



National Commission for the Certification of Crane Operators

Committed to Quality, Integrity, and Fairness in Testing since 1995

July 18, 2023

via email: OSHSB@dir.ca.gov

Mr. David Harrison
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
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Received
July 18, 2023

OSHSB

RE: *Title 8 Cal. Code of Regulations: General Industry Safety Orders (GISO) standards for cranes and other hoisting equipment (Group 13), and related safety orders*

Mr. Harrison:

By this letter, the National Commission for the Certification of Crane Operators respectfully requests review and consideration of one aspect of the General Industry Safety Orders (GISO) standards for cranes and other hoisting equipment (Group 13), and related safety orders, which were the subject of recent rulemaking that became effective July 26, 2022.

In particular, this letter requests that Cal/OSHA consider, through rulemaking or processes outside of rulemaking, the requirement that, for recertification, a certificant either (i) retake a “hands-on” practical examination, or (ii) have at least 1,000 hours of documented experience operating “the specific type of crane” for which certification is sought. (See GISO, §5006.1(d) and §5006.2(d)(3).) The rules prescribe that operators who meet this experience requirement and other applicable conditions shall not be required to take a hands-on examination.

Background

By way of background, the National Commission for the Certification of Crane Operators (“CCO”) is a non-profit organization with a mission to develop effective standards for safe load handling equipment operation to assist all segments of general industry and construction. Since 1995, CCO has administered over 1.5 million written and practical examinations and issued more than 425,000 certifications in all 50 states, ensuring that a significant portion of crane operators throughout the nation are informed, trained, and qualified.

CCO recognizes the significant effort that was required to revise Cal/OSHA’s state plan standards, culminating in the adoption, amendment, and repeal of certain safety orders and regulations effective last year. However, in its *Final Statement of Reasons* (p. 23), Cal-OSHA recognized that “there may be a better way to handle the recertification issue, but Board staff believe it is outside the scope of this rulemaking”. By this request, CCO seeks to initiate the process of refining the approach to recertification for the benefit of California stakeholders.

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Discussion

1. *California's existing state plan language diverges, in material ways, from federal OSHA requirements and guidance.*

As Cal/OSHA is undoubtedly aware, the recertification requirements for crane operators in general industry under the GISO standards for cranes and other hoisting equipment differ, in material ways, from federal OSHA requirements and guidance.

As noted above, the GISO standards in Title 8 exempt recertification candidates from taking a "hands-on" practical examination if the operator can document at least 1,000 hours of "experience operating the specific type of crane for which re-certification is sought." In fact, under the California safety order, operators who meet this experience requirement and other applicable conditions *shall not* be required to take a "hands-on" examination.

By comparison, the applicable federal OSHA standards for operator recertification does not expressly provide for an exemption to taking a "hands-on" examination. Rather, 29 CFR 1926.1427(d)(1)(iv), in conjunction with paragraph (j) of the same section, points to the need for a written exam and a "practical test [sufficient to show] that the individual has the skills necessary for safe operation of the equipment." Nevertheless, in a letter of interpretation, federal OSHA approved of an exemption from taking the practical exam based on experience, but did so in a way that allowed for some flexibility and was not prescriptive. In particular, in a 2012 letter of interpretation to James T. Callahan, General President, International Union of Operating Engineers, federal OSHA provided the following guidance:

While the Agency contemplated that recertification could be less rigorous than the initial certification process, at a minimum, there must be some valid assessment of the operator's performance during the time following the previous certification, such as completing the requisite number of hours without any incident that would call into question the operator's skills in the specified areas. In order to provide an effective measurement of the operator's current technical knowledge and skills, as required by §1927.1427(j), OSHA recommends that any determinations based on demonstrated experience should factor in how recent the operating experience is and count only time spent operating a crane and not time accrued while performing other crane-related activities. Ultimately, however, when a nationally recognized accrediting agency determines that a requisite number of equipment operation hours are sufficient for verifying an individual's operating skills, no practical exam would be needed for recertification purposes.

Thus, the GISO standards in Title 8 differ materially from OSHA requirements and guidance.



2. *California's more stringent standard for an experience exemption from the "hands-on" examination may not be reasonably attainable for many or most crane operators.*

Under California's standard for cranes and other hoisting equipment, the exemption from the hands-on examination requirement at recertification is simply unattainable for many crane operators, in ways that may not have been expressly intended during rulemaking.

To be sure, there is specificity and clarity in the requirement of 1,000 hours of documented experience operating the specific type of crane for which certification is sought. However, there is no information in the rulemaking record to establish the soundness of the 1,000-hour threshold established by California's particular exemption from the "hands-on" exam.

Furthermore, and in any event, the California exemption only counts hours spent *operating* a crane; in practice, crane operators spend many hours on a job site waiting for instructions instead of actually operating the equipment.

