

**OSHA'S PROPOSED RULE ON CRANES AND DERRICKS
REQUESTS FOR PUBLIC COMMENT REGARDING QUALIFICATIONS FOR CRANE OPERATORS AND SIGNALPERSONS**

011609

1. CRANE OPERATOR QUALIFICATIONS

Q.	Federal Register Page/Col. #	Para 1926.	Question
1	59811-3 59937-1	1427(b)(1)(ii)(B)	<p>This paragraph requires different levels of certification based on equipment capacity and type, but is the term "type" sufficiently clear? Does it need to be defined (and if so, what should it be), and are there any suggestions as to what other terms may be better?</p> <p><u>Response:</u> For mobile cranes, "type" as defined in ASME B30.5 would provide greater guidance. Qualifications (and certification) should be driven by the knowledge and skill required to operate a piece of equipment. When a body of knowledge or a particular skill set for a particular "type" of crane changes, then so should the appropriate category of certification/qualification.</p>
2	59811-3 59937-1	1427(b)(1)(ii)(B) & 1427(j)(1)(i)	<p>Should the levels of certification be expanded to allow an operator to be certified for a specific make and model of equipment (as suggested by some Small Entity Representatives)?</p> <p><u>Response:</u> NO. (i) Certifying to a particular make and model of crane is not practical from the perspective of nationally accredited certification, so Option 1 would not likely be available. (ii) While this may seem attractive at first glance to some employers, this provision would mean that an employer utilizing Option 2 would have to develop an entire set of tests—and have them validated by an accredited program's auditor—for every crane in his fleet and/or every time he changed or added cranes in his fleet. This would result in a greater fiscal impact to the employer than utilizing a broader crane type category. (iii) From a psychometric perspective, testing to a specific make and model of equipment is not necessary nor even defensible: testing should be driven by the skill set and knowledge required, (not by crane make and model no.) as determined by the Job Task Analysis, a pre-requisite of all accredited personnel certification programs.</p>
3	59812-1 59937-1	1427(b)(1)(ii)(B) & 1427(j)(1)(i) & 1430 (c)	<p>Should the levels of certification be expanded to allow an operator to be certified for a specific, limited type of circumstance defined by a set of parameters that, taken together, would describe an operation characterized by simplicity and relatively low risk (as suggested by some Small Entity Representatives)?</p> <p><u>Response:</u> NO. All lifting operations involve some risk, but the degree of risk in any given situation is difficult to assess and, in any case, may change due to unforeseen circumstances. Many crane accidents occur when the task at hand changes, or the circumstances change during the lift. In any case, who would prescribe the risk levels? Perception is often confused with reality: small cranes are involved in many more crane accidents than larger machines precisely because the <i>perceived</i> risk is less than it actually is with this type of equipment.</p>

4	59812-3 59936-3	1427(b)	<p>Should Option 1 (certification by an accredited crane/derrick testing organization) be expanded so that an accredited educational institution could administer written and practical tests that were developed or approved by an accredited crane/derrick testing organization (as suggested by the SBREFA Panel)?</p> <p><u>Response:</u> An accredited educational institution can administer tests under the <u>current</u> proposal. In order to maintain the security of the testing process, however, the certifying organization (as the responsible entity) would have oversight of each test administration. This should <u>not</u> be confused with an accredited educational institution being authorized to <u>develop</u> or <u>approve</u> such tests; the accreditation criteria for educational institutions are entirely different from the criteria used to accredit personnel certification bodies.</p>
5	59813-2 59937-1	1427(c)(1)(ii)	<p>Should a new paragraph 1427(c)(1)(ii)(D) be added to make it clear that nationally recognized auditing standards would also apply to the audit of the contents of written and practical tests?</p> <p><u>Response:</u> NO. While (i) the audit should, indeed, meet recognized national auditing standards, and (ii) the content of the tests should meet prevailing standards (such as B30), auditing standards used by accrediting bodies such as NCCA and ANSI do not review subject matter content since they are primarily concerned with exam <u>design, maintenance and administration.</u></p>
6	59814-2 59937-2	1427(d)(1)	<p>Should the language of this paragraph be changed to specify that Option 3 (qualification by the U.S. military) applies only to direct employees of the U.S. military and not those of private contractors, and should a definition of "employee of the U.S. military" be included?</p> <p><u>Response:</u> YES to both questions. This clarification would be valuable and accurately reflect current practice. Typically, the U.S. military has internal standards that apply to its own crane operators, qualified through its own programs, while maintaining separate requirements for contractor employees.</p>
7	59815-3 59937-3	1427(f)(2)(iii)(B) & 1430 (c)	<p>Should this paragraph be modified to indicate that the supervisor of an operator trainee must either be a qualified/certified operator for the equipment the trainee is operating or have passed the written test for the equipment the trainee is operating?</p> <p><u>Response:</u> NO. Language as written is preferred. It is critical that a supervisor, in whose care the safety of the lift and all personnel is placed by this provision, has a complete understanding of the skills and knowledge an operator trainee needs to have for the particular type of equipment (s)he operates, and that (s)he is able to recognize unsafe acts in time to avert an accident. There is ample precedent in state law for this requirement.</p>

