

INITIAL STATEMENT OF REASONS

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

CALIFORNIA CODE OF REGULATIONS (CCR) TITLE 8. INDUSTRIAL RELATIONS DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS SECTIONS 5006.1 AND 5006.2

The California Occupational Safety and Health Standards Board's (Board) mission is to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for California workers. The Board's objective is to adopt reasonable and enforceable standards at least as effective as federal standards. The Board also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The independent board holds monthly meetings throughout California.

The Board proposes to amend regulations in subchapter 7 to ensure worker safety by clarifying language in section 5006.1 and section 5006.2. Section 5006.1 regulates the qualifications, certification and recertification of mobile and tower crane operators in general industry. Section 5006.2 regulates the training, certification and recertification, licensing and evaluation of derrick and crane operators in construction. The purpose of the proposed amendments is to clarify and make more specific the "hands-on" examination exemption that is part of the recertification process; provide consistent and clearly defined crane types; and make the accreditation of certifying entities clearer to understand.

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAWS AND REGULATIONS

The following are summaries of the existing laws and regulations that relate directly to the proposed regulations. (Gov. Code, § 11346.5 subd.(a)(3)(A)). Section 5006.1 governs mobile crane and tower crane operator qualifications, certification and recertification in general industry. Section 5006.2 governs derrick and crane operator training, certification and recertification in construction.

Section 5006.1. Mobile Crane and Tower Crane -- Operator Qualifications and Certification (Applicable to Cranes in General Industry Only).

Subsection 5006.1(c) requires the "crane operator testing organization providing the certification shall be accredited by an approved nationally recognized accrediting agency based on that agency's determination that industry-recognized criteria for written testing materials, practical examinations, test administration, grading, facilities/equipment, and personnel have been met." The existing language is a lengthy sentence with multiple requirements listed. The effect of the proposed amendments creates shorter sentences that are clearer to understand without changing the current

requirements.

Section 5006.1 does not specify which crane types shall correspond with these standards in general industry.

The advisory committee discussed the necessity for clarifying the existing language. The hands-on examination exemption for an operator's recertification is specific to hours spent on a *specific* crane type. The proposed amendments to subsection 5006.1(c) provide consistent and clearly defined applicable crane types by applying to section 5006.1 the crane types corresponding to the standards listed in section 4884. Certifications are issued based on the crane type. The National Commission for the Certification of Crane Operators program currently breaks crane operations down into 16 distinct certifications and also includes sub-categories. A crane's "type" for licensing and certification is determined by its physical engineering and mechanical design, rather than how much weight it can lift. Under federal OSHA rules, operators are certified by machine type alone because structural design dictates how the crane balances, moves, and responds to a load.

Subsection 5006.1(d) sets the crane operator recertification requirements and the recertification's "hands-on" examination exemption in general industry. The advisory committee noted that stakeholders had expressed confusion over the way certifying entities were interpreting and applying this exemption. The proposed amendments to subsection 5006.1(d) strengthen the requirements to qualify for the "hands-on" examination exemption by making clear that accredited certifying entities have the ability to limit recertification based on safety incidents. Advisory committee members noted that certifying entities already have similar standards in place, but that as currently written, the regulation could be read to preclude a certifying entity from taking safety incidents into account in its recertification determination because the regulation suggests that when a crane operator meets the hours (and other specified) requirements, they "shall not be required" to take a hands-on exam, even if they have a record of safety concerns. These amendments also enhance clarity by reformatting the "hands-on" examination exemption requirements.

Section 5006.2. Operator Training, Certification, and Evaluation for Cranes and Derricks in Construction.

Section 5006.2 does not specify which crane types shall correspond with these standards in construction. Stakeholders at the advisory committee discussed the necessity for clarification on the types of cranes referenced in this section. The proposed amendments to subsection 5006.2(c)(1) provide consistent and clearly defined applicable crane types by applying to this section the crane types corresponding to the standards listed in section 4884.

