

of the temporary labor camps standard, 29 CFR 1910.142, in agriculture, as described in § 1952.243(b).

(4) Federal jurisdiction is also retained for Native health care facilities that are Federally owned and contractor operated, including those owned by the U.S. Department of the Interior, Indian Health Service; the U.S. Department of Defense; or the U.S. Department of Commerce, National Oceanic and Atmospheric Administration; and operated by Tribal organizations under contract with the Indian Health Service. However, the State retains jurisdiction over construction and contract maintenance activities at these facilities with the exception of the Metlakatla Indian Community, Annette Island Service Unit, which is entirely under Federal jurisdiction. (The State also retains jurisdiction over Native health care facilities that are leased or owned by Tribal organizations, except for the Metlakatla Indian Community.)

(5) Federal jurisdiction is also retained with regard to the operations of private contractors at Cape Lisburne Long Range Missile Base, Point Lay Short Range Missile Base, Eareckson Air Station on Shemya Island, Fort Greeley Missile Defense in Delta Junction, the U.S. Coast Guard Integrated Support Commands in Kodiak and Ketchikan, the U.S. Coast Guard Air Station in Sitka, and the U.S. Coast Guard 17th District Command in Juneau.

(6) Federal jurisdiction is also retained for private sector worksites located within the Annette Islands Reserve of the Metlakatla Indian Community, for private sector worksites located within the Denali (Mount McKinley) National Park, for Federal government employers, and for the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Washington State Plan; Approval of Plan Supplement; Level of Federal Enforcement

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This document gives notice of OSHA's approval of a change to the State of Washington's occupational safety and health state plan excluding coverage of establishments where the employer is either a federally recognized Indian Tribe or an enrolled member of a federally recognized Indian Tribe, and the establishment is located within the borders of an Indian reservation in the State, or on lands outside these reservations that are held in trust by the federal government for these Tribes. This extends a State plan exclusion previously established for establishments of the Yakama Indian Nation and Colville Confederated Tribes to all other recognized Tribes and their members. Accordingly, federal OSHA will exercise enforcement authority over such establishments in the State of Washington. The State retains jurisdiction over non-member private sector and State and local government employers located within the reservations or on Trust lands, and member employers located outside the reservations or Trust lands. OSHA is amending its description of the State plan to reflect this change in the level of federal enforcement in the State.

EFFECTIVE DATE: April 19, 2004.

FOR FURTHER INFORMATION CONTACT:

Paula O. White, Director, Cooperative and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 693-2200.

SUPPLEMENTARY INFORMATION:

A. Background

Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that states which wish to assume responsibility for developing and enforcing their own occupational safety and health standards may do so by submitting, and obtaining federal approval of, a state plan. State plan approval occurs in stages which include initial approval under section 18(c) of the Act and, ultimately, final approval under section 18(e). In the interim, between initial approval and final approval, there is a period of concurrent federal/state jurisdiction within a state operating an approved plan.

On January 26, 1973, OSHA published notice in the **Federal Register** (38 FR 2421) announcing the approval of the Washington state plan, as administered by the Washington Department of Labor and Industries, and the adoption of subpart F to 29 CFR part 1952 containing the decision and describing the state plan. On May 30,

1975, OSHA and the State of Washington entered into an operational status agreement which suspended the exercise of concurrent federal enforcement authority in all except specifically identified areas. OSHA and the State of Washington have subsequently amended this operational status agreement on several occasions. The pertinent provisions concerning the level of federal occupational safety and health enforcement in the State appear at 29 CFR 1952.122.

In April, 1987 and November, 1989 the State of Washington amended its plan to exclude coverage of establishments of the Yakama Indian Nation and the Colville Confederated Tribes. OSHA announced approval of these changes and assumption of federal enforcement responsibility for Indian or Tribally owned facilities within the Yakama and Colville reservations on March 30, 1990 (55 FR 11906) and September 12, 1990 (55 FR 37465), respectively.

The decision by the State of Washington to exclude coverage of member and Tribal employers of all federally recognized Indian Tribes from its state plan follows a refusal by another Tribe, the Makah Indian Tribe, to allow State entry to conduct a discrimination investigation and a safety and health complaint inspection. Based on this and similar denials of entry and questions as to the State's legal authority to regulate Indian-owned or Tribal workplaces, the State subsequently requested that OSHA assume jurisdiction over establishments operated by member and Tribal employers of all federally recognized Indian Tribes within the borders of Indian reservations or on lands held in Trust for the various Tribes in Washington State. Accordingly, these establishments are deemed to be an issue no longer covered by the Washington state plan. OSHA and the State of Washington signed an addendum to their operational status agreement on August 31, 2000. That addendum, which was effective upon signature, relinquishes State jurisdictional and enforcement authority and responsibility for all occupational safety and health matters at establishments of employers who are either federally recognized Indian Tribes or enrolled members of these Tribes, where such employers' establishments are located within the borders of Indian reservations in the State, or on lands outside these reservations that are held in trust by the federal government for these Tribes. Accordingly, federal OSHA is assuming jurisdiction and enforcement authority

for these establishments. Non-member private sector or State and local government employers whose establishments are located within the borders of Indian reservations or Trust lands and member employers located outside the territorial borders of Indian reservations or Trust lands remain under State plan jurisdiction. This addendum expands upon and supersedes the March 30, 1987 addendum addressing the Yakama Indian Nation and is compatible with the November 17, 1989 agreement with the Colville Confederated Tribes.

