

1996, 61 FR 56746); 29 CFR 1910.1052, Occupational Exposure to Methylene Chloride; Final Rule (January 10, 1997, 62 FR 1494); 29 CFR 1910.134 and 29 CFR 1926.103, Respiratory Protection; Final Rule; Corrections (April 23, 1998, 63 FR 20098); 29 CFR Parts 1910, 1915, 1917, 1918, 1926, Powered Industrial Truck (PITs) Operator Training; Final Rule (December 1, 1998, 63 FR 66237); 29 CFR 1910.108 and 29 CFR 1910.94, Dipping and Coating Operations; Final Rule (March 23, 1999, 64 FR 13897).

These standards were adopted by the State on the Federal promulgation date and are contained in the Division of Occupational Safety and Health Standards for General Industry and Construction and were adopted by reference pursuant to Nevada Revised Statutes § 618.295. State standards adopted by reference have the same numbers as the corresponding Federal standards.

In addition to the Federal standard changes, the State has submitted three State Initiated Standards Plan Change Supplements as follows:

A. On June 6, 1990, the State adopted a unique State standard for Elevator or Hoist Requirements in the Construction of Certain Structures (NAC 618.500). This standard was submitted to OSHA for review on November 26, 1990. The State standard provides that an elevator or personnel hoist be installed and used during construction of any building or structure which is more than 60 feet in height above ground level or 48 feet in depth below ground level and be equipped with suitable voice equipment to enable communication between the elevator or hoist and each floor in an emergency.

B. On March 1, 1992, the State adopted a unique State standard for Ammonium Perchlorate (NAC 618.5155 to 618.5335). This standard pertains to the manufacture, handling and storage of Ammonium Perchlorate.

C. On February 25, 1997, the State adopted by reference the ANSI/ASME Standards for: (1) Hammerhead Tower Cranes B30.3-1990 and addenda 3a, 3b and 3c; (2) Portal, Tower and Pillar Cranes, B30.4-1990 and addenda 4a, 4b and 4c; and (3) Mobile and Locomotive Cranes, B30.5-1994 and addenda 5a, with additional requirements of a site safety plan, a clear zone, annual certification, and operator training.

2. *Decision.* OSHA has determined that the standards submitted in response to Federal standards changes are identical to the Federal standards and therefore approves the standards.

There are no equivalent Federal standards comparable to the Nevada State standards for Elevator or Hoist

Requirements in the Construction of Certain Structures, Ammonium Perchlorate and Crane Safety Standard. OSHA has determined that these standards are at least as effective in comparison to OSHA's general standards requirements and to enforcement policy. These standards have been in effect since June 6, 1990, March 1, 1992 and May 1, 1997 respectively.

During this time OSHA has received no indication of significant objection to the State's standards either as to effectiveness in comparison to OSHA's general standards requirements and enforcement policy or as to conformance with the product clause requirements of section 18(c)(2) of the Act. OSHA, therefore, approves these standards. However, the right to reconsider these approvals is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 71 Stevenson Street, Suite 420, San Francisco, CA 94105; Occupational Safety and Health, 400 West King Street, Suite 200, Carson City, NV 89710; and Office of the Directorate of Federal State Operations, Room N3700, Room 200, Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and for making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards adopted in response to Federal standards are identical to the Federal standards which were promulgated in accordance with Federal law, including meeting requirements for public participation.

2. The State standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective January 12, 2000.

**Authority:** Section 18, Pub. L. 91-596, 84 Stat. 1608 (20 U.S.C. 667).

Signed at San Francisco, California this 10th day of November 1999.

**Christopher Lee,**

*Acting Regional Administrator.*

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### Supplements to Nevada State Plan; Approval

**ACTION:** Approval; Supplements to Nevada State Occupational Safety and Health Plan.

**SUMMARY:** This notice approves supplements to the Nevada occupational safety and health State plan. The supplements are legislative amendments enacted in 1995 and 1999 and amendments to regulations promulgated in 1983 and 1992.

**EFFECTIVE DATE:** January 12, 2000.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Friedman, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Nevada Occupational Safety and Health Plan was initially approved under section 18(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(b)) (hereinafter referred to as the Act) and Part 1902 of this chapter on January 4, 1974 (39 FR 1008). Final approval under section 18(e) was proposed on November 16, 1999 (64 FR 62138). Part 1953 of this chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary).

##### II. Description of Supplements

###### A. Amendments to Nevada Occupational Safety and Health Act

In 1995 the State enacted amendments to its Occupational Safety and Health Act. The five amendments, submitted on June 28, 1995, included the following revisions:

(1) Nevada Revised Statutes section 618.378 was revised to require that an occupational accident which is fatal to one or more employees or which results in the hospitalization of three or more employees be reported to the State

within 8 hours after the accident has occurred. These requirements are identical to the Federal requirements found at 29 CFR 1904.8, published in the **Federal Register** on April 1, 1994 (59 FR 15594). The amendments also require employers not to move equipment involved in a fatality or multiple hospitalization until an agency investigator authorizes it and require the State to begin investigating a fatality or multiple hospitalization within 8 hours.

