

clarifying several issues raised during the review process.

(4) Also available for inspection and copying with the Plan documents will be the public comments received during the review process.

[38 FR 3042, Feb. 1, 1973, as amended at 51 FR 2488, Jan. 17, 1986]

§ 1952.151 Developmental schedule.

The North Carolina Plan is developmental. The following is the schedule of the developmental steps provided by the Plan:

(a) It is estimated that the draft bill will be enacted by April 1, 1973.

(b) The Federal standards will be adopted on the date the bill is ratified.

(c) A refresher course for inspectors will begin sixty (60) days after the enactment of the draft bill.

(d) Merit system examinations of current department of labor personnel will be completed within sixty (60) days after Federal acceptance of the State Plan.

(e) The hiring of new personnel in both the department of labor and the State board of health will begin thirty (30) days after the department is assured that State and Federal funds are available. Tentative plans provide for both agencies to be fully staffed within six (6) months after the enactment of the bill.

(f) All new personnel will receive official OSHA training in the National Institute of Training. Employment dates will generally correspond to dates established for the Institute schools.

(g) Employers and employees will be notified of the availability of consultative services within ninety (90) days after ratification of the draft bill.

(h) The Department of Labor will initiate a developmental plan for a "Management Information System" on the date of Plan approval. This program is to be fully implemented in ninety (90) days after enactment of the proposed legislation.

(i) The enforcement of standards will begin ninety (90) days after ratification of the draft bill.

(j) A State Compliance Operations Manual is to be completed ninety (90) days after ratification of the draft bill.

(k) The Commissioner will begin issuing administrative "rules and regu-

lations" when necessary as stated in the draft bill ninety (90) days after ratification of the draft bill. Meanwhile, the Federal rules and regulations will be adopted and applied until the State rules and regulations are acceptable.

(l) Safety programs for State employees will begin one (1) year and ninety (90) days after ratification of the draft bill, with full implementation scheduled a year later.

(m) Safety programs for large counties and municipalities with over 10,000 population will be initiated ninety (90) days after draft bill ratification. Full implementation will occur one (1) year later.

(n) Safety programs for other counties and municipalities with 4,000 to 10,000 population will be initiated within two (2) years and ninety (90) days after Plan grant is approved. Full implementation will occur three (3) years after grant award.

(o) Safety programs for towns and other governing units having between 1,000 and 4,000 population will be initiated within two (2) years and ninety (90) days after Plan grant is approved, with full implementation within three years after grant award.

(p) A State "Safety and Health" poster will be prepared within ninety (90) days after ratification of the draft bill.

(q) The State of North Carolina will be fully operational with respect to agriculture 1 year and 90 days after enactment of the draft bill.

[38 FR 3042, Feb. 1, 1973. Redesignated at 51 FR 2488, Jan. 17, 1986]

§ 1952.152 Completion of developmental steps and certification.

(a) In accordance with §1952.153(a) the Occupational Safety and Health Act of North Carolina (S.B. 342, Chapter 295) was enacted by the State legislature on May 1, 1973, and became effective on July 1, 1973.

(b) In accordance with §1952.153(b), the North Carolina occupational safety and health standards identical to Federal standards (thru 12-3-74) have been promulgated and approved, as revised, by the Assistant Regional Director on March 11, 1975 (40 FR 11420).

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(c)(1) In accordance with §1952.153(p) and the requirements of 29 CFR 1952.10, the North Carolina poster for private employers was approved by the Assistant Secretary on April 17, 1975.

(2) In accordance with §1952.153(p) and the requirements of 29 CFR 1952.10, the North Carolina poster for public employees was approved by the Assistant Secretary on April 20, 1976.

(d) In accordance with §1952.153(q) full coverage of agricultural workers by the North Carolina Department of Labor began on April 1, 1974.

(e) The State plan has been amended to include an Affirmative Action Policy in which the State outlines its policy of equal employment opportunity.

(f) In accordance with §1952.153(c) all North Carolina compliance personnel have completed refresher training courses.

