

Occupational Safety and Health Standards Board

Public Meeting and Business Meeting

January 18, 2024

California State Railroad Museum
East Theater
111 I Street
Sacramento, California

AND

Via teleconference / videoconference

Occupational Safety and Health Standards Board

Meeting Agenda

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721
www.dir.ca.gov/oshsb



MISSION STATEMENT

The mission of the Occupational Safety and Health Standards Board is to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for California workers.

AGENDA

PUBLIC MEETING AND BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

PLEASE NOTE: In accordance with section 11123 of the Government Code, Board members, as well as members of the public, may elect to participate via videoconference.

January 18, 2024 at 10:00 a.m.

Attend the meeting in person:

California State Railroad Museum
East Theater
111 I Street
Sacramento, CA 95814

Attend the meeting via videoconference:

1. Go to www.webex.com
2. Select "Join a Meeting"
3. Enter the **NEW*** meeting number: **1469 63 6425**
4. Join the meeting through your WebEx application **OR** through your browser
5. Videoconference will be opened to the public at 9:50 a.m.

Attend the meeting via teleconference:

1. Dial (844) 992-4726
2. Enter the **NEW*** meeting number **1469 63 6425** and follow the prompts
3. Teleconference will be opened to the public at 9:50 a.m.

Live video stream and audio stream (English and Spanish):

1. Go to <https://videobookcase.com/california/oshsb/>
2. Video stream and audio stream will launch as the meeting starts at 10:00 a.m.

** Please note our **NEW** meeting number. If you experience technical difficulties, please contact oshsb@dir.ca.gov.*

Public Comment Queue:

Those attending the Occupational Safety and Health Standards Board (Board) meeting in person will be added to the public comment queue on the day of the meeting.

Those attending the meeting remotely who wish to comment on agenda items may submit a request to be added to the public comment queue either in advance of or during the meeting through one of the following methods:

ONLINE: Provide your information through the online comment queue portal at <https://videobookcase.org/oshsb/public-comment-queue-form/>

PHONE: Call **(510) 868-2730** to access the automated comment queue voicemail and provide[†]: 1) your name as you would like it listed; 2) your affiliation or organization; and 3) the topic you would like to comment on.

† Information requested is voluntary and not required to address the Board.

- I. **CALL TO ORDER AND INTRODUCTIONS**
- II. **PRESENTATION**
 - A. Division Presentation on Lead Standard
- III. **PUBLIC MEETING (Open for Public Comment)**

This portion of the Public Meeting is open to any interested person to propose new or revised standards to the Board or to make any comment concerning occupational safety and health (Labor Code section 142.2). *The Board is not permitted to take action on items that are not on the noticed agenda, but may refer items to staff for future consideration.*

This portion of the meeting is also open to any person who wishes to address the Board on any item on today's Business Meeting Agenda (Government Code (GC) section 11125.7).

Any individual or group wishing to make a presentation during the Public Meeting is requested to contact Sarah Money, Executive Assistant, at (916) 274-5721 at least three weeks in advance of the meeting so that any logistical concerns can be addressed.

- A. PUBLIC COMMENT
- B. ADJOURNMENT OF THE PUBLIC MEETING

IV. PUBLIC HEARING**A. EXPLANATION OF PROCEDURES****B. PROPOSED SAFETY ORDERS (Revisions, Additions, Deletions)**

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Sections 1671.1, 1716.2, 1730 and 1731
Fall Protection in Residential Construction

V. BUSINESS MEETING – All matters on this Business Meeting agenda are subject to such discussion and action as the Board determines to be appropriate.

The purpose of the Business Meeting is for the Board to conduct its monthly business.

A. PROPOSED PETITION DECISION FOR ADOPTION

1. National Commission for the Certification of Crane Operators (NCCCO)
Thom Sickelsteel, Chief Executive Officer
Petition File No. 598

Petitioner requests to amend Title 8, General Industry Safety Orders (GISO), subsections 5006.1(d) and 5006.2(d)(3), regulations associated with re-certification requirements of crane operators. The Petitioner asks Cal/OSHA to consider, through rulemaking or a process outside rulemaking, the requirement that, for recertification [of crane operators], a certificant either (i) retake a “hands-on” practical examination, or (ii) have at least 1,000 hours of documented experience operating “the specific type of crane” for which certification is sought. Additionally, the Petitioner requests that California’s requirements be revised to allow accredited certification bodies to determine the appropriate amount of operating experience necessary to be exempt from the practical examination at the time of recertification and the types of experience that should count towards qualifying for a particular “hands-on” exam exemption.

Petitioner states that California’s existing language diverges, in material ways, from federal OSHA requirements and guidance, because in a letter of interpretation, federal OSHA approved of an exemption from taking the practical exam based on experience and in a way that allowed for some flexibility. Additionally, Petitioner states that California’s exemption from the hands-on examination requirement at recertification is simply unattainable and that California’s more stringent standard will make it extremely difficult for most crane operators to qualify for an exemption from the “hands-on” examination, and will impose significant burdens on stakeholders because it will increase the costs paid by employers for practical testing of operators and could cause crane operators to drop certifications, resulting in a shortage of crane operators in certain categories.

The Petitioner believes that accredited certification bodies, assisted by expertise from the industry, are in an ideal position to identify the amount of experience required for exemption from the hands-on testing.

B. REPORTS

1. Division Update
2. Acting Executive Officer's Report

C. NEW BUSINESS

1. Future Agenda Items

Although any Board Member may identify a topic of interest, the Board may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (GC sections 11125 & 11125.7(a).).

D. CLOSED SESSION

Matters Pending Litigation

1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270
2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210

Matters on Appeal

1. 22-V-054T Operating Engineers Local 3, District 80

Personnel

E. RETURN TO OPEN SESSION

1. Report from Closed Session

F. ADJOURNMENT OF THE BUSINESS MEETING

Next Meeting: February 15, 2024
Burbank City Hall
Council Chambers
275 E. Olive Avenue
Burbank, CA 91502
10:00 a.m.

CLOSED SESSION

1. If necessary, consideration of personnel matters. (GC section 11126(a)(1)).
2. If necessary, consideration of pending litigation pursuant to GC section 11126(e)(1).
3. If necessary, to deliberate on a pending decision. (GC section 11126(c)(3)).

PUBLIC COMMENT

Efforts will be made to accommodate each individual who has signed up to speak. However, given time constraints, there is no guarantee that all who have signed up will be able to address the State body.

Each speaker is invited to speak for up to two minutes. The Board Chair may extend the speaking time allotted where practicable.

The total time for public comment is 120 minutes, unless extended by the Board Chair.

The public can speak/participate at the meetings before items that involve decisions.

In addition to public comment during Public Hearings, the Board affords an opportunity to members of the public to address the Board on items of interest that are either on the Business Meeting agenda, or within the Board's jurisdiction but are not on the noticed agenda, during the Public Meeting. The Board is not permitted to take action on items that are not on the noticed agenda, but may refer items to staff for future consideration. The Board reserves the right to limit the time for speakers.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1 (800) 735-2929 (TTY) or 1 (800) 855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the meeting.

TRANSLATION

Requests for translation services should be made no later than five (5) days before the meeting.

NOTE: Written comments may be emailed directly to oshsb@dir.ca.gov no later than 5:00 p.m. on the Tuesday prior to a scheduled Board Meeting.

Under GC section 11123, subdivision (a), all meetings of a state body are open and public, and all persons are permitted to attend any meeting of a state body, except as otherwise provided in that article. The Board Chair may adopt reasonable time limits for public comments in order to ensure that the purpose of public discussion is carried out. (GC section 11125.7, subd. (b).)

Members of the public who wish to participate in the meeting may do so via livestream on our website at <https://videobookcase.com/california/oshsb/>. The video recording and transcript of this meeting will be posted on our website as soon as practicable.

For questions regarding this meeting, please call (916) 274-5721.

Occupational Safety and Health Standards Board

Public Hearing

Fall Protection in Residential Construction

TITLE 8

CONSTRUCTION SAFETY ORDERS

SECTIONS 1671.1, 1716.2, 1730 AND 1731

FALL PROTECTION IN RESIDENTIAL CONSTRUCTION

HYPERLINKS TO RULEMAKING DOCUMENTS:

[NOTICE/INFORMATIVE DIGEST](#)

[PROPOSED REGULATORY TEXT](#)

[INITIAL STATEMENT OF REASONS](#)

From: [Neidhardt, Amalia@DIR](mailto:Neidhardt.Amalia@DIR)
To: [Money, Sarah@DIR](mailto:Money.Sarah@DIR); [DIR OSHSB](mailto:DIR.OSHSB)
Cc: [Gonzalez, Autumn@DIR](mailto:Gonzalez.Autumn@DIR); [Smith, Steven@DIR](mailto:Smith.Steven@DIR); [Iorio, Michelle@DIR](mailto:Iorio.Michelle@DIR)
Subject: FW: Advisory Opinion Request
Date: Wednesday, January 3, 2024 4:29:13 PM
Attachments: [image001.png](#)
[Res Fall Pro AO Letter not ALAEA 122223.pdf](#)

Hi Sarah. Here is a comment letter (Fed OSHA Advisory Opinion Request) received on Residential Fall Protection.
Thanks!

[Amalia Neidhardt](#)

From: Kuzemchak, Matthew M - OSHA <Kuzemchak.Matthew.M@dol.gov>
Sent: Friday, December 22, 2023 12:15 PM
To: Dietrich, Cathy@DIR <CDietrich@dir.ca.gov>
Cc: Delicana, Loren - OSHA <Delicana.Loren@dol.gov>; Wilsey, Peter - OSHA <Wilsey.Peter@dol.gov>; Paskins, Lara@DIR <LPaskins@dir.ca.gov>; Neidhardt, Amalia@DIR <ANEidhardt@dir.ca.gov>; Gonzalez, Autumn@DIR <ARGonzalez@dir.ca.gov>
Subject: RE: Advisory Opinion Request

CAUTION: [External Email]

This email originated from outside of our DIR organization. Do not click links or open attachments unless you recognize the sender and know the content is expected and is safe. If in doubt reach out and check with the sender by phone.

Good afternoon,

Please see the attached advisory opinion on the changes to the fall protection standards. While the proposed changes appear to be at least as effective as the Federal standard, the note in section 1671.1 (a)(1) appears to be contradictory to both state and Federal requirements. Please let me know what questions you may have.

Thanks,

Matt

From: Dietrich, Cathy@DIR <CDietrich@dir.ca.gov>
Sent: Monday, December 4, 2023 9:37 AM
To: Kuzemchak, Matthew M - OSHA <Kuzemchak.Matthew.M@dol.gov>
Cc: Delicana, Loren - OSHA <Delicana.Loren@dol.gov>; Wilsey, Peter - OSHA <Wilsey.Peter@dol.gov>; Paskins, Lara@DIR <LPaskins@dir.ca.gov>; Neidhardt, Amalia@DIR <ANEidhardt@dir.ca.gov>; Gonzalez, Autumn@DIR <ARGonzalez@dir.ca.gov>
Subject: Advisory Opinion Request

CAUTION: This email originated from outside of the Department of Labor. Do not click (select) links or open attachments unless you recognize the sender and know the content is safe. Report suspicious emails through the "Report Phishing" button on your email toolbar.

Hi Matt,

Attached please find an advisory opinion request for Fall Protection in Residential Construction. The side-by-side and text are also attached. If you have any questions, please call or email me.

Thank you,
Cathy

Cathy Dietrich
Program Analyst

Occupational Safety and Health Standards Board

916.274.5728





December 22, 2023

Cathy Dietrich
Associate Governmental Program Analyst
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833

Dear Cathy Dietrich:

Per the advisory opinion request made December 4, 2023, we completed our review of the proposed occupational safety and health emergency standards: Title 8, Construction Safety Orders, sections 1671.1, 1716.2, 1730 and 1731; Fall Protection in Residential Construction. The changes appear to be at least as effective as the Federal standard, however, the note to section 1671.1 (a)(1) appears to be contradictory to the Federal and California requirement that a fall protection plan be site specific. The note states, "Note: The employer need only develop a single site fall protection plan for sites where the construction operations are essentially identical."

For this reason, the standard does not appear to be at least as effective as the Federal standards.

Should you wish to discuss our review, please contact me at 510-637-3837.

