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.


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 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.
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:


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:)

* * * * *

[FR Doc. 04–8779 Filed 4–16–04; 8:45 am]

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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.


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