

OSHA Issues Final Rule on Crane Operator Certification and New Evaluation Requirements

On Nov. 7, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) published its final rule (<https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-24481.pdf>) that clarifies certification requirements for crane operators, and maintains the employer's duty to ensure that crane operators can safely operate the equipment. Under the final rule, employers are required to train operators as needed to perform assigned crane activities, evaluate them, and document successful completion of the evaluations. Employers who have evaluated operators prior to **Dec. 9, 2018**, will not have to conduct those evaluations again, but will only have to document when those evaluations were completed.

The rule also requires crane operators to be certified or licensed and receive ongoing training as necessary to operate new equipment. The final rule also revises a 2010 requirement that crane operator certification must specify the rated lifting capacity of cranes for which the operator is certified. Operators can now be certified based on the crane's ***type and capacity, or type only***. Compliant certifications that were already issued by type and capacity are still compliant under this final rule.

The final rule, with the exception of the evaluation and documentation requirements, will become effective on **Dec. 9, 2018**. The evaluation and documentation requirements will become effective on **Feb. 7, 2019**. AGC will provide more information as it continues to review the final rule.

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Enforcement Memos / Temporary enforcement policy for evaluation and documentation of crane operators

February 7, 2019

MEMORANDUM FOR: REGIONAL ADMINISTRATORS AND
STATE PLAN DESIGNEES
THROUGH: KURT A. PETERMEYER
Acting Deputy Assistant Secretary
FROM: SCOTT C. KETCHAM, Acting Director
Directorate of Construction (DOC)
SUBJECT: Temporary Enforcement Policy for Crane Operator Evaluation Requirements

The *Cranes and Derricks in Construction: Operator Qualifications* final rule published on November 8, 2018, requires employers to document their evaluation of their crane operators (see 29 CFR 1926.1427(f)(6)). To provide more time for employer compliance with new evaluation and documentation requirements, OSHA already made the effective date February 7, 2019. While OSHA will be fully enforcing the requirement that employers must evaluate their operators before allowing them to operate cranes independently, this memorandum provides guidance on the enforcement of the documentation requirement.

OSHA has received feedback from the construction industry indicating some employers may need more time to document evaluations of crane operators prior to the February 7, 2019, effective date. During the first 60 days of enforcement (until April 15, 2019), OSHA will evaluate good faith efforts taken by employers in their attempt to meet the new documentation requirements for operators of cranes used in construction. During this period, OSHA intends to offer compliance assistance, in lieu of enforcement, for those employers who have evaluated operators in accord with the final rule and are making good faith efforts to comply with the new documentation requirement. If, upon inspection, it is determined that an employer has failed to make sufficient efforts to comply, OSHA should cite for that deficiency.

Please consult the National Office DOC before issuing any proposed citations arising during this time period that are related to documenting crane operator evaluations. Beginning April 15, 2019, OSHA will fully enforce all applicable provisions of the final rule.

If any Regions have questions, please contact the Directorate of Construction, phone (202) 693-2020.

UNITED STATES
DEPARTMENT OF LABOR

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significant deficiency that would trigger the requirements in § 1926.1427(e)(5).

Paragraph (f) Evaluation

Paragraph (f) sets out specific requirements that employers must follow to conduct an operator evaluation, including evaluation criteria, minimum qualifications for the person conducting the evaluation, documentation, and re-evaluation requirements.

The rationale for the evaluation requirement is explained earlier in the "Need for a Rule" section of the preamble; the discussion here focuses on OSHA's rationale for when and how the evaluations will be conducted. OSHA's goal in paragraph (f) is to give employers flexibility to conduct evaluations in the course of normal business, but at the same time to provide enough specificity to ensure that an evaluation satisfies the minimum criteria necessary for the safe operation of cranes by operators.

Paragraph (f)(1) requires employers to evaluate their operators and specifies the two goals of the evaluation: Ensure that the operator has (1) the ability to safely perform the assigned work, and (2) the necessary skills, knowledge, and ability to recognize and avert risks in order to safely operate the actual equipment that will be used. These performance-based evaluations are intended to be more directly focused on the operator's ability to perform assigned work than the general knowledge and skills tested during the certification process. In paragraph (f)(1)(i), OSHA provides a list of performance-based criteria to ensure that the evaluation encompasses various aspects of the equipment, such as safety devices, operational aids, software, and the size and configuration of the equipment. Paragraph (f)(1)(ii) focuses on the importance of the operator's ability to perform specific tasks, such as blind lifts, personnel hoisting, and multi-crane lifts.

