Condition	Initial inspection	Repetitive inspection	Repetitive replacement
With a replacement P/N DL5040M5 actuator installed that was overhauled and zero-timed where both nut assemblies, P/N AA56142, were replaced with new assemblies during overhaul.	Initally upon accumulating 5,000 hours TIS on the overhauled actuator.	Every 300 hours TIS after the initial inspection until accumulating 6,500 hours TIS on the actuator.	Upon accumulating 6,500 hours TIS on the actuator.
With a replacement P/N DL5040M5 actuator installed that was overhauled and zero-timed where both nut assemblies, P/N AA56142, were not replaced with new assemblies during overhaul.	Initally upon accumulating 3,000 hours TIS on the overhauled actuator.	Every 250 hours TIS after the initial inspection until accumulating 5,000 hours TIS on the actuator.	Upon accumulating 5,000 hours TIS on the actuator.
With a pitch trim actuator of improved design installed, P/N 27–19008–001 or 27–19008-002.	No action necessary	No action necessary	No action necessary.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(e) The inspections and modification required by this AD shall be done in accordance with Fairchild Aircraft SA226 Series Service Letter 226–SL–005, and Fairchild Aircraft SA227 Series Service Letter 227–SL–011, both Issued: April 8, 1993, Revised: May 22, 1996, as applicable. This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Field Support Engineering, Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–9689) revises AD 93–15–02 R1, Amendment 39–9180.

(g) This amendment (39–9689) becomes effective on July 25, 1996.

Issued in Kansas City, Missouri, on June 25, 1996.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–17483 Filed 7–12–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 95–AGL–19]

Modification of Class E Airspace; Rice Lake, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the summary portion of the Rice Lake Regional-Carl's Field Airport, Rice Lake, WI, docket published in the final rule on April 24, 1996 (61 FR 18061). Airspace Docket Number 95–AGL–19. There is no change to the legal description of the airspace.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 96–9997, Airspace Docket 95–AGL–19, published on April 24, 1996, (61 FR 18061), established the Class E5 to accommodate a Very High Frequency Omnidirectional Range (VOR) for runway 19 approach and a Nondirectional Radio Beacon (NDB) for runway 1/19 approach at Rice Lake Regional-Carl's Field Airport, Rice Lake, WI.

Upon review of the final rule errors were discovered in the summary portion of the airspace action.

The correct summary should read as follows: This action modifies Class E5 airspace to accommodate a VOR approach to runway 01, a VOR approach to runway 19 and an NDB approach to runway 19 at Rice Lake Regional-Carl's Field Airport, Rice Lake, WI.

* * * * *

Issued in Des Plaines, Illinois, June 25, 1996.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 96–17593 Filed 7–12–96; 8:45 am]

BILLING CODE 4910–13–M

ARMS CONTROL AND DISARMAMENT AGENCY

22 CFR Part 608

Service of Process; Production of Official Information; and Testimony of Agency Employees

AGENCY: Arms Control and Disarmament Agency.

ACTION: Final rule.

SUMMARY: This rule establishes or clarifies policies, practices, responsibilities, and procedures for the service of legal process upon the United States Arms Control and Disarmament Agency (ACDA, the Agency), its officers, and employees, and the production of official ACDA information and the appearance of and testimony by ACDA employees as witnesses in connection with litigation. This rule is procedural in nature.

EFFECTIVE DATE: July 15, 1996.

FOR FURTHER INFORMATION CONTACT: Frederick Smith, Jr., United States Arms Control and Disarmament Agency, Room 5635, 320 21st Street, NW., Washington, DC 20451, telephone (202) 647–3596.

SUPPLEMENTARY INFORMATION:

General

This rule is intended to clarify ACDA policies and practices regarding litigation-related matters such as service of process upon ACDA and ACDA

employees and the production of official ACDA information in litigation. ACDA anticipates that the rule will eliminate or reduce current ambiguities regarding such matters for ACDA employees, as well as for private attorneys and judicial and quasi-judicial authorities. ACDA also expects that this rule will promote consistency in ACDA's assertions of privileges and objections, thereby reducing the potential for both inappropriate, potentially harmful disclosure of protected information and wasteful or inappropriate allocation of Agency resources. Although the rule is largely self-explanatory, we describe the general scheme of the several subsections below for the readers' ease of reference.

