

§ 1955.4

appropriate where a State fails to adopt, without good cause shown, Federal standards within a separable issue, such as occupational health.

[40 FR 23467, May 30, 1975, as amended at 67 FR 60129, Sept. 25, 2002]

§ 1955.4 Effect of withdrawal of approval.

(a) After receipt of notice of withdrawal of approval of a State plan, such plan, or any part thereof, shall cease to be in effect and the provisions of the Federal Act shall apply within that State. But the State, in accordance with section 18(f) of the Act, may retain jurisdiction in any case commenced before receipt of the notice of withdrawal of approval of the plan, in order to enforce standards under the plan, whenever the issues involved in the case or cases pending do not relate to the reasons for withdrawal of the plan.

(b) Such notice of withdrawal of approval shall operate constructively as notice of termination of all related grants authorized under section 23(g) of the Act in accordance with 29 CFR 1951.25(c).

§ 1955.5 Petitions for withdrawal of approval.

(a) At any time following the initial approval of a State plan under section 18(c) of the Act, any interested person may petition the Assistant Secretary in writing to initiate proceedings for withdrawal of approval of the plan under section 18(f) of the Act and this part. The petition shall contain a statement of the grounds for initiating a withdrawal proceeding, including facts to support the petition.

(b)(1) The Assistant Secretary may request the petitioner for additional facts and may take such other actions as are considered appropriate such as:

(i) Publishing the petition for public comment;

(ii) Holding informal discussion on the issues raised by the petition with the State and other persons affected; or

(iii) Holding an informal hearing in accordance with § 1902.13 of this chapter.

(2) Any such petition shall be considered and acted upon within a reasonable time. Prompt notice shall be given

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of the denial in whole or in part of any petition and the notice shall be accompanied by a brief statement of the grounds for the denial. A denial of a petition does not preclude future action on those issues or any other issues raised regarding a State plan.

Subpart B—Notice of Formal Proceeding

§ 1955.10 Publication of notice of formal proceeding.

(a) The Assistant Secretary, prior to any notice of a formal proceeding under this subpart, shall by letter, provide the State with an opportunity to show cause within 45 days why a proceeding should not be instituted for withdrawal of approval of a plan or any portion thereof. When a State fails to show cause why a formal proceeding for withdrawal of approval should not be instituted, the State shall be deemed to have waived its right to a formal proceeding under paragraph (b) of this section and the Assistant Secretary shall cause to be published in the FEDERAL REGISTER a notice of withdrawal of approval of the State plan.

(b)(1) Whenever the Assistant Secretary, on the basis of a petition under § 1955.5 or on his own initiative, determines that approval of a State plan or any portion thereof should be withdrawn, and the State has not waived its right under § 1955.3(b) or paragraph (a) of this section to a formal proceeding, he shall publish a notice of proposed withdrawal in the FEDERAL REGISTER as set out in § 1955.11 and cause such notice, in the form of a complaint, to be served on the State in accordance with § 1955.15.

(2) Not later than 5 days following the publication of the notice in the FEDERAL REGISTER, the State agency shall publish, or cause to be published, within the State reasonable notice containing a summary of the information in the Federal notice, as well as the location or locations where a copy of the full notice is available for inspection and public copying.

(3) Two copies of such notice shall be served on the Assistant Secretary in accordance with § 1955.15.