following performance characteristics must be tested:

(i) Mechanical integrity testing.

(ii) Testing to determine temperature change rate(s).

(iii) Testing to demonstrate compatibility with the indicated external controller.

(iv) Shelf life testing.

(3) Animal testing must demonstrate that the device does not cause esophageal injury and that body temperature remains within appropriate boundaries under anticipated conditions of use.

(4) Labeling must include the following:

(i) Detailed insertion instructions.

(ii) Warning against attaching the device to unintended connections, such as external controllers for which the device is not indicated, or pressurized air outlets instead of vacuum outlets for those devices, including gastric suction.

(iii) The operating parameters, name, and model number of the indicated external controller.

(iv) The intended duration of use.

Dated: August 12, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–20317 Filed 8–17–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1902, 1903, 1904, 1952, 1953, 1954, 1955, and 1956

[Docket No. OSHA–2014–0009]

RIN 1218–AC76

Streamlining of Provisions on State Plans for Occupational Safety and Health

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Direct final rule.

SUMMARY: This document primarily amends OSHA regulations to remove the detailed descriptions of State plan coverage, purely historical data, and other unnecessarily codified information. In addition, this document moves most of the general provisions of subpart A of part 1952 into part 1902, where the general regulations on State plan criteria are found. It also amends several other OSHA regulations to delete references to part 1952, which will no longer apply. The purpose of these revisions is to eliminate the unnecessary codification of material in the Code of Federal Regulations and thus save the time and funds currently expended in publicizing State plan revisions. The streamlining of OSHA State plan regulations does not change the areas of coverage or any other substantive components of any State plan. It also does not affect the rights and responsibilities of the State plans, or any employers or employees, except to eliminate the burden on State plan designees to keep paper copies of approved State plans and plan supplements in an office, and to submit multiple copies of proposed State plan documents to OSHA. This document also contains a request for comments for an Information Collection Request (ICR) under the Paperwork Reduction Act of 1995 (PRA), which covers all collection of information requirements in OSHA State plan regulations.

DATES: This direct final rule is effective October 19, 2015. Comments and additional materials (including comments on the information-collection (paperwork) determination described under the section titled **SUPPLEMENTARY INFORMATION** of this document) must be submitted (post-marked, sent or received) by September 17, 2015.

ADDRESSES: You may submit comments, identified by docket number OSHA–2014–0009, or regulatory information number (RIN) 1218–AC76 by any of the following methods:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions on-line for making electronic submissions; or

Fax: If your submission, including attachments, does not exceed 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648; or

U.S. mail, hand delivery, express mail, messenger or courier service: You must submit your comments and attachments to the OSHA Docket Office, Docket No OSHA–2014–0009, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., EST.

Instructions for submitting comments: All submissions must include the Docket Number (Docket No. OSHA–2014–0009) or the RIN number (RIN 1218–AC76) for this rulemaking. Because of security-related procedures, submission by regular mail may result in significant delay. Please contact the OSHA Docket Office for information about security procedures for making submissions by hand delivery, express delivery and messenger or courier service.

All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at *http://www.regulations.gov.* Therefore, caution should be taken in submitting personal information, such as Social Security numbers and birth dates.

Docket: To read or download submissions in response to this **Federal Register** document, go to docket number OSHA–2014–0009, at *http://www.regulations.gov.* All submissions are listed in the *http://www.regulations.gov* index: However, some information (*e.g.*, copyrighted material) is not publicly available to read or download through that Web page. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office.

Electronic copies of this **Federal Register** document are available at *http://www.regulations.gov.* This document, as well as news releases and other relevant information, is available at OSHA's Web page at *http://www.osha.gov.* A copy of the documents referenced in this document may be obtained from: Office of State Programs, Directorate of Cooperative and State Programs, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210, (202) 693–2244, fax (202) 693–1671.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Francis Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email: *meilinger.francis2@dol.gov.*

For general and technical information: Douglas J. Kalinowski, Director, OSHA Directorate of Cooperative and State Programs, Room N–3700, U.S. Department of Labor, 200 Constitution Avenue NW., Washington DC 20210; telephone: (202) 693–2200; email: *kalinowski.doug@dol.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that States that desire to assume responsibility for the development and enforcement of

occupational safety and health standards may do so by submitting, and obtaining federal approval of, a State plan. States may obtain approval for plans that cover private-sector employers and State and local government employers (comprehensive plans) or for plans that only cover State and local government employers.

From time to time changes are made to these State plans, particularly with respect to the issues which they cover. Procedures for approval of and changes to comprehensive State plans are set forth in the regulations at 29 CFR part 1902 and 29 CFR part 1953. A description of each comprehensive State plan has previously been set forth in 29 CFR part 1952, subparts C–FF. These descriptions have contained the following sections: Description of the plan, Developmental schedule, Completion of developmental steps and certifications, Staffing benchmarks, Final approval determination (if applicable), Level of Federal enforcement, Location where the State plan may be physically inspected, and Changes to approved plan.

Procedures for approval of a State plan covering State and local government employees only are set forth in the regulations at 29 CFR part 1956, subparts A–C. Pursuant to 29 CFR 1956.21, procedures for changes to these State plans are also governed by 29 CFR part 1953. A description of each State plan for State and local government employees only has previously been set forth in 29 CFR part 1956, subparts E–I. These subparts have contained the following sections: Description of the plan as certified (or as initially approved), Developmental schedule, Completed developmental steps and certification (if applicable), and Location of basic State plan documentation.

The area of coverage of each State plan has previously been codified at 29 CFR part 1952 under each State's subpart within the sections entitled ''Final approval determination'' and ''Level of Federal enforcement,'' and in 29 CFR part 1956 within the section on the description of the plan. Therefore, any change to a State plan's coverage or other part of the State plan description contained in 29 CFR part 1952 or 29 CFR part 1956 has thus far necessitated an amendment to the language of the CFR, which has required the expenditure of additional time and resources, such as those needed for printing. Furthermore, reprinting parts 1952 and 1956 in the annual CFR publication has necessitated the expenditure of additional time and resources. The individual descriptions of the State plans consisted of 103 pages in the July 1, 2013 revision of title 29, part 1927 to end, of the CFR. For these reasons, OSHA is streamlining parts 1952 and 1956 to delete the detailed descriptions of State plan coverage, purely historical data, and other unnecessarily codified information, thus saving time and funds currently expended in publishing changes to these parts of the CFR.

There is no legal statutory requirement that individual State plans be described in the CFR. The CFR is a codification of the documents of each agency of the Government having general applicability and legal effect, issued or promulgated by the agency in the **Federal Register**. 44 U.S.C. 1510(a) and (b). The description of a State plan is not a document of general applicability; it only applies to a particular State. Nevertheless, in this document, OSHA sets forth brief descriptions of each State plan that will be retained in the CFR in part 1952 in order to make this information readily available to those conducting legal research and relying on the CFR. Brief descriptions of comprehensive plans are included in subpart A of part 1952 and brief descriptions of State plans covering State and local government employees only are included in subpart B of part 1952. Any significant changes that would make these descriptions outdated, such as a withdrawal or grant of final approval, will continue to be codified in the CFR.

