§ 1952.10 Requirements for approval of State posters.

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

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

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

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

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

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

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

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

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

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

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

(vii) Sanctions;

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

(ix) The right to file complaints with the Occupational Safety and Health
Occupational Safety and Health Admin., Labor § 1952.11

§ 1952.11 State and local government employee programs.

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

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

(1) Coverage. The program must cover all public employees over which the State has legislative authority under its constitution. "To the extent permitted by its law," specifically recognizes the situation where local governments exclusively control their own employees, such as under certain "home rule" charters.

(2) Standards. The program must be as effective as the standards contained in the approved plan applicable to private employers. Thus, the same criteria and indices of standards effectiveness contained in §§1902.2(c) and 1902.4 (a) and (b) of this chapter would apply to the public employee program. Where hazards are unique to public employment, all appropriate indices of effectiveness, such as those dealing with temporary emergency standards, development of standards, employee information, variances, and protective equipment, would be applicable to standards for such hazards.

(3) Enforcement. Although section 18(c)(6) of the Act requires State public employee programs to be "as effective as standards" contained in the State plan, minimum enforcement elements are required to ensure an "effective and comprehensive" public employee program as follows: (See notice of approval of the North Carolina Plan, 38 FR 3041).

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

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

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

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

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

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

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

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

(ix) A means of establishing time-tables for the correction of violations;

(x) A program for encouraging voluntary compliance; and

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

[39 FR 39036, Nov. 5, 1974]