B. Location of Supplement for Inspection and Copying

A copy of the addendum to the operational status agreement and related correspondence may be obtained from: Office of State Programs, Directorate of Cooperative and State Programs, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693-2244, fax (202) 693-1671; Office of the Regional Administrator, Occupational Safety and Health Administration, 1111 Third Avenue, Suite 715, Seattle, Washington, 98101-3212, (206) 553-5930, fax (206) 553-6499; and the State of Washington, Department of Labor and Industries, 7273 Linderson Avenue SW., Tumwater, Washington 98504-4600, (360) 902-5430, fax (360) 902-5529. Other information about the Washington state plan is posted on the State's Web site at <http://www.lni.wa.gov/wisha>. For an electronic copy of this **Federal Register** notice, see OSHA's Web site at <http://www.osha.gov>.

C. Public Participation

Under 29 CFR 1953.3(e) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. Washington's determination that certain Indian-operated establishments are no longer an issue covered under the State's plan is already in effect per agreement with OSHA and as a result of the State's inability to exercise legal authority. Additionally, a previous addendum to the State's operational status agreement provides for the limited resumption of federal enforcement authority at the State's request if necessary to protect the safety and health of workers in the State; this notice implements that provision. Accordingly, OSHA finds that public participation is unnecessary, and this notice of approval is effective upon publication in the **Federal Register**.

List of Subjects in 29 CFR Part 1952

Indians, Intergovernmental relations, Law enforcement, Occupational safety and health.

Signed at Washington, DC, this 6th day of April, 2004.

John L. Henshaw,
Assistant Secretary.

■ For the reasons set out in the preamble, 29 CFR part 1952 is amended as set forth below:

PART 1952—[AMENDED]

■ 1. Revise the authority citation for part 1952 to read as follows:

Authority: Sec. 18 of the Occupational Safety and Health Act of 1970, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902; Secretary of Labor's Order No. 5-2002 (67 FR 65007, October 22, 2002).

■ 2. Section 1952.122 is amended by—

■ A. Removing paragraph (a)(9) and revising paragraph (a)(8).

■ B. Redesignating paragraphs (a)(10) and (a)(11) as paragraphs (a)(9) and (a)(10).

The revised text reads as follows:

§ 1952.122 Level of Federal enforcement.

(a) * * *

(8) Enforcement at establishments of employers who are federally recognized Indian Tribes or enrolled members of these Tribes—including establishments of the Yakama Indian Nation and Colville Confederated Tribes, which were previously excluded by the State in 1987 and 1989 respectively—where such establishments are located within the borders of Indian reservations, or on lands outside these reservations that are held in trust by the Federal government for these Tribes. (Non-member private sector or State and local government employers located within a reservation or on Trust lands, and member employers located outside the territorial boundaries of a reservation or Trust lands, remain the responsibility of the State.);

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2551

RIN 3045-AA29

Senior Companion Program; Amendments

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: These amendments to the regulations governing the Senior Companion Program (SCP) modify provisions concerning deductions for medical expenses and the allowability of certain volunteer expense items. The specific amendments are as follows: § 2551.42(c) is modified to increase the ceiling on medical expenses that may be deducted for determining income for eligibility purposes from 15 percent to 50 percent of the applicable income guideline; and §§ 2551.45 and 2551.93(d) are modified to allow project funds, including the required non-Federal share, to be used to reimburse volunteers for expenses, including transportation costs, incurred while performing volunteer assignments, and for purchase of equipment or supplies for volunteers on assignment.

DATES: These amendments are effective as of April 19, 2004.

FOR FURTHER INFORMATION CONTACT: Peter L. Boynton, 202-606-5000, ext. 499.

SUPPLEMENTARY INFORMATION: The Corporation published a notice of proposed rulemaking (NPRM) for the Senior Companion Program, 45 CFR part 2551, in the **Federal Register** at 69 FR 6225, dated February 10, 2004.

Summary of Main Comments

In response to the Corporation's invitation in the notice of proposed rulemaking, the Corporation received 36 responses addressing the proposed amendments to the Senior Companion rules. All 36 respondents supported the proposed amendments modifying the medical expense deduction. Those who provided explanations for why they favored these amendments generally noted that it would permit a larger number of individuals with high medical expenses to serve, thus increasing the number of income-eligible volunteers and broadening their recruitment potential. Several noted that they have had to turn away volunteers who were only slightly over income, and this change would have enabled them to be enrolled. Concerning the amendments that would allow project funds to be used to reimburse volunteers for certain expenses that now may be paid only by the volunteer station, 16 responses expressed support, 1 expressed partial support, and 19 did not comment. Reasons cited for supporting the amendment included: (a) The possibility of developing innovative high-impact volunteer opportunities, (b) the value of increased flexibility to manage funds in accordance with local