(g) In accordance with §1952.153(d) all occupational safety and health personnel in the North Carolina Department of Labor are covered by the State merit system which the U.S. Civil Service Commission (by letter dated January 22, 1976) has found to be in substantial conformity with the "Standards for a Merit System of Personnel Administration." Agreement with the North Carolina Department of Human Resources specifies that all health personnel cooperating in the State occupational safety and health program are likewise covered by the State merit system.

(h) In accordance with §1952.153(f) all North Carolina compliance personnel have attended basic training courses at the OSHA Institute in Chicago.

(i) In accordance with §1952.153(g) the North Carolina Department of Labor has publicly disseminated information on the availability of consultative services.

(j) In accordance with §1952.153(h) a manual Management Information System which provides the quarterly statistical reports required by the Assistant Secretary as well as internal management data has been developed and is fully operational.

(k) In accordance with §1952.153(i) State enforcement of standards began on July 1, 1973.

(l) In accordance with §1952.153(k) the State has promulgated the following

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administrative "rules and regulations":

(1) Regulation 7B.0100: Inspections, Citations and Proposed Penalties.

(2) Regulation 7B.0300: Recording and Reporting of Occupational Injuries and Illnesses.

(3) Regulation 7B.0400: Rules of Practice for Variances.

(4) Regulation 7B.0500: Rules of Procedure for Promulgating, Modifying or Revoking Occupational Safety and Health Standards.

(5) Regulation 7B.0700: State Advisory Council on Occupational Safety and Health.

(m) The North Carolina Occupational Safety and Health Review Board has adopted Rules of Procedure governing its review of contested cases.

(n) In accord with §1952.153(l), Safety programs for State employees were initiated and implemented.

(o) In accord with §1952.153(m), Safety programs for large counties and municipalities with over 10,000 population were initiated and implemented.

(p) In accord with §1952.153(n), Safety programs for other counties and municipalities with 4,000 to 10,000 population were initiated and implemented.

(q) In accord with §1952.153(o), Safety programs for towns and other governing units having between 1,000 and 4,000 population were initiated and implemented.

(r) In accord with §1952.153(e) and §1902.3(d) the North Carolina occupational safety and health program has been fully staffed.

(s) In accordance with §1952.153(j) the State has developed and amended a Compliance Operations Manual which defines the procedures and guidelines to be used by the North Carolina compliance staff in carrying out the goals of the program.

(t) In accordance with §1902.34 of this chapter, the North Carolina occupational safety and health plan was certified, effective October 5, 1976, as having completed on or before March 31, 1976 all development steps specified in

the plan as approved on January 26, 1973.

[40 FR 18429, Apr. 28, 1975, as amended at 41 FR 17547, Apr. 27, 1976; 41 FR 22562, June 4, 1976; 41 FR 41083, Sept. 21, 1976; 41 FR 43897-43900, 43902, Oct. 5, 1976. Redesignated at 51 FR 2488, Jan. 17, 1986]

§ 1952.153 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 September 1984, North Carolina, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised benchmarks of 50 safety and 27 health compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on January 17, 1986. In June 1990, North Carolina reconsidered the information utilized in the initial revision of its 1980 benchmarks and determined that changes in local conditions and improved inspection data warranted further revision of its benchmarks to 64 safety inspectors and 50 industrial hygienists. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on June 4, 1996.

[61 FR 28055, June 4, 1996]

§ 1952.154 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 and 1996 in response to a court order in *AFL-CIO v. Marshall*, 570 F.2d 1030 (D.C. Cir. 1978), 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 North Carolina State plan for a period of at least one year following certification of completion of developmental steps (41 FR 43896). Based on the Bien-

nial Evaluation Report covering the period of October 1, 1993, through September 30, 1995, an 18(e) Evaluation Report covering the period October 1, 1995, through June 30, 1996, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of North Carolina's occupational safety and 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 North Carolina plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective December 10, 1996.

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in North Carolina. The plan does not cover 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 American National Red Cross; private sector maritime activities; employment on Indian reservations; enforcement relating to any contractors or subcontractors on any Federal establishment where the land has been ceded to the Federal Government; railroad employment; and enforcement on military bases.

(c) North Carolina 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 enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

[61 FR 66601, Dec. 18, 1996, as amended at 65 FR 36621, June 9, 2000; 65 FR 62612, Oct. 19, 2000]