In developing the performance-based evaluation criteria, OSHA considered the training requirements in the powered industrial truck operator training standard at subpart O—Motor Vehicles, Mechanized Equipment, and Marine Operations, § 1926.602(d), which incorporates the requirements of § 1910.178(l). That standard requires the employer to evaluate a powered industrial truck operator's performance as it relates to several topics at least once every three years. Powered industrial trucks share many of the same operating hazards as cranes, such as those related to ground conditions, load limits, and hazards in the area

surrounding the equipment. But powered industrial trucks are generally far less complex, smaller, and less hazardous pieces of equipment in terms of the extent to which they expose other employees to their risks.

Almost all employers who spoke with OSHA said that, when they observe operators handling loads at construction worksites, they can tell whether the operators appear competent (Reports #1, 2, 3, 6, 8, 9, 10, 11, 12, 14, 15, 16, 18, 19, 22, 23, 26, 27, 28 of ID-0673). These employers are accustomed to assessing operator skills because having competent operators that can safely and productively handle loads quickly, smoothly, and without corrections, eliminates injuries and reduces costs.

A number of commenters provided suggestions about the language of the evaluation requirement in § 1926.1427(f). Commenters expressed support for providing flexibility for employers, as opposed to trying to specify a definitive list of evaluation criteria in the regulatory text. As OSHA explained in the NPRM, it would be very difficult, if not impossible, to specify in regulatory text a definitive list of minimum equipment characteristics that an operator competency evaluation must cover to ensure operators are competent to safely operate equipment in all of its possible configurations. However, there was significant disagreement among commenters about the extent of the flexibility and guidance that OSHA should provide.

Three industry associations supported the language proposed by OSHA. One of these commenters found the proposed language "sufficiently flexible" because it contains phrases such as "includes but is not limited to" and "including, if applicable" (ID-1611). A different commenter praised OSHA's proposed text and urged the agency to "maintain this flexibility in the final rule so that employers have the ability to continue their existing programs or craft new programs that meet the needs of their company's workplace" (ID-1735). Another of those commenters appreciated the fact that the language is "general and not exhaustive" because "[a]ny attempt to develop an exhaustive list of factors runs the risk of including factors that are not relevant, leaving out factors that are important, and 'freezing' the list in time requiring a rulemaking process to update the list as technology develops and industry practice changes . . . the employer should have the discretion to develop its own list of factors affecting an operator's ability to safely operate equipment" (ID-1779).

AGC of Texas (ID-1615), expressed concern that OSHA's proposed language would require too many evaluations:

As written this requirement is infeasible. Cranes have multiple configurations (counterweight, attachments, boom configurations etc.) as well as capacities based on these and the radius of any given lift. It is not possible to evaluate an operator on each potential configuration that could be encountered throughout the day. Set up/configuration will vary dependent on the work involved and will be job specific so this will vary from job to job. Rarely if ever would the required components for every possible configuration of any given crane be available on a job . . . The (f) Evaluation section of the rule as written makes it nearly impossible for an employer to evaluate operators on each machine and it's [sic] many different capacities and configurations prior to any given lift in a timely and efficient manner.

OSHA understands the concern about an excessive number of evaluations, but the agency disagrees that its revised standard would require the frequency of evaluation suggested by the commenter. For example, the standard does not require operators to be evaluated on "every possible configuration of any given crane." Later in this preamble section OSHA provides additional guidance about when evaluations are required, and when they are not.

Associated General Contractors (AGC, ID 1801) expressed its preference for retaining the existing language in § 1926.1427(k). The Specialized Carriers & Rigging Association (SC&RA) agreed, asserting that "[t]here is no supporting evidence indicating employers are not fulfilling their obligations to train and evaluate their operators for the cranes to which they are assigned. As such, there is no need for further clarification, requirements or language" (ID-1828). SC&RA went on to advocate for slightly different language (see the discussion of the ACCSH proposal in the next paragraphs).

