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## **DEPARTMENT OF LABOR**

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

**[Docket No. OSHA-T034-2006-0779]**

#### **New Jersey State Plan for State and Local Government Employees; Approval of Plan Supplements and Certification of Completion of Developmental Steps**

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

**ACTION:** Notice

**SUMMARY:** The New Jersey Department of Labor and Workforce Development (LWD) submitted timely documentation attesting to the completion of all structural and developmental aspects of its State Plan for State and Local Government Employees as approved by the Occupational Safety and Health Administration (OSHA). After extensive review of the submissions and opportunity for correction, Plan supplements constituting an updated and revised State Plan were submitted. OSHA is approving the revised State Plan, which documents the satisfactory completion of all structural and developmental aspects of New Jersey's approved State Plan, and certifying this completion. This certification attests to the fact that New Jersey now has in place those structural components necessary for an effective State Plan for State and Local Government Employees. (Enforcement of occupational safety and health standards with regard to private sector employers and employees in the State of New Jersey remains the responsibility of the U.S. Department of Labor, OSHA).

**DATES:** Effective Date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**

**FOR FURTHER INFORMATION CONTACT:** For general information and press inquiries, contact Frank Meilinger, Director, 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 technical inquiries, contact Douglas Kalinowski, Director, Directorate of Cooperative and State Programs, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-3700, Washington, DC 20210; telephone (202) 693-2244; email: [kalinowski.doug@dol.gov](mailto:kalinowski.doug@dol.gov). Electronic copies of this Federal Register notice, as well as all OSHA Federal Register notices mentioned in this document, are available on OSHA's web site at <http://www.osha.gov>.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Section 18 of the Occupational Safety and Health Act of 1970 (the “OSH Act,” [29 U.S.C. 667](#)) provides that a state which desires to assume responsibility for the development and enforcement of occupational safety and health standards may submit for OSHA review and approval a State Plan for such development and enforcement. Regulations at 29 CFR Part 1956 provide that a state may voluntarily submit a State Plan for the development and enforcement of occupational safety and health standards applicable only to employers and employees of the state and its political subdivisions. State and local government employers are excluded from federal OSHA coverage under section 3(5) of the OSH Act.

Under these regulations, the Assistant Secretary of Labor for Occupational Safety and Health (“Assistant Secretary”) may approve a State Plan for State and Local Government 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 by federal OSHA under section 6 of the OSH Act, giving due consideration to differences between public and private sector employment. Following initial approval, the state may begin enforcement of its safety and health standards in the public sector and receive up to 50 percent federal funding for the cost of Plan operations.

A State Plan for State and Local Government Employees may receive initial approval even though at the time of submission not all essential components of the Plan are in place. Pursuant to [29 CFR 1956.2\(b\)](#), the Assistant Secretary may initially approve the submission as a “developmental plan,” and a schedule within which the state must complete all “developmental steps” within a three year period is issued as part of the initial approval decision. 29 CFR part 1953 provides procedures for the review and approval of changes and progress in the development and implementation of the State Plan.

When the Assistant Secretary has reviewed and approved all developmental submissions and finds that the state has satisfactorily completed all developmental steps specified in the initial approval decision, a notice certifying such completion is published in the Federal Register (see [29 CFR 1956.23](#) and [1902.34](#)). Certification attests to the structural completeness of the Plan but does not render judgment as to the adequacy or effectiveness of state performance.

## **II. State Plan History**

In 1965, the Governor of the State of New Jersey issued Executive Order No. 20, establishing a safety and health program for state employees. In the early 1970s New Jersey developed a State Plan under the OSH Act. The Plan provided for a safety and health program which would cover

state and local government employees and all employees in the private sector in the state. In 1975, New Jersey was preempted in the safety and health field by the federal program because state legislation was not provided as required by the federal program. In 1984, the New Jersey Public Employees Occupational Safety and Health Act (PEOSH Act) was signed into law by Thomas H. Kean, Governor of the State of New Jersey. This act empowered the Department of Labor and Workforce Development, the Department of Health, and the Department of Community Affairs to inspect and enforce the PEOSH Act. Because the PEOSH Act, as structured, presented several obstacles to receive federal funding for a State and Local Government Employees Plan, a revision was signed into law by Governor Whitman in 1995.

