

regulations contain no substantive changes of interpretation. Therefore, opportunity for prior comment is unnecessary, and we are issuing these regulations as final rules.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d), since we are making no substantive changes in the cost-of-living increase provisions. Without this change, however, our rules will conflict with the computation of the CPI as reported by the Bureau of Labor Statistics.

#### Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were not subject to OMB review. We have also determined that these rules meet the plain language requirement of Executive Order 12866, as amended by Executive Order 13258.

#### Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

#### Paperwork Reduction Act

These final regulations impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance)

#### List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: January 10, 2007.

**Jo Anne B. Barnhart,**

*Commissioner of Social Security.*

■ For the reasons set forth in the preamble, we are amending subpart C of part 404 of title 20 of the Code of Federal Regulations as follows:

### PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

#### Subpart C—[Amended]

■ 1. The authority citation for subpart C of part 404 continues to read as follows:

**Authority:** Secs. 202(a), 205(a), 215, and 702(a)(5) of the Social Security Act (42 U.S.C. 402(a), 405(a), 415, and 902(a)(5)).

■ 2. Section 404.275 (a) is revised to read as follows:

#### § 404.275 How is an automatic cost-of-living increase calculated?

(a) *Increase based on the CPI.* We compute the average of the CPI for the quarters that begin and end the measuring period by adding the three monthly CPI figures, dividing the total by three, and rounding the result to the same number of decimal places as the published CPI figures. If the number of decimal places in the published CPI values differs between those used for the beginning and ending quarters, we use the number for the ending quarter. If the average for the ending quarter is higher than the average for the beginning quarter, we divide the average for the ending quarter by the average of the beginning quarter to determine the percentage increase in the CPI over the measuring period.

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### DEPARTMENT OF JUSTICE

#### Office of Justice Programs

#### 28 CFR Part 91

[OJP (OJP)—Docket No. 1382]

RIN 1121-AA41

#### Grants for Correctional Facilities

**AGENCY:** Office of Justice Programs, Justice.

**ACTION:** Final rule.

**SUMMARY:** The Office of Justice Programs (OJP), Department of Justice, is adopting as a final rule, without change, an interim final rule with request for comments that OJP published on January 15, 2004, at 69 FR 2298. That interim rule updated and clarified what the Bureau of Justice Assistance (BJA), a component of OJP, considered to be an eligible “Indian tribe,” and what the BJA considered to be “construction,” under the Grants for Correctional Facilities on Tribal Lands Program. OJP did not receive any comments.

**DATES:** Effective February 20, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Maria Pressley, Bureau of Justice Assistance, Office of Justice Programs, 810 Seventh Street, NW., Washington, DC 20531; *Telephone:* (202) 353-8643. (This is not a toll-free number.)

#### SUPPLEMENTARY INFORMATION:

The Bureau of Justice Assistance (BJA) administers several major grant programs and provides technical assistance to state, local, and tribal governments to help them with the implementation of corrections-related programs under the Violent Crime Control and Law Enforcement Act of 1994. One such program is the Grants for Correctional Facilities on Tribal Lands Program. This program provides funding for the construction of correctional facilities on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

Grants for Correctional Facilities on Tribal Lands Program funds may not be used for the purchase of land or for the costs associated with the operation of the correctional facility.

#### Background

On September 24, 1996, the Office of Justice Programs (OJP) published an interim rule (at 61 FR 49969), amending 28 CFR part 91, subpart C, Grants for Correctional Facilities, to implement the Violent Offender Incarceration and Truth-in-Sentencing Grants Program for Indian Tribes, as required by section 114 of the Fiscal Year 1996 Omnibus Consolidated Rescissions and Appropriations Act (Pub. L. 104-134). Section 114 amended the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 13701 et seq., to authorize a reservation of funds for the specific purpose of allowing the Attorney General to make discretionary grants to Indian tribes.

After the publication of the 1996 interim rule, OJP received comments requesting further clarification of certain terms. Accordingly, on January 15, 2004, OJP published a second interim rule seeking comments (at 69 FR 2298) and further clarifying what the BJA considers to be an eligible “Indian tribe” and what it considered to be “construction.”

Comments on the second interim rule were required to be received on or by March 15, 2004. OJP did not receive any comments. Therefore, for the reasons given in the interim rule, OJP is adopting the interim rule as a final rule. No changes were made between the second interim rule and this final rule.

