DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Health Care Financing Administration

Office of Human Development Services

20 CFR Part 416

42 CFR Part 435

45 CFR Part 1396

Supplemental Security Income, Medicaid, and Social Security; Continuation of Benefits and Eligibility for Certain Severely Impaired Recipients Who Work

Corrections

In FR Doc. 81-2297 appearing on page 6903 in the issue of Thursday, January 22, 1981, make the following changes:

(1) On page 6904, second column, sixth line of the first full paragraph, delete "in"; twentieth line from the bottom, "state" should read "State"; and in the twelfth line from the bottom, "verfy" should read "verify".

(2) On page 6905, third column, fourth line from the top, "our" should read "out".

(3) On page 6906, third column, eighth line from the bottom of the first full paragraph, "pubic" should read "public".

BILLING CODE 1505-01-M

DEPARTMENT OF STATE

Office of the Secretary

22 CFR Part 9

[Dept. Reg. 108.806]

Security Information Regulations; Designation of Additional Officials

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Regulations of the Department of State concerning security information are amended to designate additional officials to sign letters of denial in answer to requests for classified information under the Freedom of Information Act, as amended; E.O. 12065; and the Privacy Act. This amendment will expedite the final disposition of requests.

EFFECTIVE DATE: April 1, 1981.

FOR FURTHER INFORMATION CONTACT: Barbara Ennis, Director, Policy Development and Coordination Staff, Classification/Declassification Center, Department of State, Washington, DC 20520. Telephone: (202) 632-0772.

SUPPLEMENTARY INFORMATION: 22 CFR 9.16(l)(1) states that letters of denial to requests for classified information should be signed by the agency head or deputy head or by an officer of at least deputy assistant secretary level or equivalent. The designated deputy assistant secretary in each bureau previously signed denial letters for that bureau. Since those regulations were written, the Department has centralized its declassification system. The Department's policies and procedures regarding public access to official information and records were revised September 2, 1980. (22 CFR 171; 45 FR 58108)

Section 9.16(l)(1) title 22, Code of Federal Regulations is, therefore, being amended to bring the security information regulations into conformity with the policies and procedures regarding public access to official information and records. Since this amendment concerns a matter of internal management in the Department of State, it is not considered a major rule under E.O. 12291. (46 FR 13193, February 19, 1981.) It will become effective on April 1.

Accordingly, § 9.16(l)(1) of title 22, Code of Federal Regulations, is revised to read as follows:

§ 916 Mandatory review.

* * * * *

(l) * * *

(1) The receiving office shall record the request and arrange for search and review of the documents. The documents will be reviewed for declassification in accordance with these regulations or any applicable guidelines. If the documents remain classified and are not to be released, in whole or in part, the reviewing office will also prepare a letter informing the requester as described in paragraph (e) of this section. This letter to the requester shall be signed by the officials authorized under 22 CFR 171.50. The receiving office shall record disposition of the case and forward the letter of denial to the requester.

* * * * *

(E.O. 12065, National Security Regulations of June 28, 1978 (43 FR 28949, July 3, 1978); Information Security Oversight Office Directive No. 1 (43 FR 46280, October 5, 1978)

Dated: April 8, 1981.

Thomas M. Tracy,

Assistant Secretary for Administration.

[FR Doc. 81-11405 Filed 4-14-81; 8:45 am]

BILLING CODE 4710-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD Regulation 6010.8-R]

Implementation of the Civilian Health and Medical Program of the Uniformed Services

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Technical change to regulation and statement of policy.

SUMMARY: This deletes the definition of conjoint therapy from CHAMPUS Regulation 6010.8-R (32 CFR 199) implementing directive for the Civilian Health and Medical Program of the Uniformed Services. It also announces a policy which provides guidelines for payment of claims for collateral visits and conjoint therapy in accordance with prescribed psychotherapy limitations.

DATES: Effective date—1 October 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Lorraine F. Carpenter, Special Assistant for CHAMPUS, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E339, The Pentagon, Washington, D.C. 20301, Telephone (202) 697-5185.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the **Federal Register** on April 4, 1977 (43 FR 17972), the Office of the Secretary of Defense published its regulation, DOD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)." Amendment No. 1 was published in FR Doc. 79-9566, appearing in the **Federal Register** on March 29, 1979 (44 FR 18661), and Amendment No. 2 was published in FR Doc. 79-31420, appearing in the **Federal Register** on October 11, 1979 (44 FR 58709). Amendment No. 3 was published in FR Doc. 80-6788, appearing in the **Federal Register** on March 4, 1980 (45 FR 14034) and Amendment No. 4 was published in FR Doc. 80-19463, appearing in the **Federal Register** on June 27, 1980 (45 FR 4307). Section 199.8 contains the following definition of the term "conjoint therapy."

"§ 199.8(b)(40), Conjoint Therapy. "Conjoint Therapy" means the active involvement of persons other than the patient (father, mother, stepfather, stepmother or guardian, if the patient is a child; and husband or wife if the patient is an adult) in the psychiatric therapeutic treatment of the patient where the attending physician documents such involvement as being clearly necessary for the medical management of the primary case.

(Conjoint therapy may also be referred to as collateral visits.)"

The definition section of a directive should define terms that are used in the directive; however, the term conjoint therapy only appears in the definition section and is not referred to elsewhere. Furthermore, it has been found that this definition is not technically correct as far as current practice is concerned. We are, therefore, taking this opportunity to make a technical change by deleting the current definition of conjoint therapy from the definition section.

Technical Change

Accordingly, 32 CFR Chapter 1, Part 199, is amended by removing § 199.8(b)(40), *Conjoint Therapy*, from the Definition Section and reserving this paragraph. It now reads as follows:

§ 199.8 Definitions.

