

§ 1952.111

It also proposes to bring the plan into conformity in procedures for providing prompt and effective standards for the protection of employees against new and unforeseen hazards and for furnishing information to employees on hazards, precautions, symptoms, and emergency treatment; and procedures for variances and the protection of employees from hazards. The proposed legislation will ensure employer and employee representatives an opportunity to accompany inspectors and call attention to possible violations before, during, and after inspections; protection of employees against discharge or discrimination in terms and conditions of employment; notice to employees of their protections and obligations; adequate safeguards to protect trade secrets; prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers; and employer's right to review alleged violations, abatement periods, and proposed penalties with opportunity for employee participation in the review proceedings.

(b) Included in the plan is a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the Constitution and laws of Utah. The plan sets out goals and provides a timetable for bringing it into full conformity with part 1902 of this chapter upon enactment of the proposed legislation by the State legislature.

(c) The plan includes the following documents as of the date of approval:

(1) The plan with appendixes.

(2) A letter from Carlyle F. Gronning, Chairman of the Utah Industrial Commission to the Office of State Programs with an attached memo sheet of clarifications dated October 27, 1972.

(3) A letter from Carlyle F. Gronning to the Office of State Programs dated December 3, 1972, clarifying issues raised in the plan review.

(4) A letter from Carlyle F. Gronning to the Office of Federal and State Operations dated December 11, 1972, clari-

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fy the remaining issues raised in the review process.

[38 FR 1179, Jan. 10, 1973, as amended at 50 FR 28780, July 16, 1985]

§ 1952.111 Developmental schedule.

The Utah plan is developmental. The following is the schedule of developmental steps provided by the plan:

(a) Introduction of resulting legislation in State Legislature during January 1973.

(b) Expected enactment of the enabling legislation by March 1973.

(c) Formal adoption of Federal standards and revocation of existing Utah State standards by September 1, 1973.

(d) Adoption of safety standards for agriculture by September 1, 1974.

(e) Formal adoption of parts 1903, 1904, and 1905 of this chapter as rules and regulations of Utah by July 1974.

(f) Effective date of new standards, commencement of State enforcement by September 1973.

(g) A management information system by July 1, 1974.

[38 FR 1179, Jan. 10, 1973. Redesignated at 50 FR 28780, July 16, 1985]

§ 1952.112 Completion of developmental steps and certification.

(a) In accordance with the requirements of 29 CFR 1952.110, the Utah State poster was approved by the Assistant Secretary on January 7, 1976.

(b) In accordance with § 1952.113(g), the State has developed and implemented a Management Information System.

(c) In accordance with the requirements of 29 CFR 1952.110(b), the Utah Occupational Safety and Health Act, (chapter 9 of title 35 of the Utah State Code) effective July 1, 1973, was approved July 30, 1974.

(d) In accordance with the requirements of 29 CFR 1952.113(e), State regulations substantially identical to 29 CFR parts 1903, 1904, and 1905, have been adopted by the State and approved by the Assistant Secretary on March 3, 1976.

(e) The State has developed and implemented rules of procedure for its review commission, consistent with present law.

(f) The State plan has been amended to include an Affirmative Action Plan

outlining the State's policy of equal employment opportunity.

(g) In accordance with 29 CFR 1952.113 Utah has promulgated standards at least as effective as comparable Federal standards as set out in 41 FR 11635, regarding all issues covered by the plan.

(h) In accordance with § 1902.34 of this chapter, the Utah occupational safety and health plan was certified, effective as of the date of publication on November 19, 1976, as having completed all developmental steps specified in the plan as approved on January 4, 1973 on or before January 3, 1976.

[41 FR 1904, Jan. 13, 1976, as amended at 41 FR 10064, Mar. 9, 1976; 41 FR 15005, Apr. 9, 1976; 41 FR 46599, Oct. 22, 1976; 41 FR 51016, Nov. 19, 1976. Redesignated and amended at 50 FR 28780, July 16, 1985]

§ 1952.113 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 to be established for each State operating an approved State plan. In September 1984, Utah, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 10 safety and 9 health compliance officers. After opportunity for public comments and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements effective July 16, 1985.

[50 FR 28780, July 16, 1985]

§ 1952.114 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 1984 in response to a Court Order in *AFL-CIO v. Marshall* (CA 74-406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Utah State plan for a period of at least one year following certifi-

cation of completion of developmental steps (41 FR 51014). Based on the 18(e) Evaluation Report for the period of October 1, 1982 through March 31, 1984, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Utah's occupational safety health program 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, the Utah plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective July 16, 1985.

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in Utah. The plan does not cover private sector maritime employment; employment on Hill Air Force Base; Federal government employers and employees; the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; the enforcement of the field sanitation standard, 29 CFR 1928.110, and the enforcement of the temporary labor camps standard, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in "agricultural employment" within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that Utah retains enforcement responsibility over agricultural temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

(c) Utah 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