



BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket ID-OSHA-2018-0009]

RIN 1218-AC96

Information Collection Request; Cranes and Derricks in Construction: Operator Qualification

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule, limited reopening of comment period.

SUMMARY: OSHA is providing the public an additional 30 days to comment on only the information collection requirements contained in the proposed updates to its standard for cranes and derricks in construction published on May 21, 2018.

DATES: The comment period for only the information collection requirements published on May 21, 2018 at 83 FR 23534, is reopened. Comments must be submitted (postmarked, sent, or received) by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648.

Regular mail, express delivery, hand delivery, and messenger (courier) service:

When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2018-0009, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3653, 200 Constitution Avenue, NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name, the title of this document "Information Collection Request; Cranes and Derricks in Construction: Operator Qualification," and the OSHA docket number for this document (OSHA-2018-0009). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments, see the "Public Participation" heading in the section of this document titled "**SUPPLEMENTARY INFORMATION.**" Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693-2350; TTY (877) 889-5627.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the above address. All documents in the docket (including this *Federal Register* document) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted

material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT: Mr. Vernon Preston, Directorate of Construction; telephone: (202) 693-2020; fax: (202) 693-1689; email: *preston.vernon@dol.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

OSHA published a notice of proposed rulemaking “Cranes and Derricks in Construction: Operator Qualification” (the NPRM or the proposed rule) on May 21, 2018, in the Federal Register (83 FR 23534) proposing regulations to update the standard for cranes and derricks in construction. In the NPRM, OSHA proposes to amend 29 CFR 1926, subpart CC to revise sections that address crane operator training, certification/licensing,¹ and competency. The purpose of these amendments are to: require comprehensive training of operators; remove certification by *capacity* from certification requirements; clarify and permanently extend the employer duty to evaluate potential operators for their ability to safely operate equipment covered by subpart CC; and require documentation of that evaluation.

The proposed rule provided the public 30 days to comment on the proposed regulations including the information collection requirements contained in the proposed rule. Under the Paperwork Reduction Act (the PRA), Federal agencies are required to

¹ The term “certification/licensing” covers each of the certification options in the proposed rule (third-party certification or an audited employer certification program) as well as state or local operator licensing requirements.

publish a notice in the Federal Register concerning each proposed information collection requirement and to allow 60 days for public comment on those requirements (44 USC 3506(c)(2)(A); see also 5 CFR 1320.8(d)(1)). Accordingly this document allows the public an additional 30 days, as required by the PRA, to comment on the information collection requirements contained in the proposed rule.

Concurrent with publication of the proposed rule, OSHA submitted the new Cranes and Derricks in Construction Standard (29 CFR part 1926, subpart CC): Operator Qualification Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review with a request for a new control number (ICR Reference Number 201710-1218-002). If a final rule is published, OSHA will submit the final ICR for the final Cranes and Derricks in Construction Standard: Operator Qualification to OMB for approval. If the final ICR is approved, OSHA will request to amend the comprehensive Cranes and Derricks in Construction Information Collection (OMB control number 1218-0261) to incorporate the ICR analysis associated with the final Cranes and Derricks in Construction Standard: Operator Qualification and to discontinue the new control number.

The purpose of the PRA, 44 U.S.C. 3501 et seq., includes enhancing the quality and utility of information the Federal government requires and minimizing the paperwork and reporting burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information requirement (also referred to as a “paperwork” or “information collection” requirement), including publishing a summary of the information collection requirements and a brief description of the need for, and proposed use of, the information. The PRA defines “collection of information” as “the

obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format.” (44 U.S.C. 3502(3)(A)). Under the PRA, a Federal agency may not conduct or sponsor a collection of information, and the public is not required to respond to a collection of information, unless it is approved by OMB and displays a currently valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

B. Desired Focus of Comments

The “Cranes and Derricks in Construction: Operator Qualification” proposed rule would establish new information collection requirements. The NPRM would also modify a small number of information collection requirements in the existing Cranes and Derricks in Construction Standard (29 CFR part 1926, subpart CC) Information Collection (IC) approved by OMB. OSHA submitted a new ICR (that modifies the existing Cranes and Derricks in Construction package) to OMB to reflect the NPRM’s new or revised information collection requirements.

