

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Chapter 4, Subchapter 7, Article 98, Sections 5001(b) and 5008(b)
of the General Industry Safety Orders**

Use of Signals and Operating Practices-Cranes**SUMMARY**

This proposed rulemaking action is being initiated upon Board staff review of the language contained in GISO Section 5008(b), which requires that the operator of a crane respond to signals from only the appointed signal person, but shall obey a stop signal at any time. Board staff believes the current language in subsection (b) is unclear as to who may communicate a stop signal to the crane operator. As it currently reads, the sentence in subsection (b) appears incomplete, creating confusion as to whether only the appointed signal person can communicate a stop signal to the crane operator or anyone on the jobsite. Following consultation with representatives from the North American Crane Bureau, the Division of Occupational Safety and Health's Crane Unit, and crane operations experts including marine terminals, Board staff determined that the current industry practice is to ensure that hazardous contact between an employee and the crane and/or its hoisted load does not occur by requiring the crane operator to respond to a stop signal from any person in order to immediately stop the motion of the crane.

Board staff proposes a technical amendment to Section 5008(b) to clarify to the employer that the stop signal can be issued by persons other than the appointed signal person, i.e., "any person". In order to ensure that there is no conflict between the proposed amendment and an existing requirement in Section 5001(b), which states that only qualified persons shall be permitted to give signals, an "exception" is proposed for Section 5001(b) to clarify that a stop signal may be given by any person, consistent with what is proposed in Section 5008(b).

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**Section 5001. Signals.**

This section contains regulations that address the use of a signal person or signaling or control device needed to direct the operation of a crane safely. Subsection (b) specifies that only qualified persons are

permitted to give signals. A revision is proposed to add an “exception” to this requirement permitting stop signals to be given by any person. The proposed revision is necessary to ensure that Section 5001(b) is consistent with the proposed amendments to Section 5008(b), see below, and that any person who observes a potentially hazardous condition involving a crane operation may signal the crane operator to stop the movement of the crane.

Section 5008. Operating Practices.

This section contains regulations pertaining to operating practices specific to cranes, including but not limited to: storing loose materials and personal effects, responding to signals from an appointed signal person, use of warning signals, and leaving the crane unattended.

Subsection (b) requires the crane operator to respond to signals only from the appointed signal person, but to obey a stop signal at any time.

A revision is proposed to clarify that in addition to the appointed signal person, any person may communicate a stop signal to the crane operator, which must be obeyed. It is also proposed to delete the phrase “at any time” as unnecessary. The proposed revision is necessary to ensure that any person who observes a potentially hazardous condition involving a crane operation may signal the crane operator to stop the movement of the crane, and that this stop signal must be obeyed by the crane operator.

DOCUMENTS RELIED UPON

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.

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 impact 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 regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do 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 regulations do 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 regulations do 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 regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may 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.