

§ 1902.47

29 CFR Ch. XVII (7-1-06 Edition)

reasonable time, generally not less than 1 year, in which to meet the criteria for an affirmative 18(e) determination.

(2) The Assistant Secretary shall also publish a notice in the FEDERAL REGISTER outlining his reasons for not making an affirmative 18(e) determination at the time. The notice will also set forth the reasonable time the State was granted to meet the criteria for an affirmative 18(e) determination and set forth such conditions as the Assistant Secretary deems proper for the continuation of the State's plan or such portions subject to this action.

(3) The State shall be afforded an opportunity to agree to the conditions of the Assistant Secretary's decision.

(4) Upon the expiration of the time granted to a State to meet the criteria for an affirmative 18(e) determination under paragraph (d)(2) of this section, the Assistant Secretary may initiate proceedings to determine whether a State shall be granted an affirmative 18(e) determination. The procedures outlined in this subpart shall be applicable to any proceedings initiated under this paragraph.

PROCEDURE FOR RECONSIDERATION AND REVOCATION OF AN AFFIRMATIVE 18(e) DETERMINATION

§ 1902.47 Reconsideration of an affirmative 18(e) determination.

(a) The Assistant Secretary may at any time reconsider on his own initiative or on petition of an interested person his decision granting an affirmative 18(e) determination.

(b) Such reconsideration shall be based on results of his continuing evaluation of a State plan after it has been granted an affirmative 18(e) determination.

§ 1902.48 The proceeding.

Whenever, as a result of his reconsideration, the Assistant Secretary proposes to revoke his affirmative 18(e) determination, he shall follow the procedures in the remaining sections of this subpart.

§ 1902.49 General notice.

(a) Whenever the Assistant Secretary proposes to revoke an affirmative 18(e)

determination, he shall publish a notice in the FEDERAL REGISTER meeting the requirements of the remaining paragraphs of this section. No later than 10 days following the publication of the notice in the FEDERAL REGISTER, the affected State agency shall publish, or cause to be published, reasonable notice within the State containing the same information.

(b) The notice shall indicate the reasons for the proposed action.

(c) The notice shall afford interested persons including the affected State, an opportunity to submit in writing, data, views, and arguments on the proposal within 35 days after publication of the notice in the FEDERAL REGISTER. The notice shall also provide that any interested person may request an informal hearing concerning the proposed revocation whenever particularized written objections thereto are filed within 35 days following publication of the notice in the FEDERAL REGISTER. If the Assistant Secretary finds that substantial objections have been filed, he shall afford an informal hearing on the proposed revocation under § 1902.50.

(d) The Assistant Secretary may, upon his own initiative, give notice of an informal hearing affording an opportunity for oral comments concerning the proposed revocation.

§ 1902.50 Informal hearing.

Any informal hearing shall be legislative in type. The rules of procedure for each hearing shall be those contained in § 1902.40 and will be published with the notice thereof.

§ 1902.51 Certification of the records of a hearing.

Upon completion of an informal hearing, the transcript thereof, together with written submissions, exhibits filed during the hearing, and any post-hearing presentations shall be certified by the officer presiding at the hearing to the Assistant Secretary.

§ 1902.52 Decision.

(a) After consideration of all relevant information which has been presented, the Assistant Secretary shall issue a decision on the continuation or revocation of the affirmative 18(e) determination.