

(1) Game name, rules, and options such as the purchase or wager amount stated clearly and unambiguously;

(2) Denomination;

(3) Instructions for play on, and use of, the player interface, including the functions of all buttons; and

(4) A prize schedule or other explanation, sufficient to allow a player to determine the correctness of all prizes awarded, including:

(i) The range and values obtainable for any variable prize;

(ii) Whether the value of a prize depends on the purchase or wager amount; and

(iii) The means of division of any pari-mutuel prizes; but

(iv) For Class II Gaming Systems, the prize schedule or other explanation need not state that subsets of winning patterns are not awarded as additional prizes (for example, five in a row does not also pay three in a row or four in a row), unless there are exceptions, which must be clearly stated.

(b) *Disclaimers.* The Player Interface must continually display:

(1) "Malfunctions void all prizes and plays" or equivalent; and

(2) "Actual Prizes Determined by Bingo (or other applicable Class II game) Play. Other Displays for Entertainment Only" or equivalent.

(c) *Odds notification.* If the odds of winning any advertised top prize exceeds 100 million to one, the Player Interface must display: "Odds of winning the advertised top prize exceeds 100 million to one" or equivalent.

§ 547.17 How does a TGRA apply to implement an alternate minimum standard to those required by this part?

(a) *TGRA approval.* (1) A TGRA may approve an alternate standard from those required by this part if it has determined that the alternate standard will achieve a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace. A gaming operation may implement an alternate standard upon TGRA approval subject to the Chair's decision pursuant to paragraph (b) of this section.

(2) For each enumerated standard for which the TGRA approves an alternate standard, it must submit to the Chair within 30 days a detailed report, which must include the following:

(i) An explanation of how the alternate standard achieves a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace; and

(ii) The alternate standard as approved and the record on which the approval is based.

(3) In the event that the TGRA or the tribe's government chooses to submit an alternate standard request directly to the Chair for joint government to government review, the TGRA or tribal government may do so without the approval requirement set forth in paragraph (a)(1) of this section.

(b) *Chair review.* (1) The Chair may approve or object to an alternate standard approved by a TGRA.

(2) If the Chair approves the alternate standard, the Tribe may continue to use it as authorized by the TGRA.

(3) If the Chair objects to the alternate standard, the operation may no longer use the alternate standard and must follow the relevant technical standard set forth in this part.

(4) Any objection by the Chair must be in written form with an explanation why the alternate standard as approved by the TGRA does not provide a level of security or integrity sufficient to accomplish the purpose of the standard it is to replace.

(5) If the Chair fails to approve or object in writing within 60 days after the date of receipt of a complete submission, the alternate standard is considered approved by the Chair. The Chair may, upon notification to the TGRA, extend this deadline an additional 60 days.

(c) *Appeal of Chair decision.* A TGRA may appeal the Chair's decision pursuant to 25 CFR chapter III, subchapter H.

Dated: September 14, 2012, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Commissioner.

[FR Doc. 2012-23161 Filed 9-20-12; 8:45 am]

BILLING CODE 7565-01-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket ID. OSHA 2012-0029]

RIN 1218-AC78

Hawaii State Plan for Occupational Safety and Health

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

ACTION: Final rule.

SUMMARY: This document announces the Occupational Safety and Health

Administration's (OSHA) decision to modify the Hawaii State Plan's "final approval" determination under Section 18(e) of the Occupational Safety and Health Act (the Act) and to transition to "initial approval" status. OSHA is reinstating concurrent federal enforcement authority over occupational safety and health issues in the private sector, which have been solely covered by the Hawaii State Plan since 1984.

DATES: Effective September 21, 2012.

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

Hawaii administers an OSHA-approved state plan to develop and enforce occupational safety and health standards for public and private sector employers, pursuant to the provisions of Section 18 of the Act. The Hawaii State Plan received initial federal OSHA plan approval on December 28, 1973 (39 FR 1010) and the Hawaii Occupational Safety and Health Division (HIOSH) of the Hawaii Department of Labor and Industrial Relations is designated as the state agency responsible for administering the state plan. Pursuant to Section 18(e) of the Act, OSHA granted Hawaii "final approval" effective April 30, 1984 (49 FR 19182). Final approval under Section 18(e) requires, among other things, a finding by the Assistant Secretary that the plan, in actual operation, provides worker protection "at least as effective as" that provided by federal OSHA. A final approval determination results in the relinquishment of federal concurrent enforcement authority in the state with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e).