The partial deletions of the State plan descriptions from the CFR will not decrease transparency. Each section of part 1952 continues to note each State plan, the date of its initial approval, and, where applicable, the date of final approval, the existence of an operational status agreement, and the approval of staffing requirements (''benchmarks''). Each section makes a general statement of coverage indicating whether the plan covers all private-sector and State and local government employers, with some exceptions, or State and local government employers only. Each section also notes that current information about these coverage exceptions and additional details about the State plan can be obtained from the Web page on the OSHA public Web site describing the particular State plan (a link is referenced). The OSHA Web page for each State plan will also be updated to include the latest information on coverage and other important changes. Furthermore, the other information about the State plan that is currently in the CFR will still be available in the **Federal Register**, and can be searched electronically at *https://www.federalregister.gov* and is also available in printed form. The **Federal Register** can also be searched electronically on commercially available legal databases. When changes are made to State plan coverage, all of the information on coverage will be reprinted in the **Federal Register** along with the change so that readers will not have to search through many **Federal Register** notices to obtain a comprehensive description of coverage.

In addition to changing the individual descriptions of all State plans within part 1952, OSHA is making several other housekeeping changes. First, OSHA is moving the provisions of subpart A of part 1952 that pertain to the required criteria for State plans, to part 1902. (The following provisions are moved to part 1902: 29 CFR 1952.4, Injury and illness recording and reporting requirements; 29 CFR 1952.6, Partial approval of State plans; 29 CFR 1952.8, Variations, tolerances, and exemptions affecting the national defense; 29 CFR1952.9, Variances affecting multi-state employers; 29 CFR 1952.10, Requirements for approval of State posters; and 29 CFR 1952.11, State and local government employee programs.) As a result, the complete criteria for State plans will be located within part 1902.

OSHA is deleting 29 CFR 1952.1 (Purpose and scope) and 29 CFR 1952.2 (Definitions) because the changes described above and the restructuring of part 1952 make these provisions unnecessary. OSHA is also deleting 29 CFR 1952.3 (Developmental plans) because that material is covered by 29 CFR 1902.2(b). The text of 29 CFR 1952.5 (Availability of State plans) used to require complete copies of each State plan, including supplements thereto, to be kept at OSHA's National Office, the office of the nearest OSHA Regional Administrator, and the office of the State plan agency listed in part 1952. OSHA is deleting 29 CFR 1952.5 because with the widespread use of electronic document storage and the internet, it is no longer necessary to physically store such information in order to make it available to the public. Information about State plans can now be found on each State plan's Web site, as well as on OSHA's Web site. For the same reasons, OSHA is deleting the language in 29 CFR 1953.3(c) (Plan supplement availability) which discusses making State plan documents available for public inspection and photocopying in designated offices. The text of 29 CFR 1952.7(a), which deals with product standards, is being deleted because the explanation of section 18(c)(2) of the Act, 29 U.S.C. 667(c)(2)

on product standards is already covered by 29 CFR 1902.3(c)(2). However, § 1952.7(b) is being moved to the end of § 1902.3(c)(2) because that material was not previously included. In addition, OSHA is deleting references to part 1952 from several other parts of the regulations, such as parts 1903, 1904, 1953, 1954 and 1955, because these references are no longer accurate due to the changes made by this streamlining. Where appropriate, OSHA is inserting references to the newly numbered part 1902.

Finally, OSHA is making some further minor changes to part 1902. The text of 29 CFR 1902.3(j), which briefly describes State plans covering State and local government employees, is being deleted because a more detailed description of State plan coverage of State and local government employees, formerly set forth in 29 CFR 1952.11, is now being incorporated into 29 CFR part 1902 as § 1902.4(d). This change necessitates the re-designation of paragraphs in § 1902.3. Also, OSHA is changing 29 CFR 1902.10(a) to reduce the number of copies a State agency must submit in order to obtain approval of a State plan. With the advent of computer technology the submission of extra paper copies of documents is not necessary. OSHA also is deleting outdated references to an address in 29 CFR 1902.11(c) and (d).

Administrative Procedure Act and Direct Final Rulemaking

The notice and comment rulemaking procedures of section 553 of the Administrative Procedure Act (APA) do not apply ''to interpretive rules, general statements of policy or, rules of agency organization, procedure, or practice'' or when the agency for good cause finds that ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(A), (B). The revisions set forth in this document do not implement any substantive change in the development, operation or monitoring of State plans. Nor do these revisions change the coverage or other enforcement responsibilities of the State plans or federal OSHA. The compliance obligations of employers and the rights of employees remain unaffected. Therefore, OSHA for good cause finds that notice and comment is unnecessary. In addition, the elimination of the requirement to make State plan documents available in certain federal and State offices and the reduction of the number of copies of a proposed State plan which a State agency must submit, are purely procedural changes. Upon the issuance of this document, future alterations to State plan coverage will only require a simple easily searchable notice to be published in the **Federal Register** and an update to OSHA's State plan Web page. For these reasons, publication in the **Federal Register** of a notice of proposed rulemaking and request for comments are not required for these revisions.

OSHA is publishing a companion proposed rule along with this direct final rule in the ''Proposed Rules'' section of this **Federal Register**. An agency uses direct final rulemaking when it anticipates that a rule will not be controversial. OSHA does not consider this rule to be such because it primarily consists of changes in the organization of State plan information housed within the CFR, and the resultant re-numbering and updates to cross-references throughout the CFR.

In direct final rulemaking, an agency publishes a direct final rule in the **Federal Register** with a statement that the rule will become effective unless the agency receives significant adverse comment within a specified period. The agency may publish an identical proposed rule at the same time. If the agency receives no significant adverse comment in response to the direct final rule, the agency typically confirms the effective date of a direct final rule through a separate **Federal Register** document. If the agency receives a significant adverse comment, the agency withdraws the direct final rule and treats such comment as a response to the proposed rule. For purposes of this direct final rule and the companion proposed rule, a significant adverse comment is one that explains why the rule would be inappropriate.

The comment period for the direct final rule runs concurrently with that of the proposed rule. OSHA will treat comments received on the direct final rule as comments regarding the proposed rule. OSHA also will consider significant adverse comment submitted to this direct final rule as comment to the companion proposed rule. If OSHA receives no significant adverse comment to either this direct final rule or the proposal, OSHA will publish a **Federal Register** document confirming the effective date of the direct final rule and withdrawing the companion proposed rule. Such confirmation may include minor stylistic or technical changes to the document. If OSHA receives a significant adverse comment on either the direct final rule or the proposed rule, it will publish a timely withdrawal of the direct final rule and proceed with the proposed rule. In the event OSHA withdraws the direct final rule because of significant adverse comment, OSHA will consider all timely comments received in response to the direct final rule when it continues with the proposed rule. After carefully considering all comments to the direct final rule and the proposal, OSHA will decide whether to publish a new final rule.