Sincerely,

MATTHEW KUZEMCHAK, CIH
Area Director

CALIFORNIA STANDARDS COMPARISON

DATE: November 3, 2023

Page 1 of 12

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

FEDERAL: § 1926. 500,501, 502	STATE: Construction Safety Orders	RATIONALE
<p><u>1926.502(k)</u></p> <p>"Fall protection plan." This option is available only to employees engaged in leading edge work, precast concrete erection work, or residential construction work (See 1926.501(b)(2), (b)(12), and (b)(13)) who can demonstrate that it is infeasible or it creates a greater hazard to use conventional fall protection equipment. The fall protection plan must conform to the following provisions.</p> <p><u>1926.501(b)(13)</u></p> <p>"Residential construction." Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure.</p> <p>Note: There is a presumption that it is feasible and will not create a greater hazard to implement at least one of the above-listed fall protection systems. Accordingly, the employer has the burden of establishing that it is appropriate to implement a fall protection plan which complies with 1926.502(k) for a particular workplace situation, in lieu of implementing any of those systems.</p>	<p>Subchapter 4. Construction Safety Orders Article 24. Fall Protection</p> <p>Amend Section 1671.1 to read:</p> <p>§1671.1 Fall Protection Plan</p> <p>(a) This section applies to all construction operations when it can be shown <u>by the employer</u> that the use of conventional fall protection is impractical <u>infeasible</u> or creates a greater hazard.</p> <p><u>Note: There is a presumption that conventional fall protection is feasible and will not create a greater hazard. Accordingly, the employer has the burden of establishing that conventional fall protection is infeasible or creates a greater hazard.</u></p> <p style="text-align: center;">*****</p> <p>Note: Authority cited: Section 142.3, Labor Code. Reference: 142.3, Labor Code.</p>	<p>The state proposes to amend 1671.1 to be commensurate with the federal standard.</p> <p>An informational note is proposed to clarify to the employer that conventional fall protection methods must be used, unless they can demonstrate that their use is infeasible.</p>

CALIFORNIA STANDARDS COMPARISON

DATE: November 3, 2023

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

<p><u>1926.501(b)(13)</u></p> <p>"Residential construction." Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure.</p>	<p>Subchapter 4. Construction Safety Orders Article 29. Erection and Construction</p> <p>Amend Section 1716.2 to read:</p> <p>§1716.2. <u>Residential-type Framing Activities</u>, Wood and Light Gage Steel Frame Construction Residential/Light Commercial.</p> <p>(a) Scope and Application.</p> <p>This section applies to work directly associated with the framing of new buildings or structures using the operations, methods, and procedures associated with residential-type <u>and light commercial</u> framing activities, i.e., joists or trusses resting on stud walls.</p> <p>(b) Definitions.</p> <p>*****</p> <p>(7) Residential-type Framing Activities. For the purposes of this section, residential-type framing activities include: installation of floor joists, floor sheathing, layout and installation of walls, hanging and nailing of shear panels, setting and bracing roof trusses and rafters, installation of starter board, roof sheathing, and fascia board; installation of windows, siding and exterior trim. <u>The limited use of structural steel in a predominantly wood-framed home, such as steel I-beam to help support wood framing, does not disqualify a structure from being considered residential-type construction. Residential-type framing activities includes</u></p>	<p>The state proposes to include language in the title to clarify that this section applies to residential construction and that the use of structural steel in a wood framed home still qualifies the home as being residential construction.</p> <p>The state proposes to include language in the scope to clarify that this section also applies to light commercial framing, since they use nearly identical construction methods and materials to residential-type construction.</p> <p>The state proposes to include language taken from the Federal OSHA Compliance Directive 03-11-002 to clarify that the use of structural steel in a wood framed home still qualifies the home as being residential construction.</p> <p>Federal OSHA does not define the term residential construction activities or residential-type framing activities in 29 CFR 1926.501.</p>
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CALIFORNIA STANDARDS COMPARISON

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

1926.501(b)(13)

"Residential construction." Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure.

framing of commercial structures that use traditional wood frame construction materials and methods.

~~(10) Slide Guards. A 2-inch nominal cleat, on centers not to exceed 4 feet, securely fastened to the roof sheathing to provide footing on a sloped roof.~~

~~(11)~~ Starter Board. The board-type sheathing material installed at eaves and gable ends in the plane of the sheathing and visible from the underside.

~~(12)~~ Stud. A vertical framing member in walls and partitions, also referred to as a wall stud, attached to the horizontal sole plate below and the top plate above.

~~(13)~~ Top Plate. Top horizontal member of a frame wall supporting ceiling joists, rafters, or other structural members.

~~(14)~~ Truss. Prefabricated structural roof unit consisting of triangular bracing (truss webs) between the ceiling joist (bottom chord) and the roof rafter (top chord) commonly installed parallel with other trusses to create a structural support system for a roof after which sheathing is fastened. The bottom chord often serves as a ceiling joist. Each member is usually subjected to longitudinal stress only, either tension or compression.

~~(15)~~ Truss Support Plate. A temporary support structure erected near mid-span of an area with a large open span, such as a garage, to support trusses during installation.

The state proposes to delete the regulatory text pertaining to slide guards, as their use is not commensurate with the federal standards as being an acceptable means of fall protection.

CALIFORNIA STANDARDS COMPARISON

DATE: November 3, 2023

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

<p><u>1926.501(b)(13)</u></p> <p>"Residential construction." Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure.</p>	<p style="text-align: center;">*****</p> <p>(e) Work on Top Plate, Joists and Roof Structure Framing.</p> <p>(1) When employees are walking/working on top plates, joists, rafters, trusses, beams or other similar structural members over 6 <u>15</u>-feet <u>or more</u> above the surrounding grade or floor level below, fall protection shall be provided by <u>one or more of the following methods: scaffolding, guardrails, safety nets, a personal fall protection systems, or, provided the employer demonstrates that the use of conventional fall protection methods are infeasible, a fall protection plan with safety monitors and controlled access zones as described in Sections 1671.1 and 1671.2 by other means prescribed by CSO Article 24, Fall Protection.</u></p> <p>Exceptions: (A) When employees are walking/working on securely braced joists, rafters or roof trusses on center spacing not exceeding 24 inches, and more than 6 feet from an unprotected side or edge, they shall be considered protected from falls between the joists, rafters or roof trusses.</p> <p>(B) When installing floor joists, employees shall be considered protected from falls up to and including 15 feet above the surrounding grade or floor level below when standing on or working from joists laid on their sides on the top plate on center spacing not exceeding</p>	<p>The state proposes to lower the existing 15 foot residential construction fall protection trigger height from 15 feet to 6 feet commensurate with the federal standard.</p> <p>The state also proposes to clarify, consistent with proposed amendments to CSO Section 1671.1 and Federal fall protection plan standards, that the employer must use conventional fall protection methods unless they can demonstrate that their use is infeasible.</p> <p>The state also proposes to delete reference to CSO Article 24, which is not as least as effective as federal standards and instead include permissible types of fall protection that are listed in 29 CFR 1926.501(b)(13).</p> <p>The state proposes to delete exception (A) and (B), as these exceptions are not commensurate with federal requirements to use fall protection.</p>
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CALIFORNIA STANDARDS COMPARISON

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

<p><u>1926.501(b)(13)</u></p> <p>"Residential construction." Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure.</p>	<p>24 inches when walking/working within 24 inches of the top plate or other structural support.</p> <p>(2) Truss Support Plate. Where a truss support plate is used during the installation of trusses, it shall be constructed of a 2x6 plank laid flat, secured lineally to a 2x6 plank laid on edge, supported with 2x4 wood members (legs) spaced no more than 6 feet on center and attached to diagonal bracing adequately secured to support its intended load. All material dimensions are minimum and nominal.</p> <p>(f) Work on Floors and Other Walking/Working Surfaces. When working on floors and other walking/working surfaces that <u>are 6 feet or more above the surrounding grade or floor level below and will later be enclosed by framed exterior walls, employees directly involved with the layout and construction of framed stud walls shall be protected from falling by one or more of the following methods: personal fall protection systems, scaffolding, safety nets, standard guardrails as specified in Section 1620 around all unprotected sides or edges, or, provided the employer demonstrates that the use of conventional fall protection methods are infeasible, a fall protection plan with safety monitors and controlled access zones as described in Sections 1671.1 and 1671.2</u> by other means prescribed by CSO Article 24, Fall Protection, when the floor or walking/working surface is over 15 feet above the surrounding grade or floor level below.</p> <p><u>(1) Floor, roof, and wall openings shall be guarded as required by Section 1632.</u></p>	<p>The state proposes to lower the existing 15-foot residential construction fall protection trigger height to 6 feet commensurate with the federal standard. The state proposes to relocate one phrase from the end of the sentence to the beginning to improve clarity.</p> <p>The state proposes to clarify, consistent with proposed amendments to CSO Section 1671.1 and Federal fall protection plan standards, that the employer must use conventional fall protection methods unless they can demonstrate that their use is infeasible.</p> <p>The state also proposes to delete reference to CSO Article 24, which is not as least as effective as federal standards and instead include permissible types of fall protection that are listed in 1926.501(b)(13).</p> <p>The state proposes to clarify to the employer that fall protection requirements for work around floor, roof, or wall openings are addressed by</p>
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CALIFORNIA STANDARDS COMPARISON

DATE: November 3, 2023

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

<p><u>1926.501(b)(13)</u></p> <p>"Residential construction." Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure.</p>	<p>(g) Work on Starter Board, Roof Sheathing and Fascia Board.</p> <p>(1) When installing starter board, roof sheathing, and fascia board, employees shall be protected from <u>falls when working 6 feet or more above the surrounding grade or floor level below falling by one or more of the following methods: scaffolding, safety nets, guardrails, personal fall protection systems, or, provided the employer demonstrates that the use of conventional fall protection methods are infeasible, a fall protection plan with safety monitors and controlled access zones as described in Sections 1671.1 and 1671.2.</u> other means prescribed by CSO Article 24, Fall Protection as follows:</p> <p>(A) For structures greater than one story in height where the fall height exceeds 15 feet above the surrounding grade or floor level below, or</p> <p>(B) When working on roofs sloped greater than 7:12.</p> <p>EXCEPTION to (g)(1)(B): For roofs sloped up to 12:12, slide guards may be used as fall protection up to and including 15 feet as measured from the eaves to the surrounding grade or floor level below.</p> <p>(2) Employees working inside the gable end truss or rafter shall be considered protected from falls where the gable end truss has been installed and braced to withstand a lateral force of 200 pounds and the</p>	<p>a vertical standard located in CSO Section 1632.</p> <p>The state proposes to lower the existing 15 foot residential construction fall protection trigger height from 15 feet to 6 feet commensurate with the federal standard.</p> <p>The state also proposes to clarify, consistent with proposed amendments to CSO Section 1671.1 and Federal fall protection plan standards, that the employer must use conventional fall protection methods unless they can demonstrate that their use is infeasible.</p> <p>The state also proposes to delete reference to CSO Article 24, which is not as least as effective as federal standards.</p> <p>The state proposes to delete existing subsection (g)(1)(A), (g)(1)(B) and exception to (g)(1)(B), to be commensurate with federal standards.</p> <p>The state proposes to delete existing subsection (g)(2) as forgoing conventional fall protection when working from within the gable end truss</p>
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CALIFORNIA STANDARDS COMPARISON

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

1926.501(b)(13)

"Residential construction." Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure.

~~employee installs fascia or starter board working from within the gable end truss or rafter.~~

(32) When work must be performed outside the gable end truss or rafter, the employee shall be protected from falling when working 6 feet or more above the surrounding grade or floor level below by one or more of the following methods: scaffolding, safety nets, guardrails, or a personal fall protection systems, or, provided the employer demonstrates that the use of conventional fall protection methods are infeasible, a fall protection plan with safety monitors and controlled access zones as described in Sections 1671.1 and 1671.2 ~~other means prescribed by CSO Article 24.~~

~~EXCEPTION to (g)(3): When the work is of short duration and limited exposure and the hazards involved in rigging and installing the safety devices required equal or exceed the hazards involved in the actual construction, these provisions may be temporarily suspended provided the work is performed by a qualified person.~~

or rafter is not commensurate with federal requirements.

The state proposes to lower the existing 15 foot residential construction fall protection trigger height from 15 feet to 6 feet commensurate with the federal standard.

The state also proposes to clarify, consistent with proposed amendments to CSO Section 1671.1 and Federal fall protection plan standards, that the employer must use conventional fall protection methods unless they can demonstrate that their use is infeasible.

The state also proposes to delete the reference to CSO Article 24, which is not as least as effective as federal standards.

The state proposes to delete the short duration exposure exception because it is not commensurate with federal standards.

