

determined that this rule does not have a potentially significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule has only incidental effect on the procedural details of operation of a HUD insurance program, and no significant relationship to family-related issues is evident.

This rule was listed as item 984 in the Department's Semiannual Agenda of Regulations published on October 24, 1988 (53 FR 41974, 41995) under Executive Order 12291 and the Regulatory Flexibility Act.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 46-511) and have been assigned OMB control number 2502-0322.

List of Subjects

24 CFR Part 203

Home improvements, Loan programs: housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

Accordingly, the Department amends 24 CFR Parts 203 and 234 as follows:

1. The authority citation for 24 CFR 203 continues to read as follows:

Authority: Sec. 203, 211, National Housing Act (12 U.S.C. 1709, 1715b); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, Subpart C also is issued under Sec. 230, National Housing Act (12 U.S.C. 1715u).

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

2. Sections 203.49(e)(1), (f)(1), and (g) are revised to read as follows:

§ 203.49 Eligibility of adjustable rate mortgages.

* * * * *

(e) * * *

(1) No single adjustment to the interest rate may result in a change in either direction of more than one percentage point from the interest rate in effect for the period immediately preceding that adjustment. Index changes in excess of one percentage point may not be carried over for inclusion in an adjustment in a subsequent year. Adjustments in the effective rate of interest over the entire term of the mortgage may not result in a change in either direction of more than

five percentage points from the initial contract interest rate.

* * * * *

(f) * * *

(1) The fact that the mortgage interest rate may change, and an explanation of how changes correspond to changes in the interest rate index;

* * * * *

(g) *Annual disclosure.* At least 25 days before any adjustment to a mortgagor's monthly payment may occur, the mortgagee must advise the mortgagor of the new mortgage interest rate, the amount of the new monthly payment, the current index interest rate value, and how the payment adjustment was calculated.

* * * * *

3. The authority citation for 24 CFR 234 continues to read as follows:

Authority: Secs. 211, 234, National Housing Act, (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

4. Sections 234.79 (e)(1), (f)(1), and (g) are revised to read as follows:

§ 234.79 Eligibility of adjustable rate mortgages.

* * * * *

(e) * * *

(1) No single adjustment to the interest rate may result in a change in either direction of more than one percentage point from the interest rate in effect for the period immediately preceding that adjustment. Index changes in excess of one percentage point may not be carried over for inclusion in an adjustment in a subsequent year. Adjustments in the effective rate of interest over the entire term of the mortgage may not result in a change in either direction of more than five percentage points from the initial contract interest rate.

* * * * *

(f) * * *

(1) The fact that the mortgage interest rate may change, and an explanation of how changes correspond to changes in the interest rate index;

(g) *Annual disclosure.* At least 25 days before any adjustment to a mortgagor's monthly payment may occur, the mortgagee must advise the mortgagor of the new mortgage interest rate, the amount of the new monthly payment, the current index interest rate value, and how the payment adjustment was calculated.

* * * * *

Date: October 27, 1988.

James E. Schoenberger,
General Deputy Assistant Secretary for
Housing—Federal Housing Commissioner.
[FR Doc. 89-71 Filed 1-3-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 177

San Carlos Irrigation Project, Arizona

September 30, 1988.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs published in the *Federal Register*, Volume 52, Number 237, December 10, 1987, a proposed rule to amend the pertinent sections of the regulations governing the charges and costs assessed the power customers for electric power, energy and associated services provided by the San Carlos Irrigation Project (SCIP), Arizona.

This action increases Rate Schedules No. 1 and No. 2 of 25 CFR 177. The new rates reflect the increased operating costs associated with labor, equipment and supplies, as well as costs of project rehabilitation, repayment of the federal investment in the project and payment of operation and maintenance expenses.

EFFECTIVE DATE: January 4, 1989.

FOR FURTHER INFORMATION CONTACT: Ralph Esquerra, Project Engineer or Jim Ong, Jr., Power Manager, San Carlos Irrigation Project, P.O. Box 250, Coolidge, Arizona 85228, Telephone: (602) 723-5439.

