

(c) Regulations concerning inspections, citations and proposed penalties and the Rules of Procedure for contests before the Governor's Review Board were promulgated on February 28, 1975.

(d) Recordkeeping and reporting regulations were promulgated on March 1, 1975; however, these regulations will not be applicable to public employers until January 1, 1977.

(e) The universe file system for the inspections scheduling system was completed and implemented on March 12, 1976.

(f) An interagency agreement was entered into between the Corporation Commission of Arizona and the Industrial Commission on May 7, 1976 and became effective May 10, 1976.

(g) In accordance with the requirements of §1952.10, the Arizona State poster was approved by the Assistant Secretary on July 22, 1976.

(h) Arizona occupational safety and health standards comparable to Federal standards in effect as of July 28, 1974, were promulgated on February 28, 1975, and were approved by the Regional Administrator effective August 6, 1976.

(i) In accordance with §1902.34 of this chapter, the Arizona occupational safety and health plan was certified, effective September 18, 1981 as having completed all developmental steps specified in the plan as approved on October 29, 1974, on or before November 1, 1977. This certification attests to structural completion, but does not render judgment on adequacy of performance.

(j) Regulations concerning discrimination complaints were promulgated on September 22, 1977, and were approved by the Assistant Secretary on November 13, 1980.

(k) Legislative amendments required to bring the Arizona occupational safety and health law (Arizona Revised Statutes, Chapter 23) into conformity with Federal requirements were enacted effective August 27, 1977.

[41 FR 31813, July 30, 1976, as amended at 41 FR 34251, Aug. 13, 1976; 41 FR 56316, Dec. 28, 1976; 46 FR 20164, Apr. 3, 1981; 46 FR 32022, June 19, 1981; 46 FR 46322, Sept. 18, 1981. Redesignated at 50 FR 25571, June 20, 1985]

§1952.353 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, Arizona in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 9 safety and 6 health compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on June 20, 1985.

[50 FR 25571, June 20, 1985]

§1952.354 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 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 State plan for a period of at least one year following certification of completion of developmental steps (46 FR 46320). Based on the 18(e) Evaluation Report (October 1982-March 1984) and after opportunity for public comment, the Assistant Secretary determined that, in operation, the State of Arizona'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 Arizona plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective June 20, 1985.

(b) Except as otherwise noted, the plan which has received final approval

§ 1952.355

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

covers all activities of employers and all places of employment in Arizona. The plan does not cover private sector maritime employment; Federal government employers and employees; enforcement relating to any contractors or subcontractors on any Federal establishment where the land is determined to be exclusive Federal jurisdiction; the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; copper smelters; concrete and asphalt batch plants that are physically connected to a mine or so interdependent with a mine as to form one integral enterprise; and Indian reservations.

(c) Arizona 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 revision to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

[50 FR 25571, June 20, 1985, as amended at 63 FR 53281, Oct. 5, 1998; 65 FR 36629, June 9, 2000]

§ 1952.355 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval of the Arizona plan under section 18(e) of the Act, effective June 20, 1985, 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 Arizona 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 retains jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the effective date of the 18(e) determination.

(b)(1) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Arizona plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry and construction standards (29 CFR Parts 1910 and 1926) appropriate to hazards found in these employments. Federal jurisdiction is also retained with respect to Federal government employers and employees; enforcement relating to any contractors or subcontractors on any Federal establishment where the land is determined to be exclusive Federal jurisdiction; the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; in copper smelters; in concrete and asphalt batch plants which are physically connected to a mine or so interdependent with the mine as to form one integral enterprise; and within Indian reservations.

(2) In addition, any hazard, industry, geographical area, operation or facility over which the State is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the finally approved plan, and shall be