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## **DEPARTMENT OF LABOR**

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

**Docket No. OSHA-2017-0003**

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

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Notice.

**SUMMARY:** This document gives notice of OSHA's approval of a change to the State of Michigan's Occupational Safety and Health State Plan that clarifies that marine construction is included in its State Plan. Therefore, OSHA announces an amendment to the Operational Status Agreement between OSHA and the Michigan State Plan to clarify Michigan's coverage of marine construction.

**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, D.C. 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, D.C. 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 Michigan State Plan was initially approved under Section 18(b) of the OSH Act and 29 CFR Part 1902 on September 24, 1973 (38 FR 27388, October 3, 1973). The Michigan State Plan is administered by the Michigan Department of Licensing and Regulatory Affairs, Michigan Occupational Safety and Health Administration (MIOSHA). On January 6, 1977, an Operational Status Agreement was entered into between OSHA and the Michigan State Plan agency whereby concurrent federal enforcement authority was suspended with regard to most federal occupational safety and health standards in issues covered by the state's OSHA-approved occupational safety and health plan. Federal OSHA retained its authority over safety and health in private sector maritime employment, with regard to federal government employers and employees, and employees of the U.S. Postal Services (effective June 9, 2000), and employers who are enrolled members of Indian tribes and who own or operate businesses located within the boundaries of Indian reservations.

MIOSHA has covered construction since the Plan's inception. A legal issue has arisen as to whether employees engaged in marine construction are covered by the Longshore and Harbor

Workers' Compensation Act (33 U.S.C. 901 *et seq.*) and thus were included in Federal OSHA's coverage of maritime employment. MIOSHA requested that its coverage be clarified to explicitly include coverage over marine construction. OSHA and MIOSHA have agreed to amendments to the State Plan's Operational Status Agreement (OSA) that clarify that the exclusion of private sector maritime employment from the State Plan does not include marine construction, and the State Plan's coverage of construction includes marine construction. The amendment was signed on July 25, 2016. All other terms of the OSA remain in effect.

### **Authority and Signature**

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 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.

Dated: January 9, 2017.

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**David Michaels,**

Assistant Secretary of Labor for Occupational Safety and Health

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