SUPPLEMENTARY INFORMATION: This action increases the electric power assessment rates for electric power service given under Rate Schedule No. 1—Residential Rate and Rate Schedule No. 2—General Rate at Sections 177.51 and 177.52, respectively, of the Code of Federal Regulations, Title 25—Indians.

The Bureau of Indian Affairs, Phoenix Area Office, has received three (3) written comments in response to the proposed rule. The first letter, in the order of receipt, was from Mr. Don L. Weesner, General Manager for the San Carlos Irrigation and Drainage District (District). The initial area of concern to the District was the possible inability of the SCIP to compete with Arizona Public Service in serving large loads such as the federal facility at Florence, Arizona. The District felt that the proposed general rate schedule that would be applicable to the facility would reduce

the price advantage of electric power service provided by SCIP.

The Bureau realizes that the proposed general rate schedules will decrease the price advantage that SCIP currently provides, but the new rates will still provide a competitive advantage over the rates offered by the neighboring electric utility companies within the service area. Without the proposed increase, SCIP would not be able to generate the revenues needed to upgrade the system required to service its current as well as future industrial and governmental loads.

The District's second concern relates to the impact the proposed rates would have upon customers who operate private irrigation pumps. In order to minimize the possible adverse economic impact upon this class of customers, the District has recommended establishment of a separate rate schedule specifically for private irrigation pumping. The recommendation merits further consideration; however, SCIP is not in a position to establish a separate rate schedule for private irrigation pumping at the present time. The proposed rate schedules were developed from a rate study which considered the proportionate overall economic contribution of all SCIP customers within the schedules No. 1 and No. 2.

The second written comment received by the Bureau of Indian Affairs was from Mr. Thomas R. White, Governor, Gila River Indian Community. His first concern related to the justification for the rate schedules as proposed. As explained in the proposed rules published in the *Federal Register* on December 10, 1987, the last assessment rate increase for the San Carlos Irrigation Project—Power Division was five years ago. Since that time, normal costs for labor, materials and supplies needed to deliver safe, reliable, and efficient power and energy to all of its customers has increased substantially. The revenues generated from the assessment rate increases will enable us to continue the rehabilitation and upgrading program that is currently in progress. For instance, the Lone Butte Substation recently completed and energized on the Gila River Reservation. This substation provides a power and energy delivery point to the Gila River Indian Reservation.

Mr. White recommended that SCIP provide a detailed plan of improvements and rehabilitation to the system so the power customers will be assured of a systematic approach to the rehabilitation program. A rehabilitation and betterment report is available in the Project office.

Further, Mr. White expressed concern related to the assessment rate increase in the midst of H.R. 2060, a bill to direct the Secretary of the Interior to divest of certain utility systems without a plan of improvements. In 1984, the Bureau of Indian Affairs, Phoenix Area Office, prepared for the project Engineer a draft Rehabilitation and Betterment Report for the San Carlos Irrigation Project Power System. The Report (Plan) was presented to both the District and Gila River Indian Community for their review and comment. The Plan provided a construction schedule and cost estimates for the rehabilitation and betterment of the entire power system. Until relieved of its responsibility by enactment of the proposed legislation and actual divestiture of the power system by the United States, SCIP has a continuing obligation to operate, maintain and replace the facilities of the power system.

The third letter received by the Bureau of Indian Affairs was from Mr. Steve Jones, Executive Director of the Gila River Indian Housing Authority. The concern expressed in his letter was the financial hardship the assessment rate increase may have upon the low-income families. The "Electric Rate Study" prepared by the San Carlos Irrigation Project in January 1984 in support of the assessment rate increases recognized the probable impacts upon the low-income families within the whole service area. Exhibit B, page 2 of that Study reads, "The Project's residential customers that have a low kWh usage per month, are characterized by a low fixed income; therefore, it is determined that no increase in the minimum bill will be recommended at this time." Rate Schedule No. 1—Residential, provides the same minimum bill of \$10.74 per month which includes the first 50 kWh of energy as is currently in effect. Increases for low and/or fixed income families will occur after consumption of energy in excess of 50 kWh.

