

Note to Reviewer

This ICR is being submitted in association with a proposed rule related to cranes and derricks operator qualification. The agency asks that OMB file comment on this request should any public comments address the information collections.

In short succession, OSHA is issuing two NPRMs revising the Cranes and Derricks in Construction Information Collection (OMB control number 1218-0261). These actions are: “Cranes and Derricks in Construction: Railroad Roadway Work” and “Cranes and Derricks in Construction: Operator Qualification.” Due to the anticipated concurrent timing of the two NPRMs, the Agency will revise the Cranes and Derricks in Construction Information Collection (IC) to include the information collection changes created by the Railroad Roadway Work NPRM.

OSHA is requesting a separate OMB control number for the Operator Qualification NPRM. While the Operator Qualification NPRM revises existing regulatory text in Subpart CC—Cranes and Derricks in Construction, this ICR will discuss the burden hours and costs for the proposed changes as new collections of information associated with the operator qualification rulemaking (29 CFR 1926.1427).

When the Operator Qualification rule is finalized, OSHA will request approval to amend the Cranes and Derricks in Construction Information Collection (OMB control number 1218-0261) to incorporate this ICR analysis and discontinue the new OMB control number. The agency expects that request will be submitted as a non-material change, since the collections will be unchanged.

**SUPPORTING STATEMENT FOR
THE INFORMATION COLLECTION REQUIREMENTS FOR
THE STANDARD ON
CRANES AND DERRICKS IN CONSTRUCTION
(29 CFR PART 1926, SUBPART CC)¹: OPERATOR QUALIFICATION
OFFICE OF MANAGEMENT AND BUDGET (OMB)
CONTROL NUMBER 1218-0NEW (May 2018)**

This ICR is associated with the Cranes and Derricks in Construction: Operator Qualification Notice of Proposed Rulemaking. The Department anticipates public comments that may cause changes to the information collection requirements; consequently, the Department requests OMB comment on this request to allow the Agency to address the public comments.

A. JUSTIFICATION

¹The purpose of this Supporting Statement is to analyze and describe the burden hours and costs associated with provisions of the Standard that contain paperwork requirements. Accordingly, this Supporting Statement does not provide information or guidance on how to comply with, or how to enforce, these provisions.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The main objective of the Occupational Safety and Health Act of 1970 (i.e., “the Act”) is to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651). To achieve this objective, the Act authorizes “the development and promulgation of occupational safety and health standards” (29 U.S.C. 651).

Section 6(b)(7) of the Act specifies that “[a]ny standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure.” This provision goes on to state that “[t]he Secretary, in consultation with the Secretary of Health and Human Services, may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning . . . as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard” (29 U.S.C. 655).

With regard to recordkeeping, the Act specifies that “[e]ach employer shall make, keep and preserve, and make available to the Secretary . . . such records . . . as the Secretary . . . may prescribe by regulation as necessary or appropriate for the enforcement of this Act . . .” (29 U.S.C. 657). The Act states further that “[t]he Secretary . . . shall prescribe such rules and regulations as [he/she] may deem necessary to carry out [his/her] responsibilities under this Act, including rules and regulations dealing with the inspection of an employer’s establishment” (29 U.S.C. 657).

Under the authority granted by the Act, the Occupational Safety and Health Administration (i.e., “OSHA” or “the Agency”) published at 29 CFR part 1926, subpart CC, a safety standard for the construction industry that regulates cranes and derricks (i.e., “the standard”).

OSHA proposes to amend 29 CFR 1926 subpart CC to revise sections that address crane operator training, certification/licensing, and competency. The purposes of the amendments include clarification and permanent extension of the employer duty to evaluate potential operators for their ability to safely operate equipment covered by subpart CC and to require documentation of that evaluation. This proposed rule is based on extensive feedback received from the construction industry, who informed OSHA that merely ensuring crane operators are certified does not verify that certified operators have sufficient crane knowledge and operating skills to safely perform crane operations at construction sites.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the Agency has made of the information received from the current collection.

The requirements are listed below by section. The specific paragraphs requiring the collections of information are listed in brackets directly below the title for each section. The full text of those paragraphs is included, along with additional headings and paragraphs where necessary for context. The text of the paragraphs requiring information collections is double underlined. The text of other provisions provided for context is not underlined.

A. Operator Qualification and Certification (§§ 1926.1427, 1436, 1440, and 1441)

[§§ 1926.1427(a) (introductory text), (b)(4)(iii), (b)(4)(iv), (c)(1), (d)(1)-(4), (e)(1), (e)(2), (e)(3), (e)(4), (e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii), (f)(1), (f)(3)(iv), (f)(4)(ii), (h)(1) and (h)(2); 1436(q); 1440(a); and 1441(a).]

§ 1926.1427(a) -- The employer must ensure that each operator is trained, certified/licensed and evaluated in accordance with this section before operating any equipment covered under subpart CC, except for the equipment listed in paragraph (a)(2).

