

§ 1952.313

(h) In accordance with § 1902.34 of this chapter, the Hawaii occupational safety and health plan was certified, effective April 26, 1978 as having completed all developmental steps specified in the plan as approved on December 28, 1973, on or before December 31, 1976.

[39 FR 44203, Dec. 23, 1974, as amended at 39 FR 44752, Dec. 27, 1974; 40 FR 6336, Feb. 11, 1975; 41 FR 26218, June 25, 1976; 43 FR 5821, Feb. 10, 1978; 43 FR 19851, May 9, 1978. Redesignated at 49 FR 19192, May 4, 1984]

§ 1952.313 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR part 1902, and after a determination that the State met the “fully effective” compliance staffing benchmarks established 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 Hawaii State plan for a period of at least one year following certification of completion of developmental steps (May 9, 1978, 43 FR 19849). Based on the Evaluation Report for FY 1982 and available FY 1983 data, and after opportunity for public comment and an informal public hearing held on October 27, 1983, in Honolulu, Hawaii, the Assistant Secretary determined that in actual operations, Hawaii 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 Hawaii plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective April 30, 1984.

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in Hawaii. The plan does not cover maritime employment in the private sector; Federal government employers and employees; enforcement relating to any contractors or subcontractors on any Federal establishment where the land is deter-

29 CFR Ch. XVII (7-1-06 Edition)

mined to be exclusive Federal jurisdiction; and the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

(c) Hawaii 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.

[49 FR 19192, May 4, 1984, as amended at 65 FR 36627, June 9, 2000]

§ 1952.314 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Hawaii plan under section 18(e) of the Act, effective April 30, 1984, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Hawaii plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violation of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(f), and other inspections, investigations or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to