The New Jersey State Plan for State and Local Government Employees is operated by the New Jersey Department of Labor and Workforce Development, Public Employees Occupational Safety and Health (PEOSH) Program. This limited scope State Plan was initially approved as a developmental plan under section 18 of the OSH Act, and 29 CFR part 1956, on January 11, 2001 (66 FR 2265). After the initial approval of the State Plan for State and Local Government Employees in 2001, New Jersey successfully submitted all of its developmental plan change supplements.

In July 2013, PEOSH submitted a completely revised State Plan which provided updated documentation on all its developmental steps, including those previously approved, for OSHA review and consideration. After extensive review of those documents and opportunity for state correction, New Jersey submitted further revisions in December 2013, May 2014, and July 2014.

### **III. Description of the Revised State Plan**

New Jersey submitted plan supplements constituting a revised State Plan document with subsequent revisions dated December 2013, May 2014 and July 2014. The revised State Plan

updates and documents all structural components of the New Jersey program. This includes a revised narrative description of the current program, legislation, administrative rules, standards, a compliance manual, and current copies of all key documents relating to New Jersey's State Plan for State and Local Government Employees. These documents are described below and are being approved in this notice.

A. The Plan Narrative and Appendices

The Plan designates the New Jersey Department of Labor and Workforce Development (LWD), through the Public Employees Occupational Safety and Health (PEOSH) program, as the state agency responsible for administering the Plan throughout the state. The New Jersey PEOSH Act, N.J.S.A. 34:6A-25 et seq., delegates certain responsibilities to the New Jersey Department of Health (DOH) in the implementation of the PEOSH Act. Major responsibilities delegated include: inspection, investigation, and related activities in occupational health and environmental control; medical and first aid; toxic and hazardous substances; respiratory protective equipment, and sanitation.

The Plan narrative provides a general overview of PEOSH's legal authority, standards and variances, regulations, enforcement policies and procedures (the "Field Operations Manual" or "FOM"), voluntary compliance activities (including consultative services and training and outreach programs), an occupational safety and health laboratory, personnel policies and procedures, recordkeeping and reporting requirements, budget, staffing and funding, all of which, together with the supporting documents contained in various appendices, have been determined to provide authority which is "at least as effective as" that of the OSH Act and to meet the criteria and indices for plan approval contained in 29 CFR part 1956.

The State Plan appendices contain a variety of state statutes and other documents related to the

PEOSH program and its authority, contest procedures, and personnel policies, including: N.J. PEOSH Act – N.J.S.A.34:6A-25 thru 34:6A-50; 1995 N.J. Laws Chapter 186 (amendments to PEOSH Act); 1995 N.J. Laws Chapter 186 – Governor’s Signature; Memorandum of Understanding (MOU) between LWD & DOH; N.J. Admin. Code Title 1, Chapter 30 – Rules for Agency Rulemaking; Administrative Procedures Act - N.J.S.A. 52:14B.

The appendices also contain the following regulations: Procedural Standards for N.J. State Plan – N.J.A.C.12:110; Safety & Health Standards for Public Employees – N.J.A.C.12:100; Standard for Hazard Communication – N.J.A.C.12:100 Chapter #7; Hazard Communication Alternative Std. Proposal; Hazard Communication Alternative Std. Adoption; Standards for Indoor Firing Ranges for Public Employees – N.J.A.C.12:100 Chapter 8; Standards for Firefighters – N.J.A.C.12:100 Chapter 10; Fire Brigade Std. Comparison; Indoor Air Quality Standard – N.J.A.C.12:100 Chapter 13; Review Commission Rules of Procedure – N.J.A.C.12:112; Discrimination against Employees – N.J.A.C.12:110 Chapter 7; Inspection Scheduling System; On-Site Consultations – N.J.A.C.12:110 Chapter 8.; Consultation Policies and Procedures Manual, Chapter 3, III; 5yr. Strategic Plan – 2014-2019; and Informational, Educational, & Training Materials.

