



Snowmobiles: Environmental Standards and Access to National Parks

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Summary

For at least a decade, the use of snowmobiles in Yellowstone and other national parks has been controversial because of the potential impacts on wildlife and, until recently, the absence of standards for snowmobile emissions and noise. The National Park Service has attempted to address the issue by developing Winter Use Plans that establish regulations and limits at individual park units. These plans have been the subject of numerous legal challenges. On September 15, 2008, the U.S. District Court for the District of Columbia vacated the National Park Service's most recent Winter Use Plan for Yellowstone National Park. The plan would have allowed up to 540 snowmobiles per day into the park beginning in the 2008-2009 winter season, provided that they met noise and emission standards and that the riders were accompanied by commercial guides. The NPS plan was opposed by environmental groups and the vast majority of public commenters. With the rule vacated, it is unclear what limits will apply in the coming winter season.

Current model snowmobiles emit significant quantities of pollution. In one hour, a new model snowmobile emits as much hydrocarbon as a 2008 model auto emits in about four years (54,000 miles) of driving. The Environmental Protection Agency (EPA) promulgated regulations limiting air emissions from snowmobiles in 2002, but the regulations have the effect of allowing the machines to emit as much hydrocarbon pollution in a day as a new auto emits in its lifetime. Snowmobiles also emit significant amounts of noise. EPA has no snowmobile noise standards.

The National Park Service has allowed snowmobile use in 43 units of the national park system, in many cases in apparent violation of Executive Orders from the Nixon and Carter years. Outside of Alaska (where snowmobiles are permitted in most national parks by law), the most popular national park for snowmobiling has been Yellowstone, which saw more than 87,000 snowmobile visits in the 2001-2002 winter season. Under the Clinton Administration, the Park Service decided that the emissions and noise from snowmobiling were incompatible with protecting the park, and promulgated rules that would have phased out snowmobiles from Yellowstone by the winter of 2003-2004. The Bush Administration revisited these rules and announced modifications in March 2003 that would have allowed continued use of snowmobiles. The 2003 rules and the Clinton Administration action have been the subject of conflicting court rulings: a federal court in Wyoming has vacated and remanded the Clinton Administration's phaseout, while a D.C. federal court has vacated and remanded the Bush Administration rules. For the last four winters, Yellowstone and two neighboring park units have operated under a temporary plan that permits 720 snowmobiles per day in Yellowstone, but sets standards for their emissions and requires snowmobilers to be accompanied by commercial guides. Under these rules, snowmobile visits have declined by two-thirds.

Efforts to reduce snowmobile emissions and noise remain contentious. This report discusses snowmobile access to the parks, snowmobile emissions, EPA's emission standards, and congressional efforts to address these issues.

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During the final year of the Clinton Administration, proposals by the National Park Service to enforce long-standing policies that regulated the use of snowmobiles in national parks raised a number of questions regarding the potential regulation of such vehicles. These questions continue to be debated, as the National Park Service (NPS) explores optional winter use plans for Yellowstone and other units of the national park system, and as various parties challenge the actions of the NPS in court.

National Park System units account for only about 3% of the land mass of the United States and possess few trails and roads suitable for snowmobiles, compared to areas available on other federal lands; but—for both proponents and opponents—the question of snowmobile access to the parks has taken on a far greater importance. To the snowmobile industry and to many in communities neighboring national parks, “Snowmobiling is an important part of the economic engine that supports northern communities, winter tourism.”¹ To environmental groups, snowmobiling “is one of the most environmentally devastating recreational activities permitted by the Park Service resulting in adverse impacts to Park wildlife, air and water quality, vegetation, Park ecology, and Park users.”² Underlying the debate are broader questions concerning regulation of emissions and noise from the vehicles and the degree to which restrictions may serve as a precedent or stigma affecting snowmobile and motorized recreation³ use more generally.

Snowmobile Use in National Parks

In the 1990s, snowmobiles were allowed access to 43 units of the National Park System, including such major parks as Yellowstone, Grand Teton, Rocky Mountain, Acadia, Zion, Mount Rainier, and Sequoia. While numerous park units allowed such access, recreational use of snowmobiles has not been widespread in the park system as a whole. The National Park Service administers 391 units (parks, seashores, monuments, etc.). Of these, 348 (89%) have not been open to snowmobiles. Many units are located in climates unsuitable for them or are too small to be used for such recreation. Others (e.g., Glacier National Park and Yosemite) have banned snowmobiles since the 1970s. According to the National Parks Conservation Association, use of snowmobiles outside of Alaska has mostly been concentrated in five units of the park system: Yellowstone National Park, Voyageurs National Park, Rocky Mountain National Park, Pictured Rocks National Lakeshore, and the John D. Rockefeller Memorial Parkway. Yellowstone accounted for about 40% of the snowmobile visitors at these five parks, with a total of 76,571 in the 1999-2000 winter season.⁴

¹ Statement of Ed Klim, President, International Snowmobile Manufacturers Association, at U.S. EPA Public Hearing, Washington, D.C., October 24, 2001.

² Petition to Prohibit Snowmobiling and Road Grooming in National Parks, submitted to the National Park Service, January 21, 1999, by Bluewater Network and 60 other environmental groups. A copy of the petition is attached to the testimony of Sean Smith, Public Lands Director, Bluewater Network, submitted to the Subcommittee on National Parks, Historic Preservation and Recreation, Senate Energy and Natural Resources Committee, May 25, 2000.

³ Motorized recreation includes all-terrain vehicles, off-road motorcycles, other off-highway vehicles, and personal watercraft, in addition to snowmobiles.

⁴ Statement of Kevin Collins, National Parks Conservation Association, *Snowmobiles in National Parks*, Hearing, Subcommittee on Tax, Finance and Exports, Small Business Committee, U.S. House of Representatives, July 13, 2000, at http://www.npca.org/media_center/testimonies/testimony071300.html.