As OSHA explained in the NPRM, the agency does not agree that the employer duty under prior § 1926.1427(k) provided sufficient direction to employers. That language was intended originally only as a temporary measure to preserve the pre-2010 status quo pending the application of the certification requirement and was drawn from the language in § 1926.20(b)(4) ("The employer shall permit only those employees qualified by training or experience to operate equipment and machinery"). Part of the genesis for the 2010 final rule was that OSHA had concerns about relying primarily on the general guidance in § 1926.20(b)(4) rather than more clearly defined measures specific to crane operators, noting that C-DAC had

QUALIFIED OPERATOR EVALUATION MOBILE CRANES

EVALUATION DATE _____

OPERATOR NAME _____

CERTIFICATION ISSUED BY _____

CERTIFICATION # _____

CRANE MAKE _____

MODEL _____

CONFIGURATION

Rubber-Tired

- Base configuration (includes attached single/double stage jib/multiple counterweight and multiple outrigger configurations)
- Jib Inserts
- Luffing Jib/Wind Jib
- Guying System
- Lattice Boom
- Telescopic Boom
- Other _____

Crawler

- Base Main Boom Configuration (regardless of track position, counterweight configurations or boom head types)
- Straight Jib
- Luffing Jib/Wind Jib
- Derrick Attachments
- Lattice Boom
- Telescopic Boom
- Maxer/Wagon/Sled
- Other _____

I have evaluated the operator on the following knowledge areas and have determined he/she is competent in these areas for the equipment which he/she will operate. *(Evaluator to initial each area)*

_____ Operation

_____ Software

_____ Operational Aids

_____ Shutdown

_____ Safety Devices

I have evaluated the operator with respect to the equipment that he/she will operate and have determined that he/she:

1. Has the skills and knowledge, as well as the ability to recognize and avert risk, necessary to operate the aforementioned equipment safely, including those specific to the safety devices, operational aids, software, and the size and configuration of the equipment. [OSHA 1926.1427(f)(1)(I)]
2. Has the ability to perform the hoisting activities required for assigned work including blind lifts, personnel hoisting, and multi-crane lifts. [OSHA 1926.1427(f)(1)(II)]; and
3. Understands and can apply the equipment's load charts as well as the manufacturer's procedures.

Evaluator's Name (Print)

Evaluator's Company Name

QUALIFIED OPERATOR EVALUATION TOWER CRANES

EVALUATION DATE _____

OPERATOR NAME _____

CERTIFICATION ISSUED BY _____ CERTIFICATION # _____

CRANE MAKE _____ MODEL _____

CRANE TYPE Hammerhead Luffing Boom Self-Erecting Flattop
CONFIGURATION

I have evaluated the operator on the following knowledge areas and have determined he/she is competent in these areas for the equipment which he/she will operate. *(Evaluator to Initial each area)*

_____ Operation _____ Software
_____ Operational Aids _____ Shutdown
_____ Safety Devices

I have evaluated the operator with respect to the equipment that he/she will operate and have determined that he/she:

1. Has the skills and knowledge, as well as the ability to recognize and avert risk, necessary to operate the aforementioned equipment safely, including those specific to the safety devices, operational aids, software, and the size and configuration of the equipment. [OSHA 1926.1427(f)(1)(i)]
2. Has the ability to perform the hoisting activities required for assigned work including blind lifts, personnel hoisting, and multi-crane lifts. [OSHA 1926.1427(f)(1)(ii)]; and
3. Understands and can apply the equipment's load charts as well as the manufacturer's procedures.

Evaluator's Name (Print)

Evaluator's Company Name

Evaluator's Signature

Date

Documentation Form for Crane Operator Evaluation

(1) Operator's name: _____

(2) Operator's employer: _____

(3) Evaluator's name: _____

(4) Make: _____

(5) Model: _____

(6) Configuration of Equipment (please provide a description of the equipment's configuration at the time of evaluation such as attachments, boom length, counterweight set-up, etc.)

