

2. Within 10 calendar days of filing the notice of appeal, the appellant shall submit a written statement of issues and arguments to the Director, DOHA, with a copy to the other parties. The other parties shall submit a reply or replies to the Director, DOHA, within 15 calendar days of receiving the statement, and shall deliver a copy of each reply to the appellant. Submission is complete on mailing.

3. The Director, DOHA, shall refer the matter on appeal to the DOHA Appeal Board. It shall determine the matter, including the making of interlocutory rulings, within 60 calendar days of receiving timely submitted replies under section F.2. of this appendix. The DOHA Appeal Board may require oral argument at a time and place reasonably convenient to the parties.

4. The determination of the DOHA Appeal Board shall be a final administrative decision and shall be in written form. It shall address the issues presented and set forth a rationale for the decision reached. A determination denying the appeal of a parent in whole or in part shall state that the parent has the right under 20 U.S.C. 921 *et seq.* and 1400 *et seq.*, to bring a civil action on the matters in dispute in a district court of the United States without regard to the amount in controversy.

5. No provision of this Instruction or other DoD guidance may be construed as conferring a further right of administrative review. A party must exhaust all administrative remedies afforded by this appendix before seeking judicial review of a determination made under this appendix.

G. Publication and Indexing of Final Decisions

The Director, DOHA, shall ensure that final decisions in cases arising under this appendix are published and indexed to protect the privacy rights of the parents who are parties in those cases and the children of such parents, in accordance with DoD Directive 5400.11¹.

Dated: January 9, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97-888 Filed 1-16-97; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AC30

Badlands National Park, Commercial Vehicles

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is implementing this final rule to

exempt local commercial vehicle traffic on the 5.8 miles of park roads between the park's Northeast and Interior Entrances from the general prohibition on the use of NPS roads by commercial vehicles. The Superintendent will retain sufficient discretion: To require permits for local commercial vehicles traveling within or through the park; establish terms and conditions of such permits; and annually establish and adjust fees for such use based on current administrative costs. The rule will prohibit the transportation of hazardous materials on all park roads, except in limited circumstances. The rule will also prohibit certain oversize/overweight vehicles on all park roads, except in limited circumstances.

EFFECTIVE DATE: This rule is effective on February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Irvin L. Mortenson, Superintendent, Badlands National Park, P.O. Box 6, Interior, SD 57750. Telephone 605-433-5361.

SUPPLEMENTARY INFORMATION:

Background

South Dakota Route 240, from Exit 131 on Interstate 90, passes through the northeast corner of Badlands National Park, traversing the Badlands "Wall" at Cedar Pass and intersects with South Dakota Route 377 which, in turn, connects with South Dakota Route 44 at the town of Interior. In 1929, Congress passed legislation authorizing the establishment of Badlands National Monument, subject to the condition "that the State of South Dakota first construct 30 miles of highways through the 'proposed park' area in a manner satisfactory to the Secretary of Interior." After the State of South Dakota completed the highway construction, Badlands National Monument was proclaimed on January 25, 1939. In 1941, the State relinquished ownership to roads within the Monument's boundary.

A general park regulation, 36 CFR 5.6, prohibits commercial traffic in National Parks. Under the final regulation, local commercial traffic would be allowed to use the park road connecting the Northeast entrance and the Interior entrance. The transportation of certain hazardous materials and oversize/overweight vehicles on park roads will be prohibited, except as permitted by the Superintendent. The NPS may allow transportation of certain hazardous materials on park roads as necessary to provide access to otherwise inaccessible lands within or contiguous to the park, or in emergency situations as determined by the Superintendent.

The paving of South Dakota Highway 44 in 1986 considerably changed the park's recreational and commercial vehicle patterns and number. In December of 1989, in response to these increases, Badlands National Park mailed over 500 "scoping brochures" to various organizations, agencies and individuals seeking public participation in the development of alternatives for the management of commercial traffic in the park. A public scoping meeting was held on January 24, 1990, in Interior, South Dakota, attended by approximately 115 people. Following the public meeting, written comments also were solicited. Public input was received during review of the environmental assessment prepared for the regulation of commercial traffic. This review occurred in April of 1990. Public comments received during that time and NPS review of the issues are reflected in the proposed rule.

Existing Conditions

Local commercial vehicles and some long haul trucks continue to travel through the Badlands National Park's northeast corner on 5.8 miles of park road between the Northeast and the Interior Entrances. South Dakota Route 240 connects with the Badlands Loop Road at the Northeast Entrance and South Dakota Route 377 connects to the park road at the Interior Entrance. South Dakota Routes 240 and 377 are exterior to park boundaries and are maintained by the State of South Dakota only up to the park boundaries. Inside the park, road maintenance is the responsibility of the NPS.

