



AMERICAN SOCIETY OF SAFETY PROFESSIONALS

Occupational Safety and Health Administration
Attn: OSHA Docket Office, RIN No. 1218-AC86
Technical Data Center, Room N-3653
OSHA, U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

RE: Cranes and Derricks in Construction: Operator Qualification
Docket ID-OSHA-2007-0066

July 5, 2018

OSHA Docket Office:

The American Society of Safety Professionals (ASSP) is a global professional society of occupational safety and health (OSH) professionals representing the interests of 38,000+ members. Our members work in every business, industry, and sector to help make sure workers can go home safe and healthy to their families each day.

ASSP appreciates OSHA's attention to operator qualifications for cranes and derricks in construction and believes that the data and evidence indicates that crane hazards and exposures are still of significant concern to occupational safety in the United States. That being said, some of our members are concerned that some aspects of the rule will increase the compliance burden on employers without commensurate improvements of protections for workers. In particular there is concern whether mandating such stringent qualifications will result in employers being unable to find qualified crane operators in some areas of the country.

Many of our members believe the current operator competency standards are sufficient as a baseline. In addition, we have had comments from some members that it would be poor practice to eliminate third-party certification for those who wish to have it. Eliminating the third-party certification element will require each



AMERICAN SOCIETY OF SAFETY PROFESSIONALS

individual employer to maintain appropriate subject matter expertise for developing and implementing a qualification program. This could also weaken hiring practices by removing demonstrated competency to potential employees. This would not appear to be feasible or reasonable public policy.

Regarding the key technical proposal to remove the existing provision requiring different levels of certification based on rated lifting capacity of equipment, our members provided several perspectives. Some approve of this requirement, as it provides a simple way to ensure a certain level of competence. Some view this as an unwieldy and exceptionally burdensome proposed requirement, and note that other issues of equal importance – such as crane configuration and attachments – are not addressed at all in the Subpart CC Standard. In fact, capacity and configuration scenarios vary so widely that some believe certification specific to either is unworkable. Other members question whether a strong enough basis has been provided to merit this requirement, while others wonder whether certification requirements should be based on type of crane rather than rated lifting capacity. Our suggestion is that more evaluation of impact from the rule change is required before implementation.

Likewise, there were multiple perspectives on whether testing organizations are permitted v. required to issue certifications by rated capacities. Some believe that if OSHA is requiring such certifications, testing organizations should also be required to issue certifications distinguished by rated capacities. Others question what the intention is for permitting or requiring the testing organizations to match their certifications to OSHA requirements.

One of the key issues from many ASSP members centers on whether this proposal takes into account state and local crane rules. OSHA is aware that many of these rules are more vigorous than the proposed Federal regulations. Given the variability in different types of cranes and derricks and environmental conditions, it appears the framework for a more balanced approach may already exist through synergy with existing local and state regulation. The current standard provides space for utilizing this framework by the option to obtain a state or local license to operate within a state or local jurisdiction with applicable requirements. Our concern is that the current OSHA proposal could undermine this flexibility, which is not conducive to moving crane safety forward. We



AMERICAN SOCIETY OF SAFETY PROFESSIONALS

suggest OSHA consider expanding upon this framework to streamline regulations while capitalizing on existing strengths in this area.

Finally, we take issue with OSHA's overall position on ANSI/ASSP Z490.1. We greatly appreciate OSHA's favorable comments addressing ANSI/ASSP Z490.1 in the explanatory section but believe OSHA should go further and incorporate the standard by reference in the proposed rule (Attachment #1).

We do not agree with the OSHA language cited below from the notice of proposed rulemaking:

OSHA believes this proposal will better effectuate the purposes of the OSH Act than any applicable national consensus standard because it will retain certification, training, and operator qualification requirements in a manner that OSHA can enforce under the Act and consolidate all crane operator qualification requirements for ease of reference. OSHA requests comment on whether this proposal will better effectuate the purposes of the OSH Act than any applicable national consensus standard.

The Society disagrees with the universal OSHA position that it can create a rule more effective and efficient than any applicable national consensus standard. We believe the published body of knowledge for public policy shows the opposite to be true.

OSHA has heard this argument before from ASSP, but we point once again to Public Law 104-113 (Morella Amendment to the Technology Transfer Act of 1995) and the OMB Circular A119. These documents specifically note the rules and procedures a governmental agency is to implement when conducting rulemaking. We contend that the language in the notice does not meet the intent or requirements of OMB A119. The Society calls on OSHA to do a more thorough comparison of Z490.1 to a proposed rule. Our belief is such a comparison will validate our position that ANSI/ASSP Z490.1 ought to be incorporated by reference in the final rule.

Z490.1 is a high-caliber document respected in the private sector and recognized at local, state, and national levels in the public sector. Representatives from



AMERICAN SOCIETY OF SAFETY PROFESSIONALS

OSHA also helped write, reaffirm, and revise the standard. We have attached a matrix showing examples of the recognition of Z490.1 in the public sector as well as the ASSP position statement addressing the use of voluntary national consensus standards by the public sector (Attachments #2 and #3).

While we cannot speak for the American Society of Mechanical Engineers, (ASME), we disagree with OSHA's contention that its proposed rule can supplant decades of standards writing impacting the use of cranes and derricks in construction and demolition operations via the B30 Committee. The ANSI/ASME B30 Committee has been in existence for decades and warrants more consideration than what was expressed in the Federal Register notice.

In addition, it is important to note that the ANSI/ASSP A10 Committee for Construction and Demolition Operations is nearing completion of a safety and health training standard specific to construction and demolition operations. Representatives from OSHA also sit on this committee. OSHA should consider this document for inclusion after it is released and published, (Attachment #4).

In summary, we suggest that any OSHA proposed rule addressing cranes and derricks specifically include the following:

1. Language stating that any occupational safety and health training program recognized in the rule must meet the requirements in the ANSI/ASSP Z490.1 Standard and/or the soon to be published A10 Standard for Construction and Demolition Training.
2. Language stating that any training accreditation organization recognized in the proposed rule must have training criteria recognizing and meeting ANSI/ASSP Z490.1 and/or the soon to be published A10 Standard for Construction and Demolition Training.
3. Language stating that training curriculums must be based on the requirements found in the ANSI/ASSP Z490.1 Standard and/or the soon to be published A10 Standard for Construction and Demolition Training.



AMERICAN SOCIETY OF SAFETY PROFESSIONALS

4. Inclusion of the ANSI/ASSP Z490.1 and A10 Standards as documents to be incorporated by reference.

Additionally, we assume there will be a reference section for applicable national voluntary consensus standards impacting cranes and derricks in construction. We were puzzled to read favorable comments addressing the ANSI/ASME B30 Standards but not the applicable ANSI/ASSP A10 Standards. Representatives from OSHA sit on the A10 Committee working on these documents. Both standards listed below have previously been recognized by OSHA and are already part of state and city training requirements.

- ANSI/ASSP A10.28: Safety Requirements for Work Platforms Suspended from Cranes or Derricks, (Attachment #5).
- ANSI/ASSP A10.31-2013: Safety Requirements, Definitions & Specifications for Digger Derricks, (Attachment #6).

We appreciate OSHA's role in setting the framework for the practice of safety and respectfully request recognition of the applicable voluntary national consensus standards. Please do not hesitate to reach out with further questions and thank you for your time and attention to our position and technical comments.

Sincerely,

Rixio Medina, CSP, CPP
President