

Occupational Safety and Health Act of 1970 (29 U.S.C. 667), 29 CFR 1902, 1952, 1955, and 1956, and Secretary of Labor's Order 5-2002 (67 FR 65008, October 22, 2002).

Signed at Washington, DC this 16th day of July, 2003.

John L. Henshaw,

Assistant Secretary of Labor.

■ Accordingly, the 29 CFR Ch. XVII is amended as set forth below:

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

■ 1. The authority for 29 CFR part 1952 is revised to read as follows:

Authority: Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), 29 CFR part 1902 and 1955, and Secretary of Labor's Order 5-2002 (67 FR 65008, October 22, 2002).

■ 2. Subpart S of 29 CFR part 1952 is removed and reserved to read as follows:

Subpart S—[Removed and Reserved]

PART 1956—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS APPLICABLE TO STATE AND LOCAL GOVERNMENT EMPLOYEES IN STATES WITHOUT APPROVED PRIVATE EMPLOYEE PLANS

■ 3. The authority for 29 CFR part 1956 is revised to read as follows:

Authority: Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), 29 CFR 1902, 1952, and 1955, and Secretary of Labor's Order 5-2002 (67 FR 65008, October 22, 2002).

■ 4. 29 CFR part 1956 is amended by adding a new subpart H to read as follows:

Subpart H—The Virgin Islands

Sec.

1956.70 Description of plan as approved.

1956.71 Developmental schedule.

1956.72 Changes to approved plan.

[Reserved.]

1956.73 Determination of operational effectiveness. [Reserved.]

1956.74 Location of basic State plan documentation.

Subpart H—The Virgin Islands

§ 1956.70 Description of plan as approved.

(a) The Virgin Islands State plan was converted to a public employee only occupational safety and health program on July 1, 2003, and received initial approval on July 23, 2003. It is administered and enforced by the Virgin Islands Department of Labor, Division of Occupational Safety and Health ("the agency," or "VIDOSH") throughout the

U.S. Virgin Islands (the "Virgin Islands"). The Virgin Islands public employee program, established by Executive Order 200-76 on July 11, 1975, extends full authority under Virgin Islands Act No. 3421, Section 16 (April 27, 1973) and implementing regulations to the agency to enforce and administer all laws and rules protecting the safety and health of employees of the Government of the Virgin Islands, its departments, agencies and instrumentalities, including any political subdivisions. It covers all activities of public employers and employees and places of public employment. The Territory has adopted all Federal standards promulgated as of June 2003, and has given assurances that it will continue to adopt and update all Federal standards, revisions and amendments. The plan is accompanied by a statement of the Governor's support.

(b) The plan establishes procedures for variances and the protection of employees from hazards under a variance; insures inspection in response to complaints; provides employer and employee representatives an opportunity to accompany inspectors and to call attention to possible violations before, during, and after inspections; notification to employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protection; protection of employees against discharge or discrimination in terms and conditions of employment; includes provision for prompt notices to employers and employees of violations of standards and abatement requirements and either sanctions or alternative mechanisms to assure abatement; employer's right to appeal citations for violations, abatement periods and any proposed sanctions and/or compulsory process; 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, and for voluntary compliance programs, including a public sector consultation program.

Note: The Virgin Islands' received initial approval for a comprehensive State plan

covering the private (safety only) and public sectors on September 11, 1973 (38 FR 24896) and final approval under Section 18(e) of the Act on April 17, 1984 (49 FR 16766). Final approval status for that State plan was suspended and full Federal concurrent enforcement authority was reinstated on November 13, 1995 (60 FR 56950). Effective July 1, 2003, the Virgin Islands withdrew the portion of its State plan which covered private sector employment, and exclusive Federal enforcement jurisdiction for the private sector resumed.

§ 1956.71 Developmental schedule.

The Virgin Islands State plan for public employees only is developmental. The following is a schedule of major developmental steps to be completed:

(a) The Virgin Islands will review and amend its legislation and regulations, as appropriate, to assure proper statutory authority for "at least as effective" coverage of all public sector employers and employees including Territorial government employers and employees and any employers or employees of municipalities or other local governmental entities. The plan will be revised to include a legal opinion that the converted plan meets the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the laws of the Virgin Islands. These actions will occur within one year of plan conversion approval.

(b) The Virgin Islands will review and amend its legislation and regulations as necessary to reflect its more limited coverage and to be consistent with formal withdrawal of Federal approval of the private sector portion of the State plan, within one year of plan conversion approval.

(c) The Virgin Islands will review its statutory authority regarding standards adoption and take appropriate legislative or administrative action to assure that it is consistent with 29 CFR part 1953 and that all standards applicable to the public sector will be promulgated within six months of the promulgation date of new Federal OSHA standards, within one year of plan conversion approval.

(d) The Virgin Islands will take appropriate legislative or administrative action to assure effective sanctions, either as monetary penalties, or an alternative mechanism for compelling abatement in the public sector within one year of plan conversion approval.

(e) The Virgin Islands will develop a five-year strategic plan and corresponding annual performance plan within two years of plan conversion approval.

(f) A new State poster will be developed and distributed to reflect