OMB Review Under the Paperwork Reduction Act of 1995

This direct final rule revises ''collection of information'' (paperwork) requirements that are subject to review by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (''PRA–95''), 44 U.S.C. 3501 *et seq.*, and OMB's regulations at 5 CFR part 1320. The Paperwork Reduction Act defines a ''collection of information'' as ''the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public of facts or opinions by or for an agency regardless of form or format'' (44 U.S.C. 3502(3)(A)). OMB approved the collection of information requirements currently contained in the regulations associated with OSHA-approved State Plans (29 CFR parts 1902, 1952, 1953, 1954, and 1956) under OMB Control Number 1218–0247.

Through emergency processing procedures, OSHA submitted a request that OMB revise the collection of information requirements contained in these regulations within 45 days of publication. The direct final rule would not impose new collection of information requirements for purposes of PRA–95; therefore, the Agency does not believe that this rule will impact burden hours or costs. The direct final rule would move the current collection of information requirement provisions of subpart A of part 1952, pertaining to required criteria for State plans, to part 1902. The direct final rule would delete the text of current 29 CFR 1952.5 (Availability of State plans) requiring complete copies of each State plan, including supplements thereto, to be kept at OSHA's National Office, the nearest OSHA Regional office, and the office of the State plan agency. The rule would also delete the language in current 29 CFR 1953.3(c) (Plan supplement availability) which discusses making State plan documents available for public inspection and photocopying in designated offices. The rule would also reduce from ten to one the number of copies of the State plan which a State agency must submit under 29 CFR 1902.10(a) in order to obtain approval of the State plan. Finally, the direct final rule would revise

regulations containing current collection of information requirements at 29 CFR parts 1902, 1952, 1953, 1954, and 1956 to delete or update cross-references, remove duplicative provisions, and re-designate paragraphs.

OSHA has submitted an ICR addressing the collection of information requirements identified in this rule to OMB for review (44 U.S.C. 3507(d)). OSHA solicits comments on the proposed extension and revision of the collection of information requirements and the estimated burden hours associated with the regulations associated with OSHA-approved State Plans, including comments on the following:

Whether the proposed collection of information requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;

The accuracy of OSHA's estimate of the burden (time and cost) of the information collection requirements, including the validity of the methodology and assumptions used;

Enhancing the quality, utility, and clarity of the information collected; and

Minimizing the burden on employers who must comply, for example, by using automated or other technological techniques for collecting and transmitting information.

Pursuant to 5 CFR 1320.5(a)(1)(iv), OSHA provides the following summary of the Occupational Safety and Health State Plans Information Collection Request (ICR):

1. *Type of Review:* Revision of a currently approved collection.

2. *Title:* Occupational Safety and Health State Plans

3. *OMB Control Number:* 1218–0247.

4. *Description of Collection of Information Requirements:* The collection of information requirements contained in the regulations associated with this rule are set forth below. The citations reflect changes made in this direct final rule and the accompanying notice of proposed rulemaking.

Part	Collection of information requirements
29 CFR 1902	1902.2(a), 1902.2(b), 1902.2(c)(2), 1902.2(c)(3), 1902.3(a), 1902.3(b)(1)–(b)(3), 1902.3(c)(1), 1902.3(d)(1), 1902.3(d)(2), 1902.3(e), 1902.3(f), 1902.3(g), 1902.3(h), 1902.3(i), 1902.3(j), 1902.3(k), 1902.4(a), 1902.4(a)(1), 1902.4(a)(2), 1902.4(b)(1), 1902.4(b)(2), 1902.4(b)(2)(i)–(b)(2)(vii), 1902.4(c)(1), 1902.4(c)(2), 1902.4(c)(2)(i)–(c)(2)(xiii), 1902.4(d)(1), 1902.4(d)(2), 1902.4(d)(2)(i)–(d)(2)(iii)(k), 1902.4(e), 1902.7(a), 1902.7(d), 1902.9(a)(1), 1902.9(a)(5), 1902.9(a)(5)(i)–(a)(5)(xii), 1902.10, 1902.10(a), 1902.10(b), 1902.31, 1902.32(e), 1902.33, 1902.38(b), 1902.39(a), 1902.39(b), 1902.44(a), 1902.46(d), 1902.46(d)(1).
29 CFR 1952.	
29 CFR 1953	1953.1(a), 1953.1(b), 1953.1(c), 1953.2(c)-1953.2(j), 1953.3(a)–(e), 1953.4(a)(1)–1953.4(a)(5), 1953.4(b)(1)–1953.4(b)(7), 1953.4(c)(1)–1953.4(c)(5), 1953.4(d)(1), 1953.4(d)(2), 1953.5(a)(1)–1953.5(a)(3), 1953.5(b)(1)–(b)(3), 1953.6(a), 1953.6(e).
29 CFR 1954	1954.2(a), 1954.2(b), 1954.2(b)(1)–1954.2(b)(3), 1954.2(c), 1954.2(d), 1954.2(e), 1954.2(e)(1)–(e)(4), 1954.3(f)(1), 1954.3(f)(1)(i)–1954.3(f)(1)(v), 1954.10(a), 1954.10(b), 1954.10(c), 1954.11, 1954.20(a), 1954.20(b), 1954.20(c)(1), 1954.20(c)(2), 1954.20(c)(2)(i)–1954.20(c)(2)(iv), 1954.21(a), 1954.21(b), 1954.21(c), 1954.21(d), 1954.22(a)(1), 1954.22(a)(2).
29 CFR 1955.	
29 CFR 1956	1956.2(b)(1), 1956.2(b)(1)(i)–(ii), 1956.2(b)(2), 1956.2(b)(3), 1956.2(c)(1), 1956.2(c)(2), 1956.10(a), 1956.10(b)(1), 1956.10(b)(2), 1956.10(b)(3), 1956.10(c), 1956.10(d)(1), 1956.10(d)(2), 1956.10(e), 1956.10(f), 1956.10(g), 1956.10(h), 1956.10(i), 1956.10(j), 1956.11(a), 1956.11(a)(1), 1956.11(a)(2), 1956.11(d), 1956.20, 1956.21, 1956.22, 1956.23.

5. *Affected Public:* Designated state government agencies that are seeking or have submitted and obtained approval for State Plans for the development and enforcement of occupational safety and health standards.

6. *Number of Respondents:* 28.

7. *Frequency:* On occasion; quarterly; annually.

8. *Average Time per Response:* Varies from 30 minutes (.5 hour) to respond to an information inquiry to 80 hours to document state annual performance goals.

9. *Estimated Total Burden Hours:* The Agency does not believe that this rule will impact burden hours or costs. However, based on updated data and estimates, the Agency is requesting an adjustment increase of 173 burden hours, from 11,196 to 11,369 burden hours. This burden hour increase is the result of the anticipated increase in the submission of state plan changes associated with one state (Maine) actively implementing a new State Plan. The burden hour increase was partially offset by the decrease in the estimated number of state-initiated state plan changes.

10. *Estimated Costs (Operation and Maintenance):* There are no capital costs for this collection of information.