Comparative data for all five of these units are not available for years after 1999-2000. One of the five, Rocky Mountain National Park, has closed all but one snowmobile route since 2004—the one route remaining being a 2-mile trail that provides access to National Forest land heavily used by snowmobiles. Snowmobile visits to Yellowstone increased during the 2000-2001 and 2001-2002 winter seasons, peaking at 87,206 in the latter winter. In subsequent years, snowmobile visitors to Yellowstone plummeted, to a low of 24,049 in 2004-2005. Changes in access policy (described later in this report) as well as drought and low snow pack in recent years contributed to the decline. Two other Yellowstone area park units, Grand Teton National Park and the Rockefeller Memorial Parkway, experienced an even more steep decline, from a combined 35,000 snowmobile visits in 2000-2001 to about 7,500 in 2004-2005.⁵ Snowmobile visits have rebounded somewhat since 2004-2005, but in 2007-2008 they remained at only about 35% of visits in the peak years.⁶

Park Service Policy on Snowmobile Access

Although recreational access by snowmobiles has been permitted in units of the national park system, the Park Service, in the late 1990s, concluded that such use has generally been in violation of Executive Orders 11644 and 11989, issued by Presidents Nixon and Carter respectively. The Nixon Order directed that use of off-road vehicles on public lands “be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.”⁷ It specified that off-road vehicle “areas and trails shall be located in areas of the National Park system ... only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values,” and it directed the Park Service to “monitor the effects of the use of off-road vehicles” and to rescind or limit this use “as necessary to further the policy of this order.”

In January 1999, the Park Service received a rulemaking petition from the Bluewater Network and 60 other environmental organizations seeking a ban on snowmobiles from all units of the National Park Service. In response, the Service surveyed units of the System to assess the extent to which they were complying with the Executive Orders. According to Interior Department testimony: “The results graphically demonstrated that the National Park Service was not complying with its statutory and regulatory mandates.... Consequently, maintaining the status quo with regard to snowmobiling was simply not an option.”⁸ On April 27, 2000, the Department of the Interior and the National Park Service announced that “snowmobiling for general recreational purposes will be prohibited throughout the Park System, with a limited number of narrow exceptions.”⁹ By July 2000, the Department had backed away from its strict enforcement stance

⁵ Data are available for each of the years 1996-1997 to 2006-2007 in *Winter Use Plans, Final Environmental Impact Statement, Yellowstone and Grand Teton National Parks, John D. Rockefeller, Jr. Memorial Parkway*, 2007, Volume 1, pp. 154, 161, at http://www.nps.gov/yell/parkmgmt/upload/vol1_chapters1-3.pdf.

⁶ National Park Service, NPS Stats, at <http://www.nature.nps.gov/stats>.

⁷ Executive Order 11644, “Use of Off-Road Vehicles on the Public Lands,” *37 Federal Register* 2877, February 9, 1972.

⁸ Statement of Donald J. Barry, Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior, before the House Committee on Resources, Subcommittee on National Parks and Public Lands, and the Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, Historic Preservation, and Recreation, May 25, 2000.

⁹ U.S. Department of the Interior, Office of the Assistant Secretary, “National Park Service Puts the Brakes on (continued...)”

with a clarification: there would be no snowmobile ban in park units pending a formal rulemaking and public comment period, and snowmobile practices prior to the April 2000 announcement (i.e., access to more than 40 parks) would continue through the 2000-2001 winter season.¹⁰ NPS has taken no further action to enunciate a general policy.

Since the summer of 2000, the focus has been on Denali National Park in Alaska and the Yellowstone/Grand Teton area. Both of these areas had been considered exceptions subject to special consideration even under the April 2000 policy announced by the Park Service. Whether snowmobile access to these parks will be allowed to continue has generated substantial public interest.

Denali National Park

In Alaska, vast distances, lack of roads, abundant snow cover, and small dispersed populations make snow machine use ubiquitous. In general, national parks in Alaska allow snowmobile access under the provisions of the Alaska National Interest Lands Conservation Act (ANILCA, P.L. 96-487). However, access to the 2 million acres formerly known as Mt. McKinley National Park (now the core of Denali National Park) has been an issue. Prior to passage of ANILCA (1980), snowmobiles had been banned from this park. In 1999, the Park Service reinstated this policy, banning snowmobiles first on a temporary and later on a permanent basis.¹¹ Litigation regarding access to Denali was initiated by snowmobile user groups, but was withdrawn in June 2001, on the assumption that legislation would be introduced to address the issue. Legislation (H.R. 4677 / S. 2589, 107th Congress) was introduced in the spring of 2002 that would have allowed access to some portions of the old Park, while continuing the ban elsewhere. No action was taken on these bills, however, and similar legislation has not been introduced in subsequent years.

In January 2006, the National Park Service published a *Final Backcountry Management Plan* for Denali National Park and Preserve. The plan notes that as a result of technology improvements that have extended the range of snowmobiles, the use of such machines is now widespread in the southern park additions and “growing rapidly.” “... [C]onflicts with other users, especially non-motorized winter recreationists and subsistence users, are increasing, and concerns have been raised about the effects of snowmachine use on wildlife, vegetation, water quality, air quality, natural soundscapes, and other park resources.” Despite raising these issues, the plan concludes, “There are currently few guidelines for managing use.”¹²

(...continued)

Escalating Snowmobile Use in the National Park System,” Press Release, April 27, 2000, p. 2. In addition to Alaska parks and the three Yellowstone area units discussed below, Voyageurs National Park in Minnesota was also exempted because of the express authorization of snowmobiles in its enabling legislation.

¹⁰ Statement of Denis P. Galvin, Deputy Director, National Park Service, before the Subcommittee on National Parks and Public Lands, House Committee on Resources, Oversight Hearing on General Issues Involving Access to National Parks, July 20, 2000, p. 2.

¹¹ The temporary closure was instituted on February 3, 1999. The permanent closure was finalized June 19, 2000, at 65 *Federal Register* 37863.

¹² Denali National Park and Preserve, National Park Service, U.S. Department of the Interior, *Denali National Park and Preserve Final Backcountry Management Plan*, January 2006, p. 6 at <http://www.nps.gov/dena/parkmgmt/backcountryplan.htm>.