Service of Process

Part 604.4(b) of 22 CFR establishes the Agency's Office of the General Counsel as the designated office for the presentation of administrative claims asserted under the Federal Tort Claims Act (and 22 CFR parts 602, 603, and 605 set forth procedures for administrative requests under the Freedom of Information Act, under the Privacy Act, and for declassification of national security information, respectively). However, until the present, the Agency has not had regulations establishing the Agency's General Counsel, or his/her delegate, as the sole Agency recipient for litigation-related demands, whether civil or criminal, for official Agency information, whether oral or documentary, or for other Agency action. The rule also clarifies that ACDA is not an agent for service on behalf of its employees in respect of purely private legal disputes and explains that ACDA will counsel its employees not to use their official positions to evade judicial process.

Compliance With Requests or Demands for Official Information

Fundamentally, the compliance sections of the rule (§§ 608.4–608.9) simply track, to a greater or lesser degree, similar regulations which have been adopted by other federal agencies and which derive from the Supreme Court's decision in *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951). Thus, the principal thrust of the compliance provisions of the rule is that Agency employees (including former employees) must obtain the approval of the Agency's General Counsel, or his/her delegate, prior to responding to any subpoenas or other litigation-related requests or demands for Agency information, whether classified or unclassified, that relate to the employee's official duties.

Significantly, § 608.5 requires the party who initiates a litigation-related request or demand for official ACDA information to provide a written statement providing specified information concerning the nature and scope of the demand.

Finally, the rule describes factors, among others, that Agency officials shall take into consideration when considering litigation-related requests or demands and specifies that Agency employees may ordinarily not provide expert or official testimony on behalf of private parties.

On May 28, 1996, ACDA published a notice of proposed rulemaking (61 FR 26474–26477) with a 31-day comment period. No comments were received during the comment period. Accordingly, the rule is adopted as proposed.

List of Subjects in 22 CFR Part 608

Administrative practice and procedure, Classified information, Government employees.

Chapter VI of title 22 of the Code of Federal Regulations is amended by adding a new part 608 to read as follows:

PART 608—SERVICE OF PROCESS; PRODUCTION OR DISCLOSURE OF OFFICIAL INFORMATION IN RESPONSE TO COURT ORDERS, SUBPOENAS, NOTICES OF DEPOSITIONS, REQUESTS FOR ADMISSIONS, INTERROGATORIES, OR SIMILAR REQUESTS OR DEMANDS IN CONNECTION WITH FEDERAL OR STATE LITIGATION; EXPERT TESTIMONY

Sec.

608.1 Purpose and scope; definitions.
608.2 Service of summonses and complaints.
608.3 Service of subpoenas, court orders, and other demands or requests for official information or action.
608.4 Testimony and production of documents prohibited unless approved by appropriate Agency officials.
608.5 Procedure when testimony or production of documents is sought—general.
608.6 Procedure when response to demand is required prior to receiving instructions.
608.7 Procedure in the event of an adverse ruling.
608.8 Considerations in determining whether the Agency will comply with a demand or request.
608.9 Prohibition on providing expert or opinion testimony.

Authority: 22 U.S.C. 2581(j).

§ 608.1 Purpose and scope; definitions.

(a) This part sets forth the procedures to be followed with respect to:

(1) service of summonses and complaints or other requests or demands directed to the U.S. Arms Control and Disarmament Agency (ACDA, the Agency) or to any ACDA employee or former employee in connection with federal or state litigation arising out of or involving the performance of official activities of ACDA; and

(2) the oral or written disclosure, in response to subpoenas, orders, or other requests or demands of federal or state judicial or quasi-judicial authority (collectively, ''demands''), whether civil or criminal in nature, or in response to requests for depositions, affidavits, admissions, responses to interrogatories, document production, or other litigation-related matters, pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, or applicable state rules (collectively, ''requests''), of any material contained in the files of the Agency, any information relating to material contained in the files of the Agency, or any information acquired while the subject of the demand or request is or was an employee of the Agency as part of the performance of the person's duties or by virtue of the person's official status.

