

local individuals who utilized the river for fishing as their major source of recreation.

Six letters were received from individuals and a group, the Boy Scouts of America—Camp Orr Committee, who agreed with the proposed regulation and recommended that it be implemented as proposed.

Based on the public comments received and the legislative history of the Buffalo National River, the final regulation was amended to allow for the continued use of motors with ratings of 10 horsepower or less from the Erbie Ford to the White River.

The Erbie Ford is located 3.6 miles downstream from the Boy Scout Camp Orr, which is situated at the downstream end of the Ponca Wilderness Area. Historically, fewer boats with motors used this upper section of the river because of the shallow, narrow, and rocky streambed. The absence of boats with motors in the Ponca Wilderness Area will be in keeping with the wilderness environment and bring the Ponca Wilderness Area and the Upper Buffalo Wilderness Area into compliance with the Wilderness Act of 1964, which prohibits the use of motor boats in wilderness areas except under certain circumstances. Canoeists, Scouts, and others desiring a pristine river float guaranteed to be free from the presence of motor boats will have a 15 mile stretch of the upper river from Ponca to the Erbie Ford. (Above Ponca, the float season is extremely limited.) From the Erbie Ford to the White River is a distance of 109 miles. Thus, the regulation leaves most of the Buffalo River open for use by boats with motors of 10 horsepower or less.

One provision of the proposed rule which was published in the Federal Register, November 21, 1980, (45 FR 77049) stated that all caves located on federally owned lands within the exterior boundaries of Buffalo National River would be closed except those listed as open, and after issuance of a permit. The purpose of this provision was to protect the natural resources of the wild cave system and to promote the safety of visitors who may enter the caves.

Twenty comments were received concerning the proposed restricted access to the cave system. These comments came from individual cavers, cave oriented groups, newspaper editorials, and other interested persons. The most recurring comment in regard to cave closures was that all caves should not be closed to recreational caving.

Nearly all correspondence from individual cavers and those groups that concern themselves with technical and/or organized caving activities, supported the proposed restriction of cave visits to some degree. Nearly all were very concerned, however, that some type of evaluation or ranking system be developed to allow responsible cavers to continue to use even fragile cave resources.

Closure or restricted use of caves for reasons relating to visitor safety was an item of concern for a few respondents. While several comments supported visitor safety as a justification for restricted cave access, others felt that anything more than information and publication of hazard ratings would interfere with individual's rights to make his/her own decision.

Several concerns were expressed about proposed cave closures to protect endangered bat species. Most of the comments were supportive of protection of bats to some degree. Few, however, were in favor of year round closure to protect bat colonies.

Comments were also received stating that wild caves should remain undeveloped and guided tours implemented only if needed for protection of the resource. They stated that formalized development of any Buffalo National River cave system for interpretive use was not a wanted or needed activity.

In response to these public comments the National Park Service is adopting a less restrictive policy for cave management than that in the proposed rule. This provision of the proposed rule will not be implemented. Sufficient authority already exists in 36 CFR 2.6 to manage caves at Buffalo National River with less restrictions, but with provisions for the closing of selected caves and limited regulation of public use. Primary emphasis will be given to protection of endangered species and fragile natural formations.

Compliance With Other Laws

The National Park Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193; February 19, 1981), nor is it a major Federal action significantly affecting the quality of the human environment which would require preparation of an Environmental Impact Statement. Since this regulation was proposed in 1980, it is not subject to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, 94 Stat. 1164) which became effective January 1, 1981.

This rule does not contain an information collection or recordkeeping requirement as defined in the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*; 94 Stat. 2812).

Drafting Information

These regulations were written by Alec Gould, Superintendent, Buffalo National River.

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; (16 U.S.C. 3))

List of Subjects in 36 CFR Part 7

National parks.

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

In consideration of the foregoing, Part 7 of Title 36, of the Code of Federal Regulations is hereby amended by the addition of a new § 7.35 as follows:

§ 7.35 Buffalo National River.