#### B. Legislation

The Plan includes legislation, the New Jersey PEOSH Act – N.J.S.A.34:6A-25 thru 34:6A-50 as enacted in 1984 and amended in 1995 and 1997. Pursuant to this law, the State Plan provides coverage for all state and local government employment in New Jersey. The PEOSH Act defines covered employers as “public employer[s] and shall include any person acting directly on behalf of, or with the knowledge and ratification of: (1) the state, or any department, division, bureau, board, council, agency or authority of the state, except any bi-state agency; or (2) any county,

municipality, or any department, division, bureau, board, council, agency or authority of any county or municipality, or of any school district or special purposes district created pursuant to law.” [N.J.S.A.34:6A-27\(c\)](#). It defines covered employees as “any public employee, any person holding a position by appointment or employment in the service of an ‘employer’ as that term is used in this act and shall include any individual whose work has ceased as a consequence of, or in connection with, any administrative or judicial action instituted under this act; provided, however, that elected officials, members of boards and commissions and managerial executives as defined in the ‘New Jersey Employer-Employee Relations Act,’ P.L.1941, c. 100, C. 34:13A-1 et seq. shall be excluded from the coverage of this act.” [N.J.S.A.34:6A-27\(d\)](#). Thus, the PEOSH Act covers county, municipality, or any department, division, bureau, board, council, agency, or authority of any county or district created pursuant to law; and volunteer firefighters and emergency responders. The PEOSH Act contains authority for standards adoption, right of entry, inspections, citations, proposed penalties for failure-to-abate violations, worker rights, variances, non-discrimination, recordkeeping and voluntary compliance programs, etc. The PEOSH Act contains three provisions which differ substantially from the federal OSH Act.

1. Penalties. Section 34:6A-41(d) of the PEOSH Act establishes a penalty structure which provides for failure-to-abate penalties of up to \$7,000 per day for serious violations and other-than-serious violations. This authority, together with follow-up inspections and judicial enforcement, is the primary means of compelling the abatement of hazards by state and local government employers under the New Jersey State Plan.

2. Split Enforcement. Section 34:6A-35 of the PEOSH Act establishes enforcement by two departments: DOH, which conducts inspections under health regulations in the workplace; and LWD, which conducts inspections under safety regulations in the workplace; but it is LWD that

issues Order to Comply.

3. Advisory Board. Section 34:6A-28 of the PEOSH Act establishes the Public Employees Occupational Safety and Health Advisory Board (“Advisory Board”) consisting of several New Jersey department Commissioners and 18 members who represent state and local government employers and employees. The Advisory Board assists the Commissioner of Labor and Workforce Development (“Commissioner of Labor”) in establishing standards for the occupational safety and health of public employees and receives information regarding matters of concern to public employees in the areas of occupational safety and health.

#### C. Standards

The PEOSH Act, section 34:6A-30(a) mandates that the Commissioner of Labor adopt all applicable safety and health standards promulgated under the OSH Act, which are in effect on the effective date of the PEOSH Act (January 17, 1984). The New Jersey Plan has adopted all federal OSHA standards since the inception of the OSH Act (N.J.A.C. 12:100) with the exception of Subpart L – Fire Protection, 29 CFR 1910.155 and 1910.156 (N.J.A.C. 12:100-10), and the Hazard Communication Standard, 29 CFR 1910.1200 (N.J.A.C.12:100-7). The New Jersey Plan assures the incorporation of any subsequent revisions or additions to standards in a timely manner, including in response to federal OSHA emergency temporary standards. The procedure for adoption of federal OSHA standards is provided in the New Jersey State Administrative Procedures Act, which requires submission of the standard to the New Jersey Office of Administrative Law and publication of the standard in the New Jersey State Register. Permanent standards adopted by OSHA will be adopted by the Commissioner of Labor within six (6) months from the federal promulgation date ([N.J.A.C. 12:100-3A.1](#)).

Public Employees Occupational Safety and Health Advisory Board. Section 34:6A-28 of the

PEOSH Act establishes the Advisory Board consisting of the Commissioner of Education, the Commissioner of Health, the Commissioner of Environmental Protection, the Commissioner of Community Affairs, the State Treasurer, or their designees, and 18 members who represent state and local employers and employees, to be appointed by the governor. The Advisory Board has two primary functions: to assist the Commissioner of Labor in establishing standards for the occupational safety and health of public employees, and to receive information regarding matters of concern to public employees in the areas of occupational safety and health.

