

§ 1952.291

29 CFR Ch. XVII (7-1-10 Edition)

programs. It requires employers of one or more employees (including those employed by the State and its political subdivisions) to furnish them employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm, and to comply with all occupational safety and health standards promulgated or issued by the agency. Moreover, all safety and health standards adopted by the United States Department of Labor shall be deemed Nevada Occupational Safety and Health standards. The Plan also directs employees to comply with all occupational safety and health standards and regulations that are applicable to their own actions and conduct.

(c) The Plan includes 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 the issuance of variances. It provides 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 or their representatives when no compliance action is taken upon complaints, including informal review; 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 remedies against employers and the right to review alleged violations, abatement periods, and proposed penalties with opportunity for employee participation in the review proceedings; procedures for prompt restraint or elimination of imminent danger conditions, and procedures for inspection in response to complaints.

(d)(1) The Plan includes a 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 the State of Nevada.

(2) A merit system of personnel administration will be used.

(3) The Plan provides a program of education, training, and consultation for employers and employees.

(4) The Plan is supplemented by the inclusion of implementing legislation and letters dated July 26, August 10, and November 5, 1973, and a telegram dated December 5, 1973.

[39 FR 1009, Jan. 4, 1974, as amended at 39 FR 8613, Mar. 6, 1974]

§ 1952.291 Developmental schedule.

The following is a summary of the major developmental steps provided by the plan:

(a) Training of enforcement personnel to be completed—July 1, 1974.

(b) Application of the program to State and local employees to take effect—July 1, 1974.

(c) Not less than two industrial hygiene experts shall participate in the program—July 1, 1975.

(d) Proposed amendments to the Nevada Occupational Safety and Health Act to have been adopted and to take effect—July 1, 1975.

(e) System of recordkeeping and reporting fully developed and operational—January 1, 1977.

(f) Program to be fully implemented—January 1, 1977.

[39 FR 1009, Jan. 4, 1974. Redesignated at 52 FR 34383, Sept. 11, 1987]

§ 1952.292 Completion of developmental steps and certification.

(a) A separate and autonomous on-site consultation program became effective on July 1, 1975, and was approved by the Assistant Secretary on February 26, 1976.

(b) In accordance with § 1952.293(c), as amended, the Nevada health program was submitted on December 3, 1976 and has been implemented.

(c) In accordance with the requirements of § 1952.10, the Nevada poster for private employers was approved by the Assistant Secretary on December 23, 1977.

(d) In accordance with § 1952.293(a), initial training of Nevada personnel has been completed.

(e) Nevada began participation in the Bureau of Labor Statistics annual survey of occupational injuries and illnesses on July 19, 1976.

(f) Standards identical to Federal standards promulgated through January 18, 1977 were adopted by the State and approved by the Regional Administrator in a notice published in the FEDERAL REGISTER on July 26, 1977 (42 FR 38026).

(g) Regulations concerning the Rules of Occupational Safety and Health Recordkeeping Requirements were submitted on September 16, 1976, revised effective January 9, 1981, and approved by the Assistant Secretary on August 13, 1981.

(h) Regulations concerning the Rules of Procedures of Occupational Safety and Health Review Commission; Rules of Practice for Variances; and Rules for Inspections, Citations, and Proposed Penalties were submitted on June 24, 1975, revised effective January 9, 1981, and approved by the Assistant Secretary on August 13, 1981.

(i) Regulations concerning the Public Employee Program were submitted on June 24, 1975, revised effective February 15, 1979, and approved by the Assistant Secretary on August 13, 1981.

(j) In accordance with the requirements of §1952.10, the revised poster was submitted on April 7, 1980, and approved by the Assistant Secretary on August 13, 1981.

(k) Amendments to the State's legislation were submitted on June 24, 1975 and July 1, 1977, became effective on July 1, 1975 and July 1, 1977, and approved by the Assistant Secretary on August 13, 1981.

(l) The Nevada Field Operations Manual was submitted on June 24, 1975, revised to reflect those changes made in the Federal Field Operations Manual through March, 1981, and approved by the Assistant Secretary on August 13, 1981.

(m) In accordance with §1902.34 of this chapter, the Nevada occupational safety and health plan was certified, effective August 13, 1981 as having completed all developmental steps specified in the plan as approved on December 28, 1973, on or before January 1, 1977. This certification attests to structural

completion, but does not render judgment on adequacy of performance.

[41 FR 8955, Mar. 2, 1976, as amended at 42 FR 64627, Dec. 27, 1977; 46 FR 42844, 42846, Aug. 25, 1981. Redesignated at 52 FR 34383, Sept. 11, 1987]

§ 1952.293 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 July 1986 Nevada, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 11 safety and 5 health compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on September 2, 1987.

[52 FR 34383, Sept. 11, 1987]

§ 1952.294 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 1986 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 Nevada State plan for a period of at least one year following certification of completion of developmental steps. Based on an 18(e) Evaluation Report covering the period July 1, 1995 through March 31, 1999, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Nevada'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