Gasoline, diesel, or other internal combustion engines with a rating of 10 horsepower or less may be used to propel watercraft on Buffalo National River from Erbie Ford to the White River. Boats with motors are prohibited on the river above Erbie Ford. The provisions of this paragraph shall not apply to vessels operated for official use by agency of the United States, the National Park Service, the State of Arkansas or its political subdivisions.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

March 30, 1982.

[FR Doc. 82-11298 Filed 4-23-82; 8:45 am]

BILLING CODE 4310-70-M

POSTAL SERVICE

39 CFR Part 266

Privacy Act of 1974; Privacy of Information

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this document is to publish the final rule in accordance with the Postal Service's claim of an exemption from specified provisions of the Privacy Act for its system of records within which Equal Employment Opportunity (EEO) investigative case files are maintained. This exemption is claimed in order to provide greater protection of the privacy rights of third parties whose records, by virtue of EEO

statutes and regulations, are included in the case files without their consent during the EEO investigative research process.

EFFECTIVE DATE: May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Martha Smith, (202) 245-5568.

SUPPLEMENTARY INFORMATION: On February 11, 1982, the Postal Service published for comment in the *Federal Register* (47 FR 6295) notice of a proposal to claim an additional exemption for system of records USPS 030.10, Equal Employment Opportunity—EEO Discrimination Complaint Investigations. No comments were received. The Postal Service has determined, in consideration of two privacy issues—

- (1) The right of access to the file by the subject of the records, and
- (2) The need to protect the privacy of third parties whose records are included in the case files without their consent—that it is necessary to amend Title 39 Code of Federal Regulations Part 266 and to publish this final rule.

List of Subjects in 39 CFR Part 266

Postal Service, Privacy.

PART 266—PRIVACY OF INFORMATION

Accordingly, in § 266.9, paragraph (b)(6) is revised to read as follows:

§ 266.9 Exemption.

* * *

(b) * * *

(6) Equal Employment Opportunity—EEO Discrimination Complaint Investigations. USPS 030.010 from 5 U.S.C. 552a (d)(1)–(4), (e)(4) (G) and (H) and (f) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) as material compiled for law enforcement purposes and (k)(5) as relating to the identity of a source who has furnished information to the Government in confidence as a part of an investigation conducted solely for the purpose of determining suitability, eligibility, or qualifications of an individual for employment.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-11301 Filed 4-23-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2074-5]

Approval and Promulgation of Nonattainment Plan for Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving changes to two regulations in the Illinois State Implementation Plan (SIP). The two changes concern fugitive particle emissions and stationary source hydrocarbon emissions. These changes satisfy requirements of Part D of the Clean Air Act. The purpose of this document is to discuss the public comments received and to announce EPA's final rulemaking action approving the proposed revisions to the Illinois State Implementation Plan (SIP).

EFFECTIVE DATE: May 28, 1982.

ADDRESSES: Copies of the proposed SIP revision, the public comments received on the Notice of Proposed Rulemaking (45 FR 59597) and response to the comments are available at the following addresses:

U.S. Environmental Protection Agency,
Air Programs Branch, Region V, 230
Dearborn Street, Chicago, Illinois
60604;

U.S. Environmental Protection Agency,
Public Information Reference Unit, 401
M Street, SW, Washington, D.C.
20460;

The Office of the Federal Register, 1100
L Street, NW., Room 8401,
Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; (312) 886-6035.

SUPPLEMENTARY INFORMATION: Part D of the Clean Air Act, as amended in 1977, required each state to revise its SIP to meet specific requirements for areas designated as not attaining the National Ambient Air Quality Standards (NAAQS). The SIP revisions must demonstrate attainment of the NAAQS by December 31, 1982, and in certain circumstances no later than December 31, 1987 for ozone and/or carbon monoxide. The requirements for an appropriate SIP are described in a *Federal Register* notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979, notice were published on July 2, 1979 (44 FR 38583), August 28,

1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

On April 3, 1979, the State of Illinois submitted a draft SIP to EPA to satisfy the requirements of Part D of the Act. EPA published a notice of proposed rulemaking on these draft SIP revisions on July 2, 1979 (44 FR 38587) and a correction notice on September 20, 1979 (44 FR 54500).