Under the Plan, the Commissioner of Labor, in consultation with the Commissioner of Health and the Commissioner of Community Affairs, and with the advice of the Advisory Board, on his/her own initiative, can propose additional or alternative occupational safety and health standards if no federal standards are applicable or where standards more stringent than the federal standards are deemed advisable ([N.J.S.A. 34:6A-30](#)). The Advisory Board can also, after public hearings, recommend such standards to the Commissioner of Labor. The State Plan provides for the development and consideration of expert technical information in the formulation of standards and allows interested persons to submit information requesting development or promulgation of any standard and to participate in any hearing for the development, modification or establishment of standards. In addition, the State Administrative Procedures Act requires public notice and comment for all proposed rules, and provides opportunity for public participation in related hearings. A notice of proposed rulemaking is published in the New Jersey Register. The notice shall invite comments from interested persons, and other such submissions, in accordance with N.J.A.C. 1:30-1, Rules for Agency Rulemaking. The Plan includes the state safety and health standards regulation, which codifies PEOSH's adoption by reference of all federal OSHA safety and health standards applicable to public

employees. New Jersey standards are identical to the federal standards with the following exceptions and additions. The state promulgated and retained N.J.A.C. 12:100 Subchapter 8 – Standard for Indoor Firing Ranges for Public Employees, N.J.A.C. 12:100 Subchapter 13 – Indoor Air Quality Standard and N.J.A.C. 12:100 Subchapter 10 – Standards for Firefighters. On May 3, 2004, New Jersey adopted a hazard communication standard with several additional provisions which are more stringent than OSHA's Hazard Communication Standard. These different or additional state requirements have been reviewed and determined to be “at least as effective” as the comparable federal standards.

#### D. Variances

Section 34:6A-39 of the PEOSH Act, the Administrative Procedure Act (N.J.S.A.52:14B-1 et seq.), and N.J.A.C. 12:110 subchapter 6 establish proceedings for the granting of permanent and temporary variances from state standards, which are equivalent to the federal requirements at 29 CFR part 1905. These provisions require employee notification of variance applications and provide for employee participation 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. Under the Plan, all variances granted have only future effect, and temporary variances are available only prior to the effective date of a standard. Temporary variances may not be renewed more than twice, and a renewal may not remain in effect longer than 180 days. The Commissioner of Labor may issue one interim order granting relief pending the hearing on permanent variance. The procedures allow for the modification or revocation of permanent variances at any time at least six months after issuance of the variance.

#### E. Employee Notice and Discrimination Protection

The Plan provides for notification to employees of their protections and obligations under the

Plan by such means as the “You Have the Right to a Safe and Healthful Workplace. It’s the Law!” poster (which is included in the Plan documents and also available electronically on the PEOSH web site) and required posting of notices of violations. Section 34:6A-45 of the PEOSH Act provides for protection of employees against discharge or discrimination resulting from exercise of their rights under the PEOSH Act in terms parallel to section 11(c) of the OSH Act. Complaints must be filed within 180 days after the alleged violation, and the complainant must be notified of the Commissioner of Labor’s determination within 90 days of the receipt of the complaint. If the Commissioner of Labor determines that the provisions of Section 34:6A-45 have been violated, an order for all appropriate relief, including rehiring or reinstatement of the employee to his/her former position with back pay and reasonable legal costs will be issued. The notice shall become the Commissioner of Labor's final determination, unless, within 15 days of receipt of the notice, the employer or employee requests a hearing before the Commissioner of Labor or his designee, in which case the Commissioner of Labor shall issue his final determination not more than 45 days after the hearing report is issued.

#### F. Inspections and Enforcement

The Commissioner of Labor and the Commissioner of Health are charged with making inspections in their jurisdictional areas as specified in the PEOSH Act (N.J.S.A.34:6A-30, 35). The Commissioners may call on the professional staff of other departments whenever they deem their assistance necessary. Inspection and enforcement policies and procedures provided in the Plan are established by the PEOSH Act, 34:6A-35, and the PEOSH FOM. Each Commissioner obtains the right of immediate entry at reasonable hours and without advance notice into any workplace to conduct such investigations as he/she may deem necessary. The authority of each Commissioner to inspect any premises for purposes of investigating an alleged violation under

