

**FREQUENTLY ASKED QUESTIONS –
CRANES AND DERRICKS IN CONSTRUCTION: OPERATOR QUALIFICATION**

Question #1: When are employers required to ensure that their operators are certified for the type of crane they will be operating?

Answer: This requirement took effect November 10, 2018.

Question #2: When do the new provisions of the final rule take effect?

Answer: All new provisions of the 2018 rule go into effect on Dec 10, 2018 except the new evaluation and documentation requirements, which take effect February 7, 2019.

Question #3: Is operator certification a new requirement of the final rule?

Answer: No. Operator certification was required in OSHA’s 2010 cranes rule, but the effective date of that requirement was pushed back to November 10, 2018. The new rule simply removed the requirement that certifications include the lifting capacity of cranes for which the operator is certified, but did not change the effective date for when operators must be certified.

Question #4: Why is OSHA issuing this final rule?

Answer: In this final rule, OSHA revises crane operator certification requirements from Subpart CC – Cranes and Derricks. First, this final rule removes the requirement that crane operator certifications include the crane’s rated lifting capacity. The two testing organizations that have certified the majority of operators have issued certifications by “type” but not “capacity.” These certifications, therefore, would not have been valid without a change to the rule. The agency has concluded that the capacity requirement for certification is not necessary to protect workers and the agency is concerned that a shortage of certified operators will disrupt the construction industry severely.

Second, OSHA is making permanent the employer duty to ensure that operators are competent to operate the equipment safely. While certification ensures an objective baseline of general knowledge of crane operation, it does not ensure that operators know how to operate a particular crane for a specific task. For this reason, OSHA is revising the crane standard to preserve a requirement that employers assess the ability of their operators to run the cranes they will be using for the tasks to which they are assigned. This employer duty would have ceased to exist without this new rulemaking.

Question #5: What are the major differences between the proposed rule and the final rule?

Answer: The proposed rule and final rule are substantially similar, but there are a few differences between the two. Examples include:

	Proposed rule	Final rule
Training requirements:	Barred operator-in-training from	Permits “critical lift” <u>if</u> the

	performing a “critical lift”	operator is certified and under the direction of a trainer
State and local licenses:	Required state and local license to include the type or the type and capacity of the equipment on which an operator is certified.	Proposal not included.
Evaluations:	“Through an evaluation, the employer must ensure that each operator demonstrates . . . skills, knowledge, and judgment necessary to operate the equipment safely . . . ,	“Through an evaluation, the employer must ensure that each operator is qualified by a demonstration of . . . skills and knowledge, as well as the ability to recognize and avert risk, necessary to operate the equipment safely”
	Employers must evaluate all operators once the new rule takes effect	For operators employed prior to the effective date of the new rule, the employer may rely on its previous assessments of the operator in lieu of conducting a new evaluation of that operator’s existing knowledge and skills
	Evaluations required for operators of derricks, sideboom cranes, and equipment with lifting capacity of less than 2 tons	Operators of this equipment excepted from the requirement for evaluations
Delayed effective date:	No delay proposed.	60 day delay for the requirement to evaluate operators

Question #6: Did the final rule change who is covered by the cranes standard?

Answer: No. This final rule does not impact the scope of Subpart CC. The scope of the cranes standard is set out in 29 CFR 1926.1400.

Question #7: How does an operator meet OSHA’s certification requirements?

Answer: An operator can meet OSHA’s certification requirements by obtaining certification from an accredited, third-party crane certification organization as described in paragraph (d) of the final rule. An employer can also comply with OSHA’s standard by developing an employer-audited program as described in paragraph (e) of the final rule and use this program to certify operators it employs. Finally, per paragraph (c) of the final rule, operators can meet OSHA’s certification requirements by obtaining a state or local crane operator license that meets OSHA’s requirements.

Question #8: Will OSHA accept an operator certification that includes both the type of crane and the lifting capacity of the crane on which an operator was certified? What if the certification just specifies the type of crane, but not its lifting capacity?

Answer: Yes, either of these certifications would comply with OSHA's standard, assuming they meet the other requirements of the standard. To comply with OSHA's standard, certifications must include the type of crane for which the operator is certified, but a certification may also include other information such as the lifting capacity for which the operator is certified. OSHA simply removed the requirement that certifications include the lifting capacity.

OSHA is aware that there are certification organizations that still include the type and capacity of the crane on which an operator is certified. This form of certification continues to be valid. See also OSHA's temporary enforcement policy regarding crane operator certification after November 10, 2018 that is accessible from the *Cranes and Derricks in Construction* webpage.

Question #9: What is an employer required to do to fulfill the employer's duty under the final rule?