* * * * *

(b) Specific definitions. * * *

(40) [Reserved]

* * * * *

Section 199.10, paragraphs (a)(10) and (a)(11) of the CHAMPUS Regulation (Part 199 of this title) authorizes the Director, CHAMPUS (or a designee), to issue such other instructions, procedures, guidelines, standards, norms, and criteria, as may be necessary to implement the intent of the Regulation.

Accordingly, the following statement of policy provides guidelines for payment of claims for collateral visits and conjoint therapy in accordance with § 199.10, paragraph (c)(3)(ix).

Statement of Policy

A. *Definitions.*

1. *Collateral Visits:* A collateral visit is defined as a session between an authorized individual professional provider and a significant person in the identified-patient's life. It is not a therapy session. It is conducted for the purpose of information gathering and/or implementing treatment goals for the patient. By its nature, the collateral visit does not require the presence of the identified-patient during the session, although this may sometimes occur. For the purpose of extending CHAMPUS benefits for collateral visits, a "significant" person is generally the husband, wife or those children eligible for CHAMPUS benefits.

Unmarried children who are no longer eligible for CHAMPUS benefits but who are living in the same household as the identified patient may also be considered eligible for collateral visits. If the patient is a child-adolescent (i.e., under 18 years of age), the "primary caretaker" shall be eligible for collateral visits whether or not he/she otherwise falls within the definition of family. Other individuals also may qualify for collateral visits for both the adult and the child/adolescent patient provided it can be demonstrated to the satisfaction of the Program that the individual is, in fact, a "significant" person in the life of the identified-patient.

2. *Conjoint therapy:* Conjoint therapy is a collective term used to indicate a category of therapies where more than the therapist and the patient are in the treatment session at the same time—i.e., one or more family members. Conjoint therapy is classified as a form of group therapy. Conjoint therapy may include, but is not necessarily limited to:

a. *Marital Therapy:* Marital therapy means therapy carried out with the aim of treating a mental or emotional illness where there is functional impairment of one or both partners. It involves husband and wife being seen together. A husband and wife undergoing marital therapy would not be expected to undergo individual psychotherapy.

b. *Family therapy:* Family therapy means therapy involving the presence of the family unit. Family therapy is based on the assumption that the mental or emotional illness and the functional impairment of the identified-patient is related to family interactions and, therefore, the family is the unit that should be treated. It is meant to restore functioning in the identified-patient in a manner that requires the presence of the family members at most treatment sessions. For the purpose of extending CHAMPUS benefits for "conjoint therapy," the "family" is the husband, wife or those children eligible for CHAMPUS benefits. Unmarried children who are no longer eligible for CHAMPUS benefits but who are living in the same household as the identified-patient may also be considered eligible to participate in conjoint therapy.

B. *Claims Screening Criteria.*

1. *Adjudication of Claims for Collateral Visits.* Claims for collateral visits will be adjudicated in accordance with the following criteria:

a. *Part of Total Services:* There are no specific restrictions on the number of collateral visits permitted within a treatment episode of the identified-patient. Collateral visits will, however, be included as an integral part of the total of all services provided to the identified patient for the purpose of determining coverage, review points, etc.

b. *Length of Time:* The length of time of the collateral visit must be indicated on the claim form.

c. *Charges for Collateral Visits:* Charges for collateral visits must be made against the identified-patient, not against the collateral.

d. *Relationship to Identified Patient:* Claims for collateral visits must indicate the name of the collateral and his/her relationship to the patient. In the case of an unmarried child no longer eligible for CHAMPUS, a statement is required that the child was residing in the home of the identified-patient at the time the collateral visit took place. If the collateral is other than the spouse, child, or parent of an identified-patient, it is necessary to provide a statement with supporting documentation describing how he/she is a significant person in the life of the identified-patient.

2. *Adjudication of Claims for Conjoint Therapy.*

a. *Specific Information Required:* Because the term conjoint therapy is sometimes used to refer to a variety of treatment concepts, claims for conjoint therapy must explain the specific nature of the care provided and by defining it as family therapy, marital therapy or other type of group therapy. In addition, any claim for conjoint therapy must include the length of the session.

b. *Charges for Conjoint Therapy:* For purposes of extending CHAMPUS benefits, conjoint therapy is always considered group therapy. Unlike the traditional group therapy setting, however, which relies on the interaction of several identified-patients who are not related and for which a charge is made to each patient in the group session, in conjoint therapy, regardless of the number of family members that may be involved, only a single charge per session is acceptable. Such charge is always to be made against the identified-patient.

c. *All Limitations Apply:* Conjoint therapy is subject to the requirements and limitations for other types of psychotherapy.

3. *General.*

a. *Diagnosis:* In order to be considered for benefits under CHAMPUS, the claim for collateral visits or conjoint therapy must indicate the specific diagnosis of the identified-patient.

b. *Marital Therapy vs Marital Counseling:* Marital therapy should not be confused with marital counseling. Marital counseling means the counseling of a husband and wife for marital problems, or in relation to impending or contemplated divorce, or for social or behavioral problems, when no medically diagnosed mental illness resulting in significant dysfunction is present in either party. Marital counseling is not psychotherapy and does not qualify for benefits under CHAMPUS, regardless of the type of provider rendering the counseling or whether the provider is otherwise authorized.

c. *Active Duty Member Involvement:* Claims for collateral visits or conjoint therapy which involve an active duty member are not payable, except as specifically provided for in A.1. and A.2.b. above.

d. *Identified-Patient Must Be Eligible Beneficiary:* In order for collateral visits or conjoint therapy to be considered for benefits under CHAMPUS, the identified-patient must be an eligible CHAMPUS beneficiary. Claims for collateral visits or conjoint therapy which identify the active duty member or other ineligible person as the identified-patient are not payable under CHAMPUS regardless of whether or not the collateral is an eligible beneficiary.

e. *Review Guidelines Apply:* All applicable review guidelines in effect will be observed. All claims must be documented for medical/psychological necessity. If during the adjudication or review process it is determined additional information is required in order to process a claim to completion, it must be provided or the claim will be denied.