Some of these revisions, if adopted, would result in changes to the existing burden hour and/or cost estimates associated with the current, OMB-approved information collection requirements contained in the Cranes and Derricks in Construction Standard Information Collection. Other revisions would not change burden hour or cost estimates, but would substantively modify language contained in the currently OMB-approved ICR. Still others would revise existing standard provisions that are not information collection

requirements, will not change burden hour or cost estimates, and will not modify any language in the ICR. This document summarizes the first two categories to ensure that the ICR reflects the updated regulatory text, but does not summarize or seek comment on the last category of revisions that are not related to information collections. In addition, this document does not address the proposed provisions that are substantively unchanged from the current, OMB-approved information collection requirements. Discussion and justification of these provisions can be found in the preamble to the final crane standard (75 FR 48017) and also in the Supporting Statements for the proposed rule (83 FR 23534) as well as the approved Information Collection.

The agency solicits comments on the Cranes and Derricks Standard information collection requirements as they would be revised by the proposed rule. Particularly, comments are sought by OSHA to:

- Evaluate whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information will have practical utility;
- Evaluate the accuracy of OSHA's estimate of the time and cost burden of the proposed information collection requirements, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection requirements on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

A copy of the ICR for the proposed rule, with applicable supporting documentation, including a description of the likely respondents, estimated frequency of response, and estimated total burden, may be obtained free of charge from the RegInfo.gov website at: http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201710-1218-002 or contact Vernon Preston at (202) 693-2020 to obtain a copy of the ICR.

C. Proposed Revisions to the Information Collection Requirements

As required by 5 CFR 1320.5(a)(1)(iv) and 1320.8(d)(1), OSHA is providing the following summary information about the information collection requirements identified in the NPRM. The proposed rule creates new information collection requirements and modifies approved information collection requirements in the existing “Cranes and Derricks in Construction Standard” Information Collection. The major differences in the information collection requirements contained in the proposed rule from the information collection requirements currently approved in the Information Collection are discussed below and in more specific detail in Section III: Summary and Explanation of the Proposed Amendments to Subpart CC of the NPRM.

Proposed Section 1926.1427(a) - Operator Training, Certification, and Evaluation.

The introductory text in proposed paragraph (a) sets out the employer’s responsibility to ensure that each operator is certified/licensed in accordance with subpart CC, and is evaluated on his or her competence to safely operate the equipment that will be used, before the employer permits an individual to operate equipment covered by subpart CC without continuous monitoring. The proposed new approach provides a

clearer structure than the existing standard, which was not designed to accommodate both certification and evaluation.

Proposed Section 1926.1427(c) - Certification and Licensing.

Under paragraph (c), the employer must ensure that each operator is certified or licensed to operate the equipment. Proposed paragraph (c) retains the certification and licensing structure of the existing standard with only a few minor modifications intended to improve comprehension of certification/licensing requirements. For example, OSHA proposes to remove the somewhat misleading reference to an “option” with respect to mandatory compliance with existing state and local licensing requirements that meet the minimum requirements under federal law.

Proposed Section 1926.1427(d) - Certification by an Accredited Crane Operator Testing Organization.

Proposed paragraph (d) retains the requirements of existing §1926.1427(b), except that the proposed rule removes the requirement for certification by capacity of crane, as required in existing paragraph (b)(1)(ii)(B) and (b)(2). The need for this change is explained in the “Need for a Rule” section of the NPRM. The proposed rule also makes some non-substantive language clarifications. Compliance with the requirements of proposed paragraph (d) is the option that OSHA expects the vast majority of employers to use.