Answer: In addition to ensuring that an operator is properly certified, an employer must also evaluate the operator to ensure that the operator has the skills, knowledge, and ability to recognize and avert risk to operate the equipment safely. This evaluation must be done by a person who has the knowledge, training, and experience necessary to assess operators. Once an operator has passed an evaluation on one piece of equipment, the employer may allow that operator to operate different equipment without further evaluation if the employer can demonstrate that operating that equipment would not require substantially different skills, knowledge or ability to recognize and avert risk. For example, an employer may evaluate an operator and determine that he or she has demonstrated the ability to safely operate a large crane in a relatively complex configuration. If the employer determines that the operator has the skills, knowledge, and ability to identify and avert risk necessary to safely operate a smaller crane of the same type and operating system, in a simpler configuration with a shorter boom, then the operator would not need to be re-evaluated (assuming that the tasks are similar).

The evaluation must be documented and provide the operator's name, the evaluator's name and signature, the date of the evaluation, and the make, model, and configuration of equipment used in the evaluation. The employer must be able to make the documentation of the evaluation available on the worksite for as long as the operator is employed by the employer (electronic availability at the worksite is one way to satisfy the requirement). Finally, when the employer needs to provide retraining, such as when an employer becomes aware that an operator is not competent in a necessary aspect of safe crane operation, the employer must also re-evaluate the operator with respect to the subject of the retraining.

Question #10: Did OSHA receive comments to the Notice of Proposed Rulemaking asking for exemptions? How were these comments addressed?

Yes, OSHA received comments requesting that the certification requirements should be removed. OSHA also received comments asking for exemptions for specific industries from the certification requirements.

These comments were beyond the scope of this rulemaking.

OSHA stated in the NPRM that it was not considering removing certification from the standard. Industry stakeholders have explained to OSHA repeatedly that although certification alone is not sufficient to establish operator competency, it provides a necessary baseline knowledge of crane operation. In order to achieve the safety benefits of Subpart CC, stakeholders asserted that certification in addition to the employer duty was necessary.

OSHA understands that there are some industries that have expressed concerns about their complying with the requirements of Subpart CC. OSHA will develop outreach material to assist these industries with meeting the requirements of the standard.

Question #11: When the new evaluation requirements become effective, will employers have to reevaluate each of its operators to comply?

Answer: The evaluation and documentation requirements become effective February 7, 2019. Rather than having to reevaluate an operator that an employer has already determined is competent to operate particular equipment safely, OSHA will allow employers who have evaluated operators prior to the publication of this final rule to simply document their previous evaluation of those operators.

Question #12: Why did OSHA post the final rule on its website prior to publication in the Federal Register?

Answer: OSHA posted a preliminary version of its final rule on its website to allow the public to view it prior to publication in the *Federal Register*. Although the final rule is available to view on the OSHA website, all effective dates in the final rule will be based on the final rule's date of publication in the *Federal Register*.

Question #13: Is the routine replacement of identical propane gas tanks at a residence, building, facility, etc. covered by the construction crane standard?

Answer: Under most circumstances, no. In rare cases, replacement of identical propane tanks may be a construction-related activity based on factors such as if the means, methods, and scale of the work are typical to construction (e.g., a very large industrial tank or many tanks). For additional guidance regarding in-kind replacements, please see OSHA's letter to Mr. Raymond Knobbs (November 18, 2003).

Question #14: What if the replacement of identical propane gas tanks occurs outside a building when a painter is painting a new wall or a plumber is installing new fixtures inside?

Answer: The presence of these isolated construction activities inside a structure does not transform the replacement of a propane gas tank outside the structure into a construction activity.

Question #15: Is it construction when a crane is used to unload a propane tank from a truck and set it on the ground near the entrance to a construction site?

Answer: No. In general, just bringing a propane tank near the entrance of construction sites is considered delivery and is not considered construction when a crane is used to hoist the tank directly to the ground without positioning it in any particular way at the site to facilitate a construction activity. See OSHA letter to Mr. Robert Helminiak (June 27, 2016).

Question #16: Is the installation of a new propane tank, at a construction site where none existed before, considered construction?

Answer: Yes. Please see OSHA's letter to Mr. Robert Helminiak (June 27, 2016).

Question #17: Is commercial sign replacement considered construction?

Answer: Under most circumstances, no. Replacement of one sign with another sign of reasonably about the same dimensions and weight would typically be covered by OSHA's general industry standards. In limited circumstances, the installation and removal of signs could be considered construction based on factors such as if the means, methods, and scale of the work is typical to construction (e.g., a very large sign or many signs). For additional guidance regarding in-kind replacements, please see OSHA's letter to Mr. Raymond Knobbs (November 18, 2003).

Question 18: Must operators of small cranes comply with OSHA's operator certification requirements to use "light duty" cranes to install propane tanks or signs?

Answer: OSHA does not require certification of operators of cranes with lifting capacities of 2,000 pounds or less. See 29 CFR 1926.1427(a)(3).