Subsection 5006.2(d)(2) requires that the "crane operator testing organization providing the certification shall be accredited by an approved nationally recognized accrediting agency based on that agency's determination that industry-recognized criteria for written testing materials, practical examinations, test administration, grading, facilities/equipment, and personnel have been met." The existing language is a lengthy sentence with multiple requirements listed. The effect of the proposed amendments

creates shorter sentences that are clearer to understand without changing the current requirements.

Subsection 5006.2(d)(3) sets the crane operator recertification requirements and the recertification's "hands-on" examination exemption in construction. The advisory committee noted that stakeholders had expressed confusion over the way certifying entities were interpreting and applying this exemption. The proposed amendments to subsection 5006.1(d) strengthen the requirements to qualify for the "hands-on" examination exemption by making clear that accredited certifying entities have the ability to limit recertification based on safety incidents. Advisory committee members noted that certifying entities already have similar standards in place, but that as currently written, the regulation could be read to preclude a certifying entity from taking safety incidents into account in its recertification determination because the regulation suggests that when a crane operator meets the hours (and other specified) requirements, they "shall not be required" to take a hands-on exam, even if they have a record of safety concerns. These amendments also enhance clarity by reformatting the "hands-on" examination exemption requirements.

SUMMARY OF SECTIONS AFFECTED

Amend: 5006.1, 5006.2

AUTHORITY AND REFERENCE

Labor Code section 142.3 establishes the Board as the only state agency authorized to adopt occupational safety and health standards. In addition, Labor Code section 142.3 requires the adoption of occupational safety and health standards that are at least as effective as federal occupational safety and health standards. These proposed regulations will implement, interpret and make specific Labor Code section 142.3.

COMPARABLE FEDERAL STATUTES OR REGULATIONS

Cranes are used in both general industry and construction; however, the comparable federal regulations are located in Part 1926 – Safety and Health Regulations for Construction. For the construction industry, Federal OSHA addresses requirements for the training, certification, licensing and evaluation of crane and derrick operators in 29 Code of Federal Regulations part 1926.1427. Subsection 1926.1427(c) governs operator certification and licensing, and subsection 1926.1427(d) lays out the requirements for certification by an accredited crane operator testing organization.

Federal OSHA does not require certification of crane operators in general industry. The proposed amendments do not conflict with and are at least as effective as federal occupational safety and health standards.

POLICY STATEMENT OVERVIEW

This rulemaking action proposes amendments to current requirements for the recertification of crane operators. The specific regulations are title 8 sections 5006.1(d) and 5006.2(d)(3), which apply to general industry and construction industry, respectively. Both regulations require that for recertification, an operator either: (1)

retake a “hands-on” practical examination or (2) have at least 1,000 hours of documented experience operating “the specific type of crane” for which certification is sought.

The proposed amendments to subsection 5006.1(c) and subsection 5006.2(d)(2) clarify that certification is based on the accrediting agency’s determination that industry-recognized criteria for personnel have been met in order to facilitate compliance with the current International Organization for Standardization (ISO) standards.

The proposed amendments to subsection 5006.1(c) and subsection 5006.2(c)(1) provide consistent and clearly defined crane types by incorporating the crane types listed in section 4884.

The proposed amendments to subsection 5006.1(d) and subsection 5006.2(d)(3) clarify the requirements for recertification using the exemption, specifically the certifying entity’s role.

SUMMARY OF EFFECT OF PROPOSED REGULATORY ACTION

Section 5006.1. Mobile Crane and Tower Crane -- Operator Qualifications and Certification (Applicable to Cranes in General Industry Only).

The proposed amendments to subsection 5006.1(c) provide consistent and clearly defined crane types by incorporating the crane types listed in section 4884. This will help the regulated public specify the appropriate operator certification required to operate regulated equipment.

Modifying subsection 5006.1(d) will make clear that accredited certifying entities have the ability to limit recertification based on safety incidents as required by their accredited program. The amendments also enhance clarity by reformatting the “hands-on” examination exemption requirements.

Section 5006.2. Operator Training, Certification, and Evaluation for Cranes and Derricks in Construction.