During the past three years, the Hawaii State Plan has faced major budgetary and staffing restraints that have significantly affected its program. Impacts on the state plan are clearly reflected throughout OSHA's recent monitoring reports. Joint efforts were made by federal OSHA and HIOSH to

address these issues, yet Hawaii continues to face severe programmatic, staffing and training challenges. Therefore, the Hawaii Director of Labor and Industrial Relations has requested a temporary modification of the state plan's approval status from final approval to initial approval, to permit exercise of supplemental federal enforcement activity and to allow Hawaii sufficient time and assistance to strengthen its state plan. Hawaii has pledged to accomplish the necessary corrective action to regain final approval status in a timely manner. Hawaii's proactive efforts demonstrate a commitment to ensuring that workers are afforded adequate protection during this period of program strengthening and improvement.

Pursuant to the procedures set forth at 29 CFR 1902.47 *et seq.*, OSHA published notice of its reconsideration of Hawaii's 18(e) determination; proposed resumption of concurrent federal enforcement authority; and a request for written comments and opportunity to request an informal hearing on July 19, 2012 (77 FR 42462). That notice also contains a more detailed description of the Hawaii State Plan and the identified deficiencies. The 35-day comment period closed on August 23, 2012 and OSHA received four (4) written comments, including two (2) requests for a hearing.

Decision

Pursuant to the procedures set forth in 29 CFR 1902.47 *et seq.*, the Assistant Secretary for Occupational Safety and Health has made a final decision to modify the Hawaii State Plan's approval status from 18(e) final approval to initial approval, and to reinstate concurrent federal enforcement authority over occupational safety and health issues in the state, pending the necessary corrective action by the state plan in order to once again meet the criteria for an 18(e) final approval determination. Concurrent federal enforcement authority will be exercised in Hawaii effective September 21, 2012.

The Assistant Secretary's decision is based upon the facts determined by OSHA in monitoring the Hawaii State Plan and HIOSH's request for enforcement assistance, and was reached after opportunity for public comment. Three organizations and one individual filed a comment with the agency within the public comment period. Comments were received from the Hawaii Business League, Veterans of Safety Hawaii Chapter, Island Insurance Company, Ltd., and Dr. Walter Chun. OSHA has reviewed and considered the comments, and the following discussion

addresses the comments and OSHA's responses.

The Hawaii Business League stated a strong preference for Hawaii to maintain a state plan and voiced favorable support for a transition to initial approval as means to progress towards restoration of Hawaii's 18(e) final approval status. Island Insurance Company, Ltd. and Dr. Walter Chun raised concerns about how HIOSH allows for greater penalty reductions than federal OSHA, and about whether fines/penalties will be part of the criteria for the Hawaii State Plan to regain its 18(e) final approval status. Pursuant to 29 CFR 1902.42(a), "[i]n making an affirmative 18(e) determination, the Assistant Secretary determines that a State has applied the provisions of its plan, or any modification thereof, in accordance with the criteria of Section 18(c) of the Act and that the State has applied the provisions of this part in a manner which renders the actual operations of the state program 'at least as effective as' operations under the Federal program." One of the criteria in Section 18(c) of the Act is the development and enforcement of safety and health standards, and penalties are an essential component of effective safety and health enforcement in the workplace. Therefore, Hawaii's overall penalty policy would be evaluated in the course of regaining 18(e) final approval status.

In response to Dr. Walter Chun's further questions, the addendum referenced in the Operational Status Agreement (OSA) will not be available for public comment. The addendum is an internal working document between the Director of the Hawaii Department of Labor and Industrial Relations and OSHA's Regional Administrator for Region IX, outlining the plan of action and milestones for the Hawaii State Plan to work towards regaining 18(e) final approval status. During the period of concurrent state and federal authority, both Hawaii and federal OSHA have authority to conduct inspections and issue citations. However, the terms of the OSA will delineate areas of coverage to ensure employers are not burdened with duplicative enforcement efforts. Federal OSHA compliance officers will be conducting inspections, in accordance with the terms of the OSA, and issuing citations and penalties under federal standards. OSHA is not aware that any changes in the state's rules or regulations are necessary to accommodate concurrent jurisdiction.

Dr. Walter Chun and Veterans of Safety Hawaii Chapter both requested an informal public hearing, to address the public's questions and comments.

The public comments and questions submitted on the docket have all been addressed in this notice and there are no substantial issues raised that necessitate a public hearing.