Purpose: Compliance with these requirements ensures that the equipment will be operated only by qualified persons, thereby reducing the likelihood of injuries from improperly operated equipment. The administration of the certification examination and the evaluation are not collections of information pursuant to 5 CFR 1320.3(h)(7) (General exemption from the definition of “information” for “examinations designed to test the aptitude, abilities, or knowledge of the persons tested and the collection of information for identification or classification in connection with such examinations.”) OSHA assumes that the certification determination will be documented, and requires the evaluation to be documented. Therefore, OSHA does not include any burden for these activities (e.g., operator labor and travel time) under Item 12 of this Supporting Statement. Nor does the Agency take costs for testing costs under Item 13.

Furthermore, the requirement that employers provide training to workers is not considered to be a collection of information. Therefore, OSHA does not take burden for this activity under Item 12 of this Supporting Statement.

§ 1926.1427(b)(4)(i) -- *Trainer*. While operating the equipment, the operator-in-training must be continuously monitored by an individual (“operator’s trainer”) who meets all of the following requirements:

* * *

(iii) For equipment other than tower cranes: The operator's trainer and the operator-in-training must be in direct line of sight of each other. In addition, they must communicate verbally or by hand signals. For tower cranes: The operator's trainer and the operator-in-training must be in direct communication with each other.

Purpose: This provision requires an operator-in-training operating equipment other than a tower crane and the trainer to be in each other's direct line of sight. It also requires that they communicate verbally or by hand signals. For tower cranes, the operator-in-training and the operator must be in direct communication with each other. It is important to have clear communication protocols to ensure that the trainer can properly guide the operator-in-training for safe operation of the equipment. OSHA considers this provision to be a collection of information, but considers this a usual and customary work practice for the industry. Therefore, OSHA is not taking burden for this paperwork requirement in Item 12 below.

§ 1926.1427(b)(4)(iv) -- *Continuous monitoring.* The operator-in-training must be monitored by the operator's trainer at all times, except for short breaks where all of the following are met:

* * *

(B) Immediately prior to the break the operator's trainer informs the operator-in-training of the specific tasks that the operator-in-training is to perform and limitations to which he/she must adhere during the operator trainer's break.

Purpose: This provision ensures that operators-in-training will not operate the crane to perform tasks beyond that trainee's level of skill while the trainer is on break. This restriction reduces the likelihood of injury resulting from the operation of the crane by the trainee. The requirement that employers provide training to workers is not considered to be a collection of information. Therefore, OSHA is does not take burden for this activity under Item 12 of this Supporting Statement.

§ 1926.1427(c) -- *Operator certification and licensing.*

(c) Operator certification and licensing. The employer must ensure that each operator is certified or licensed to operate the equipment as follows:

(1) Licensing. When a state or local government issues operator licenses for equipment covered under subpart CC, the equipment operator must be licensed by that government entity for operation of equipment within that entity's jurisdiction if that government licensing program meets the following requirements:

* * *

(vi) For the purposes of compliance with this section, a license is valid for the period of time stipulated by the licensing department/office, but no longer than 5 years.

* * *

Purpose: The documentation requirements for government licensing and auditing are used by employers as an administrative control for ensuring that equipment operators meet the government licensing criteria. While the administration of the certification or licensing examination is not itself a collection of information pursuant to 5 CFR 1320.3(h)(7), OSHA assumes that this determination will be documented, which does result in a collection of information. OSHA believes that, as a practical matter, most employers will choose to maintain file copies of each operator's license as a matter of administrative expediency. Therefore, OSHA assumes that a copy of this license would be retained and maintained by the employer. The burden for this retention and maintenance is taken under § 1926.1427(a). The Agency is not taking any separate burden for § 1926.1427(c)(1).

Paragraph (c)(1)(vi) of this section requires that a license issued by a government entity is only valid for up to five years. The purpose of this requirement is to periodically test the abilities of operators to ensure they retain the knowledge and skill required to operate a crane.

§1926.1427(d) -- *Certification by an accredited crane operator testing organization.*

(1) For a certification to satisfy the requirements of this section, the crane operator testing organization providing the certification must:

(i) Be accredited by a nationally recognized accrediting agency based on that agency's determination that industry-recognized criteria for written testing materials, practical examinations, test administration, grading, facilities/equipment and personnel have been met.

(ii) Administer written and practical tests that:

(A) Assess the operator applicant regarding, at a minimum, the knowledge and skills listed in paragraphs (j)(1) and (2) of this section.

(B) Provide certification based on equipment type, or type and capacity.

(iii) Have procedures for operators to re-apply and be re-tested in the event an operator applicant fails a test or is decertified.

(iv) Have testing procedures for re-certification designed to ensure that the operator continues to meet the technical knowledge and skills requirements in paragraphs (j)(1) and (2) of this section.

(v) Have its accreditation reviewed by the nationally recognized accrediting agency at least every three years.

(2) If no accredited testing agency offers certification examinations for a particular type of equipment, an operator will be deemed certified for that equipment if the operator has been certified for the type that is most similar to that equipment and for which a certification examination is available. The operator's certificate must state the type of equipment for which the operator is certified.

(3) A certification issued under this option is portable among employers who are required to have operators certified under this option.

(4) A certification issued under this paragraph is valid for 5 years.

