

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**TITLE 8. CALIFORNIA CODE OF REGULATIONS**

Subchapter 4. Construction Safety Orders  
Article 15. Cranes and Derricks in Construction  
Section 1618.1(e), Operator Qualification and Certification.

**Cranes and Derricks in Construction**  
**Operator Certification Effective Dates and Phase-In**  
**(Federal Time Extension)**

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

**PUBLIC HEARING**

The Board will hold a public hearing starting at 10:00 a.m. on **February 19, 2015** in the **Auditorium** of the **Harris State Building, 1515 Clay Street, Oakland, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

**WRITTEN COMMENT PERIOD**

Any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. The written comment period commences on **January 2, 2015** and closes at 5:00 p.m. on **February 19, 2015**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By fax at (916) 274-5743; or

By e-mail sent to [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov).

**AUTHORITY AND REFERENCE**

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards within six months of the date of promulgation of the federal standard.

## **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT** **OVERVIEW**

On August 9, 2010, OSHA promulgated the Federal Final Rule (FFR) for cranes and derricks in construction (29 CFR Subpart CC), referred to herein as the “cranes standard.” The original promulgation included a November 10, 2014, deadline for crane operators to be certified. For a number of reasons, OSHA has determined it necessary to extend this deadline for crane operators to be certified by three years, until November 10, 2017.

California’s counterpart to the federal standards affected by the FFR is Construction Safety Orders (CSO) 1618.1(e) which currently requires operator certification by type and capacity effective July 7, 2015.<sup>1</sup> Operators of mobile<sup>2</sup> and tower cranes are currently required by General Industry Safety Orders (GISO) 5006.1 to be certified by the type (but not capacity) of the crane they are operating.

The OSHA preamble states that they received information that two (of a total of four) accredited testing organizations have been issuing certifications only by type of crane, rather than offering certifications by type and capacity of crane, as the federal cranes standard requires. This was a key factor leading to the federal time extension. Likewise, Board staff understands that only a few certifying entities operating in California currently issue certificates by type and capacity. Therefore, unless the Board modifies the CSO deadline for certification by type and capacity consistent with the FFR, a significant number of crane operators in California will be out of compliance with the state CSO (but not federal standards) starting July 7, 2015.

This rulemaking is proposed to extend the state deadline for the certification of crane operators by type and capacity the same as the federal deadline. In the interim, mobile and tower crane operators in California will continue to be subject to the existing certification requirements of GISO 5006.1.

Because the proposed modifications are substantially the same as the FFR, Labor Code Section 142.3(a)(3) exempts the Board from the provisions of Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, Part 1, Division 3 of Title 2 of the Government Code. However, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written comments and the oral comments at the public hearing is to:

- (1) Identify any issues unique to California related to this proposal which should be addressed in this rulemaking and/or a subsequent rulemaking.
- (2) Solicit comments on the proposed effective date.

The responses to comments will be available in the rulemaking file on this matter and will be limited to the above areas.

The effective date is proposed to be upon filing with the Secretary of State as provided by Labor Code Section 142.3. The standards may be adopted without further notice even though

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<sup>1</sup> The difference between the federal and state deadlines for certification is attributable to federal-state formatting differences and the time it took to prepare, notice and adopt the lengthy federal CDAC standard into CCR Title 8.

<sup>2</sup> Crane capacity  $\geq 15,000$  pounds and boom length  $\geq 25$  feet.

modifications may be made to the original proposal in response to public comments or at the Board's discretion.

The specific changes are as follows:

Extend the effective date for certification by type and capacity from July 7, 2015, to November 10, 2017. The effect of this extension will conform the state deadline for certification by type and capacity with the federal deadline.

This proposed rulemaking action is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

#### **DOCUMENTS RELIED UPON**

Federal Register, Vol. 79, No. 187, pp. 57785-57798, September 26, 2014.

This document is available online at the federal OSHA website:  
<http://www.gpo.gov/fdsys/pkg/FR-2014-09-26/pdf/2014-22816.pdf>

This document is also 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.

#### **STRIKEOUT/UNDERLINE DRAFT PROPOSAL**

See Attachment No. 1.

#### **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

#### **SMALL BUSINESS DETERMINATION**

The Board has determined that the proposed modifications may affect small businesses. However, no economic impact is anticipated. OSHA has determined<sup>3</sup> that delaying the operator certification requirement defers a regulatory requirement and should impose no new costs on employers.

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<sup>3</sup> FR, Vol. 79, No. 187, September 26, 2014, pg. 57791.

### **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses. The proposed amendments extend the deadline for crane operators to be certified by type and capacity by three years as provided by the Federal Final Rule. Existing state standards for certification of crane operators by type of crane will continue unchanged during that period.

### **BENEFITS OF THE REGULATION**

The amendments to the regulation will provide continuity in state standards which are currently more protective than federal standards during the period of the federal time extension.

### **CONTACT PERSONS**

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) or Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

### **AVAILABILITY OF TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and supporting documents. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

### **AVAILABILITY OF THE MEMORANDUM TO THE STANDARDS BOARD MEMBERS**

Upon its completion, copies of the Memorandum may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format and the Notice of Proposed action can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.