A Look Back — and Ahead — at the Crane and Derrick Standard

With maybe a little over a year to go, OSHA is poised to make a decision on the Crane and Derrick standard. Let’s take a look at what this means.

If you remember way back in 2010, OSHA promulgated the Crane and Derrick standard in construction, which has a direct impact on the sign installation industry. Within that final rule, OSHA required employers to ensure that their crane operators are “certified” prior to operating a crane, with the most popular option for certifications being the use of third-party certification bodies. This requirement was to be accomplished by November of 2014.

After the rule was finalized, more than a few issues were discovered regarding the certification requirements, cost burdens (with no real benefit to safety) and misapplied requirements. The way the language in the final rule was presented, it would allow a certified crane operator to be automatically deemed qualified to use a particular model of crane. The final rule also eliminated the previous requirement for the employer to “train and qualify” its crane operators. Further, the certification would have been based on “lifting capacity” of the cranes, regardless of similarities in operation or capacity range. Essentially, the final rule applied a blanket qualification to “certified” operators — not taking into account any site- and/or crane-specific variables — and required separate certifications for each lifting capacity.

The comments from stakeholders rolled into OSHA and pointed out how third-party certification organizations were mostly unable to qualify operators for specific cranes in all possible configurations, as OSHA expected under the standard. Focus was also on the need to still require a provision for employers to train and qualify their crane operators due to the number of differentiations directly pertaining to the specific installation. The comments also addressed the inapplicability and unnecessary costs that would result from basing certification on different lifting capacities.

In response to these concerns, OSHA issued a proposed rule in 2014 which included a delay for the certification element; omitted the “deemed qualified” language; reinstated the employer’s duty to train and qualify crane operators; and dropped the requirement that certification by accredited testing organizations be based on lifting capacity. However, the proposed rule would still require employers to re-certify an operator every time the employee moves up to a larger crane.

The delay for operator certification, and the preservation for employers to ensure crane operators are competent, were both extended until November 10, 2017. OSHA has been using this period to revisit and address the issues raised.

What OSHA is Looking At

Specifically, OSHA has said it is considering modifications or changes according to the stakeholder comments and regulatory needs, which include the following:

- The requirement for employers to assess and qualify operators even once a certification requirement takes effect.
- Leaving the certification requirement and process essentially unchanged, but removing the requirement for certification by capacity (it’s noted that language addressing state and municipal regulations for certification of operators by type and capacity will remain in the rule).
- Descriptions of evaluation responsibilities for employers, including training requirements.
- Provisions for multi-employer sites and basic operator-evaluation responsibilities for controlling contractors.

What OSHA Currently Requires

Until November 2017 when the delay for certification ends, the following excerpt from OSHA highlights what is still currently required for employers of crane operators:

- Employers must ensure that equipment operators are competent through training and experience to operate the equipment safely (see 29 CFR 1926.1427(k)(2)). If an employee assigned to operate a crane does not have the required knowledge or ability to operate the equipment safely, the employer must train that employee before allowing him or her to operate the equipment and must evaluate the operator to confirm that he/she understands the information provided in the training. Important notes to remember on operator training:
  - All operators are considered to be operators-in-training until the operator is certified for that type of equipment AND is evaluated on the equipment that will be used.
  - An operator considered an “operator-in-training” is allowed to operate a crane only under constant supervision.
- Employers must evaluate the crane operators on the equipment they will operate (it need not be the actual crane; it can be other cranes of the same make and model).
- Employers must provide documentation to the operator that the operator can carry as proof of assessment.
Perform an annual re-evaluation as well as whenever warranted, as determined by the employer

**Regarding Certification (If Currently Sought):**

- Certification can still be provided by a third-party testing entity, a government licensing entity or an employer-audited program.
- Military operators would still be qualified separately by the military, but would be exempt from the training and evaluation requirements.
- Certification still requires a written and practical exam.

Keep in mind that the certification does not equate to training and does not include any specific training requirement. The training provisions under 29 CFR 1926.1430 are not changed by the extension of the operator certification deadline.

So, even though OSHA issued a delay in certification and is taking this time to review the proposal and comments, some OSHA representatives have mentioned that it is not constrained to using the full three years to take action on this proposal. Essentially, this means that OSHA could move on a regulatory action and implement it in less time. In that case, the deadline could be imposed earlier than November 2017 through separate rulemaking. And as we always recommend, it's better to be prepared.

SGIA will be monitoring this topic closely and will report on any new developments as well as when the final rule is published.

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