

OSHA v. State Licensure

The Construction Subcommittee has discussed crane licensure at its past meetings, specifically potential removal of licensure. Below is a very broad overview of the distinctions across the country.

State Licensing Framework

All states are subject to OSHA's crane operator rule for construction work, which requires operators to be trained, certified or licensed, and evaluated before operating covered equipment.

A smaller group of states adds their own crane or hoisting operator licensure systems on top of OSHA's requirements. Connecticut, Hawaii, Massachusetts, Montana, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, and West Virginia all have specific crane or hoisting operator licensure requirements.

Another group of states requires nationally accredited certification by rule or statute without necessarily issuing a separate state operator license. Examples discussed were California, Maryland, Minnesota, Nevada, Utah, and Washington.

Most other states rely primarily on OSHA's qualification rules and employer compliance duties rather than a standalone state crane operator license.

OSHA and State Licensing

OSHA's construction crane rule, 29 CFR 1926.1427, allows an operator to qualify through several recognized paths, including accredited third-party certification, an audited employer program, military qualification, or a state/local government license that meets OSHA's criteria.

This means state licensing does not replace OSHA. Instead, it creates an additional legal requirement in states that have chosen to regulate cranes or hoisting operators directly.

In a licensing state, an operator must satisfy both systems: the state licensing requirement and the federal OSHA qualification requirement as implemented through the employer.

Pros and Cons of State Licensure

Licensing can raise baseline standards, create clearer accountability, provide a public record of qualified operators, and give the state a direct disciplinary mechanism beyond employer action.

Potential disadvantages include added fees and administrative burden, more complicated reciprocity across states and cities, and the risk that employers misunderstand a state license as a substitute for OSHA training and evaluation duties.

States without separate licensure can be viewed as more flexible and administratively simple, but they may produce more variation in the quality of employer-based qualification systems.

National Certification Discipline

National certifying organizations such as NCCCO/CCO and CIC handle discipline through their own ethics, exam security, and substance abuse policies rather than through government licensing powers.

Under this model, a certifying organization can review misconduct, unsafe conduct, falsification, or policy violations and impose sanctions such as warning, suspension, or revocation of certification.

Those sanctions affect the credential itself. They do not directly impose state-law penalties or OSHA fines, but they can affect whether an operator still meets one recognized qualification path under OSHA.

OSHA Enforcement and Discipline

OSHA's role is regulatory rather than credential-based. OSHA enforces workplace safety standards by inspecting incidents, reviewing employer records, and citing employers for noncompliance.

In crane cases, OSHA focuses on whether the employer ensured that the operator was properly trained, certified or licensed, and evaluated on the equipment involved.

OSHA penalties typically run against the employer or controlling contractor rather than the operator as an individual. Even so, OSHA findings often trigger indirect consequences for the operator, such as removal from duty, retraining, or employer termination.

Major Accident Process

It may be useful to evaluate how a scenario plays out, below is a review following a major accident. Sequencing is not necessarily universal and so one or more steps may occur contemporaneously.

First, the employer responds to the emergency, secures the scene, reports internally, and begins an accident investigation that may include witness interviews, equipment review, and post-accident testing under company policy.

Second, if the event meets OSHA reporting thresholds*, the employer notifies OSHA and OSHA may open an inspection focused on the crane standards and operator qualification requirements.

Third, the employer decides whether the operator remains on crane duty, is retrained, or is terminated while the investigation proceeds.

Fourth, if the operator holds a national certification, the incident may be reported to the certifying organization for ethics or disciplinary review, which can result in continued certification, suspension, or revocation.

Finally, in a licensing state such as Montana, the state licensing authority may open its own disciplinary investigation and determine whether license conditions, suspension, or revocation are warranted.

*OSHA reporting thresholds that would trigger an investigation are loss of life, work-related in-patient hospitalization, work-related amputation, or work-related loss of an eye.

Montana-Specific Point

A national certification does not stand in for a required Montana license once the state has made licensure mandatory for covered work.

Loss of State License vs. National Certification

Can an operator who loses a state license continue operating with only a national certification?

The answer for Montana is no: if state law requires a license, loss of that license means the operator cannot lawfully continue operating covered cranes in that state, even if the operator still holds a valid national certification.

The reverse can also matter. If an operator loses national certification, the operator may lose one OSHA-recognized qualification pathway, but in a licensing state the practical outcome depends on whether the state license remains valid and whether the employer can still satisfy OSHA through another lawful path.

Practical Takeaways

In federal-only states, most operator consequences after a major event flow through the employer and OSHA, with national certification discipline potentially affecting continued qualification.

In licensing states, a serious incident can create an additional public-law consequence because the state may independently discipline the operator's license based on the same facts that OSHA and the certifier review.

In summary, a revocation of state licensure is where state licensing can provide a tangible difference. The Department is not aware of a revocation within the last 10 years. The last licensed complaint came in 2022 and was dismissed. While lack of complaints is not necessarily dispositive of whether a license is justified as outlined above, without revocations, state licensure may be duplicative.