8	59816-3 59938-1	1427(h)	<p>Should modifications be made to Section 1427 to indicate that operators who are qualified/certified on equipment with translated materials be limited to the use of cranes/derricks that are equipped with such translated materials? Also, should there be some sort of safeguards included to ensure that a translation of manufacturer-supplied materials conveys the same information as the original?</p> <p><u>Response:</u> YES. If a non-English literate operator is qualified under the terms of this section, it is critical that (i) he be limited to the operation of cranes whose control systems (levers, etc.) and operations manuals, load charts and the like, are all in the same language used for training and testing (ASME B30.5 has had a requirement for more than 10 years that a qualified operator must be tested “in the language of the crane operations manual”, and there is a powerful safety argument for this); (ii) the translation of the manufacturer’s manuals is conducted ONLY by the manufacturer; (iii) the manufacturer has verified that the translated manual conveys the entire information contained in the original.</p>
9	59816-3 59938-1	1427(h)	<p>Should modifications be made to Section 1427 to allow operators with a lower level of literacy to be qualified/certified on equipment where the manuals and other vital materials are re-written in more simplified language (with perhaps greater use of illustrations)? If so, should modifications be made to Section 1427 to indicate that operators who are qualified/certified on equipment with simplified materials be limited to the use of cranes/derricks that are equipped with such simplified materials? Also, should there be some sort of safeguards included to ensure that a simplified version of manufacturer-supplied materials conveys the same information as the original?</p> <p><u>Response:</u> NO. The information placed by the manufacturer in the manufacturer’s manual(s) contains the essential information for the same operation of the crane. There is no justification for an “abbreviated” version of critical operating instructions necessary for the safe operation of the crane, nor is it likely any crane manufacturer would provide such a document.</p>
10		1427	<p>Is there really a need to limit an employer's operator qualification/certification options to those that require the involvement of independent third parties? YES.</p> <p>Also, is the degree of portability of a qualification/certification too limiting? NO.</p> <p><u>Response:</u> (i) Without the verification of the validity, reliability and fairness of an employer's exams by an independent third-party certification body, Section 1427 would be materially little different than the existing OSHA rule which has clearly failed to adequately protect the safety of those who work in, with and around cranes. Oversight of all examination processes by a disinterested third-party is critical in order to ensure the effectiveness and legitimacy of the testing, and to protect it from influence by the training portion of the qualification process. (ii) Because employers’ programs will most likely be tied to testing knowledge and skill particular to the types of cranes owned by the employer and used in the particular type of work the employer is active in, portability of operator qualifications is not appropriate. Indeed, portability of qualifications under this provision could even be worse than no qualifications at all since it could lead to a false assumption by subsequent employers that the individual is qualified to run a crane of a type (s)he has not been evaluated for.</p>

2. SIGNALPERSON QUALIFICATIONS

SP1	59823-3 59938	1428(a)(1)	<p>Should the term "third party qualified evaluator", which is used in this paragraph, be defined? If so, is OSHA's suggested definition correct?</p> <p><u>Response:</u> YES, it should be defined. However, by what means would OSHA determine that an entity has "demonstrated" it is "competent?" Anything less than an independent audit by a recognized personnel certification accrediting agency could threaten the value of a signalperson's assessment.</p>
SP2	59824-2 59938	1428(a)(3)	<p>Should the requirement that the documentation of a signal person's qualifications be available while he is employed by the employer be broadened to say that the documentation needs to be available on site?</p> <p><u>Response:</u> YES. Unless the signalperson or his/her employer is able to provide evidence of qualifications on demand, the requirement for such qualifications would be difficult, if not impossible, to enforce.</p>