

When staff identify an inmate as being at risk for suicide, staff will place the inmate on suicide watch. Based upon clinical findings, staff will either terminate the suicide watch when the inmate is no longer at imminent risk for suicide or arrange for the inmate's transfer to a medical referral center or contract health care facility.

#### **§ 552.41 Program procedures.**

(a) *Program Coordinator.* Each institution must have a Program Coordinator for the institution's suicide prevention program.

(b) *Training.* The Program Coordinator is responsible for ensuring that appropriate training is available to staff and to inmates selected as inmate observers.

(c) *Identification of at-risk inmates.*

(1) Medical staff are to screen a newly admitted inmate for signs that the inmate is at risk for suicide. Ordinarily, this screening is to take place within twenty-four hours of the inmate's admission to the institution.

(2) Staff (whether medical or non-medical) may make an identification at any time based upon the inmate's observed behavior.

(d) *Referral.* Staff who identify an inmate to be at risk for suicide will have the inmate placed on suicide watch.

(e) *Assessment.* A psychologist will clinically assess each inmate placed on suicide watch.

(f) *Intervention.* Upon completion of the clinical assessment, the Program Coordinator or designee will determine the appropriate intervention that best meets the needs of the inmate.

#### **§ 552.42 Suicide watch conditions.**

(a) *Housing.* Each institution must have one or more rooms designated specifically for housing an inmate on suicide watch. The designated room must allow staff to maintain adequate control of the inmate without compromising the ability to observe and protect the inmate.

(b) *Observation.* (1) Staff or trained inmate observers operating in scheduled shifts are responsible for keeping the inmate under constant observation.

(2) Only the Warden may authorize the use of inmate observers.

(3) Inmate observers are considered to be on an institution work assignment when they are on their scheduled shift.

(c) *Suicide watch log.* Observers are to document significant observed behavior in a log book.

(d) *Termination.* Based upon clinical findings, the Program Coordinator or designee will:

(1) Remove the inmate from suicide watch when the inmate is no longer at imminent risk for suicide, or

(2) Arrange for the inmate's transfer to a medical referral center or contract health care facility.

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## **DEPARTMENT OF LABOR**

### **Occupational Safety and Health Administration**

#### **29 CFR Part 1956**

[Docket No. T-034]

RIN 1218-AB98

#### **Notice of the Submission of the New Jersey State Plan for Public Employees Only; Proposal To Grant Initial State Plan Approval; Request for Public Comment and Opportunity To Request Public Hearing**

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

**ACTION:** Proposed rule: Initial State Plan approval; request for written comments; notice of opportunity to request informal public hearing.

**SUMMARY:** This document gives notice of the submission by the New Jersey Department of Labor of a State occupational safety and health plan, applicable only to public sector employment (employees of the State and its political subdivisions), for determination of initial approval under section 18 of the Occupational Safety and Health Act of 1970 (the "Act"). OSHA is seeking written public comment on whether or not initial State plan approval should be granted and offers an opportunity to interested persons to request an informal public hearing on the question of initial State plan approval.

Approval of the New Jersey Public Employee Only State plan will be contingent upon a determination that the plan meets OSHA's plan approval criteria and the availability of funding as contained in the Department of Labor's Fiscal Year 2001 budget, which is currently pending final Congressional and Executive action.

**DATES:** Written comments or requests for a hearing must be received by December 13, 2000.

**ADDRESSES:** Written comments or request for a hearing should be submitted in duplicate, to the Docket Officer, Docket T-034, U.S. Department of Labor, Room N2625, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693-2350. Comments

limited to 10 pages or fewer may also be transmitted by FAX to: (202) 693-1648, provided that the original and one copy of the comments are sent to the Docket Office immediately thereafter. Electronic comments may be submitted on the Internet at: <http://ecomments.osha.gov/>.

#### **FOR FURTHER INFORMATION CONTACT:**

Bonnie Friedman, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") 29 U.S.C. 667 provides that a State which desires to assume responsibility for the development and enforcement of standards relating to any occupational safety and health issue with respect to which a Federal standard has been promulgated may submit a State plan to the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") documenting in detail the proposed program. Regulations promulgated pursuant to the Act at 29 CFR part 1956 provide that a State may submit a State plan for the development and enforcement of occupational safety and health standards applicable only to employees of the State and its political subdivisions ("public employees"). Under these regulations the Assistant Secretary will approve a State plan for public employees if the plan provides for the development and enforcement of standards relating to hazards in employment covered by the plan which are or will be at least as effective in providing safe and healthful employment and places of employment for public employees as standards promulgated and enforced under section 6 of the Federal Act, giving due consideration to differences between public and private sector employment. In making this determination the Assistant Secretary will consider, among other things, the criteria and indices of effectiveness set forth in 29 CFR part 1956, Subpart B.

