

# You may already be in violation of OSHA's new service truck crane rules and not know it

Better safe than cited



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Any telescoping service truck crane with lifting capacity within 2,000 to 14,000 pounds falls within the rules of the OSHA 1926 Subpart CC.

A complex new regulation is shaking up the world of small, truck mounted cranes used to service construction machines and deliver building materials.

Until recently these cranes were exempt from federal OSHA regulations. That changed when the regulation became law in November, 2010, and by November 10, 2014 many operators of service truck and building material delivery cranes will find it necessary or advisable to become certified under the new rules.

The new regulation, OSHA 1926 Subpart CC, offers a number of exemptions and hair-splitting definitions as to what is and what is not regulated. As long as you walk the straight and narrow path prescribed by the OSHA definitions, you may not need to be certified.

But as more construction companies, fleet managers, building material suppliers, equipment dealers and rental stores become familiar with the rule, the more they're coming to the conclusion that it's better to be safe than cited.

**“...there are numerous exemptions and exclusions to the “in scope” definitions...”**

And don't let that 2014 date lull you into complacency. Numerous provisions in the law took effect in 2010. When OSHA put the new regulations into effect in 2010 some provisions became law immediately. These primarily had to do with having qualified riggers and signal people, observing the new power line distance rules and being able to document equipment inspections. The list below gives a good indication of what you and your service truck operators are responsible for now, and what kinds of violations OSHA is currently writing citations for:

### **OSHA's Top 10 crane standards cited:**

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- Signal person is not qualified.
- Materials are not rigged by a qualified rigger.
- No documentation available for the signal person.
- No annual inspections performed by a qualified person.
- No determination for working radius closer than 20 feet to a power line.
- Operator's manual, load charts, hazard warnings, etc., not in the cab at all times.
- A determination for safety was not made by a competent person after a deficiency was noted during a visual inspection.
- Monthly crane inspection results are missing or signed documentation is not maintained.
- Inspections not performed annually by a qualified person or as specified.
- Labels supplied by manufacturer are missing.

To be a “qualified” rigger or inspector as mentioned above does not require the full course of training and testing as does the more rigorous operator certifications. Training for a qualified person can be done in-house by a certified trainer and as long as you document the training and who attended, those persons are considered qualified.

But the section of law that's getting the most attention is the requirement for operators of small truck cranes to be tested and certified by November 10, 2014. Since this is the most complex and controversial part of the regulation—and the most expensive for companies to comply with—let's look at it first.

A point of explanation: In the language of OSHA, if you or your equipment is “in scope” you have to comply with the relevant portions of the regulation. If you are “out of scope” you don't need to do anything different. And remember that there are numerous exemptions and exclusions to the “in scope” definitions.

## What cranes does OSHA consider within the scope of the regulation?

“They define a crane as any piece of power-operated equipment that has a maximum rated capacity of more than 2,000 pounds,” says Joel Oliva, manager for test development and administration, National Commission for the Certification of Crane Operators. “Not that it’s lifting more than 2,000 pounds, but that it’s rated to lift more than 2,000 pounds.”

## What sorts of exemptions or exclusions apply to this definition?



Replacing a used tire on a piece of equipment will not require a certified operator. Putting a new tire on a new piece of equipment will.

“If you are doing anything relative to service and repair on a construction site, OSHA says you’re exempt,” says Tim Worman, business development Manager at IMT. “If you are using that same truck for any kind of construction you have to be a certified operator.”

Here’s where it gets tricky. By OSHA’s definition “new construction” means if you lift and place an HVAC unit on a pad or the roof of a new building that work is considered in-scope and you have to be certified to do so. If you take that same HVAC unit off the building to service or repair it, that work is out of scope and certification is not needed.

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Likewise, if you put a new propane tank or an electrical transformer on a concrete pad, you have to be certified. Repair the same tank or transformer – using exactly the same equipment and processes – and that is considered service and repair work and you don’t have to be certified.

“Most of our customers think they are in the service and repair business. Most of them are mechanics,” says Tim Davison, product manager bodies and cranes for Stellar Industries. “However under OSHA’s definition, if

he is assembling a big shovel or truck at a mine site for the very first time, that's considered construction and the operator would need to be certified."



