providing safe and healthful employment and places of employment within the State. In making this determination, the Assistant Secretary may consider such information which he deems appropriate for an informed decision.

(c) If the Assistant Secretary makes an affirmative 18(e) determination, the Federal enforcement provisions of sections 5(a) (2), 8 (except for the purposes of continuing evaluations under section 18(f) of the Act), 9, 10, 13 and 17 and standards promulgated under section 6 of the Act shall not apply with respect to those occupational safety and health issues covered under the plan which have been given an affirmative 18(e) determination. However, the Assistant Secretary may retain jurisdiction over proceedings commenced under sections 9, 10 and 13 of the Act before the date of his determination. In addition, the Assistant Secretary shall retain his jurisdiction under the anti-discrimination provisions of section 11(c) of the Act.

(d) If the Assistant Secretary determines that a State plan, or any portion thereof, has not met the criteria for an 18(e) determination, he shall retain his authority under the enforcement provisions of sections 5(a) (2), 8, 9, 10, 13, and 17 and his standards authority under section 6 of the Act in the issues found ineligible for an 18(e) determination. In addition, his decision may result in the commencement of proceedings for withdrawal of approval of the plan, or any separable portion thereof, under 29 CFR part 1955.

(e) Once a State's plan, or any modification thereof, has been given an affirmative 18(e) determination, the State is required to maintain a program which will meet the requirements of section 18 (c) and will continue to be ''at least as effective as'' the Federal program operations in the issues covered by the determination. As the Federal program changes and thereby becomes more effective, the State is correspondingly required to adjust its program at a level which would provide a program for workplace safety and health which would be ''at least as effective as'' the improvements in the Federal program. A failure to comply with this requirement may result in the revocation of the affirmative 18(e) determination and the resumption of Federal enforcement and standards authority and/or in the commencement of proceedings for the withdrawal of approval of the plan, or any portion thereof, pursuant to 29 CFR part 1955.

(f) The Assistant Secretary may reconsider and, if necessary, rescind or revoke all or a separable portion of an affirmative 18(e) determination and reinstate concurrent Federal enforcement authority if he finds that a State does not maintain its commitment to provide a program for employee safety and health protection meeting the requirements of section 18(c) of the Act. This authority is designed to be used in instances where operations under a State program are found to be less effective than under the Federal program because of unusual circumstances which are temporary in nature. The Assistant Secretary may also use this procedure to reinstate Federal enforcement authority in conjunction with plan withdrawal proceedings in order to ensure that there is no serious gap in his commitment to assure safe and healthful working conditions so far as possible for every employee.

COMPLETION OF DEVELOPMENTAL STEPS—CERTIFICATION

§ 1902.33 Developmental period.

Upon the commencement of plan operations after the initial approval of a State's plan by the Assistant Secretary, a State has three years in which to complete all of the developmental steps specified in the plan as approved. Section 1953.4 of this chapter sets forth the procedures for the submission and consideration of developmental changes by OSHA. Generally, whenever a State completes a developmental step, it must submit the resulting plan change as a supplement to its plan to OSHA for approval. OSHA's approval of such changes is then published in the FEDERAL REGISTER and the pertinent subparts of part 1952 of this chapter are amended to reflect the completion of a developmental step.

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