

§ 1956.41

against employers for violation of standards and orders; employer's right to appeal citations for violations, abatement periods and proposed penalties; employee's right to appeal abatement periods; and employee participation in review proceedings. Also included are provisions for right of entry for inspection, "prohibition" of advance notice of inspection and the requirement for both employers and employees to comply with the applicable rules, standards, and orders, and employer obligations to maintain records and provide reports as required. Further, the plan provides assurances of a fully trained adequate staff and sufficient funding.

(c) The plan includes the following documents as of the date of approval:

(1) The plan document and appendices submitted January 30, 1978;

(2) Letter from the Commissioner, Connecticut Department of Labor, dated September 19, 1978, providing supplemental assurances.

§ 1956.41 Where the plan may be inspected.

A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State programs, 2100 M Street NW, Room 149, Washington, DC 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1804, John F. Kennedy Federal Building, Boston, Mass. 02203; Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Conn. 06109.

§ 1956.43 Developmental schedule.

The Connecticut plan is developmental. The following is a schedule of major developmental steps as provided by the plan:

(a) A new State poster will be printed, by December 15, 1978, in order to reflect coverage of the public sector only.

(b) Standards identical to or at least as effective as all existing Federal standards will be adopted by February 1, 1979.

(c) Connecticut regulations equivalent to the following Federal provisions will be revised by April 1, 1979, to show coverage of the public sector only and to accurately reflect the current pro-

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gram: 29 CFR part 1903 (Inspections, Citations, and Proposed Penalties); 29 CFR part 1904 (Recording and Reporting Occupational Injuries and Illnesses); 29 CFR part 1905 (Variance Rules); 29 CFR part 2200 (Review Commission); and the Field Operations Manual.

(d) The State will submit revised and updated provisions dealing with employee discrimination by May 1, 1979.

(e) The State will prepare by June 1, 1979, a comprehensive list of government entities whose employees are covered by the plan, giving the number of employees for each entity, describing the work performed, and assigning for each entity a standard industrial classification (SIC) code.

(f) The State will resubmit its plan in the required outline format by October 1, 1979.

§ 1956.44 Completion of developmental steps and certification.

(a) In accordance with 29 CFR 1956.43(f), Connecticut's reformatted and revised public employee only plan and narrative description (including background information on program operations) were approved by the Assistant Secretary on August 3, 1983.

(b) In accordance with 29 CFR 1956.43(a), Connecticut's safety and health poster for public employees only was approved by the Assistant Secretary on August 3, 1983.

(c) In accordance with 29 CFR 1956.43(b), Connecticut has promulgated standards identical to all basic Federal standards in 29 CFR parts 1910, 1926, and 1928. The State has continued to adopt Federal standards, amendments and corrections as noted in separate standards approval notices.

(d) In accordance with 29 CFR 1956.43(c), Connecticut promulgated rules for inspections, citations, and proposed penalties (Administrative Regulation Section 31-371-1 through 20) parallel to 29 CFR part 1903; recording and reporting occupational injuries and illness (Administrative Regulation Section 31-374-1 through 15) parallel to 29 CFR part 1904; rules of practices for variances (Administrative Regulation Section 31-372-1 through 51) parallel to

29 CFR part 1905; and review commission procedures (Administrative Regulation Section 31-376-1 through 61) parallel to 29 CFR part 2200. In addition, Connecticut adopted Field Operations and Industrial Hygiene Manuals identical to the Federal. These supplements were approved by the Assistant Secretary on August 3, 1983.

(e) In accordance with 29 CFR 1956.43(d), Connecticut's employee discrimination provisions (Administrative Regulation Section 31-379-1 through 22) were approved by the Assistant Secretary on August 3, 1983.

(f) In accordance with 29 CFR 1956.43(e), Connecticut's comprehensive list classifying governmental entities covered by the plan was approved by the Assistant Secretary on August 3, 1983.

(g) In accordance with 29 CFR 1956.10(g), a State is required to have a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan. The Connecticut Public Employee Only State plan provides for three (3) safety compliance officers and one (1) health compliance officer as set forth in the Connecticut Fiscal Year 1986 grant. This staffing level meets the "fully effective" benchmarks established for Connecticut for both safety and health.

(h) In accordance with § 1956.23 of this chapter, the Connecticut occupational safety and health public employee only plan was certified effective August 19, 1986 as having completed all developmental steps specified in the plan as approved October 2, 1978, on or before October 2, 1979. This certification attests to the structured completeness of the plan, but does not render judgment on adequacy of performance.

[48 FR 37027, Aug. 16, 1983, as amended at 51 FR 32454, Sept. 12, 1986]

Subpart F—New York

AUTHORITY: Secs. 8(g), 18, 84 Stat. 1600, 1608 (29 U.S.C. 657(g), 667); 29 CFR part 1956, Secretary of Labor's Order 9-83 (48 FR 35736).

SOURCE: 49 FR 23000, June 1, 1984, unless otherwise noted.

§ 1956.50 Description of the plan as initially approved.

(a) *Authority and scope.* The New York State Plan for Public Employee Occupational Safety and Health received initial OSHA approval on June 1, 1984. The plan designates the New York Department of Labor as the State agency responsible for administering the plan throughout the State. The plan includes legislation, the New York Act (Public Employees Safety and Health Act, Chapter 729 of the Laws of 1980), enacted in 1980, and amended on April 30, 1984, to clarify the State's right of entry for inspection authority. Under this legislation, the Industrial Commissioner (now the Commissioner of Labor), has full authority to enforce and administer all laws and rules protecting the safety and health of all employees of the State and its political subdivisions. In response to OSHA concern that language in section 27-a(2) of the New York Act, regarding the Commissioner of Education's authority with respect to school buildings, raised questions about the coverage under the plan of public school employees, New York submitted amendments to its plan consisting of Counsel's opinion and assurance that public school employees are fully covered under the terms of the New York Act. In a March 4, 1984 letter from Lee O. Smith, Deputy Commissioner of Labor for Legal Affairs, New York indicated that the Commissioner of Education's authority applies only to ensuring the safety and health of pupils, and that the Commissioner of Labor has exclusive authority to enforce occupational safety and health standards covering public employees in school buildings. Furthermore, New York has provided assurance that should the Department of Labor's interpretation on coverage of public school employees be challenged successfully, appropriate legislative correction would be sought.

(b) *Standards.* The New York plan provides for the adoption of all Federal OSHA standards promulgated as of July 31, 1983, and for the incorporation of any subsequent revisions or additions thereto in a timely manner, including in response to Federal OSHA emergency temporary standards. The procedure for adoption of Federal