M. S. Healy,

OSD Federal Register Liaison, Washington Headquarters Services, Department of Defense.

April 9, 1981.

[FR Doc. 81-11440 Filed 4-14-81; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 1794-3]

Approval and Promulgation of Implementation Plans; Revision to Alaska and Washington State Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 6, 1981, EPA proposed for public comment in the **Federal Register** (46 FR 11309) revisions to the Alaska and Washington State Implementation Plans. The revisions were in response to the May 10, 1979 (44 FR 27558) promulgated Rules and Regulations for Air Quality Monitoring, Data Reporting and Surveillance Provisions. No comments were received, therefore EPA is today approving the SIP revisions for the States of Alaska and Washington. EPA approves a revision to the Alaska and Washington State Implementation Plan to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, § 58.20 Air Quality Surveillance, plan content.

EFFECTIVE DATE: April 15, 1981.

ADDRESSES: Copies of the relative material for this revision may be examined during normal business hours at the following locations:

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

Central Docket Section (10A-80-18), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460;

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

FOR FURTHER INFORMATION CONTACT: William B. Schmidt, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442-1106, FTS: 399-1106.

SUPPLEMENTARY INFORMATION: Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to regulatory impact analysis. This regulation is not major because it does not have an annual effect on the economy of $100 million or more; create a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or create significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provision 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 state actions. It imposes no new requirements. Moreover, due to the nature of the Federal-state relationship, Federal inquiry into the economic reasonableness of the state actions would serve no practical purpose and could well be improper.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this 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 today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the locations listed in the "Addresses" section.

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

Subpart C—Alaska

Section 52.70(c)(9) is added as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(9) On January 20, 1980, the State of Alaska Department of Environmental Conservation submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, Subpart C, 58.20.

Subpart WW—Washington

Section 52.2470(c)(24) is added as follows:

§ 52.2470 Identification of Plan.

* * * * *

(c) * * *

(24) On March 5, 1980, the State of Washington Department of Ecology submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, Subpart C 58.20.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410(a) and 7502))

Note.—Incorporation by reference of the State Implementation Plan for the States of Alaska and Washington was approved by the Director of the Federal Register on July 1, 1980.

Dated: April 8, 1981

Walter C. Barber,

Acting Administrator.

[FR Doc. 81-11399 Filed 4-14-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-2-FRL 1792-6]

Revision to the New Jersey State Implementation Plan; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On March 11, 1980 (45 FR 15531) the Environmental Protection Agency (EPA) promulgated conditional approval of the New Jersey State

Implementation Plan (SIP) with regard to its ability to meet the requirements of Part D of the Clean Air Act. This conditional approval identifed, among other corrective actions, the need for the State to clarify the term "lowest achievable emission rate" as used in a New Jersey regulation dealing with the review of new or altered sources in nonattainment areas, and the need for the State to certify that this regulation has been finally adopted and is enforceable.

EPA received the required clarification and certification from New Jersey on August 5, 1980 and proposed their acceptance approval on November 7, 1980 (45 FR 73970). In its **Federal Register** notice EPA also stated that additional changes made by the State to its regulation, not in response to EPA's conditional SIP approval, were being proposed for disapproval.

Today's notice advises the public that EPA is now taking action to finalize its proposal. EPA is also incorporating the provisions of the State's submission into the approved SIP and is revoking the applicable conditions on its approval of the plan. This action satisfies the last of the conditions on EPA's approval of the New Jersey SIP and the plan is now unconditionally approved.

EFFECTIVE DATE: This action is made effective on May 15, 1981.

ADDRESS: Copies of the State's submission and public comments received are available for inspection during normal business hours at the following addresses:

Environmental Protection Agency, Air Programs Branch, Region II Office, 26 Federal Plaza, Room 1005, New York, New York 10278

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

Copies of the State's submission are also available for inspection during normal business hours at the following address:

The Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 1005, New York, New York 10278 (212) 264–2517.

SUPPLEMENTARY INFORMATION: On March 11, 1980 at 45 FR 15531 the Environmental Protection Agency (EPA) promulgated conditional approval of the New Jersey State Implementation Plan (SIP) with regard to its ability to meet the requirements of Part D of the Clean Air Act, as amended. The reader is referred to this **Federal Register** notice for a detailed discussion of EPA's findings. Today's notice discusses the following two conditions on EPA's approval of the plan:

- On or before August 1, 1980 the State must clarify its definition of "lowest achievable emissions rate" (LAER) as used in N.J.A.C. 7:27–18.1 *et seq.*, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)," so as to require a degree of emission control reflecting the most stringent achievable emission limitation which is contained in the implementation plan of any state for such class or category of sources. Such a limitation must further be at least as stringent as that required by any standard of performance for a new stationary source as promulgated under Section 111 of the Clean Air Act.
- On or before August 1, 1980 the State must certify to EPA that N.J.A.C. 7:27–18.1 *et seq.*, "Control and Prohibition of Air Pollution from New or altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)," has been finally adopted and is enforceable. Copies of the adopted regulations must be submitted along with the State's certification.