## Regulatory Certifications

### *Executive Order 12866*

This final rule has been written and reviewed in accordance with Executive Order 12866, Sec. 1(b), Principles of Regulation. OJP has determined that this final rule is not a "significant regulatory action" under Executive Order 12866, Sec. 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

### *Regulatory Flexibility Act of 1980*

OJP, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities because the economic impact is limited to OJP's appropriated funds.

### *Unfunded Mandates Act of 1995*

This final rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### *Small Business Regulatory Enforcement Fairness Act of 1996*

This final rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

### *Paperwork Reduction Act*

No new collection of information requirements as defined under the Paperwork Reduction Act (44 U.S.C. 3504(h)) are being added by this final rule.

### *Environmental Impact*

OJP has evaluated this final rule in accordance with its procedures for ensuring full consideration of the potential environmental impacts of OJP's actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related directives. OJP has concluded that the

issuance of this final rule does not have a significant impact on the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement.

### *Energy Impact Statement*

OJP has evaluated this final rule and has determined that it creates no new impact on the energy supply or distribution.

### List of Subjects in 28 CFR Part 91

Grant programs law.

## PART 91—GRANTS FOR CORRECTIONAL FACILITIES

■ Accordingly, OJP is adopting as a final rule, without change, the second interim rule that amended 28 CFR part 91 and that was published at 69 FR 2298 on January 15, 2004.

Regina B. Schofield,

Assistant Attorney General, Office of Justice Programs.

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## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### 29 CFR Part 2700

### Emergency Response Plan Dispute Proceedings and Related Procedural Rules

**AGENCY:** Federal Mine Safety and Health Review Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Mine Safety and Health Review Commission (the "Commission") is an independent adjudicatory agency that provides hearings and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977 (the "Mine Act"). Hearings are held before the Commission's Administrative Law Judges, and appellate review is provided by a five-member Review Commission appointed by the President and confirmed by the Senate. On July 18, 2006, the Commission published an interim rule to implement the Mine Improvement and New Emergency Response Act of 2006 (the "MINER Act"), which amended the Mine Act to improve the safety of miners, particularly in underground coal mines. The MINER Act provides for Commission review of disputes arising over emergency response plans for underground coal mines. The interim rule established procedures for the submission and consideration of such

disputes. The Commission invited public comment on the interim rule. The Commission has reviewed the comments on the interim rule and has decided to make certain changes in the rule. This publication makes final changes to Rule 24, the rule designed to implement the MINER Act. In connection with revising Rule 24, the Commission is also amending four of its other procedural rules to make them consistent with Rule 24.

**DATES:** This final rule will take effect on January 18, 2007.

**ADDRESSES:** Comments and questions may be mailed to Michael A. McCord, General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001, or sent via facsimile to 202-434-9944.

**FOR FURTHER INFORMATION CONTACT:** Michael A. McCord, General Counsel, Office of the General Counsel, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001; telephone 202-434-9935; fax 202-434-9944.

**SUPPLEMENTARY INFORMATION:** The final rules will apply to cases initiated after the rules take effect. The final rules also apply to proceedings pending on the effective date, except to the extent that such application would not be feasible, or would work injustice, in which event the former rules of procedure would continue to apply.

### I. Background

On June 15, 2006, President George W. Bush signed into law the MINER Act, Pub. L. 109-236, 120 Stat. 493 (2006). Section 2 of the MINER Act amends section 316 of the Mine Act (30 U.S.C. 876) by adding a new section (b), entitled "Accident Preparedness and Response." Section 316(b)(2)(A) provides that, within 60 days of enactment, each underground coal mine operator is required to develop and adopt a "written accident response plan." Section 316(b)(2)(B) requires the plan to provide for the evacuation of all individuals endangered by an emergency and the maintenance of individuals trapped underground in the event that miners are not able to evacuate the mine. Under section 316(b)(2)(C), all plans shall be subject to review and approval by the Secretary of Labor (the "Secretary"), and must: (i) Afford miners a level of safety protection at least consistent with the existing standards; (ii) reflect the most recent credible scientific research; (iii) be technologically feasible, make use of current commercially available technology, and account for the specific