In the July 2, 1979 notice, EPA indicated that the regulations in the State's submittal were preliminarily adopted by the Illinois Pollution Control Board (IPCB) and would be finally adopted after completion of necessary State administrative procedures. EPA stated that until all State administrative requirements were satisfied, it would not complete federal rulemaking on the SIP revisions. EPA also indicated that any substantive changes in the final SIP which were not discussed or anticipated in the Notice of Proposed Rulemaking would be addressed in additional Notices of Proposed Rulemaking. On November 16, 1979, December 21, 1979, and January 25, 1980, EPA received letters from the State of Illinois which demonstrated that, with one exception, all regulations were finally adopted. EPA's review of these finally enacted regulations indicated that changes were made in some of the regulations after the publication of the Notice of Proposed Rulemaking on July 2, 1979.

Therefore, in the February 21, 1979 *Federal Register* (45 11472), EPA took no rulemaking action in regard to those portions of regulations which were changed between the submittal of the draft State Implementation Plan on April 3, 1979, and the submittal of the final State Implementation Plan. A discussion of the changed portions of Rule 203(f) and Rule 205 was presented in a September 10, 1980, Notice of Proposed Rulemaking (45 FR 59597).

EPA received public comments on the September 10, 1980, Notice of Proposed Rulemaking from the State, a citizen's group, and from an attorney representing three steel companies. These comments are discussed below. In addition, the three steel companies asked that EPA incorporate into the record by reference the entire rulemaking proceedings before the Illinois Pollution Control Board on Rule 203(f) and the full record of proceedings before the Illinois Environmental Protection Agency relating to the 1979 SIP revisions. These records have been submitted by the commentator as part of the rulemaking proceedings on particulate emissions from iron and steel sources (45 FR 50825; July 31, 1980) and are available in the IL 103080.029 file.

Rule 203(f)—Fugitive Particulate Emission Control Regulations—Public Comments and EPA Response

1. Illinois' draft rule governing fugitive particulate emissions restricted conveying operations to 10 percent opacity. Illinois deleted this limitation in the rule that it adopted. Conveying operations are subject to the provisions of Rule 203(f)(3)(E) which require dust treatment methods such as spraying with water or surfactants and utilizing enclosures. In the September 10, 1980 Federal Register, EPA proposed to approve the requirements of Rule 203(f)(3)(E) for conveying operations.

Public Comments

EPA received comments on its proposed approval from the State, the three steel mills, and the citizens' group. The State and the steel mills urged EPA to approve the rule. The citizen's group opposes approval of the rule without an opacity limitation for conveyor operations. The citizen's group contends that the use of dust treatment methods does not satisfy the statutory requirement for Reasonably Available Control Technology (RACT). They argue that these requirements do not constitute an emission limitation and are not as effective as covers and positive exhaust to a baghouse. The commentor notes that EPA has defined a 10 percent emission limit based on the use of covers and positive exhaust to a gas cleaner as Best Available Control Technology (BACT) for the purposes of Prevention of Significant Deterioration (PSD) in attainment areas. The commentor states that unless a showing of economic or technological infeasibility is made, Rule 203(f)(3)(E) must contain a ten percent opacity limit and require more stringent technology.

EPA Response

EPA concurs with the State's assessment that the use of dust treatment methods on conveyors constitutes RACT. EPA's position is supported by a recent opinion on the enforceability of Rule 203(f) by the United States Court of Appeals for the Seventh Circuit ("Citizens for a Better Environment v. EPA," 649 F.2d 522 (7th Cir. 1981)). The Court refuted contentions that technology based requirements are not emission limitations and that numerical percentage reductions must be used.

The commentor also asserts that dust treatment methods do not represent RACT since more stringent technologies are available. As the commentor admits, however, the technologies it cites represent BACT rather than RACT.