In addition, the California exemption is limited to hours spent operating the *specific type of crane* for which certification is sought. As a practical matter, crane operators typically hold multiple certifications. For example, an operator may be certified on mobile cranes, articulating cranes, and tower cranes. The California standard requires that the operator obtain and document 1,000 hours of operating experience for *each* certification in each certification cycle.

In CCO's experience, it is very common for crane operators to hold multiple credentials, particularly in the mobile crane program, which has four separate CCO categories of certification. In order to qualify for the California exemption from the "hands-on" examination, an operator who is certified to operate (a) Lattice Boom Crawler Cranes, (b) Lattice Boom Truck Cranes, (c) Telescopic Boom—Swing Cab Cranes, (d) Telescopic Boom—Fixed Cab Cranes, and (e) Tower Cranes, would need to document at least 5,000 hours of operating experience, including at least 1,000 hours of operating experience *in each type*.

Finally, and as a further consideration, many crane operators do not operate cranes full-time, particularly in general industry. While crane operators in construction may operate cranes on a more routine basis throughout a workday or workweek, other users (e.g., municipal utility workers) may operate their cranes less frequently or only in particular situations (burst pipe repair, replacement, etc.) In practice, it may be almost impossible for these operators to qualify for the exemption from the hands-on examination requirement at recertification.

For all of these reasons, California's more stringent standard will make it extremely difficult for most crane operators to qualify for an exemption from the "hands-on" examination based on operating experience during the prior certification cycle.



3. *California's recertification requirements may create unintended burdens on California crane operators, employers, and other stakeholders.*

The recertification requirement under California's standard for cranes and other hoisting equipment are likely to impose significant burdens on stakeholders.

Most directly, requiring 1,000 hours of documented experience for each type of equipment will increase the costs paid by employers for practical testing of operators, including testing fees and fees paid to proctors. Employers will also incur the burdens of crane operators spending time away from jobsites while taking "hands-on" practical examinations.

Furthermore, the California standard could cause crane operators to drop certifications, resulting in a shortage of crane operators in certain categories. When faced with the need to obtain 1,000 hours of documented operating experience in *each* category, as well as the time/cost of taking additional practical examinations at recertification, many crane operators may opt to drop one or more certifications in order to focus on maintaining fewer credentials. It may become more difficult to find certified crane operators who maintain certifications for equipment types that are less common or used less frequently.

Finally, operators who are forced to drop certifications may also eventually face lost work opportunities. Although it is possible to reacquire a certification credential, it would undoubtedly lead to additional costs and time and/or delays in particular projects.

Respectfully, it is submitted that these burdens and consequences may not have been anticipated or intended during the previous rulemaking with respect to cranes and derricks.

Recommendations

The purpose of this letter is simply to request review and consideration, through rulemaking or processes outside of rulemaking, of the requirement that, for recertification, a certificant either (i) retake a "hands-on" practical examination, or (ii) have at least 1,000 hours of documented experience operating "the specific type of crane" for which certification is sought.

However, CCO would like to request two possible elements of a solution to these issues.

- 1. *Revise California's requirements to allow the accredited certification bodies to determine the appropriate amount of operating experience necessary to be exempt from the practical examination at the time of recertification.***

The accredited certification bodies, assisted by appropriate expertise from the industry, and using industry best practices for certification program design, are in an ideal position to identify the amount of experience required for exemption from the "hands-on" testing.



Indeed, as part of meeting its accreditation to the ISO/IEC 17024 standard, CCO subjects its certification programs to ongoing management and reviews. Each certification program is managed by a committee comprised of industry experts tasked with managing the effectiveness of that program's requirements, including requirements for recertification and the amount of experience necessary to be exempted from the practical exam, which may vary from one equipment type to another. The committees take into account the complexity and nature of the equipment, the common industry uses, and other related factors, to determine the appropriate (and reasonable) amount of experience that may be necessary or appropriate.

This recommendation is consistent with the guidance provided in the letter of interpretation from federal OSHA. In that letter, OSHA Staff opined that, when a nationally recognized accrediting agency determines that a requisite number of equipment operation hours are sufficient for verifying an individual's operating skills, no practical exam should be needed for recertification purposes.

2. Revise California requirements for 1,000 hours of "experience operating the specific type of crane" to allow for overall operating experience to be considered.

As discussed above, requiring 1,000 hours of operating experience for each type is very likely to create difficult burdens, as well as adverse impacts on the industries that utilize cranes.

In many cases, experience operating one type of crane may be relatable to operating another equipment type. For reasons similar to those articulated above, accredited certification bodies, assisted by their industry experts, may be in the best position to determine which types of experience should count towards qualifying for a particular "hands-on" exam exemption.

Ultimately, of course, there is always a further safeguard in the requirement that the employer remains responsible for determining that an operator has the necessary knowledge, skills, and abilities necessary to be considered qualified to operate specific type of equipment, in specific configurations, and under specific environmental conditions.

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CCO appreciates the opportunity to make these recommendations and stands ready to provide any additional information or assistance to the process that may be helpful.

Sincerely,

Thom Sicklesteel
Chief Executive Officer
NCCCO

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