Yellowstone/Grand Teton

The other exception to the National Park Service's general policy was the Yellowstone/Grand Teton National Park area. The NPS had been sued in May 1997 by groups who alleged that the Service was violating the National Environmental Policy Act, the Endangered Species Act, the National Park Service Organic Act, and the Yellowstone Act in allowing use of snowmobiles in the two parks and on the Rockefeller Memorial Parkway (which links them). The lawsuit was settled within months when the NPS agreed to conduct an Environmental Impact Study (EIS) of winter use of the parks. Upon completion of the study, the Clinton Administration promulgated a final rule in January 2001, banning snowmobiles from Yellowstone, Grand Teton, and the Rockefeller Parkway beginning in the winter of 2003-2004, but allowing continued visitor access through the use of "snowcoaches"—guided tour-vans that run on rubber treads.¹³

Snowmobile manufacturers, represented by the International Snowmobile Manufacturers Association (ISMA), have suggested that "cleaner, quieter" snowmobiles—a phrase not initially defined—be allowed continued access to the parks. Their suggestion found a receptive audience in the Bush Administration. On June 29, 2001, the Administration responded to a suit filed by ISMA and the State of Wyoming by agreeing to reopen the decision to ban the vehicles from the three Yellowstone area units. The Park Service agreed to prepare a Supplemental EIS and reach a new Record of Decision by November 15, 2002 (a deadline subsequently extended to March 15, 2003).

The Record of Decision was signed March 25, 2003, and a final rule implementing it was promulgated December 11, 2003.¹⁴ Despite receiving 104,802 comments on the final proposal, 91% of which "believed the proposed regulation does not adequately protect park resources due to the presence of snowmobiles,"¹⁵ the Park Service reversed the ban in favor of daily limits on entrants, emission standards for the snowmobiles, other access requirements, and an "adaptive management strategy," allowing park managers to take remedial action if monitoring indicates unacceptable impacts from implementation. In explaining its position, the NPS stated: "We are trying to provide a range of appropriate activities in the parks, while protecting park resources and values."¹⁶

The 2003 rule would have set a daily limit of 950 snowmobile entrance passes for Yellowstone Park, 115 in Grand Teton National Park, and 400 on Rockefeller Memorial Parkway.¹⁷ On most days, this limit would result in no reduction of snowmobile users; but on weekends and holidays, when as many as 1,700 snowmobiles have entered the three park units, it could limit the number of entrants. Snowmobile users would generally have been required to be accompanied by trained guides (although the regulations would have allowed group members to be as much as 1/3 of a mile from the guide, and the rule preamble conceded, given the noise of a snowmobile, that communication is difficult if not impossible even between passengers on the same machine). To discourage irresponsible behavior, alcohol use by snowmobile users would have been strictly limited.

¹³ Special Regulations, Areas of the National Park System, 66 *Federal Register* 7260, January 22, 2001.

¹⁴ Special Regulations, Areas of the National Park System, 68 *Federal Register* 69268, December 11, 2003.

¹⁵ *Ibid.*, p. 69269.

¹⁶ *Ibid.*

¹⁷ Seventy-five of the passes would have been for the Continental Divide Snowmobile Trail, which lies in both Grand Teton National Park and the Parkway. These are counted in each unit's total.

The machines themselves would have been required to achieve a 90% reduction in hydrocarbon emissions and a 70% reduction in carbon monoxide under the 2003 rules. Noise emissions would have been limited to 73 dB(A), which the NPS estimates is about a 50% reduction compared to conventional snowmobiles. To implement these provisions, the Yellowstone Park Superintendent released a list of 10 snowmobile models approved for use during the 2003-2004 winter season, on September 16, 2003. This list has been updated annually. The most recent version, released in February 2008, contains 26 models.¹⁸

A hearing on the 2003 rules was held in the U.S. District Court for the District of Columbia on December 15, 2003. The rules were vacated and remanded to the National Park Service by Judge Emmett Sullivan on December 16. The judge held that there was no evidence in the record to support the Bush Administration reversal of the previous agency position and that the decision, therefore, was “arbitrary and capricious.” The court also held that the Supplemental EIS accompanying the changes was “flatly inadequate” under NEPA and that the snowmobile decision was “completely politically driven and result oriented.”¹⁹ The judge also ordered NPS to respond to Bluewater Network’s 1999 rulemaking petition (seeking a ban on snowmobiles in all National Park System units) by February 17, 2004.²⁰ Judge Sullivan’s decision reinstated the Clinton Administration rule and cut the number of snowmobiles entering the three Yellowstone area park units in half for the 2003-2004 winter season in preparation for a complete ban in 2004-5.

Both ISMA and the State of Wyoming appealed the court’s ruling. Their request for a stay of the Clinton-era rules pending resolution of their appeal was denied by Judge Sullivan in late December 2003 and by a three-judge panel of the Court of Appeals January 13, 2004. Meanwhile, however, the same groups petitioned the Federal District Court for Wyoming to overturn the Clinton-era rules. That court responded February 10, 2004, when Judge Clarence Brimmer issued a temporary restraining order against the Clinton rules and ordered the National Park Service to develop temporary rules for the remainder of the 2004 winter season. The next day, the Park Service issued such rules, allowing 780 snowmobiles to enter Yellowstone Park each day, an increase of 287 machines. Grand Teton Park and the Rockefeller Parkway were allowed 140 snowmobiles, an increase of 90. An appeal of Judge Brimmer’s order was denied by the 10th Circuit Court in Denver on March 10. (The Wyoming court vacated and remanded the Clinton rules on October 14, 2004.)

As a result of the court decisions, snowmobile use in the three parks was substantially reduced during the 2003-2004 winter season. According to NPS, an average of 258 snowmobiles entered Yellowstone in January and February 2004, a reduction of two-thirds from the historic average. In Grand Teton and the Rockefeller Parkway, the reduction was almost total: through February 10,

¹⁸ http://www.nps.gov/yell/parkmgmt/current_batlist.htm.

¹⁹ *Fund for Animals v. Norton*, 2003 U.S. Dist. LEXIS 22557 (D. D.C. December 16, 2003).