In response to these requirements, on August 5, 1980, the State submitted a copy of a revised version of N.J.A.C. 7:27–18.1 *et seq.*, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)." In the November 7, 1980 issue of the **Federal Register** at 45 FR 73970 EPA published a notice which, with certain exceptions which will be discussed, proposed approval of this submission. The reader is referred to this **Federal Register** notice for a detailed discussion of the State's submittal and EPA's findings.

As noted in EPA's proposal, in adopting N.J.A.C. 7:27–18.1 *et seq.*, the State made two substantial changes to its definition of "significant emission increase" and a change to its criteria for requiring that an air quality impact review be performed. These changes could not be found approvable by EPA because they exempt certain sources which must be covered. Consequently, EPA proposed:

- To disapprove the changes made by New Jersey to its definition of "significant emission increase" as it appears in Section 18.1 of N.J.A.C. 7:27–18.1 *et seq.*;
- To disapprove changes made to paragraph (e)(1) of Section 18.2 of the regulation;
- To disapprove changes made to paragraphs (a) and (b)(1) of Section 18.3 of the regulation and;
- To promulgate corrective changes at § 52.1578, "Review of new sources and modifications," of Title 40 of the *Code of Federal Regulations*.

During the 60-day comment period following publication of its November 7, 1980 proposal, EPA received four comments.

In a letter from the Connecticut Department of Environmental Protection, concern was expressed about New Jersey's definition of LAER. Connecticut believes that this definition could be less restrictive than the control requirements determined by "Best Available Control Technology" (BACT) or even "Reasonably Available Control Technology" (RACT). Connecticut also voiced concern that a source may have a significant air quality impact even if the source's emission rate were less than the "significant emission increase" criteria used to subject a source to the New Jersey regulation.

EPA has reviewed the State's definition of LAER and has determined that it is equivalent to the definition found in Section 171(3) of the Clean Air Act. In no case would the definition of LAER require less restrictive control equipment than the control equipment requirements determined by BACT or RACT. With respect to Connecticut's second comment, it is true that a source with emissions less than those defined as a "significant emission increase" would not be subject to N.J.A.C. 7:27–18.1 *et seq.* However, the use of the "significant emission increase" concept meets EPA requirements for new source review. Furthermore, it should be noted that emissions from all sources must be assessed by New Jersey in monitoring its "reasonable further progress" toward attainment of the national ambient air quality standards. Consequently, EPA finds New Jersey's definition of LAER and "significant emission increase," as modified by EPA, to be acceptable.

EPA also received three other comments, very similar to one another, from the New Jersey Independent Liquid Terminals Association, the GATX Terminals Corporation and the New Jersey State Chamber of Commerce. They opposed EPA's proposed decision to disapprove those portions of N.J.A.C. 7:27–18.1 *et seq.* described earlier. Specifically, these commentators argued that, if the recent revision to EPA's "Emission Offset Interpretative Ruling" (45 FR 52741, August 7, 1980) were used as the basis for EPA's review of New Jersey's regulation, the revisions made by New Jersey would be acceptable.

EPA has determined that the current form of N.J.A.C. 7:27–18.1 *et seq.* incorporates provisions of both earlier and current versions of EPA's Interpretative Ruling. In order to be approvable at this time it must be consistent with either one or the other version. It is not consistent with the earlier version insofar as it provides for 100-ton per year emission rate cutoff for applicability versus the earlier version's 50-ton per year cutoff (It should be noted that another deficiency identified in EPA's notice of proposed rule making, "netting," was in error. This fact is discussed later in todays notice). It is also inconsistent with the current version because along with technical defects dealing with definitions, it provides for the 100-ton per year cutoff versus the present Ruling's 40-ton per year cutoff for volatile organic substances.

The State has informed EPA that it is revising its current regulation to conform to the August 7, 1980 EPA promulgation. EPA believes that a reproposal to address the deficiencies of the current Subchapter 18, in light of the August 7, 1980 version of the Ruling, would therefore not be timely and would only serve to further confuse and burden the regulated community. Once the State's regulation is comprehensively revised to conform to the current version of the Offset Ruling, it may be resubmitted to EPA for approval as part of the New Jersey SIP.

GATX Terminals Corporation also commented that EPA's proposed decision to disapprove New Jersey's provision for the netting of emissions should not be finalized. It is argued that the earlier version of EPA's Interpretative Ruling allowed netting. Upon further review, EPA found that this contention is correct in the context of Part D SIP approval actions. While "netting" is not allowed under the Ruling, it is allowed as part of otherwise approvable SIP new source review provisions (44 FR 20379). As a result, EPA's final rulemaking, as promulgated today, no longer reflects a disapproval of the "netting" provisions in N.J.A.C. 7:27–18.1 *et seq.* as contained in Sections 18.1, 18.2(e)(1), 18.3(a) and 18.3(b)(1).

GATX Terminals Corporation further stated that EPA's insistence that the State modify its regulation to correspond to the earlier Interpretative Ruling and then revise it again to be consistent with the more recent version tends to confuse and burden the regulated community. EPA recognizes that today's action may lead to confusion among future applicants. However, the situation was unavoidable and should be of short duration if the State revises its regulation in a timely manner. In addition, EPA believes that if it awaited final enactment of the new revisions to Subchapter 18 its inaction would unduly delay and confuse implementation of the program.

