

**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 96, Section 4966(a)(1)  
of the General Industry Safety Orders (GISO)

**Erection and Dismantling of Tower Cranes****PROBLEM ADDRESSED BY PROPOSED ACTION**

The Division of Occupational Safety and Health (Division) submitted a Form 9, Request for New, or Change in Existing, Safety Order, dated July 26, 1999 to the Occupational Safety and Health Standards Board (Board) requesting Section 4966(a)(1) of the General Industry Safety Orders (GISO) be amended to be consistent with Section 341.1(b)(2) of the Division's regulations.

The Division notes that a contradiction exists between the two standards. Section 4966(a)(1) requires that a certified agent's representative be present during the erection, climbing and dismantling of a tower crane, whereas Section 341.1(b)(2) requires that the employer provide a statement that a Division-licensed tower crane certifier or surveyor, or a safety representative for the distributor or manufacturer of the crane will be present during these operations.

To correct this discrepancy, the Division proposed amending Section 4966(a)(1) by deleting a portion of the existing language and replacing it with a reference to Section 341.1(b)(2).

Board staff has reviewed the Division's proposal and has initiated this amendment to Section 4966(a)(1) using the Division's language verbatim as shown in their July 26, 1999 memorandum to the Board.

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION****Section 4966. Erection, Dismantling and Operation.**

This section contains various requirements pertaining to the erection, dismantling and operation of tower cranes such as, but not limited to, the following: supervision of the erection, climbing and dismantling of tower cranes, use of fall protection, preventing tower crane collapse, securing the tower crane mast, supporting loads, use of load limit devices, etc.

Subsection (a)(1) requires that the erection, climbing and dismantling of a tower crane be performed as recommended by and under the supervision of a certified agent's representative experienced in the erection and dismantling of tower cranes.

A revision is proposed to delete the existing subsection (a)(1) language after the word "...shall..." and replace it with the requirement that the erection, climbing (up or down) and dismantling of a tower crane shall comply with Section 341.1(b)(2) of the Division of Occupational Safety and Health's regulations.

The proposed revision is necessary to clarify to the employer that he/she must provide a statement that a Division-licensed tower crane certifier or surveyor, or crane safety representative for either the manufacturer or distributor will be present during any of the aforementioned tower crane procedures, making it consistent with Section 341.1(b)(2) of the Division's regulations. In addition, the proposal will afford the employer greater ease and flexibility in complying with the regulation to the extent that the supervision of the erection, climbing and dismantling of a tower crane will no longer be limited to a certified agency's representative.

#### **DOCUMENTS RELIED UPON**

1. Memorandum from the Division of Occupational Safety and Health to the Occupational Safety and Health Standards Board dated July 26, 1999, regarding the Division's proposed amendment to Section 4966(a)(1), and attached Cal-OSHA Form 9, Request for New, or Change in Existing, Safety Order.

This document is available for review during normal business hours at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

#### **IDENTIFIED ALTERNATIVES THAT WOULD LESSEN ADVERSE IMPACT ON SMALL BUSINESSES**

No adverse impact on small businesses is anticipated from the implementation of the proposed amendments. The proposed amendment is merely a technical, clarifying editorial revision to ensure consistency between regulations contained in the GISO and those of the Division of Occupational Safety and Health. Board staff anticipates no new or added effect upon the employer's operations that would result in the employer incurring additional cost. Therefore, no alternatives which would lessen the impact on small businesses have been identified.

#### **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 (see “Identified Alternatives that Would Lessen Adverse Impact on Small Businesses”). In addition, Board staff has not identified any state agencies that own and/or operate tower cranes. Therefore, Board staff does not anticipate the proposal will have any direct impact, positive or negative, upon state agencies.

### **Impact on Housing Costs**

The proposal will not significantly affect housing costs.

### **Impact on Businesses**

This proposal will not result in a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The proposed amendments consist of a technical and/or clarifying change which will render regulations pertaining to the erection, climbing and dismantling of tower cranes contained in the GISO consistent with those of the Division of Occupational Safety and Health. Therefore, Board staff does not believe the proposal will have a new or added effect upon the employer with respect to tower crane operations.

### **Cost Impact on Private Persons or Entities**

The proposal will not require private persons or entities to incur additional costs in complying with the proposal.

### **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 local mandate. 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 employers - state, local and private - will be required to comply with the prescribed standard.

### **PLAIN ENGLISH STATEMENT**

It has been determined that the proposal may affect small business. The express terms of the proposal written in plain English have been prepared by the Board pursuant to Government Code Sections 11342(e) and 11346.2(a)(1) and are available from the agency contact person named in the notice. The informative digest for this proposal constitutes a plain English overview.

### **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 alternatives considered by the Board 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.