

STATE OF NEW YORK      DEPARTMENT OF LABOR

IN THE MATTER OF

MARTIN PARKER  
Crane Operator Certificate of Competence No. 73-5898

Pursuant to Section 61-3.1 of Title 12 of the Official  
Compilation of Codes, Rules and Regulations of the State of  
New York.

**AMENDED  
DETERMINATION  
&  
ORDER**

GA-09-0184

WHEREAS the Crane Operator Examining Board, pursuant to 12 NYCRR 61-3.1, conducted a hearing on June 29, 2010, to determine whether the Certificate of Competence issued to Martin Parker (Respondent) should be suspended or revoked by the Division of Safety and Health of the New York State Department of Labor; and

WHEREAS the testimony and other evidence presented at the hearing establish, in relevant part, that:

Respondent's Certificate of Competence No. 73-5898 expires February 2010;

Respondent operated a Grove Crane with an 80 ton capacity and 110 foot boom on June 26, 2009 at Corellis Lane, East Greenbush, New York;

Respondent, while operating such crane, was involved in an accident when the Respondent was off-loading pipe during which time the crane he was operating came within less than ten feet of overhead power lines, and an explosion occurred and the Respondent's signalman was injured;

1. The accident did not occur as a result of Respondent's negligence; and
2. That Respondent is "a person of proper competence, judgment or ability" in relation to the operation of cranes (12 NYCRR 61-3.1, incorporating 12NYCRR 23-8.5 [n] [1]).

WHEREAS the Crane Operator Examining Board, based on the evidence presented at the hearing, made the following Recommendations on the record, as reflected on the attached transcript page(s):

1. That the accident did not occur as a result of the Respondent's negligence;
2. That Respondent is "a person of proper competence, judgment or ability" in relation to the operation of cranes (12 NYCRR 61-3.1, incorporating 12NYCRR 23-8.5 [n] [1]);
3. That the Respondent's current Certificate of Competence is to be continued in full force and effect.

NOW, upon review of the entire record made by the Crane Operator Examining Board; and upon due deliberation had thereon, it is:

ORDERED that the Findings of Fact, the Conclusions and the Recommendations by the Crane Operator Examining Board be, and hereby are, ADOPTED by the Commissioner of Labor, and they shall constitute the final **Determination & Order** of the Commissioner.

Dated: September 15, 2010  
Albany, New York

*Colleen C. Gardner*

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Colleen C. Gardner  
Commissioner of Labor  
State of New York