CALIFORNIA STANDARDS COMPARISON

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

<p><u>1926.501(b)(13)</u></p> <p>"Residential construction." Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure.</p>	<p>(i) Scaffolding.</p> <p>(1) Where scaffolding is used, it shall be constructed in accordance with all applicable requirements of CSO Articles 21 and 22 (Scaffolds).</p> <p>(2) Where scaffolds are installed parallel and adjacent to framed structure walls, the interior railing may be omitted for installing joists, rafters or trusses if the scaffold platform is <u>6-15</u> feet or less from the interior floor level below and the top plate is higher than the adjacent work platform.</p> <p>(3) When a scaffold is used as an edge protection platform:</p> <p style="text-align: center;">*****</p> <p>NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.</p>	<p>The state proposes to lower the existing 15 foot residential construction fall protection trigger height from 15 feet to 6 feet with regard to the use of scaffolds commensurate with the federal standard.</p>
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CALIFORNIA STANDARDS COMPARISON

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

1926.501(b)(10)

"Roofing work on Low-slope roofs." Except as otherwise provided in paragraph (b) of this section, each employee engaged in roofing activities on low-slope roofs, with unprotected sides and edges 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems, safety net systems, personal fall arrest systems, or a combination of warning line system and guardrail system, warning line system and safety net system, or warning line system and personal fall arrest system, or warning line system and safety monitoring system. Or, on roofs 50-feet (15.25 m) or less in width (see Appendix A to subpart M of this part), the use of a safety monitoring system alone [i.e. without the warning line system] is permitted.

Subchapter 4. Construction Safety Orders
Article 30. Roofing Operations and Equipment
Amend Section 1730 to read:

§1730. Roof Hazards.

(a) During roofing operations the employer shall comply with the provisions of Section 1509 and employees shall be trained and instructed in accordance with the provisions of Section 1510 of these orders. This section does not apply to residential-type roofing activities as defined in Section 1731.

~~Note:-(g) For the purposes of Section 1730, the height measurement shall be determined by measuring the vertical distance from the employee's walking/working surface lowest edge of the roof or eaves to the ground or level below. The height of parapets shall not be included in the roof height measurements.~~

~~Exception to Section 1730: Section 1731 applies instead of Section 1730 for roofing work on new production-type residential construction with roof slopes 3:12 or greater.~~

Note: Authority cited: Section 142.3, Labor Code.
Reference: Section 142.3, Labor Code.

The state proposes to clarify that Section 1730, which applies to commercial roofing, does not apply to residential roofing operations, which are addressed by Section 1731.

The state proposes to modify the existing note, by converting it into a subsection that can be enforced, and to clarify, commensurate with Federal OSHA standards, that the method of determining the employee's fall height is determined from ground to the walking/working surface where the employee is standing commensurate with the Federal standard.

The state proposes this deletion for consistency with the amendments proposed in subsection (a).

CALIFORNIA STANDARDS COMPARISON

DATE: November 3, 2023

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

<p><u>1926.501(b)(10)</u></p> <p>"Roofing work on Low-slope roofs." Except as otherwise provided in paragraph (b) of this section, each employee engaged in roofing activities on low-slope roofs, with unprotected sides and edges 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems, safety net systems, personal fall arrest systems, or a combination of warning line system and guardrail system, warning line system and safety net system, or warning line system and personal fall arrest system, or warning line system and safety monitoring system. Or, on roofs 50-feet (15.25 m) or less in width (see Appendix A to subpart M of this part), the use of a safety monitoring system alone [i.e. without the warning line system] is permitted.</p> <p><u>1926.500(b)</u></p> <p><i>Federal OSHA does not define eaves.</i></p> <p><i>Roof</i> means the exterior surface on the top of a building. This does not include floors or formwork which, because a building has not been completed, temporarily become the top surface of a building.</p> <p><i>Roofing work</i> means the hoisting, storage, application, and removal of roofing materials and equipment, including related insulation, sheet metal, and vapor barrier</p>	<p>Subchapter 4. Construction Safety Orders Article 30. Roofing Operations and Equipment</p> <p>Amend Section 1731 to read:</p> <p>§1731. Roof Hazards—New Production Type Residential Construction <u>Residential-type Roofing Activities.</u></p> <p>(a) Scope and Application.</p> <p>(1) This section shall apply only to new production type residential construction with roof slopes 3:12 or greater.</p> <p>(2) This section does not apply to custom built homes, re-roofing operations, roofing replacements or additions on existing residential dwelling units.</p> <p>Note: For other roofing operations and slopes less than 3:12, see Section 1730.</p> <p>(b) Definitions.</p> <p>Custom Built home. A single detached housing unit built under a single contract.</p> <p>Eaves. The lowest edge of a sloped roof.</p> <p>Production type residential construction. Any new residential housing unit that is not a custom built home.</p> <p><u>Residential-type Roofing Activities. Roofing work consists of roofing and re-roofing work including roof removal performed on single-family homes,</u></p>	<p>The state’s residential roofing standards are contained in Section 1731, which is proposed for clarification as far as the Section title is concerned.</p> <p>Amendments are proposed to reword existing subsection (a)(1) to read that it pertains to residential roofing activities regardless of roof slope and whether it is new production type residential construction, to require the use of fall protection for employees working at elevations of 6 or more feet above the level below, to be commensurate with the federal standard.</p> <p>The state proposes to delete the existing definitions for “Custom Built home”, “Eaves”, and “Production type residential construction” for consistency with the amendments proposed in subsection (a).</p>
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CALIFORNIA STANDARDS COMPARISON

DATE: November 3, 2023

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

<p>work, but not including the construction of the roof deck.</p> <p><i>Federal OSHA does not define roof slope.</i></p> <p>1926.500(b)</p> <p><i>Low-slope roof</i> means a roof having a slope less than or equal to 4 in 12 (vertical to horizontal).</p> <p>*****</p> <p>1926.500(b)(2)</p> <p><i>Steep roof</i> means a roof having a slope greater than 4 in 12 (vertical to horizontal).</p> <p>*****</p> <p>1926.501(b)(10)</p> <p>"Roofing work on Low-slope roofs." Except as otherwise provided in paragraph (b) of this section, each employee engaged in roofing activities on low-slope roofs, with unprotected sides and edges 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems, safety net systems, personal fall arrest systems, or a combination of warning line system and guardrail system, warning line system and safety net system, or warning</p>	<p><u>townhouses, duplexes and other structures covered by Section 1716.2. Roofing work also includes loading and installation of roofing materials, including related insulation, sheet metal that is integral to the roofing system, and vapor barrier work, but does not include the construction of the roof deck.</u></p> <p>Roof. The exterior surface on the top of a building. This does not include floors or formwork which, because a building has not been completed, temporarily become the top surface of a building.</p> <p>Roof slope. For the purposes of this section, the incline angle of a roof surface, given as a ratio of the vertical rise to the horizontal run. For example, a 4:12 roof has 4 feet of vertical rise for 12 feet of horizontal run.</p> <p>Roof work. The loading and installation of roofing materials, including related insulation, sheet metal that is integral to the roofing system, and vapor barrier work, but not including the construction of the roof deck.</p> <p>(c) Fall Protection for Roofing Work.</p> <p><u>(1) Roof slopes 0:12 up to and including 7:12. Employees shall be protected from falling when on a roof surface where the employee fall distance is 6 feet or more above the grade or level below by use of one or more of the following methods: personal fall protection systems, scaffolding, safety nets, guardrails, or, provided the employer demonstrates that the use of conventional fall protection methods are infeasible, a fall protection plan</u></p>	<p>The state proposes to clarify its definition of residential-type roofing activities to be all inclusive of roof, re-roofing of residential structures and other light commercial structures addressed by Section 1716.2. The state's amended definition renders the state's roofing standards to be more comprehensive in scope because this amendment covers custom homes and re-roofing operations, which Federal OSHA standards do not.</p> <p>The state proposes to consolidate the definition for roof work into the new definition of Residential-type roofing activities.</p> <p>The state's residential roofing standards are contained in Section 1731, which is proposed for clarification to require the use of fall protection for employees working at elevations of 6 feet or more above the level below.</p> <p>The state proposes to clarify consistent with proposed amendments to CSO Section 1671.1 and Federal fall protection plan standards, that the employer must use conventional fall protection methods unless they can</p>
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CALIFORNIA STANDARDS COMPARISON

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 1926

SCOPE: Applicable throughout state unless otherwise noted.

<p>line system and personal fall arrest system, or warning line system and safety monitoring system. Or, on roofs 50-feet (15.25 m) or less in width (see Appendix A to subpart M of this part), the use of a safety monitoring system alone [i.e. without the warning line system] is permitted.</p> <p><u>1926.501(b)(11)</u></p> <p>"Steep roofs." Each employee on a steep roof with unprotected sides and edges 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems with toeboards, safety net systems, or personal fall arrest systems.</p>	<p><u>with safety monitors and controlled access zones as described in Sections 1671.1 and 1671.2.</u></p> <p>(1) Roof Slopes 3:12 through 7:12: Employees shall be protected from falling when on a roof surface where the eave height exceeds 15 feet above the grade or level below by use of one or any combination of the following methods:</p> <p>(A) Personal Fall Protection (Section 1670). (B) Catch Platforms [Section 1724(c)]. (C) Scaffold Platforms [Section 1724(d)]. (D) Eave Barriers [Section 1724(e)]. (E) Standard Railings and Toeboards (Article 16). (F) Roof Jack Systems [Section 1724(a)].</p> <p>(2) Roof Sslopes <u>steeper greater</u> than 7:12: Employees shall be protected from falling by methods prescribed in Subsections (c)(1)(A), (B), (C), or (E) regardless of height.</p> <p>*****</p> <p><u>(e) For the purposes of Section 1731, the employee’s fall height measurement shall be determined by measuring the vertical distance from the employee’s walking/working surface to the ground or level below. The height of parapets shall not be included in the roof height measurement.</u></p> <p>Note: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.</p>	<p>demonstrate that their use is infeasible. The amendments also group roof slopes into two categories by numerical slope identifiers (0:12 up to and including 7:12 and greater than 7:12).</p> <p>The duty of the employer to assure fall protection is described by the proposed amendments, thereby eliminating the need for existing paragraph (1) in order for the state to be commensurate with Federal OSHA.</p> <p>The state proposes to clarify consistent with proposed amendments to CSO Section 1671.1 and Federal fall protection plan standards, that the employer must use conventional fall protection methods unless they can demonstrate that their use is infeasible.</p> <p>For roof slopes greater than 7:12, fall protection as described in (c)(1) is proposed to be required at all times regardless of the fall height.</p> <p>The state proposes to add a new subsection to clarify consistent with previous amendments for this issue and federal OSHA standards how the employee’s fall height is to be determined when residential roofing operation are conducted.</p>
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NOVEMBER 3, 2015

ADVISORY COMMITTEE MEETING

**FALL PROTECTION IN RESIDENTIAL
CONSTRUCTION**

MINUTES AND ROSTER

ATTENDANCE ROSTER
State vs. Federal Fall Protection Trigger Heights
for Residential Construction

November 3, 2015 – Sacramento, CA – Day 1

Please print legibly

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ATTENDANCE ROSTER
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November 3, 2015 – Sacramento, CA – Day 1

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2-2015

APRIL 11, 2016

ADVISORY COMMITTEE MEETING

**FALL PROTECTION IN RESIDENTIAL
CONSTRUCTION**

MINUTES AND ROSTER

ATTENDANCE ROSTER
Fall Protection for Residential Construction
April 11, 2016- Sacramento, CA

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ATTENDANCE ROSTER
Fall Protection for Residential Construction
April 11, 2016- Sacramento, CA

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ATTENDANCE ROSTER
Fall Protection for Residential Construction
April 11, 2016– Sacramento, CA

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ATTENDANCE ROSTER
Fall Protection for Residential Construction
April 11, 2016- Sacramento, CA

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JACK NEWMAN	TWR			



May 28, 2013

Ellen Widess, Chief
Department of Industrial Relations
Division of Occupational Safety and Health
1515 Clay Street, Suite 1901
Oakland, CA 94612

Ms. Widess:

In light of the issuance of the Occupational Safety and Health Administration's (OSHA) Compliance Guidance for Residential Construction (STD 03-11-002), the Directorate of Cooperative and State Programs and the Directorate of Construction have begun the process of reviewing all of the corresponding State Plan standards, policies and procedures covering fall protection in residential construction.

