

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

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

TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 98, Section 5006.1
of the General Industry Safety Orders (GISO)

Mobile and Tower Crane Operator Qualifications—Accreditation of Certifying Entities**SUMMARY**

On September 18, 2008, the Occupational Safety and Health Standards Board (Board) granted OSHSB Petition File No. 504, to the extent that Board staff convene an advisory committee to consider proposed amendments to Title 8, California Code of Regulations, Section 5006.1(c), to add the American National Standards Institute (ANSI) as an accrediting entity for crane operator certification. At the Board's monthly business meeting on January 15, 2009, the Board agreed with staff that since the inclusion of ANSI as an accrediting entity was widely supported by stakeholders, an advisory committee meeting would be unnecessary.

The Board staff proposed to amend Section 5006.1(c) 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 for conformity assessment.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**Section 5006.1 Mobile Crane and Tower Crane-Operator Qualifications and Certification.**

This section contains requirements addressing general operator qualifications including, but not limited to, physical examinations, substance abuse testing, psychometric standards, written examinations, issuance of certificates and recertification. Subsection (c) requires certifying entities (entities that develop and administer operator certification exams) to be accredited by the NCCA.

This proposal would amend subsection (c) to include the ANSI personnel certification accreditation program as a certifying entity. The ANSI accreditation program is based on and operated under the conformity assessment standard of the ANSI/International Organization for

Standardization (ISO) and the International Electrotechnical Commission (IEC) 17024:2003(E), Conformity Assessment-General Requirements for Bodies Operating Certification of Persons. This standard has characteristics similar to the NCCA accreditation program and is consistent with the 1999 Standards for Educational and Psychological Testing published jointly by the Joint Committee of the American Educational Research Association, and the National Council in Measurement in Education.

The proposal is necessary to provide another accreditation resource as an alternative to NCCA accreditation. Certifying entities that elect to achieve ANSI/ISO/IEC accreditation would do so by following the conformity assessment requirements contained in the standard as overseen by ANSI. The accreditation process affects only those employers who elect to become their own certifying entity as set forth in Section 5006.1 and third party certifying entities that are contracted by employers to administer a crane operator certification exam(s).

DOCUMENTS RELIED UPON

1. The Petition, received May 20, 2008, from Roy A. Swift, Ph.D., Program Director, Personnel Certification Accreditation Program, representing the American National Standards Institute (ANSI) (Petitioner).
2. The Occupational Safety and Health Standards Board Petition Decision for Petition File No. 504, dated September 18, 2008, in the Matter of a Petition Roy A. Swift, Ph.D., Program Director, Personnel Certification Accreditation Program, representing the American National Standards Institute (ANSI) (Petitioner).

These documents are 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

1. American National Standards Institute (ANSI), International Organization for Standardization (ISO), and the Electrotechnical Commission (IEC) 17024:2003(E), Conformity Assessment-General Requirements for Bodies Operating Certification of Persons.

This document is too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the document by reference. A copy of 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.

**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 a 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 cost 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 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 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 state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed amendment may affect small business. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendment to this regulation 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.