

**FOR FURTHER INFORMATION CONTACT:** Catherine Livingston Fernandez at (202) 622-4606 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations that are the subject of these corrections are under sections 401(a)(30), 401(k), 401(m), 402(a)(8), 402(g), 411(d)(6), 415(c), 416 and 4979 of the Internal Revenue Code.

**Need for Correction**

As published, TD 8581 contains typographical errors that are in need of correction.

**Correction of Publication**

Accordingly, the publication of the final regulations which is the subject of FR Doc. 94-31427, is corrected as follows:

1. On page 66165, column 2, in the preamble following the paragraph heading "1. *Coordination With Regulations Under Sections 401(a)(4), 401(a)(17), 410(b), and 414(s)*", paragraph 2, line 10, the section "410(k)" is corrected to read "401(k)".

**§ 1.401(k)-1 [Corrected]**

2. On page 66173, column 2, § 1.401(k)-1, paragraph (f)(3)(iii)(C), line 11, the regulations section "§ 410(b)-7(c)" is corrected to read "§ 1.410(b)-7(c)".

**§ 1.401(m)-1 [Corrected]**

3. On page 66178, column 1, § 1.401(m)-1, paragraph (e)(6), *Example 3.*, third line from the bottom of the paragraph, the language "in compensation). Since Plan X satisfies the" is corrected to read "in compensation. Since Plan X satisfies the".

Cynthia E. Grigsby,  
Chief, Regulations Unit, Assistant Chief  
Counsel (Corporate).

[FR Doc. 95-5552 Filed 3-6-95; 8:45 am]

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**DEPARTMENT OF LABOR**

**Occupational Safety and Health  
Administration**

**29 CFR Part 1952**

**North Carolina State Plan; Suspension  
of Limited Concurrent Federal  
Enforcement**

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

**ACTION:** Final rule; notice of suspension  
of concurrent Federal enforcement.

**SUMMARY:** This document announces OSHA's suspension of its exercise of concurrent Federal enforcement authority in North Carolina. Federal enforcement authority will be exercised only with regard to those issues not covered by the State plan and in specific areas defined in this document under "Level of Federal Enforcement."

**EFFECTIVE DATE:** March 7, 1995.

**FOR FURTHER INFORMATION CONTACT:** Richard Liblong, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 219-8148.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Section 18 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 667, provides that States which wish to assume responsibility for developing and enforcing their own occupational safety and health standards, may do so by submitting, and obtaining Federal approval of, a State plan. State plan approval occurs in stages which include initial approval under section 18(b) of the Act and, ultimately, final approval under section 18(e). In the interim, between initial approval and final approval, there is a period of concurrent Federal/State jurisdiction within a State operating an approved plan. See 29 CFR 1954.3 for guidelines and procedures.

The North Carolina Occupational Safety and Health Plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and part 1902 of this chapter on January 26, 1973 (38 FR 3041), and certified by OSHA as having completed all of its developmental steps on October 5, 1976 (41 FR 43896). On February 20, 1975, OSHA and the State of North Carolina entered into an Operational Status Agreement which suspended the exercise of Federal concurrent enforcement authority in all except specifically identified areas. (See 40 FR 16843).

On September 3, 1991, a tragic fire occurred at the Imperial Food Products chicken processing plant in Hamlet, North Carolina, which resulted in the deaths of 25 workers. In response to that event OSHA understood a comprehensive reevaluation of the performance of the North Carolina State Plan and a special evaluation of all other State Plans. On October 24, 1991 (56 FR 55192) OSHA reasserted concurrent Federal enforcement jurisdiction in North Carolina with

respect to all currently pending and new complaints of discrimination filed either with OSHA or the State; all complaints of unsafe or unhealthful working conditions brought to OSHA's attention on or after October 24, 1991 by employees or referred by others; and referrals from the North Carolina Governor's 800 "Safety Line". This action was responsive to the State's request for assistance. Upon further request, on March 31, 1992, (57 FR 10820) OSHA extended its jurisdiction to include all as yet uninvestigated workplace complaints filed with the State as of March 20, 1992.

Congressional oversight hearings were held on the Hamlet fire and the AFL-CIO, on September 11, 1991, petitioned the Assistant Secretary to withdraw approval of the North Carolina State Plan. (See September 30, 1991, 56 FR 49444, Request for Public Comment and January 16, 1992, 57 FR 1889, extension of the comment period and announcement of the availability of a Special Evaluation report on North Carolina.) On January 7, 1992, OSHA issued a Special Evaluation report on North Carolina finding significant deficiencies and giving the State 90 days to take corrective action. On April 23, 1992, OSHA determined that the State's response to the Special Evaluation findings was insufficient and gave North Carolina 45 days to show cause why plan withdrawal action should not be initiated. Fully satisfactory assurances the necessary corrective action would be undertaken were received in June 1992.