South Dakota Routes 240 and 377 are two-lane, paved rural highways designed for a 55-mph speed limit for all vehicle types. The park roads are two-lane, paved roads designed for 45 mph and 25 mph speed limits. Their purpose, as defined by the *Park Road Standards for the National Park System*,

* * * "(R)emains in sharp contrast to that of the Federal and State highway systems. Park roads are not intended to provide fast and convenient transportation; they are intended to enhance visitor experience while providing safe and efficient accommodation of park visitors and to serve essential management access needs. They are not, therefore intended nor designed as continuations of the State and Federal-aid network."

Conclusion

Based on available data on road use and relevant environmental analysis, the impact of local commercial traffic on park roads within Badlands National Park is not sufficient to compel the NPS to prohibit all local commercial traffic on park roads between the Northeast

¹ Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

and Interior Entrances. The NPS recognizes the potential hazard posed by the transportation of certain hazardous materials and oversize/overweight vehicles through the park and will regulate or prohibit such use. Those local commercial vehicles carrying hazardous materials that require placarding, or marine pollutants that require marking according to U.S. Department of Transportation regulations, must first obtain a permit when such transportation is necessary for access to lands within or adjacent to the park, where access is not otherwise available, or in emergency situations as determined by the Superintendent. Exceptions include local bulk deliveries of gasoline, diesel, LP gas and certain oversize/overweight agricultural vehicles as provided for by South Dakota State Law. The NPS proposed regulation will not regulate state highways or traffic outside of Badlands National Park.

The rule will allow only those vehicles that originate from, or are destined to, U.S. Postal Service ZIP codes within a 45-mile radius of Cedar Pass in Badlands National Park. These Postal Service ZIP codes, which are in close proximity to the park, were chosen because nearly all the commercial traffic accessing the park originates from these areas. The use of geographic County designations for commercial access to the park would not be appropriate because, with the Counties being so large, thousands of additional commercial vehicles could claim entry to the park. The allowable ZIP code service area includes the following towns:

Allen 57714
Belvedere 57521
Cottonwood 57775
Creighton 57729
Interior 57750
Kadoka 57543
Kyle 57752
Long Valley 57547
Owanka 57767
Philip 57567
Scenic 57780
Wall 57790
Wanblee 57577
Wasta 57791

The NPS prepared an Environmental Assessment (EA) addressing commercial traffic on park roads. The assessment was released for public review in 1990. On March 19, 1990, the Regional Director for the Rocky Mountain Region, National Park Service, signed a Finding of No Significant Impact (FONSI) for the proposal, which would allow local commercial traffic on park roads between the park's Northeast and

Interior Entrances, but continue the prohibition of the transportation of certain hazardous materials requiring placarding and certain oversize/overweight cargos through Badlands National Park. Copies of this EA are available from the Chief Ranger's Office.

Summary of Public Comments

The proposed rule, which was published in the Federal Register on August 7, 1996 (61 FR 41058), afforded the public an opportunity to comment for a period of 60 days, from August 7 to October 7, 1996. No comments were received by the office of the Superintendent at Badlands National Park.

Drafting Information

The principal authors of this proposed rulemaking are Irvin L. Mortenson, Superintendent, former District Ranger Stan Robins, Badlands National Park and Dennis Burnett, Washington Office of Ranger Activities.

Paperwork Reduction Act

The collection of information contained in the permit section of this rule is for the purpose of determining which commercial vehicles meet the requirements allowing them to travel through the park. This collection of information is necessary to issue the permit and has previously been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024-0124 in accordance with the Paperwork Reduction Act of 1995.

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this proposed rule will not impose a cost of \$100 million or more in any given year on local, State, or tribal governments or private entities.

An Environmental Assessment was issued in 1990 under the provisions of the National Environmental Policy Act and a Finding of No Significant Impact signed on June 19, 1990.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I, is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8-137 (1981) and D.C. Code 40-721 (1981).

2. Section 7.23 is added to read as follows:

§ 7.23 Badlands National Park.

(a) *Commercial vehicles.* (1) Notwithstanding the prohibition of commercial vehicles set forth in § 5.6 of this chapter, local commercial vehicles may operate on the park road between the Northeast entrance and the Interior entrance in accordance with the provisions of this section.