Purpose: The Agency views operator certification validated by an independent entity as a critical step in ensuring that operators are qualified to operate cranes safely, thereby reducing the likelihood of injuries from improperly operated equipment. The requirements in § 1926.1427(d)(1)(i) ensure that the tests meet nationally-recognized test administration standards. While the administration of the certification examination is not itself a collection of information pursuant to 5 CFR 1320.3(h)(7), OSHA assumes that the results will be documented and the employer will maintain that documentation.

The requirement in § 1926.1427(d)(2) regarding the wording of the certificate will facilitate employers' compliance with the requirements of § 1926.1427. By referring to the operator's certificate, the employer will be able to ensure that operators are only permitted to operator the type of cranes that they have demonstrated they can operate safely.

All paperwork burdens for this provision are taken under § 1926.1427(a), so the Agency is not taking any separate burden for § 1926.1427(d).

§ 1926.1427(e) -- Audited employer program. The employer's certification of its employee must meet the following requirements:

(1) The written and practical tests must be either:

(i) Developed by an accredited crane operator testing organization (see paragraph (d) of this section); or

(ii) Approved by an auditor in accordance with the following requirements:

(A) The auditor is certified to evaluate such tests by an accredited crane operator testing organization (see paragraph (d) of this section).

(B) The auditor is not an employee of the employer.

(C) The approval must be based on the auditor's determination that the written and practical tests meet nationally recognized test development criteria and are valid and reliable in assessing the operator applicants regarding, at a minimum, the knowledge and skills listed in paragraphs (j)(1) and (2) of this section.

(D) The audit must be conducted in accordance with nationally recognized auditing standards.

(2) Administration of tests.

(i) The written and practical tests must be administered under circumstances approved by the auditor as meeting nationally recognized test administration standards.

(ii) The auditor must be certified to evaluate the administration of the written and practical tests by an accredited crane operator testing organization (see paragraph (d) of this section).

(iii) The auditor must not be an employee of the employer.

(iv) The audit must be conducted in accordance with nationally recognized auditing standards.

(3) The employer program must be audited within 3 months of the beginning of the program and at least every 3 years thereafter.

(4) The employer program must have testing procedures for re-qualification designed to ensure that the operator continues to meet the technical knowledge and skills requirements in paragraphs (j)(1) and (2) of this section. The re-qualification procedures must be audited in accordance with paragraphs (e)(1) and (2) of this section.

(5) Deficiencies. If the auditor determines that there is a significant deficiency ("deficiency") in the program, the employer must ensure that:

* * *

(ii) The program is audited again within 180 days of the confirmation that the deficiency was corrected.

(iii) The auditor files a documented report of the deficiency to the appropriate Regional Office of the Occupational Safety and Health Administration within 15 days of the auditor's determination that there is a deficiency.

(iv) Records of the audits of the employer's program are maintained by the auditor for three years and are made available by the auditor to the Secretary of Labor or the Secretary's designated representative upon request.

(6) A certification under this paragraph is:

(i) Not portable. Such a certification meets the requirements of paragraph (c) of this section only where the operator is employed by (and operating the equipment for) the employer that issued the qualification.

(ii) Valid for 5 years.

Purpose: The testing requirements in paragraphs (e)(1)(ii) and (e)(2)(i) of this section help ensure that operators are capable of operating the equipment safely. While the administration of the certification examination is not itself a collection of information pursuant to 5 CFR 1320.3(h)(7), OSHA considers the documentation resulting from those examinations and the resulting audits to be a collection of information. The paragraphs require an auditor to determine that the tests and the administration of the employer's testing procedures meet nationally-recognized test administration standards. OSHA assumes that most auditors will document this determination.

Paragraph (e)(3) of this section requires an audited employer program to be audited within three months of the beginning of the program and every three years thereafter. OSHA assumes that most auditors will document the result of these audits.

Paragraph (e)(4) of this section requires the employer program to have testing procedures for re-qualification designed to ensure operators still meet the knowledge and skill requirements of paragraphs (j)(1) and (j)(2) of this section. These re-qualification procedures must be audited in accordance with paragraphs (e)(1) and (e)(2) of this section. OSHA assumes that most auditors will document the result of these audits.

The exchange of information required in paragraph (e)(5)(ii) of this section ensures that the minimum qualifications specified by § 1926.1427(j) are being adequately and consistently tested. OSHA assumes that most auditors will document the results of this re-audit.

The documentation required in paragraphs (e)(5)(iii) and (e)(5)(iv) of this section requires the filing and maintenance of reports to facilitate enforcement of the requirements.

Paragraph (e)(6)(ii) of this section requires that an employer-audited program certification is only valid for five years. The purpose of this requirement is to periodically test the abilities of an operator to ensure they retain the knowledge and skill required to operate a crane.

§1926.1427(f)(4) – *Evaluation.*

(4) The employer must document the completion of the evaluation. This document must provide: the operator's name; the evaluator's name and signature; the date; and the make,

model, and configuration of equipment used in the evaluation. The employer must make the document available at the worksite.

Purpose: This provision requires an employer to document an operator's successful completion of an evaluation. While the administration of the evaluation is not itself a collection of information pursuant to 5 CFR 1320.3(h)(7), OSHA assumes that this determination will be documented, which does result in a collection of information. Documenting completion of the evaluation provides a record of whether the operator can safely and competently use particular equipment. The document is required to be available at the worksite so that others can verify the operator's qualifications and the employer can ensure that the operator is assigned to appropriate equipment.