²⁰ NPS denied the petition February 17, 2004, stating that given the differences among parks, “a service-wide directive to prohibit all forms of recreational snowmobile use in the National Park System is no longer warranted and ... with requirements for monitoring and increased use of newer technology snowmobiles, recreational uses can continue to be a part of the NPS winter experience. This will allow decisions to be made on a park-by-park basis, relying on the professional judgment of each park’s staff. They will be able to consider the lessons from Yellowstone, such as the use of Best Available Technology requirements, guiding requirements, and adaptive management, as well as overall technological improvements and any other new information, and will then be able to determine whether any review or revision of their special regulations is needed.” See “Snowmobile Use in the National Park System,” Memorandum from Assistant Secretary for Fish and Wildlife and Parks to the Director, National Park Service, February 17, 2004, pp. 4-5.

only about 5 snowmobiles a day entered the two parks. After the February 10 court decision, this number increased to about 20.²¹

The NPS subsequently issued Temporary Winter Use Plans for the 2004-2005, 2005-2006, 2006-2007, and 2007-2008 winter seasons.²² The temporary plans, which were intended to guide access policy while additional studies were performed leading to a more permanent solution, allow 720 snowmobiles per day in Yellowstone, all commercially guided, and 140 snowmobiles in Grand Teton National Park and the John D. Rockefeller, Jr., Memorial Parkway. With minor exceptions, all of the snowmobiles are required to meet NPS best available technology (BAT) requirements shown below in **Table 2**.²³ Snowcoaches are also allowed. NPS concluded that the combination of snowmobiles and snowcoaches “should provide a viable program for winter access to the parks, and ... the opportunity for achieving historic visitor use levels.”²⁴ The plans also include the prohibition on alcohol use by snowmobilers that the Park Service had promulgated in its remanded 2003 rule.

Despite the temporary plans’ allowable limits, snowmobile visits continued at levels far lower than in the previous decade in the 2004-2008 winter seasons (**Table 1**). At 31,420, the number of snowmobiles entering Yellowstone in 2007-2008 was 64% below the peak in 2001-2002, and was less than half of the permitted number.²⁵ The other two area units (Grand Teton National Park and the Rockefeller Memorial Parkway) have seen even steeper declines. Grand Teton fell to 149 snowmobile visitors in the entire winter of 2004-2005, rising only to 799 in 2007-2008, compared to its peak of 4,800 in 1999-2000. The Continental Divide Snowmobile Trail hosted only 11 snowmobiles last winter, compared to a peak of 2,006 in 2001-2002. The Rockefeller Parkway saw more activity than Grand Teton, but still a marked decrease compared to earlier years: 7,351 snowmobile visitors in 2004-2005, rising to 11,695 in 2007-2008, compared to a peak of 31,011 in 2000-2001.²⁶

²¹ Yellowstone National Park, “Winter Use Plans Environmental Assessment and Proposed Rule,” December 6, 2004, p. 2 at <http://www.nps.gov/yell/planvisit/winteruse/>.

²² Department of the Interior, National Park Service, “Special Regulations; Areas of the National Park System; Final Rule,” 69 *Federal Register* 65347, November 10, 2004. Hereafter, “November 2004 Regulations.” In anticipation of any further developments in either the Wyoming or D.C. court cases, Congress enacted Section 146 of Title I of Division E of the Consolidated Appropriations Act, 2005 (P.L. 108-447, H.R. 4818, H.Rept. 108-792), providing that the Temporary Winter Use Rules described above “shall be in force and effect for the winter use season of 2004-2005.” Similar language was approved for the 2005-2006 season in P.L. 109-54, the 2006-2007 season in P.L. 110-5, and was contained in the reported Senate version of the 2008 appropriation (S. 1696, Section 116, S.Rept. 110-91), although not enacted in the final Consolidated Appropriations Act (P.L. 110-161).

²³ The exceptions are primarily for snowmobiles accessing other public lands or private property by way of specific road or trail segments. See November 2004 Regulations, p. 65351.

²⁴ November 2004 Regulations, p. 65350.

²⁵ *Winter Use Plans, Final Environmental Impact Statement, Yellowstone and Grand Teton National Parks, John D. Rockefeller, Jr. Memorial Parkway*, 2007, Volume 1, p. 154, at http://www.nps.gov/yell/parkmgmt/upload/vol1_chapters1-3.pdf.

²⁶ *Ibid.*, p. 161. 2007-2008 data were obtained from the Yellowstone Park Superintendent’s Office.

Table I. Snowmobile Visits to Yellowstone Area Park Units

Year	Yellowstone Nat'l Park	Grand Teton Nat'l Park	Rockefeller Mem. Pkwy.	Cont. Divide Snowmobile Trail
2001-2002	87,206	3,421	26,401	2,006
2002-2003	0,406	2,305	23,062	1,752
2003-2004	30,437	1,939	9,217	139
2004-2005	24,049	149	7,351	11
2005-2006	28,833	268	10,161	17
2006-2007	31,805	287	11,710	14
2007-2008	31,420	799	11,695	11

Sources: National Park Service, Winter Use Plans, Final Environmental Impact Statement, Yellowstone and Grand Teton National Parks, John D. Rockefeller, Jr. Memorial Parkway, 2007, for years 2001-2007; NPS Stats for 2007-2008. Although the Rockefeller Memorial Parkway is 27 miles long, virtually all the snowmobiles using it originate at Flagg Ranch, a resort located 2 miles from the south entrance of Yellowstone Park, whence they travel to the Yellowstone Park South entrance. As a result, they are counted in the totals for Yellowstone Park as well as under the Parkway heading.

One result of the declining snowmobile use was a marked increase in visitors using other modes of travel. Snowcoach visitors to Yellowstone increased to 22,344 in 2007-2008, up 89% compared to the peak snowmobile year. In Grand Teton, the number of cross country skiers more than doubled (to 13,003) compared to the number in the peak snowmobile year.

November 2007 Winter Use Plan

The Park Service also began additional studies to develop a final winter use plan in 2004, and on November 20, 2007, it finalized the fruits of its effort by issuing a Record of Decision.²⁷ Termed a “Winter Use Plans/Final Environmental Impact Statement,” this latest plan evaluated seven alternatives. It presented additional data on the effects of snowmobiles and snowcoaches on air quality, noise, and wildlife, and evaluated the economic impacts on surrounding communities of restricting snowmobile access to the three Yellowstone area NPS units.

The new plan set final rules and access limits somewhat more stringent than those that have been in place during the past four winter seasons, but significantly higher than actual use during that period. It would allow 540 snowmobiles per day access to Yellowstone, and a combined 65 in Grand Teton National Park and the Rockefeller Memorial Parkway. The snowmobiles would be required to meet best available technology requirements for emissions and noise, and it would require that snowmobilers be accompanied by commercial guides. It would also authorize entry to 83 snowcoaches per day.²⁸

²⁷ Record of Decision, “Winter Use Plans/Final Environmental Impact Statement,” is at <http://parkplanning.nps.gov/document.cfm?parkID=111&projectId=12047&documentID=21206>. Hereafter referred to as the ROD.

