

September 7, 2018

Dean McKenzie  
Director, Directorate of Construction  
Occupational Safety and Health Administration/Department of Labor  
200 Constitution Ave, NW  
Washington, DC 20210

**RE: The National Society of Professional Engineers' Public Comment on  
*Railroad Roadway Work on Cranes and Derricks in Construction*  
Regulation Identifier Number 1218-AD07, Docket ID: OSHA-2015-0012**

Dear Director McKenzie,

On behalf of the more than 31,000 members of the National Society of Professional Engineers (NSPE), the following public comment is submitted in response to the Occupational Safety and Health Administration proposed rule for cranes and derricks in construction.

This proposed rule, would establish several exemptions and issue clarifications affecting work on or along railroad tracks. As part of the proposed rule, OSHA proposes in § 1926.1442(b)(2)(i) and (ii) to establish that if a machine's manufacturer requires using rail clamps, then the employer would have two options:

- (1) ensure that the clamps are used; or
- (2) operate without clamps only if a registered professional engineer (RPE) determines that the clamps are not necessary.

Secondly, OSHA proposes in § 1926.1442(b)(3)(i) and (ii) to allow out-of-level operation when two conditions are met:

- (1) Either the manufacturer must approve or modify the equipment to allow out-of-level work, or a registered professional engineer qualified with respect to the particular equipment must approve the out-of-level work for the equipment.
- (2) The employer must abide by the limitations and other requirements specified by the manufacturer or the engineer or comply with a load chart modified by a qualified person for the approved out-of-level work.

OSHA has stated that it believes these proposals, if promulgated, would maintain safety and health protections while reducing employers' compliance burdens.

NSPE and OSHA share a common purpose in protecting the public health and safety. NSPE agrees with OSHA and believes that professional engineers have the necessary education, experience and qualifications to enable them to provide the critical engineering expertise to identify potential alternatives to withholding rail clamps to ensure public safety is protected.

[month, day], 2018

If you have any further questions or concerns, please contact Arthur Schwartz, deputy executive director and general counsel, at [aschwartz@nspe.org](mailto:aschwartz@nspe.org),

Sincerely,

A handwritten signature in black ink, reading "Michael Aitken". The signature is written in a cursive style with a large, stylized "M" and "A".

Michael Aitken, PE, F.NSPE  
President