

for use, the Superintendent will use criteria that are the same as those set forth in § 2.18(c), and may also take other issues into consideration including the most direct route of access, weather and snow conditions, the necessity to eliminate congestion, the necessity to improve the circulation of the visitor use patterns in the interest of public safety and protection of park resources. The criteria mentioned above are reiterated in this section since winter use management in these parks will not be specifically subject to § 2.18.

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

What Other Conditions Apply to the Operation of Oversnow Vehicles?

A similar section existed in previous snowmobile regulations entitled "What other conditions are placed on snowmobile and snowcoach operations?" and addressed many of the same issues. A few minor changes were made to those operating requirements, including modifying the operating hours by one hour, limiting idling to 5 minutes at any one time, and no longer allowing operation of a snowmobile by persons holding only a learner's permit. These modifications were made based on experiences over the last few winters with winter use operations and the need to adjust requirements for safety and resource impact considerations.

What Conditions Apply to Alcohol Use While Operating an Oversnow Vehicle?

Although the regulations in 36 CFR 4.23 apply to oversnow vehicles, additional regulations were needed to address the issue of under-age drinking while operating a snowmobile and snowcoach operators or guides operating under the influence while performing services for others. Many states have adopted similar alcohol standards for under-age operators and commercial drivers and the NPS feels it is necessary to include these regulations specifically to help mitigate potential safety concerns.

The alcohol level for minors (anyone under the age of 21) is set at .02. Although the NPS endorses a "zero tolerance", a very low Blood Alcohol Content (BAC) is established to avoid a chance of a false reading. Mothers Against Drunk Driving and other organizations have endorsed this enforcement posture and the NPS agrees

that under-age drinking and driving, particularly in a harsh winter environment, will not be allowed.

In the case of snowcoach operator or guides, a low BAC limit is also necessary. Those persons operating a snowcoach are likely to be carrying 8 or more passengers in a vehicle with tracks or skis that is more challenging to operate than a wheeled vehicle, and along oversnow routes that could pose significant hazards should the driver not be paying close attention or have impaired judgement. Similarly, persons guiding others (commercially or non-commercially) on a snowmobile have put themselves in a position of responsibility for the safety of other visitors and of minimizing impacts to park wildlife and other resources. Should the guide's judgement be impaired, hazards such as wildlife on the road or snow obscured features, could endanger all members of the group in an unforgiving climate. For these reasons, the NPS is requiring that all guides be held to a stricter than normal standard for alcohol consumption. Therefore, the NPS has established a BAC limit of .02 for snowcoach operators and snowmobile guides. Again, the NPS endorses a "zero tolerance" but provides a minimal amount of latitude to avoid false positive readings. Should a snowcoach operator or snowmobile guide be found to have a BAC above .02, their authorization to serve as an operator or guide will be suspended and a fine may be imposed.

Do Other NPS Regulations Apply to the Use of Oversnow Vehicles?

These regulations propose to supercede the NPS' general snowmobiling regulations at 36 CFR 2.18 in order to avoid confusion as to how two separate bodies of snowmobile regulation interrelate. Relevant portions of 36 CFR 2.18 have been incorporated within these proposed regulations. The proposed rule also supercedes 36 CFR 2.19(b) because it provides for the towing of people behind an oversnow vehicle. The proposed rule prohibits towing of persons on skis, sleds, or other sliding devices by motor vehicle or snowmobile, except in emergency situations. Towing people, especially children, is a potential safety hazard and health risk due to road conditions, traffic volumes, and direct exposure to snowmobile emissions. This rule does not affect supply sleds attached by a rigid device or hitch pulled directly behind snowmobiles or other oversnow vehicles as long as no person or animal is hauled on them. Other provisions of 36 CFR Parts 1 and 2 continue to apply

to the operation of oversnow vehicles unless specifically excluded here.

Are There Any Other Forms of Non-Motorized Oversnow Transportation Allowed in the Park?

YNP has specifically prohibited dog sledding and ski-joring (the practice of a skier being pulled by dogs or a vehicle) to prevent disturbance or harassment to wildlife. These restrictions have been in place for several years under regulatory authority and would now be codified in these regulations.

May I Operate a Snowplane?

Prior to the winter of 2002–2003, snowplanes were allowed on Jackson Lake within GTNP under a permit system, but not authorized for operation in YNP or the Parkway. The operation of snowplanes is now prohibited in all three parks, and this rule continues that prohibition. To avoid any uncertainty from this previous use on Jackson Lake, this proposed rule includes language that specifically prohibits the operation of snowplanes in each of these parks.

Is Violating Any of the Provisions of This Section Prohibited?

While writing this rule, park staff became concerned that a statement did not exist specifically prohibiting violations of this section. Some Magistrates have interpreted the lack of a specific prohibitory statement to be ambiguous and therefore unenforceable. Although it would seem to be implicit that each instance of a failure to abide by specific requirements is a separate violation, the proposed regulation contains clarifying language for this purpose. Each occurrence of non-compliance with these regulations is a separate violation. However, it should also be noted that each individual regulatory provision (*i.e.*, numbered in separate subparagraphs throughout these three sections) could be violated individually and are of varying severity. Thus, each subparagraph violated can and should receive individual fines in accordance with the issuance of the park's bail schedule as issued by the appropriate Magistrate. It is not intended that violations of the individual subparagraphs of these regulations be treated as a single violation or subject only to a single fine.

Summary of Economic Analysis

In support of the proposed rulemaking, NPS conducted a draft benefit-cost analysis and regulatory flexibility analysis. In support of the final rulemaking, a quantitative benefit-cost analysis will be conducted in