²⁸ National Park Service, *Winter Use Plans, Final Environmental Impact Statement, Yellowstone and Grand Teton National Parks, John D. Rockefeller, Jr. Memorial Parkway*, 2007, Abstract, at <http://www.nps.gov/yell/parkmgmt/winterusetechicaldocuments.htm>.

On September 15, 2008, Judge Emmett Sullivan of the U.S. District Court for the District of Columbia vacated the plan, finding it “arbitrary and capricious, unsupported by the record, and contrary to law.”²⁹ The judge found:

According to NPS’s own data, the WUP [Winter Use Plan] will increase air pollution, exceed the use levels recommended by NPS biologists to protect wildlife, and cause major adverse impacts to the natural soundscape in Yellowstone. Despite this NPS found that the plan’s impacts are wholly “acceptable,” and utterly fails to explain this incongruous conclusion.³⁰

With the rule vacated, it is unclear what limits will apply in the coming winter season. On October 1, 2008, NPS announced that it would propose a new temporary Winter Use Plan that would be ready for public comment in early November and would be in place before the December 15 scheduled opening of the winter season.³¹

Clean Air Act and Noise Control Act Regulation

In reversing the Clinton Administration rules on Yellowstone access, the National Park Service set limits on emissions and noise from the snowmobiles that would be allowed in the three Yellowstone area park units. Simultaneously, the Environmental Protection Agency developed emission limits applicable to new snowmobiles offered for sale anywhere in the United States beginning in 2006 and 2007. The following sections of this report describe the EPA regulations and look at the broader issue of snowmobile emissions.

The Clean Air Act gives EPA authority to regulate emissions from mobile sources of pollution, including off-road sources such as snowmobiles; but until 2006, snowmobiles (with the exception of those entering the Yellowstone area national parks) were not subject to any federal or state emission regulations. Nor, with the exception of those allowed in Yellowstone since 2004, have they ever been subject to noise regulations. EPA has authority under Section 6 of the Noise Control Act of 1972 to regulate noise from “transportation equipment (including recreational vehicles and related equipment).” But the Agency’s Office of Noise Abatement and Control was disbanded in 1982, and EPA has not issued any regulations under the statute in the 26 years since then.

Snowmobile Emissions

Snowmobiles generally run on two-stroke engines—the type of engine that traditionally has powered outboard motors and lawnmowers. In a two-stroke engine, fuel enters the combustion chamber at the same time that exhaust gases are expelled from it. As a result, as much as one-third of the fuel passes through the engine without being combusted.³² This causes poor fuel economy and high levels of emissions, particularly hydrocarbons and carbon monoxide.

²⁹ *Greater Yellowstone Coalition v. Department of the Interior*, D.D.C., No. 07-CV-2111, 9/15/08; *National Parks Conservation Ass’n v. Department of the Interior*, D.D.C., No. 07-CV-2112, 9/15/08, p. 61.

³⁰ *Ibid.*, p. 62.

³¹ National Park Service, “Yellowstone and Grand Teton to Consider Options on New Temporary Winter Use Plan,” Press Release, October 1, 2008, at <http://www.nps.gov/yell/parknews/08084.htm>.

³² In a four-stroke engine (used in automobiles and some newer outboard motors and lawn mowers, but not generally (continued...))

In one hour, a typical snowmobile emits as much hydrocarbon as a 2008 model automobile emits in 54,000 miles of driving.³³ In a day of use, a snowmobile may emit as much hydrocarbon as an automobile emits over its entire lifetime. The hydrocarbons (gasoline) emitted by snowmobiles (or other mobile sources, for that matter) are of concern because they contain benzene, formaldehyde, and at least three other substances that are known or suspected human carcinogens.

Snowmobiles meeting EPA regulations also emit as much carbon monoxide (CO) in an hour as a 2008 model auto does in 1,050 miles of driving. Carbon monoxide is a poisonous gas that, at low levels, can affect those who suffer from cardiovascular disease, such as angina. The impact of CO emissions on ambient air quality is of at least equal concern as that of hydrocarbons because of the tendency for atmospheric accumulation of CO in winter.

In preparing the 2000 Environmental Impact Statement for the decision on snowmobile access to Yellowstone, the National Park Service measured emissions from snowmobiles and compared them to other emission sources in the park. The Service also estimated the concentrations (ambient levels) of carbon monoxide (CO) and particulate matter (PM) present in the air and compared these concentrations to air quality standards. The EIS concluded that the 8-hour maximum concentration of carbon monoxide at the West Yellowstone entrance to the park exceeded the National Ambient Air Quality Standard for CO by nearly 70% (a concentration of 15.15 parts per million vs. the standard of 9).³⁴ The analysis also concluded that snowmobiles accounted for 97.9% of the CO at West Yellowstone during winter months.

Noise has also been an issue. Opponents of allowing snowmobiles in Yellowstone and other units of the national park system argue that the parks are special places whose remoteness, beauty, and quiet inspire reflection and awe. The noise of engines is incompatible with this atmosphere, they argue. As the National Park Service itself states in its Record of Decision, “Snowmobile use, in historical numbers, is inconsistent with winter park landscapes that uniquely embody solitude, quiet, undisturbed wildlife, ... and the enjoyment of these resources by those engaged in non-motorized activities.”³⁵

Snowmobile enthusiasts counter that the parks cover vast areas and that snowmobiles are restricted to a few roads—the same roads traversed by cars, recreational vehicles, and buses in summer. They also assert that snowmobile use is compatible with the NPS responsibility to promote visitor use and enjoyment of park resources. Park Service studies indicate that the sound of snowmobiles can be heard for significantly greater distances than that of automobiles, however, and in the late 1990s was essentially continuous during the winter at key locations in

(...continued)

used in snowmobiles) the combustion chamber takes in fuel, compresses it, ignites it, and exhausts it in separate cycles, leading to far more complete combustion and lower emissions, even without the application of emission controls.

³³ EPA provided a similar comparison for 2001 model automobiles and uncontrolled snowmobiles in U.S. EPA, Office of Air and Radiation, *Draft Regulatory Support Document: Control of Emissions from Unregulated Nonroad Engines*, September 2001, p. I-25, available at <http://www.epa.gov/otaq/regs/nonroad/proposal/cleanrec.htm#rsd>. CRS updated this information to reflect 2007 snowmobile emission standards and Tier 2 auto emissions requirements.