Finally, one statement in the Federal Register notice of the proposed rate schedules must be changed as a result of advice received from the Solicitor's Office of the Department of the Interior. In discussing where power revenues will be spent in the future, the Federal Register notice stated that: "The additional revenues will allow the Project to meet its statutory repayment requirements and also enable the Project to apply funds towards the operation and maintenance of the irrigation system."

In a recent opinion, the Phoenix Field Solicitor held that there is no statutory

authority which would allow the Project to use power revenues to cover irrigation system operation, maintenance and rehabilitation (OM&R) costs. The Field Solicitor held that under the Act of March 7, 1928 (45 Stat. 210-211), as amended (49 Stat. 1822-1823) power revenues obtained from the sale of project-generated power may be applied to irrigation system OM&R costs only after the total construction debt has been repaid. The Field Solicitor's opinion also stated there is no authority in the Act of August 7, 1946 (60 Stat. 895-896), to use power revenues obtained from the sale of purchased power to cover irrigation system OM&R costs.

The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. In monetary terms, the economic effects of the proposed amendment will be below \$100 million and do not meet the other tests for a major rule under E.O. 12291. The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The expected effect on the approximately 1,500 individual and commercial electric power meters will be small and insignificant; and, in monetary terms, the proposed action involves approximately \$750,000 of additional revenue per year for the Project. The anticipated impacts on competition, employment, investment and the general economic environment are minimal and insignificant. Furthermore, the Department has determined that this document does not constitute a major Federal action significantly affecting the human environment which would require preparation of an Environmental Impact Statement pursuant to the National Environmental Policy Act. The information collection requirement in Section 177.4 has been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and assigned clearance number 1076-0021.

The principal authors of this document are Jim Ong, Jr., Power Manager, Bureau of Indian Affairs, San

Carlos Irrigation Project, Coolidge, Arizona 85228, Telephone Number (602) 723-5439 and Mort S. Dreameer, Irrigation and Power Engineer, Bureau of Indian Affairs, Office of Trust and Economic Development, Division of Water and Land Resources, MS-4559-MIB, Washington, DC 20240, Telephone Number (202) 343-5696.

List of Subjects in 25 CFR Part 177

Electric power, Indian-lands, Irrigation.

For the reasons set out in the preamble, Part 177 in Chapter I of Title 25 of the Code of Federal Regulations is amended as follows:

PART 177—[AMENDED]

1. The authority citation for Part 177 continues to read as follows:

Authority: Sec. 5, 43 Stat. 476; 45 Stat. 210, 211; 5 U.S.C. 301.

2. Section 177.51 is amended by revising paragraphs (b) and (c) as follows:

§ 177.51 Rate schedule No. 1—Residential rate.

(b) Monthly rate. (1) \$10.74 minimum which includes the first 50 Kilowatt-hours.

(2) 11.7 cents per kilowatt-hour for the next 100 kilowatt-hours.

(3) 7.5 cents per kilowatt-hour for the next 350 kilowatt-hours.

(4) 6.3 cents per kilowatt-hour for all additional kilowatt-hours.

(c) Minimum bill. The minimum bill shall be \$10.74 per month except when a higher minimum bill is stipulated in the contract.

3. Section 177.52 is amended by revising paragraphs (b) and (c) to read as follows:

§ 177.52 Rate schedule No. 2—General rate.

(b) Monthly rate. (1) \$13.87 minimum which includes the first 50 kilowatt-hours.

(2) 16.8 cents per kilowatt-hour for the next 350 kilowatt-hours.

(3) 9.9 cents per kilowatt-hour for the next 600 kilowatt-hours.

(4) 7.6 cents per kilowatt-hour for the next 9,000 kilowatt-hours.

(5) When use is 10,000 kilowatt-hours or more: First 10,000 kilowatt-hours \$843.07.

(6) Additional kilowatt-hours at 6.17 cents per kilowatt-hour, less a credit of 0.9 cents per kilowatt-hour for each

kilowatt-hour above 200 times the billing demand (50 kw minimum).