his/her jurisdiction is not limited to the alleged violation but shall extend to any other area of the premises in which he/she has reason to believe that a violation of any provision of the PEOSH Act under his/her jurisdiction exists. The Commissioner of Health shall make his/her inspection records available to the Commissioner of Labor for purposes of enforcement. Any employee, group of employees or employee representative who believes that a violation of a safety standard exists, or that an imminent danger exists, may request an inspection by giving notice to the Commissioner of the violation or danger. Complaints must be filed in writing and signed. Upon the request of the person giving the notice, his/her name or the name of any employee representative giving the notice may be withheld. The appropriate Commissioner shall conduct an appropriate inspection at the earliest time possible. The Plan also includes a prohibition of advance notice of inspections, a mechanism for employees of the employer and their representatives to accompany the inspector during the physical inspections, and opening, informal, and closing conferences. If the Commissioner of Labor, or the Commissioner of Health, concludes that conditions or practices in violation exist in any workplace, the Commissioner of Labor shall, with reasonable promptness, and in no case more than six months after his/her determination or the receipt of the certificate or report, issue a written Order to Comply to the employer (N.J.S.A.34:6A-41(a)).

Significant differences between federal OSHA and PEOSH inspection, enforcement, and discrimination include the following:

1. Penalties. Section 34:6A-41(d) of the PEOSH Act establishes a penalty structure which provides for failure-to-abate penalties of up to \$7,000 per day for serious violations and other-than-serious violations. If the time for compliance with an Order of the Commissioner of Labor

elapses, and the employer has not made a good faith effort to comply, the Commissioner of Labor shall issue a second Order to Comply imposing a civil administrative penalty of up to \$7,000 per day for each violation not abated. If the employer contests the proposed daily penalties, a follow-up inspection shall still be scheduled. If an Order and daily penalties are not to be proposed because of an employer's flagrant disregard of an Order, the Director of PEOSH shall immediately contact the Commissioner of Labor, in writing, detailing the circumstances so that the matter can be referred to the State Attorney General's Office for issuance of a restraining order. Procedures for follow-up inspections are established in the PEOSH FOM Chapter 7, Section XII.

2. Whistleblower (Discrimination). The period fixed in the Plan for filing eligible complaints is 180 days, and the procedure in the Plan for enforcing merit determinations is through Orders to Comply (N.J.S.A 34:6A-45).

#### G. Compliance Manual

The PEOSH FOM, first issued in April 2009, replaces the New Jersey Field Inspection Reference Manual (FIRM) and is available to the public on the LWD website. The New Jersey compliance manual parallels federal OSHA's revised Field Operations Manual, CPL 02-00-150, and incorporates other policies parallel to federal compliance directives and unique state requirements. The PEOSH FOM provides guidance to PEOSH compliance staff concerning general staff responsibilities, pre-inspection procedures (including inspection scheduling and priorities, complaints and other unprogrammed inspections and inspection preparation), inspection procedures (including conduct of the inspection, opening conference, closing conference, physical examination of the workplace, follow-up inspections, fatality/catastrophe investigations, imminent danger investigations, and construction inspections), inspection

documentation (including types of violations, violations of the general duty clause, writing citations, and grouping/combining violations), post-inspection procedures (including abatement, citations, penalties, and post-citation processes), discrimination investigation procedures (set forth in more detail in the PEOSH Whistleblower (Discrimination) Investigations Manual, which parallels the relevant portions of federal OSHA's Whistleblower Investigations Manual, CPL 02-03-003), and disclosure of information under the New Jersey Open Public Records Act (N.J.S.A. 47:1A-et seq.). New Jersey also uses and has adopted the OSHA Technical Manual (TED 01-00-015), which replaced the former Industrial Hygiene Manual, as guidance for its staff.

#### H. Review Procedures

Section 34:6A-42 of the PEOSH Act establishes an Occupational Safety and Health Review Commission ("Review Commission") within LWD to hear appeals regarding Orders to Comply and penalties.