³⁴ U.S. Department of the Interior, National Park Service, Winter Use Plans, Final Environmental Impact Statement for the Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway, Volume 1, Chapter 4, p. 224, available at <http://www.planning.nps.gov/document/yellwinterusevol1.pdf>. Ambient air quality standards were not exceeded elsewhere in the park.

³⁵ ROD, p. 4.

Yellowstone: snowmobile noise could be heard 95% of the time by visitors at Old Faithful and 87% of the time at the Grand Canyon of the Yellowstone, according to NPS’s December 2000 *Federal Register* notice.³⁶

EPA’s 2002 Regulations

Regulations for snowmobile and other non-road engine emissions were signed by the EPA Administrator September 13, 2002 and appeared in the *Federal Register* November 8, 2002.³⁷ As shown in **Table 2**, the regulations require reduction of both carbon monoxide and hydrocarbon emissions from new snowmobiles by a little more than 30% starting in 2006 and by an average of 50% by 2012, with an intermediate step in 2010. (The regulations did not require any controls on snowmobiles sold before 2006.) For comparison, **Table 2** also shows the Yellowstone-specific standards that have been imposed by the National Park Service.

According to EPA, the 2006/2007 reductions can be achieved without major changes in technology, in part because they apply to the average of a manufacturer’s fleet emissions, rather than to individual machines. This allows manufacturers to provide a range of models, some with advanced emission controls and others without: “While some advanced technologies such as two-stroke direct injection and four-stroke engines, would be found in some models, many models would still be equipped with two-stroke engines with relatively minor engine modifications resulting in minimum emission reductions, while some models may not even have any emission controls.”³⁸ EPA estimates the cost of these Phase 1 controls at \$73 per snowmobile. Vehicles meeting the standards will be more fuel-efficient, resulting in an average reduction in operating cost of \$57, thus offsetting most of the initial cost increase.

Table 2. EPA and NPS Snowmobile Emission Limits

Year	Carbon Monoxide (CO)	% Reduction	Hydrocarbons (HC)	% Reduction
pre-control average	397 g/kW-hr		150 g/kW-hr	
2006/2007 ^a	275 g/kW-hr	30.7%	100 g/kW-hr	33.3%
2010	275 g/kW-hr	30.7%	75 g/kW-hr	50%
2012 ^b	200 g/kW-hr ^a	49.6%	75 g/kW-hr ^a	50%
Yellowstone/ 2003 (NPS)	120 g/kW-hr	70%	15 g/kW-hr	90%

³⁶ National Park Service, Proposed Rule, Special Regulations, Areas of the National Park System, 65 *Federal Register* 79026, December 18, 2000.

³⁷ U.S. EPA, Control of Emissions from Nonroad Large Spark-Ignition Engines, and Recreational Engines (Marine and Land-Based), Final Rule, 67 *Federal Register* 68241, available at <http://www.epa.gov/fedrgstr/EPA-AIR/2002/November/Day-08/a23801.htm>.

³⁸ Notice of Proposed Rulemaking: Control of Emissions from Nonroad Large Spark Ignition Engines and Recreational Engines (Marine and Land-based), Preamble, 66 *Federal Register* 51154, October 5, 2001. Further discussion, including the cost estimates, is found on pp. 51169-51170. The preamble to the final standards says that one scenario for meeting the 2006/2007 standards would be 15% four-stroke engines, 15% direct injection two-strokes, 60% conventional two-strokes with improved carburetion, enleanment strategies, and engine modifications; presumably, the other 10% would have no modifications at all. Control of Emissions from Nonroad Large Spark-ignition Engines, and Recreational Engines (Marine and Land-based), Final Rule, as signed September 13, 2002, Preamble, p. 93, available at <http://www.epa.gov/otaq/regs/nonroad/2002/preamble.pdf>.

Note: g/kW-hr = grams per kilowatt-hour.

- a. Half of snowmobiles sold in 2006 must comply with the EPA standards. With a few exceptions, all snowmobiles sold in 2007 must comply.
- b. EPA's 2012 standards allow manufacturers to trade additional reductions in HC for increases in CO emissions, provided that CO emissions are reduced at least 30%, HC emissions are reduced at least 50%, and the total of HC+CO emissions sums to 100%. Thus, for example, HC reductions of 60% and CO reductions of 40% would satisfy the requirement, as would HC reductions of 70% and CO reductions of 30%.

The 2010 and 2012 standards, which also are fleet averages, can also be met without eliminating two-stroke engines, according to the Agency. Because two-stroke engines produce more power than similar size four-strokes and are easy to start in cold weather, the Agency expects the industry to continue to manufacture mostly two-stroke engines even in 2012, although many would be modified with direct injection technology to reduce emissions. According to the Agency, "A potential scenario for meeting these standards could be a mixture of 50 percent direct injection, 20 percent four-stroke engines, and 30 percent with engine modifications."³⁹ The cost of these changes would average an additional \$131 per snowmobile in 2010, according to EPA, but the costs would be offset by \$286 in fuel savings and improved performance, so that lifetime costs would actually be \$155 lower. The same is true of the 2012 standards: the added cost of \$89 per snowmobile is offset by \$191 in fuel savings and improved performance, according to EPA, for a net savings of \$102 per vehicle.⁴⁰

The costs of each of the three phases are incremental. Thus, when fully implemented, the standards would cost an additional \$293 per snowmobile, according to the Agency; lifetime operating costs, however, would decline by \$534. Combining these two factors, the standards would decrease total costs by \$241 per snowmobile when fully implemented.

The standards do not include noise limits. While acknowledging that the Agency has the authority to set noise standards, the proposal stated that "at this time we do not have funding to pursue noise standards for nonroad equipment that does not have an existing noise requirement."⁴¹ An Agency source confirmed that the proposed standards would have essentially no impact on noise.⁴² Despite receiving comments from a number of organizations that the standards should address noise, the Agency restated in its response to public comments that it would not address the issue, adding that Congress would need to provide appropriations for the Agency to begin any noise control initiative.⁴³

As noted, the National Park Service promulgated noise standards applicable to snowmobiles entering its three Yellowstone area park units beginning December 17, 2003, under the winter use rule that was vacated; it restated these standards in its Temporary Winter Use Plan that took effect in 2004.⁴⁴ According to Park Service estimates, these standards would require a reduction of

³⁹ Preamble to the Final Rule, *ibid.*, p. 94.