(c) Minimum bill. The minimum bill shall be \$3.06 per month per kilowatt of billing demand, except where the customer's requirements are of a distinctly recurring seasonal nature. Then, the minimum monthly bill shall not be more than an amount sufficient to make the total charges for the twelve (12) months ending with the current month equal to twelve times the highest monthly minimum computed for the same twelve-month period. However, no monthly billings shall be less than \$13.87.

* * *

W.P. Ragsdale,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 89-18 Filed 1-3-89; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 27-88]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice, Civil Division, is amending 28 CFR Part 16 to exempt four systems of records from certain provisions of the Privacy Act, 5 U.S.C. 552a. Specifically, the Division is exempting the Civil Division Case File System/JUSTICE/CIV-001, and the Freedom of Information/Privacy Acts File System, JUSTICE/CIV-005, from subsections (c) (3) and (4), and (d), (e)(1), (e)(2), (e)(3), (e)(4) (G) and (H), (e)(5), (e)(8), and (g). These exemptions are necessary to protect the confidentiality of civil investigatory and criminal law enforcement materials and of properly classified information. In addition, the Division is exempting the Consumer Inquiry/Investigatory System, JUSTICE/CIV-006, from subsections (c) (3) and (4), (d), (e)(1) and (e)(5), and the Congressional and Citizen Correspondence File, JUSTICE/CIV-007, from subsection (d). These exemptions are needed to protect the integrity of civil investigatory and criminal law enforcement materials.

EFFECTIVE DATE: January 4, 1989.

FOR FURTHER INFORMATION CONTACT: J. Michael Clark 202-272-6474.

SUPPLEMENTARY INFORMATION: A proposed rule with an invitation to comment was published in the *Federal Register* on January 29, 1988. The public was given 30 days in which to comment.

The Office of Management and Budget (OMB) questioned the exemption of the Civil Division Case File System under section (j)(2) of the Privacy Act. The Department has advised OMB that the Consumer Litigation Branch of the Civil Division has responsibility for the prosecution of criminal statutes, such as the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), as well as civil statutes. Accordingly, this system of records is appropriately exempted pursuant to subsection (j)(2). Without the exemption, the criminal law enforcement records in this system could not be legally protected from disclosure.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative Practice and Procedure, Courts, Freedom of Information, Privacy and Sunshine Acts.

Authority: The authority for this rule is 5 U.S.C. 552a. Accordingly, pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793-78, the Department is amending 28 CFR Part 16 by adding § 16.89 as set forth below.

Date: December 16, 1988.

Harry H. Flickinger,
Assistant Attorney General for
Administration.

1. The authority for Part 16 continues to read as follows.

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301, 552, 552a; 31 U.S.C. 483 unless otherwise noted.

2. 28 CFR is amended by adding § 16.89 to read as follows:

§ 16.89 Exemption of Civil Division Systems—limited access.

(a) The following systems of records are exempted pursuant to 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e)(1), (e)(2), (e)(3), (e)(4) (G) and (H), (e)(5), (e)(8), and (g); in addition, the following systems of records are exempted pursuant to 5 U.S.C. 552a (k)(1) and (k)(2) from subsections (c)(3), (d), (e)(1), (e)(4) (G) and (H):

(1) Civil Division Case File System, JUSTICE/CIV-001.

(2) Freedom of Information/Privacy Acts File System, JUSTICE/CIV-005.

These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2).

(b) Only that information which relates to the investigation, prosecution, or defense of actual or potential criminal or civil litigation, or which has been properly classified in the interest of national defense and foreign policy is exempted for the reasons set forth from the following subsections:

(1) *Subsection (c)(3)*. To provide the subject of a criminal or civil matter or case under investigation with an accounting of disclosures of records concerning him or her would inform that individual (and others to whom the subject might disclose the records) of the existence, nature, or scope of that investigation and thereby seriously impede law enforcement efforts by permitting the record subject and others to avoid criminal penalties and civil remedies.

(2) *Subsections (c)(4), (e)(4) (G) and (H), and (g)*. These provisions are inapplicable to the extent that these systems of records are exempted from subsection (d).