As you may recall, the Compliance Guidance for Residential Construction (STD 03-11-002) canceled OSHA's interim enforcement policy (STD 03-00-001) on fall protection for certain residential construction activities, and requires employers engaged in residential construction to comply with 29 CFR 1926.501(b)(13). This new guidance informed State Plans that, in accordance with the Occupational Safety and Health Act (OSH Act), they must each have a compliance directive on fall protection in residential construction that, in combination with applicable State Plan standards, results in an enforcement program that is at least as effective as federal OSHA's program.

In relation to the Standards Board final statement of reasons discussing Roof Hazards-New Production-Type Residential Construction, OSHA sent an advisory opinion stating that the federal standard requires fall protection at a height exceeding 6'. The advisory opinion stated that the proposed changes did not provide protection equivalent to the federal standard in that fall protection is not required until a height exceeds 15'. In justifying the 15' height requirement, the Standards Board made reference to OSHA Directive STD 03-00-001 (STD 3-0.1A) "Plain Language Revision of OSHA Instruction STD 3.1, Interim Fall Protection Compliance Guidelines for Residential Construction." However, as noted above, OSHA's Compliance Guidance for Residential Construction (STD 03-11-002) has canceled STD 03-00-001, effective June 16, 2011.

We are particularly concerned about the following areas where the California State Plan's standards and enforcement policies for fall protection differ significantly from OSHA's policies and standards, specifically in the context of residential construction:

- o California's trigger height for fall protection ranges from 4' for wall openings, 6' for excavations, 7.5' from the perimeter of a structure, to 15' for residential-type framing activities. It is unclear which trigger heights apply to residential construction. OSHA has

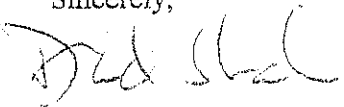
a general 6' trigger height for fall protection in construction, including in residential construction. See 29 CFR 1926.501(b).

- California lacks a cohesive residential fall protection standard or compliance policy; instead, fall protection provisions for residential construction are housed across multiple articles, making it difficult for employers to ensure compliance with the correct regulations.
- California's definition of residential construction is different from federal OSHA's definition. See OSHA STD 03-11-002, *Compliance Guidance for Residential Construction*.
- The California standards also differ in several other ways that may create concerns. For example, the state program allows for a fall protection plan when conventional fall protection is "clearly impractical" (as opposed to the federal requirement for a showing of infeasibility or greater hazard), and makes allowances for short term work.

Please submit a detailed analysis comparing California's fall protection standards and enforcement policies that apply to residential construction, to OSHA's Compliance Guidance for Residential Construction (STD 03-11-002) and Subpart M of 29 CFR 1926. Pursuant to the requirements of 29 CFR 1953, please submit a copy of California's complete legislation, regulations, policies or procedures governing fall protection in residential construction; identify each of the differences between the state requirements and federal OSHA's requirements (include discussion of the bulleted points listed above); and provide an explanation of how each state provision is "at least as effective" as the comparable federal provision.

We appreciate your cooperation and request a response by July 29, 2013.

Sincerely,



DAVID SHIRAISHI
Area Director

Occupational Safety and Health Standards Board

Business Meeting

Occupational Safety and Health Standards Board

**Business Meeting
Petition 598**

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of a Petition by:)
) **PETITION FILE NO. 598**
Thom Sickelsteel)
Chief Executive Officer)
NCCCO)
2750 Prosperity Avenue, Suite 505)
Fairfax, VA 22031)
)

Applicant.)

The Occupational Safety and Health Standards Board hereby adopts the attached
PROPOSED DECISION.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

DAVID THOMAS, Chairman

JOSEPH M. ALIOTO JR., Member

KATHLEEN CRAWFORD, Member

DAVE HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

By: _____
Autumn Gonzalez, Chief Counsel

DATE: January 18, 2024
Attachments

PETITION NO. 598

Petitioner requests to amend title 8, General Industry Safety Orders (GISO), subsections 5006.1(d) and 5006.2(d)(3), regulations associated with re-certification requirements of crane operators. The Petitioner asks Cal/OSHA to consider, through rulemaking or a process outside rulemaking, the requirement that, for recertification [of crane operators], a certificant either (i) retake a “hands-on” practical examination, or (ii) have at least 1,000 hours of documented experience operating “the specific type of crane” for which certification is sought. Additionally, the Petitioner requests that California’s requirements be revised to allow accredited certification bodies to determine the appropriate amount of operating experience necessary to be exempt from the practical examination at the time of recertification and the types of experience that should count towards qualifying for a particular “hands-on” exam exemption.

Petitioner states that California’s existing language diverges, in material ways, from federal OSHA requirements and guidance, because in a letter of interpretation, federal OSHA approved of an exemption from taking the practical exam based on experience and in a way that allowed for some flexibility. Additionally, Petitioner states that California’s exemption from the hands-on examination requirement at recertification is simply unattainable and that California’s more stringent standard will make it extremely difficult for most crane operators to qualify for an exemption from the “hands-on” examination, and will impose significant burdens on stakeholders because it will increase the costs paid by employers for practical testing of operators and could cause crane operators to drop certifications, resulting in a shortage of crane operators in certain categories.

The Petitioner believes that accredited certification bodies, assisted by expertise from the industry, are in an ideal position to identify the amount of experience required for exemption from the hands-on testing.

HYPERLINKS TO PETITION NO. 598 DOCUMENTS:

[PROPOSED PETITION DECISION](#)

[BOARD STAFF EVALUATION](#)

[CAL/OSHA EVALUATION](#)

[ORIGINAL PETITION \(RECEIVED 07/18/2023\)](#)



DAVID K. SIKORSKI
Business Manager

International Union of Operating Engineers AFL-CIO
Southern California & Southern Nevada 

October 24, 2023

David Thomas, Board Chair
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833

Dear Chairman Thomas:

This letter is notice of the opposition of the International Union of Operating Engineers, Local Union No. 12, Operating Engineers Training Trust, and the Operating Engineers Certification Program to Petition No. 598 filed with the Board on 18 July 2023 by the National Commission for the Certification of Cranes Operators (NCCCO). The petition requests that the Standard Board adopt two major amendments to Title 8, California Code of Regulations to significantly weaken the existing requirements for recertification of crane operators. We oppose this petition and request that it be denied in its entirety.

- (1) Removing the crane operator recertification requirement that calls for experience operating the specific crane for which recertification is sought.

Sections 5006.1(d), applicable to general industry, and 5006.2(d)(3), applicable to the construction industry both require, among other things, that crane operators either pass a hands-on examination or document 1000 hours of experience operating the specific crane for which recertification is sought during the immediately preceding previous certification period or pass a hands-on examination.

The petitioner's proposal would weaken this requirement by allowing "overall operating experience to be considered."

- (2) Allowing the certification bodies to determine on their own "the appropriate amount of operating experience necessary to be exempt from the practical examination."

Certification bodies are currently held to the requirement to apply the specific criteria laid out in the regulations they are tasked with enforcing through the certification process. It is crucial that they continue to be required to apply these criteria in carrying out this function.

International Union of Operating Engineers

David Thomas, Board Chair
Occupational Safety and Health Standards Board
Page 2
October 24, 2023

The petitioner's proposal would remove this crucial specificity and have certification bodies making decisions without having to adhere to any set standard, which would inevitably lead to lack of uniformity and lack of acceptable safety.

Discussion

In June of 2005 Cal/OSHA took a huge step forward toward providing a safer work environment for construction workers and the public, by strengthening the requirements for crane operators through the adoption of 8 CCR section 5006.2.

This standard was conceived in the aftermath of numerous, often catastrophic crane accidents, most of them caused by operator error, which resulted in severe injuries and fatalities to workers. The requirement to document experience on the specific crane for which certification is being sought provides a crucial baseline for certifying agencies to confirm that an operator continues to have the skill necessary to perform operations that have tremendous potential to cause injury and damage if not done competently. The types of cranes in operation and the skill set and experience needed to operate each type vary considerably depending on the crane and the operations the crane is to be used for.

It would be entirely reasonable to conclude that the required 1,000 hours of experience in a 5-year period is a minimum at best. To lower the bar and remove critical specifications directly related to operations of the magnitude cranes are typically used for would greatly diminish the effectiveness of the crane operator licensing program and take us back to the days when avoidable crane accidents occurred with disturbing frequency. The risk to workers and the public in the vicinity of crane operations would once again rise to unacceptable levels.

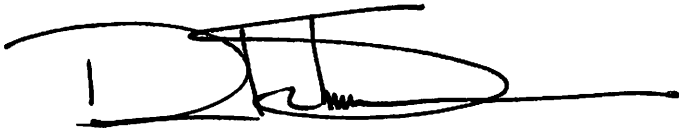
The petitioner's claim that California's requirements should not be more stringent than federal requirements is at odds with the leadership role California has played since Cal/OSHA was first established in 1973, often setting standards that have prompted federal OSHA to follow suit. Similarly, the petitioner's claim that the California experience requirement is too difficult to meet is simply not the case—California crane operators for the past 18 years have been doing just that. The experience requirement does not create an unreasonable burden, especially in light of the inherent danger to workers and the public of having an unqualified operator operating a crane.

International Union of Operating Engineers

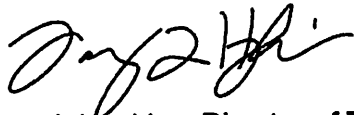
David Thomas, Board Chair
Occupational Safety and Health Standards Board
Page 2
October 24, 2023

For the greater good of the safety of construction workers and the general public, Petition No. 598 should be denied in its entirety.

Respectfully submitted,



David K. Sikorski, Business Manager
I.U.O.E., Local Union No.12
President of Operating Engineers Certification Program



Larry L Hopkins, Director of Training
Operating Engineers Training Trust



Thomas Milianti, Jr., Executive Director
Operating Engineers Certification Program

DKS:LLH:TM:ks

c: Chris Laszcz-Davis
David Harrison
Laura Stock
Nola J. Kennedy
Joseph M. Alioto Jr.
Kate Crawford

From: [Neidhardt, Amalia@DIR](mailto:Neidhardt,Amalia@DIR)
To: [Gonzalez, Autumn@DIR](mailto:Gonzalez,Autumn@DIR); [Paskins, Lara@DIR](mailto:Paskins,Lara@DIR); [Smith, Steven@DIR](mailto:Smith,Steven@DIR)
Cc: [Money, Sarah@DIR](mailto:Money,Sarah@DIR)
Subject: FW: Petition 598 Opposition letters
Date: Monday, November 6, 2023 3:17:33 PM
Attachments: [Letter to Chris Laszcz-Davis Management Representative.pdf](#)
[Letter to Laura Stock Occupational Safety Representative.pdf](#)
[Letter to Joseph Alioto Jr Public Member.pdf](#)
[Letter to David Harrison Labor Representative.pdf](#)
[Letter to Nola Kennedy Occupational Health Representative.pdf](#)
[Letter to Kate Crawford Management Representative.pdf](#)
[Letter to David Thomas Board Chair.pdf](#)

FYI.

[Amalia Neidhardt](#)

From: Larry L Hopkins <lhopkins@oett.net>
Sent: Monday, November 6, 2023 3:13 PM
To: Neidhardt, Amalia@DIR <ANeidhardt@dir.ca.gov>
Cc: David Sikorski <d.Sikorski@iuoelocal12.org>
Subject: Petition 598 Opposition letters

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Good afternoon Amalia,

Please see the attached letters of opposition to the CalOSHA board regarding petition no. 598. If any of the board members would like to discuss this matter further in person or via teleconference, please do not hesitate to contact me and I will get a meeting scheduled. Thank you so much for your attention to this matter, we truly appreciate it.

Respectfully yours,



Larry L. Hopkins

Director of Training

IUOE Local #12

Email: lhopkins@oett.net

Southern California Office

2190 S. Pellissier Place

Whittier, Ca. 90601

562-695-0611

www.oett.net

-

Southern Nevada Office

11450 Nadine Petersen Boulevard

North Las Vegas, NV 89124

Phone 702-643-1212

www.snoejatc.net



DAVID K. SIKORSKI
Business Manager

International Union of Operating Engineers AFL-CIO
Southern California & Southern Nevada 

November 6, 2023

David Thomas, Board Chair
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833

Dear Chairman Thomas:

This letter is notice of the opposition of the International Union of Operating Engineers, Local Union No. 12 to Petition No. 598 filed with the Board on July 18, 2023, by the National Commission of the Certification of Crane Operators (NCCCO).

The International Union of Operating Engineers, Local Union No. 12 represents 20,000 men and women employed in the construction industry throughout Southern California. As representatives of this vital workforce, one of our top priorities is to ensure the health and safety of our membership along with the entirety of the construction industry.

