

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 3

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 7, Article 100,
Section 5034(f) of the General Industry Safety Orders (GISO)

Crane and Derrick Adjustments and RepairsSUMMARY

This rulemaking action was initiated at the request of the Division of Occupational Safety and Health (Division) by memorandum to the Occupational Safety and Health Standards Board (Board) dated August 21, 2000 from John Howard, Chief, DOSH.

The Division's memorandum indicates that the language contained in GISO Section 5034(f) requires all repair welds on critically stressed members of cranes be permitted only when recommended by the manufacturer. This has caused some confusion for those that repair cranes and crane booms as well as those that inspect and certify cranes. The confusion exists because Section 5034(e) provides that instructions for crane welding repair procedures shall be provided by a "certified agent". Furthermore, subsection (b) of Section 5035, Damaged Booms, allows for new or extensively repaired booms and/or extensions to be designed or repaired and inspected by a certified agent.

This rulemaking action proposes an amendment to Section 5034(f) for consistency with Sections 5034(e) and 5035(b) that a "certified agent" permits the repair welds on critically stressed crane or derrick parts.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTIONSection 5034. Adjustments and RepairsSubsection (f)

Section 5034 provides the general requirements and precautions that must be taken before adjustments and repairs are performed on cranes or derricks. This section also sets forth the requirements for welding repairs. Subsection (f), in part, requires that all repair welds performed on critically stressed members are allowed, "where permitted by the manufacturer's recommendations". An amendment is proposed to delete the phrase "where permitted by the manufacturer's recommendations" and replace this language with "where permitted by a

certified agent”. Section 4884 of the GISO defines a “certified agent” as, “The manufacturer, or a person who is currently registered as a professional civil, mechanical, or structural engineer by the State of California and is knowledgeable in the structure and use of the equipment.” Since a certified agent can be a manufacturer’s representative, the amendment will not impose any new requirement.

However, the amendment is necessary to provide clarity to the regulations in Section 5034, and consistency with Section 5034(e) in that instructions for welding repair procedures are to be provided by the certified agent. The amendment is also necessary for consistency with Section 5035, Damaged Booms, since subsection (b) requires that unless new or extensively repaired booms and/or extensions have been designed or repaired and inspected by a “certified agent”, they must be tested before use.

An amendment is also proposed to correct an editorial error in the term “mast cord” in the first sentence of Section 5034(f) to read “mast chord”.

DOCUMENTS RELIED UPON

Memorandum dated August 21, 2000 from John Howard, Chief of the Division of Occupational Safety and Health, with Cal/OSHA form 9 attachment dated August 21, 2000, requesting modification to the General Industry Safety Orders, Section 5034(f).

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

DOCUMENTS INCORPORATED BY REFERENCE

None.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

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

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. As outlined above, the amendment proposes to delete the phrase “where permitted by the manufacturer’s recommendations” and replace this language with “where permitted by a

certified agent” in Section 5034(f). This revision is for clarity and consistency with Sections 5034(e) and 5035(b).

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a mandate requiring reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes

unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.