

§ 1952.106

including reconstruction of docks or other appurtenances;

(iv) Enforcement of occupational safety and health standards with regard to all Federal government employers and employees; and the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

(2) In addition, any hazard, industry, geographical area, operation or facility over which the state is unable to effectively exercise jurisdiction for reasons which OSHA determines are not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the state plan which has received final approval, and shall be subject to Federal enforcement. Where enforcement jurisdiction is shared between Federal and state authorities for a particular area, project, or facility, in the interest of administrative practicability Federal jurisdiction may be assumed over the entire project or facility. In any of the aforementioned circumstances, Federal enforcement authority may be exercised after consultation with the state designated agency.

(c) Federal authority under provisions of the Act not listed in Section 18(e) is unaffected by final approval of the Oregon State Plan. Thus, for example, the Assistant Secretary retains authority under Section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the state for investigation. The Assistant Secretary also retains authority under Section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in states which have received an affirmative 18(e) determination, although such standards may not be federally applied. In the event that the state's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be federally enforceable in that state.

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(d) As required by Section 18(f) of the Act, OSHA will continue to monitor the operations of the Oregon state program to assure that the provisions of the state plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the state to comply with its obligations may result in the suspension or revocation of the final approval determination under Section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

[70 FR 24954, May 12, 2005]

§ 1952.106 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3700, 200 Constitution Avenue, N.W., Washington, D.C. 20210;

Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Suite 715, 1111 Third Avenue, Seattle, Washington 98101-3212; and

Oregon Occupational Safety and Health Division, Department of Consumer and Business Services, Room 430, Labor and Industries Building, 350 Winter Street NE, Salem, Oregon 97310.

[59 FR 42495, Aug. 18, 1994]

§ 1952.107 Changes to approved plans.

In accordance with part 1953 of this chapter, the following Oregon plan changes were approved by the Assistant Secretary:

(a) The State submitted a revised field operations manual patterned after the Federal field operations manual, including modifications, in effect February 11, 1985, which superseded the State's previously approved manual. The Assistant Secretary approved the manual on July 29, 1986.

(b) The State submitted an industrial hygiene technical manual patterned after the Federal manual, including modifications, in effect March 30, 1984. The Assistant Secretary approved the manual on July 29, 1986.

(c) The State submitted an inspection scheduling system which schedules inspections based on lists of employers with a high incidence of workers compensation claims, whose operations are within industries with high injury rates, or which have a high potential for health problems. The Assistant Secretary approved the supplement on July 29, 1986.

(d) The State submitted several changes to its administrative regulations concerning personal sampling, petition to modify abatement dates, penalties for repeat violations, and record-keeping exemptions. The Assistant Secretary approved these changes on July 29, 1986.

(e) *Legislation.* (1) On March 29, 1994, the Acting Assistant Secretary approved Oregon's revised statutory penalty levels as enacted subject to further action by the State in 1995 to correct the State's omission of revisions of the penalty for posting violations. Aside from posting penalties, Oregon's revised penalty levels are the same as the revised Federal penalty levels contained in section 17 of the Act as amended on November 5, 1990.

(2) [Reserved]

(f) Oregon's State plan changes excluding coverage under the plan of all private sector employment (including tribal and Indian-owned enterprises) on Umatilla Indian reservation or trust lands, by letters of April 29 and July 14, 1997 (see §§ 1952.105); extending coverage under the plan to Superfund sites and private contractors working on U.S. Army Corps of Engineers dam construction projects, as noted in a 1992 Memorandum of Understanding; and specifying four (4) unusual circumstances where Federal enforcement authority may be exercised, as described in a 1991 addendum to the State's operational status agreement, were approved by the Acting Assistant Secretary on September 24, 1997.

(g) Oregon's State plan changes extending Federal enforcement jurisdiction to shore side shipyard and boatyard employment, as described in a 1998 Memorandum of Understanding and addendum to the State's operational status agreement; and to all private sector employment, including tribal and Indian-owned enterprises, on

all Indian reservations, including establishments on trust lands outside of reservations, as described in a separate 1998 addendum, were approved by the Assistant Secretary on January 6, 1999.

[51 FR 27025, July 29, 1986. Redesignated at 52 FR 9162, Mar. 23, 1987, as amended at 59 FR 14555, Mar. 29, 1994. Further redesignated at 59 FR 42495, Aug. 18, 1994; 62 FR 49910, Sept. 24, 1997; 65 FR 36620, June 9, 2000]

Subpart E—Utah

§ 1952.110 Description of the plan as initially approved.

(a) The plan identifies the Utah State Industrial Commission as the State agency designated to administer the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1). The plan states that the Utah Industrial Commission currently is exercising statewide inspection authority to enforce many State standards. It describes procedures for the development and promulgation of additional safety standards, rule making power for enforcement of standards, laws, and orders in all places of employment in the State; the procedures for prompt restraint or elimination of imminent danger conditions; and procedures for inspection in response to complaints. The plan includes proposed draft legislation to be considered by the Utah Legislature during its 1973 session amending title 35, chapter 1 of the Utah State Code and related provisions, to bring them into conformity with the requirements of part 1902. Under this legislation all occupational safety and health standards and amendments thereto which have been promulgated by the Secretary of Labor, except those found in 29 CFR 1910.13, 1910.14, 1910.15, and 1910.16 (ship repairing, shipbuilding, shipbreaking, and longshoring) will, after public hearing by the Utah agency be adopted and enforced by that agency. The plan sets forth a timetable for the proposed adoption of standards. The legislation will give the Utah Industrial Commission full authority to administer and enforce all laws, rules, and orders protecting employee safety and health in all places of employment in the State.