##### **B. New Jersey State Plan History**

In 1973, the New Jersey Department of Labor and Industry obtained OSHA approval of a State plan for the enforcement of occupational safety and health standards covering private sector workplaces as well as a program for

public employees in New Jersey. That plan was approved by the Assistant Secretary on January 22, 1973 (37 FR 2426); 29 CFR 1952.140 *et seq.*). That plan was subsequently withdrawn by the State of New Jersey effective June 30, 1975, after the State was unable to gain enactment of the necessary State OSHA legislation (40 FR 27655).

In 1984, the New Jersey State Legislature passed the New Jersey Public Employees Occupational Safety and Health (PEOSH) Act, which was signed into law by the Governor, and which provided the basis for establishing a comprehensive occupational safety and health program applicable to the public employees in the State.

The State formally submitted for Federal approval a plan applicable only to public employees in February 1988. OSHA's review findings were detailed in an October 1988 letter to then New Jersey Labor Commissioner Charles Serraino. OSHA determined that the New Jersey statute, as structured, and the proposed State plan presented several obstacles to meeting Federal State plan approval criteria.

A revised plan was submitted by the State on February 19, 1992. On March 27, 1992, in a letter to former New Jersey State Labor Commissioner Raymond L. Bramucci, OSHA informed the State of its latest findings, identifying areas of the proposed plan which needed to be addressed or needed clarification. Amended enabling legislation was signed into law by Governor Christine Todd Whitman on July 25, 1995, to conform the proposed State plan to OSHA requirements. On October 11, 1995, former New Jersey State Labor Commissioner Peter J. Calderone submitted a newly revised PEOSH State plan which OSHA determined was conceptually approvable as a developmental State plan, but which could not be approved until Congress appropriated additional Federal matching grant funds for a new State plan under section 23(g) of the OSHAct. On August 1, 2000, current New Jersey Commissioner of Labor, Mark B. Boyd, and Commissioner of Health and Senior Services, Christine Grant, submitted a further revised plan document, with final amendments submitted on September 1, 2000.

The Act provides for funding "up to 50%" of the State plan costs, but longstanding language in OSHA's appropriation legislation further provides that OSHA must fund " \* \* \* no less than 50% of the costs required to be incurred" by an approved State plan. The Department of Labor's Fiscal Year 2000 budget request included

additional section 23(g) grant funds to allow approval of the New Jersey State plan. However, the requested funds were not included in OSHA's final FY 2000 Congressional appropriation. The Department of Labor's Fiscal Year 2001 budget, which is pending final Congressional and Executive action, again requests funding to allow approval of the New Jersey State plan.

After an opportunity for public comment, and contingent upon the availability of additional section 23(g) grant funds, the Assistant Secretary of Labor will approve the New Jersey State plan if it is determined that the plan meets the criteria set forth in the Occupational Safety and Health Act of 1970 and applicable regulations at 29 CFR part 1956, Subpart B. The approval of a State plan for public employees in New Jersey is not a significant regulatory action as defined in Executive Order 12866.

### C. Description of the New Jersey State Plan

The plan designates the New Jersey Department of Labor as the State agency responsible for administering the plan throughout the State. The plan includes legislation, the Public Employees Occupational Safety and Health Act (the "State Act," N.J.S.A. 34:6A-25 *et seq.*), passed by the New Jersey legislature in 1995. Under that legislation, the New Jersey Commissioner of Labor has full authority to adopt standards and enforce and administer all laws and rules protecting the safety and health of employees of the State and its political subdivisions. The State Commissioner of Labor and the State Commissioner of Health and Senior Services are both responsible for conducting inspections within their jurisdictional areas. (Although health inspections will be conducted by the New Jersey State Department of Health and Senior Services, all enforcement actions will be initiated by the State Department of Labor.) New Jersey has adopted State standards identical to Federal occupational safety and health standards promulgated as of December 7, 1998, with differences only in its hazard communication and fire protection standards. The State plan includes a commitment to bring those standards into conformance with OSHA requirements and to update all standards within one year after plan approval. The State plan also provides that future OSHA standards and revisions will be adopted by the State in accordance with 29 CFR 1953.21. The plan also includes provisions for the granting to public employers of permanent and temporary variances

from State standards in terms substantially similar to the variance provisions contained in the Federal Act. The State provisions require employee notification of variance applications as well as employee rights to participate in hearings held on variance applications. Variances may not be granted unless it is established that adequate protection is afforded employees under the terms of the variance. Section 6A-35 of the State Act (N.J.S.A. 34) provides for inspections of covered workplaces including inspections in response to employee complaints. If a determination is made that an employee complaint does not warrant an inspection, the complainant will be notified, in writing, of such determination and afforded an opportunity to seek informal review of the determination. Additionally, section 6A-35 of the State Act provides the opportunity for employer and employee representatives to accompany an inspector during an inspection for the purpose of aiding in the inspection.