Operators doing only service and repair work will not need to be certified.

## How is this going to play out in the real world?

"There is a lot of gray area," Worman says. And that has some site supervisors thinking proactively.

“Site supervisors are saying ‘I don’t care what OSHA says about you being exempt. If you are coming on my jobsite I want you to be a certified operator. If you’re not, don’t come on my site.’ They are taking that approach to protect themselves,” Worman says.

Another concern is that the drivers and operators of service truck cranes may be asked by construction crews to do a favor, to move a steel beam or a rebar bundle. Normally that’s not a problem, but under the OSHA rules any crane work that holds, supports, stabilizes, stages, sequences, or positions materials or aids or assists in the construction process, is considered in scope and requires a certified operator except when using very specific, exempt crane equipment.

## The rules for material delivery truck cranes

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Lumber and construction material delivery truck cranes are also now regulated under OSHA 1926 Subpart CC. According to Regina McMichael, president of the Learning Factory, who conducts webinars on OSHA 1926 Subpart CC and how it affects building material deliveries, operators can get exclusion from the certification requirements if their cranes meet certain requirements. And they still have to follow the same rules as to what constitutes construction or assisting in construction.

At its very simplest, says McMichael, if the driver of a lumber or building materials truck uses his crane to drop trusses, structural steel, concrete elements or prefabricated components on the ground without arranging them in a sequence to facilitate further hoisting, he doesn’t need to be certified or meet any equipment requirements.

If however, he puts materials on the structure, stages, positions, holds or maneuvers the load in a way that assists the construction process he must either be certified, or meet specific equipment and material requirements, which are:

- The crane must be an articulating, knuckle-boom type.
- It must be equipped with a fork or cradle assembly.
- It must have an automatic overload protection device.
- And the materials the operator positions on the structure or site must be sheet goods (drywall, plywood) or packaged goods such as roofing felt.

If material delivery does not involve placing material on the ground, or when hoisting, the equipment does not meet the four requirements above, operators of material delivery truck cranes must be certified by November 10, 2014, and must also currently comply with the provisions of the regulation that are in force now, such as having qualified riggers and signal persons and documented equipment inspections.

## How are different industries reacting to the new rules?

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Given that there are thousands of unique construction applications, OSHA has been swamped with requests for clarification of the rules. By some estimates the agency has received more than 200 requests for letters of interpretation.



Of these only about 20 have been answered, Oliva says. “You can read the agency’s responses on their website. And the truth is, the ones that have been answered often leave people asking more questions than answers.”

OSHA has so many requests for letters of interpretation that if you send one in right now it may be two years before you get a reply,” Worman says.

The propane industry is requesting exemption, as are the railroad, telecommunications and other industries. Thus far these industries have yet to get their exclusions. One of the few that has succeeded is the National Concrete Burial Vault Association. And the utility industry has applied for a fairly large exclusion for digger derricks, Oliva says.

One group that has gone in the opposite direction and embraced the rules is the outdoor sign industry, the people who put up billboards, says Oliva. “Instead of lobbying against it, they spent their money on developing training programs and are doing a wonderful thing for their people. And it’s going well,” he says.

## How will the training and certification work?



Any application that can be considered new construction will require a certified operator or meet specific crane and material requirements.

On April 30, NCCCCO officially launched its testing and certification program for service truck crane operators. There is a written test and a hands on test required for certification. The written test covers four areas, Oliva says:

- Site and set up
- Operations, things like knowing where components on the truck are located, what a winch does, what a snatch block is.
- Technical knowledge of the standards, codes, the requirements for the equipment and certifications.
- Understanding and interpreting load charts.

Of those four, the load chart section is likely to be the most challenging, Oliva says. “A lot of these folks don’t know how to read the load charts, but they need to.”

The practical or hands on portion of the test will involve operating a crane through an obstacle course.

When asked if an experienced service truck operator could pass the test without training, Worman and Davison said, probably not.