Submitting comments. In addition to having an opportunity to file comments with the Department, the PRA provides that an interested party may file comments on the collection of information requirements contained in the rule directly with the Office of Management and Budget, at the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the Department. See **ADDRESSES** section of this preamble. The OMB will consider all written comments that the agency receives within forty-five (45) days of publication of this DFR in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB control number 1218–0247. Comments submitted in response to this document are public records; therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and date of birth.

Docket and inquiries. To access the docket to read or download comments and other materials related to this paperwork determination, including the complete Information Collection Request (ICR) (containing the Supporting Statement with attachments describing the paperwork determinations in detail), use the procedures described under the section of this document titled **ADDRESSES.** You also may obtain an electronic copy of the complete ICR by visiting the Web page, *http://www.reginfo.gov/public/do/PRAMain*, select ''Department of Labor'' under ''Currently Under Review'' to view all of DOL's ICRs, including the ICR related to this rulemaking. To make inquiries, or to request other

information, contact Mr. Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

OSHA notes that a federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number.

Regulatory Flexibility Analysis, Unfunded Mandates, and Executive Orders on the Review of Regulations

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (as amended), OSHA examined the provisions of the direct final rule to determine whether it would have a significant economic impact on a substantial number of small entities. Since no employer of any size will have any new compliance obligations, the Agency certifies that the direct final rule will not have a significant economic impact on a substantial number of small entities. OSHA also reviewed this direct final rule in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) and Executive Orders 12866 (58 FR 51735, September 30, 1993) and 13563 (76 FR 3821, January 21, 2011). Because this rule imposes no new compliance obligations, it requires no additional expenditures by either private employers or State, local, or tribal governments.

Executive Order 13132, ''Federalism,'' (64 FR 43255, August 10, 1999) emphasizes consultation between Federal agencies and the States on policies not required by statute which have federalism implications, *i.e.*, policies, such as regulations, which have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, or which impose substantial direct compliance costs on State and local governments. This direct final rule has no federalism implications and will not impose substantial direct compliance costs on State or local governments.

OSHA has reviewed this rule in accordance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' (65 FR 67249, November 6, 2000) and determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects in 29 CFR Parts 1902, 1903, 1904, 1952, 1953, 1954, 1955, and 1956

Intergovernmental relations, Law enforcement, Occupational safety and health.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC, authorized the preparation of this direct final rule. OSHA is issuing this direct final rule under the authority specified by Sections 8(c)(1), 8(c)(2), and 8(g)(2) and 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657 (c)(1), (c)(2), and (g)(2) and 667) and Secretary of Labor's Order No. 1–2012 (76 FR 3912).

Signed at Washington, DC, on July 28, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Regulations

For the reasons set forth in the preamble of this direct final rule, OSHA amends 29 CFR parts 1902, 1903, 1904, 1952, 1953, 1954, 1955, and 1956 as follows:

PART 1902—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS

■ 1. The authority citation for part 1902 is revised to read as follows:

Authority: Secs. 8 and 18, 84 Stat. 1608 (29 U.S.C. 657, 667); Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

Subpart B—Criteria for State Plans

■ 2. Amend § 1902.3 as follows:
■ a. Revise paragraph (c)(2);
■ b. Remove paragraph (j);
■ c. Redesignate paragraphs (k) and (l) as (j) and (k), respectively.

The revision reads as follows:

§ 1902.3 Specific criteria.

* * * * *

(c) * * *

(2) The State plan shall not include standards for products distributed or used in interstate commerce which are different from Federal standards for such products unless such standards are required by compelling local conditions and do not unduly burden interstate commerce. This provision, reflecting section 18(c)(2) of the Act, is interpreted as not being applicable to customized products or parts not normally available on the open market, or to the optional parts or additions to products which are ordinarily available with such optional parts or additions. In situations where section 18(c)(2) is considered applicable, and provision is made for the adoption of product standards, the requirements of section 18(c)(2), as they relate to undue burden on interstate commerce, shall be treated as a condition subsequent in light of the facts and circumstances which may be involved.

* * * * *

■ 3. Amend § 1902.4 by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 1902.4 Indices of effectiveness.

* * * * *

(d) *State and local government employee programs.* (1) Each approved State plan must contain satisfactory assurances that the State will, to the extent permitted by its law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions which program is as effective as the standards contained in an approved plan.

(2) This criterion for approved State plans is interpreted to require the following elements with regard to coverage, standards, and enforcement:

(i) *Coverage.* The program must cover all public employees over which the State has legislative authority under its constitution. The language in section 18(c)(6) which only requires such coverage to the extent permitted by the State's law specifically recognizes the situation where local governments exclusively control their own employees, such as under certain home rule charters.

(ii) *Standards.* The program must be as effective as the standards contained in the approved plan applicable to private employers. Thus, the same criteria and indices of standards effectiveness contained in §§ 1902.3(c) and 1902.4(a) and (b) would apply to the public employee program. Where hazards are unique to public

employment, all appropriate indices of effectiveness, such as those dealing with temporary emergency standards, development of standards, employee information, variances, and protective equipment, would be applicable to standards for such hazards.

(iii) *Enforcement.* Although section 18(c)(6) of the Act requires State public employee programs to be as effective as standards contained in the State plan, minimum enforcement elements are required to ensure an effective and comprehensive public employee program as follows:

(A) Regular inspections of workplaces, including inspections in response to valid employee complaints;

(B) A means for employees to bring possible violations to the attention of inspectors;

(C) Notification to employees, or their representatives, of decisions that no violations are found as a result of complaints by such employees or their representatives, and informal review of such decisions;

(D) A means of informing employees of their protections and obligations under the Act;

(E) Protection for employees against discharge of discrimination because of the exercise of rights under the Act;

(F) Employee access to information on their exposure to toxic materials or harmful physical agents and prompt notification to employees when they have been or are being exposed to such materials or agents at concentrations or levels above those specified by the applicable standards;

(G) Procedures for the prompt restraint or elimination of imminent danger situations;

(H) A means of promptly notifying employers and employees when an alleged violation has occurred, including the proposed abatement requirements;

(I) A means of establishing timetables for the correction of violations;

(J) A program for encouraging voluntary compliance; and

(K) Such other additional enforcement provisions under State law as may have been included in the State plan.

(3) In accordance with § 1902.3(b)(3), the State agency or agencies designated to administer the plan throughout the State must retain overall responsibility for the entire plan. Political subdivisions may have the responsibility and authority for the development and enforcement of standards: *Provided,* that the designated State agency or agencies have adequate authority by statute, regulation, or agreement to insure that the commitments of the State under the plan will be fulfilled.

(e) *Additional indices.* Upon his own motion or after consideration of data, views and arguments received in any proceeding held under subpart C of this part, the Assistant Secretary may prescribe additional indices for any State plan which shall be in furtherance of the purpose of this part, as expressed in § 1902.1.

* * * * *

■ 4. Add §§ 1902.7 through 1902.09 to read as follows:

Sec.