Under the Plan, both public employers and employees may seek formal administrative review of LWD citations and penalties, as well as the reasonableness of the abatement period, before the Review Commission (N.J.S.A. Sections 34:6A-36, 41 and N.J.A.C. 12:110-4.13). The notice of contest must be filed with the Commissioner of Labor within 15 working days of the issuance of an Order to Comply. The Commissioner of Labor must immediately advise the Review Commission of the notification, and the Review Commission will afford an opportunity for a hearing. After hearing an appeal, the Review Commission may sustain, modify or dismiss an Order or penalty, and the Review Commission's decision shall become final 45 days after its issuance (N.J.S.A. 34:6A-42).

#### I. Judicial Review

Appeals from decisions of the Review Commission are to the Appellate Division of the Superior Court (N.J.S.A. 34:6A-43).

#### J. Budget and Personnel

The Plan includes the FY 2015 grant application under section 23(g) of the OSH Act, which includes a current organizational chart and detailed information on staffing and funding. The state has given satisfactory assurances of adequate funding to support the Plan. In FY 2015, the State Plan was funded at \$1,921,400 in federal section 23(g) funds, \$1,921,400 in matching state funds, and \$911,664 in 100% state funds, for a total federal and state contribution of \$4,754,464. The state has given satisfactory assurance (New Jersey State Plan, p.156) that it will meet the staffing requirements of 29 CFR 1956.10. OSHA considers PEOSH's current staffing and funding levels to be adequate and appropriate.

#### K. Records and Reports

The Plan provides that state and local government employers in New Jersey will maintain appropriate records and make timely reports on occupational injuries and illnesses in a manner substantially identical to and “at least as effective as” that required for private sector employers under federal OSHA. New Jersey participates and has assured that it will continue its participation in the Bureau of Labor Statistics Annual Survey of Injuries and Illnesses in the public sector. The Plan also contains assurances that the Commissioner of Labor will provide reports to OSHA in such form as the Assistant Secretary may require and that New Jersey will continue to participate in the OSHA Information System (OIS). The state adopted federal OSHA’s revision of its recordkeeping rules (29 CFR part 1904; [66 FR 5916-6135](#)), January 19, 2001, as well as OSHA’s New Reporting Requirements (January 2015).

#### L. Voluntary Compliance Programs

The state and local government employee consultation program makes available both safety consultants and industrial hygienists to state and local government employers who request such service for the purpose of apprising them of existing hazards and the best means of abatement. The PEOSH consultation program generally follows OSHA's Consultation Policies and Procedures Manual, CSP 02-00-002. The consultation program also provides outreach and training in support of PEOSH's activities. Under the Plan, training is provided to state and local government employers and employees, and seminars are conducted to familiarize affected individuals with applicable safety and health standards and requirements and safe work practices. PEOSH has a variety of public information programs to disseminate information and publications on important safety and health concerns. Policies and procedures for outreach programs, including training, educational and informational services, as well as voluntary compliance programs, are described in the Consultation Policies and Procedures Manual.

#### **IV. Completion of Developmental Steps**

With the approval of the revised State Plan in today's action, all developmental steps specified in the January 11, 2001 notice of initial approval of the New Jersey State Plan for State and Local Government Employees, and other relevant steps, have been successfully completed and approved as follows:

A. In accordance with New Jersey development step (a), the State of New Jersey has promulgated standards identical to all federal OSHA standards with the exception of Subpart L – Fire Protection and the Hazard Communication Standard (both include provisions which are more stringent than federal OSHA's). New Jersey has also established state standards on issues for which no federal standards are applicable. The state standards are the Indoor Firing Ranges for Public Employees Standard, and the Indoor Air Quality Standard. These four state-specific

standards are approved by the Assistant Secretary in today's notice.

B. In accordance with New Jersey development step (b), New Jersey has promulgated regulations for inspections, citations, and abatement equivalent to 29 CFR part 1903, as supplemented by the PEOSH Act and the PEOSH FOM, all of which are approved by the Assistant Secretary in today's notice.

C. In accordance with New Jersey development step (c), New Jersey has developed a five-year strategic plan which is approved in today's notice.

D. In accordance with New Jersey development step (d), the state has developed a Field Operations Manual which parallels the OSHA Field Operations Manual, CPL 02-00-150, and incorporates other federal compliance policy directives and unique state requirements. The state's Field Operations Manual is approved in today's notice.

E. In accordance with New Jersey development step (e), the state has implemented a state and local government employer/employee consultation, training, and education program equivalent to 29 CFR part 1908 which is approved in today's notice.