Since that date, North Carolina has made substantive and significant modifications to its program. Major modifications were made to the State's occupational safety and health program enabling legislation; State funding and staffing were increased. The State now has the inspection resources necessary to provide effective worker protection in the State and has addressed all of the deficiencies identified as a result of OSHA's 1991 Special Evaluation Report. The State increased its allocated enforcement staff to 115 (64 safety and 51 health) and trained its new compliance officers in accord with the schedule outlined in the State's June 1992 corrective action commitments. (On-board compliance staffing totals 104—61 safety and 43 health as of February 1, 1995.) North Carolina resumed responsibility for all discrimination complaints effective July 1, 1992, as a result of enactment of legislation creating the Workplace Retaliatory Discrimination (WORD) Division, selection and training of dedicated staff, and revision of its discrimination manual to be comparable

to OSHA's. The State has no appreciable backlog of workplace complaints and is conducting programmed inspection. These and other actions have also resolved all issues raised in the AFL-CIO's petition for withdrawal of approval of the North Carolina State Plan.

OSHA has issued three evaluation reports on North Carolina's performance since the Special Evaluation. All have documented continuing improvement and indicate that the program is now operating in a more than acceptable manner with an outstanding commitment to necessary enforcement as well as creative outreach and other voluntary compliance activities.

As a result of these actions, OSHA was prepared to suspend its exercise of concurrent Federal jurisdiction in North Carolina by mid-1994. However, two initiatives that the State had undertaken were brought to OSHA's attention as potential problems—the conditions attendant to the establishment of a joint Ergonomics Center with North Carolina State University; and an amendment to State law establishing a two-step contest procedure as a means of expediting review of contested cases and achieving more timely abatement of hazards. Both of these issues have now been resolved. The ergonomics program has been revised to eliminate any possibility or perception that inspection or citation exemption could result from employer participation in the Ergonomics Center program. The informal conference procedures have been revised through an internal operating procedure and a proposed regulation to specify that any informal conference resulting from the contest process must be held within 20 days.

#### B. Decision

Based on the foregoing, OSHA has determined that the exercise of concurrent Federal enforcement jurisdiction is no longer warranted, and it is hereby suspended. Federal enforcement authority will be exercised only with regard to those issues not covered by the State and in specific areas defined in the following modification to 29 CFR 1952.155 "Level of Federal Enforcement."

OSHA has similarly determined that no further action is necessary or appropriate with regard to the AFL-CIO petition for North Carolina plan withdrawal. This does not preclude the resubmission of a petition at any time on substantive issues of State Plan structure or performance.

#### List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Accordingly, 29 CFR 1952.155 is amended as set forth below.

Signed in Washington, DC, this 28th day of February 1995.

Joseph A. Dear,  
*Assistant Secretary.*

#### PART 1952—[AMENDED]

1. The authority citation for 29 CFR part 1952 continues 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. 1-90 (55 FR 9033).

2. Section 1952.155 of part 1952, subpart I—North Carolina is revised to read as follows:

#### Subpart I—North Carolina

##### § 1952.155 Level of Federal enforcement.

Pursuant to § 1902.20(b)(1)(iii), discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR part 1910, 29 CFR part 1926, and 29 CFR part 1928. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); enforcement with respect to private sector maritime activities, including enforcement of all provisions of the Act, rules or orders and all Federal standards, current or future, applicable to private sector maritime employment including 29 CFR part 1915, shipyard employment (including boat building establishments in SIC 3732 located on the navigable waters and all establishments in SIC 3731); 29 CFR part 1917, marine terminals; 29 CFR part 1918, longshoring (including all private sector and Federal sector marine cargo handling establishments or operations in SIC 4491 located within the State of North Carolina), 29 CFR part 1919, gear certification; all marinas in SIC 4493 located on the navigable waters; enforcement of marine construction activities on the navigable waters which are not directly accessible by land; and, enforcement of general industry and construction standards (29 CFR parts 1910 and 1926) appropriate to hazards found in these employments, which issues have been specifically excluded from coverage in the North Carolina plan; the enforcement of

occupational safety and health standards on Indian reservations; enforcement relating to any contractors or subcontractors on any Federal establishment where the land has been ceded to the Federal Government; enforcement on military bases; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; enforcement in situations where the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of this notice; and investigations for the purpose of the evaluation of the North Carolina plan under sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in North Carolina.

[FR Doc. 95-5504 Filed 3-6-95; 8:45 am]

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#### 29 CFR Part 1952

##### Approved State Plans for Enforcement of State Standards; Approval of Supplements to the Hawaii State Plan

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Approval of supplements to the Hawaii State Plan.

**SUMMARY:** This document gives notice of Federal approval of supplements to the Hawaii State occupational safety and health plan. These supplements are: regulations concerning the Division of Occupational Safety and Health's Access to Employee Medical Records; changes to previously approved regulations covering the Labor and Industrial Relations Appeals, Board, General Provisions and Definitions, Recording and Reporting Occupational Injuries and Illnesses, Inspections, Citations, and Proposed Penalties, and Variances; an amendment to the Hawaii Occupational Safety and Health Law enacted in 1987; the Hawaii Consultation Policies and Procedures Manual; and the Hawaii Occupational