RACT is defined as "the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility." A November 1, 1979 opinion by the Illinois Pollution Control Board indicates that it considered both economic and technological feasibility in establishing the requirements of Rule 203(f)(3)(E). Consequently, EPA approves Rule 203(f)(3)(E) as part of the Illinois SIP.

One commentor also requested that EPA obtain and include a copy of an Environmental Impact Statement for a proposed steel plant. EPA has not done so since it is the obligation of a commentor to obtain and submit copies of materials for inclusion in the record.

2. Illinois' adopted rule added an exemption to Rule 203(f)(3)(A) eliminating control requirements from storage piles if a demonstration is made that fugitive emissions from the pile do not cross the property line. In the September 10, 1980 Federal Register, USEPA proposed to disapprove this exemption based on its policy that the National Ambient Air Quality Standards must be attained on company property where physical access by the general public is not precluded. EPA noted that the exemption related solely to a company's property line without regard to accessibility by the general public.

Public Comments

Comments were submitted on EPA's proposed disapproval by a citizen's group, three steel companies, and the State. The citizen's group urged EPA to disapprove the exemption contending that: (1) The State had not documented the effect this exemption would have on the emissions inventory and on ambient air quality; (2) the exemption is unenforceable because no criteria are specified to make the determination; (3) prior to granting an exemption, the SIP must be revised so that the public can participate in the determination and know what standard applied to a given storage pile; and (4) although emissions from storage piles might not be visible at the property line, small particles could be entering the ambient air and reentrainment could be occurring.

The steel companies contend that EPA must approve this exemption citing EPA's 1972 approval of Rule 203(f)(1) which utilizes the property line concept to determine if fugitive emissions are occurring. They also allege that disapproval would illegally change the meaning of the rule as enacted by the State. Finally, the steel companies state that EPA would otherwise change its

definition of "ambient air" without formal rulemaking.

The State urges EPA to approve the exemption indicating that it interprets the exemption as applying only where a company's property is not open to public access. The State also indicates that its definition of "ambient air" in Rule 101, of the Illinois SIP is consistent with EPA's definition. Further, the State offers to attempt to obtain a supplemental opinion from the Illinois Pollution Control Board to support this interpretation. In followup conversations the State indicates it is its position that a source must use monitoring to make a showing that no emissions cross the property line in order to claim an exemption. It is further its position that the logical time for an exemption request to be made is when application is made for an operating permit prior to December 31, 1982.

EPA Response

Based on these comments, EPA believes that its initial concerns are unfounded. Therefore, EPA approves the exemption in Rule 203(f)(3)(A) as part of the Illinois SIP. EPA believes that the State's definition of "ambient air" is more stringent than its definition at 40 CFR 50.1(e) because the State's definition includes all of the atmosphere external to buildings whereas EPA's definition only includes the atmosphere external to buildings to which the general public has access. Therefore, the NAAQS must be attained on company property regardless of accessibility of the general public. EPA's response to the citizen's groups comments follow: (1) The State need not document the effect this exemption will have on its emissions inventory since actual emissions will not change as a result of the exemption. Further, the exemption will not affect air quality since, by its terms, no emissions are allowed to enter the ambient air, as defined at 40 CFR 50.1(e).

(2) Although no criteria are specified in the rule, the burden of proof is on the owner or operator of the storage pile to demonstrate that fugitive emissions from the pile do not cross the property line. EPA believes that this demonstration can be made in various ways including modeling and monitoring. If the owner or operator cannot satisfactorily demonstrate that no emissions cross the property line, no exemption will be granted.

(3) Rule 203(f) requires owners and operators of sources of fugitive particulate matter to adopt operating programs which must be submitted to the State. Rule 203(f) further requires

that sources must be operated under the provisions of the operating program. EPA believes that owners and operators of storage piles must demonstrate that they qualify for the exemption by December 31, 1982 when their operating programs are due. In "Citizens for a Better Environment v. EPA" (649 F.2d 522 (7th Cir. 1981)), the 7th Circuit concluded that "it is not necessary that the operating programs specifically be made part of the SIP. Because Rule 203(f) is approved by EPA, the operating programs under Rule 203(f) are subject to challenge and review."

