§ 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.

(b) Actions taken by the Assistant Secretary with respect to such application for a variance, such as interim orders, with respect thereto, the granting, denying, or issuing any modification or extension thereof, will be deemed prospectively an authoritative interpretation of the employer or employers’ compliance obligations with regard to the State standard, or portion thereof, identical to the Federal standard, or portion thereof, affected by the action in the employment or places of employment covered by the application.

(c) Nothing herein shall affect the option of an employer or employers seeking a temporary or permanent variance with applicability to employment or places of employment in more than one State to apply for such variance either to the Assistant Secretary or the individual State agencies involved. However, the filing with, as well as granting, denial, modification, or revocation of a variance request or interim order by, either authority (Federal or State) shall preclude any further substantive consideration of such application on the same material facts for the same employment or place of employment by the other authority.

(d) Nothing herein shall affect either Federal or State authority and obligations to cite for noncompliance with standards in employment or places of employment where no interim order, variance, or modification or extension thereof, granted under State or Federal law applies, or to cite for noncompliance with such Federal or State variance action.

(40 FR 25450, June 16, 1975)

29 CFR Ch. XVII (7–1–12 Edition)

§ 1902.10 Requirements for approval of State posters.

(b) Actions taken by the Assistant Secretary with respect to such application for a variance, such as interim orders, with respect thereto, the granting, denying, or issuing any modification or extension thereof, will be deemed prospectively an authoritative interpretation of the employer or employers’ compliance obligations with regard to the State standard, or portion thereof, identical to the Federal standard, or portion thereof, affected by the action in the employment or places of employment covered by the application.

(c) Nothing herein shall affect the option of an employer or employers seeking a temporary or permanent variance with applicability to employment or places of employment in more than one State to apply for such variance either to the Assistant Secretary or the individual State agencies involved. However, the filing with, as well as granting, denial, modification, or revocation of a variance request or interim order by, either authority (Federal or State) shall preclude any further substantive consideration of such application on the same material facts for the same employment or place of employment by the other authority.

(d) Nothing herein shall affect either Federal or State authority and obligations to cite for noncompliance with standards in employment or places of employment where no interim order, variance, or modification or extension thereof, granted under State or Federal law applies, or to cite for noncompliance with such Federal or State variance action.

(40 FR 25450, June 16, 1975)
Occupational Safety and Health Admin., Labor § 1952.11

Administration about State program administration:

(x) A list of the issues as defined in § 1902.2(c) of this chapter which will not be covered by State plan;

(xi) The address of the Regional Office of the Occupational Safety and Health Administration; and

(xii) Such additional employee protection provisions and obligations under State law as may have been included in the approved State plan.

(b) Posting of the State poster shall be recognized as compliance with the posting requirements in section 8(c)(1) of the Act and § 1903.2 of this chapter, provided that the poster has been approved in accordance with subpart B of part 1953. Continued Federal recognition of the State poster is also subject to pertinent findings of effectiveness with regard to the State program under 29 CFR part 1954.

[39 FR 39036, Nov. 5, 1974]

§ 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 the 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 §§ 1902.3(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.