(7) Task(s) Performed (please provide a description of the task(s) performed by the operator during the evaluation such as hoisting formwork, personnel basket, concrete bucket, multi-crane pick/lift, blind pick/lift, etc.)

With respect to equipment that the candidate will operate, I have evaluated the candidate and have determined that he/she:

- (i) has the skills necessary to operate the equipment safely for the assigned task(s);
- (ii) has the skills and knowledge as well as the ability to recognize and avert risk; and
- (iii) can apply the equipment's load charts and the manufacturer's procedures.

(8) Evaluator's Signature: _____ Date: _____

Note: Retraining must be provided in relevant topics for each operator when the performance of the operator, or an evaluation of the operator's knowledge, indicates that retraining is necessary. When retraining is required, the employer must re-evaluate the operator with respect to the subject of the retraining.

**Cranes and Derricks in Construction: Operator Qualification
Section 1926.1427(a)--Operator Training, Certification, and Evaluation**

SUMMARY

Introduction

The Crane and Derrick Standard establishes minimum requirements for determining operator competency. An employer's duty is to ensure the competency of crane operators through required training, certification or licensing, and evaluation to be qualified.

The employer's responsibility is to ensure that each operator is certified/ licensed in accordance with subpart CC, and is evaluated on his or her competence to safely operate the equipment that will be used, before the employer permits him or her to operate equipment without continuous monitoring.

Exceptions. Operator certification/licensing and training is not required for operators of derricks (see Sec. 1926.1436), sideboom cranes (see Sec. 1926.1440), or equipment with a maximum manufacturer-rated hoisting/lifting capacity of 2,000 pounds or less (see Sec. 1926.1441).

Note: The training requirements in those other sections continue to apply (for the training requirement for operators of sideboom cranes, follow section 1926.1430(c)).

Operator Certification/Licensing

The employer must ensure that each operator is certified or licensed by December 10, 2018, to operate the equipment. Certification can be by: (1) Type; or (2) Type and Capacity.

Certifications must be based on the following:

- A determination through a written test that the individual knows the information necessary for safe operation of the specific type of equipment the individual will operate, including all of the following:
 - The controls and operational/performance characteristics.
 - Use of, and the ability to calculate (manually or with a calculator), load/capacity information on a variety of configurations of the equipment.
 - Procedures for preventing and responding to power line contact.
 - Technical knowledge of the subject matter criteria listed in appendix C of this subpart applicable to the specific type of equipment the individual will operate. Use of the appendix C criteria meets the requirements of this provision.
 - Technical knowledge applicable to the suitability of the supporting ground and surface to handle expected loads, site hazards, and site access.
 - The individual is able to read and locate relevant information in the equipment manual and other materials.

- A determination through a practical test that the individual has the skills necessary for safe operation of the equipment, including the following:
 - Ability to recognize, from visual and auditory observation, the items listed for shift inspections.
 - Operational and maneuvering skills.
 - Application of load chart information.
 - Application of safe shut-down and securing procedures.

Certification/License Types and Criteria

Employers must provide operator certification/licensure to the employee at no cost to employees.

- **Licensing.**

When a state or local government issues operator licenses for equipment covered under subpart CC, the equipment operator must be licensed by that government entity for operation of equipment within that entity's jurisdiction if that government licensing program meets the following requirements:

 - The requirements for obtaining the license include an assessment, by written and practical tests, of the operator applicant regarding, at a minimum, the knowledge and skills listed for certification;
 - The testing meets industry-recognized criteria for written testing materials, practical examinations, test administration, grading, facilities/equipment, and personnel;
 - The government authority that oversees the licensing department/office has determined that the requirements for certification have been met;
 - The licensing department/office has testing procedures for re-licensing designed to ensure that the operator continues to meet the technical knowledge and skills requirements of certification;
 - The license must specify the type, or type and capacity, of equipment for which the individual is licensed; and
 - A license is valid for the period of time stipulated by the licensing department/office, but no longer than 5 years.
- **Certification by an accredited crane operator testing organization.**

For a certification to satisfy the requirements of this section, the crane operator testing organization providing the certification must:

 - Be accredited by a nationally recognized accrediting agency;
 - Administer written and practical tests that assess the operator knowledge and skills to show that the individual knows the information necessary for safe operation of the specific type of equipment the individual will operate;
 - Provide certification based on equipment type, or type and capacity. If no accredited testing agency offers certification examinations for a particular type of equipment, an operator will be deemed certified for that equipment if the operator has been certified for the type that is most similar to that equipment and for which

- a certification examination is available. The operator's certificate must state the type of equipment for which the operator is certified;
- A certification is portable among employers who are required to have operators certified under this option; and
 - A certification is valid for 5 years.
- Audited employer program.
The employer's certification of its employee must meet all of the requirements of an accredited agency's program.
 - It is NOT portable and is only valid while working for that employer.
 - A certification is valid for 5 years.
 - Qualification by the U.S. military
An operator who is an employee of the U.S. military meets the requirements of this section if he/she has a current operator qualification issued by the U.S. military for operation of the equipment. An employee of the U.S. military is a Federal employee of the Department of Defense or Armed Forces and does not include employees of private contractors.

Certification language and literacy requirements

Tests may be administered verbally, with answers given verbally, where the operator candidate:

- Passes a written demonstration of literacy relevant to the work; and
- Demonstrates the ability to use the type of written manufacturer procedures applicable to the class/type of equipment for which the candidate is seeking certification.

Tests may be administered in any language the operator candidate understands, and the operator's certification documentation must note the language in which the test was given. The operator is only permitted to operate equipment that is furnished with materials required by this subpart, such as operations manuals and load charts that are written in the language of the certification.

Employer/Operator Training

The employer must assure each operator is trained or train each operator as an operator-in-training on the safe operation of the equipment the operator will be using.

An employee who has not been certified/licensed and evaluated as qualified may only operate the equipment as an operator-in-training under supervision of an operator trainer. The employer must provide each operator-in-training with sufficient training, through a combination of formal and practical instruction, to ensure that the operator-in-training develops the skills, knowledge necessary to operate the equipment safely for assigned work as well as the ability to recognize and avert risk.

The employer must provide instruction on the knowledge and skills needed to operate the crane in its various configurations and as described under the Evaluation section.

The employer may only assign tasks within the operator-in-training's ability. However, except as provided in paragraph (b)(3)(v) of this section, the operator-in-training shall not operate the equipment in any of the following circumstances unless certified in accordance with paragraph (c) of this section:

- If any part of the equipment, load line or load (including rigging and lifting accessories), if operated up to the equipment's maximum working radius in the work zone (see Sec. 1926.1408(a)(1)), could get within 20 feet of a power line that is up to 350 kV, or within 50 feet of a power line that is over 350 kV.
- If the equipment is used to hoist personnel.
- In multiple-equipment lifts.
- If the equipment is used over a shaft, cofferdam, or in a tank farm.
- In multiple-lift rigging operations, except where the operator's trainer determines that the operator-in-training skills are sufficient for this high-skill work.

Trainer

While operating the equipment, the operator-in-training must be continuously monitored by an individual ("operator's trainer") who meets all of the following requirements:

- The operator's trainer is an employee or agent of the operator-in-training's employer.
- The trainer has the knowledge, training, and experience necessary to direct the operator-in-training on the equipment in use.
 - This is a performance-based qualification.
 - Employers would determine the level of knowledge and experience that the trainer must possess based on the skill level of the operator-in-training and the nature of the activity performed.
 - The trainer's experience with the task and equipment used could be sufficient for experienced personnel to provide training even without being a certified operator.
- While monitoring the operator-in-training, the operator's trainer performs no tasks that detract from the trainer's ability to monitor the operator-in-training.
- For equipment other than tower cranes: The operator's trainer and the operator-in-training must be in direct line of sight of each other. In addition, they must communicate verbally or by hand signals.
- For tower cranes, the operator's trainer and the operator-in-training must be in direct communication with each other.

Continuous Monitoring of Operators-in-Training

The employer must ensure that an operator-in-training is continuously monitored by a qualified trainer when operating the equipment. The only exceptions to Continuous Monitoring are for short breaks where all of the following are met:

- The break lasts no longer than 15 minutes and there is no more than one break per hour;
- Immediately prior to the break the operator's trainer informs the operator-in-training of the specific tasks that the operator-in-training is to perform and limitations to which he/she must adhere during the operator trainer's break; and

- The specific tasks that the operator-in-training will perform during the operator trainer's break are within the operator-in-training's abilities.