(4) EPA agrees with the commentor that a visibility test is not conclusive evidence that emissions are not crossing the property line and entering the ambient air. As discussed above, EPA believes that other methods such as modeling and monitoring do exist for demonstrating that emissions do not cross the property line. The burden of proof is on the owner and operator to make a satisfactory demonstration. In response to the commentor's concern about reentrainment, Rule 203(f)(3)(A) specifically bars use of the exemption when emissions cross property lines by either direct wind action or reentrainment.

Rule 205—Stationary Source Hydrocarbon Control Regulations—Public Comments and EPA Response

EPA proposed to approve a modification to Rule 205(k)(1) which specifies that an owner or operator satisfying the requirements of Rule 205(k)(1) (A) or (B) is exempt from all provisions of Rules 205(k) (2) and (3). The State submitted the only comment. It agreed with EPA's proposed action. Therefore, EPA approves Rule 205(k)(1) as part of the Illinois SIP.

Under Section 207(b)(1) of the Clean Air Act, judicial review of this final action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of April 26, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of this notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves and disapproves State actions. It imposes no new requirements.

This regulation is exempted from OMB review under Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 172 and 301(a), Clean Air Act (42 U.S.C. 7410, 7502 and 7601(a))

Dated: April 5, 1982.

Anne M. Gorsuch,
Administrator.

PART 40—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. Section 52.720(c) is amended by removing and reserving subdivisions (i), (ii) and (iii) of subparagraph (16):

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(16) * * *

(i)—(iii) [Reserved]

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[FR Doc. 82-11267 Filed 4-23-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-1-FRL-2078-5]

Approval and Promulgation of Implementation Plans; Rhode Island, Group II CTGs and Revisions to Existing SIP Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) submitted by the State of Rhode Island. These revisions will reduce emissions of volatile organic compounds by regulating emissions from external floating roof petroleum storage vessels, Stage I vapor recovery and solvent metal cleaning. Approval of these regulations will help meet the requirements of part D of the Clean Air Act to attain the ozone (smog) National Ambient Air Quality Standard. This document also approves the transfer of control of hazardous waste incineration from the air pollution regulations to the hazardous waste regulations.

EFFECTIVE DATE: May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, (617) 223-5630.

SUPPLEMENTARY INFORMATION: On January 14, 1982 (47 FR 2129), EPA published a Notice of Proposed Rulemaking (NPR) for Rhode Island

Group II CTGs and revisions to existing SIP regulations. Today's notice takes final action to approve regulations controlling emissions from Storage of Petroleum Liquids, Stage I Vapor Controls, Hazardous Waste Incinerators, and Solvent Metal Cleaning. EPA is taking no action at this time on regulations for Pharmaceutical Manufacturing, Perchloroethylene Dry Cleaning, Miscellaneous Metal Coatings, and Leaks from Gasoline Tank Trucks. Except for Regulation 21, Graphic Arts, the state SIP revisions and the rationale for EPA's proposed action are explained in the NPR, have not changed, and will not be restated here. Regarding Regulation 21, the NPR proposed approval conditioned upon the submittal of revisions by July 1, 1982. EPA no longer considers a conditional approval appropriate because the state has already held hearings on revisions to Regulation 21 and expects to submit a revised regulation shortly. EPA is therefore withholding final action on Regulation 21 pending review of the revision. If, as expected, the revised regulation meets the criteria outlined in the NPR, EPA will publish a final approval in the Federal Register without the need to conditionally approve this portion of the Rhode Island SIP. No public comments were received on the NPR.

Action

EPA is approving Regulation 11.6, Storage of Petroleum Liquids—External Floating Roof Vessels; Regulation 11.5, Gasoline Service Station Stage I Vapor Controls; Regulation 12.7.1, Hazardous Waste Incinerators; and Regulation 18, Control of Solvent Metal Cleaning Emissions, as submitted on January 9, July 23, and August 17, 1981.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it merely maintains the status quo. It imposes no new regulatory requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

(Sec. 110(a), sec. 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))