part 3010.

#### II. Background

Five "regular" rate cases have come before the Commission since the promulgation of 39 CFR part 3010.<sup>1</sup> Initially, the Commission's rules in part 3010 were successfully applied in several proceedings without the Postal

<sup>1</sup> See 39 U.S.C. 3622(d)(1)(B). The five cases are: Docket No. R2008-1; Docket No. R2009-2; Docket No. R2011-1; Docket No. R2012-3; and Docket No. R2013-1.