

## § 1952.385

(k) In accordance with 29 CFR 1952.383(j), Puerto Rico submitted its employer/employee training schedule on March 11, 1980, and on February 13, 1981, submitted an updated training schedule.

(l) In accordance with 29 CFR 1952.383(k), Puerto Rico submitted its public information program for the government sector on March 13, 1980.

(m) In accordance with 29 CFR 1952.383(l), Puerto Rico submitted its analysis for inspection scheduling in the government sector on August 13, 1980.

(n) In accordance with 29 CFR 1952.383(m), Puerto Rico implemented its public employee program in October 1978.

(o) In accordance with 29 CFR 1952.383(n), Puerto Rico submitted its on-site consultation regulations on March 30, 1979.

(p) In accordance with 29 CFR 1952.383(o), Puerto Rico submitted a State plan supplement on its industrial hygiene laboratory on July 14, 1980.

(q) In accordance with 29 CFR 1952.383(q), Puerto Rico submitted its procedures for a boiler and elevator inspection program on November 28, 1979. Based on OSHA recommendations, Puerto Rico submitted a revision to this supplement deleting the boiler and elevator inspection program from the State plan on November 14, 1980.

(r) In accordance with 29 CFR 1952.383(r), Puerto Rico submitted documentation of staffing levels for the on-site consultation program and the industrial hygiene laboratory on March 3, 1980. Based on OSHA recommendations, Puerto Rico deleted staffing for the boiler and elevator inspection program from its State plan on November 14, 1980.

[44 FR 41429, July 17, 1979, as amended at 47 FR 25329, June 11, 1982]

### § 1952.385 Changes to approved plans.

(a) *The Voluntary Protection Programs.* On December 30, 1993, the Assistant Secretary approved Puerto Rico's plan supplement, which is generally identical to the Federal Voluntary Protection Program with the exception of changes to reflect different structure and exclusion of the Demonstration Program.

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(b) *Legislation.* (1) On March 29, 1994, the Assistant Secretary approved Puerto Rico's revised statutory penalty levels which are the same as the revised Federal penalty levels contained in section 17 of the Act as amended on November 5, 1990.

(2) [Reserved]

[59 FR 2995, Jan. 14, 1994, as amended at 59 FR 14556, Mar. 29, 1994]

## PART 1953—CHANGES TO STATE PLANS

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AUTHORITY: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 3-2000 (65 FR 50017, August 16, 2000).

SOURCE: 67 FR 60125, Sept. 25, 2002, unless otherwise noted.

### § 1953.1 Purpose and scope.

(a) This part implements the provisions of section 18 of the Occupational Safety and Health Act of 1970 ("OSH Act" or the "Act") which provides for State plans for the development and enforcement of State occupational safety and health standards. These plans must meet the criteria in section 18(c) of the Act, and part 1902 of this chapter (for plans covering both private sector and State and local government employers) or part 1956 of this chapter (for plans covering only State and local government employers), either at the time of submission or—where the plan is developmental—within the three year period immediately following commencement of the plan's operation. Approval of a State plan is based on a finding that the State has, or will have, a program, pursuant to appropriate State law, for the adoption and enforcement of State standards that is "at least as effective" as the Federal program.

(b) When submitting plans, the States provide assurances that they will continue to meet the requirements in section 18(c) of the Act and part 1902

or part 1956 of this chapter for a program that is "at least as effective" as the Federal. Such assurances are a fundamental basis for approval of plans. (See §1902.3 and §1956.2 of this chapter.) From time to time after initial plan approval, States will need to make changes to their plans. This part establishes procedures for submission and review of State plan supplements documenting those changes that are necessary to fulfill the State's assurances, the requirements of the Act, and part 1902 or part 1956 of this chapter.

(c) Changes to a plan may be initiated in several ways. In the case of a developmental plan, changes are required to document establishment of those necessary structural program components that were not in place at the time of plan approval. These commitments are included in a developmental schedule approved as part of the initial plan. These "developmental changes" must be completed within the three year period immediately following the commencement of operations under the plan. Another circumstance requiring subsequent changes to a State plan would be the need to keep pace with changes to the Federal program, or "Federal Program Changes." A third situation would be when changes are required as a result of the continuing evaluation of the State program. Such changes are called "evaluation changes." Finally, changes to a State program's safety and health requirements or procedures initiated by the State without a Federal parallel could have an impact on the effectiveness of the State program. Such changes are called "State-initiated changes." While requirements for submission of a plan supplement to OSHA differ depending on the type of change, all supplements are processed in accordance with the procedures in §1953.6.

#### § 1953.2 Definitions.

(a) *OSHA* means the Assistant Secretary of Labor for Occupational Safety and Health, or any representative authorized to perform any of the functions discussed in this part, as set out in implementing Instructions.

(b) *State* means an authorized representative of the agency designated to administer a State plan under §1902.3(b) of this chapter.

(c) *Plan change* means any modification made by a State to its approved occupational safety and health State plan which has an impact on the plan's effectiveness.

(d) *Plan supplement* means all documents necessary to accomplish, implement, describe and evaluate the effectiveness of a change to a State plan which differs from the parallel Federal legislation, regulation, policy or procedure. (This would include a copy of the complete legislation, regulation, policy or procedure adopted; an identification of each of the differences; and an explanation of how each provision is at least as effective as the comparable Federal provision.)

(e) *Identical plan change* means one in which the State adopts the same program provisions and documentation as the Federal program with the only differences being those modifications necessary to reflect a State's unique structure (e.g., organizational responsibility within a State and corresponding titles or internal State numbering system). *Different plan change* means one in which the State adopts program provisions and documentation that are not identical as defined in this paragraph.

(g) *Developmental change* is a change made to a State plan which documents the completion of a program component which was not fully developed at the time of initial plan approval.

(h) *Federal program change* is a change made to a State plan when OSHA determines that an alteration in the Federal program could render a State program less effective than OSHA's if it is not similarly modified.

(i) *Evaluation change* is a change made to a State plan when evaluations of a State program show that some substantive aspect of a State plan has an adverse impact on the implementation of the State's program and needs revision.

(j) *State-initiated change* is a change made to a State plan which is undertaken at a State's option and is not necessitated by Federal requirements.