

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Part 7**

RIN 1024-AD11

Special Regulations; Areas of the National Park System**AGENCY:** National Park Service, Interior.**ACTION:** Final rule.

SUMMARY: The National Park Service is promulgating this rule to more effectively manage winter visitation and recreational use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway. This rule is issued in conjunction with the Winter Use Plans Final Environmental Impact Statement and the Final Supplemental Environmental Impact Statement and is necessary to mitigate impacts resulting from oversnow motorized recreation in the parks and to implement the Record of Decision of March 25, 2003. The rule implements an adaptive management strategy. In order to minimize impacts the rule requires that most recreational snowmobiles and snowcoaches operating in the parks meet certain air and sound emissions requirements, be accompanied by a trained guide, and comply with established daily entry limits on the numbers of snowmobiles that may enter the parks. Cross-country routes will continue to remain closed to oversnow motorized vehicles.

DATES: This regulation is effective December 11, 2003.

FOR FURTHER INFORMATION CONTACT: John Sacklin, Planning Office, Yellowstone National Park, 307-344-2021.

SUPPLEMENTARY INFORMATION: The National Park Service (NPS) has been managing winter use issues in Yellowstone National Park (YNP), Grand Teton National Park (GTNP), and the John D. Rockefeller, Jr., Memorial Parkway (the Parkway) for several decades. In 1997, the Fund for Animals and others filed suit, alleging that the NPS failed to: Consult with the U.S. Fish and Wildlife Service on impacts of winter use on threatened and endangered species; prepare an EIS concerning winter use; and evaluate the effects of grooming on wildlife and other park resources. The suit was resolved with a settlement agreement in October 1997 which, among other things, required the NPS to prepare a new winter use plan for the three park units. On October 10, 2000, a Winter Use Plans Final Environmental Impact Statement (FEIS) was published for

YNP, GTNP, and the Parkway. A Record of Decision (ROD) was signed by Intermountain Regional Director Karen Wade on November 22, 2000, and subsequently distributed to interested and affected parties. The ROD selected FEIS Alternative G, which eliminated both snowmobile and snowplane use from the parks by the winter of 2003-2004, and provided access via an NPS-managed, mass-transit snowcoach system. This decision was based on a finding that the snowmobile and snowplane use existing at that time, and the snowmobile use analyzed in the FEIS alternatives, impaired park resources and values, thus violating the statutory mandate of the NPS.

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

On December 6, 2000, the Secretary of the Interior, the Director of the National Park Service and others in the Department of the Interior and the NPS were named as defendants in a lawsuit brought by the International Snowmobile Manufacturers' Association and several groups and individuals. The State of Wyoming subsequently intervened on behalf of the plaintiffs. Following promulgation of final regulations, the original complaint was amended to also challenge the regulations. The lawsuit asked for the decision contained in the ROD be set aside. The lawsuit alleged that NPS failed to give legally mandated consideration to all of the alternatives, made political decisions outside the public process and contrary to evidence and data, failed to give the public appropriate notice and participation, failed to adequately consider and use the proposals and expertise of the cooperating agencies, failed to properly interpret and implement the parks' purpose, discriminated against disabled visitors, and improperly adopted implementing regulations. A procedural settlement was reached on June 29, 2001, under which, NPS prepared a Supplemental Environmental Impact Statement (SEIS). In accordance with the settlement, the SEIS incorporated "any significant new or additional information or data submitted with respect to a winter use plan." Additionally, the NPS provided the opportunity for additional public participation pursuant to NEPA. A Notice of Intent to prepare a Supplemental Environmental Impact

Statement was published in the **Federal Register** on July 27, 2001 (66 FR 39197).

A draft SEIS was published on March 29, 2002, and distributed to interested and affected parties. NPS accepted public comments on the draft for 60 days, and 357,405 pieces of correspondence were received. The draft SEIS examined four additional alternatives: Two alternatives that would allow some form of snowmobile access to continue; a no-action alternative, that would implement the November 2000 ROD; and another alternative that would implement the no-action alternative one year later to allow additional time for phasing in snowcoach-only travel. The SEIS focused its analysis only on the issues relevant to allowing recreational snowmobile and snowcoach use in the parks. These impact topics included: Air quality and air quality related values, employee health and safety, natural soundscapes, public health and safety, socioeconomics, wildlife—bison and elk, and visitor experience. The SEIS did not include re-evaluating the decision to ban snowplane use on Jackson Lake because this had not been an issue in the lawsuit, and was not an aspect of the resulting settlement.

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

Other provisions under the January 2001 regulation concerning licensing requirements, limits on hours of operation, and the ban on snowplane use remained effective for the winter use season of 2002-2003. The rule also closed to snowmobiles 14 miles of roads that had been previously opened to snowmobile use.

The Notice of Availability for the Final SEIS was published on February 24, 2003 (68 FR 8618). The Final SEIS included a new alternative, alternative 4, consisting of elements which fell within the scope of the analyses contained in the Draft SEIS and which