⁴⁰ *Ibid.*, Table IX.B-1, p. 179.

⁴¹ *Ibid.*, p. 135.

⁴² Personal communication, John Mueller, U.S. EPA Office of Transportation and Air Quality, September 28, 2001.

⁴³ U.S. EPA, Office of Air and Radiation, *Summary and Analysis of Comments: Control of Emissions from Unregulated Nonroad Engines*, September 2002, p.II-78, available at <http://www.epa.gov/otaq/regs/nonroad/2002/r02023.pdf>.

⁴⁴ 36 CFR 7.13(a)(6)(C)(ii), November 2004 Regulations, p. 65361.

about 50% in noise emitted by the affected snowmobiles, compared to conventional uncontrolled snowmobiles.⁴⁵

Reaction to the EPA Standards

Both the snowmobile industry and environmentalists challenged EPA's standards in court. On June 1, 2004, the U.S. Court of Appeals for the D.C. Circuit vacated the standard for nitrogen oxides and remanded the 2012 standards for hydrocarbons and carbon monoxide. The court directed EPA "to clarify (1) the statutory and evidentiary basis of the Agency's assumption that the standards must be sufficiently lenient to permit the continued production of all existing snowmobile models, and (2) the analysis and evidence underlying the Agency's conclusion that advanced technologies can be applied to no more than 70% of new snowmobiles by 2012."⁴⁶ EPA has not yet responded to the remand, and does not expect to do so until 2010 at the earliest.⁴⁷

The International Snowmobile Manufacturers Association (ISMA) has argued that EPA grossly underestimated the costs of compliance, and that the standards will lead to the elimination of entry-level snowmobiles from the market. Cleaner, quieter machines can be made, according to ISMA, but they cost more, are heavier, and can only be ridden on groomed roads. ISMA has estimated that the cleanest four-stroke engines cost an additional \$1,700 (about 30% more than average prices). Even modest improvements to two-stroke engines will cost \$350-\$400 per machine, according to the Association.⁴⁸

Bluewater Network, on the other hand—the environmental group most identified with snowmobile issues—feels the rules should be much stronger.⁴⁹ In comments submitted to EPA, Bluewater encouraged the Agency to set standards "that can only be met using the best available technology, which we believe to be four-stroke engines with particle traps and three-way catalysts."⁵⁰ They also want mandatory emission labels for the machines, and are disappointed that the Agency chose not to set noise standards.

Bluewater has pointed to the Clean Snowmobile Challenge, an annual design contest open to college engineering students and sponsored by the Society of Automotive Engineers, as demonstrating that machines far cleaner than EPA's standards are feasible. The winning entry in the 2001 Challenge reduced CO 78.8% and unburned hydrocarbons 97.6% and significantly

⁴⁵ Although a 73-decibel snowmobile would be quieter, it did not satisfy the judge in the Yellowstone Winter Use Plan case. Citing the Winter Use Plan itself, Judge Sullivan concluded that a sound measuring 70 decibels is perceived to be noisy—"the equivalent of being in a room with a running vacuum cleaner." He found that the model used to estimate the percent of time that noise would be audible in the park underestimated the sound level when compared to actual field measurements, and that it failed to account for temperature inversions, which are common in Yellowstone, and which cause sound to travel much farther. He found that the Park Service used park-wide audibility in order to obscure the impacts in areas frequented by visitors. And he cited NPS itself as admitting that the "percent time audible impact will be 'major and adverse.'" September 15, 2008 opinion, previously cited, pp. 26-41.

⁴⁶ *Bluewater Network v. EPA*, D.D.C., No. 03-1003, June 1, 2004, p. 4.

⁴⁷ Personal communication, EPA Office of Transportation and Air Quality, November 2, 2007.

⁴⁸ Personal communication, Ed Klim, President, ISMA, September 27, 2001.

⁴⁹ Personal communication, Sean Smith, Bluewater Network, September 27, 2001. Also see "Bush Administration Fails to Protect Public Health, Folds to Industry Interests," Press Release, September 13, 2002, available at http://www.bluewaternet.org/press_releases/pr2002sep13_pl_eparule.pdf.

⁵⁰ Bluewater Network, "Comments on the Environmental Protection Agency's Advanced Notice of Proposed Rulemaking, Docket A-2000-01," p. 2.

reduced noise, at a cost of \$600.⁵¹ In the 2006 contest, the winning entry reduced CO emissions 83% and unburned hydrocarbons more than 99% at a cost of \$314.⁵² “If college students are able to build cleaner and quieter machines, surely the billion-dollar snowmobile industry can do as well,” said Bluewater Public Land Director Sean Smith.⁵³

Both Bluewater and the snowmobile manufacturers argue that EPA has misinterpreted the legal authority on which the new standards rely. Bluewater (as well as other environmental groups and the National Association of Clean Air Agencies (formerly STAPPA), the association representing state air pollution program administrators, argue that EPA has promulgated standards that are less stringent than the law requires. Section 213(a)(3) of the Clean Air Act requires the Agency to promulgate standards that “achieve the greatest degree of emission reduction achievable ... giving appropriate consideration to the cost ... and to noise, energy, and safety factors....” Four-stroke engine technology, achieving greater emission reductions than the Agency promulgated, is already available, they note—machines using this technology are on the market. Cost, noise, and energy factors cannot be used as arguments against adoption of this technology: the lifetime cost of such engines would be lower than that of current engines, according to the Agency’s own analysis; the technology uses far less energy, and could be substantially quieter than current engines. Thus, according to these groups, the Agency’s standards do not meet the requirements of the act.

Snowmobile and other nonroad-vehicle manufacturers, on the other hand, focus on Section 213(a)(2) of the act, which ties the Agency’s authority to regulate nonroad engines to a finding by the Administrator that emissions from such engines or vehicles “are significant contributors to ozone or carbon monoxide concentrations in more than 1 area which has failed to attain the national ambient air quality standards for ozone or carbon monoxide.” EPA addressed this issue before beginning the process of developing regulations: on June 17, 1994, the Agency made an affirmative determination that emissions from nonroad engines and vehicles are significant contributors to ozone, CO, and particulate matter in more than one nonattainment area.⁵⁴ On December 7, 2000, the Agency issued a finding that recreational vehicles (including snowmobiles) are among the specific categories of nonroad vehicles that contribute to such pollution.⁵⁵ In its October 5, 2001 *Federal Register* notice, which proposed the snowmobile standards, the Agency identified 7 areas in Alaska, Washington, Colorado, Oregon, and Montana that have significant populations of snowmobiles and have failed to attain the air quality standard for CO.⁵⁶

⁵¹ See “‘Clean’ Snowmobile Produces Lower Emissions than the Average Car at SAE Clean Snowmobile Challenge 2001,” Press Release, April 10, 2001.

