

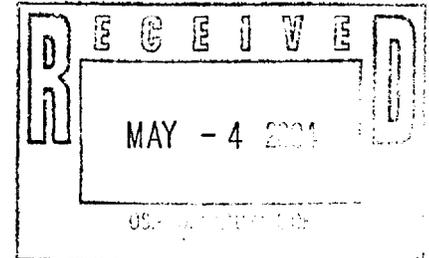


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May 3, 2004

Mr. Russell Swanson, Director  
USDOL OSHA Directorate of Construction  
200 Constitution Avenue N.W.  
Washington, D.C. 20210



Dear Mr. Swanson:

The New York City Department of Buildings unequivocally supports OSHA's desire to increase safety for crane operators.

OSHA's code focuses specifically on ensuring worker safety, while the New York City Building Code focuses specifically on safety in construction operations with the intent of protecting the public. While distinct, these goals converge and are fostered by the safe operations of cranes.

In a densely built environment, every regulatory scheme must take into account the diverse and often competing factors that make urban construction work so challenging. That is why in many cases, when it comes to building regulations New York City has the most stringent laws in the nation.

Cranes are no exception. I like to think that we have the most capable crane operations in the nation, in part because of our existing regulations. New York City has had licensing requirements in place more than 40 years – requirements that meet or exceed the requirements set by the National Commission for the Certification of Crane Operators. The New York City exam is prepared by experts, including psychometricians, psychologists who specialize in devising, constructing and standardizing tests. New York City's test for crane operators conforms to national testing standards. Its substantive components are valid and reliable, and it is a proven measurement of knowledge and skill.

The operation of a crane is a tremendous responsibility. So great, New York City's crane regulations are not limited to the operators. There is a methodical oversight process in place:

- In order for a crane to be legal for use in building anywhere in the five boroughs, our Cranes and Derricks Division approves the manufacturer's prototype, registers the individual device and inspects it annually.
- Installation and operations are monitored.
- A New York State licensed engineer must submit the plan for a crane's set-up to the Department, which are reviewed by Cranes and Derricks personnel.
- Cranes and Derricks inspectors review the crane at the site in its unassembled state, checking for defects and missing parts.
- The crane is inspected upon installation and inspected again during operations and inspected yet again if the crane is moved.

Perhaps this appears to be an extraordinary amount of effort by the industry and the City, but given the possible ramifications of an accident, it is time well spent.

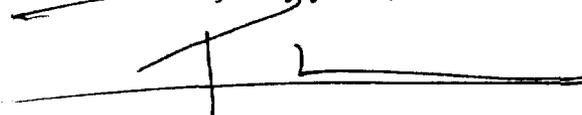
The Department of Buildings is concerned that requiring a national crane operator's license may impose an additional burden on crane operators who work in large cities without providing any real safety benefit.

Consider the consequences for municipalities that already require a crane operator's license that meet or exceed national criteria. New York City's standards are tailored for professionals who work within the confines of narrow streets, tall buildings, underground subway tunnels and the traffic of thousands of vehicles and pedestrians. If crane operator regulations are limited to the standards called for under a national license, public safety may be comprised by a standard that is insufficient or impractical for a densely built environment with unique security, traffic and construction issues. And, if we were to mandate dual licenses in the same discipline, we may inadvertently create an incentive for illegal work because it will be too cumbersome to be credentialed both locally and nationally.

Perhaps there is a way to satisfy all obligations. Municipalities that already administer an exam that meets or exceeds national standards could be exempt from a national licensing requirement for work within that locale. Another possibility is that those municipalities certify that their licensing standards for crane operators meet or exceed national standards and thus comply with OSHA criteria.

The New York City Department of Buildings will gladly work with OSHA's subcommittee to craft suitable licensing regulations. Together, we will continue to ensure the safety of crane operators, construction crews and the public.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Patricia J. Lancaster', written over a horizontal line.

Patricia J. Lancaster, FAIA  
Commissioner