(3) *Subsection (d)*. To the extent that information contained in these systems has been properly classified, relates to the investigation and/or prosecution of grand jury, civil fraud, and other law enforcement matters, disclosure could compromise matters which should be kept secret in the interest of national security or foreign policy; compromise confidential investigations or proceedings; hamper sensitive civil or criminal investigations; impede affirmative enforcement actions based upon alleged violations of regulations or of civil or criminal laws; reveal the identity of confidential sources; and result in unwarranted invasions of the privacy of others. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4) *Subsection (e)(1)*. In the course of criminal or civil investigations, cases, or matters, the Civil Division may obtain information concerning the actual or potential violation of laws which are not strictly within its statutory authority. In the interest of effective law enforcement, it is necessary to retain such information since it may establish patterns of criminal activity or avoidance of other civil obligations and provide leads for Federal and other law enforcement agencies.

(5) *Subsection (e)(2)*. To collect information from the subject of a criminal investigation or prosecution would present a serious impediment to law enforcement in that the subject (and others to whom the subject might be in

contact) would be informed of the existence of the investigation and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(6) *Subsection (e)(3)*. To comply with this requirement during the course of a criminal investigation or prosecution could jeopardize the investigation by disclosing the existence of a confidential investigation, revealing the identity of witnesses or confidential informants, or impeding the information gathering process.

(7) *Subsection (e)(5)*. In compiling information for criminal law enforcement purposes, the accuracy, completeness, timeliness and relevancy of the information obtained cannot always be immediately determined. As new details of an investigation come to light, seemingly irrelevant or untimely information may acquire new significance and the accuracy of such information can often only be determined in a court of law. Compliance with this requirement would therefore restrict the ability of government attorneys in exercising their judgment in developing information necessary for effective law enforcement.

(8) *Subsection (e)(8)*. To serve notice would give persons sufficient warning to evade law enforcement efforts.

(c) The following system of records is exempted pursuant to 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e)(1) and (e)(5); in addition, this system is also exempted pursuant to 5 U.S.C. 552a(k)(2) from subsections (c)(3), (d), and (e)(1).

Consumer Inquiry/Investigatory System, JUSTICE/CIV-006.

These exemptions apply only to the extent that information in this system of records is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

(d) Only that information compiled for criminal or civil law enforcement purposes is exempted for the reasons set forth from the following subsections:

(1) *Subsections (c)(3)*. This system occasionally contains investigatory material based on complaints of actual or alleged criminal or civil violations. To provide the subject of a criminal or civil matter or case under investigation with an accounting of disclosures of records concerning him/her would inform that individual of the existence, nature, or scope of that investigation, and thereby seriously impede law enforcement efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties and civil remedies.

(2) *Subsections (c)(4)*. This subsection is inapplicable to the extent that an

exemption is being claimed for subsection (d).

(3) *Subsection (d)*. Disclosure of information relating to the investigation of complaints of alleged violation of criminal or civil law could interfere with the investigation, reveal the identity of confidential sources, and result in an unwarranted invasion of the privacy of others. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4) *Subsection (e)(1)*. In the course of criminal or civil investigations, cases, or matters, the Civil Division may obtain information concerning the actual or potential violation of laws which are not strictly within its statutory authority. In the interest of effective law enforcement, it is necessary to retain such information since it may establish patterns of criminal activity or avoidance of other civil obligations and provide leads for Federal and other law enforcement agencies.

(5) *Subsection (e)(5)*. In compiling information for criminal law enforcement purposes, the accuracy, completeness, timeliness and relevancy of the information obtained cannot always be immediately determined. As new details of an investigation come to light, seemingly irrelevant or untimely information may acquire new significance and the accuracy of such information can often only be determined in a court of law. Compliance with this requirement would therefore restrict the ability of government attorneys in exercising their judgment in developing information necessary for effective law enforcement.

(e) The following system of records is exempt pursuant to 5 U.S.C. 552a (j)(2) and (k)(2) from subsection (d):

Congressional and Citizen Correspondence File, JUSTICE/CIV-007.