Based on its review of the submitted documents, including the comments received, EPA finds that the subject conditions on its approval of the New Jersey SIP have been fully met. Therefore, EPA is incorporating the State's submission into the SIP and revoking the applicable conditions. Furthermore, this action serves to eliminate EPA's conditional approval of the New Jersey SIP since all the conditions have now been met.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition of review in the United States Court of Appeals for the appropriate circuit within sixty days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's 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. The New Jersey State Department of Environmental Protection has indicated that no source has been subject to its regulation since its adoption on July 3, 1980. New Jersey will be revising its new source review regulation in mid-1981, at which time EPA should be able to revoke its promulgation. Therefore, this EPA regulation should not affect many sources.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. The SIP approvals announced today are not major because they only approve state actions. They impose no new regulatory requirements. The two disapprovals and corrective promulgations announced today are also not major because they preserve existing requirements. Previous State new source review provisions applied to all sources with pollutant emissions greater than or equal to 50 tons per year. However, the state's latest submittal sought to change this review cut off to 100 tons per year. EPA's actions correct the state's submittal to preserve the 50 ton cut off.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for inspection at EPA Region II, Air Programs, 26 Federal Plaza Room 1005, New York, New York 10278.

Note.—Incorporation by reference of the State Implementation Plan for the State of New Jersey was approved by the Director of the Federal Register on July 1, 1980.

(Secs. 110, 172 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Dated: April 8, 1981.

Walter C. Barber,

Acting Administrator, Environmental Protection Agency.

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

Subpart FF—New Jersey

1. Section 52.1570 paragraph (c) is amended by adding new subparagraph (27) as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(27) A supplementary submittal dated August 5, 1980 from the New Jersey Department of Environmental Protection consisting of revisions to Subchapter 18 of the New Jersey Administrative Code, entitled, "Control and Prohibitions of Air Pollution from Ambient Air Quality in Nonattainment Areas" (Emission Offset Rule), N.J.A.C. 7:27–18.1 *et seq.*

2. Section 52.1578 is amended by adding a new paragraph (c) as follows:

§ 52.1578 Review of new sources and modifications.

* * * * *

(c) Subchapter 18 of the New Jersey Administrative Code, entitled, "Control and Prohibitions of Air Pollution from Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)," N.J.A.C. 7:27–18.1 *et seq.*, as submitted to EPA on August 5, 1980 by the New Jersey Department of Environmental Protection, is approved for the entire State of New Jersey, with the following provisions:

(1) The definition of "significant emission increase" as it appears in Section 7:27–18.1, entitled, "Definitions," is disapproved. The following definition of "significant emission increase" is applicable: "an increase, since December 21, 1976, in the rate of allowable emissions, including fugitive pollutant emissions, at a facility of any

criteria pollutant greater than or equal to 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, not including decreases in the rates of allowable emissions except where such decreases are contemporaneous with emission increases. The increase in the rates of allowable emissions shall be the cumulative total of increases from all new or altered equipment for which permits have been issued on or after December 21, 1976 and for which permit applications have been received by the Department, and the fugitive emissions associated with that equipment. The hourly and daily rates shall apply only with respect to a pollutant for which a national ambient air quality standard for a period not exceeding 24 hours has been established.

(2) Subsection (e)(1) under Section 7:27-18.2, entitled, "General Provisions," is disapproved and replaced with the following: "The requirements of subsections (c)(3), (c)(4), and (c)(5) of this Section shall again become applicable when proposed new construction or alterations at the facility would cause the increase in the rate of allowable emissions of that criteria pollutant to again exceed 50 tons per year, 1,000 pounds per day, or 100 pounds per hour whichever is most restrictive. The accumulation of increases in the rate of allowable emissions shall resume from zero after each application of paragraphs (c)(3) and (c)(4) of this Section."

§ 52.1581 [Reserved]

3. Section 52.1581, Part D—conditions on approval, is removed and reserved in its entirety.

[FR Doc. 81-11380 Filed 4-14-81; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 81

[A-8-FRL 1792-5]

Section 107—Attainment Status Designations—Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 29, 1980, EPA proposed action on the Governor of Colorado's September 27, 1979, requests for redesignation of the Pueblo 3-C Urbanized Area from nonattainment to unclassified for TSP. (45 FR 13476). For reasons explained in that notice, EPA proposed to modify the Governor's request and retain the nonattainment designation for this area.

EPA has considered the public comments received on that proposal. Since the monitoring data which shows violations of the air quality standard for particulates, has not been shown to be invalid, EPA is retaining the nonattainment designation for the Pueblo area.

EFFECTIVE DATE: April 15, 1981.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

SUPPLEMENTARY INFORMATION: On September 27, 1979, the Governor of Colorado requested that EPA redesignate the Pueblo 3-C urbanized area from nonattainment for particulates to unclassified. On February 29, 1980, (45 FR 13476), EPA proposed to modify the Governor's request and retain the nonattainment designation. The principle reason for proposing to retain the nonattainment status was that monitoring data still shows violations of the ambient standards and EPA policy does not allow redesignation of an area to unclassified unless it is shown that the air quality data used to make the original designation are invalid.

No evidence was submitted by the State refuting the validity of the air quality data upon which the original nonattainment designation was based. Rather, the State based its request on "evidence that the area is not experiencing adverse effects to public health and welfare * * *" The State asked EPA to use "administrative good sense" in applying the ambient air quality standards for particulate matter by discounting the effects of particulates not generally of a size or substance thought to affect public health. Given the existing ambient air quality standard for particulates and EPA policy concerning redesignation of an area, today's final rulemaking modifies the State's request and retains the nonattainment designation for the Pueblo area.