* * * * *

1902.7 Injury and illness recording and reporting requirements.

1902.8 Variations and variances.

1902.9 Requirements for approval of State posters.

* * * * *

§ 1902.7 Injury and illness recording and reporting requirements.

(a) Injury and illness recording and reporting requirements promulgated by State-Plan States must be substantially identical to those in 29 CFR part 1904 on recording and reporting occupational injuries and illnesses. State-Plan States must promulgate recording and reporting requirements that are the same as the Federal requirements for determining which injuries and illnesses will be entered into the records and how they are entered. All other injury and illness recording and reporting requirements that are promulgated by State-Plan States may be more stringent than, or supplemental to, the Federal requirements, but, because of the unique nature of the national recordkeeping program, States must consult with OSHA and obtain approval of such additional or more stringent reporting and recording requirements to ensure that they will not interfere with uniform reporting objectives. State-Plan States must extend the scope of their regulation to State and local government employers.

(b) A State may not grant a variance to the injury and illness recording and reporting requirements for private sector employers. Such variances may only be granted by Federal OSHA to assure nationally consistent workplace injury and illness statistics. A State may only grant a variance to the injury and illness recording and reporting requirements for State or local government entities in that State after obtaining approval from Federal OSHA.

(c) A State must recognize any variance issued by Federal OSHA.

(d) A State may, but is not required, to participate in the Annual OSHA Injury/Illness Survey as authorized by 29 CFR 1904.41. A participating State may either adopt requirements identical to § 1904.41 in its recording and reporting regulation as an enforceable State requirement, or may defer to the Federal regulation for enforcement. Nothing in any State plan shall affect the duties of employers to comply with § 1904.41, when surveyed, as provided by section 18(c)(7) of the Act.

§ 1902.8 Variations and variances.

(a) The power of the Secretary of Labor under section 16 of the Act to provide reasonable limitations and variations, tolerances, and exemptions to and from any or all provisions of the Act as he may find necessary and proper to avoid serious impairment of the national defense is reserved.

(b) No action by a State under a plan shall be inconsistent with action by the Secretary under this section of the Act.

(c) Where a State standard is identical to a Federal standard addressed to the same hazard, an employer or group of employers seeking a temporary or permanent variance from such standard, or portion thereof, to be applicable to employment or places of employment in more than one State, including at least one State with an approved plan, may elect to apply to the Assistant Secretary for such variance under the provisions of 29 CFR part 1905.

(d) Actions taken by the Assistant Secretary with respect to such application for a variance, such as interim orders, with respect thereto, the granting, denying, or issuing any modification or extension thereof, will be deemed prospectively an authoritative interpretation of the employer or employers' compliance obligations with regard to the State standard, or portion thereof, identical to the Federal standard, or portion thereof, affected by the action in the employment or places of employment covered by the application.

(e) Nothing herein shall affect the option of an employer or employers seeking a temporary or permanent variance with applicability to employment or places of employment in more than one State to apply for such variance either to the Assistant Secretary or the individual State agencies involved. However, the filing with, as well as granting, denial, modification, or revocation of a variance request or interim order by, either authority (Federal or State) shall preclude any further substantive consideration of such application on the same material facts for the same employment or place of employment by the other authority.

(f) Nothing herein shall affect either Federal or State authority and obligations to cite for noncompliance with standards in employment or places of employment where no interim order, variance, or modification or extension thereof, granted under State or Federal law applies, or to cite for noncompliance with such Federal or State variance action.

§ 1902.9 Requirements for approval of State posters.

(a)(1) In order to inform employees of their protections and obligations under applicable State law, of the issues not covered by State law, and of the continuing availability of Federal monitoring under section 18(f) of the Act, States with approved plans shall develop and require employers to post a State poster meeting the requirements set out in paragraph (a)(5) of this section.

(2) Such poster shall be substituted for the Federal poster under section 8(c)(1) of the Act and § 1903.2 of this chapter where the State attains operational status for the enforcement of State standards as defined in § 1954.3(b) of this chapter.

(3) Where a State has distributed its poster and has enabling legislation as defined in § 1954.3(b)(1) of this chapter but becomes nonoperational under the provisions of § 1954.3(f)(1) of this chapter because of failure to be at least as effective as the Federal program, the approved State poster may, at the discretion of the Assistant Secretary, continue to be substituted for the Federal poster in accordance with paragraph (a)(2) of this section.

(4) A State may, for good cause shown, request, under 29 CFR part 1953, approval of an alternative to a State poster for informing employees of their protections and obligations under the State plans, provided such alternative is consistent with the Act, § 1902.4(c)(2)(iv) and applicable State law. In order to qualify as a substitute for the Federal poster under this paragraph (a), such alternative must be shown to be at least as effective as the Federal poster requirements in informing employees of their protections and obligations and address the items listed in paragraph (a)(5) of this section.

(5) In developing the poster, the State shall address but not be limited to the following items:

(i) Responsibilities of the State, employers and employees;

(ii) The right of employees or their representatives to request workplace inspections;

(iii) The right of employees making such requests to remain anonymous;

(iv) The right of employees to participate in inspections;

(v) Provisions for prompt notice to employers and employees when alleged violations occur;

(vi) Protection for employees against discharge or discrimination for the exercise of their rights under Federal and State law;

(vii) Sanctions;

(viii) A means of obtaining further information on State law and standards and the address of the State agency;

(ix) The right to file complaints with the Occupational Safety and Health Administration about State program administration;

(x) A list of the issues as defined in § 1902.2(c) which will not be covered by State plan;

(xi) The address of the Regional Office of the Occupational Safety and Health Administration; and

(xii) Such additional employee protection provisions and obligations under State law as may have been included in the approved State plan.

(b) Posting of the State poster shall be recognized as compliance with the posting requirements in section 8(c)(1) of the Act and § 1903.2 of this chapter, provided that the poster has been approved in accordance with subpart B of part 1953 of this chapter. Continued Federal recognition of the State poster is also subject to pertinent findings of effectiveness with regard to the State program under 29 CFR part 1954.

Subpart C—Procedures for Submission, Approval and Rejection of State Plans

■ 5. In § 1902.10, revise paragraph (a) to read as follows:

§ 1902.10 Submission.

(a) An authorized representative of the State agency or agencies responsible for administering the plan shall submit one copy of the plan to the appropriate Assistant Regional Director of the Occupational Safety and Health Administration, U.S. Department of Labor. The State plan shall include supporting papers conforming to the requirements specified in the subpart B of this part, and the State occupational safety and health standards to be included in the plan, including a copy of any specific or enabling State laws and regulations relating to such standards. If any of the representations concerning the requirements of subpart B of this part are dependent upon any judicial or administrative interpretations of the State standards or enforcement provisions, the State shall furnish citations to any pertinent judicial decisions and the text of any pertinent administrative decisions.

* * * * *

■ 6. In § 1902.11, revise paragraphs (c) and (d) to read as follows:

§ 1902.11 General notice.

* * * * *

(c) The notice shall provide that the plan, or copies thereof, shall be available for inspection and copying at the office of the Director, Office of State Programs, Occupational Safety and Health Administration, office of the Assistant Regional Director in whose region the State is located, and an office of the State which shall be designated by the State for this purpose.

