

Williams Brothers Construction Co.

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Docket S030
Ex. 64-13

May 4, 2004

Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210
Conference Room N-3437 A, B, C

RE: Crane and Derrick Negotiated Rulemaking Advisory Committee (C-DAC)
Docket No. S-030

Dear Sirs:

I want to thank the C-DAC members and their companies for making the commitment to review and update 29 CFR 1926.550, Subpart N.

My name is Randy Rogers. I am a vice-president for Williams Brothers Construction Company in Houston, Texas. We are a fifty year old open shop employee owned company with 1,800 employees and 2003 sales of \$427 million. Our company owns, operates and maintains 71 crawler cranes, 38 hydraulic cranes and 27 trucks with either telescopic or articulating hydraulic booms. We have 136 crane operators in our company of which 65% are Hispanic and 14% are other minorities. We have one customer, which is the Texas Department of Transportation (TXDOT). I am a member of the AGC C-DAC Task Force and AGC of Texas Crane Safety Task Force which are supplementing the work of C-DAC. As a company, we want qualified, competent workers to operate and maintain our cranes for our sole customer and we support and offer continuous training for this work classification in our company.

We have reviewed the current working drafts and offer the following exceptions:

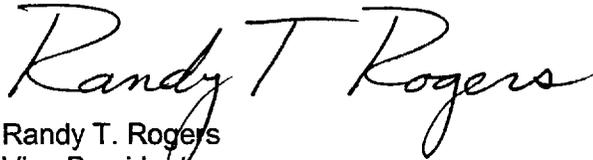
1. 1415 (d)(e). **Monthly. Annual/periodic.** A monthly is no more than an extra daily inspection. This is not necessary. Consider elimination.
2. 1422. **General observation.** In general, this is a "one size fits all" regulation. In the real world, there are different skill levels for different machines which are not addressed in the proposed regulation. Consider a "laddered" regulation to address these concerns.
3. 1422 (a). **Physical examination.** Mandatory drug testing should be required for pre-hire, post accident, near misses and random. There is no acceptable alternative to this condition.
4. 1422 (b). **Operator certification.** We are opposed to mandatory crane operator certification; particularly by a third party accredited testing organization. Our solution is to allow the employer the ability to qualify and train our operators themselves to fit

the needs of our only customer. In our company, critical lifts are managed by supervisors and management, not by crane operators.

5. 1422 (b)(1). **Operator certification.** We are opposed to a four year effective date for certification. Our solution is to allow the employer a sufficient amount of time commensurate with his worker population. It would not be possible to complete certification in four years.
6. 1422 (b)(3). **Operator certification.** There should be equal value for certification duration given to employer and the accredited testing organization.
7. 1422 (c). **Certification criteria.** The average level of education in the work classification in our company is just over the ninth grade. We have several excellent crane operators that are functionally illiterate, with limited mathematical skills and whose primary language is Spanish. How do you propose to certify these illiterate workers without discriminating against them? How do you propose to certify our workers whose primary language is Spanish without discriminating against them? The answer is to allow us the ability to qualify and train our operators themselves to fit our needs and those of our customer.
8. 1429 (a)(1)(ii). **Work Zone Control.** Too prescriptive about using "lines" to mark swing radius. Many contractors use tall warning cones effectively.

Thank you for the opportunity to relay our concerns to you. Please contact me if you have questions.

Sincerely,

A handwritten signature in black ink that reads "Randy T. Rogers". The signature is written in a cursive, flowing style.

Randy T. Rogers
Vice President

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