For many years, California has adopted regulations that have enabled the state to become the nation's preeminent leader in workplace safety. The NCCCO is requesting changes to the crane operator recertification processes which would weaken the standards we rely on today.

The elimination of the 1,000-hour requirement on a specific type of crane at the time of recertification to exempt an operator from the practical (hands-on) examination, and the allowance of a certifying body to determine "appropriate amount of operating experience necessary to be exempt from the practical examination," without any specific guidelines as to how this determination is to be made, is dangerous.

For example, as it stands today, if an operator holds a certification for tower crane operation, he/she must prove he/she has accumulated a minimum of 1,000 hours of tower crane experience in the past five (5) years at the time of recertification. If he/she cannot verify 1,000 hours in the past five (5) years, he/she must pass a practical (hands-on) examination to be recertified.

Crane operation is an inherently dangerous occupation. Crane operators have enormous responsibilities, not only to themselves, but also to the safety and wellbeing of the craftspeople

International Union of Operating Engineers

David Thomas, Board Chair
Occupational Safety and Health Standards Board
Page 2
November 6, 2023

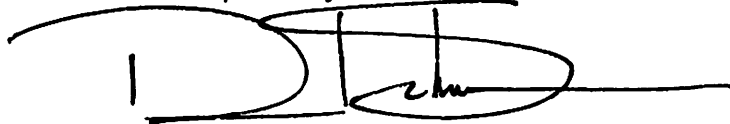
working nearby or in conjunction with them. We have all seen the severity of recent crane accidents throughout the world, and I am certain you have a full understanding of the devastation caused by jobsite fatalities.

If NCCCO's request to Cal/OSHA is granted, the existing processes used to recertify crane operators will be dramatically altered to allow certifying entities to arbitrarily exempt crane operators from practical examinations, removing a layer of safety which is direly needed. This change would create the possibility of allowing an operator to hold a certification for a specific type of crane that he/she has not operated or passed a hands-on examination for in many years, even decades.

For these reasons, the International Union of Operating Engineers, Local Union No. 12, urges you to deny Petition No. 598 in its entirety.

Thanking you in advance for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Sikorski', with a long horizontal line extending to the right.

David K. Sikorski, Business Manager
I.U.O.E., Local Union No.12

DKS:ks



DAVID K. SIKORSKI
Business Manager

International Union of Operating Engineers AFL-CIO
Southern California & Southern Nevada

RECEIVED

OCT 31 2023

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

October 24, 2023

David Thomas, Board Chair
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833

Dear Chairman Thomas:

This letter is notice of the opposition of the International Union of Operating Engineers, Local Union No. 12, Operating Engineers Training Trust, and the Operating Engineers Certification Program to Petition No. 598 filed with the Board on 18 July 2023 by the National Commission for the Certification of Cranes Operators (NCCCO). The petition requests that the Standard Board adopt two major amendments to Title 8, California Code of Regulations to significantly weaken the existing requirements for recertification of crane operators. We oppose this petition and request that it be denied in its entirety.

- (1) Removing the crane operator recertification requirement that calls for experience operating the specific crane for which recertification is sought.

Sections 5006.1(d), applicable to general industry, and 5006.2(d)(3), applicable to the construction industry both require, among other things, that crane operators either pass a hands-on examination or document 1000 hours of experience operating the specific crane for which recertification is sought during the immediately preceding previous certification period or pass a hands-on examination.

The petitioner's proposal would weaken this requirement by allowing "overall operating experience to be considered."

- (2) Allowing the certification bodies to determine on their own "the appropriate amount of operating experience necessary to be exempt from the practical examination."

Certification bodies are currently held to the requirement to apply the specific criteria laid out in the regulations they are tasked with enforcing through the certification process. It is crucial that they continue to be required to apply these criteria in carrying out this function.

International Union of Operating Engineers

David Thomas, Board Chair
Occupational Safety and Health Standards Board
Page 2
October 24, 2023

The petitioner's proposal would remove this crucial specificity and have certification bodies making decisions without having to adhere to any set standard, which would inevitably lead to lack of uniformity and lack of acceptable safety.

Discussion

In June of 2005 Cal/OSHA took a huge step forward toward providing a safer work environment for construction workers and the public, by strengthening the requirements for crane operators through the adoption of 8 CCR section 5006.2.

This standard was conceived in the aftermath of numerous, often catastrophic crane accidents, most of them caused by operator error, which resulted in severe injuries and fatalities to workers. The requirement to document experience on the specific crane for which certification is being sought provides a crucial baseline for certifying agencies to confirm that an operator continues to have the skill necessary to perform operations that have tremendous potential to cause injury and damage if not done competently. The types of cranes in operation and the skill set and experience needed to operate each type vary considerably depending on the crane and the operations the crane is to be used for.

It would be entirely reasonable to conclude that the required 1,000 hours of experience in a 5-year period is a minimum at best. To lower the bar and remove critical specifications directly related to operations of the magnitude cranes are typically used for would greatly diminish the effectiveness of the crane operator licensing program and take us back to the days when avoidable crane accidents occurred with disturbing frequency. The risk to workers and the public in the vicinity of crane operations would once again rise to unacceptable levels.

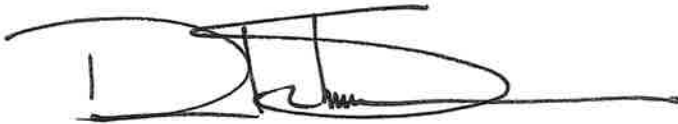
The petitioner's claim that California's requirements should not be more stringent than federal requirements is at odds with the leadership role California has played since Cal/OSHA was first established in 1973, often setting standards that have prompted federal OSHA to follow suit. Similarly, the petitioner's claim that the California experience requirement is too difficult to meet is simply not the case—California crane operators for the past 18 years have been doing just that.

International Union of Operating Engineers

David Thomas, Board Chair
Occupational Safety and Health Standards Board
Page 2
October 24, 2023

For the greater good of the safety of construction workers and the general public, Petition No. 598 should be denied in its entirety.

Respectfully submitted,



David K. Sikorski, Business Manager
I.U.O.E., Local Union No.12
President of Operating Engineers Certification Program



Larry L Hopkins, Director of Training
Operating Engineers Training Trust



Thomas Milianti, Jr., Executive Director
Operating Engineers Certification Program

DKS:LLH:TM:ks

c: Chris Laszcz-Davis
David Harrison
Laura Stock
Nola J. Kennedy
Joseph M. Alioto Jr.
Kate Crawford

From: [Neidhardt, Amalia@DIR](mailto:Neidhardt,Amalia@DIR)
To: [Gonzalez, Autumn@DIR](mailto:Gonzalez,Autum@DIR); [Chau, Kelly@DIR](mailto:Chau,Kelly@DIR); [Paskins, Lara@DIR](mailto:Paskins,Lara@DIR); DIR.OSHSB
Cc: [Money, Sarah@DIR](mailto:Money,Sarah@DIR)
Subject: Fwd: Opposition letter to petition #598
Date: Wednesday, November 29, 2023 9:25:24 AM
Attachments: [Oppose Petition 598.pdf](#)

Good morning. Please see request to distribute to our Board members.

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From: Larry L Hopkins <lhopkins@oett.net>
Sent: Wednesday, November 29, 2023 9:21 AM
To: Neidhardt, Amalia@DIR <ANeidhardt@dir.ca.gov>
Cc: David Sikorski <d.Sikorski@iuoelocal12.org>
Subject: Opposition letter to petition #598

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Good morning Amalia,

Attached is a letter of opposition from the District Counsel of Iron Workers to petition #598, regarding crane license re-certification

requirements. I was asked to forward this to you to insure proper distribution to the OSHA board. Please let me know if you have any questions.

Respectfully submitted,



Larry L. Hopkins
Director of Training
IUOE Local #12
Email: lhopkins@oett.net

Southern California Office
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Southern Nevada Office
11450 Nadine Petersen Boulevard
North Las Vegas, NV 89124
Phone 702-643-1212
www.snoejatc.net



District Council of Iron Workers of the State of California and Vicinity
3281 E. Guasti Rd., Suite 625, Ontario, CA 91761
Telephone (510) 724-9277

November 21, 2023

David Thomas, Board Chair
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833

President
David Osborne

District Representatives
Erik Schmidli
Victor Lopez

Field Representative
Jonathan Paramo

Executive Council

Local Union 75
Jason Sangster

Local Union 118
Karl Pineo

Local Union 155
Jesus Castaneda

Local Union 229
Beau Coleman

Local Union 377
Charles Hernandez

Local Union 378
Jason Gallia

Local Union 416
Frankie Jimenez

Local Union 433
Keith Harkey

Local Union 625
Joe O'Donnell

Local Union 855
Jonathan Paramo

Dear Chairman Thomas:

As President of the District Council of Iron Workers of the State of California and the Vicinity (DCIW), I am writing you to oppose Petition No. 598 filed with the Board on 18 July 2023 by the National Commission for the Certification of Crane Operators (NCCCO). The petition requests that the Standard Board adopt two major amendments to Title 8, California Code of Regulations to significantly weaken the existing requirements for recertification of crane operators. DCIW opposes this petition and request that it be denied in its entirety.

Specifically "allowing the certification bodies to determine on their own *the appropriate amount of operating experience necessary to be exempt from the practical examination.*"

Removing the crane operator recertification requirement that calls for experience operating the specific crane for which recertification is sought is a common sense approach to ensure safety.

Certification bodies are currently held to the requirement to apply the specific criteria laid out in the regulations they are tasked with enforcing through the certification process. It is crucial that they continue to be required to apply these criteria in carrying out this function.

The petitioner's proposal would remove this crucial specificity and have certification bodies making decisions without having to adhere to any set standard, which would inevitably lead to a lack of uniformity and lack of acceptable safety.

In June of 2005 Cal/OSHA took a huge step forward toward providing a safer work environment for construction workers and the public, by strengthening the requirements for crane operators through the adoption of 8 CCR section 5006.2.

This standard was conceived in the aftermath of numerous, often catastrophic crane accidents, most of them caused by operator error, which resulted in severe injuries and fatalities to workers.

The requirement to document experience on the specific crane for which certification is being sought provides a crucial baseline for certifying agencies to confirm that an operator continues to have the skills necessary to perform operations that have tremendous potential to cause injury and damage if not done competently.

The types of cranes in operation and the skill set and experience needed to operate each type vary considerably depending on the crane and the operations the crane is to be used for.

It would be entirely reasonable to conclude that the required 1,000 hours of experience in a 5-year period is a minimum at best.

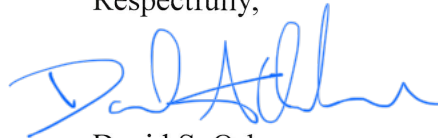
If these amendments were to be adopted the risk to workers and the public in the vicinity of crane operations would once again rise to unacceptable levels.

The petitioner's claim that California's requirements should not be more stringent than federal requirements is at odds with the leadership role California has played since Cal/OSHA was first established in 1973, often setting standards that have prompted federal OSHA to follow suit.

The experience requirement does not create an unreasonable burden, especially in light of the inherent danger to workers and the public of having an unqualified operator operating a crane.

For the greater good of the safety of construction workers and the general public, the men and women of the DCIW respectfully request that Petition No. 598 be denied in its entirety.

Respectfully,



David S. Osborne
President

From: [Neidhardt, Amalia@DIR](mailto:Neidhardt,Amalia@DIR)
To: [Gonzalez, Autumn@DIR](mailto:Gonzalez,Autumn@DIR); [Paskins, Lara@DIR](mailto:Paskins,Lara@DIR); DIR.OSHSB; [Chau, Kelly@DIR](mailto:Chau,Kelly@DIR)
Cc: [Money, Sarah@DIR](mailto:Money,Sarah@DIR)
Subject: Fwd: Opposition letter to petition #598
Date: Thursday, November 30, 2023 2:25:42 PM
Attachments: [Chairman David Thomas.pdf](#)

Another opposition letter received. Please see below.

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From: Larry L Hopkins <lhopkins@oett.net>
Sent: Thursday, November 30, 2023 2:22 PM
To: Neidhardt, Amalia@DIR <ANeidhardt@dir.ca.gov>
Cc: David Sikorski <d.Sikorski@iuoelocal12.org>
Subject: Opposition letter to petition #598

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This email originated from outside of our DIR organization. Do not click links or open attachments unless you recognize the sender and know the content is expected and is safe. If in doubt reach out and check with the sender by phone.