(d) The notice shall afford interested persons an opportunity to submit in writing, data, views, and arguments on the proposal, subjects, or issues involved within 30 days after publication of the notice in the **Federal Register**. Thereafter the written comments received or copies thereof shall be available for public inspection and copying at the office of the Director, Office of State Programs, Occupational Safety and Health Administration, office of the Assistant Regional Director in whose region the State is located, and an office of the State which shall be designated by the State for this purpose.

* * * * *

■ 7. Add § 1902.16 immediately following § 1902.15 to read as follows:

§ 1902.16 Partial approval of State plans.

(a) The Assistant Secretary may partially approve a plan under this part whenever:

(1) The portion to be approved meets the requirements of this part;

(2) The plan covers more than one occupational safety and health issue; and

(3) Portions of the plan to be approved are reasonably separable from the remainder of the plan.

(b) Whenever the Assistant Secretary approves only a portion of a State plan, he may give notice to the State of an opportunity to show cause why a proceeding should not be commenced for disapproval of the remainder of the plan under subpart C of this part before commencing such a proceeding.

Subpart D—Procedures for Determinations under section 18(e) of the Act

■ 8. In § 1902.31, revise the definition of ''Development step'' to read as follows:

§ 1902.31 Definitions.

* * * * *

Development step includes, but is not limited to, those items listed in the published developmental schedule, or any revisions thereof, for each plan. A developmental step also includes those items specified in the plan as approved under section 18(c) of the Act for completion by the State, as well as those items which under the approval decision were subject to evaluations and changes deemed necessary as a result thereof to make the State program at least as effective as the Federal program within the 3 years developmental period. (See 29 CFR 1953.4(a)).

* * * * *

■ 9. Revise § 1902.33 to read as follows:

§ 1902.33 Developmental period.

Upon the commencement of plan operations after the initial approval of a State's plan by the Assistant Secretary, a State has three years in which to complete all of the developmental steps specified in the plan as approved. Section 1953.4 of this chapter sets forth the procedures for the submission and consideration of developmental changes by OSHA. Generally, whenever a State completes a developmental step, it must submit the resulting plan change as a supplement to its plan to OSHA for approval. OSHA's approval of such changes is then published in the **Federal Register**.

■ 10. In § 1902.34, revise paragraph (c) to read as follows:

§ 1902.34 Certification of completion of developmental steps.

* * * * *

(c) After a review of the certification and the State's plan, if the Assistant Secretary finds that the State has completed all the developmental steps specified in the plan, he shall publish the certification in the **Federal Register**.

* * * * *

§ 1902.41 [Amended]

■ 11. In § 1902.41, remove paragraph (c) and redesignate paragraph (d) as (c).

■ 12. In § 1902.43, revise paragraph (a)(3) to read as follows:

§ 1902.43 Affirmative 18(e) decision.

(a) * * *

(3) An amendment to the appropriate section of part 1952 of this chapter;

* * * * *

PART 1903—INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

■ 13. The authority citation for part 1903 is revised to read as follows:

Authority: Secs. 8 and 9 (29 U.S.C. 657, 658); 5 U.S.C. 553; Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

■ 14. In § 1903.2, revise paragraph (a)(2) to read as follows:

§ 1903.2 Posting of notice; availability of the Act, regulations and applicable standard.

(a) * * *

(2) Where a State has an approved poster informing employees of their protections and obligations as defined in § 1902.9 of this chapter, such poster, when posted by employers covered by the State plan, shall constitute compliance with the posting requirements of section 8(c)(1) of the Act. Employers whose operations are not within the issues covered by the State plan must comply with paragraph (a)(1) of this section.

* * * * *

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

■ 15. The authority citation for part 1904 is revised to read as follows:

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

Subpart D—Other OSHA Injury and Illness Recordkeeping Requirements

■ 16. In § 1904.37, revise paragraph (a) to read as follows:

§ 1904.37 State recordkeeping requirements.

(a) *Basic requirement.* Some States operate their own OSHA programs, under the authority of a State plan as approved by OSHA. States operating OSHA-approved State plans must have occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in this part (see 29 CFR 1902.3(j), 29 CFR 1902.7, and 29 CFR 1956.10(i)).

* * * * *

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

■ 17. The authority citation for part 1952 is revised to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902; Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

■ 18. Revise subpart A to read as follows:

Subpart A—List of Approved State Plans for Private-Sector and State and Local Government Employees

Sec.
1952.1 South Carolina.
1952.2 Oregon.
1952.3 Utah.
1952.4 Washington.
1952.5 North Carolina.
1952.6 Iowa.
1952.7 California.
1952.8 Minnesota.
1952.9 Maryland.
1952.10 Tennessee.
1952.11 Kentucky.
1952.12 Alaska.
1952.13 Michigan.
1952.14 Vermont.
1952.15 Nevada.
1952.16 Hawaii.
1952.17 Indiana.
1952.18 Wyoming.
1952.19 Arizona.
1952.20 New Mexico.
1952.21 Virginia.
1952.22 Puerto Rico.

Subpart A—List of Approved State Plans for Private-Sector and State and Local Government Employees

§ 1952.1 South Carolina.

(a) The South Carolina State plan received initial approval on December 6, 1972.

(b) The South Carolina State plan received final approval on December 18, 1987.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance officer staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984, South Carolina, in conjunction with OSHA, completed a reassessment of the staffing levels initially established in 1980 and proposed revised compliance staffing benchmarks of 17 safety and 12 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on January 17, 1986.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/south_carolina.html.*

§ 1952.2 Oregon.

(a) The Oregon State plan received initial approval on December 28, 1972.

(b) The Oregon State plan received final approval on May 12, 2005.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (''benchmarks'') necessary for a ''fully effective'' enforcement program were required for each State operating an approved State plan. In October 1992, Oregon completed, in conjunction with OSHA, a reassessment of the health staffing level initially established in 1980 and proposed a revised health benchmark of 28 health compliance officers. Oregon elected to retain the safety benchmark level established in the 1980 Report to the Court of the U.S. District Court for the District of Columbia in 1980 of 47 safety compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on August 11, 1994.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/oregon.html.*

§ 1952.3 Utah.

(a) The Utah State plan received initial approval on January 10, 1973.

(b) The Utah State plan received final approval on July 16, 1985.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984, Utah, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 10 safety and 9 health compliance officers. After opportunity for public comments and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements effective July 16, 1985.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/utah.html.*

§ 1952.4 Washington.

(a) The Washington State plan received initial approval on January 26, 1973.

(b) OSHA entered into an operational status agreement with Washington.

(c) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/washington.html.*

§ 1952.5 North Carolina.

(a) The North Carolina State plan received initial approval on February 1, 1973.

(b) The North Carolina State plan received final approval on December 18, 1996.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (''benchmarks'') necessary for a ''fully effective'' enforcement program were required for each State operating an approved State plan. In September 1984, North Carolina, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised benchmarks of 50 safety and 27 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on January 17, 1986.

