



BILLING CODE: 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Docket ID. OSHA-2012-0029

Hawaii State Plan for Occupational Safety and Health; Operational Status

Agreement

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice.

SUMMARY: This document announces a new Operational Status Agreement between the Occupational Safety and Health Administration (OSHA) and the Hawaii State Plan. This agreement specifies the respective areas of federal and state authority, and under which Hawaii will reassume enforcement coverage in the private sector.

DATE: Effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: For press inquiries: Francis Meilinger, OSHA Office of Communications; telephone (202) 693-1999; email: meilinger.francis2@dol.gov.

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SUPPLEMENTARY INFORMATION:

Background

Hawaii administers an OSHA-approved State Plan to develop and enforce occupational safety and health standards for public-sector and private-sector employers,

pursuant to the provisions of Section 18 of the Occupational Safety and Health Act (OSH Act), 29 U.S.C. 667. Pursuant to Section 18(e) of the Act, OSHA granted Hawaii “final approval” in 1984 (49 FR 19182, May 4, 1984). A final approval determination results in the relinquishment of federal concurrent enforcement authority in the state with respect to occupational safety and health issues covered by the plan, 29 U.S.C. 667(e).

During the period 2009-2012, the Hawaii State Plan faced major budgetary and staffing restraints that significantly affected its program. Therefore, the Hawaii Director of Labor and Industrial Relations requested a temporary modification of the State Plan’s approval status from final approval to initial approval, to permit exercise of supplemental federal enforcement activity and to allow Hawaii sufficient time and assistance to strengthen its State Plan. On September 21, 2012, OSHA published a Final Rule in the *Federal Register* (77 FR 58488) that modified the Hawaii State Plan’s “final approval” determination under Section 18(e) of the Act, transitioned the Plan to “initial approval” status under Section 18(b) of the Act, and reinstated concurrent federal enforcement authority over occupational safety and health issues in the private sector. That *Federal Register* notice also provided notice of the Operational Status Agreement (OSA) between OSHA and the Hawaii Occupational Safety and Health Division (HIOSH), which specified the respective areas of federal and state authority.

HIOSH and OSHA have since worked together to strengthen the State Plan, and HIOSH has achieved the milestones established to resume practically all private-sector enforcement authority.

Notice of New Operational Status Agreement

OSHA and HIOSH signed a new OSA on April 13, 2017, which replaced the prior 2012 OSA. Federal OSHA and HIOSH will exercise their respective enforcement authorities according to the terms of the 2017 OSA between OSHA and HIOSH, which specifies the respective areas of federal and state authority. Among other things, Federal OSHA retains coverage over all federal employees, contractors, and subcontractors at Hawaii National Parks and on any other federal establishment where the land is determined to be under exclusive federal jurisdiction; private-sector maritime activities; private-sector employees within the secured borders of all military installations where access is controlled; the U.S. Postal Service, its contract workers, and contractor-operated facilities; and the enforcement of Section 11(c) of the Act, 29 U.S.C. 660(c), the Act's whistleblower provision. The Hawaii State Plan retains coverage over all state and local government employers and regains coverage over all private-sector employers not covered by federal OSHA, including marine construction not performed on vessels or other floating facilities. For further information please visit <http://www.osha.gov/dcsp/osp/stateprogs/hawaii.html>.

AUTHORITY AND SIGNATURE

Loren Sweatt, Deputy 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 (76 FR 3912), and 29 CFR part 1902.

Signed in Washington, DC, on September 21, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health

[FR Doc. 2017-20760 Filed: 9/27/2017 8:45 am; Publication Date: 9/28/2017]