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

(f) Only that portion of the Congressional and Citizen Correspondence File maintained by the Communications Office which consists of criminal or civil investigatory information is exempted for the reasons set forth from the following subsection:

(1) *Subsection (d)*. Disclosure of investigatory information would jeopardize the integrity of the investigative process, disclose the identity of individuals who furnished information to the government under an

express or implied promise that their identities would be held in confidence, and result in an unwarranted invasion of the privacy of others. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

[FR Doc. 89-16 Filed 1-3-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Alaska State Plan; Level of Federal Enforcement

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This document amends Subpart R of 29 CFR Part 1952 to reflect a change in the level of Federal enforcement in the State of Alaska. Federal enforcement authority is now being exercised over private sector employers working within the boundaries of Denali (Mount McKinley) National Park.

EFFECTIVE DATE: January 4, 1989.

FOR FURTHER INFORMATION CONTACT:

James Foster, Director, Office of Information and Consumer Affairs, U.S. Dept. of Labor, 200 Constitution Ave., NW., Room N3649, Washington, DC 20210, (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 1973, notice was published in the *Federal Register* (38 FR 21628) announcing initial approval of the Alaska State plan and the adoption of Subpart R to Part 1952 containing the decision. On September 28, 1984, notice was published in the *Federal Register* (49 FR 38252) announcing final approval of the State's plan and amending Subpart R of Part 1952.

By letter dated September 29, 1986, from Jim Robison, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State requested the Federal Occupational Safety and Health Administration (OSHA) to resume jurisdiction and enforcement authority over private sector employers working within the boundaries of Denali (Mount McKinley) National Park.

This action was taken as a result of an inspection the State conducted of a private sector employer at the Park. Because of the employer's questioning of the State's jurisdiction, the Alaska Attorney General reviewed the case and issued an opinion that section 11(a) of the Alaska Statehood Act, by providing for exclusive Federal jurisdiction within Denali National Park, specifically precludes the State from enforcing civil or criminal laws and regulations within the boundaries of the Park. Therefore, private sector employers working within the boundaries of Denali (Mount McKinley) National Park are under Federal OSHA jurisdiction.

Regulatory Assessment

Amendment of Part 1952 is not a "major" action as defined by Executive Order No. 12291 (46 FR 13193, February 19, 1981) as it will not have an annual effect on the economy of \$100 million or more, cause major increases in costs or prices, or have any other significant adverse effects. Amendment of Part 1952 will not constitute a "major rule" primarily because no additional requirements will be imposed on employers, since Alaska's occupational safety and health standards are substantially similar to Federal OSHA's.

For the same reason it is certified that pursuant to the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601) amendment of Part 1952 will not have a significant economic impact on a substantial number of small entities.

Public Participation

The purpose of the present rule is to amend 29 CFR 1952.242 to reflect the change to the level of Federal enforcement described above. The Assistant Secretary has determined that good cause exists for publication of the amendment as a final rule with an immediate effective date because the change is procedural in nature and is the result of a legal interpretation of an existing State statute. Accordingly, public participation would be unnecessary.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Signed at Washington, DC, this 20th day of December, 1988.

John A. Pendergrass,
Assistant Secretary.

PART 1952—[AMENDED]

Accordingly, 29 CFR Part 1952 is amended as follows:

1. The authority citation for Part 1952 continues to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR 1902, Secretary of Labor's Order No. 9-83 (48 FR 35736).

2. Paragraph (b) of § 1952.243 is revised to read as follows:

§ 1952.243 Final approval determination.

(b) The plan which has received final approval covers all activities of employers and all places of employment in Alaska except: The issue of private sector maritime employment, operations of private sector employers within the Metlakatla Indian Community on the Annette Islands, operations of private sector employers within Denali (Mount McKinley) National Park, and worksites located on the navigable waters, including artificial islands.

3. Paragraph (b) of § 1952.244 is revised to read as follows:

§ 1952.244 Level of Federal enforcement.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Alaska plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry standards (29 CFR Part 1910) appropriate to hazards found in these employments. Federal jurisdiction will also be retained over marine-related private sector employment at worksites on the navigable waters such as floating seafood processing plants, marine construction, employments on artificial islands, and diving operations in accordance with section 4(b)(1) of the Act. 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