In June 1990, North Carolina reconsidered the information utilized in the initial revision of its 1980 benchmarks and determined that changes in local conditions and improved inspection data warranted further revision of its benchmarks to 64 safety inspectors and 50 industrial hygienists. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on June 4, 1996.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/north_carolina.html.*

§ 1952.6 Iowa.

(a) The Iowa State plan received initial approval on July 20, 1973.

(b) The Iowa State plan received final approval on July 2, 1985.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984, Iowa, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 16 safety and 13 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements effective July 2, 1985.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/iowa.html.*

§ 1952.7 California.

(a) The California State plan received initial approval on May 1, 1973.

(b) OSHA entered into an operational status agreement with California.

(c) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/california.html.*

§ 1952.8 Minnesota.

(a) The Minnesota State plan received initial approval on June 8, 1973.

(b) The Minnesota State plan received final approval on July 30, 1985.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984 Minnesota, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 31 safety and 12 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on July 30, 1985.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/minnesota.html.*

§ 1952.9 Maryland.

(a) The Maryland State plan received initial approval on July 5, 1973.

(b) The Maryland State plan received final approval on July 18, 1985.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984 Maryland, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 36 safety and 18 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on July 18, 1985.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/maryland.html.*

§ 1952.10 Tennessee.

(a) The Tennessee State plan received initial approval on July 5, 1973.

(b) The Tennessee State plan received final approval on July 22, 1985.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984 Tennessee, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 22 safety and 14 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on July 22, 1985.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/tennessee.html.*

§ 1952.11 Kentucky.

(a) The Kentucky State plan received initial approval on July 31, 1973.

(b) The Kentucky State plan received final approval on June 13, 1985.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984 Kentucky, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 23 safety and 14 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on June 13, 1985.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/kentucky.html.*

§ 1952.12 Alaska.

(a) The Alaska State plan received initial approval on August 10, 1973.

(b) The Alaska State plan received final approval on September 28, 1984.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. Alaska's compliance staffing benchmarks are 4 safety and 5 health compliance officers.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/alaska.html.*

§ 1952.13 Michigan.

(a) The Michigan State plan received initial approval on October 3, 1973.

(b) OSHA entered into an operational status agreement with Michigan.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (''benchmarks'') necessary for a ''fully effective'' enforcement program were required for each State operating an approved State plan. In 1992, Michigan completed, in conjunction with OSHA, a reassessment of the levels initially established in 1980 and proposed revised benchmarks of 56 safety and 45 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on April 20, 1995.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *https://www.osha.gov/dcsp/osp/stateprogs/michigan.html.*

§ 1952.14 Vermont.

(a) The Vermont State plan received initial approval on October 16, 1973.

(b) OSHA entered into an operational status agreement with Vermont.

(c) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/vermont.html.*

§ 1952.15 Nevada.

(a) The Nevada State plan received initial approval on January 4, 1974.

(b) The Nevada State plan received final approval on April 18, 2000.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In July 1986 Nevada, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 11 safety and 5 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on September 2, 1987.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/nevada.html.*

§ 1952.16 Hawaii.

(a) The Hawaii State plan received initial approval on January 4, 1974.

(b) The Hawaii State plan received final approval on May 4, 1984.

(c) On September 21, 2012 OSHA modified the State Plan's approval status from final approval to initial approval, and reinstated concurrent

federal enforcement authority pending the necessary corrective action by the State Plan in order to once again meet the criteria for a final approval determination. OSHA and Hawaii entered into an operational status agreement to provide a workable division of enforcement responsibilities.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/hawaii.html.*

§ 1952.17 Indiana.

(a) The Indiana State plan received initial approval on March 6, 1974.

(b) The Indiana State plan received final approval on September 26, 1986.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984 Indiana, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 47 safety and 23 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on January 17, 1986.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/indiana.html.*

§ 1952.18 Wyoming.

(a) The Wyoming State plan received initial approval on May 3, 1974.

(b) The Wyoming State plan received final approval on June 27, 1985.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984 Wyoming, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 6 safety and 2 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on June 27, 1985.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/wyoming.html.*

§ 1952.19 Arizona.

(a) The Arizona State plan received initial approval on November 5, 1974.

(b) The Arizona State plan received final approval on June 20, 1985.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984, Arizona in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 9 safety and 6 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on June 20, 1985.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/arizona.html.*

§ 1952.20 New Mexico.

(a) The New Mexico State plan received initial approval on December 10, 1975.

(b) OSHA entered into an operational status agreement with New Mexico.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (''benchmarks'') necessary for a ''fully effective'' enforcement program were required for each State operating an approved State plan. In May 1992, New Mexico completed, in conjunction with OSHA, a reassessment of the staffing levels initially established in 1980 and proposed revised benchmarks of 7 safety and 3 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on August 11, 1994.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/new_mexico.html.*

§ 1952.21 Virginia.

(a) The Virginia State plan received initial approval on September 28, 1976.

(b) The Virginia State plan received final approval on November 30, 1988.

(c) Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (benchmarks) necessary for a ''fully effective'' enforcement program were required to be established for each State operating an approved State plan. In September 1984 Virginia, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 38 safety and 21 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on January 17, 1986.

(d) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/virginia.html.*

§ 1952.22 Puerto Rico.

(a) The Puerto Rico State plan received initial approval on August 30, 1977.

(b) OSHA entered into an operational status agreement with Puerto Rico.

(c) The plan covers all private-sector employers and employees, with several notable exceptions, as well as State and local government employers and employees, within the State. For current information on these exceptions and for additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/puerto_rico.html.*

■ 19. Add subpart B to read as follows:

Subpart B—List of Approved State Plans for State and Local Government Employees

Sec.

1952.23 Connecticut.
1952.24 New York.
1952.25 New Jersey.
1952.26 The Virgin Islands.
1952.27 Illinois.

Subpart B—List of Approved State Plans for State and Local Government Employees

§ 1952.23 Connecticut.

(a) The Connecticut State plan for State and local government employees received initial approval from the Assistant Secretary on November 3, 1978.

(b) In accordance with 29 CFR 1956.10(g), a State is required to have a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan. The Connecticut Public Employee Only State plan provides for three (3) safety compliance officers and one (1) health compliance officer as set forth in the Connecticut Fiscal Year 1986 grant. This staffing level meets the ''fully effective'' benchmarks established for Connecticut for both safety and health.

(c) The plan only covers State and local government employers and employees within the State. For additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/connecticut.html.*

§ 1952.24 New York.

(a) The New York State plan for State and local government employees received initial approval from the Assistant Secretary on June 1, 1984.

(b) The plan, as revised on April 28, 2006, provides assurances of a fully trained, adequate staff, including 29 safety and 21 health compliance officers for enforcement inspections and 11 safety and 9 health consultants to perform consultation services in the public sector. The State has also given satisfactory assurances of continued adequate funding to support the plan.

(c) The plan only covers State and local government employers and employees within the State. For additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/new_york.html.*

§ 1952.25 New Jersey.