Effect of the Decision

The Assistant Secretary's decision to modify the Hawaii State Plan's status from final to initial approval would authorize OSHA to carry on an enforcement program to supplement that of HIOSH, including independent federal or joint state and federal inspections resulting in issuance of appropriate federal citations. However, modifying Hawaii's final approval status would not affect Hawaii's basic plan approval and would not affect Hawaii's legal authority to enforce state occupational safety and health standards in the state's workplaces. This modification would leave Hawaii's federally-approved state plan completely in place, and would simply reinstate federal OSHA's authority to supplement state enforcement during this difficult period.

Federal OSHA inspections or joint state and federal OSHA inspections may result in the issuance of appropriate federal citations and penalties. Federal OSHA compliance officers may issue citations effective immediately. Contested federal citations and penalties will be reviewed by the Federal Occupational Safety and Health Review Commission (OSHRC). Federal OSHA will continue to exercise federal authority over safety and health issues excluded from coverage under the state plan; monitoring inspections including accompanied visits; and other federal authority not affected by the 1984 final approval decision.

Notice of the Operational Status Agreement

Federal OSHA will exercise its enforcement authority according to the terms of the 2012 OSA between OSHA and HIOSH, which specifies the respective areas of federal and state authority. OSHA will continue to exercise federal enforcement of federal requirements for safety and health in private sector maritime activities, 29 CFR part 1915 and parts 1917–1920, as well as provisions of the general industry and construction standards appropriate to hazards found in those employments. Federal jurisdiction also remains in effect over: Federal government employers and workers, and contractors or subcontractors on any federal establishment where the land is determined to be exclusive federal jurisdiction; private sector employers within the secured borders of

all military installations where access is controlled; and U.S. Postal Service (USPS), including USPS workers, and contract workers and contractor-operated facilities engaged in USPS mail operations. OSHA will also exercise authority over OSHA requirements promulgated under the Act subsequent to the OSA where necessary to protect employers, as in the case of emergency temporary standards promulgated under Section 6(c) of the Act, until Hawaii has promulgated comparable standards.

The OSA further provides that federal enforcement authority under Section 18 of the Act may be exercised with regard to federal occupational safety and health requirements over agriculture and general industries, excluding transportation and warehousing. Potential violations where the employer is in compliance with federal regulations, but not with more stringent HIOSH regulations, shall be referred to HIOSH.

HIOSH will retain enforcement authority in any case commenced before September 21, 2012. Additionally, HIOSH will exercise inspection and enforcement authority over: The construction industry, transportation and warehousing; state and local government as an employer; and referrals from federal OSHA to HIOSH.

The OSA also provides that HIOSH and federal OSHA will retain concurrent enforcement authority over employment discrimination complaints, pursuant to Section 11(c) of the Act. Employees may continue to file occupational safety and health whistleblower complaints with federal OSHA, the state, or both. However, the OSA provides that, in accordance with OSHA's long-standing policy, OSHA will generally continue to refer all employment discrimination complaints that are federally-filed by private-sector and non-federal public sector employees to HIOSH for investigation, a determination on the merits, and the pursuit of a remedy, if appropriate. The OSA explains that federal OSHA will investigate any allegations of retaliation covered under the OSHA-administered whistleblower laws other than Section 11(c).

If there arises any case or circumstance in which authority is not clearly defined in the OSA, OSHA and HIOSH will resolve the issue. In the meantime, (e.g., where quick response is required such as a fatality, catastrophe or significant event), OSHA shall respond to the situation.

Federal OSHA may conduct monitoring visits under Section 18(f) of the OSH Act. The OSA also provides that OSHA may also accompany HIOSH

on enforcement activities for purposes of technical assistance and training. And HIOSH may accompany federal OSHA on enforcement activities for training purposes. The OSA is subject to revision or termination by mutual agreement of the parties, by either party upon 30 days written notice, or when the results of evaluation or monitoring reveal that state operations are at least as effective as the federal program and responsibilities may be returned to the state. Finally, the OSA includes an Addendum with goals and milestones for returning all enforcement responsibilities to Hawaii.

Regulatory Flexibility Analysis and Unfunded Mandates

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (as amended), OSHA examined the regulatory requirements of the 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 final rule will not have a significant economic impact on a substantial number of small entities. OSHA also reviewed this final rule in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) and Executive Order 12875 (56 FR 58093). Because this rule imposes no new compliance obligations, it requires no additional expenditures by either private employers or State, local, and tribal governments.

Federalism

Executive Order 13132, "Federalism," (64 FR 43255, August 10, 1999) 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 Hawaii about this modification of its approval status. Although OSHA has determined that the requirements and consultation procedures provided in Executive Order 13132 are not applicable to approval decisions under the Act, which have no effect outside the particular State, OSHA has reviewed this final rule, and believes it is consistent with the principles and criteria set forth in the Executive Order.