Good afternoon Amalia, attached you will find another letter of opposition to the petition #598, from the International Union of Operating Engineers, General President – James Callahan. Can you please distribute this to the review board and any others who are pertinent to this matter? Please let me know if you have any questions.

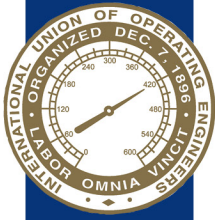
Respectfully submitted,



Larry L. Hopkins
Director of Training
IUOE Local #12
Email: lhopkins@oett.net

Southern California Office
2190 S. Pellissier Place
Whittier, Ca. 90601
562-695-0611
www.oett.net

Southern Nevada Office
11450 Nadine Petersen Boulevard
North Las Vegas, NV 89124
Phone 702-643-1212
www.snoejatc.net



International Union of Operating Engineers

AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

November 30, 2023

JAMES T. CALLAHAN
GENERAL PRESIDENT

David Thomas, Board Chair
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833

JAMES M. SWEENEY
GENERAL SECRETARY-TREASURER

Dear Chairman Thomas:

GENERAL VICE PRESIDENTS

DAREN KONOPASKI

Please consider this notice of opposition of the International Union of Operating Engineers to Petition No. 598 filed with Cal/OSHA by the National Commission of the Certification of Crane Operators (NCCCO), seeking amendments to Title 8, General Industry Safety Orders, Subsections 5006.1(d) and 5006.2(d)(3).

MICHAEL GALLAGHER

GREG LALEVEE

TERRANCE E. MCGOWAN

DOUGLAS W. STOCKWELL

EDWARD J. CURLY

CHARLIE SINGLETARY

DAN REDING

WILLIAM LYNN

PATRICK J. KELLY

THOMAS A. CALLAHAN

JOSHUA VANDYKE

JAMES J. WHITE

BRIAN COCHRANE

The elimination of the 1,000-hour requirement on a specific type of crane to exempt an operator from a practical (hands-on) examination at the time of recertification would pose undue risk to workers and weaken safety measures long recognized in California. To allow a certifying body to determine the “appropriate amount of operating experience necessary to be exempt from the practical examination”, without specific guidelines on how this determination is to be made undermines the proven safety measures in the State.

California has long been an example for workers safety in the United States, and for that reason, we urge you to deny Petition No. 598 in its entirety.

TRUSTEES

KUBA J. BROWN

CHAIRMAN

BARTON FLORENCE

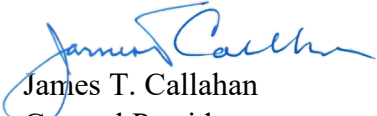
EDWIN L. CHRISTIAN

WILLIAM D. McLAUGHLIN

DAVID SIKORSKI

Thanking you in advance for your attention to this matter.

Respectfully submitted,


James T. Callahan
General President

GENERAL COUNSEL

cc: David Sikorksi, Business Manager, IUOE Local Union 12
Derek Donley, Regional Director, IUOE Western Region

MATTHEW G. MCGUIRE



From: [Norma Rappley](#)
To: [DIR OSHSB](#)
Cc: [Gonzalez, Autumn@DIR](#); [Gening Liao](#)
Subject: Petition File No. 598
Date: Wednesday, December 13, 2023 9:22:06 AM
Attachments: [2023.12.13.Comments from OE3 re Petition 598.GL.PDF](#)

CAUTION: [External Email]

This email originated from outside of our DIR organization. Do not click links or open attachments unless you recognize the sender and know the content is expected and is safe. If in doubt reach out and check with the sender by phone.

Good Morning Mr. Thomas,

Please see the attached letter regarding the above referenced matter.

Thank you,

Norma Rappley

Sr. Executive Assistant to the Business Manager

Operating Engineers Local Union #3

3000 Clayton Road

Concord, CA 94519

510-748-7433 x3518

510-748-7401 fax

nrappley@oe3.org

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December 13, 2023

Via Email

oshsb@dir.ca.gov

David Thomas, Board Chair
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833

Re: Petition File No. 598

Dear Mr. Thomas:

I write on behalf of Operating Engineers Local Union No. 3 (hereinafter "OE3") and the more than 40,000 members we represent working in the construction industry, including crane operators, to submit our comments in support of Petition No. 598, filed by Thom Sicklesteel, the Chief Executive Officer representing the National Commission for the Certification of Crane Operators (NCCCO). Rigorous safety standards governing the operation of cranes in our industry is one of the utmost importance to OE3, and safety in general for our members is one of our top priorities.

For all of the reasons detailed by Mr. Sicklesteel in his original request dated July 18, 2023, OE3 recommends that Cal/OSHA review and amend the provisions of the General Industry Safety Orders at Title 8 Cal. Code of Regulations, §§ 5006.1(d) (referring to mobile and tower cranes) and 5006.2(d) (referring to cranes and derricks in construction), as recommended. We write to underscore several reasons in support of the NCCCO's request.

A. The Recertification Requirement is Overly Burdensome

Sections 5006.1(d) and 5006.2(d) of the General Industry Safety Orders currently require that for crane operator re-certification, an operator must among other things, either: (1) take the hands-on examination again, or (2) demonstrate at least one-thousand hours of "documented experience *operating the specific crane* for which re-certification is sought." We emphasize the point made by Mr. Sicklesteel in his July 18, 2023 request, that for the reasons explained in more detail below, the criteria necessary to forego the hands-on examination is nearly impossible to meet.

1. The overwhelming majority of crane operators will not be able to meet the 1,000-hour alternative to hands-on testing.

The 1,000 hour alternative is nearly impossible to meet and therefore not a practical alternative for two primary reasons. First, the requirement that the 1,000 hours must relate to operation of the crane rather than just crane-related experience ignores the reality and practical function of crane operation. Second, the requirement that the hours relate to a “specific crane” and not merely any crane is not only unnecessary and overburdensome, but also completely impractical.

As an initial matter, crane-related experience is an adequate indicator of hours of experience and consistent with federal law and the certification requirements of all other 49 states. The nature of crane operation is that there are certain jobs in which the majority of work time will be spent on crane-related activities, but not actual operation of the crane. For example, in an 84-hour period, on a 7/12 work schedule (7 days, 12 hours per day) for a refinery turnaround project, an operator can be performing crane-related duties but only operate a crane on average for 11 hours. It is even possible that an operator could work an entire week without operating the crane once. That is the nature of the industry and crane operation.

As a contrast, on a steel erection project, an operator can have eight hours of documented time operating the crane in an eight and a half-hour day. OE3 also represents over 10,000 public sector employees in California, which includes employees classified as heavy equipment operators who are certified to operate cranes. In practice, however, these operators that may be employed with a City’s Public Works Department or Parks and Recreation Department may only be asked to operate the crane once in a month.

If it is the intention of Cal/OSHA for the term “operating” as set forth in the regulations, to include time “when an operator is at the control seat of a powered crane,” even when not picking, as declared in the Cal/OSHA evaluation of Petition 598 dated October 11, 2023 at page 5, then at a minimum, that should be clarified in the regulations.

With regard to the requirement that the 1,000 hours pertains to each “specific crane,” it is also impractical and overly burdensome. Most crane operators carry four or five different crane certifications, but in a multiple year period may only operate two out of the four or five different types of cranes, depending on the nature of their employment. These operators will have to show 1,000 hours *per specific crane*, or a total of 4,000 to 5,000 hours of time *operating* cranes at a minimum, to satisfy the work experience alternative for recertification. This will be impossible, and again, is unnecessary when certifying agencies, and in particular the NCCCO, accepts “crane-related” hours on any type of crane for purposes of all recertification. The result will be a shortage of certified crane operators to cover a variety of crane types.

Moreover, even if Cal/OSHA maintains the “specific crane” requirement for the 1,000 hour alternative, the regulation as written should be reconsidered and modified to clarify the meaning of “specific crane.” It is unclear if that is a reference to a specific category of cranes, such as hydraulic cranes, or a specific type of hydraulic crane. At a minimum, Cal/OSHA should clarify that standard.

2. Hands-on examinations are overly burdensome to crane operators, the OE3 Training Center, employers and the industry as a whole

Since the 1,000 hour alternative will not be available to the majority of operators, they will need to take hands-on examinations to recertify. This requirement – especially when it will apply to the majority of crane operators rather than just a few – is a financial burden on the crane operator, the Operating Engineers Joint Apprenticeship Training Center, the employer, and the industry as a whole. To take a hands-on examination, an operator must schedule an appointment to take the exam at the OE JATC in Rancho Murieta, California, which is approximately 40 minutes outside of Sacramento. The examinations are typically scheduled on the weekends, since classes and trainings take place during the week. The operator would have to take time off from employment, which often includes weekend work. This is a burden on the operator, the employer who also has lost work from the operator's absence, and the industry. The JATC would have to schedule a practical exam proctor and an assistant proctor to administer the test.

The conclusion of the Cal/OSHA evaluation at page 6, that the cost of maintaining a crane operator certification is comparable to other specialty certifications fails to consider that an operator carrying more than one certification would need to take multiple hands-on certifications for each specific crane type. Not all operators are employed at the time of recertification either. Further, if an operator chooses to maintain more certifications than required in their employment to maintain marketability, the employer is not necessarily required to cover the cost. In practice, among our membership, operators more typically cover the cost of recertification while they are between jobs and therefore cover the full cost of recertification. Moreover, the conclusion by Cal/OSHA minimizing the cost of recertification also fails to account for derivative costs such as the cost to the employer of lost work for the day the crane operator is not available, the lost hours worked for the crane operator, and the cost to the training center to conduct the many hands-on examinations that would be required.

Next, it is unclear from the regulation whether OSHA is requiring a hands-on examination for each specific crane certification or leaving that up to the rules of the certifying agency, but assuming that a separate hands-on examination is required for each certification, as is the case with certification through the NCCCO, that operator would be expected to schedule a hands-on examination on numerous occasions to recertify. As an analogy, if this same rule applied to Driver's license renewals, then a driver would be required to retake the written and driving test every time they had to renew their driver's license. Then add in two to four or more written and driving tests for the different crane types for which an operator holds certifications. This would not only be a financial burden on the operator but be completely debilitating for the DMV, without any countervailing safety benefit not already satisfied by a lesser but still robust recertification standard.

B. Federal Law Standards Are Adequate

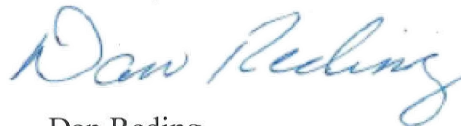
As was reiterated in Petition 598, federal law as declared in federal OSHA's 2012 interpretation letter, does not require a practical exam for recertification when the nationally recognized accrediting agency determines that a requisite number of equipment operation hours are sufficient to verify an individual's operating skills. ANSI National Accreditation Board (ANAB)

has accredited the NCCCO as a certifying agency. NCCCO's rules provide that a practical exam is unnecessary if an operator has 1,000 hours of crane-related experience on a variety of cranes.

OE3 has a four-state jurisdiction and is privileged to include crane operators in our membership in all four states. NCCCO language and standards is recognized in all our other states. But with the current rule, California will be the only state that has rules contradicting those that apply in other states and federally. OE3 respectfully requests that the Standards Board approve Petition 598 and amend the applicable regulations as requested and recommended.

Please do not hesitate to contact the undersigned with any questions. Thank you for your careful consideration of this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Dan Reding". The signature is written in a cursive, flowing style.

Dan Reding
International Vice President, International Union of
Operating Engineers and Business Manager

Cc: Autumn Gonzalez, Chief Counsel

Memorandum

To : Board Members

Date : January 5, 2023

From : Occupational Safety and Health Standards Board
Amalia Neidhardt, Principal Safety Engineer

Subject : Supplemental Information For Petition 598 Recertification of Crane Operators

Supplemental Memorandum

This memorandum is submitted in response to requests for background information and questions that arose during the December 14, 2023, Standards Board meeting related to [Petition 598](#).

I. Background/Historical Information Regarding Crane Operator Certification:

Crane operator certification standards have been in effect for many years along with the option to be exempt from the requirement to take the hands-on examination. The following table was created to assist with this request:

History of Crane Operator Certification and the 1,000 hours		
Public Hearing	Section #	Subject
12/12/2002	5006.1 [<i>applied to everybody/all cranes</i>]	<p>New section 5006.1 was created to address mobile cranes and tower cranes, as well as operator qualifications, certifying entity acceptance, substance abuse testing, written and practical (hands-on) examinations, recertification, trainees and effective dates.¹</p> <p>This is when the 1,000 hours experience was first introduced as the number of hours of experience needed for exemption from the hands on exam:</p> <p>“(d) Re-certification. Crane operators shall re-certify every five (5) years and shall be required to meet all of the qualifications set forth in subsection</p>

¹ This regulation was the result of two petitions, OSHSB File Nos. 404 and 409 submitted by Ms. Bo Bradley, Associated General Contractors (AGC) of California and Mr. Brad Closson, North American Crane Bureau (NACB), respectively. The Petitioners opined that California’s existing Section 5006, Crane Operator Qualifications requirements were too vague/non-specific to be effective in ensuring that crane operators are qualified to operate cranes and hoisting equipment.

