

Director, California Department of Industrial Relations, effective October 5, 1989, and based on a determination that California is operational in the issues covered by the California occupational safety and health plan, discretionary Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR part 1910, 29 CFR part 1926, and 29 CFR part 1928, except as set forth below.

(b) The U.S. Department of Labor will continue to exercise authority, among other things, with regard to:

(1) Specific Federal standards which the State has not yet adopted or with respect to which the State has not amended its existing State standards when the Federal standard provides a significantly greater level of worker protection than the corresponding Cal/OSHA standard, enforcement of new permanent and temporary emergency Federal standards until such time as the State shall have adopted equivalent standards, and enforcement of unique and complex standards as determined by the Assistant Secretary.

(2) The following maritime activities:

(i) Longshore operations on vessels from the shore side of the means of access to said vehicles.

(ii) Marine vessels construction operations (from the means of access of the shore).

(iii) All afloat marine ship building and repair from the foot of the gangway.

(iv) All ship building and repair in graving docks or dry docks.

(v) All ship repairing done in marine railways or similar conveyances used to haul vessels out of the water.

(vi) All floating fuel operations.

(vii) All afloat dredging and pile driving and similar operations.

(viii) All diving from vessels afloat on the navigable waters.

(ix) All off-shore drilling rigs operating outside the 3-mile limit.

(3) Any hazard, industry, geographical area, operation or facility over which the State is unable to exercise jurisdiction fully or effectively.

(4) Private contractors on Federal installations where the Federal agency

claims exclusive Federal jurisdiction, challenges State jurisdiction and/or refuses entry to the State; such Federal enforcement will continue at least until the jurisdictional question is resolved at the National level between OSHA and the cognizant Federal agency.

(5) Complaints filed with Federal OSHA alleging discrimination under section 11(c) of the OSH Act.

(6) Completion of Federal enforcement actions initiated prior to the effective date of the agreement.

(7) Situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry.

(8) Enforcement in situations where the State temporarily is unable to exercise its enforcement authority fully or effectively.

(9) 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.

(c) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the California 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. The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in California.

[55 FR 28613, July 12, 1990, as amended at 65 FR 36622, June 9, 2000]

§ 1952.173 Developmental schedule.

(a) Within 1 year following plan approval, legislation will be enacted authorizing complete implementation of the plan and enforcement rules and regulations will be promulgated, and an operations manual be completed.

(b) By October 31, 1975, present standards will be amended or new standards promulgated which are as effective and comprehensive as those set forth in

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chapter XVII of this title 29 of the Code of Federal Regulations;

(c) An exception to paragraphs (a) and (b) of this section exists relative to radiation machines and other non-Atomic Energy Act sources of radiation. The standards and enforcement program in this area will be developed within 2 years of plan approval.

(d) Inter-agency agreements to provide technical support to the program will be fully functioning within 1 year of plan approval.

(e) Inservice training plans for enforcement personnel will be developed within 18 months of plan approval.

(f) A program of consultation with employers and employees will be functioning within 6 months of plan approval.

(g) Within 3 years of plan approval all developmental steps will be fully implemented.

(h) The Inspection Scheduling System will be fully implemented and in operation March 31, 1975.

[38 FR 10719, May 1, 1973, as amended at 40 FR 18429, Apr. 28, 1975; 40 FR 40156, Sept. 2, 1975]

§ 1952.174 Completion of developmental steps and certification.

(a)(1) In accordance with §1952.173(a), The California Occupational Safety and Health Act (Assembly Bill No. 150) was enacted in September 1973 and filed with the California Secretary of State October 2, 1973.

(2) The following difference between the program described in §1952.170(a) and the program authorized by the State law is approved: Authority to grant or deny temporary variances rests with the Division of Industrial Safety, and such authority for permanent variances is with the Occupational Safety and Health Standards Board. The Board hears appeals from the Division of Industrial Safety's decisions on temporary variances.

(b) In accordance with §1952.173(d) formal interagency agreements were negotiated and signed between the Department of Industrial Relations and the State Department of Health (June 28, 1973) and between the State Department of Industrial Relations and the State Fire Marshal (August 14, 1973).

(c) In accordance with §1952.173(f), a program of consultation with employers and employees was fully functioning in January 1974.

(d) In accordance with the requirements of §1952.10, the California State poster was approved by the Assistant Secretary on August 27, 1975.

(e) The Occupational Safety and Health Standards Board began functioning in January 1974.

(f) The initial major training and education of employers, employees and the general public was completed by 1974.

(g) In accordance with §1952.173(a), recordkeeping and reporting requirements were extended to State and local governments effective January 1, 1975.

(h) The Management Information System was established by November 1974.

(i) The Occupational Safety and Health Appeals Board began functioning in early 1974. The Rules of Procedure for the Board were approved by the Assistant Secretary on November 19, 1975.

(j) In accordance with §1952.173(a), enforcement rules and regulations were promulgated by January 1974, and were approved by the Assistant Secretary on September 28, 1976.

(k) Recordkeeping and reporting requirements for private employers were promulgated by November 1974, and were approved by the Assistant Secretary on September 28, 1976.

(l) In accordance with §1952.173(h), the Inspection Scheduling System was fully implemented and in operation by June 1975.

(m) In accordance with §1952.173(a), an operations manual was published, and was approved by the Assistant Secretary on September 28, 1976.

(n) In accordance with §1952.173(e), in-service training Programs for safety and health enforcement personnel were implemented within 18 months of plan approval.

(o) Enforcement of standards pertaining to temporary labor camps was implemented in March 1977.

(p) In accordance with §1903.34 of this chapter, the California occupational safety and health plan was certified, effective August 12, 1977, as having completed all developmental steps specified