(b) For purposes of this part, and except as ACDA may otherwise determine in a particular case, the term employee includes the Director of ACDA and former Directors of ACDA, and all employees and former employees of ACDA or other federal agencies who are or were appointed by, or subject to the supervision, jurisdiction, or control of the Director of ACDA, whether residing or working in the United States or abroad, including United States nationals, foreign nationals, and contractors.

(c) For purposes of this part, the term *litigation* encompasses all pre-trial, trial, and post-trial stages of all judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, or other judicial or quasi-judicial bodies or tribunals, whether criminal, civil, or administrative in nature. This part governs, inter alia, responses to discovery requests, depositions, and other pre-trial, trial, or post-trial proceedings, as well as responses to informal requests by attorneys or others in situations involving litigation. However, this part shall not apply to any claims by ACDA employees (present or former), or applicants for Agency employment, for which

jurisdiction resides with the U.S. Equal Employment Opportunity Commission; the U.S. Merit Systems Protection Board; the Office of Special Counsel; the Federal Labor Relations Authority; the Foreign Service Labor Relations Board; the Foreign Service Grievance Board; or a labor arbitrator operating under a collective bargaining agreement between ACDA and a labor organization representing ACDA employees; or their successor agencies or entities.

(d) For purposes of this part, *official information* means all information of any kind, however stored, that is in the custody and control of ACDA, relates to information in the custody and control of ACDA, or was acquired by ACDA employees as part of their official duties or because of their official status within ACDA while such individuals are employed by or served on behalf of ACDA.

(e) Nothing in this part affects disclosure of information under the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, Executive Order 12958, 3 CFR, 1995 Comp., p. 333, the Government in the Sunshine Act, 5 U.S.C. 552b, the Agency's regulations in 22 CFR chapter VI implementing any of the foregoing, or pursuant to congressional subpoena. Nothing in this part otherwise permits disclosure of information by ACDA or its employees except as provided by statute or other applicable law.

(f) This part is intended only to inform the public about ACDA procedures concerning the service of process and responses to demands or requests and is not intended to and does not create, and may not be relied upon to create, any right or benefit substantive or procedural, enforceable at law by a party against ACDA or the United States.

(g) Nothing in this part affects:

(1) The disclosure of information during the course of legal proceedings in foreign courts, commissions, boards, or other judicial or quasi-judicial bodies or tribunals; or

(2) The rules and procedures, under applicable U.S. law and international conventions, governing diplomatic and consular immunity.

(h) Nothing in this part affects the disclosure of official information to other federal agencies or Department of Justice attorneys in connection with litigation conducted on behalf or in defense of the United States, its agencies, officers, and employees, or to federal, state, local, or foreign prosecuting and law enforcement authorities in conjunction with criminal law enforcement investigations, prosecutions, extradition, deportation or other proceedings.

§ 608.2 Service of summonses and complaints.

(a) Only ACDA's General Counsel, or his/her delegate, is authorized to receive and accept summonses or complaints sought to be served upon ACDA or ACDA employees. All such documents should be delivered or addressed to General Counsel, U.S. Arms Control and Disarmament Agency, 320 21st St. NW., Room 5635, Washington, DC 20451. Pursuant to 42 U.S.C. 659(b) and 5 U.S.C. 5520a(c)(1), this same officer has been designated specifically to accept service of process for the enforcement of the legal obligation to provide child support or to make alimony payments by employees of the Agency and to accept service of process for the enforcement of the legal obligation to pay monies owed for other than child support or alimony by employees of the Agency, respectively.

(b) In the event any summons or complaint described in § 608.1(a) is delivered to an employee of ACDA other than in the manner specified in this part, such attempted service shall be ineffective, and the recipient thereof shall either decline to accept the proffered service or return such document under cover of a written communication which directs the person attempting to make service to the procedures set forth in this part.