§ 1926.1427(h) -- *Language and Literacy Requirements.*

(1) Tests under this section may be administered verbally, with answers given verbally, where the operator candidate:

(i) Passes a written demonstration of literacy relevant to the work.

(ii) Demonstrates the ability to use the type of written manufacturer procedures applicable to the class/type of equipment for which the candidate is seeking certification.

(2) Tests under this section may be administered in any language the operator candidate understands, and the operator's certification documentation must note the language in which the test was given. The operator is only permitted to operate equipment that is furnished with materials required by this subpart, such as operations manuals and load charts, that are written in the language of the certification.

Purpose: This written-literacy requirement in paragraph § 1926.1427(h)(1) will be an essential administrative means for ensuring that operators have sufficient literacy to read and comprehend written materials that relate to critical aspects of operation, such as load charts and manufacturer's manuals. The requirement in § 1926.1427(h)(2) will facilitate employers' compliance with the requirements of § 1926.1427 and ensure that an operator does not operate a crane without access to the essential manuals, warnings, and other material presented in a language that he or she can understand. By referring to the operator's certificate, the employer will be able to ensure that crane contains materials in the appropriate language.

The Agency notes that the testing entity is likely to retain the documentation of the results of the two parts of the literacy test. The agency is taking a small burden for this documentation to address certification offered under employer certification because in that situation the employer will be the testing organization. However, the Agency is not taking a burden for other certification where the testing will be performed by a third party. In addition, the Agency considers the few specific words required to be included in the certificate (language in which operator was tested) to be a *de minimis* burden and is not calculating it separately in Item 12.

Moreover, the Agency does not consider the test itself to be either a collection of information or a burden because aptitude tests are expressly exempted under the applicable regulations. See 5 CFR 1320.3(h)(7) (General exemption from the definition of “information” for “examinations designed to test the aptitude, abilities, or knowledge of the persons tested and the collection of information for identification or classification in connection with such examinations.”)

§ 1926.1436(q) -- Qualification and Training. The employer must train each operator of a derrick on the safe operation of equipment the individual will operate. Section 1926.1427 of this subpart (Operator qualification and certification) does not apply, except for the evaluation requirements of §1926.1427(f).

Purpose: OSHA is revising this section so that §1926.1427(f) – *Evaluation* will apply to operators of this type of equipment. That provision requires documentation of the evaluation to help ensure that employers can effectively track whether the operator is qualified to operate particular equipment. The burden for documenting evaluations of derrick operators is taken under §1926.1427(f). The requirement that employers provide training to workers is not considered to be a collection of information. Therefore, OSHA does not take burden for this training activity under Item 12 of this Supporting Statement.

§ 1926.1440(a) -- The provisions of this subpart apply, except § 1926.1402 (Ground conditions), § 1926.1415 (Safety devices), § 1926.1416 (Operational aids), and § 1926.1427 (Operator training, certification, and evaluation) paragraphs (a-e) and (g)-(k). Section 1926.1427(f) (Evaluation) applies.

Purpose: Sideboom cranes are exempted from the requirements specified in §§ 1926.1402, 1926.1415, 1926.1416, and 1926.1427 because of the limited capacity and relative simplicity involved in the operation of sideboom cranes. OSHA is revising this section so that §1926.1427(f) – *Evaluation* will apply to operators of this type of equipment. The burden for documenting evaluations of these sideboom cranes is taken under §1926.1427(f). This paragraph requires general compliance with most requirements in subpart CC, including a number of information exchange requirements. Each of the requirements is identified above (except for § 1926.1441, which is discussed below) and the purposes of the collections are set forth in relation to those sections. The paperwork burdens for those requirements, where applicable, are taken under the appropriate sections.

§ 1926.1441(a) – The employer using this equipment must comply with the following provisions of this subpart: § 1926.1400 (Scope); § 1926.1401 (Definitions); § 1926.1402 (Ground conditions); § 1926.1403 (Assembly/disassembly—selection of manufacturer or employer procedures); § 1926.1406 (Assembly/disassembly—employer procedures); §§ 1926.1407 through 1926.1411 (Power line safety); § 1926.1412(c) (Post-assembly); §§ 1926.1413 through 1926.1414 (Wire rope); § 1926.1418 (Authority to stop operation); §§ 1926.1419 through 1926.1422 (Signals); § 1926.1423 (Fall protection); § 1926.1425 (Keeping clear of the load) (except for § 1926.1425(c)(3) (qualified rigger)); § 1926.1426

(Free fall and controlled load lowering); §1926.1427(f) (Evaluation); § 1926.1432 (Multiple crane/derrick lifts—supplemental requirements); § 1926.1434 (Equipment modifications); § 1926.1435 (Tower cranes); § 1926.1436 (Derricks); § 1926.1437 (Floating cranes/derricks and land cranes/derricks on barges); § 1926.1438 (Overhead & gantry cranes).