The proposed amendments to subsection 5006.2(c)(1) provide consistent and clearly defined crane types by incorporating the crane types listed in section 4884.

Subsection 5006.2(d)(2) requires the “crane operator testing organization providing the certification shall be accredited by an approved nationally recognized accrediting agency[.]”

The proposed amendments to subsection 5006.2(d)(3) strengthen the requirements to qualify for the “hands-on” examination exemption by emphasizing the importance of reported accidents and safety concerns. This is needed to make clear and certain that accredited certifying entities have the ability to limit recertification based on safety incidents. The amendments also enhance clarity by reformatting the “hands-on” examination exemption requirements. The existing language is a lengthy sentence with multiple requirements listed. The effect of the proposed amendments creates shorter sentences that are clearer to understand.

DISCLOSURES REGARDING THE PROPOSED ACTION

- Mandate on local agencies and school districts: None
- Costs or savings to any state agencies: None
- Costs or savings to local agencies or school districts, which must be reimbursed in accordance with Part 7 (commencing with section 17500) of Division 4 of the Government Code: None
- Other nondiscretionary costs or savings imposed on local agencies: None
- Costs or savings in federal funding to the state: None

BUSINESS IMPACT STATEMENT

The Board has made an initial determination that this proposed regulatory action would have no significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states or create or expand business in California, and will not affect creation or elimination of jobs in the State of California. This is because the proposal does not create new requirements but simply clarifies existing rules.

The proposal was developed with the assistance of an advisory committee. The advisory committee, made up of construction and general industry employers, labor representatives and local government agencies, was in agreement that there will be no significant cost to complying with the proposed amendments to sections 5006.1 and 5006.2.

SMALL BUSINESS IMPACT STATEMENT

The Board has determined that small businesses will not be adversely affected by this proposed regulatory action. The proposal serves to clarify existing requirements and integrate existing crane types from section 4884 to minimize the potential for misinterpretation and confusion amongst accredited certifying entities on how to classify crane types for their certification program.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Board has determined that the proposed regulatory action will not have a significant adverse effect on a representative, private person, or business.

ECONOMIC IMPACT ANALYSIS / ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

The Board has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California and will not result in the elimination of existing businesses nor create or expand businesses in the State of California.

The proposed regulatory action was developed with the assistance of an advisory committee made up of industry and labor representatives discussing the least burdensome means for accomplishing the necessary objectives. There is no significant cost associated with complying with the proposed amendments. The majority of the

proposed changes clarify certain requirements of the existing regulations. They do not alter the behavior of those who must comply with the regulations and thus will not affect the creation or elimination of businesses and jobs.

FISCAL IMPACT STATEMENT

No additional costs or savings were identified during Advisory Committee discussions and Board staff research and evaluation. This proposed amendment makes only clarifying changes to current regulations which will ensure that **accredited certifying entities** issuing recertifications under the exemption are still able to comply with their “accredited” program requirements, specifically limiting recertification based on safety incidents. No public entities are affected by the proposal, and no new enforcement costs are expected.

HEALTH AND WELFARE BENEFITS FOR CALIFORNIA RESIDENTS, WORKER SAFETY AND THE STATE’S ENVIRONMENT

The Board has determined that these proposed regulations will benefit worker safety by making clear and specific the requirements regarding the “hands-on” examination exemption. It also benefits worker safety by making clear and specific the crane types that apply to the sections. Employers and Division of Occupational Safety and Health (Cal/OSHA) personnel will have clearer requirements allowing for simpler and more uniform compliance and enforcement of existing regulations. The Board also believes that the proposed amendments make clear and certain that accredited certifying entities have the ability to limit crane operator recertifications based on safety incidents as required by their accredited program.

No significant environmental impact is anticipated from the proposed action.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The Board does not anticipate any changes in the creation, elimination or expansion of businesses currently doing business within California due to the clarification of existing requirements. The Board does not anticipate any changes in the number of jobs or occupations due to the clarification of these regulations. Proposed clarifications assure that the accredited certifying entities are able to comply with their existing requirements for their own accreditation. Unquantifiable benefits to the health and welfare of California residents, workers and the state include increased safety for anyone exposed to cranes and work around cranes. No significant environmental impact is anticipated from the proposed action.