F. In accordance with New Jersey development step (f), the state developed and adopted employee non-discrimination procedures equivalent to 29 CFR Part 1977 which are approved in today's notice.

G. In accordance with New Jersey development step (g), the State Plan promulgated regulations for granting variances equivalent to 29 CFR part 1905 which are approved in today's notice.

H. In accordance with New Jersey development step (h), the state has promulgated regulations regarding recordkeeping equivalent to 29 CFR 1904, including the new recordkeeping rule, revised on January 1, 2015, which are approved in today's notice.

## **V. Decision**

#### A. Approval of Plan Supplements

After careful review, opportunity for state correction, and subsequent revision, the plan supplements constituting a revised New Jersey State Plan for State and Local Government Employees and its components described above are found to be in substantial conformance with comparable federal provisions and the requirements of 29 CFR part 1956 and are hereby approved under 29 CFR part 1953 as providing a revised State Plan for the development and enforcement of standards which is “at least as effective as” the federal program, as required by section 18 of the OSH Act and 29 CFR part 1956. The right to reconsider this approval of the revised State Plan supplements is reserved should substantial objections or other information become available to the Assistant Secretary regarding any components of the Plan changes.

#### B. Certification

With the approval of a revised State Plan as noted above, all developmental steps have now been successfully completed, documented, and approved. In accordance with [29 CFR 1956.23](#), the New Jersey State Plan for State and Local Government Employees is certified as having successfully completed all developmental steps. This certification attests to the structural completeness of the State Plan and that it has all the necessary authorities and procedures to provide “at least as effective” standards, enforcement, and compliance assistance to the employees of the State of New Jersey and its political subdivisions. This action renders no judgment as to the effectiveness of the State Plan in actual operations.

### **VI. Location of Basic State Plan Documentation**

Copies of the revised New Jersey State Plan for State and Local Government Employees are available on the State Plan's website or upon request. Contact the Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration, 201 Varick Street, Room

670, New York, New York 10014; or the New Jersey Public Employee Occupational Safety and Health Program, 1 John Fitch Plaza, PO Box 386, Trenton, NJ 08625-0386.

Components of the New Jersey State Plan, including the Field Operation Manual, recordkeeping regulations and instructions, complaint forms, and other program information are posted on the New Jersey Department of Labor & Workforce Development, Public Employee Occupational Safety and Health web site at: <http://www.state.nj.us/health/peosh/>.

The PEOSH Act is administered by two departments: the New Jersey Department of Health enforces health regulations in the workplace; and the New Jersey Department of Labor & Workforce Development enforces safety regulations in the workplace. To obtain information, visit the NJDLWD PEOSH Program web site at:

[http://lwd.dol.state.nj.us/labor/lsse/safetyhealth\\_index.html](http://lwd.dol.state.nj.us/labor/lsse/safetyhealth_index.html) or call (609) 633-3896.

Information on PEOSH laws and regulations can be found on the New Jersey web site at:

[http://lwd.dol.state.nj.us/labor/lsse/laws/peosha\\_law.html](http://lwd.dol.state.nj.us/labor/lsse/laws/peosha_law.html).

Information on the New Jersey Department of Labor and Workforce Development, Office of Administrative Law and Review Commission can be found on the New Jersey Labor and Workforce Development web site at: <http://lwd.dol.state.nj.us/>. The state Administrative Procedures Act can be found on the Governor's web site at: <http://www.nj.gov/governor/>.

Electronic copies of this Federal Register notice and the related press release are available on OSHA's web site at: <http://www.osha.gov>. More information on the New Jersey State Plan can be found on OSHA's Office of State Programs web site at:

[http://www.osha.gov/dcsp/osp/stateprogs/new\\_jersey.html](http://www.osha.gov/dcsp/osp/stateprogs/new_jersey.html).

### **Authority and Signature**

This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant

Secretary of Labor for Occupational Safety and Health. It is issued under section 18 of the Occupational Safety and Health Act of 1970, 84 Stat. 1608 ([29 U.S.C. 667](#)); 29 CFR part 1956; and Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012).

Signed in Washington, DC, on January 19, 2016.

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David Michaels,  
Assistant Secretary of Labor for Occupational Safety and Health.

**BILLING CODE:** 4510-26-P

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