The plan provides for notification to employees of their protections and obligations under the plan by such means as a State poster, and required posting of notices of violation. Section 6A-45 of the State Act provides for protection of employees against discharge or discrimination resulting from exercise of their rights under the State Act in terms essentially identical to section 11(c) of the Federal Act. lieu of first-instance monetary penalties, the plan provides a scheme of enforcement for compelling compliance under which public employers are issued notices of violations and orders to comply, for any violation of standards and orders. Such notices must allow a reasonable abatement period. Public employers, employees and other affected parties may seek informal review of the notice of violation with the New Jersey Department of Labor, including the reasonableness of the abatement period, and/or may seek formal administrative review with the New Jersey Department of Labor's Occupational Safety and Health Review Commission. Judicial review of the decision of the Review Commission may be sought at the Appellate Division of the Superior Court. The PEOSH Act further mandates a system of monetary penalties as its primary enforcement mechanism for failures to comply with an Order of the Commissioner of Labor and willful violations pursuant to section 6A-41d. The prescribed penalty amounts are up

to \$7,000 per day for failure to abate violations and up to \$70,000 for willful violations. Such penalties are also subject to administrative review and subsequent judicial appeal.

The plan also includes provisions for right of entry for inspection, prohibition of advance notice of inspection and employers' obligations to maintain records and provide reports as required. 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. 29 CFR 1956.10(g) requires that State plans for public employees provide a sufficient number of adequately trained and qualified personnel necessary for the enforcement of standards. The compliance staffing requirements (or benchmarks) for State plans covering both the private and public sectors are established based on the "fully effective" test established in *AFL-CIO v. Marshall*, 570 F.2d 1030 (D.C. Cir., 1978). This staffing test, and the complicated formula used to derive benchmarks for complete private/public sector plans, is not intended, nor is it appropriate, for application to the staffing needs of public employee only plans. However, the State has given satisfactory assurance in its plan that it will meet the staffing requirements of 29 CFR 1956.10. The State has also given satisfactory assurances of adequate State matching funds to support the plan and is requesting initial Federal funding of \$1,771,000.

Although the State Act sets forth the general authority and scope for implementing the New Jersey Public Employees Occupational Safety and Health (PEOSH) Plan, the plan is developmental under the terms of 29 CFR 1956.2(b), in that specific rules and regulations must still be adopted to carry out the plan and make it fully operative. The plan sets forth a timetable for the accomplishment of these and other developmental goals. This timetable addresses such general areas as the development or revision of regulations governing enforcement, consultation, and variances. Other developmental aspects include hiring and training of staff, obtaining laboratory services, development of a Field Operations Manual and other implementing policies and procedures, and adoption of various forms, procedures, and instructions.

#### **D. Location of the Plan for Inspection and Copying**

A copy of the plan may be inspected and copied during normal business hours at the following locations:

Docket Office, Docket T-034, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N-2625, Washington, DC 20210; Office of the Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration, 201 Varick Street, Room 670, New York, New York 10014; New Jersey Department of Labor, Division of Public Safety and Occupational Safety and Health, Office of Public Employees' Safety, P.O. Box 386, 225 East State Street, 8th Floor West, Trenton, New Jersey 08625-0386.

#### **E. Request for Public Comment and Opportunity To Request Hearing**

Public comment on the New Jersey Public Employees Occupational Safety and Health (PEOSH) Plan is hereby requested. Interested persons are invited to submit written data, views, and comments with respect to this proposed initial State plan approval. These comments must be received on or before December 13, 2000 and submitted in duplicate to the Docket Officer, Docket No. T-034, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue NW., Washington, DC 20210. Written submissions must clearly identify the issues which are addressed and the positions taken with respect to each issue. Comments limited to 10 pages or fewer may also be transmitted by FAX to: (202) 693-1648, provided that the original and one copy of the comment are sent to the Docket Office immediately thereafter. Electronic comments may be submitted on the Internet at: <http://ecomments.osha.gov/>. The State of New Jersey will be afforded the opportunity to respond to each submission. The New Jersey Department of Labor must also publish appropriate notice within the State of New Jersey within 5 days of publication of this notice, announcing OSHA's proposal to approve a New Jersey State Plan for Public Employees Only, contingent on the availability of appropriated funds, and giving notice of the opportunity for public comment.