Major Comments

Several commenters questioned EPA's February 29, 1980, proposal to modify the redesignation request and maintain the nonattainment designation for the Pueblo area. The principal comment was that EPA had merely relied on monitoring data showing violations of the particulate standard (averaging about 100 $\mu g/m^3$ annual geometric mean compared to the primary annual standard of 75 $\mu g/m^3$ annual geometric mean) without considering other relevant factors. The commenters urged EPA to consider testimony and data presented at the State's hearing on the proposed redesignation, including:

(1) Particles are not of a size and substance that have an adverse effect on public health;

(2) Industrial emissions have very little impact on air quality, e.g., hi-vol filter analysis shows that 90% of the particles are from natural sources and are too large to be respirable, 10% are from anthropogenic sources, and only 1% is respirable;

(3) Chemical composition analysis shows that the carbonaceous content of the particles is very neglible; and

(4) Modeling indicates that the level of background particulate concentration is 40-60 $\mu g/m^3$, that combustion sources contribute about 10 $\mu g/m^3$, and only about 16-20 $\mu g/m^3$ of the total monitored levels are 2.5 microns or less in diameter (the size the commenter thought could effect public health).

Based on these factors and citing legislative history from the Clean Air Act Amendments of 1977, the commenters urged EPA to exercise "administrative good sense." More specifically, the commenters believed EPA should apply its Fugitive Dust Policy to Pueblo, so that non-industrial emissions could be discounted and the Pueblo area could be designated "unclassifiable" under Section 107(d) of the Act. In addition the commenters challenged EPA's Fugitive Dust Policy on grounds that it should be applied to arid and semi-arid areas, instead of just rural areas.

Commenters also challenged EPA criteria for redesignating areas from nonattainment to unclassified.

Finally, one commenter requested that EPA conduct a public hearing prior to issuing a final rule.

Response to Comments

One of the major comments received urged EPA not to rely strictly on monitoring data, but to consider other factors. None of the commenters refuted the fact that monitoring data show violations of the particulate matter standard nor did not any commenter refute the validity of that data. Under Section 107 and 171(2) of the Clean Air Act, nonattainment designations are required if monitoring data, air quality modeling or other methods determined to be reliable by the Administrator show that the area does not meet a national primary ambient air quality standard.

Under the existing air quality standards for particulate matter (40 CFR 50.6), the level of concentration is based on *total* suspended particulates. The standard does not provide for discounting any portion of the measured concentrations based on size or substance of the matter. While EPA is currently re-evaluating the particulate standard, as required by Section 108(c) and 109 of the Act, to determine if any revision is necessary, the results of the review and analysis, including any necessary revisions to the standard, have not yet been completed.

EPA recognizes that statements in the legislative history of the Clean Air Act encourage EPA to use "adminstrative good sense" in making particulate standard attainment status designations. Prior to receiving this congressional advice, EPA had already developed a Fugitive Dust Policy to stress control strategy development in accordance with the seriousness of a community's air pollution problem. Since passage of the 1977 amendments, the Fugitive Dust Policy has also been used by EPA to categorize nonattainment areas. *See* 43 FR 8963 (March 3, 1978). Briefly, the Fugitive Dust Policy recognizes that the environmental impact due to violations of the particulate standard is greater in urban than in rural area. In rural areas, airborne particulate matter is typically composed of native soil that is generally not exposed to contamination by industrial pollutants. In urban areas, on the other hand, native soil is often contaminated by a combination of industrial pollutants from a variety of sources making it potentially more harmful to human health.

For purposes of implementing the Fugitive Dust Policy, EPA determines whether an area should be considered "rural" by using the following criteria: (1) The absence of major industrial particulate emissions and (2) a low urbanized population (<50,000). Applying this policy to attainment status designations, nonindustrialized rural areas with measured violations of the particulate standard have been designated unclassified whereas urban or industrialized communities have been designated nonattainment. Pueblo has significant industrial emissions and has a population of 100,000, and therefore does not need either criterion for a designation as unclassifiable.

Some members of the public indicated that EPA's policy was overly conservative since it does not authorize unclassifiable designations in industrialized or urban areas if valid data exists showing particulate standard violations. Commenters urged EPA to consider evidence and testimony concerning the size and substance of the particles and the impact on public health when determining attainment status. EPA believes that the Fugitive Dust Policy, as well as the manner in which it is applied to 107 designations is reasonable and represents "administrative good sense." Limiting unclassified designations for particulate matter to nonurban, nonindustrialized areas may be a conservative approach, but it is also the safest and most reasonable approach from the public health standpoint given the information currently available.

In addition, EPA believes it would be inappropriate at this time to consider the size and substance of the particulate matter when making attainment status designation decisions for urban or industrialized areas since neither the existing particulate standard nor EPA policy allow discounting of measured concentrations on this basis. One of the major issues being analyzed as part of EPA's ongoing review of the particulate standard is what effect particles of various sizes and substance have on public health. Until the evaluation of the particulate standard is complete and unless the standard is revised to incorporate these types of considerations in promulgating this final rule, EPA connot rely on information such as that submitted by the State and other commenters regarding what they perceive to be the public health effects of particulate matter concentrations in the Pueblo area. For EPA to base a decision regarding the attainment status of the Pueblo areas on this type of information would necessitate prejudging the outcome of the standard evaluation. EPA does not have sufficient information or authority to make a decision on this basis.

Nonetheless, EPA has carefully reviewed the information presented at the State's hearing or submitted to EPA during the comment period regarding the size, substance, and health effects of particulate matter in the Pueblo area. EPA believes the evidence submitted does not adequately define the impact of industrial sources (particularly, the CF&I Steel Mill) on air quality or the public health. First, testimony given by physicians in the Pueblo area was based on their personal experience and observations—not on controlled studies. Therefore, no real conclusions can be drawn from their experience.