⁵² The 2006 Clean Snowmobile Challenge results can be found at <http://www.mtukrc.org/snowmobile.htm>, with emissions data at http://www.mtukrc.org/download/score_sheet_sae_fuel_csc2006.xls. To derive the percentage reductions, we compared the emissions of CO and unburned hydrocarbons to the “uncontrolled average” data in this report’s **Table 1**.

⁵³ Personal communication, Sean Smith, Bluewater Network, September 27, 2001.

⁵⁴ 59 *Federal Register* 31306, June 17, 1994.

⁵⁵ 65 *Federal Register* 76790, December 7, 2000.

⁵⁶ 66 *Federal Register* 51105-51107, October 5, 2001. The Preamble to the final rule revised the list of 7 areas, identifying 6 nonattainment areas in which the Agency believes snowmobiles are significant contributors to CO concentrations; the Agency added that there are 6 additional areas that have not been classified nonattainment, but where air quality monitoring indicates a need for CO control. See Preamble to the Final Rule, previously cited, p. 18.

Manufacturers of snowmobiles and other nonroad vehicles note, however, that carbon monoxide concentrations have declined [chiefly as a result of auto emission standards] and that none of the 7 areas identified by the Agency has exceeded the CO standard in recent years, even if they were still formally classified as nonattainment at the time of the proposal.⁵⁷ CO nonattainment today is essentially a problem in urban “hot spots,” according to manufacturers, and snowmobiles make no contribution to that problem.⁵⁸

Legislative Issues

Members of Congress, both from western and other states, have expressed an interest in whether there will be continued snowmobile access to national parks. At least five hearings have been held on these issues since the 106th Congress,⁵⁹ and Congress has on three occasions approved language in appropriations bills to require that NPS Temporary Winter Use Rules permitting snowmobiles in Yellowstone and Grand Teton National Parks and on the Rockefeller Memorial Parkway remain in effect for the year covered by the appropriations bill.⁶⁰ The FY2008 Interior appropriations bill (S. 1696, §116), as reported by the Senate Appropriations Committee (S.Rept. 110-91), would have continued this temporary solution, stipulating that Yellowstone’s interim winter management rule remain in effect during the 2007-2008 winter season, but the final Consolidated Appropriations Act (P.L. 110-161) did not include such language. Lawsuits challenging the NPS Final Winter Use Plan did not request preliminary injunctions, however, allowing local operations to continue under the same temporary rules that had been in effect for the previous three years.

In the 108th Congress, Representative Holt twice attempted to amend Interior Department Appropriation bills to prohibit spending to manage recreational snowmobile use in the three Yellowstone area park units except in accordance with the Clinton Administration rule phasing out snowmobiles. The first such amendment (H.Amdt. 266 to H.R. 2691) was defeated on a tie vote, 210-210, July 17, 2003. The second attempt (H.Amdt. 563 to H.R. 4568) was defeated on June 17, 2004, by a vote of 224-198. Other legislation to prohibit snowmobile access to national parks and to grant continued access was introduced, but not acted on, in the 107th and 108th Congresses.

Conclusions

Snowmobile issues remain far from resolved, despite actions by Congress, EPA, the National Park Service, and the courts. Congress and the NPS have provided a temporary resolution of the Yellowstone access issue since 2004, but the issue is now returning to the limelight, as a federal district court has vacated final regulations for Yellowstone access for a third time. The

⁵⁷ None of the seven was still classified nonattainment in 2007.

⁵⁸ Statement of Ed Klim, President, ISMA, at EPA Public Hearing, Washington, DC, October 24, 2001.

⁵⁹ The most recent hearing was before the House Resources Committee’s Subcommittee on National Parks, *Oversight Hearing on Snowmobile Use in the National Park System*, April 12, 2005.

⁶⁰ The most recent of these was the FY2007 Revised Continuing Appropriations Resolution (P.L. 110-5, § 20516) to keep the NPS Yellowstone interim rule in effect throughout the 2006-2007 winter use season. For earlier years, see Section 146 of Title I of Division E of the Consolidated Appropriations Act, 2005 (P.L. 108-447, H.Rept. 108-792) and Section 126 of Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (P.L. 109-54).

development of these rules showed that public interest in snowmobile issues remains significant, and that the National Park Service's preferred alternatives for snowmobile access to Yellowstone remain overwhelmingly unpopular. The draft Yellowstone area Winter Use Plan that was open for comment from March through June 2007 generated 122,190 public comments, of which only 193 (0.1%) supported the NPS preference.⁶¹ Among those opposed, environmental groups and individuals that want snowmobiles banned from the park form a solid majority. They are joined by 7 of the 8 living former directors of the National Park Service itself. The Environmental Protection Agency was also critical of the spring 2007 preferred alternative, noting that it would result in five times more carbon monoxide emissions and 17 times more hydrocarbon emissions than the exclusive use of multi-passenger snowcoaches. EPA concluded that "either the preferred alternative should be modified or a different alternative should be selected that meets the resource protections identified by the National Park Service."⁶²

This level of opposition would seem to guarantee that Members of Congress will retain an interest in the resolution of these issues. Continued action is also likely in the courts, as the National Park Service responds to the latest court decision.

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⁶¹ See National Park Service, *Public Comment Report: Winter Use Plans, Draft Environmental Impact Statement, Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway*, p. 4 at http://www.nps.gov/yell/parkmgmt/upload/deis_results_draft2.pdf.

⁶² "EPA Raises Concerns About Latest Plan For Snowmobile Use in Yellowstone Park," *Daily Environment Report*, June 22, 2007, p. A-4. NPS did modify the preferred alternative subsequent to EPA's comments. The number of snowmobiles allowed in Yellowstone would be 540 under the November 2007 Record of Decision, rather than 720. It is not clear whether this change is sufficient to earn EPA's support.

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