This is because making clear and specific the requirements regarding the “hands-on” examination exemption ensures that operator certifications are issued based on accurate and complete information. This is needed to make clear and certain that certifying entities have the ability to limit recertification based on safety incidents as required by their accredited program.

CONSIDERATION OF ALTERNATIVES

The Board has determined that no alternative considered, identified or brought to its attention would be more effective in carrying out the purpose for which the action is proposed. No alternatives to the proposal were identified or brought to the Board's attention during the July 24, 2024, advisory committee meeting. The Board has determined that this proposed regulatory action represents the most cost-effective, efficient and practical process achievable.

ANTICIPATED BENEFITS OF THE PROPOSAL

The Board has determined that these proposed regulations will benefit worker safety by making clear and specific the requirements regarding the "hands-on" examination exemption. It also benefits worker safety by making clear and specific the crane types that apply to the sections. Employers and Cal/OSHA personnel will have clearer requirements allowing for simpler and more uniform compliance and enforcement of existing regulations.

DOCUMENTS RELIED UPON - STUDIES, REPORTS AND SIMILAR DOCUMENTS

1. Petition 598 submitted by Thom Sickelsteel, received July 18, 2023.
<https://www.dir.ca.gov/oshsb/documents/petition-598.pdf>
2. Division of Occupational Safety and Health Review of Petition 598, dated October 11, 2023. <https://www.dir.ca.gov/oshsb/documents/petition-598-CalOSHAEval.pdf>
3. Occupational Safety and Health Standards Board Staff Review of Petition 598, dated October 25, 2023. <https://www.dir.ca.gov/oshsb/documents/petition-598-staffeval.pdf>
4. Occupational Safety and Health Standards Board Decision on Petition 598, dated January 18, 2024. <https://www.dir.ca.gov/oshsb/documents/petition-598-amended-adopteddecision.pdf>
5. July 24, 2024, list of advisory committee members, advisory committee roster and minutes. <https://www.dir.ca.gov/oshsb/Crane-Operator-Recertification-Requirements-Petition-598-AC.html>
6. International Organization for Standardization. *Conformity Assessment – General Requirements for Accreditation Bodies Accrediting Conformity of Bodies*. ISO/IEC 17011:2004. ISO, published September 2004, corrected February 2005.
7. International Organization for Standardization. *Conformity Assessment – General Requirements for Bodies Operating Certification of Persons*. ANSI ISO/IEC 17024:2012. ISO, published 2012, reviewed and confirmed 2018.

These documents are available for review BY APPOINTMENT Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Board's office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. Appointments can be scheduled via email at oshsb@dir.ca.gov or by calling (916) 274-5721.

SPECIFIC TECHNOLOGIES AND EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

PETITION

Petitioner: Thom Sickelsteel (NCCCO) File No.: 598 The Occupational Safety and Health Standards Board received a petition on July 18, 2023, to amend subsections 5006.1(d) and 5006.2(d)(3) of the General Industry Safety Orders contained in title 8 of the California Code of Regulations regarding regulations associated with recertification requirements of crane operators. On January 18, 2024, the Occupational Safety and Health Standards Board granted the petition “to the extent that Board staff is directed to convene an advisory committee to consider the necessity of potential changes to the regulation.”

A copy of the petition, Cal/OSHA’s evaluation and the Board’s petition decision are included as Documents Relied Upon.

ADVISORY COMMITTEE

This proposal was developed with the assistance of an advisory committee. (A list of advisory committee members and minutes are included as Documents Relied Upon.)

FIRE PREVENTION STATEMENT

This proposal does not include fire prevention or protection standards. Therefore, approval of the State Fire Marshal pursuant to Government Code section 11359 or Health and Safety Code section 18930(a)(9) is not required.