Why the Immediate Effective Date

OSHA finds that good cause exists for making this rule effective immediately upon publication in the **Federal Register**. The current situation in the

state indicates the immediate need for supplementary federal occupational safety and health enforcement activity for the protection of workers in Hawaii. In addition, today's action does not impose any new compliance obligations on affected employers since standards enforced under the Hawaii State Plan are either identical to federal standards, or more stringent.

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 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 1-2012 (77 FR 3912), and 29 CFR part 1905.

Signed in Washington, DC, on September 18, 2012.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Accordingly, for the reasons set forth in the preamble, 29 CFR part 1952 is amended as set forth below.

PART 1952—[AMENDED]

■ 1. 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).

Subpart Y—Hawaii

■ 2. Remove and reserve § 1952.313, to read as follows:

§ 1952.313 [Reserved]

■ 3. Revise § 1952.314 to read as follows:

§ 1952.314 Level of Federal enforcement.

(a) With Hawaii's agreement and as a result of the Assistant Secretary's reinstatement of Hawaii's initial approval status, Hawaii and Federal OSHA will begin exercising concurrent jurisdiction under section 18(e) of the Act on September 21, 2012.

(b) To provide a workable division of enforcement responsibilities, Hawaii and Federal OSHA have entered into an operational status agreement. Notice of this agreement was provided in the **Federal Register** on September 21, 2012.

Electronic copies of the agreement are available at: <http://www.osha.gov/dcspl/osp/stateprogs/hawaii.html>.

[FR Doc. 2012-23366 Filed 9-20-12; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2012-0862]

Drawbridge Operation Regulation; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Broadway Bridge across the Willamette River, mile 11.7, at Portland, OR. This deviation is necessary to accommodate the running of the Portland Marathon. This deviation allows the bridge to remain in the down or closed position during the marathon.

DATES: This deviation is effective from 7:30 a.m. October 7, 2012 through 3 p.m. October 7, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG-2012-0862 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0862 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 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 the Bridge Administrator, Coast Guard Thirteenth District; telephone 206-220-7282, email randall.d.overton@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Multnomah County has requested that the Broadway Bascule Bridge remain closed to vessel traffic to facilitate safe, uninterrupted roadway passage of participants of the Portland Marathon. The Broadway Bridge crosses the Willamette River at mile 11.7 and

provides 90 feet of vertical clearance above Columbia River Datum 0.0 while in the closed position. Vessels which do not require a bridge opening may continue to transit beneath the bridge during this closure period. Under normal conditions this bridge operates in accordance with 33 CFR 117.897 which allows for the bridge to remain closed between 7 a.m. and 9 a.m. and 4 p.m. and 6 p.m. Monday through Friday and also requires advance notification when a bridge opening is needed. This deviation period is from 7:30 a.m. October 7, 2012 through 3 p.m. October 7, 2012. The deviation allows the bascule span of the Broadway Bridge across the Willamette River, mile 11.7, to remain in the closed position and need not open for maritime traffic from 7:30 a.m. October 7, 2012 through 3 p.m. October 7, 2012. The bridge shall operate in accordance to 33 CFR 117.897 at all other times. Waterway usage on this stretch of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridge's operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The draw span will be required to open, if needed, for vessels engaged in emergency response operations during this closure period.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 7, 2012.

Randall D. Overton,
Bridge Administrator.

[FR Doc. 2012-23291 Filed 9-20-12; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2012-0808]

Drawbridge Operation Regulation; Old River, Orwood, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating regulation that governs the Burlington Northern & Santa Fe Railroad (BNSF)

Drawbridge across Old River, mile 10.4, at Orwood, CA. The deviation is to allow the bridge owner to perform essential mechanical repairs on the bridge. This deviation allows the bridge to remain in the closed-to-navigation position during the event.

DATES: This deviation is effective from 8 a.m. October 22, 2012 to 4 p.m. on October 26, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of the docket USCG-2012-0808 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0808 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 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 David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510-437-3516, email David.H.Sulouff@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: BNSF has requested a temporary change to the operation of the BNSF Railroad Drawbridge, mile 10.4, over Old River, at Orwood, CA. The drawbridge navigation span provides a vertical clearance of 11.2 feet above Mean High Water in the closed-to-navigation position. The draw opens promptly and fully when a request to open is given. Navigation on the waterway is commercial and recreational.

This temporary deviation has been coordinated with commercial operators and various marinas. No objections to the proposed temporary deviation were raised. Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time. The BNSF drawbridge across Middle River provides alternative access for vessel transits.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.