(a) The New Jersey State plan for State and local government employees received initial approval from the Assistant Secretary on January 11, 2001.

(b) The plan further provides assurances of a fully trained, adequate staff, including 20 safety and 7 health compliance officers for enforcement inspections, and 4 safety and 3 health consultants to perform consultation services in the public sector, and 2 safety and 3 health training and education staff. The State has assured that it will continue to provide a sufficient number of adequately trained and qualified personnel necessary for the enforcement of standards as required by 29 CFR 1956.10. The State has also given satisfactory assurance of adequate funding to support the plan.

(c) The plan only covers State and local government employers and employees within the State. For additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/new_jersey.html.*

§ 1952.26 The Virgin Islands.

(a) The Virgin Islands State plan for Public Employees Only was approved on July 23, 2003.

(b) The plan only covers State and local government employers and employees within the State. For additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/virgin_islands.html.*

§ 1952.27 Illinois.

(a) The Illinois State plan for state and local government employees received initial approval from the Assistant Secretary on September 1, 2009.

(b) The Plan further provides assurances of a fully trained, adequate staff within three years of plan approval, including 11 safety and 3 health compliance officers for enforcement inspections, and 3 safety and 2 health consultants to perform consultation services in the public sector. The state has assured that it will continue to provide a sufficient number of adequately trained and qualified personnel necessary for the enforcement of standards as required by 29 CFR 1956.10. The state has also given satisfactory assurance of adequate funding to support the Plan.

(c) The plan only covers State and local government employers and employees within the state. For additional details about the plan, please visit *http://www.osha.gov/dcsp/osp/stateprogs/illinois.html.*

Subparts C Through FF [Removed]

■ 20. Remove subparts C through FF.

PART 1953—CHANGES TO STATE PLANS

■ 21. The authority citation for part 1953 is revised to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

■ 22. In § 1953.3, revise paragraph (c) to read as follows:

§ 1953.3 General policies and procedures.

* * * * *

(c) *Plan supplement availability.* The underlying documentation for identical plan changes shall be maintained by the State. Annually, States shall submit updated copies of the principal documents comprising the plan, or appropriate page changes, to the extent that these documents have been revised. To the extent possible, plan documents will be maintained and submitted by the State in electronic format and also made available in such manner.

* * * * *

PART 1954—PROCEDURES FOR THE EVALUATION AND MONITORING OF APPROVED STATE PLANS

■ 23. The authority citation for part 1954 is revised to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

Subpart A—General

■ 24. In § 1954.3, revise paragraphs (d)(1)(ii) and (iii) to read as follows:

§ 1954.3 Exercise of Federal discretionary authority.

* * * * *

(d) * * *

(1) * * *

(ii) Subject to pertinent findings of effectiveness under this part, and approval under part 1953 of this chapter, Federal enforcement proceedings will not be initiated where an employer has posted the approved State poster in accordance with the applicable provisions of an approved State plan and § 1902.9 of this chapter.

(iii) Subject to pertinent findings of effectiveness under this part, and approval under part 1953 of this chapter, Federal enforcement proceedings will not be initiated where an employer is in compliance with the recordkeeping and reporting requirements of an approved State plan as provided in § 1902.7 of this chapter.

* * * * *

PART 1955—PROCEDURES FOR WITHDRAWAL OF APPROVAL OF STATE PLANS

■ 25. The authority citation for part 1955 is revised to read as follows:

Authority: Secs. 8 and 18, 84 Stat. 1608 (29 U.S.C. 657, 667); Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

Subpart A—General

■ 26. In § 1955.2, revise paragraph (a)(4) to read as follows:

§ 1955.2 Definitions.

(a) * * *

(4) *Developmental step* includes, but is not limited to, those items listed in

the published developmental schedule, or any revisions thereto, for each plan. A developmental step also includes those items in the plan as approved under section 18(c) of the Act, as well as those items in the approval decision which are subject to evaluations (see *e.g.,* approval of Michigan plan), which were deemed necessary to make the State program at least as effective as the Federal program within the 3 year developmental period. (See part 1953 of this chapter.)

* * * * *

PART 1956—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS APPLICABLE TO STATE AND LOCAL GOVERNMENT EMPLOYEES IN STATES WITHOUT APPROVED PRIVATE EMPLOYEE PLANS

■ 27. The authority citation for part 1956 is revised to read as follows:

Authority: Section 18 (29 U.S.C. 667), 29 CFR parts 1902 and 1955, and Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

Subparts E Through I [Removed]

■ 28. Remove subparts E through I.

[FR Doc. 2015–19225 Filed 8–17–15; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2015–0337]

RIN 1625–AA08

Special Local Regulation, Tennessee River 647.0 to 648.0; Knoxville, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for all waters of the Tennessee River, beginning at mile marker 647.0 and ending at mile marker 648.0 on September 4–5, 2015. This special regulation is necessary to provide safety for the racers that will be participating in the ''Racing on the Tennessee.'' Entry into this area will be prohibited unless specifically authorized by the Captain of the Port Ohio Valley or designated representative.

DATES: This rule is effective and will be enforced on September 4, 2015 through September 5, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2015–0337. To view documents mentioned in the preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Vera Max, MSD Nashville, Nashville, TN, at 615–736–5421 or at *vera.m.max@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because specifics associated with the ''Racing on the Tennessee'' event were not received in time to publish an NPRM and seek comments before the event. Publishing an NPRM and delaying the effective date of this rule to await public comments would be impracticable and contrary to the public interest since it would inhibit the Coast Guard's ability to provide for the safety of the racers participating in the event and the safety of spectators and waterway users.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, delaying the effective date of this rule would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis and authority for this rule establishing a special local regulation are found in 33 U.S.C. 1233, which authorizes the Coast Guard to establish and define special local regulations for regattas under 33 CFR 100.

The ''Racing on the Tennessee'' is an annual event being held on September 4 and 5, 2015. The Captain of the Port (COTP) Ohio Valley has determined that additional safety measures are necessary to protect race participants, spectators, and waterway users during this event. Therefore, the Coast Guard is establishing a special local regulation for all waters of the Tennessee River beginning at mile marker 647.0 and ending at mile marker 648.0. This regulation will provide safety for the racers that will be participating in the ''Racing on the Tennessee'' and spectators and waterway users.

C. Discussion of Temporary Final Rule

The COTP Ohio Valley is establishing a special local regulated area for all waters of the Tennessee River beginning at mile marker 647.0 and ending at mile marker 648.0. Vessels or persons will not be permitted to enter into, depart from, or move within this area without permission from the COTP Ohio Valley or designated representative. Persons or vessels requiring entry into or passage through the special local regulated area will be required to request permission from the COTP Ohio Valley, or designated representative. Requests for permission are submitted via VHF–FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1–800–253–7465. This rule will be enforced from 10:00 a.m. until 7:00 p.m. on September 4 and 5, 2015. The COTP Ohio Valley will inform the public through broadcast notices to mariners of the enforcement period for the special local regulated area as well as of any changes in the planned schedule.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory