

McALLEN CONSTRUCTION, INC.

P.O. Box 3244 • McAllen, Texas 78502 • Phone: (956) 686-7819 • Fax: (956) 686-7824

May 5, 2004

OSHA
DOCKET OFFICER
DATE MAY 7 2004
Docket S030
Ex. 67-3

U.S. Department of Labor
Occupational Safety and Health Administration
Cranes and Derricks Negotiated Rulemaking Advisory Committee

Re: Docket #S-030

Dear Committee Members:

My name is Howard Pebley, Jr. I am President of McAllen Construction, Inc. located in McAllen, Texas. My firm is a small Highway, Heavy and Utility construction firm that on average employs 95 fulltime employees. McAllen Construction owns and operates 11 cranes varying from 30 ton rough terrain cranes to 140 ton truck cranes and we also own several crawler cranes.

I would like to take this opportunity to commend this group on the efforts and the sacrifice that you and your respective organizations are making to improve crane safety. After reviewing the draft language that is available, I have several concerns that I believe are worthy of consideration by this group.

1. Item 1415 Inspections:

- A) The requirement that the repair or adjustment of equipment must be inspected to ensure that the repair or adjustment meets the equipment manufacturer's criteria and when the manufacturer's criteria are unknown, a registered professional engineer must be hired to confirm that the repairs or adjustments are properly performed. This requirement means that every time a hoist clutch or brake is adjusted on our Northwest cranes, we will have to find a registered professional engineer and bring them to Deep South Texas to inspect the machine. There are many perfectly functional machines working every day that have had their manufacturers go out of business and the technical expertise to certify manufacturer's criteria is very difficult to obtain. I would encourage the committee to review the language in this section and keep in mind that all resources are not uniformly available in all regions of the nation and that there are a lot of older machines that are used on a daily basis that are perfectly sound and in good working



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order. In my opinion, this requirement is too stringent and more flexibility is needed for the competent person to decide if a machine is safe to be operated.

2. Item 1422 Operator Qualifications:

- A) The requirement that all operators must pass a written test. This requirement alone will eliminate at least 7 of our 13 trained operators because of the lack of their language skills. This requirement will be very detrimental to a vast majority of the minorities in this country. This situation has been resolved by the Texas Department of Public Safety concerning commercial driver licensing by allowing verbal testing in multiple languages.
- B) I would question the necessity for the level of training which I understand is required by the accredited testing authority for all operators. All heavy or nonstandard lifts that our firm performs are engineered by staff other than our crane operator. I would never leave these types of calculations and decisions to our field personnel. A possible solution to this problem would be varying levels of operator training. Someone who provides crane services for a fee would be required to have operators trained to the highest level while someone who works under supervision would not require as extensive training.
- C) I am very concerned about the training time line that is proposed in the draft document. My understanding is that at this time there is only one accredited training organization in the United States. I would be concerned that our firm will be in violation of the law through no fault our own due to the lack of qualified training opportunities.

Sincerely yours,



Howard Pebley, Jr.