(2) The term "Local Commercial Vehicles", as used in this section, will include the definition of "commercial vehicle" in § 5.6(a), but specifically includes only those vehicles that originate from, or are destined to, the following U.S. Postal Service ZIP code areas:

Allen 57714
Belvedere 57521
Cottonwood 57775
Creighton 57729
Interior 57750
Kadoka 57543
Kyle 57752
Long Valley 57547
Owanka 57767
Philip 57567
Scenic 57780
Wall 57790
Wanblee 57577
Wasta 57791

(3) The Superintendent may require a permit and establish terms and conditions in accordance with § 1.6 of this chapter for the operation of local commercial vehicles on the park road between the park's Northeast and Interior entrances. The Superintendent may charge a fee for any permits issued to commercial vehicles in accordance with a fee schedule established annually.

(4) The commercial transport on the park road between the Northeast and Interior entrances of any substance or combination of substances, including any hazardous substance, hazardous material, or hazardous waste that requires placarding, or any marine

pollutant that requires marking, as defined in 49 CFR Subtitle B, is prohibited; except for local bulk deliveries of gasoline, fuel oil and LP gas; provided, however, that the Superintendent may issue permits for the transportation of such substance or combination of substances, including hazardous waste, in emergencies, and may issue permits when such transportation is necessary for access to lands within or adjacent to the park area to which access is otherwise not available as provided in 36 CFR 5.6.

(5) The operator of a motor vehicle transporting any hazardous substance, hazardous material, hazardous waste, or marine pollutant in accordance with a permit issued under this section, is not relieved in any manner from complying with all applicable regulations in 49 CFR Subtitle B, or with any other State or Federal laws and regulations applicable to the transportation of any hazardous substance, hazardous material, hazardous waste, or marine pollutant.

(6) The transportation or use of oversize or overweight commercial vehicles on the park road between the Northeast and Interior entrances is prohibited; provided, however that the Superintendent may issue permits for transportation or use of such vehicles and may condition such permits on the use of special routes within the park in order to minimize impacts to park facilities and resources and also may issue permits when the transportation or use of such vehicles is necessary for access to lands within or adjacent to the park area to which access is otherwise not available as provided in 36 CFR 5.6.

(7) Operating without, or violating a term or condition of, a permit issued in accordance with this section is prohibited. In addition, violating a term or condition of a permit may result in the suspension or revocation of the permit.

(b) [Reserved]

Dated: December 5, 1996.

George T. Frampton, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97-1200 Filed 1-16-97; 8:45 am]

BILLING CODE 4310-70-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ25-1a-159, FRL-5662-3]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for Specific Sources in the State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is announcing approval of twenty-two (22) revisions to the State Implementation Plan (SIP) for ozone submitted by the State of New Jersey. These revisions consist of source-specific reasonably available control technology (RACT) determinations for controlling oxides of nitrogen (NO_x) from various sources in New Jersey. The intended effect of this action is to approve the source-specific RACT determinations made by New Jersey in accordance with provisions of its regulation, New Jersey Administrative Code (NJAC) 7:27-19. This action is being taken in accordance with Section 110 of the Clean Air Act (the Act).

DATES: This rule is effective on March 18, 1997, unless adverse or critical comments are received by February 18, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: All comments should be addressed to: Ronald Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007-1866.

Copies of the State submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region 2 Office, Air Programs Branch,
290 Broadway, 25th Floor, New York,
New York 10007-1866

New Jersey Department of
Environmental Protection, Office of
Air Quality Management, Bureau of
Air Pollution Control, 401 East State
Street, CN027, Trenton, New Jersey
08625

Environmental Protection Agency, Air
and Radiation Docket and Information
Center, Air Docket (6102), 401 M
Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ted Gardella, Air Programs Branch, Environmental Protection Agency, 290

Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION:

A. Background

The air quality planning requirements for the reduction of NO_x emissions through RACT are set out in section 182(f) of the Act. Section 182(f) requirements are described by EPA in a notice, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," published November 25, 1992 (57 FR 55620). The November 25, 1992 notice should be referred to for detailed information on the NO_x requirements. Additional guidance memoranda which have been released subsequent to the NO_x Supplement should also be referred to.

The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979).

Section 182(f) of the Act requires states within ozone nonattainment areas classified moderate or above or areas within the ozone transport region to apply the same requirements to major stationary sources of NO_x ("major" as defined in section 302 and section 182 (c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs). For more information on what constitutes a major source, see section 2 of the NO_x Supplement to the General Preamble.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC emissions (not covered by a pre-enactment control technique guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_x CTGs issued before enactment and EPA has not issued a CTG document for any NO_x sources since enactment. States, in their RACT rules, are expected to require final installation of the actual NO_x controls by May 31, 1995 from those sources for which installation by that date is practicable.

States within the Northeast ozone transport region established by section 184(a) should have revised their SIPs to include the RACT measures by November 15, 1992. Because major sources in states in a transport region are generally subject to at least the same level of control as sources in moderate ozone nonattainment areas, EPA believes that the schedule for implementing these RACT rules in the