

(2) Upon approval of these agreements, the Assistant Secretary shall cause to be published in the FEDERAL REGISTER, notice of the operational status of each approved State plan.

(3) Where subsequent changes in the level of Federal enforcement are made, similar FEDERAL REGISTER notices shall be published.

[39 FR 22126, June 20, 1974, as amended at 39 FR 29182, Aug. 14, 1974; 39 FR 39036, Nov. 5, 1974; 40 FR 25450, June 16, 1975; 67 FR 60129, Sept. 25, 2002]

### Subpart B—State Monitoring Reports and Visits to State Agencies

#### § 1954.10 Reports from the States.

(a) In addition to any other reports required by the Assistant Secretary under sections 18(c)(8) and 18(f) of the Act and §1902.3(1) of this chapter, the State shall submit quarterly and annual reports as part of the evaluation and monitoring of State programs.<sup>1</sup>

(b) Each State with an approved State plan shall submit to the appropriate Regional Office an annual occupational safety and health report in the form and detail provided for in the report and the instructions contained therein.

(c) Each State with an approved State plan shall submit to the appropriate Regional Office a quarterly occupational safety and health compliance and standards activity report in the form and detail provided for in the report and the instructions contained therein.

#### § 1954.11 Visits to State agencies.

As a part of the continuing monitoring and evaluation process, the Assistant Secretary or his representative shall conduct visits to the designated agency or agencies of State with approved plans at least every 6 months. An opportunity may also be provided for discussion and comments on the effectiveness of the State plan from other interested persons. These visits will be scheduled as needed. Periodic

<sup>1</sup>Such quarterly and annual reports forms may be obtained from the Office of the Assistant Regional Director in whose Region the State is located.

audits will be conducted to assess the progress of the overall State program in meeting the goal of becoming at least as effective as the Federal program. These audits will include case file review and follow-up inspections of workplaces.

### Subpart C—Complaints About State Program Administration (CASPA)

#### § 1954.20 Complaints about State program administration.

(a) Any interested person or representative of such person or groups of persons may submit a complaint concerning the operation or administration of any aspect of a State plan. The complaint may be submitted orally or in writing to the Assistant Regional Director for Occupational Safety and Health (hereinafter referred to as the Assistant Regional Director) or his representative in the Region where the State is located.

(b) Any such complaint should describe the grounds for the complaint and specify the aspect or aspects of the administration or operation of the plan which is believed to be inadequate. A pattern of delays in processing cases, of inadequate workplace inspections, or the granting of variances without regard to the specifications in the State plans, are examples.

(c)(1) If upon receipt of the complaint, the Assistant Regional Director determines that there are reasonable grounds to believe that an investigation should be made, he shall cause such investigation, including any workplace inspection, to be made as soon as practicable.

(2) In determining whether an investigation shall be conducted and in determining the timing of such investigation, the Assistant Regional Director shall consider such factors as:

(i) The extent to which the complaint affects any substantial number of persons;

(ii) The number of complaints received on the same or similar issues and whether the complaints relate to safety and health conditions at a particular establishment;

(iii) Whether the complainant has exhausted applicable State remedies; and

## § 1954.21

(iv) The extent to which the subject matter of the complaint is pertinent to the effectuation of Federal policy.

### § 1954.21 Processing and investigating a complaint.

(a) Upon receipt of a complaint about State program administration, the Assistant Regional Director will acknowledge its receipt and may forward a copy of the complaint to the designee under the State plan and to such other person as may be necessary to complete the investigation. The complainant's name and the names of other complainants mentioned therein will be deleted from the complaint and the names shall not appear in any record published, released or made available.

(b) In conducting the investigation, the Assistant Regional Director may obtain such supporting information as is appropriate to the complaint. Sources for this additional information may include "spot-check" follow-up inspections of workplaces, review of the relevant State files, and discussion with members of the public, employers, employees and the State.

(c) On the basis of the information obtained through the investigation, the Assistant Regional Director shall advise the complainant of the investigation findings and in general terms, any corrective action that may result. A copy of such notification shall be sent to the State and it shall be considered part of the evaluation of the State plan.

(d) If the Assistant Regional Director determines that there are no reasonable grounds for an investigation to be made with respect to a complaint under this Subpart, he shall notify the complaining party in writing of such determination. Upon request of the complainant, or the State, the Assistant Regional Director, at his discretion, may hold an informal conference. After considering all written and oral views presented the Assistant Regional Director shall affirm, modify, or reverse his original determination and furnish the complainant with written notification of his decision and the reasons therefore. Where appropriate the State may also receive such notification.

## 29 CFR Ch. XVII (7-1-05 Edition)

### § 1954.22 Notice provided by State.

(a)(1) In order to assure that employees, employers, and members of the public are informed of the procedures for complaints about State program administration, each State with an approved State plan shall adopt not later than July 1, 1974, a procedure not inconsistent with these regulations or the Act, for notifying employees, employers and the public of their right to complain to the Occupational Safety and Health Administration about State program administration.

(2) Such notification may be by posting of notices in the workplace as part of the requirement in § 1902.4(c)(2)(iv) of this chapter and other appropriate sources of information calculated to reach the public.

(b) [Reserved]

## PART 1955—PROCEDURES FOR WITHDRAWAL OF APPROVAL OF STATE PLANS

### Subpart A—General

Sec.

- 1955.1 Purpose and scope.
- 1955.2 Definitions.
- 1955.3 General policy.
- 1955.4 Effect of withdrawal of approval.
- 1955.5 Petitions for withdrawal of approval.

### Subpart B—Notice of Formal Proceeding

- 1955.10 Publication of notice of formal proceeding.
- 1955.11 Contents of notice of formal proceeding.
- 1955.12 Administrative law judge; powers and duties.
- 1955.13 Disqualification.
- 1955.14 Ex parte communications.
- 1955.15 Manner of service and filing.
- 1955.16 Time.
- 1955.17 Determination of parties.
- 1955.18 Provision for written comments.

### Subpart C—Consent Findings and Summary Decisions

- 1955.20 Consent findings and orders.
- 1955.21 Motion for a summary decision.
- 1955.22 Summary decision.

### Subpart D—Preliminary Conference and Discovery

- 1955.30 Submission of documentary evidence.
- 1955.31 Preliminary conference.