Purpose: This paragraph requires general compliance with many of the requirements in subpart CC, including §1926.1427(f) and a number of other information exchange requirements. Each of the requirements is identified above and the purposes of the collections are set forth in relation to those sections. The paperwork burdens for those requirements, where applicable, are taken under the appropriate sections.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Employers would be able to use automated, electronic, mechanical, or other technological information-collection techniques, or other forms of information technology when establishing and retaining the required records. The Agency wrote the paperwork requirements of the Standard in performance-oriented language (i.e., in terms of what data to collect, not how to document the data).

However, several paragraphs of this standard will require employers to prepare written documents to document employee qualifications. The following paragraphs of this standard have been identified for these purposes: 1926.1427(a), 1926.1427(c)(1), 29 CFR 1926.1427(f)(4), 29 CFR 1926.1427(h)(1)(i) and 29 CFR 1926.1427(h)(1)(ii).

Employers may prepare and maintain the written documents in electronic form, provided that where a signature is required such signature is captured in electronic form. Alternatively, employers may prepare a paper document and scan and maintain electronic copies of these documents.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The requirements to collect and retain information are specific to each piece of equipment and the conditions under which it is operated, and no other source or agency duplicates these requirements or can make the information available to OSHA (i.e., the information is available only from employers).

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize the burden.

The information-collection requirements specified by the Standard would not have a significant impact on a substantial number of small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing the burden.

The Agency believes that the information-collection frequencies required by the Standard are the minimum frequencies that would be necessary to effectively regulate the equipment covered by this standard and, thereby, fulfill its mandate “to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources” as specified in the Act at 29 U.S.C. 651. Accordingly, if employers do not perform the information collections, or delay in providing this information, employees may be subject to an increased risk of death and serious injury when working on or near cranes or derricks.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can prove that it has instituted**

procedures to protect the information's confidentially to the extent permitted by law.

The 5-year time period for a valid third-party crane operator certification, as required by proposed 1926.1427(d)(4), is a long-standing industry practice. The third-party certification organizations established this time period prior to the issuance of OSHA's Crane and Derricks in Construction Final Rule in 2010 (75 FR 47906). The time period was recommended by industry stakeholders during negotiated rulemaking. Likewise, the 5-year time period for a valid certification issued by an employer-audited program in proposed 1926.1427(e)(6)(ii) matches the time period for the third-party certification.

No other special circumstances exist that would require employers to collect the information using the procedures specified by this Item. The requirements are within the guidelines set forth in 5 CFR 1320.5.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to those comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

In addition to submitting comments directly to the Agency, members of the public who wish to comment on the Agency's information collection requirements in this proposal may send written comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the DOL-OSHA (RIN-1218-AC96), Office of Management and Budget, Room 10235, Washington, DC 20503. They may also submit comments to OMB by email at: OIRA_submission@omb.eop.gov. Please reference the ICR Reference Number 201710-1218-002 in order to help ensure proper consideration. The Agency encourages commenters also to submit their comments related to the Agency's clarification of the information collection requirements to the rulemaking docket (Docket Number OSHA-2007-0066), along with their comments on other parts of the proposed rule. For instructions on submitting these comments to the rulemaking docket, see the sections of the NPRM Federal Register notice titled DATES and ADDRESSES.

9. Explain any decision to provide any payments or gift to respondents, other than remuneration of contractors or grantees.

The Agency will not provide payments or gifts to the respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The information collection requirements specified by the Standard do not involve confidential information.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

None of information collection requirements in the Standard require sensitive information.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage-rate categories.**

RESPONDENT BURDEN-HOUR AND COST BURDEN DETERMINATIONS

The number of crane operators in this ICR, 117,130, reflects the Agency's best estimate of the number of crane operators affected by the rule.

In determining the wage rates for the various occupations that perform the information collection requirements, the Agency relied on the rates used in the PEA and in previous rulemakings updated with the latest available data. The estimated wages are based on the level of expertise and authority of the individuals when designated to perform duties required by the standard. Wage rates are from the 2016 Occupational Employment Statistics of the BLS. Standard Occupational Codes (SOC) are given for each case. Wages include fringe benefits, calculated from the Employer Costs for Employee Compensation database of the BLS. For the construction industry, series CMU2032300000000P, this gives a fringe benefit markup of 1.43. The estimated wage rates are listed as follows:

WAGE HOUR ESTIMATES				
Occupational Title	Standard Occupation Code	Mean Hour Wage Rate (A)	Fringe Benefits (B)	Loaded Hourly Wage Rate (C) = (A)x(B)
First-line Supervisors of Transportation and Material-Moving Machine and Vehicle Operators	53-1031	\$28.75	1.43	\$41.19
First-Line Supervisors of Construction Trades and Extraction Workers (Qualified Person)	47-1011	\$32.71	1.43	\$46.78
Crane and Tower Operators	53-7021	\$26.58	1.43	\$38.08
File Clerks (Clerical Employee)	43-4071	\$15.03	1.43	\$21.49

1) 29 CFR 1926.1427(a), (c)(1), (c)(1)(vi), (d)(2), (e)(6)(ii) and (h)(2)

OSHA estimates that a minimum of 117,130 operators per year will use equipment covered by this standard to perform construction work per year and the number of operators certified by crane type only will remain at 71,700 each year. OSHA further estimates that the 45,430 remaining operators lack certification.

