

§ 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 re-assessment 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 Final approval determination.

(a) In accordance with Section 18(e) of the Act and procedures in 29 CFR Part 1902, and after determination that the state met the “fully effective” compliance staffing benchmarks as revised in 1994 in response to a court order of the United States District

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Court for the District of Columbia in *AFL-CIO v. Marshall*, (C.A. No. 74–406), and was satisfactorily providing reports to OSHA through participation in the Federal-state Integrated Management Information System, the Assistant Secretary evaluated actual operations under the Oregon State Plan for a period of at least one year following certification of completion of developmental steps. Based on an 18(e) Evaluation Report covering the period October 1, 2002 through September 30, 2003, and after opportunity for public comment, the Assistant Secretary determined that, in operation, Oregon’s occupational safety and health program (with the exception of temporary labor camps in agriculture, general industry, construction and logging) is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final state plan approval in Section 18(e) of the Act and implementing regulations at 29 CFR part 1902. Accordingly, under Section 18(e) of the Act, the Oregon State Plan was granted final approval and concurrent Federal enforcement authority was relinquished for all worksites covered by the plan (with the exception of temporary labor camps in agriculture, general industry, construction and logging), effective May 12, 2005.

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in Oregon. The plan does not cover private sector establishments on Indian reservations and tribal trust lands, including tribal and Indian-owned enterprises; Federal agencies; the U.S. Postal Service and its contractors; contractors on U.S. military reservations, except those working on U.S. Army Corps of Engineers dam construction projects; and private sector maritime employment on or adjacent to navigable waters, including shipyard operations and marine terminals.

(c) Oregon is required to maintain a state program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR part 1953; to allocate sufficient safety and health