§ 1956.52 Promulgation and development requirements.

(h) Promulgate procedures for review of contested cases (within three years after plan approval).

(i) Promulgate regulations for development of alternative State standards, equivalent to 29 CFR part 1911 (within three years after plan approval).

(j) Develop Field Operations Manual (within three years after plan approval).

(k) Develop Industrial Hygiene Manual (within three years after plan approval).

(l) Develop on-site consultation procedures for state and local government employers (within three years after plan approval).

(m) Fully implement public employer/employee training and education program (within three years after plan approval).

[49 FR 23000, June 1, 1984, as amended at 52 FR 20073, May 29, 1987]

§ 1956.52 Completed developmental steps and certification.

(a) In accordance with 29 CFR 1956.51(a), the State of New York promulgated standards identical to all Federal OSHA standards as of July 1, 1983. A supplement to the State plan documenting this accomplishment was initially approved by the Assistant Secretary on August 26, 1986 (51 FR 30449). Subsequently, all OSHA standards promulgated through April 28, 2006, have been adopted as New York State standards applicable to public employees. These identical standards; the State’s different Air Contaminants Standard (1910.1000); the additional hazard communication requirements, as applicable to public sector employers only; the New York Toxic Substances Act; and the State’s independent Workplace Violence Prevention law, were approved by the Assistant Secretary on August 16, 2006.

(b) In accordance with 29 CFR 1956.51(b), New York has promulgated regulations for inspections, citations and abatement equivalent to 29 CFR part 1903 at 12 NYCRR Part 802 and implementing procedures in the State compliance manual, as contained in the State’s April 28, 2006, revised plan, which were approved by the Assistant Secretary on August 16, 2006.

(c) In accordance with 29 CFR 1956.51(c), the New York safety and health poster for public employees only, which was originally approved by the Assistant Secretary on May 16, 1985 (50 FR 21046), was approved, as contained in the State’s April 28, 2006, revised plan, by the Assistant Secretary on August 16, 2006.

(d) In accordance with 29 CFR 1956.51(d), the State extended its participation in the Bureau of Labor Statistics (BLS) Survey of Injuries and Illnesses to the public sector. A supplement documenting this action was approved by the Assistant Secretary on December 29, 1989 (55 FR 1204) and is contained in the State’s April 28, 2006, revised plan, which was approved by the Assistant Secretary on August 16, 2006.

(e) In accordance with 29 CFR 1956.51(e), the State promulgated regulations for granting variances equivalent to 29 CFR part 1905 at 12 NYCRR Part 803, which were approved by the Assistant Secretary on December 29, 1989 (55 FR 1204). These regulations, as revised and supplemented by implementing procedures in the State’s Field Operations Manual, are contained in the April 28, 2006, revised State plan, and were approved by the Assistant Secretary on August 16, 2006.

(f) In accordance with 29 CFR 1956.51(f), the State initially promulgated regulations for injury/illness recordkeeping, equivalent to 29 CFR part 1904, which were approved by the Assistant Secretary on December 29, 1989 (55 FR 1204). The State’s revised recordkeeping regulation, 12 NYCRR Part 801; corresponding instructions (SH 901); and supplemental assurances concerning amendments to the SH 901 Instructions, after-hours reporting of fatalities and catastrophes, required reporting of delayed hospitalizations, protected activity, and employee rights to receive a copy of the Annual Summary of workplace injuries and illnesses, are contained in the April 28, 2006, revised plan, and were approved by the Assistant Secretary on August 16, 2006.

(g) In accordance with 29 CFR 1956.51(g), the State developed and adopted employee non-discrimination procedures equivalent to 29 CFR part...
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1977, which were approved by the Assistant Secretary on December 29, 1989 (55 FR 1204). Updated procedures, as contained in the April 28, 2006, revised plan, were approved by the Assistant Secretary on August 16, 2006.

(h) In accordance with 29 CFR 1956.51(h), the State adopted procedures for the review of contested cases equivalent to 29 CFR part 2200, which were approved by the Assistant Secretary on December 29, 1989 (55 FR 1204). The State’s contested case procedures at Section 101 of the Labor Law; the “Rules of Procedure and Practice” of the Industrial Board of Appeals, 12 NYCRR Chapter 1, Subchapter B, Parts 65 and 66; and 12 NYCRR 805, as contained in the April 28, 2006, revised plan, were approved by the Assistant Secretary on August 16, 2006.

(i) In accordance with 29 CFR 1956.51(i), the State revised its plan to reflect its procedures for the adoption of State standards identical to OSHA safety and health standards, which were approved by the Assistant Secretary on December 29, 1989 (55 FR 1204). Subsequently, the State’s procedures were revised to provide that the Commissioner of Labor, in consultation with the Hazard Abatement Board, or on his/her own initiative, can propose alternative or different occupational safety and health standards if a determination is made that an issue is not properly addressed by Federal OSHA standards and is necessary for the protection of public employees. The procedures for adoption of alternative standards contain criteria for development and consideration of expert technical knowledge in the field to be addressed by the standard and allow interested persons to submit information requesting development or promulgation of any standard and to participate in any hearing for the development, modification or establishment of standards. These procedures are contained in the April 28, 2006, revised plan, and were approved by the Assistant Secretary on August 16, 2006.

(j) In accordance with 29 CFR 1956.51(j), the State has developed a Field Operations Manual which parallels Federal OSHA’s Field Operations Manual, CPL 02–00–045 [CPL 2.45B], incorporates other Federal compliance policy directives, and contains procedures for unique State requirements. This manual is contained in the April 28, 2006, revised plan, and was approved by the Assistant Secretary on August 16, 2006.

(k) In accordance with 29 CFR 1956.51(k), the State adopted the Federal Industrial Hygiene Manual, including changes one (1) and two (2), through April 7, 1987, which was approved by the Assistant Secretary on December 29, 1989 (55 FR 1204). The State’s subsequent adoption of the OSHA Technical Manual is documented in the April 28, 2006, revised State plan and was approved by the Assistant Secretary on August 16, 2006.

(l) In accordance with 29 CFR 1956.51(l), the State issued a directive implementing an on-site consultation program in the public sector, which was approved by the Assistant Secretary on December 29, 1989 (55 FR 1204). The State’s current Consultation Policy and Procedures Manual and its description of New York’s on-site consultation program and other compliance assistance efforts, as contained in the April 28, 2006, revised plan, were approved by the Assistant Secretary on August 16, 2006.

(m) In accordance with 29 CFR 1956.51(m), the State has developed and implemented a public employer and employee training and education program with procedures described in the Field Operations Manual, which, as contained in the April 28, 2006, revised plan, was approved by the Assistant Secretary on August 16, 2006.

(n) A revised State plan as submitted on April 28, 2006, was approved and in accordance with 29 CFR 1956.23 of this chapter, the New York occupational safety and health State plan for public employees only was certified on August 16, 2006 as having successfully completed all developmental steps specified in the plan as initially approved on June 1, 1984. This certification attests to the structural completeness of the plan, but does not render judgment as to adequacy of performance.

[71 FR 47089, Aug. 16, 2006]