

|

**Testimony of Frank Bardonaro (President & COO)  
AmQuip Crane Rental LLC  
March 20, 2009  
OSHA Informal Public Hearing on  
Proposed Rule for Cranes and Derricks in Constructions**

Hearing Exhibit OO

Good Afternoon,

My name is Frank Bardonaro and I am the President and Chief Operating Officer of AmQuip Crane Rental LLC.

We work for every segment of the construction industry. We have worked in over 30 states and 3 countries in the past 12 months and manage a fleet of over 600 cranes and lifts ranging from 4 ton to 600 ton cranes. Our employees include union and non-union, shop, yard and field laborers, mechanics, truck drivers, riggers, and crane operators. Nearly every component of the new CDAC proposed rules has some impact on our day to day operations.

With over 30 years of experience in the construction industry, I have been fortunate enough to work around very qualified and experienced people who have taught me many valuable lessons. From the first day I went to work in this business, I was taught that there is no second chance for safety, and everything you do can get you or those around you hurt or killed. Safety is always first and zero accidents and zero injuries is the only acceptable goal.

Just as I learned best practices from the many professionals, co-workers and organizations I have been associated with, I have learned as much or more from those who choose not to invest in safety, training, and education for their employees. This is an area that is easy to recognize as soon as one pulls into a jobsite. It starts at the top of the organization and runs down to every person working on the site. It is usually easy to identify how important safety is to a contractor by the condition and appearance of their equipment. If the contractor isn't willing to keep the equipment and site in good condition, then they probably aren't investing in safety and training. It is my firm belief that operator, rigging, and signal person training is the most critical issue related to crane and construction safety when any lifting device is involved. I further believe that certification of operators should be mandated on a national basis to ensure safety for everyone on the site.

AmQuip is always trying to grow our business. We have bought three small crane rental companies in the past two years. The common theme that each of these companies possessed was a culture of safety and training. Even the small local "Mom & Pop" we purchased (with a handful of cranes and operators) required all of their crane operators to have certification. This was an expense borne by the operators, not the company. Being certified is similar to getting a college education. Individuals who want to succeed find the time to get additional training so they have an advantage in the job market as well as becoming more respected in the industry they choose. How can we require testing and licensing plumbers but any person or child can operate any crane without a license or certified training program? The fact is, if a person is not willing to invest \$1,000 - \$2,000 in order to be professionally trained and certified, you should ask yourself if you would want your child working under the load they were hoisting.

I understand training has a cost, in fact, other testimony has stated, "such a program could cost as much as \$250,000 per company". If the 200,000 members of this organization already know how do things safely based upon their own training programs, then certification of operators for the small companies could only cost a few thousand dollars per year. His math simply does not add up. When the contractor or builder is hiring a crane company or crane operator, they should require a licensed operator to apply. Their costs are reduced to zero.

|

Since we rent cranes with our operators and “bare”, we have several data points to determine which types of equipment are most likely to be involved in an incident. In fact, the majority of bare rental crane accidents from our customers are in the boom truck and below 35 ton class of crane with non-certified or trained operators. In fact, 96% of crane related accidents are the result of human error. This could be from the operator, riggers, signal people, or others working on or near the crane. Therefore, the need to have all of these people properly trained is even more critical, because even if the operator is trained and certified, the stats from other testimony are actually another reason to extend the requirements beyond the operator. Their argument inaccurately maintains that studies do not show certification of operators improves safety. The same data used from the Construction Safety Association of Ontario did prove that there was a substantial decrease after mandatory training went into effect.

Although I was not on the CDAC committee, I have promoted crane safety in many areas, including government, GBCA, SC&RA, Subcontractor’s Association of Delaware Valley and other local governments to strengthen crane regulations in some uniform fashion. Do some of those who testified feel they do not need certification because they do not hurt and kill as many as other industries? One such statement cites OSHA-IMIS data that states “ONLY 14 of 502 fatalities occurred in residential construction.” I wonder if the extra \$1,500 of training for those 14 operators would have inflated the prices of those houses so much? Strangely enough, the testimony actually goes on to state that there were 1385 fatalities in residential construction from 2003-2006 but only “13 were crane related”. These are staggering numbers. This is equivalent to 10 commuter jet crashes per year. Perhaps, as I said before, safety starts at the top. If we put in place more stringent safety and training requirements, as drafted here with CDAC, maybe the culture of safety will begin to circulate throughout the rest of the construction industry and create a safer environment for everyone on the project. Safety is contagious, and if a few key people on the site, such as the crane operators and riggers, are aware of things that cause accidents, the mere presence of them on site will cultivate this spirit of safety throughout the project.

I don’t think there is a way to make a “perfect” rule. There will always be reasons it does not fit for everyone or every industry. However, to state that it is ok to operate a 35 ton crane, for example without certification is absurd. The home builders again, request an exception for third party certification of “cranes 35 tons and under and a boom length of less than 120 feet”. While this has been presented to you in a way to make it sound like this is a “small” crane, it is not. In fact, a 35 ton crane with 119’ of boom represents more than 50% of the cranes operating in the USA today. These folks are asking on one hand to train their own operators and then later argue that they shouldn’t be required to meet the “controlling entity duties” because they don’t have the expertise or ability to control the site or crane operator.