		(a). Operators with at least one-thousand (1,000) hours of documented experience operating a crane covered by this section during the immediately preceding certification period for which re-certification is sought...”
8/17/2006	5006.1 [<i>applied to everybody</i>]	<p>Mobile and Tower Crane Operator Certification, Exception No. 2. Subsection (d) specified that operators must re-certify every five years and permits operators who are able to document at least 1000 hours experience operating a crane covered by section 5006.1 and who meet the physical and substance abuse requirements specified in new subsections (a)(1) and (a)(2) and the written examination specified in subsection (a)(3) to re-certify without taking the hands-on examination.</p> <p>This amendment clarifies that mobile truck cranes manufactured to the ASME B30.5 standards are not exempt from crane operator certification. The exemption only applies to electric line/digger derrick trucks manufactured to the ANSI 10/31 standard.</p>
5/21/2009	5006.1 [<i>applied to everybody</i>]	<p>Mobile and Tower Crane Operator Qualifications - Accreditation of Certifying Entities</p> <p>This amendment was adopted to permit employers to have their crane operators certified by a certifying entity that is accredited by either the National Commission for Certifying Agencies (NCCA) or by ANSI in accordance with the American National Standards Institute (ANSI), International Organization for Standardization (ISO), and the Electrotechnical Commission (IEC) 17024:2003(E) standards.</p>
1/20/2011	Sections 1610 through 1619 [with New	Cranes and Derricks (HORCHER) ² - included Crane Operator Qualification and Certification [maintained

² On August 9, 2010, Federal OSHA promulgated standards revising the Cranes and Derricks Standard and related sections to update and specify industry work practices necessary to protect employees during the use of cranes and derricks in construction. In 2011, the Board adopted the same federal standards through an expedited rulemaking process known as Horcher. The 2011 recorded noted that the California standards for Cranes and Derricks were (previously) contained in Group 13 of the General Industry Safety Orders. This 2011 Horcher process addressed advances in the design of cranes and derricks, related hazards and employee qualifications necessary for safe operation.

	Section 1618.1]	the language “Operators with at least one-thousand (1,000) hours of documented experience operating the specific type of crane for which re certification is sought ...”]
6/21/2012	Sections 1610 through 1619 [including Section 1618.1]. Cranes and Derricks - Clean-up	Cranes and Derricks ³ - Amendments made to require the candidate to pass a physical examination and substance abuse test, and to add a third exception which will exempt operators of electric line trucks for consistency with the GISO regulations.
2/19/2015	1618.1 (e)	Cranes and Derricks in Construction ⁴ , Operator Certification Effective Dates and Phase-In (Federal Time Extension)
3/15/2018	1618.1 Operator Qualification and Certification	Operator Qualification and Certification - Effective Dates (HORCHER) – [extended certification requirements to operators of all cranes or derricks over 2,000 pounds rated capacity used in construction]
6/20/2019	1618.1 and 1618.4	Cranes and Derricks in Construction: Operator Qualification [HORCHER] – [No changes made to the 1,000 hours language]
5/20/21	Consolidation of Construction Safety Orders (CDAC-Cranes and Derricks in Construction) into General Safety Industry Orders (GISO) Cranes and Other Hoisting Equipment	Section 1618.1 repealed, new section 5006.2 created. Section 5006.2. Operator Training, Certification, and Evaluation for Cranes and Derricks in Construction. [CDAC Consolidation went into effect June 26, 2022. No changes made to the 1,000 hour language]

³ In 2012, the Standards Board proposed and adopted a “Clean-up Rulemaking Process” to correct issues that had been previously identified and ensure (with regards to section 1618.1. Operator Qualification and Certification) to provide consistent application of crane operator qualification and certification standards both in construction and in general industry assure worker and public safety regardless of whether the crane is being operated in construction or in general industry and regardless of whether the operator is licensed by a private or government entity.

⁴ In 2015, given that Federal OSHA had extended the deadline for crane operators to be certified by type and capacity until November 10, 2017, Standards Board proposed and adopted the amendment to extend the state deadline for the certification of crane operators by type and capacity to be the same as the federal deadline. In the interim, mobile and tower crane operators in California were subjected to the existing certification requirements of GISO 5006.1.

In addition, the history and timeline document submitted by the Division compliments the rulemaking data listed above and shows that the current language went through an extensive vetting process.

II. **Questions and Answers (Q&A) Document :**

To address the questions Board members had during the December 2023 meeting, the attached Q&A document was created.

III. **Request for Clarification and/or List of Options available to Board Members:**

Finally, Board members requested a list of possible options that they might choose one or more from (listed in no particular order):

a. Bridge the Knowledge Gap

Similar to the [Consolidated Cranes and Derricks Standards Fact Sheet Cal/OSHA created in 2022](#) to alert stakeholders about the consolidation of the existing Construction Safety Order (CSO) standards for cranes into the General Industry Safety Orders (GISO) standards for cranes, Board members could request that Cal/OSHA create a Frequently Asked Questions (FAQs) to explain what the 1,000 hours requirement entails and clarify the specific type of cranes that operators can or cannot use towards the one-thousand (1,000) hours of documented experience necessary to be exempt from the requirement to take the hands-on examination.

This may not be an ideal resolution, given that the FAQ may continue to be at odds with stakeholder understanding of the regulation, leaving the underlying issues unresolved.

b. Deny Petition 598 and/or Request Petitioner resubmit their Petition and include more details, such as to the type of cranes that NCCCO accepts as crane-related hours that they believe title 8 section 5006.2 does not.

The first option is to simply deny the petition. However, this may leave a number of issues unresolved for the regulated public.

The Board could deny the petition while also requesting that the Petitioner and/or other stakeholders submit a new petition clarifying issues that have arisen in the Petition 598 conversation. Given that stakeholders have presented different points of views regarding how section 5006.2 is not or is onerous, it would be incumbent to both the Board staff and Cal/OSHA to evaluate the new petition on the information that was not initially submitted with Petition 598.

- c. **Prepare an “Expedited Rulemaking Proposal- Narrow and Limited in Scope-”** to add clarifying language on an expedited basis.

If proposed changes are limited and narrow in scope, such as adding clarifying language that would help stakeholders better understand the requirements, Board staff can work on an expedited rulemaking proposal, convene one advisory committee meeting to seek stakeholders input and after confirming the change is necessary, propose such limited amendments through an expedited rulemaking process, similar to the one utilized for the [Construction Elevators for Hoisting Workers](#).

- d. **Grant the Petition for the Purpose of Convening an Advisory Committee on an Expedited Basis**

Board members could direct Board Staff and the Cal/OSHA Crane Unit to convene an Advisory Committee where stakeholders, including the different locals of Operating Engineers come together to discuss whether amendments to title 8 section 5006.2 are necessary and if so, what proposed changes would be pursued. Board can direct that this advisory committee be given priority status. Given that there are differing viewpoints among a number of stakeholders, a single advisory committee might not be enough to iron these differences out. Any proposal that might result from this advisory would follow the regular rulemaking process.

- e. **Board Members can Recommend that Key Stakeholders Convene an Informal Meeting to Bring Opposing Viewpoints Closer Together**

In addition to the options listed above, Board members can recommend that key stakeholders come together to flush out the issues first. Given the differing viewpoints that have arisen in the Petition 598 conversation, it would be more productive to talk with each other to successfully identify a clearer path forward.

Sincerely,

Amalia Neidhardt
Principal Safety Engineer
Occupational Safety and Health Standards Board (OSHSB)

Cc: Autumn Gonzalez, Kelly Chau, Simone Sumeshwar, Eric Berg, Jason Denning

Questions and Answers About Petition 598 From the December 14, 2023, Board Meeting

Procedural Questions and Answers	
Question	Answer
<p>1. Would a vote to grant a petition amend the regulation?</p> <ul style="list-style-type: none"> • What is the effect of granting a petition? 	<p>1. No. Granting a petition does not change the regulation. A petition can be the source of a regulation change, but other steps must occur before the regulation can be changed.</p> <ul style="list-style-type: none"> • The grant of a petition can be in whole, part or to the extent of what the petitioner seeks. <p>Here, should the petition be granted, the petitioner would like either rulemaking to occur or processes outside of rulemaking¹ to address the 1,000 hour experience exemption.</p> <ul style="list-style-type: none"> ○ If the Board directs that rulemaking take place, the first step would be to convene an advisory committee (AC) for the purpose of rulemaking.
<p>2. What is the process to change, amend, or modify a regulation?</p>	<p>2. Any changes to regulations must strictly follow the California Administrative Procedures Act (APA) which requires among other things, notice and public comment periods.</p>
<p>3. What is the procedure for convening an AC?</p>	<p>3. An AC can be convened at any time by Board staff to propose changes to current regulations on its own initiative or at Board direction.</p> <p>Stakeholders and members of the public are invited to ACs by mail, email and posting on the OSHSB website.</p>

Questions and Answers About Petition 598 From the December 14, 2023, Board Meeting

<ul style="list-style-type: none"> Is rulemaking required once the Board requests staff conducts an AC? 	<ul style="list-style-type: none"> No. An AC might typically lead to rulemaking activity, but there are instances where stakeholders and staff have met and concluded that no change to the regulation is required.
<p>4. What would be the effect of granting a petition <i>and</i> convening an AC, as was proposed at the December 14, 2023 Board meeting?</p>	<p>4. This would get the ball rolling on the rulemaking process. Granting the petition would mean the Board has directed staff to begin the rulemaking process which usually begins with a draft of the proposed changes.</p> <p>While not a requirement as part of the APA rulemaking process, the Board normally holds an AC comprised of stakeholders to begin discussions on drafting language.</p>
<p>Substantive Questions and Answers</p>	
<p>Question</p>	<p>Answer</p>
<p>1. What type of rulemaking relating to cranes took effect in 2022 that was referred to at the December 14, 2023 Board meeting?</p> <ul style="list-style-type: none"> What was the effect of this rulemaking? 	<p>1. The May 20, 2021 rulemaking package resulted in new regulations that took effect in 2022. In July 2022, Construction Safety Order (CSO) section 1618.1. Operator Training, Certification and Evaluation was repealed, and these requirements were consolidated into the General Industry Safety Orders (GISO), specifically into newly created section 5006.2. Operator Training, Certification, and Evaluation for Cranes and Derricks in Construction.</p> <ul style="list-style-type: none"> The 2022 change was a procedural clean-up regulation to consolidate two regulations into one and to ensure that the state standard was as effective as the federal standard.
<p>2. Did the most recent rulemaking relating to cranes effective in 2022 deal with the</p>	<p>2. No, this rulemaking did not address the recertification process or the 1,000-hour experience exemption as an alternative to the hands-on exam.</p>

¹ It is unclear what process outside rulemaking petitioner seeks.

Questions and Answers About Petition 598 From the December 14, 2023, Board Meeting

<p>recertification process or the 1,000 hour experience exemption?</p> <ul style="list-style-type: none">Was there an oversight by the Board or Cal/OSHA by not addressing the 1,000-hour exemption during the 2021 rulemaking process?Was there any mention of the 1,000-hour experience exemption in the May 20, 2021 rulemaking record?How did the Board respond in the rulemaking record to this oral comment?	<p>The recertification process has not changed since it became enforceable in 2005.</p> <ul style="list-style-type: none">No, the recertification standard containing the 1,000-hour experience exemption was not part of the 2022 consolidated regulation because section 5006.1 has been around since the 2002 rulemaking, which became effective in 2005. It was simply consolidated into 5006.2.In the process of consolidating the crane regulations, there was one oral comment² from the General Counsel representing the National Commission for the Certification of Crane Operators (NCCCO) which is the petitioner in petition 598 and a certifying body. <p>That commenter stated that “there are other types of rubrics that may be used to better verify the operator seeking recertification has the requisite experience to waive the practical exam” but did not go into any detail as to what those rubrics may be. The commenter also said the exception determination “should not be the responsibility of the <i>certification body</i>³ but the responsibility of the <i>accrediting body</i>⁴.”</p> <p>(Note: NCCCO now takes the opposite position in petition 598 as it had back then. In 2022, it sought to make accrediting bodies responsible for the experience exemption determination. Now it wants certifying bodies, such as itself, to have this responsibility.)</p> <ul style="list-style-type: none">The Board acknowledged the comment by stating that the 1,000 hours recertification
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² There were also two written comments received after the close of comment periods from NCCCO and a trade association. The Board is not required to address comments received after the close of comment periods per the APA and did not do so.