(c) Except as otherwise provided in §§ 608.2(d) and 608.3(c), ACDA is not an authorized agent for service of process with respect to civil litigation against ACDA employees purely in their personal, non-official capacity. Copies of summonses or complaints directed to ACDA employees in connection with legal proceedings arising out of the performance of official duties may, however, be served upon ACDA's General Counsel, or his/her delegate.

(d) Although ACDA is not an agent for the service of process upon its employees with respect to purely personal, non-official litigation, ACDA recognizes that its employees stationed overseas should not use their official positions to evade their personal obligations and will, therefore, counsel and encourage ACDA employees to accept service of process in appropriate cases, and will waive applicable diplomatic or consular privileges and immunities when ACDA determines that it is in the interest of the United States to do so. Pursuant to section 302 of Executive Order 12953 (3 CFR, 1995 Comp., p. 325), ACDA's General Counsel has been designated in Appendix B to 5 CFR part 581 as the official to assist in the service of legal process in civil actions pursuant to orders of State courts to establish paternity and to establish or to enforce support obligations by making ACDA employees available for service of process, regardless of the location of the employee's workplace.

(e) Documents for which ACDA's General Counsel, or his/her delegate, accepts service in official capacity only shall be stamped ''Service Accepted in Official Capacity Only.'' Acceptance of service shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue, or any other defense in law or equity available under the laws or rules applicable for the service of process.

§ 608.3 Service of subpoenas, court orders, and other demands or requests for official information or action.

(a) Except in cases in which ACDA is represented by legal counsel who have entered an appearance or otherwise given notice of their representation, only ACDA's General Counsel, or his/her delegate, is authorized to receive and accept subpoenas, or other demands or requests directed to ACDA or any component thereof, or its employees, or former employees, whether civil or criminal in nature, for:

(1) Material, including documents, contained in the files of the Agency;

(2) Information, including testimony, affidavits, declarations, admissions, response to interrogatories, or informal statements, relating to material contained in the files of the Agency or which any Agency employee acquired in the course and scope of the performance of official duties;

(3) Garnishment or attachment of compensation of current or former employees; or

(4) The performance or non-performance of any official ACDA duty.

(b) In the event that any subpoena, demand, or request is sought to be delivered to an Agency employee (including former employee) other than in the manner prescribed in paragraph (a) of this section, such attempted service shall be ineffective. Such employee shall, after consultation with the Office of the General Counsel, decline to accept the subpoena, demand, or request or shall return it to the server under cover of a written communication referring to the procedures prescribed in this part.

(c) Except as otherwise provided in this part, ACDA is not an agent for service or otherwise authorized to accept on behalf of its employees any subpoenas, show-cause orders, or

similar compulsory process of federal or state courts, or requests from private individuals or attorneys, which are not related to the employees' official duties except upon the express, written authorization of the individual ACDA employee to whom such demand or request is directed.

(d) Acceptance of such documents by ACDA's General Counsel, or his/her delegate, does not constitute a waiver of any defenses that might otherwise exist with respect to service under the Federal Rules of Civil or Criminal Procedure or other applicable rules.

§ 608.4 Testimony and production of documents prohibited unless approved by appropriate Agency officials.

(a) No employee of ACDA shall, in response to a demand or request in connection with any litigation, whether criminal or civil, provide oral or written testimony by deposition,declaration, affidavit, or otherwise concerning any information acquired while such person is or was an employee of ACDA as part of the performance of that person's official duties or by virtue of that person's official status, unless authorized to do so by ACDA's General Counsel, or his/her delegate.

(b) No ACDA employee shall, in response to a demand or request in connection with any litigation, produce for use at such proceedings any document or any other material acquired as part of the performance of that employee's duties or by virtue of that employee's official status, unless authorized to do so by ACDA's General Counsel, or his/her delegate.

§ 608.5 Procedure when testimony or production of documents is sought—general.