Second, a substantial amount of data was submitted concerning the size and substance of the particles. However, EPA only received the results of these analyses. In order to respond adequately to these comments, EPA believed it was appropriate to conduct an independent evaluation. Therefore, EPA obtained hi-vol filter samples for several days during 1979 and had them analyzed by a consultant who specializes in this type of analysis. Results of this analysis showed that a significant portion of the particles collected could be attributed to industrial sources. Steel mill emissions in themselves were sufficiently high in concentration, 157 $\mu g/m^3$, to cause an excursion of the secondary 24-hour standard on April 17, and were 126 $\mu g/m^3$ on May 7.

The sole purpose of this analytical effort was to get a better understanding of the validity of the evidence submitted by commenters, in order to respond adequately to the concerns raised. For reasons explained earlier in this notice, EPA is not considering the issue of particle size and substance in issuing today's final rule.

Several commenters questioned EPA's policy regarding redesignation from nonattainment to unclassified, particularly the requirement that the monitoring data used to establish the nonattainment designation be shown to be invalid. Commenters also questioned whether EPA was applying this policy consistently on a national basis. Commenters argued that EPA should also consider evidence regarding public health effects. EPA believes the existing policy is reasonable and, as explained above, areas such as Pueblo cannot be redesignated as unclassified absent a showing that the data are invalid. EPA also believes today's final action is consistent with action taken in other regions. Today's final rulemaking is based on the fact that EPA considers Pueblo to be an urbanized (urban populations greater than 100,000) and industrialized area, that monitoring data shows violations of the particulate standard, and that the data have not been shown to be invalid.

Commenters also requested that EPA conduct a public hearing prior to promulgating a final rule. Since the State held a public hearing on this issue and EPA also provided an opportunity for public comment, EPA does not believe another public hearing is necessary. In addition, the Clean Air Act does not require that a public hearing be held on Section 107 rulemaking actions.

Final Action

Because violations have been recorded in Pueblo, and because the Fugitive Dust Policy does not allow designation of the Pueblo area as unclassifiable, EPA is modifying the Governor of Colorado's request for redesignation of the Pueblo 3–C urbanized area and retaining the nonattainment designation for particulate matter.

EPA finds good cause for making today's action immediately effective since it merely maintains the status quo and does not impose any additional burden on the State.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking is available *only* by filing a petition for review in the United States Court of Appeals for the Tenth Circuit by June 15, 1981. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12291, EPA must decide whether a rule is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not major because it imposes no new regulatory requirements. It only maintains an existing air quality designation. Any regulatory requirements which may become necessary as a result of this action will be dealt with in a separate action. Hence, it is unlikely to have an annual effect on the economy of $100 million dollars or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for inspection at the EPA Region VIII, Suite 103, 1860 Lincoln Street, Denver, Colo. 80295.

This notice of final rulemaking is issued under the authority of Sections 107 and 301 of the Clean Air Act as amended (42 U.S. 7407, 7601).

Dated: April 8, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

[FR Doc. 81-11381 Filed 4-14-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 261

[SWH-FRL 1804-2]

Hazardous Waste and Hazardous Waste Management; Availability of Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) has recently received two studies which examine the reproducibility of the Extraction Procedure (EP) described at 40 CFR Part 261 of the hazardous waste regulations. One of the studies was prepared by the Electric Power Research Institute (EPRI). The other was sponsored by the U.S. Department of Energy and the American Society for Testing and Materials (ASTM). Both studies, especially the EPRI study, are considered to be generally supportive of EPA's positions with respect to Extraction Procedure reproducibility. The purpose of this notice is to make the public aware of these studies and to solicit comments on the meaning and significance of their results.

DATES: Comments on these reports are due no later than June 15, 1981.

ADDRESSES: Comments should be directed to David Friedman, Manager, Waste Analysis Program, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: During the development of the 40 CFR Part 261 hazardous waste regulations, EPA and other organizations initiated several studies to obtain additional information on the standardized leaching procedure (i.e., Extraction Procedure) then being developed. Some of these studies have only recently been finalized and made available to the Agency and the public. The purpose of this notice is to announce the availability of two of these reports and to solicit comments on their meaning from the general public.

The first of the two reports is entitled *Final Report, Phase II Supplemental Leaching Program: Analysis of Selected Trace Metals in Leachate from Reference Fly Ash* and is the product of a joint undertaking between the U.S. Department of Energy and the American Society for Testing and Materials (ASTM). This report describes the results of an inter-laboratory testing program to isolate and measure the primary components of variability in the extraction procedures developed by ASTM and EPA for testing the leaching potential of solid wastes. Copies of the report are available from Dr. Larry P. Jackson, U.S. Department of Energy, Laramie Energy Technology Center, P.O. Box 3395, University Station, Laramie, WY 82071. The second report is entitled *Extraction Procedure and Utility Industry Solid Waste (EPRI EA-1667)* and is put out by the Electric Power Research Institute (EPRI). This report describes a study conducted for the EPRI to evaluate the reproducibility of the EPA Extraction Procedure and to assess the effects of modifying the procedure. Copies of the report are available from Dr. Ralph Perhac, Electric Power Research Institute, Post Office Box 10412, Palo Alto, CA 94303, (415) 855-2000.

Dated: April 8, 1981.

James N. Smith,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 81-11432 Filed 4-14-81; 8:45 am]

BILLING CODE 6560-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Requirements for a Health Maintenance Organization

AGENCY: Public Health Service, HHS.

ACTION: Status report on OMB review of HMO reporting and recordkeeping requirements; confirmation of effective date.

SUMMARY: This is a report on the status of the Office of Management and Budget's (OMB) review and approval of requirements at 42 CFR 110.108(c)(1) which the Department determined are subject to the Federal Reports Act of 1942. These requirements relate to the operation of federally qualified health maintenance organizations (HMOs) with respect to the disclosure of certain information by HMOs to members, potential members and employers.

