

of exclusive Federal jurisdiction; employees of the United States; employees protected by State agencies under the Atomic Energy Act of 1954, (42 U.S.C. 2021); and employees whose working conditions are regulated by Federal agencies other than the U.S. Department of Labor under the provisions of section 4(b)(1) of the Occupational Safety and Health Act of 1970. (84 Stat. 1592, 29 U.S.C. 653(b)(1)).

(2) The legislation brings the plan into conformity with the requirements of part 1902 of this chapter in areas such as procedures for granting or denying permanent and temporary variances to standards by the Commissioner; protection of employees from hazards; promulgation of standards by the Commissioner prescribing requirements "at least as effective" as the requirements for Federal Standards including medical examinations and monitoring and measuring of hazards; imminent danger abatement by administrative order and court injunction; protection of employees against discharge or discrimination in terms or conditions of employment by filing complaints with the Commissioner who will seek court action through the State Attorney General; and adequate safeguards to protect trade secrets.

(3) The legislation provides for inspections, including inspections in response to complaints; gives employers and employee representatives an opportunity to accompany inspectors in order to aid inspections and provides for payment to employees for time spent in aiding an inspection; notification of employees or their representatives when no compliance action is taken as a result of an alleged violation, including informal review; notification of employees of their protections and obligations through legislative requirements on posting; provision for prompt notice to employers and employees of alleged violations of standards, and abatement requirements, through the issuance and posting of citations; a system of sanctions against employers for violations of standards; employer right of review to the Occupational Safety and Health Review Board; and employee participation in the review procedure with com-

ensation for time spent by the employee.

(c) Included in the plan is a statement of legal opinion that the law, which was supported by the Governor in accordance with the requirements of part 1902 of this chapter, is consistent with the Constitution and laws of Alaska. The plan sets out goals and provides a timetable for bringing it into full conformity with part 1902 of this chapter at the end of three years after commencement of operations under the plan. Personnel will be employed under the existing State merit system and the voluntary compliance program for on-site consultation meets the conditions set forth in the Washington decision (38 FR 2421). The plan also includes the State Administrative Procedure Act which authorizes the Commissioner to promulgate emergency temporary standards and issue rules and regulations necessary for the implementation of the safety and health law.

(d) The plan includes the following documents as of the date of approval:

(1) The plan document and appendices A through V.

(2) Alaska legislation as enacted amending chapter 18 of the Alaska Statutes.

(3) Letters from the Commissioner of Labor dated May 25, 1973, June 15, 1973, and July 10, 1973.

[38 FR 21630, Aug. 10, 1973, as amended at 49 FR 38261, Sept. 28, 1984]

§ 1952.241 Developmental schedule.

The Alaska plan is developmental. The Schedule of developmental steps (described in the plan as revised in letters dated September 17, 1975, February 10, 1976, and April 15, 1976, from Edmond N. Orbeck, Commissioner, Alaska Department of Labor, to James Lake, Regional Administrator for Occupational Safety and Health) follows:

(a) Promulgation of occupational safety and health standards, as effective as corresponding Federal standards promulgated under chapter XVII of title 29, Code of Federal Regulations by September 1976.

(b) A Compliance Operations Manual for the guidance of compliance personnel will be developed and printed by February 1, 1974.

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(c) A Management Information System (MIS) will be developed by October 1, 1974.

(d) An interim training schedule (appendix M) will be initiated by April 1, 1974. An extended training plan of substantially permanent form will be developed and adopted by October 1, 1976.

(e) Complete hiring of industrial health staff by October 1, 1976.

(f) Provide for an Industrial Health laboratory capacity by October 1, 1976.

(g) Adoption of the following regulations by January 30, 1975:

(1) Recordkeeping and Reporting;

(2) Variances;

(3) Exceptions to the prohibitions against advance notice (such exceptions to be no broader than those contained in 29 CFR part 1903);

(4) Clarification of the appropriate parties for employers to notify in order to file a notice of contest;

(5) A definition of imminent danger that mirrors the Federal definition;

(6) A regulation to allow affected employees to participate as parties in hearings.

[41 FR 56315, Dec. 28, 1976. Redesignated at 49 FR 38261, Sept. 28, 1984]

§ 1952.242 Completed developmental steps.

(a) In accordance with §1952.243(d) Alaska completed its interim training program by April 1, 1974, and has developed and adopted an extended training program by October 1, 1976 (41 FR 36206).

(b) In accordance with §1952.243(c) Alaska has developed and implemented a manual Management Information System by October 1, 1974 (41 FR 36206).

(c) In accordance with the requirements of §1952.10 the Alaska Safety and Health Poster for private and public employees was approved by the Assistant Secretary on September 28, 1976 (41 FR 43405).

(d) In accordance with §1952.243(e) Alaska has completed hiring of its industrial health staff by October 1, 1976 (41 FR 52556).

(e) In accordance with §1952.243(f) Alaska has provided for an Industrial Health Laboratory capacity by October 1, 1976 (41 FR 36206).

(f) In accordance with §1952.243(g) Alaska has adopted regulations cov-

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ering inspections, citations, and proposed penalties, Alaska Occupational Safety and Health Review Board procedures; recording and reporting occupational injuries and illnesses; variances; and consulting and training which were approved by the Assistant Secretary on August 2, 1977.

(g) In accordance with §1952.243(b) Alaska has developed a Compliance Manual which is modeled after the Federal Field Operations Manual and was approved by the Assistant Secretary on August 2, 1977.

(h) In accordance with §1902.34 of this chapter, the Alaska occupational safety and health plan was certified, effective September 9, 1977, as having completed on or before October 1, 1976, all developmental steps specified in the plan as approved on July 31, 1973.

[41 FR 56315, Dec. 28, 1976, as amended at 42 FR 40196, Aug. 9, 1977; 42 FR 45907, Sept. 13, 1977. Redesignated at 49 FR 38261, Sept. 28, 1984]

§ 1952.243 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 established in 1980 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 Alaska State plan for a period of at least one year following certification of completion of developmental steps (Sept. 9, 1977, 42 FR 54905). Based on the Evaluation Report for FY 1983 and available FY 1984 data, and after opportunity for public comment and an informal public hearing held on June 7, 1984 in Anchorage, Alaska, the Assistant Secretary determined that in actual operations, the State of Alaska 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 States plan approval in section