(a) If official ACDA information is sought, through testimony or otherwise, by a request or demand, the party seeking such release or testimony must (except as otherwise required by federal law or authorized by the Office of the General Counsel) set forth in writing and with as much specificity as possible, the nature and relevance of the official information sought. Where documents or other materials are sought, the party should identify the record or reasonably describe it in terms of date, format, subject matter, the office originating or receiving the record, and the names of all persons to whom the record is known to relate. Subject to § 606.7, ACDA employees may produce, disclose, release, comment upon, or testify concerning only those matters that were specified in writing and properly approved by ACDA's General Counsel or his/her delegate. See *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951). The Office of the General Counsel may waive this requirement in appropriate circumstances.

(b) To the extent it deems necessary or appropriate, ACDA may also require from the party seeking such testimony or documents a plan of all reasonably foreseeable demands, including but not limited to the names of all employees and former employees from whom discovery will be sought, areas of inquiry, expected duration of proceedings requiring oral testimony, and identification of potentially relevant documents.

(c) ACDA's General Counsel, or his/her delegate, will notify the ACDA employee and such other persons as circumstances may warrant of the decision regarding compliance with the request or demand.

(d) The Office of the General Counsel will consult with the Department of Justice regarding legal representation for ACDA employees in appropriate cases.

§ 608.6 Procedure when response to demand is required prior to receiving instructions.

(a) If a response to a demand is required before ACDA's General Counsel, or his/her delegate, renders a decision, ACDA will request that either a Department of Justice attorney or an ACDA attorney designated for the purpose:

(1) Appear with the employee upon whom the demand has been made;

(2) Furnish the court or other authority with a copy of the regulations contained in this part;

(3) Inform the court or other authority that the demand has been or is being, as the case may be, referred for the prompt consideration of ACDA's General Counsel, or his/her delegate; and

(4) Respectfully request the court or authority to stay the demand pending receipt of the requested instructions.

(b) In the event that an immediate demand for production or disclosure is made in circumstances that would preclude the proper designation or appearance of a Department of Justice or ACDA attorney on the employee's behalf, the employee shall respectfully request the demanding court or authority for a reasonable stay of proceedings for the purpose of obtaining instructions from ACDA.

§ 608.7 Procedure in the event of an adverse ruling.

If the court or other judicial or quasi-judicial authority declines to stay the effect of the demand in response to a request made pursuant to § 608.6, or if the court or other authority rules that the demand must be complied with irrespective of the Agency's instructions not to produce the material or disclose the information sought, the employee upon whom the demand has been made shall respectfully decline to comply with the demand, citing these regulations and *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 463 (1951).

§ 608.8 Considerations in determining whether the Agency will comply with a demand or request.

(a) In deciding whether to comply with a demand or request, ACDA officials and attorneys shall consider, among others:

(1) Whether such compliance would be unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand arose;

(2) Whether compliance is appropriate under the relevant substantive law concerning privilege or disclosure of information;

(3) The public interest;

(4) The need to conserve the time of ACDA employees for the conduct of official business;

(5) The need to avoid spending the time and money of the United States for private purposes;

(6) The need to maintain impartiality between private litigants in cases where a substantial government interest is not implicated;

(7) Whether compliance would have an adverse effect on performance by ACDA of its mission and duties; and

(8) The need to avoid involving ACDA in controversial issues not related to its mission.

(b) Among those demands and requests in response to which compliance will not ordinarily be authorized are those with respect to which, *inter alia,* any of the following factors exist:

(1) Compliance would violate a statute or a rule of procedure;

(2) Compliance would violate a specific regulation or executive order;

(3) Compliance would reveal information properly classified in the interest of national security;

(4) Compliance would reveal confidential commercial or financial information or trade secrets without the owner's consent;

(5) Compliance would reveal the internal deliberative processes of the Executive Branch; or

(6) Compliance would potentially impede or prejudice an on-going law enforcement investigation.

§ 608.9 Prohibition on providing expert or opinion testimony.

(a) Except as provided in this section, and subject to 5 CFR 2635.805, ACDA employees shall not provide opinion or expert testimony based upon information which they acquired in the scope and performance of their official ACDA duties, except on behalf of the United States or a party represented by the Department of Justice.

