

Update on OSHA Crane Rule

November 8, 2018

OSHA has officially announced that the OSHA crane will go into effect on November 10, 2018. This rule includes articulating or knuckle boom cranes.

It is expected that OSHA will allow for approximately 90 days (February 2019) before enforcing/issuing fines concerning the rule to allow for schedule training to be completed. Past that date, we do not yet know how vigorously OSHA will push to enforce the rule, but it will be in full effect and OSHA will be allowed to and is likely to issue fines when violations are found.

OSHA is in the process of finalizing an update to the rule already, but that will not affect determining whether or not an operator needs to be certified. The update will simply move the standard away from certifying by weight of crane and instead focus on type of crane. It will also add requirements of employers to make sure that operators are continually trained, especially on any changes or updates, and that certification is the start of the training, not the completion of training.

Beginning November 10, 2018, certain activities will require the operator to be certified to perform those activities. The training for a certified crane operator traditionally requires a two-day class, passing a written test on general knowledge and on articulating boom cranes, and then passing a practical test where the operator must physically perform certain actions in an articulating boom crane to show their competency and knowledge of the rules. These classes also have limited capacity and availability due to the time required to conduct the practical tests.

NRLA is providing members with the following overview of the rules.

Background

The rule was passed in 2010 and was originally set to be enforced starting November 10, 2014. The rule was postponed until November 10, 2017 because there were not enough certified trainers to conduct the necessary training and certification required and was once again postponed in August of 2017 until November 10, 2018. **Please note- this is a federal rule and will apply to all states.**

This is an extensive rule that deals with various equipment from boom trucks all the way up to tower cranes. As part of the rulemaking process, there were some exemptions made, including some for the delivery of building materials to construction sites. The rule defines certain situations as being considered facilitation of the construction process; therefore, they would fall under the crane standard and would require the operator of an articulating or knuckle boom crane (as well as other cranes) to be certified to conduct construction activities.

What is NOT covered by the rule

The following activities are considered purely a function of delivery of materials and do not fall under the crane standard; therefore, do NOT require a certified operator to perform these activities:

1. Placing or stacking material on the ground without arranging in a particular sequence for further hoisting;
2. Placing trusses or other prefabricated components onto the ground without arranging them in a particular sequence for further hoisting;

3. Placing precast concrete elements on the ground without arranging them in a particular sequence for further hoisting.

What is EXEMPTED from the rule

There are other activities that are considered part of the crane standard, but have an exemption from requiring a certified operator to perform these activities; however, please note that for these listed activities to be exempted, the following must ALL apply:

1. The articulating crane must be equipped with a fork or cradle assembly directly attached (not suspended from the boom by a load line) AND;
2. The articulating crane must be equipped with a properly functioning automatic overload prevention device.

If you meet those two qualifications, then the following activities ARE EXEMPTED from the crane rule, meaning you will not need a certified operator to perform the following activities:

1. Placing or stacking material on the ground without arranging in a particular sequence for further hoisting;
2. Placing or stacking material on an elevated area of a structure (such as a balcony, upper deck, or roof) prior to being unpacked/unloaded from pallets;
3. Placing trusses or other prefabricated components onto the ground without arranging them in a particular sequence for further hoisting;
4. Placing precast concrete elements onto the ground without arranging them in a particular sequence for further hoisting;
5. Transferring sheet goods onto a structure, so long as the articulating crane is not used to hold, support, or stabilize the material in a way that facilitates construction – such as holding the material in place while it is attached to the structure;
6. Transferring packaged goods onto a structure, so long as the articulating crane is not used to hold, support, or stabilize the material in a way that facilitates construction – such as holding the material in place while it is attached to the structure.

What is NOT EXEMPTED from the rule

OSHA has listed specific activities that are NOT EXEMPTED from the rule; **therefore, they would always require the use of a certified operator to perform these activities.** These activities require a certified operator in ALL circumstances, whether or not the articulating crane has a fork or cradle assembly and/or a properly functioning automatic overload prevention device.

These activities include:

1. Arranging materials on the ground in a particular sequence for further hoisting;
2. Holding, supporting, or stabilizing material in a way that facilitates construction – such as holding the material in place while it is attached to the structure;
3. Transferring a prefabricated component onto a structure;
4. Transferring a structural steel member onto a structure;
5. Placing a HVAC unit in its location of final use.

When materials are unloaded/unpacked from the cradle

There has also been debate and questions as to when the exemption concerning delivery and hoisting ends and an activity triggers the crane standard, which would mean that a certified operator

would be required to perform the activity. The most common question we have seen is the following scenario:

An articulating crane is equipped with a fork or cradle assembly and with a properly functioning automatic overload prevention device, but is delivering dimensional lumber, drywall, or, other building materials (including materials on pallets) to a structure through an opening in the structure, such as a window or door. If the items were simply placed on the ground or directly onto the structure itself, the exemption would apply with these parameters, but what happens when an employee, either of the delivery company, the contractor, or a subcontractor, helps unload/unpack the materials from the boom, such as pulling dimensional lumber or drywall off of the cradle and placing it directly onto the structure.

Based on a June 23, 2016 OSHA Letter of Interpretation¹, because a worker has taken the step of unloading/unpacking the material, **this activity does NOT fall under the exemption** and would fall under the crane standard as it “facilitates the performance of a construction activity and are likely to be subjected to hazards typical to cranes and the roofs, upper decks, and balconies of the structures that are undergoing construction.”²

Therefore, unless the delivery of the material can be done COMPLETELY without a worker, whether your employee or an employee of the contractor/subcontractor, physically unloading/unpacking the material once it is on the crane, the delivery requires the use of a certified operator to perform these activities

If there are any questions on this rule, please contact Jeff Keller, Director of Legislative & Regulatory Affairs, at 518-880-6376 or jkeller@nrla.org.

¹ <https://www.osha.gov/laws-regs/standardinterpretations/2016-06-23>

² NRLA is aware that there are some entities that dispute this and believe this action still falls under the exemption. While NRLA agrees that the intent of the original exemption as proposed was to cover this activity, the writing of the actual exemption (such as not including dimensional lumber) and the Letter of Interpretation indicate that OSHA will consider these activities as facilitating construction and require a certified operator. While this may end being challenged by an employer who receives a fine – until we hear otherwise, NRLA is providing the best available information on how OSHA will approach the rule to our members to determine what operators to certify.