

§ 1954.10

any order or interim order in connection therewith, or any modification or extension thereof: *Provided* such variance action was taken under the terms and procedures required under § 1902.4(b)(2)(iv) of this chapter, and the employer has certified that he has not filed for such variance on the same set of facts with the Assistant Secretary.

(ii) Subject to pertinent findings of effectiveness under this part, and approval under Part 1953 of this chapter, Federal enforcement proceedings will not be initiated where an employer has posted the approved State poster in accordance with the applicable provisions of an approved State plan and § 1952.10.

(iii) Subject to pertinent findings of effectiveness under this part, and approval under part 1953 of this chapter, Federal enforcement proceedings will not be initiated where an employer is in compliance with the recordkeeping and reporting requirements of an approved State plan as provided in § 1952.4.

(2) [Reserved]

(e) *Discrimination complaints.* State plan provisions on employee discrimination do not divest the Secretary of Labor of any authority under section 11(c) of the Act. The Federal authority to investigate discrimination complaints exists even after an affirmative 18(e) determination. (See South Carolina decision 37 FR 25932, December 6, 1972). Employee complaints alleging discrimination under section 11(c) of the Act will be subject to Federal jurisdiction.

(f)(1) *Procedural agreements.* A determination as to the operational status of a State plan shall be accompanied by an agreement with the State setting forth the Federal-State responsibilities as follows:

(i) Scope of the State's operational status including the issues excluded from the plan, the issues where State enforcement will not be operational at the time of the agreement and the dates for commencement of operations;

(ii) Procedures for referral, investigation and enforcement of employee requests for inspections;

(iii) Procedures for reporting fatalities and catastrophes by the agency which has received the report to the responsible enforcing authority both

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where the State has and has not adopted the requirement that employers report as provided in 29 CFR 1904.8;

(iv) Specifications as to when and by what means the operational guidelines of this section were met; and

(v) Provision for resumption of Federal enforcement activity for failure to substantially comply with this agreement, or as a result of evaluation or other relevant factors.

(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.¹

(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.

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