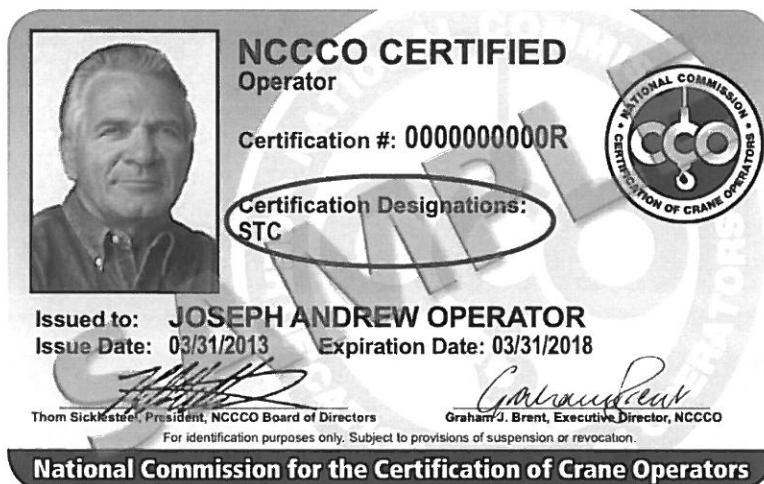
“Some will pick it up quick and some will struggle,” Worman says. “We recommend you go to a training session before you take the test.”

**“...a typical training process might [will] cost around \$800 to \$1,000. The cost for the testing certified by NCCCO will be \$165 for the written test and \$60 for the practical test.”**

“At the end of the day it helps them become better operators,” Davison says. “Education is never a bad thing. There are things in the test that our customers need to know, but if not studied they’re not commonly known.” The NCCCO only writes the test and accredits the practical examiners who can administer the practical exams, but on its website you can find the names and contact information of private training companies who can train your personnel for the exams. Upon passing the test your operators will be issued a card with the designation STC.

“The TSS certification goes well beyond what the service truck crane operator needs to know,” Oliva says. So instead of designing a new certification program, the NCCCO got together with a group of service truck crane stakeholders and over a nine-month period hammered out a restricted certification program. The STC on the card means the holder is only certified to work with service truck cranes, like a restriction on your driver’s license.

## How involved is the training and how much will it cost?



Operators who pass a written and hands-on test will receive a certification card with the designation STC on it. Different training organizations will have different class configurations a typical training process might take two or three days of classes, 16 to 20 hours of classroom time and cost around \$800 to \$1,000. The cost for the testing certified by NCCCO will be \$165 for the written test and \$60 for the practical test, Oliva says. The TSS-STC card is good for five years, at which time the operator must take a written recertification written test to remain certified.



When OSHA issued its final rule, it had a provision requiring employers, rather than employees, pay the full costs of training and testing operators.

## Who pays the fine for violations?

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▶ You don't need a certified operator to place construction materials if you have a knuckleboom crane with automatic overload protection, a fork or cradle assembly and you are positioning sheet goods or packaged goods.

OSHA is set up to protect employees, so they only fine employers. Oliva says the new rules do not say that you as an operator are required to be certified, but rather they say that employers must insure that their operators are certified.

What remains uncertain is which employer will get fined, if say, a service truck crane operator shows up on site to work on a machine and gets talked into moving a bundle of rebar. Does the dealer or rental house take the hit, or the construction company running the site, or both?

## Does the OSHA reg supercede state regulations?

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States are allowed to set their own regulations regarding certification of crane operators. There are currently 17 states that regulate service truck cranes, Oliva says, many of them more detailed and restrictive than the OSHA rules. Regardless of the new OSHA regs, you will have to continue to comply with any and all state requirements for training, inspections, certifications and qualifications.



Setting trusses is considered new construction and since they are not sheet goods or packaged goods this job requires a certified operator.

## Certification an easy choice

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“There is going to be a lot of scurrying between now and November 2014,” says Worman. “I don’t believe that everybody who needs to be certified will be certified by then. I think there are going to be holes and gaps as people wait for responses to their letters of interpretation. The book isn’t closed yet.”

While you could study the rules and configure your operations so that your service truck crane operators are exempt from the ruling, Worman and Davison say that strategy is risky. Some details in the rules are still in limbo and many requests for letters of exception yet unanswered. Your operators may be tempted to skirt the law, and some vigilant supervisors are likely to keep uncertified operators off their sites. Given all this, the best route in most cases route is probably going to be certification, they say.