

## § 1952.103

investigation of complaints of discrimination under the Oregon Safe Employment Act. These regulations and rule effective June 21, 1982, and March 12, 1982 with supplemental assurance were approved by the Assistant Secretary on September 15, 1982.

(l) In accordance with §1902.34 of this chapter, the Oregon occupational safety and health plan was certified effective September 15, 1982, as having completed all developmental steps specified in the plan as approved on December 28, 1972, on or before December 28, 1975. This certification attests to structural completion, but does not render judgment on adequacy of performance.

[40 FR 24523, June 9, 1975, as amended at 41 FR 8955, Mar. 2, 1976; 41 FR 23671, June 11, 1976; 42 FR 34281, July 29, 1977; 45 FR 60430, Sept. 12, 1980; 47 FR 42104, 42106, Sept. 24, 1982. Redesignated at 52 FR 9162, Mar. 23, 1987, and further redesignated at 59 FR 42495, Aug. 18, 1994]

### § 1952.103 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL-CIO v. Marshall*, compliance staffing levels ("benchmarks") necessary for a "fully effective" enforcement program were required for each State operating an approved State plan. In October 1992, Oregon completed, in conjunction with OSHA, a reassessment of the health staffing level initially established in 1980 and proposed a revised health benchmark of 28 health compliance officers. Oregon elected to retain the safety benchmark level established in the 1980 Report to the Court of the U.S. District Court for the District of Columbia in 1980 of 47 safety compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on August 11, 1994.

[59 FR 42495, Aug. 18, 1994]

### § 1952.104 [Reserved]

### § 1952.105 Level of Federal enforcement.

(a) Pursuant to §§1902.20(b)(1)(iii) and 1954.3 of this chapter under which an operational status agreement has been entered into with Oregon, effective January 23, 1975, and as amended, effec-

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tive December 12, 1983 and November 27, 1991; and based on a determination that Oregon is operational in the issues covered by the Oregon occupational safety and health plan, discretionary Federal enforcement authority under section 18(e) of the Act, 29 U.S.C. 667(c), will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR parts 1910, 1926 and 1928 except as provided in this section. The U.S. Department of Labor will continue to exercise authority among other things with regard to:

(1) Complaints filed with the U.S. Department of Labor alleging discrimination under section 11(c) of the Act (29 U.S.C. 660(c));

(2) Standards in the maritime issues covered by 29 CFR Parts 1915, 1917, 1918, and 1919 (shipyards, marine terminals, longshoring, and gear certification), and enforcement of general industry and construction standards (29 CFR Parts 1910 and 1926) appropriate to hazards found in these employments, which have been specifically excluded from coverage under the plan. This includes: employment on the navigable waters of the U.S.; shipyard and boatyard employment on or immediately adjacent to the navigable waters—including floating vessels, dry docks, graving docks and marine railways—from the front gate of the work site to the U.S. statutory limits; longshoring, marine terminal and marine grain terminal operations, except production or manufacturing areas and their storage facilities; construction activities emanating from or on floating vessels on the navigable waters of the U.S.; commercial diving originating from an object afloat a navigable waterway; and all other private sector places of employment on or adjacent to navigable waters whenever the activity occurs on or from the water;

(3) Enforcement of new Federal standards until the State adopts a comparable standard;

(4) Enforcement in situations where the State is refused entry and is unable to obtain a warrant or enforce its right of entry;

(5) Enforcement of unique and complex standards as determined by the Assistant Secretary;