As in previous ICRs associated with crane operator costs (*see* OMB #1218-0261), OSHA expects that many employers currently maintain documentation of employee certification, but OSHA nevertheless takes the burden for reviewing information on the certificate, (including information required by §1926.1427(d)(2) and (h)(2)), filing, and maintaining documents of all certificates or other proof of qualification. It is estimated that it would take a construction clerical employee 3 minutes (.05 hour) to review, file and maintain a copy of each operator’s certification document of one of the four methods available. Certification is valid for five years, so the annual recertification rate is 20%. The yearly burden hours and cost of this paragraph are estimated to be:

	Respondents	Frequency	Responses	Clerical Time	Burden Hours	Wage Rate	Cost
<i>First Year</i>							
Compliant	71,700	0.2	14,340	0.05	717	\$21.49	\$15,408
Non-compliant	45,430	1	45,430	0.05	2272	\$21.49	\$48,825
Subtotal	117,130		59,770		2,989		\$64,233
<i>Second Year</i>							
Compliant	90,190	0.2	18,038	0.05	902	\$21.49	\$19,384
New (23%)	26,940	1	26,940	0.05	1347	\$21.49	\$28,947
Subtotal	117,130		44,978		2,249		\$48,331
<i>Third Year</i>							
Compliant	90,190	0.2	18,038	0.05	902	\$21.49	\$19,384
New (23%)	26,940	1	26,940	0.05	1347	\$21.49	\$28,947
Subtotal	117,130		44,978		2,249		\$48,331
Total	351,390		149,726		7,487		\$160,895
3-Year Average	117,130		49,909		2,496		\$53,632

2) 29 CFR 1926.1427(f)(4); 29 CFR 1926.1436(q); 29 CFR 1926.1440(a); and 29 CFR 1926.1441(a)

OSHA requires employers to document completion of the evaluation and make the document available at the worksite. OSHA believes it will take an evaluator five minutes (.08 hours) to create and file the required documentation. In the PEA, OSHA estimates that ongoing each year there will be 13,470 successful initial assessments that will need documentation. In addition, there are a total of 2,324 new assessments, of which 2,020 (2,324 / 1.15) will be successful. Therefore, OSHA estimates that there will 15,490 (13,470 + 2,020) successful evaluations that will require documentation annually. In addition, there will also be 2,324 evaluations for operators switching equipment, performing new tasks, or being retrained. The yearly burden hours and cost of this paragraph are estimated to be:

Assessments	Respondents	Frequency	Responses	Supervisor Time	Burden Hours	Wage Rate	Cost
<i>First Year</i>							
<i>New</i>	2,020	1	2,020	0.08	162	\$41.19	\$6,673
<i>On-going</i>	13,470	1	13,470	0.08	1,078	\$41.19	\$44,403
<i>Re-testing</i>	2,324	1	2,324	0.08	186	\$41.19	\$7,661
<i>Previous Assessments Requiring Documentation</i>	17,570	1	17,570	0.08	1,406	\$41.19	\$57,913
Subtotal	35,384		35,384		2,832		\$116,650
<i>Second Year</i>							
<i>New</i>	2,020	1	2,020	0.08	162	\$41.19	\$6,673
<i>On-going</i>	13,470	1	13,470	0.08	1,078	\$41.19	\$44,403
<i>Re-testing</i>	2,324	1	2,324	0.08	186	\$41.19	\$7,661
<i>Old Operators</i>	0		0	0.08	0	\$41.19	\$0
Subtotal	17,814		17,814		1,426		\$58,737
<i>Third Year</i>							
<i>New</i>	2,020	1	2,020	0.08	162	\$41.19	\$6,673
<i>On-going</i>	13,470	1	13,470	0.08	1,078	\$41.19	\$44,403
<i>Re-testing</i>	2,324	1	2,324	0.08	186	\$41.19	\$7,661
<i>Old Operators</i>	0		0	0.08	0	\$41.19	\$0
Subtotal	17,814		17,814		1,426		\$58,737
Total	71,012		71,012		5,684		\$234,124
3-Year Average	23,671		23,671		1,895		\$78,041

3) 29 CFR 1926.1427(h)(1)(i) and (h)(1)(ii)

If testing candidates opt to have the tests required under this section administered to them

verbally, this provision requires the candidate to pass a written demonstration of literacy. OSHA estimates that a minimum of 117,130 operators per year will use equipment covered by this standard to perform construction work per year. As in previous ICRs associated with crane operator costs (*see* OMB #1218-0261), the Agency estimates that 10% of the operators tested each year will opt to take the test verbally. Therefore, OSHA construction staff assumes that it would take the testing entity, most likely a qualified person, 10 minutes (.17 hour) to generate and one minute (.02 hour) to maintain documentation of a demonstration of literacy. The yearly burden hours and cost of this paragraph are estimated to be:

	Respondents	Frequency	Responses	Operator Time	Burden Hours	Wage Rate	Cost
<i>First Year</i>							
Compliant	71,700	.02 (.2*.01)	1,434	0.19	272	\$41.19	\$11,204
Non-compliant	45,430	.01 (1*.01)	454	0.19	86	\$41.19	\$3,542
Subtotal	117,130		1,888		358		\$14,746
<i>Second Year</i>							
Compliant	90,190	.02 (.2*.01)	1,804	0.19	343	\$41.19	\$14,128
New (23%)	26,940	.01 (1*.01)	269	0.19	51	\$41.19	\$2,101
Subtotal	117,130		2,073		394		\$16,229
<i>Third Year</i>							
Compliant	90,190	.02 (.2*.01)	1,804	0.19	343	\$41.19	\$14,128
New (23%)	26,940	.01 (1*.01)	269	0.19	51	\$41.19	\$2,101
Subtotal	117,130		2,073		394		\$16,229
Total	351,390		6,034		1,146		\$47,204
3-Year Average	117,130		2,011		382		\$15,735

Table A - Summary of Estimated Annualized Respondent Hour and Cost Burden

Information Collection Requirement(s)	Type of Respondent	No. of Respondents	No. of Responses per Respondent	Total No. of Responses	Average Burden per Response (in hours)	Total Burden Hours (rounded)	Avg. Hourly Wage Rate	Total Burden Costs (rounded)
(1) 29 CFR 1926.1427(a), (c)(1), (c)(1)(vi), (d)(2), (e)(6)(ii) and (h)(2)								
	Clerical	117,130	0.42610	49,909	0.05	2,496	\$21.49	\$53,632
(2) 29 CFR 1926.1427(f)(4); 29 CFR 1926.1436(q); 29 CFR 1926.1440(a); and 29 CFR 1926.1441(a)								
	Supervisor	23,671	1	23,671	0.08	1,895	\$41.19	\$78,041
(3) 29 CFR 1926.1427 (h)(1)(i) and (h)(1)(ii)								
	Supervisor	117,130	0.01717	2,011	0.19	382	\$41.19	\$15,735
GRAND TOTAL				75,591		4,773		\$147,408

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondent (fewer than 10), utilize the 60-day pre-OMB submission public**

comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

• **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

29 CFR 1926.1427(e)

While OSHA had previously estimated that as many as 10 employers might choose to certify its own employees in accordance with 29 CFR 1926.1427(e), almost a decade has passed since the promulgation of the rule and OSHA is not aware of any such programs anywhere in the country. Despite this, for the purpose of calculating paperwork costs, OSHA construction staff estimates that at least one employer will opt to get accredited and certify its own employees in accordance with 1926.1427(e).

In addition, it is assumed that this employer will provide testing materials to an auditor for approval because it is believed that obtaining a test from accredited crane/derrick testing organizations would most likely not be cost effective for the employer or the accredited testing organization will not provide tests for employers. When employers choose to have their tests audited, it is estimated that it would take the auditor, most likely a qualified educator/manager, 2 hours to review and approve the test the employer would submit for approval. It is also very likely that the auditor will document this approval. This audit will occur every three years, so the annual audit rate is 33%. Because the audit of the re-qualification procedures required by 29 CFR 1926.1427(e)(4) would take place during the audit of the entire program, the burden hours and cost are captured in the following calculation. The yearly burden hours and cost of this paragraph are estimated to be:

Burden hours: 1 (employer) x 2 hours (time to review/approve/document) x .33 (annual audit rate) = .66 hours per year

Cost: .66 hours per year x \$41.29 (wage of qualified person- auditor) = \$27.00 per year (rounded)

2) 29 CFR 1926.1427(e)(2)(i), (e)(3), and (e)(4)

OSHA construction staff estimates that at least one employer will opt to get accredited and certify its own employees. It is estimated that it would take an auditor, most likely a qualified educator/manager, 2 hours to review and approve the testing circumstances in accordance with this paragraph. This audit will occur every three years, so the annual audit rate is 33%. Because the audit of the re-qualification procedures required by 29 CFR 1926.1427(e)(4) would take place during the audit of the entire program, the burden

hours and cost are captured in the following calculation. The yearly burden hours and cost of this paragraph are estimated to be:

Burden hours: 1 (employers) x 2 hours (time to review/approve) x .33 (annual audit rate) = .66 hours per year

Cost: .66 hours per year x \$41.29 (wage of qualified person- auditor) = \$27.00 per year (rounded)

3) 29 CFR 1926.1427(e)(3), (e)(5)(ii), and (e)(5)(iv)

OSHA construction staff estimates that at least one employer will opt to get accredited and certify its own employees in accordance with 1926.1427(e). It is estimated that it would take an auditor, most likely a qualified educator/manager, 30 minutes (.5 hour) to document the audit and maintain that record for three years and make it available to the Secretary of Labor upon request. This audit will occur every three years, so the annual audit rate is 33%. The yearly burden hours and cost of this paragraph are estimated to be:

Burden hours: 1 (employer) x .5 hour (time to document/maintain/make available) x .33 (annual audit rate) = .17 hours per year

Cost: .17 hours per year x \$41.29 (wage - qualified person, auditor) = \$7.00 per year (rounded)

4) 29 CFR 1926.1427(e)(5)(iii)