Retraining

The employer must provide refresher training in relevant topics for each operator when, based on the performance of the operator or an evaluation of the operator's knowledge, there is an indication that retraining is necessary. This may include operating a different type of equipment such as moving from an all-terrain hydraulic crane to a crawler truss boom crane. It could also include essentially different configurations such as much longer booms or jibs.

Qualification of the Operator by an Employer 1926.1427(f)

Effective February 7, 2019, the employer must assure through an evaluation that each operator is "qualified" to operate the equipment they are using.

The definition of "qualified" in section OSHA 29CFR 1926.32 does not apply to crane operator evaluation and qualification. Possession of a certificate or degree cannot, by itself, cause a person to be qualified for crane operation.

The Standard establishes minimum requirements for determining operator competency to be qualified. An operator can be qualified by the employer if:

- The operator is fully trained in the operation of the equipment he/she will operate;
- Is certified or licensed as described in Certification/Licensing; and
- Has been fully evaluated by the operator's employer's trainer on the equipment he/she will operate

Qualification is valid only where the operator is employed by (and operating the equipment for) the employer that issued the qualification and is NOT portable.

Qualification is valid for the period of time stipulated by the employer.

Evaluation to be Qualified

The operator must be qualified through an evaluation by the employer. The employer must ensure that each operator demonstrates the skills and knowledge necessary to operate the equipment safely as well as the ability to recognize and avert risk including use of safety devices, operational aids and software.

The operator must be evaluated based on the size and configuration of the equipment used such as:

- lifting capacity
- boom length
- attachments
- luffing jib
- counterweight set-up

The operator must also be evaluated on his or her ability to perform the hoisting activities required for assigned work, such as:

- communicating with qualified signalers
- blind lifts
- personnel hoisting
- multi-piece lifting
- multi-crane lifts
- barge work

An evaluation is not required in every crane. The operator can be considered qualified to operate other cranes as long as the employer can show that they are similar to the crane that the operator was originally evaluated and qualified in.

A new evaluation is not necessary when a crane is moved as long the configuration of the crane and the conditions the crane will operate under are essentially similar to the crane the operator was originally evaluated and qualified in.

For operators employed prior to December 9, 2018, 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.

It is the employer's responsibility is to ensure that each operator is evaluated on his or her competence to safely operate the equipment that will be used, before the employer permits him or her to operate equipment without continuous monitoring.

Evaluator

The evaluation must be conducted by an individual who has the knowledge, training, and experience necessary to assess equipment operators.

The evaluated does not need to be a certified operator. The evaluator can be the same individual as the trainer as long as he or she is qualified to perform both roles.

The evaluator must be an employee or agent of the employer. Employers that assign evaluations to an outside agent retain the duty to ensure that the requirements for qualification are satisfied.

Once the evaluation is completed successfully, the employer may allow the operator to operate other equipment that the employer can demonstrate does not require substantially different skills, knowledge, or ability to recognize and avert risk to operate.

Documentation - Paragraph (f)(6)

The employer must document the completion of the evaluation. This document must provide:

- the operator's name;
- the evaluator's name and signature;
- the date; and
- the make(s), model(s), and configuration(s) of equipment used in the evaluation.

The employer must make the documentation available at the worksite while the operator is employed and operating the equipment.

For operators that were assessed prior to December 9, 2018, the documentation must reflect the date of the employer's determination of the operator's abilities and the make(s), model(s) and configuration(s) of equipment on which the operator has previously demonstrated competency.

Derricks - 1926.1436

The employer must train each operator of a derrick on the safe operation of equipment the individual will operate. Section 1926.1427 (Operator training, certification, and evaluation) does not apply, except for the evaluation requirements of Sec. 1926.1427(f).

Sec. 1926.1440 Sideboom cranes.

Sec. 1926.1441 Equipment with a rated hoisting/lifting capacity of 2,000 pounds or less.