

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Amendments to Chapter 12-48-7

July 31, 2008

**IMPACT STATEMENT
AND
SUMMARY OF PROPOSED AMENDMENTS TO CHAPTER 12-48-7
HAWAII ADMINISTRATIVE RULES**

1. Exact changes to be made and the reason for the change.
 - a. Section 12-48-1 is amended by deleting the term “or persons” as recommended by the Department of the Attorney General (“A.G.”).
 - b. Section 12-48-2 is amended to add a reference to ASME B30.3 to require hoisting machine certification for tower crane operators. This amendment is being added at the request of the Hoisting Machine Operator’s Advisory Board (“HMOAB”) to ensure that operators of tower cranes are properly trained in the use and operation of “tower cranes”, thereby ensuring workplace safety and health.
 - c. Section 12-48-3 is amended to add specific definitions to further clarify and define words or phrases used in other sections of these administrative rules. These amendments were made in consultation and at the request of the A.G.
 - d. Section 12-48-5 is a housekeeping measure recommended by the HMOAB and the AG to provide greater clarity on when a hoisting machine operator must be required to have a state issued certificate.
 - e. Section 12-48-6 is largely a housekeeping measure, as recommended by the A.G., for better clarification, except for Subsection (g), where the HMOAB added requirements for tower crane operators.
 - f. Section 12-48-7 is amended to reflect the addition of tower cranes to the administrative rules which guide the application process.
 - g. Section 12-48-8 is amended to reflect clarification revisions regarding renewal of certifications.
 - h. Section 12-48-9 regarding the denying, suspending or revoking a certificate is being amended to address concerns raised by the A.G. to reflect proper legal language.
 - i. Section 12-48-10 is amended to clarify proper procedures during the appeals process for operators who have had their certificate denied, suspended or revoked.

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- j. Section 12-48-11 is amended to clarify procedures regarding the paying and collecting of fees.

2. Effect of the changes on the department:

The majority of the proposed rules are housekeeping in nature meant to clarify current practices and procedures. In that respect, the Department does not anticipate these proposed rules to have any substantial effect on operations. The inclusion of tower crane operators in the certification requirements will also have minimal impact upon the Department as safety and health inspectors will just include tower cranes into their normal inspection cycle.

3. Final result and program improvement:

Effective operator training ensures worker and public safety. The inclusion of tower crane operators' in the certification process sets a minimum competency level for operators and provides assurance to an employer that a crane operator has appropriate training and experience to operate a tower crane. This process benefits workers, employers and the general public and improves the Department's ability to ensure a safe and healthful work environment for employees on construction sites using hoisting machines.

4. Impact on small business:

These proposed rules will have an impact upon those small businesses that own and operate a tower crane. Employers who employ operators will need to ensure the operator has state certification. State certification requires that all operators meet standards set by the National Commission for the Certification of Crane Operators ("NCCCO"). The NCCCO certification can be costly (\$4,000 to \$5,000 per operator), but the NCCCO certification is considered the industry standard in terms of training. However, the changes made to increase public and worker safety far outweigh the costs associated with hoisting machine operator certification.

Additionally, any small employer who does not comply with these Rules can be fined up to \$70,000 per offense.

5. Long and short-term impact on the public and the economy and funding implications:

There are no funding implications. The long and short-term impact on the public is an assurance that operators of tower cranes are properly trained and certified. This will

ensure worksite and public health and safety.

6. Other alternatives explored:

None. The majority of the proposed administrative rules are “housekeeping” in nature meant to clarify existing practices and procedures. The inclusion of “tower cranes” into the list of hoisting machines that require a state certified operator is necessary to ensure workplace safety and health.