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## **DEPARTMENT OF LABOR**

### **Occupational Safety and Health Administration**

**[Docket No. OSHA-2016-0023]**

#### **Tennessee State Plan; Change in Level of Federal Enforcement: Marine Construction**

**AGENCY:** Occupational Safety and Health Administration (OSHA)

**ACTION:** Notice

**SUMMARY:** This document gives notice of OSHA's approval of a change to the state of Tennessee's occupational safety and health State Plan to include marine construction in its State Plan. Marine construction was previously exempted from the State Plan by the Tennessee Occupational Safety and Health Act of 1972. Therefore, OSHA amends the Tennessee State Plan's coverage to reflect this change in the level of federal enforcement.

**DATES:** Effective Date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**

#### **FOR FURTHER INFORMATION CONTACT:**

For press inquiries, contact Francis Meilinger, Director, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-1999; email: [meilinger.francis2@dol.gov](mailto:meilinger.francis2@dol.gov).

For general and technical information, contact Douglas J. Kalinowski, Director, Directorate of Cooperative and State Programs, Room N-3700, OSHA, U.S. Department of

Labor, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-2200;  
email: [kalinowski.doug@dol.gov](mailto:kalinowski.doug@dol.gov).

#### **SUPPLEMENTARY INFORMATION:**

Section 18 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 667 (OSH Act), provides that states that wish to assume responsibility for developing and enforcing their own occupational safety and health standards may do so by submitting and obtaining federal approval of a State Plan. State Plan approval occurs in stages that include initial approval under Section 18(c) of the Act and, ultimately, final approval under Section 18(e).

The Tennessee State Plan was initially approved under Section 18(c) of the OSH Act and 29 CFR Part 1902 on July 5, 1973. The Tennessee State Plan is administered by the Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health (TOSHA). On July 22, 1985, OSHA announced the final approval of the Tennessee State Plan pursuant to Section 18(e) and amended Subpart P of 29 CFR Part 1952 to reflect the Assistant Secretary's decision (50 FR 29659-01). As a result, OSHA relinquished its concurrent standards and enforcement authority with regard to occupational safety and health issues covered by the Tennessee State Plan.

OSHA retained its authority over safety and health in private sector maritime employment; federal government employers and workers; the U.S. Postal Service (USPS), including USPS employees and contract employees at contractor-operated facilities engaged in USPS mail operations; railroad employment; employment at Tennessee Valley Authority facilities; and on military bases.

Under the Tennessee Occupational Safety and Health Act of 1972, workers protected by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) were exempt from coverage by the Tennessee State Plan (T.C.A. § 50-3-104(6) (2014)). That included workers who were engaged in marine construction. However, Tennessee subsequently removed this prohibition from the statute (2015 Tenn. Pub. Acts, c. 23, § 1). Now, TOSHA is requesting that its coverage be modified to include coverage over marine construction. TOSHA has in place standards for construction (TN ADC 0800-01-06-.02 adopts OSHA's construction standards in 29 CFR 1926 with minor exceptions not relevant here), including for marine operations and equipment (29 CFR 1926.605). OSHA is transferring coverage over marine construction to the Tennessee State Plan. Accordingly, notice is hereby given of the change in State Plan authority over marine construction, and coverage is transferred to the Tennessee State Plan.

### **Authority and Signature**

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor's Order No. 1-2012 (77 FR 3912), and 29 CFR Parts 1902 and 1953.

Signed at Washington, DC, on September 26, 2016.

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**David Michaels,**

Assistant Secretary of Labor for Occupational Safety and Health.

**BILLING CODE: 4510-29-P**

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