Pursuant to 29 CFR 1902.39(f), interested persons may request an informal hearing concerning the proposed initial State plan approval. Such requests also must be received on or before December 13, 2000 and should

be submitted in duplicate to the Docket Officer, Docket T-034, at the address noted above. Such requests must present particularized written objections to the proposed initial State plan approval. The Assistant Secretary will decide within 30 days of the last day for filing written views or comments and requests for a hearing whether the objections raised are substantial and, if so, will publish notice of the time and place of the scheduled hearing.

The Assistant Secretary will, within a reasonable time after the close of the comment period or after the certification of the record if a hearing is held, publish his decision in the **Federal Register**. All written and oral submissions, as well as other information gathered by OSHA, will be considered in any action taken. The record of this proceeding, including written comments and requests for hearing and all materials submitted in response to this notice and at any subsequent hearing, will be available for inspection and copying in the Docket Office, Room N-2625, at the previously mentioned address, between the hours of 8:15 a.m. and 4:45 p.m.

#### **F. Regulatory Flexibility Act**

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) that the proposed initial approval of the New Jersey 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, the New Jersey legislation has been in effect since 1984, when the State first established a safety and health program for State and local government employees. Since that time, the New Jersey program has been in operation with State funding and most public sector employers in the State, including small units of local government, 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.

#### **G. 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 which affect state or local governments. OSHA has consulted extensively with New Jersey throughout the development, submission and consideration of its proposed 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 Act, which have no effect outside the particular State receiving the approval, OSHA has reviewed the New Jersey initial approval decision proposed today, and believes it is consistent with the principles and criteria set forth in the Executive Order.

#### H. Authority

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under section 18 of the OSH Act (29 U.S.C. 667), 29 CFR part 1902, and Secretary of Labor's Order No. 3-2000 (65 FR 50017).

Signed at Washington, DC this 6th day of November 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00-28998 Filed 11-9-00; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[MI74-7282b; FRL-6896-4]

#### Approval and Promulgation of State Implementation Plans; Michigan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to adjust the applicability date for reinstating the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in Genesee, Bay, Midland, and Saginaw Counties, Michigan and is proposing on a determination that these areas have attained the 1-hour ozone NAAQS. This determination is based on 3 consecutive years of complete, quality-assured, ambient air monitoring data for the 1997-1999 ozone seasons that demonstrate that the areas have attained the ozone NAAQS. On the basis of this determination, EPA is also proposing that certain attainment demonstration

requirements, and certain related requirements of part D of subchapter I of the Clean Air Act (CAA), do not apply to Genesee, Bay, Midland, and Saginaw Counties.

EPA is also proposing to approve the State of Michigan's request to redesignate Genesee, Bay, Midland, and Saginaw Counties to attainment for the 1-hour ozone NAAQS. Michigan submitted the redesignation request for these areas on May 9, 2000. EPA is also proposing to approve the State's plan for maintaining the 1-hour ozone standard for the next 10 years as a revision to the Michigan State Implementation Plan (SIP).

In the final rules section of this **Federal Register**, EPA is approving the State's request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving and disapproving portions of the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this proposed rule within 30 days of this publication. Should EPA receive adverse comment, it will publish a document informing the public that the direct final rule will not take effect and that EPA will address adverse comments in a subsequent final rule based on this proposed rule. If EPA does not receive adverse comments, the direct final rule will take effect on the date stated in that document and EPA will not take further action on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

**DATES:** EPA must receive written comments by December 13, 2000.

**ADDRESSES:** Send written comments to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John Mooney at (312) 886-6043.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the rules section of this **Federal Register**. Copies of the documents relevant to this action are available for public inspection during normal business hours at the above address. (Please telephone John Mooney at (312) 886-6043 before visiting the Region 5 Office.)

**Authority:** 42 U.S.C. 7401-7671 *et seq.*

Dated: October 26, 2000.

**Francis X. Lyons,**

*Regional Administrator, Region 5.*

[FR Doc. 00-28806 Filed 11-9-00; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 32, 43 and 64

[CC Docket No. 00-199; FCC 00-364]

#### 2000 Biennial Regulatory Review—Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document the Commission is initiating Phase 2 and Phase 3 of the 2000 Biennial Regulatory Review—Comprehensive Accounting and ARMIS review. This Notice of Proposed Rulemaking (NPRM), will examine long-term changes need as new technologies impact the provision of telecommunications services and as local exchange markets become competitive.

**DATES:** Interested parties may file comments on the Phase 2 section of the NPRM on or before December 21, 2000, and reply comments on or before January 30, 2001; Phase 3 comments may be filed on or before January 30, 2001 and reply comments on or before February 28, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before January 12, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW, TW-A325, Washington, DC 20554. In addition to filing comments with the Office of the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov); and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to [Edward.Springer@omb.eop.gov](mailto:Edward.Springer@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Mika Savir, Accounting Safeguards