
29 C.F.R. § 1956.11

Indices of effectiveness.

(a) *General.* In order to satisfy the requirements of effectiveness under § 1956.10 (c)(1) and (d)(1), the State plan for public employees shall:

(1) Establish the same standards, procedures, criteria, and rules as have been established by the Assistant Secretary under the act; or

(2) Establish alternative standards, procedures, criteria, and rules which will be measured against each of the indices of effectiveness in paragraphs (b) and (c) of this section to determine whether the alternatives are at least as effective as the Federal program for private employees, where applicable, with respect to the subject of each index. For each index the State must demonstrate by the presentation of factual or other appropriate information that its plan for public employees will, to the extent practicable, be at least as effective as the Federal program for private employees.

(b) *Standards.* (1) The indices for measurement of a State plan for public employees with regard to standards follow in paragraph (b)(2) of this section. The Assistant Secretary will determine whether the State plan for public employees satisfies the requirements of effectiveness with regard to each index as provided in paragraph (a) of this section.

(2) The Assistant Secretary will determine whether the State plan for public employees:

(i) Provides for State standards which are or will be at least as effective as the standards promulgated under section 6 of the Act. In the case of any State standards dealing with toxic materials or harmful physical agents, they should adequately assure, to the extent feasible, that no employee will suffer material impairment of health or functional capacity, even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life, by such means as, in the development and promulgation of standards, obtaining the best available evidence through research, demonstration, experiments, and experience under this and any other safety and health laws.

(ii) Provides an adequate method to assure that its standards will continue to be at least as effective as Federal standards, including Federal standards which become effective subsequent to any approval of the plan.

(iii) Provides a procedure for the development and promulgation of standards which allows for the consideration of pertinent factual information and affords interested persons, including employees, employers and the public, an opportunity to participate in such processes, by such means as establishing procedures for consideration of expert technical knowledge, and providing interested persons, including employers, employees, recognized standards-producing organizations, and the public, an opportunity to submit information requesting the development or promulgation of new standards or the modification or revocation of existing standards and to participate in any hearings. This index may also be satisfied by such means as the adoption of Federal standards, in which case the procedures at the Federal level before adoption of a standard under section 6 may be considered

to meet the conditions of this index.

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