OSHA estimates that one of the employers covered by this standard would fail the audit of its test and test administration required by this provision. Therefore it is estimated that it would take an auditor 15 minutes (.25 hour) to file a report to an OSHA Regional Office regarding certification program deficiencies discovered during an audit. The yearly burden hours and cost of this paragraph are estimated to be:

Burden hours: 1 (employer who program fails) x .25 hour (time to file documents with OSHA) = .25 hours per year

Cost: .25 hours per year x \$41.29 per hour (wage- qualified person, auditor) = \$10 per year

Table B

Capital Costs, Program Changes and Adjustments for the Information Collection Requirements as Compared to Approved Costs for OMB Control Number 1218-0261

Information Collection Requirements Item 13	Approved Capital Costs (OMB Control # 1218-0261)	Requested Capital Costs Item 13	Capital Cost Program Change
29 CFR 1926.1427(e)(1)(ii), (e)(3), and (e)(4)	\$273	\$27	-\$246
29 CFR 1926.1427(e)(2)(i), (e)(3), and (e)(4)	\$273	\$27	-\$246
29 CFR 1926.1427(e)(3), (e)(5)(ii) and (e)(5)(iv)	\$68	\$7	-\$61
29 CFR 1926.1427(e)(5)(iii)	\$41	\$10	-\$31
Totals	\$655	\$71	-\$584

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The requirements of the PRA do not apply to disclosure of records during an investigation of specific individuals or entities (see 5 CFR 1320.4(a)(2)). OSHA would only review records in the context of an open investigation of a particular employer to determine compliance with the Standard. Therefore, OSHA is not identifying any burden or cost for this provision in this Supporting Statement.

OSHA estimates that an administrative assistant (GS-7, step 6) with an hourly wage rate of \$22.38² and a fringe benefit rate of 34.4 percent³, would spend about 15 minutes (.25 hour) filing and maintaining the documented report submitted by an operator certification/qualification program auditor. This report identifies deficiencies in an employer’s operator certification/qualification program as required by paragraph 1926.1427(c)(5)(iii). The Agency estimates that OSHA Area Offices would receive about one of these reports each year. OSHA considers other expenses, such as equipment, overhead, and support staff salaries, to be normal operating expenses that would occur

² Source: OPM SALARY TABLE 2016-RU (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/16Tables/html/RUS_h.aspx).

³ Source: The overall rate is on the third page, in the table ‘Calculation For FY 2017 Fringe Benefit Rates For Appropriated Funds’, http://comptroller.defense.gov/Portals/45/documents/rates/fy2017/2017_d.pdf.

without the paperwork requirements specified by the Standard. Therefore, the total cost of these information collection requirements to the Federal government is:

Cost: 1 report x .25 hour x \$22.38 / (1-.344) = \$34.12 per year

15. Explain the reasons for any program changes or adjustments.

The Agency is requesting a total burden hour program change increase of 4,773 hours related to new evaluation documentation burden hours for 29 CFR 1926.1427(f). The increase is also related to increased certification recordkeeping costs consistent with the PEA assumptions. The Agency is not requesting capital costs associated with the NPRM.

The Agency is seeking approval for this Supporting Statement under a new OMB Control number because there is a pending, separate revision of the comprehensive Cranes and Derricks in Construction Standard ICR (OMB Control Number 1218-0261) for another rulemaking under development. Since this is a new IC, at this time the Agency can only report changes as Program Changes in OMB's data base. However, the estimated burden hour and costs adjustments estimated in this package will be counted when this IC is merged with the existing Cranes and Derricks in Construction Standard ICR.

If this Supporting Statement had amended the Cranes and Derricks in Construction Standard (OMB Control Number 1218-0261) ICR, this action would include an adjustment of 1,835 burden hours and a 1,895 burden hour program change. The program change increase would be related to the evaluation recordkeeping costs of proposed 29 CFR 1926.1427(f)(4). This adjustment increase would be related to increased certification recordkeeping costs consistent with the PEA assumptions. Also, the change would result in an adjustment decrease of \$584 in capital costs due to the Agency's belief that no employers will opt to get accredited and certify its own employees in accordance with 1926.1427(e).

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection information, completion of report, publication dates, and other actions.

OSHA will not publish the information collected under the Standard.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There are no forms on which to display the expiration date.

18. Explain each exception to the certification statement.

OSHA is not seeking an exception to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This Supporting Statement does not contain any collections of information that employ statistical methods.

Table C
Burden Hours, Program Changes and Adjustments for the Information Collection Requirements as Compared to Approved Burden Hours for OMB Control Number 1218-0261

Item 12 Information Collection Requirement	Approved Burden Hours (OMB # 1218-0261)	Requested Burden Hours	Adjustment	Program Change
(1) 29 CFR 1926.1427(a), (c)(1), (c)(1)(vi), (d)(2), (e)(6)(ii) and (h)(2)	820	2,496	1,676	0
(2) 29 CFR 1926.1427(f)(4); 29 CFR 1926.1436(q); 29 CFR 1926.1440(a); and 29 CFR 1926.1441(a)	0	1,895	0	1,895
(3) 29 CFR 1926.1427(h)(1)(i), (ii)	223	382	159	0
Totals	1,043	4,773	1,835	1,895