(2) Nevada Revised Statutes section 618.565 and section 618.585 relating to the Occupational Safety and Health Review Board were revised to allow for an alternate for the member of the board representing the general public, to require that at least one member of the board be knowledgeable about occupational safety and health, and to provide that a quorum consists of three members of the board, at least one of whom must represent labor and one of whom must represent management.

(3) Nevada Revised Statutes section 618.295(8) was revised to allow the State to adopt occupational safety and health standards which differ from Federal standards if the State standards provide protection equal to the protection provided by the Federal standards.

(4) A new section was added to Nevada Revised Statutes 618, mandating that the State adopt regulations establishing standards and procedures for the operation of cranes, including a site safety plan, procedures for the erection and dismantling of tower cranes, establishment of a clear zone, annual certification, and operator training. The required regulations were promulgated on February 25, 1997, and became effective on May 1, 1997. These standards have been approved by the OSHA Regional Administrator; a notice of this approval will be published separately.

Additional amendments to the Nevada Occupational Safety and Health Act were enacted in 1999. These amendments, submitted on June 29, 1999, included the following revisions:

(1) Two sections of Nevada Revised Statutes 618 were amended to address criminal violations of the law. Section 618.341 was amended to allow the Division of Industrial Relations to disclose confidential information to a law enforcement agency for the limited purpose of pursuing a criminal investigation. In addition, section 618.365 was amended to give the Division of Industrial Relations the authority to prosecute criminal violations of laws relating to labor and industrial relations.

(2) New sections were added to Nevada Revised Statutes 618 concerning the manufacture of explosives. One provision requires the Division of Industrial Relations (DIR) to adopt standards and procedures for places of employment where explosives are manufactured, used, processed, handled or moved on site or stored. Another section requires explosives employers to provide an annual training and testing program. An additional provision requires that an owner or operator of a place of employment obtain a permit from DIR prior to commencing construction of, substantially altering the construction of, or modifying any major process that involves the manufacturing or usage, processing, handling, moving on site or storage of explosives.

(3) A new section was added to Nevada Revised Statutes 618 regarding assistance to small employers. If authorized by the Secretary of Labor, the Occupational Safety and Health Enforcement Section is directed to develop a program for small employers to eliminate or abate hazards to the safety and health of employees. Except as otherwise provided by Federal law, if a small employer complies with the established program, the Enforcement Section may reduce any penalty, fine or interest proposed. The program implementing this provision has not yet been submitted, but will be separately reviewed to assure that all requirements of Federal law and policy are met. In addition, the Safety Consultation and Training Section is to establish a toll free number to provide advice to small employers who seek assistance.

#### *B. Regulations*

The Nevada regulations on Inspections, Citations and Proposed Penalties; Variances; and Records and Reports were amended in 1983, and the regulation on Inspections, Citations and Proposed Penalties was further amended in 1992. Nevada Administrative Code Section 618.6458 was amended to incorporate references to Nevada's procedure for issuing Notices of Violations for certain other than serious violations when the employer agrees to abate the violations. The Notice of Violation procedures were previously approved by OSHA (60 FR 43969). Nevada Administrative Code Section 618.589 was amended to adopt Federal exemptions to recordkeeping requirements for low-hazard industries. In addition, all material in the regulations which repeats provisions of the Nevada Occupational Safety and Health Act was deleted. Amendments made in 1992 reflect the reorganized

structure of the Nevada occupational safety and health program, as set out in legislation approved by OSHA on August 24, 1995 (60 FR 43969).

#### **III. Decision**

After careful consideration, the Nevada plan supplements described above are found to be in substantial conformance with comparable Federal provisions and in some cases to go beyond Federal requirements and are hereby approved under Part 1953 of this chapter. The decision incorporates the requirements and implementing regulations applicable to State plans generally.

#### **IV. Location of Supplements for Inspection and Copying**

A copy of the plan and the supplements may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 415, 71 Stevenson Street, San Francisco, California 94105; Office of the State Designee, Administrator, Nevada Division of Industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada 89703; and the Office of the Director of Federal-State Operations, Room N3700, 200 Constitution Avenue, NW, Washington, DC 20210.

#### **V. Public Participation**

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Nevada plan supplements described above are consistent with Federal requirements and with commitments contained in the plan and previously made available for public comment. Good cause is therefore found for approval of these supplements, and further public participation would be unnecessary.

**Authority:** Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 1-90 (55 FR 9033).

Signed in Washington, DC, this 22nd day of December, 1999.

**Charles N. Jeffress,**

*Assistant Secretary.*

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