DATES: 42 CFR 110.108(c)(1) is effective March 30, 1981. See Supplementary Information for details.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, 12420 Parklawn Drive, Park Building, Third Floor, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: On February 25, 1981, the Department gave notice at 46 FR 14015 that a status report would be made on OMB's review of the reporting and recordkeeping requirements at 42 CFR 110.108(c)(1). OMB has reviewed and approved these requirements. (OMB Approval No. 937-0093; expires April, 1983.)

The final rules (42 CFR 110.108(c)(1), (c)(2) and (s)), published in the **Federal Register** on January 21, 1981, were to become effective on February 20, 1981. Because of the President's January 29, 1981, directive to postpone pending regulations, the effective date had been delayed until March 30, 1981. (46 FR 14015-6). On March 30, 1981, therefore, 42 CFR 110.108(c)(1), (c)(2) and (s) as amended become effective.

Dated: March 27, 1981.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: April 7, 1981.

Richard S. Schweiker,

Secretary.

[FR Doc. 81-11371 Filed 4-14-81; 8:45 am]

BILLING CODE 4110-85-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1496]

Railroads Authorized To Divert Traffic Consigned to Corpus Christi Public Elevator Located at Corpus Christi, Texas

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1496, and notice of modified hearing procedure for extension beyond 30 days.

SUMMARY: This order authorizes any railroad holding a car loaded with grain consigned, reconsigned, or intended for unloading by the Corpus Christi Public Elevator at Corpus Christi, Texas, and which cannot be unloaded by this consignee because of the destruction of its elevator, may be reconsigned, diverted, or reshipped to any other grain elevator in the United States which is located on the Gulf of Mexico, and establishes a modified hearing procedure to consider extension of the order beyond its initial 30-day period.

Under 49 U.S.C. 11123(a) the Commission may issue a service order for up to 30 days when it finds that a "failure in traffic movement exists which creates an *emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States,"* (italics added). Extension of the order requires that the full Commission, after a hearing, certify the continued existence of the emergency.

DATE: This order shall become effective at 12:01 a.m. on April 9, 1981, and shall remain in effect for 30 days unless otherwise modified, amended, or vacated by order of this Commission.

COMMENT DATE: Any interested party may file statements providing information and argument relating to the necessity and appropriateness of continuing this order in effect beyond the initial 30-day period by filing an original and 5 copies of a statement in affidavit form by April 17, 1981. Rebuttal statements in affidavit form (original and 5 copies) may be filed by April 24, 1981.

ADDRESS: All filings should be addressed to Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Room 7115, Washington, D.C. 20423; and in the lower left hand corner in large letters, should have printed RSB-7115.

Interested parties wishing to review the docket file may do so in Room 7225 of the Commission in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840.

SUPPLEMENTAL INFORMATION:

Decision

Section 226 of the Staggers Rail Act of 1980 (Pub. L. 96-448) revised 49 U.S.C. 11123(a) by limiting the Commission's authority to act in emergency situations to those where it finds that a "failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States." The initial period for the service order may not exceed 30 days and the order may be extended only after the full Commission, after a hearing, certifies the continued existence of the transportation emergency. This initial issuance contains the notice of the modified hearing procedures (set forth in Comment Dates) to be followed with respect to any extension of the order.

It is the opinion of the Commission that the statutory criteria of Section 11123(a) for the issuance of a service order has been met, and more particularly that:

On April 7, 1981, Corpus Christi Public Elevator, located at Corpus Christi, Texas, was destroyed by an explosion and fire. Approximately one-hundred (100) carloads of grain were on hand or in transit for unloading by this elevator at the time of its destruction. Rebuilding of the elevator cannot be accomplished within a reasonable time. Other arrangements for the unloading of these cars will require diversion and reconsignment of many of them in a manner prohibited by the applicable tariffs.

It is the opinion of the Commission that this emergency situation requires that such diversions and reconsignments are necessary in the public interest to enable the prompt unloading of these cars and their continued use in transportation service and to enable the fullfillment of export grain commitments; that a failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in a substantial region of the United States; that prior notice of this action and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, that

§ 1033.1496 Service Order No. 1496.

(a) *Railroads authorized to divert traffic consigned to Corpus Christi Public Elevator located at Corpus Christi, Texas.* Any railroad holding a car loaded with grain consigned, reconsigned, or intended for unloading by the Corpus Christi Public Elevator located at Corpus Christi, Texas, which originated on or before April 9, 1981, and which cannot be unloaded by Corpus Christi Public Elevator because of the destruction of its grain elevator, may be reconsigned, diverted, or reshipped to any other grain elevator in the United States which is located on the Gulf of Mexico. In the application of this section, grain elevators located on the lower Mississippi River from Port Allen, Louisiana, to the mouth of the river and grain elevators located on the Houston, Texas, ship channel shall be deemed to be located on the Gulf of Mexico.

(b) *Reconsignment and diversions charges.* Carloads of grain reconsigned, diverted, or reshipped under the provisions of this order shall not be subject to reconsignment or diversion charges provided in the applicable tariffs.

(c) *Rates.* The rates applicable to carloads of grain reconsigned, diverted, or reshipped under the provisions of this order shall be the rates that would have been applicable on the shipments at the time of shipment had they been originally destined to the point to which reconsigned, diverted, or reshipped. When the applicable tariffs provide routes from origin to the new destination via the line and the point at which the car is held, such routes must be utilized for the rerouting, diversion, or reshipment. When no such route exists, any available route may be used. In the application of this section, cars which have arrived at Corpus Christi, Texas, and which are located on a line performing only terminal or intermediate switching service shall be considered as being held by the inbound line-haul carrier.

(d) *Divisions of Revenues.* In executing the directions of the Commission provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the