Proposed Section 1926.1427(f) - Evaluation.

Proposed paragraph (f) sets out new specific requirements that employers must follow to conduct an operator evaluation and reevaluation, including documentation requirements. Proposed paragraph (f)(4) requires the employer to document the

evaluation of each operator and to ensure that the documentation is available at the worksite. This paragraph also specifies the information that the documentation would need to include: the operator's name, the evaluator's name, the date of the evaluation, and the make, model and configuration of the equipment on which the operator was evaluated. However, the documentation would not need to be in any particular format.

Under the NPRM, not all operators exempted from certification requirements would also be exempted from the evaluation requirements. Proposed §1926.1427(a)(2) continues the existing exemption from the training and certification requirements in that section for operators of three types of equipment: derricks, sideboom cranes, and equipment with a maximum manufacturer-rated hoisting/lifting capacity of 2,000 pounds or less. In the current crane standard, these three types of equipment are exempt from all of the requirements in §1926.1427 as the result of language in §1926.1427(a) and specific exemptions in §§1926.1436(q), 1440(a), and 1441(a). The proposed rule would not, however, exempt employers from the requirements in §1926.1427(f) to evaluate the potential operators of those types of equipment to ensure that they have sufficient knowledge and skills to perform the assigned tasks with the assigned equipment. Accordingly, OSHA proposes to preserve the evaluation requirements through the revision of the language in §1926.1427(a) and corresponding edits to narrow the exemptions in §§1926.1436(q), 1440(a), and 1441(a).

Proposed Section 1926.1427(h) - Language and Literacy.

Existing §1926.1427(h) allows operators to be certified in a language other than English, provided that the operator understands that language. Proposed paragraph (h) is

nearly identical to existing paragraph (h) with the exception that it removes the reference to the existing qualification language in paragraph (b)(2), which has been replaced.

Proposed Sections 1926.1436(q) - Derricks, 1926.1440(a) - Sideboom Cranes, and 1926.1441(a) - Equipment with a Rated Hoisting/Lifting Capacity of 2,000 Pounds or Less.

As discussed earlier, OSHA proposed to amend paragraphs §§ 1926.1436(q) 1926.1440(a), and 1926.1441(a) to ensure that the evaluation requirements in § 1926.1427(f) apply to employers using derricks, sideboom cranes, and equipment with a rated capacity of 2,000 pounds or less.

Type of Review: New.

Agency: DOL-OSHA.

Title: Cranes and Derricks in Construction: Operator Qualification.

ICR Reference Number: 201710-1218-002

Total Estimated Number of Annualized Respondents: 117,130.

Total Estimated Number of Annualized Responses: 75,591.

Total Estimated Number of Annual Burden Hours: 4,773.

Response Frequency: Various.

Total Number of Annual Other Costs Burden: \$71.

E. Public Participation – Submission of Comments on this Document and Internet Access to Comments and Submissions

The agency encourages commenters to submit their comments related to the agency's clarification of the information collection requirements to the docket for this document (Docket Number OSHA-2018-0009). For instructions on submitting these

comments to the docket for this document, see the sections of this Federal Register document titled “**DATES**” and “**ADDRESSES**”. Please note that comments on the information collection requirements already submitted to the agency in response to the NPRM will be considered; the public need not resubmit those comments in response to this solicitation. (See: <https://www.regulations.gov/document?D=OSHA-2007-0066-0679>.) Please also note that the docket for this document, Docket Number OSHA-2018-0009, exists solely to collect comments on the information collection requirements in the NPRM. The NPRM and the other relevant documents for that rulemaking are in Docket Number OSHA-2007-0066, available on <http://www.regulations.gov>.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this document. The authority for this document is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor’s Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on July 17, 2018.

Loren Sweatt,
Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018-15687 Filed: 7/27/2018 8:45 am; Publication Date: 7/30/2018]