

2008 Rule).” 76 FR 82115, 82116. Accordingly, the Department determined that it was necessary in light of the November Appropriations Act to delay the effective date of the Wage Rule in order to avoid the replacement of the H-2B 2008 Rule with a new rule that the Department lacks appropriated funds to implement. As a result, the Department issued a final rule, 76 FR 73508, on November 29, 2011 which delayed the effective date of the Wage Rule until January 1, 2012.

On December 23, 2011, President Obama signed into law the Consolidated Appropriations Act, 2012 (the December Appropriations Act), which provided that “[n]one of the amounts made available under this Act may be used to implement the [Wage Rule].” Similar to the November Appropriations Act, the December Appropriations Act prevented the expenditure of funds to implement the Wage Rule for the remainder of FY 2012. In light of the December Appropriations Act, the Department issued a Final Rule, 76 FR 82115, on December 30, 2011, which further delayed the effective date of the Wage Rule until October 1, 2012.

In anticipation of the enactment of H.J. Res. 117, which continues the Department’s appropriations from the December Appropriations Act until March 27, 2013 “under the authority and conditions provided” in the December Appropriations Act, H.J. Res. 117, Sec. 101(a), the Department must again delay the effective date of the Wage Rule to prevent the replacement of the H-2B 2008 Rule with a new rule that the Department lacks appropriated funds to implement. As noted with the previous delays in the effective dates, if the Wage Rule were to become effective on October 1, 2012 and H.J. Res. 117 becomes law, the Department would be unable to issue prevailing wage determinations under the H-2B 2008 rule. The Department of Homeland Security (DHS), under its regulations at 8 CFR 214.2(h)(6)(iii) and (iv) requires an employer seeking H-2B workers to obtain a labor certification from the Department. Because the Department would be legally precluded from issuing prevailing wage determinations, temporary labor certifications for employers seeking H-2B workers could not be issued because the Department could not comply with its own regulations or those of DHS. As a result, the H-2B program would be held in abeyance for the first 6 months of FY 2013; therefore, the Department is extending the effective date of the Wage Rule until March 27, 2013.

The Department considers this situation an emergency warranting the publication of a final rule under the good cause exception of the Administrative Procedure Act. See 5 U.S.C. 553(b)(B) and 553(d)(3). In order to avoid an operational suspension during the first 6 months of FY 2013, the Department finds good cause to adopt this rule, effective immediately, and without prior notice and comment. See 5 U.S.C. 553(b)(B) and 553(d)(3). As such, a delay in promulgating this rule past the date of publication would be impracticable and unnecessary and would disrupt the program, leaving program users without access to the H-2B program.

Signed at Washington, DC this 27th day of September, 2012.

**Jane Oates,**

*Assistant Secretary for Employment and Training.*

[FR Doc. 2012-24264 Filed 9-28-12; 8:45 am]

**BILLING CODE 4510-FP-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 36

[Docket ID BIA-2012-0001]

RIN 1076-AF10

#### Heating, Cooling, and Lighting Standards for Bureau-Funded Dormitory Facilities

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is confirming the interim final rule published and effective on May 24, 2012, addressing heating, cooling, and lighting standards for Bureau-funded dormitory facilities. This rule was developed through negotiated rulemaking, as required by the No Child Left Behind Act of 2001. The May 24, 2012, publication stated that the BIA would review comments on the interim final rule and either confirm the rule or initiate a proposed rulemaking. BIA did not receive any adverse comments, and therefore confirms the rule without change.

**DATES:** Effective October 2, 2012.

**FOR FURTHER INFORMATION CONTACT:** Regina Gilbert, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs, 1001 Indian School Road, NW.,

Suite 312, Albuquerque, NM 87104; telephone (505) 563-3805; fax (505) 563-3811.

**SUPPLEMENTARY INFORMATION:** The No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee developed the interim final rule to complete the work responding to the mandates of the No Child Left Behind Act at 25 U.S.C. 2002. See the May 24, 2012, interim final rule (77 FR 30888) for additional background on the Committee. The Committee determined, by consensus, that the codes and standards identified in the “School Facilities Design Handbook” (handbook) dated March 30, 2007, respecting heating, ventilation, air conditioning, and lighting are appropriate for home-living (dormitory) situations at Bureau-funded Indian education facilities. On May 24, 2012, BIA published the interim final rule (77 FR 30888), under Docket No. BIA-2012-0001, to make the codes and standards identified in the handbook respecting heating, ventilation, air conditioning, and lighting mandatory for home-living (dormitory) situations at Bureau-funded Indian education facilities; require the Bureau to give the public notice and an opportunity to comment on any proposal to change which standard building codes are incorporated in the handbook; and make a technical change to remove reference to subpart H, which is no longer in existence, and replace it with a reference to subpart G.

We stated in the interim final rule that we would address comments received and, by a future publication in the **Federal Register**, confirm the interim final rule, with or without change, or initiate a proposed rulemaking. We did not receive any comments on the interim final rule; therefore, we are confirming the interim final rule without change.

#### List of Subjects in 25 CFR Part 36

Educational facilities, Incorporation by reference, Indians—education, school construction.

Accordingly, the interim rule published May 24, 2012, at 77 FR 30888, is adopted as final without change.

Dated: September 20, 2012.

**Donald E. Laverdure,**

*Acting Assistant Secretary—Indian Affairs.*

[FR Doc. 2012-24258 Filed 10-1-12; 8:45 am]

**BILLING CODE 4310-W7-P**