I’ve heard more arguments that state crane training is different for home builders and others than it is for steel erectors, etc. NHBA states “hazards and risks are not as great in home building because typically the loads are not as dense and weigh less”. As a crane rental company that supplies a variety of lift equipment to all markets, I can assure you that the very argument being made in that statement is a leading cause of accidents and injuries on our bare rental equipment. Every time we have a customer who has a boom truck related incident, for example, they ALWAYS state, “we weren’t lifting that much weight”. The fact is, regardless of the size of crane or weight of the lift, training is crucial for the sake of the operator and everyone on the site. Is it ok to have a pilot without a license flying a single engine plane with passengers because the plane is smaller than a 747? Obviously, the point is clear.

**I think those opposed have a clear problem. It costs money to be safe. If they don't want to be safe, then sell their cranes and hire crane professionals to do their work. If everyone has the same rules, then nobody has an advantage.**

**There is currently a debate going on in the senate regarding a stimulus bill that would provide 300,000 jobs for ILLEGAL immigrants. Not coincidentally, many of these jobs are in the residential housing sector. Perhaps some of the stimulus money should be for training and certification of legal workers that would further help get the American economy on track. Running from these new rules cannot be justified.**

**While costs maybe the concern for many of these groups, I read the statement from Mr. Limandri, the New York City Building's Commissioner. I found his position to be disturbing and in direct conflict with the interest of improving safety and increasing transparency within a governmental department. In fact, CDAC would standardize rules that would enable Mr. Limandri and New York City buildings to focus on the approval of processes and stop trying to be crane experts. Here are some facts regarding New York City and inspectors:**

- 1. Former NYC Chief Inspector of cranes was charged in a bribery scheme in October 2008 for issues dating back to 1996 which included falsifying licenses and inspectors.**
- 2. In 2007, two high ranking City Department of Transportation officials were arrested for taking bribes.**
- 3. NYC Department of Education Inspector was convicted of extortion, bribery and conspiracy.**
- 4. In 2002, 15 or 24 plumbing inspectors in NYC were charged with extortion in exchange for approving city projects.**

**My point is, Mr. Limandri stated "reliance on this industry to regulate itself would be a fundamental mistake. Certainly in NYC, the construction industry needs a police force..." Ladies and gentlemen, it sounds like the police in NYC are already busy!**

**The Commissioner then went on to state that "reliance on industry to follow OSHA's rules was not enough to protect the public." Again, this is an outrageous statement. The City of NYC DID, in fact, have all of their inspectors, engineers and procedures in place prior to these accidents. I think one could argue that the false sense of security derived from a "checklist" approved by the City could actually have contributed to the accidents that have occurred in NYC. Who is responsible? Clearly, the City in the Commissioners own words, does not feel that the crane industry, OSHA, or crane manufacturers have enough expertise or training, but sending his office staff to receive 170 hours of specialized training apparently makes them more qualified than certified riggers and operators who work 3,000+ hours per year in the industry and have their entire livelihood dependent upon safety.**

**The Commissioner also asked you to implement tracking of crane parts and repairs, stating that a crane "can be repaired inconsistent with manufacturing standards." He also mentioned other countries "ban" cranes of 20 years or more. I don't know exactly what the Commissioner is alluding to but if crane owners follow inspections and guidelines from current OSHA standards and the CDAC proposal, it does not matter if the crane is brand new or 50 years old. It must be safe, inspected and maintained similar to the airline industry. There are no factual studies that indicate more accidents occur from older than**

Testimony of Frank Bardonaro (President & COO)  
AmQuip Crane Rental LLC  
March 20, 2009  
OSHA Informal Public Hearing on  
Proposed Rule for Cranes and Derricks in Constructions

**newer cranes. I believe that NYC has several very intelligent and conscientious people who want to keep people safe. However, spending \$4 million dollars to produce 16 recommendations may not have been the best solution. In fact, 13 of those 16 are already required by current OSHA or manufacturing standards.**

**CDAC, as written, would not reduce safety or de-regulate it in NYC. It would simply standardize and raise the bar for everyone involved. NYC engineers could then concentrate on the engineering standards and require all crane owners to meet stricter Federal guidelines.**

**AmQuip endorses CDAC because it is better than the current regulation. There will always be areas of contention and room for improvement, but time is not on our side and new regulations should be implemented immediately. Every day that we allow untrained and non-certified personnel to operate heavy machinery, and especially cranes and lift equipment, we are putting people in harm's way. OSHA has a difficult task at hand and no single document will satisfy everyone. However, since safety and protecting employees is the primary goal, this rule should be passed as written as a positive step towards improved safety in all construction related fields.**

**Thank you,  
Frank Bardonaro**

# Proposed Standards for Cranes and Derricks in Construction

Presented by Frank Bardonaro, President & COO

March 20, 2009