³ A certifying body is any organization whose certification program is accredited by National Commission for Certifying Agencies (NCAA) or ANSI/ANAB National Accreditation Board.(ANAB), accrediting bodies.

⁴ An accrediting body must meet the ISO/IEC standards. Two organizations as recognized as accredited agencies are the National Commission for Certifying Agencies (NCAA) and ANSI National Accreditation Board(ANAB)

Questions and Answers About Petition 598 From the December 14, 2023, Board Meeting

<ul style="list-style-type: none"> ○ Did the Board promise to address the 1,000-hour exemption as a substantive matter in 2022? 	<p>exemption stated current section 5006.1(d) and new section 5006.2(d)(3):</p> <ul style="list-style-type: none"> ▪ Have been part of the original crane operator qualifications language for many years. ▪ Has not presented any issues or concerns from stakeholders. ▪ Is not being proposed for revision in the rulemaking proposal other than necessary editorial relocation to accomplish the consolidation of these orders. <ul style="list-style-type: none"> ○ No. As a general response, the Board responded that it was outside the scope of the current rulemaking⁵. <p>A general response stating there may be other ways to address this issue does not show that rulemaking relating to the 1,000-hour exemption should have been considered in 2022 - but was not.</p>
<p>3. Have the regulations concerning the recertification and 1,000-hour experience exemption changed since it became enforceable in 2005?</p>	<p>3. No. The regulations concerning recertification and the 1,000-hour exemption have been in existence since the December 12, 2002 rulemaking timeframe cited by Board staff and Cal/OSHA in their evaluations. This regulation became enforceable in 2005 following a phase in period.</p>
<p>4. When did the change occur in the regulations that changed the language from crane “related” to crane “operating” experience?</p>	<p>4. This language that crane “operating” experience instead of crane “related” experience has been in the regulations since the 2002 rulemaking record.</p>

⁵ December 12, 2022 Rulemaking record, Summary and Response to Written and Oral Comments: pages 16-17. “Again, as expressed in Board staff’s response to drug and substance abuse testing, there may be a better way to handle the recertification issue, but Board staff believe it is outside the scope of this rulemaking and would require the assistance of stakeholders via the AC process. Consequently, Board staff believe no modification of the proposal is necessary in response to this comment.”

Questions and Answers About Petition 598 From the December 14, 2023, Board Meeting

<p>5. Are out of state crane operators able to work in California without going through the recertification process California has, which includes the 1,000-hour exemption for the hands-on exam?</p>	<p>5. Yes. However, other states have their own additional processes to ensure crane operators have the requisite numbers of hours of experience. This is done through state licensing procedures similar to California’s regulations and applies to certification and recertification.</p> <p>For example, an operator in the state of Pennsylvania, New Mexico or in the city of New York is required to obtain a license in addition to maintaining a national certification. Some of these licenses require minimum hours of experience in operation (not currently a requirement for most certifying organizations).</p> <p>According to the Certification of Crane Operators (CCO), 16 states and 7 cities have licensing requirements. Recertification is also determined by the organization who issued the original certification, but states have the right to add additional requirements or allow for exemptions as long as they meet or exceed the federal requirements.</p>
<p>6. Are crane operators who have had an accident currently permitted to be recertified via the hands-on test instead of required to requalify?</p>	<p>6. Yes. This is because only the issuing certifying body can take away a crane operator’s certification. A certifying body can implement this requirement internally as a best practice since they hold the original records and would be the only ones who could formally suspend the certification.</p> <p>For example, National Center for Construction Education and Research (NCCER), a certifying body, currently requires incidents and accidents to be reported within 48 hours otherwise the operator certification may be revoked⁶.</p>

⁶ NCCER Mobile Crane Manual 3.12.0 Changes During Period of Certification

STATE OF CALIFORNIA

Gavin Newsom, *Governor*

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
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January 4, 2024

Autumn Gonzalez, Acting Executive Officer
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

RE: Petition 598

Dear Ms. Gonzalez and Members of the Board,

The following is a brief history and timeline of the title 8 requirements for the certification of crane operators in the State of California. Specifically, the timeline will focus on the requirement for crane operators to accrue 1,000 documented operating hours for the type of crane included in their certification to obtain recertification without the need to perform a practical “hands-on” examination. This requirement, currently included in title 8 sections 5006.1 and 5006.2, was the subject of a recent petition (Petition 598) that was discussed at the December 14, 2023 business meeting of the Occupational Safety and Health Standards Board. It is the intent of this timeline to provide clarification of the duration and applicability of the 1,000-hour recertification requirement so that the members of the Board may gain a broader understanding of the regulation and afford a more informed decision for Petition 598.

May 23, 2000 – A two-day advisory committee was convened to amend title 8 requirements under section 5006 for crane operator certification including the proposal for the 1,000-hour requirement for recertification testing.

May 22, 2003 – Title 8 section 5006.1 adopted with an effective date of August 2, 2003, which included the following requirement for crane operators to perform a practical hands-on examination for recertification unless they had attained 1,000 hours of documented operating hours for the certification they sought:

§ 5006.1. Mobile Crane and Tower Crane–Operator Qualifications and Certification.

* * * * *

(d) Re-certification. Crane operators shall re-certify every five (5) years and shall be required to meet all of the qualifications set forth in subsection (a). Operators with at least one-thousand (1,000) hours of documented experience operating the specific type of crane for which re-certification is sought as covered by this section during the immediately preceding certification period and who meet the physical examination, substance abuse, and written examination requirements set forth in subsections (a)(1), (a)(2) and (a)(3) of this section shall not be required to take the “hands-on” examination specified in subsection (a)(4) to re-certify.

* * * * *

June 1, 2005 – Section 5006.1 became effective pursuant to subsection 5006.1(f). This effective date was incorporated to provide crane operator certification entities time to establish compliant certification programs and process the large influx of applicants for the new certification requirement.

May 19, 2011 – Article 15 of the title 8 Construction Industry Safety Orders (CISO) was adopted with an effective date of July 7, 2011. This Article was adopted as a Horcher rulemaking based on federal OSHA 29 CFR Part 1926 for the operation of cranes in the construction industry. The approved regulation from this rulemaking included the following requirements for recertification of crane operators that were nearly identical to those of subsection 5006.1(d) and included the 1,000-hour requirement for recertification:

§1618.1. Operator Qualification and Certification.

* * * * *

(b) Option (1): Certification by an accredited crane operator certifying entity.

* * * * *

(4) Re-certification. Crane operators shall re-certify every five (5) years and shall be required to meet all of the qualifications set forth in subsection (b)(1). Operators with at least one-thousand (1,000) hours of documented experience operating the specific type of crane for which re-certification is sought as covered by this section during the immediately preceding certification period and who meet the physical examination, substance abuse, and written examination requirements set forth in subsections 1618.1(b)(1)(A) - (b)(1)(C) of this section shall not be required to take the “hands-on” examination specified in subsection (b)(1)(D) to re-certify.

(5) The accredited certifying entity shall have procedures for operators to re-apply and be re-tested in the event an operator applicant fails a test or is decertified.) Option (1): Certification by an accredited crane operator certifying entity.

* * * * *

October 4, 2011 – A two-day advisory committee was convened for a “clean-up” rulemaking for the CISO Article 15 crane regulations. No change to operator recertification requirements under subsection 1618.1(b) were proposed during this rulemaking.

June 21, 2012 – The resultant regulation promulgated from the “clean-up” rulemaking was adopted with an effective date of August 16, 2012. Recertification requirements under title 8 subsection 1618.1(b) remained unchanged as a result of this rulemaking.

September 9, 2014 – The first of four advisory meetings convened to consolidate the bifurcated title 8 crane regulations by placing the CISO Article 15 crane safety orders into the GISO Group 9 crane safety orders. The impetus of this rulemaking was to address concerns from stakeholders of having two sets of crane safety orders to comply with rather than a single set of regulations as they had existed previously in title 8. During these meetings, stakeholders discussed adopting separate title 8 sections for crane operator certification in general industry and construction, however, no issue was broached regarding the 1,000 operating hour requirement included in both the GISO and CISO regulations.

July 26, 2022 – The resultant regulation promulgated from crane recombine rulemaking was adopted and effective. Regulations (below) for crane operator recertification were included in title 8 under subsections 5006.1(d) and 5006.2(d) for general industry and construction respectively both including the 1,000-hour recertification requirement.

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

* * * * *

(d) Re-certification. Crane operators shall re-certify every five (5) years and shall be required to meet all of the qualifications set forth in subsection (a). Operators with at least one-thousand (1,000) hours of documented experience operating the specific type of crane for which re-certification is sought as covered by this section during the immediately preceding certification period and who meet the physical examination, substance abuse, and written examination requirements set forth in subsections (a)(1), (a)(2) and (a)(3) of this section shall not be required to take the “hands-on” examination specified in subsection (a)(4) to re-certify.

* * * * *

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

* * * * *

(d) Option (1): Certification by an accredited crane operator certifying entity.

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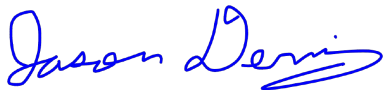
(3) Re-certification. Crane operators shall re-certify every five (5) years and shall be required to meet all of the qualifications set forth in

subsection (d)(1). Operators with at least one-thousand (1,000) hours of documented experience operating the specific type of crane for which re-certification is sought as covered by this section during the immediately preceding certification period and who meet the physical examination, substance abuse, and written examination requirements set forth in subsection (g)(1)-(g)(3) shall not be required to take the “hands-on” examination specified in subsection (g)(4) to re-certify.

* * * * *

As illustrated by the above timeline, the requirement for crane operators to accrue 1,000 documented equipment operating hours to obtain recertification without the need to perform a practical “hands-on” examination has been included in title 8 regulations for over 20 years. Although this requirement was adopted in the GISO and the CISO at different times, it has remained applicable to both general industry and construction operations throughout its entire regulatory history and is not a new requirement to the regulated public.

Sincerely,



Jason Denning
Principal Safety Engineer
Research and Standards

cc: Eric Berg, Amalia Neidhart, Yancy Yap

Title 8 Sections 5006.1 and 5006.2 Brief History and Timeline	
May 23, 2000	Two-day advisory committee convened to amend title 8 requirements under section 5006 for crane operator certification including the proposal for the 1,000-hour requirement for recertification testing.
May 22, 2003	Title 8 section 5006.1 adopted with an effective date of August 2, 2003, which included the requirement for crane operators to perform a practical hands-on examination for recertification unless they had attained 1,000 hours of documented operating hours for the certification they sought.
June 1, 2005	Title 8 section 5006.1 became effective pursuant to subsection 5006.1(f). This effective date was incorporated to provide crane operator certification entities time to establish compliant certification programs and process the large influx of applicants for the new certification requirement.
May 19, 2011	Article 15 of the title 8 Construction Industry Safety Orders (CISO) adopted with an effective date of July 7, 2011. This Article was adopted as a Horcher rulemaking based on federal OSHA 29 CFR Part 1926 for the operation of cranes in the construction industry. The approved regulation from this rulemaking included requirements for recertification of crane operators that were nearly identical to those of subsection 5006.1(d) and included the 1,000-hour requirement for recertification
October 4, 2011	Two-day advisory committee convened for a “clean-up” rulemaking for the CISO Article 15 crane regulations. No change to operator recertification requirements under subsection 1618.1(b) were proposed during this rulemaking.
June 21, 2012	Regulation promulgated from the “clean-up” rulemaking adopted with an effective date of August 16, 2012. Recertification requirements under title 8 subsection 1618.1(b) remained unchanged.
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July 26, 2022	Regulation promulgated from crane recombine rulemaking was adopted and made effective. Regulations for crane operator recertification were included in title 8 under subsections 5006.1(d) and 5006.2(d) for general industry and construction respectively both including the 1,000-hour recertification requirement.

Occupational Safety and Health Standards Board

Business Meeting
Legislative Update

**THERE WILL BE NO
LEGISLATIVE UPDATE
FOR THIS MONTH'S
MEETING**

Occupational Safety and Health Standards Board

Business Meeting

Acting Executive Officer's Report