(b) Upon a showing by the requester of exceptional need or unique circumstances and that the anticipated testimony will not be adverse to the interests of the United States, ACDA's General Counsel, or his/her delegate, may, consistent with 5 CFR 2635.805, in the exercise of discretion, grant special, written authorization for ACDA employees to appear and testify as expert witnesses at no expense to the United States.

(c) If, despite the final determination of ACDA's General Counsel, a court of competent jurisdiction or other appropriate authority orders the appearance and expert or opinion testimony of an ACDA employee, such employee shall immediately inform the office of the General Counsel of such order. If the Office of the General Counsel determines that no further legal review of or challenge to the court's order will be made, the ACDA employee shall comply with the order. If so directed by the Office of the General Counsel, however, the employee shall respectfully decline to testify. See *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

Dated: July 1, 1996.

Mary Elizabeth Hoinkes,

General Counsel.

[FR Doc. 96–17711 Filed 7–14–96; 8:45 am]

BILLING CODE 6820–32–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Minnesota State Plan; Level of Federal Enforcement

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule; change in level of Federal enforcement.

SUMMARY: This document gives notice of a change in the level of federal enforcement authority in Minnesota. The Minnesota Department of Labor and Industry is excluding coverage of tribal and private sector employment on Indian Reservations under its approved State plan. As a result, the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) is assuming coverage over tribal and private sector employment on Indian reservations. OSHA is hereby amending sections of its regulations to reflect this change in the level of enforcement authority.

EFFECTIVE DATE: July 15, 1996.

FOR FURTHER INFORMATION CONTACT: Anne Cyr, Acting Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room, N–3637, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–8148.

SUPPLEMENTARY INFORMATION:

A. Background

Section 18 of the Occupational Safety and Health Act of 1970, 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(b) of the Act and, ultimately, final approval under section 18(e).

The Minnesota State plan was initially approved on May 29, 1973. On July 30, 1985, OSHA announced the final approval of the Minnesota State plan pursuant to section 18(e) and amended Subpart N of 29 CFR Part 1952 to reflect the Assistant Secretary's decision. As a result, Federal OSHA relinquished its authority with regard to occupational safety and health issues covered by the Minnesota plan. Federal OSHA retained its authority over safety and health in private sector offshore maritime employment, employment at the Twin Cities Army Ammunition Plant, and with regard to Federal government employers and employees.

29 CFR 1952.205 states that ''any hazard, industry, geographical area, operation or facility over which the State is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the plan which has received final approval and shall be subject to Federal enforcement. Where enforcement jurisdiction is shared between Federal and State authorities for a particular area, project, or facility, in the interest or [sic] administrative practicability Federal jurisdiction may be assumed over the entire project or facility. In either of the two aforementioned circumstances, Federal enforcement may be exercised immediately upon agreement between Federal OSHA and the State designated agency.''

On December 21, 1994 Darrell E. Anderson, Director, Minnesota OSHA Management Team, Minnesota Department of Labor and Industry, wrote that because of the many ''obstacles Minnesota OSHA faces in gaining access to Indian reservation worksites and tribal employers, and because Federal OSHA is not subject to the same limitations as the State . . .'' Minnesota will ''exclude Indian reservations from coverage under the Minnesota Occupational Safety and Health Act'' (December 21, 1994 letter to Area Director Charles E. Burin).

B. Decision

To assure worker protection under the OSH Act, Federal OSHA will assume coverage over tribal and private sector employment on Indian reservations. OSHA is hereby amending 29 CFR part 1952, Subpart N, to reflect this change in the level of Federal enforcement.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health, Reporting and recordkeeping requirements.

Signed at Washington, DC, this 28th day of June 1996.

Joseph A. Dear,

Assistant Secretary.

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

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

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

Authority: Secs. 18, 84, Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902, Secretary of Labor's Order No. 1–90 (55 FR 9033).

2. Section 1952.204 is amended by revising paragraph (b) to read as follows:

§ 1952.204 Final approval determination.

* * * * *

(b) The plan which has received final approval covers all activities of employers and all places of employment in Minnesota except for private sector offshore maritime employment, employment at the Twin Cities Army Ammunition Plant, Federal government employers and employees, and any tribal or private sector employment