

Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this extension of the temporary scheduling action. In the alternative, even assuming that this action might be subject to section 553 of the APA, the Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for extending the temporary scheduling order would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety. Further, the DEA believes that this final order extending the temporary scheduling action is not a “rule” as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB).

This action will not 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. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. 5 U.S.C. 808(2). It is in the public interest to maintain the temporary placement of PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA in schedule I because they pose a public health risk. The temporary scheduling action was taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. Under 21 U.S.C. 811(h), temporary scheduling orders are not subject to notice and comment rulemaking procedures. The DEA understands that the CSA frames temporary scheduling actions as orders rather than rules to ensure that the

process moves swiftly, and this extension of the temporary scheduling order continues to serve that purpose. For the same reasons that underlie 21 U.S.C. 811(h), that is, the need to place these substances in schedule I because they pose an imminent hazard to public safety, it would be contrary to the public interest to delay implementation of this extension of the temporary scheduling order. Therefore, in accordance with section 808(2) of the CRA, this final order extending the temporary scheduling order shall take effect immediately upon its publication. The DEA has submitted a copy of this final order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801–808 because, as noted above, this action is an order, not a rule.

Dated: February 2, 2016.

**Chuck Rosenberg,**

*Acting Administrator.*

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1952

[Docket No. OSHA-2015-0003]

**RIN 1218-AC97**

#### Maine State Plan for State and Local Government Employers

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

**ACTION:** Final rule.

**SUMMARY:** This document announces the publication of the regulatory provisions which formalize the initial approval of the Maine State and Local Government Only State Plan.

**DATES:** Effective February 5, 2016. Initial approval of the Maine State Plan was granted on August 5, 2015.

#### FOR FURTHER INFORMATION CONTACT:

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

*For general and technical information:* Contact 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](mailto:kalinowski.doug@dol.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

On May 20, 2015, OSHA published a notice in the **Federal Register** (80 FR 28890) concerning the submission of the Maine State and Local Government Only State Plan, announcing that initial Federal approval of the Plan was at issue, and offering interested parties an opportunity to review the Plan and submit data, views, arguments or requests for a hearing concerning the Plan. No comments were received.

OSHA, after carefully reviewing the Maine State Plan for the development and enforcement of state standards applicable to state and local government employers and the record developed during the above described proceedings, determined that the requirements and criteria for initial approval of a developmental State Plan were met. The Plan was approved as a developmental State Plan for State and Local Government Only under Section 18 of the OSH Act on August 5, 2015. (80 FR 46487).

##### B. Notice of Publication of the Regulatory Description of the Maine State Plan

In light of the reorganization of the State Plan regulations through the streamlining of 29 CFR part 1952 and 29 CFR part 1956, OSHA deferred any change to those regulatory provisions relating to the Maine State Plan until the streamlining changes took effect. (80 FR 46487, 46492). These streamlining changes took effect October 19, 2015. (80 FR 49897, Aug. 18, 2015). Therefore OSHA is now amending 29 CFR part 1952 to incorporate the description of the Maine State Plan.

##### C. Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) that the initial approval of the Maine State Plan will not have a significant economic impact on a substantial number of small entities. By its own terms, the Plan will have no effect on private sector employment, but is limited to the state and its political subdivisions. Moreover, Title 26, Labor and Industry, of the Maine Revised Statutes was enacted in 1971. This legislation established the Board, whose purpose is to formulate rules that shall, at a minimum, conform with Federal standards of occupational

safety and health, so the state program could eventually be approved as a State and Local Government Only State Plan. Since 1971 the Maine program for public employers has been in operation under the Maine Department of Labor with state funding and all state and local government employers in the state have been subject to its terms. Compliance with state OSHA standards is required by state law; Federal approval of a State Plan imposes regulatory requirements only on the agency responsible for administering the State Plan. Accordingly, no new obligations would be placed on public sector employers as a result of Federal approval of the Plan.

#### D. Federalism

Executive Order 13132, “Federalism,” emphasizes consultation between Federal agencies and the states and establishes specific review procedures the Federal Government must follow as it carries out policies that affect state or local governments. OSHA has consulted extensively with Maine throughout the development, submission and consideration of its State Plan. Although OSHA has determined that the requirements and consultation procedures provided in Executive Order 13132 are not applicable to initial approval decisions under the OSH Act, which have no effect outside the particular state receiving the approval, OSHA has reviewed this final rule, and believes it is consistent with the principles and criteria set forth in the Executive Order.

#### E. Administrative Procedures

This **Federal Register** document is designated a “final rule.” That designation is necessary because OSHA publishes a description of every state plan in 29 CFR part 1952. Because they are set forth in the Code of Federal Regulations, these descriptions can be added or updated only by publishing a “final rule” document in the final rules section of the **Federal Register**. Such rules do not contain any new Federal regulatory requirements, but merely provide public information about the state plan.

Today’s action is solely a formalization of the initial approval of the Maine State Plan, which was granted on August 5, 2015 (80 FR 46487).

#### List of Subjects in 29 CFR Part 1952

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 notice. OSHA is issuing this notice under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor’s Order No. 1-2012 (77 FR 3912), and 29 CFR parts 1902 and 1956.

Signed in Washington, DC, on January 29, 2016.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

#### Amendments to Regulation

For the reasons set forth in the preamble of this final rule, 29 CFR part 1952 is amended as set forth below.

#### PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

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

**Authority:** 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).

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

- 2. Add § 1952.28 to read as follows:

##### § 1952.28 Maine.

(a) The Maine State Plan for State and local government employees received initial approval from the Assistant Secretary on August 5, 2015.

(b) The Plan further provides assurances of a fully trained, adequate staff within three years of plan approval, including 2 safety and 1 health compliance officers for enforcement inspections, and 3 safety and 1 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 <https://www.osha.gov/dcsp/osp/stateprogs/maine.html>.

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2016-0046]

#### Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, South Branch of the Elizabeth River, Portsmouth-Chesapeake, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Norfolk and Western railroad bridge (Norfolk Southern V6.8 Bridge) across the South Branch of the Elizabeth River, mile 3.6, at Portsmouth-Chesapeake, VA. The deviation is necessary to perform bridge maintenance and repairs. This deviation allows the bridge to remain in the closed-to-navigation position.

**DATES:** This deviation is effective from 7 a.m. on February 5, 2016 to 7 p.m. on February 7, 2016.

**ADDRESSES:** The docket for this deviation [USCG-2016-0046] is available at <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 deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Hal R. Pitts, Bridge Administration Branch Fifth District, Coast Guard, telephone 757-398-6222, email [Hal.R.Pitts@uscg.mil](mailto:Hal.R.Pitts@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Norfolk Southern Corporation, that owns and operates the Norfolk and Western railroad bridge (Norfolk Southern V6.8 Bridge), has requested a temporary deviation from the current operating regulations to install new festoon systems between the bridge towers. The bridge is a vertical lift draw bridge and has a vertical clearance in the closed position of 10 feet above mean high water.

The current operating schedule is set out in 33 CFR 117.997(b). Under this temporary deviation, the bridge will remain in the closed-to-navigation position from 7 a.m. to 7 p.m. from February 5, 2016 through February 7, 2016. During this temporary deviation, the bridge will operate per 33 CFR 117.997(b) from 7 p.m. to 7 a.m.

The South Branch of the Elizabeth River is used by a variety of vessels including deep draft ocean-going