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February 11, 2015

The Honorable David Michaels, PhD, MPH
Assistant Secretary
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Dear Assistant Secretary Michaels:

As the Occupational Safety and Health Administration (OSHA) implements its revised standard for cranes and derricks in construction,¹ we write to express our support of these efforts. Further, as the implementation process moves forward, we strongly urge you to consider the recommendations of all stakeholders, including members of the Coalition for Crane Operator Safety (CCOS).²

On August 9, 2010, OSHA finalized a new safety standard for the use of cranes and derricks in construction. The new standard includes revised requirements for the certification of crane operators. In the final regulation, OSHA required crane operator certification to be based on type and capacity. There are currently 17 states and six cities with mandatory crane certification.³ However, none of these jurisdictions use capacity as the criteria as OSHA decided to do in the final rule. Without clarification, CCOS suggests as many as 100,000 certified crane operators might not be qualified under the current regulatory language.

¹ Cranes and Derricks in Construction; Final Rule, 75 Fed. Reg. 47906-48177 ("2010 Standard") (Aug. 9, 2010) (to be codified at 29 CFR Part 1926) Available at: https://www.osha.gov/FedReg_oshapdf/FED20100809.pdf.

² CCOS consists of the following organizations: Assoc. Builders & Contractors, Assoc. Equipment Distributors, Assoc. Gen. Contractors of America, Int'l Ass'n of Bridge, Structural, Ornamental & Reinforcing Iron Workers, NationsBuilders Ins. Serv., Int'l Union of Operating Engineers, Operating Engineers Certification Program, Nat'l Center for Construction Educ. & Res., Specialized Carriers & Rigging Ass'n, and Nat'l Comm'n for the Certification of Crane Operators.

³ California, Connecticut, Hawaii, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, Utah, Washington, West Virginia, Chicago (IL), New Orleans (LA), New York (NY), Omaha (NE), Philadelphia (PA), and Washington (DC).

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On September 25, 2014, OSHA extended the implementation deadline for Crane Operator Certification from November 10, 2014 to November 10, 2017.⁴ In doing so, OSHA has apparently recognized that the 2010 standard contained a flaw related to how a crane operator is “deemed qualified.”⁵ It is unclear if OSHA has aligned enforcement guidance with the three year delay.⁶ Further, the delay may result in fewer individuals enrolling in training courses, which is clearly not the desired result of the 2010 standard.

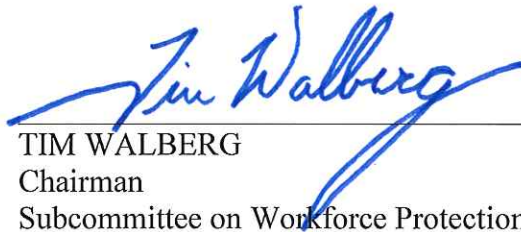
On September 3, 2014, the CCOS sent a letter to Secretary Perez outlining a series of concerns related to crane operator qualification and certification, as well as the ongoing issue of whether training certification should be based on the capacity of a crane or the type of crane in use.⁷ More training to ensure safe operation of cranes is essential. Until such time as OSHA fixes the outstanding certification issues, the agency must ensure enforcement guidance is consistent with the implemented delay. We encourage you to work with stakeholders to resolve the discrepancies.

If you have any questions, please contact Loren Sweatt of the Education and the Workforce Committee staff at (202) 225-7101.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce



TIM WALBERG
Chairman
Subcommittee on Workforce Protections

⁴ Cranes and Derricks in Construction: Operator Certification, 79 Fed. Reg. 57785-57598 (Sept. 26, 2014) *Available at*: <http://www.gpo.gov/fdsys/pkg/FR-2014-09-26/pdf/2014-22816.pdf>.

⁵ See 2010 Standard, *supra* 1, at 48021.

⁶ Compliance Directive for the Cranes and Derricks in Construction Standard issued October 17, 2014. https://www.osha.gov/OshDoc/Directive_pdf/CPL_02-01-057.pdf.

⁷ Letter from CCOS to the Hon. Thomas E. Perez, Sec’y, Dep’t of Labor (Sept. 3, 2014) *available at*: http://www.aem.org/PDF/2014-10-09_CraneOperator.pdf.