

### **Note to Reviewer**

This ICR is being submitted in association with a final rule related to cranes and derricks operator qualification.

In short succession earlier in 2018, OSHA issued two NPRMs revising the Cranes and Derricks in Construction Information Collection (OMB control number 1218-0261). These actions were: “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 revised the Cranes and Derricks in Construction Information Collection (IC) to include the information collection changes created by the Railroad Roadway Work NPRM. OSHA requested and received a separate OMB control number for the Operator Qualification NPRM: 1218-0270.

While the Operator Qualification final rule revises existing regulatory text in Subpart CC—Cranes and Derricks in Construction, this ICR will discuss the burden hours and costs for the changes as new information collection requirements associated with the operator qualification rulemaking (29 CFR 1926.1427).

After this 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 OMB control number 1218-0270. 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)<sup>1</sup>: OPERATOR QUALIFICATION  
OFFICE OF MANAGEMENT AND BUDGET (OMB)  
CONTROL NUMBER 1218-0270 (November 2018)**

**This ICR is associated with the Cranes and Derricks in Construction: Operator Qualification Final Rule.**

#### **A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

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<sup>1</sup>The 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.

**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 is amending 29 CFR 1926 subpart CC to revise sections that address crane operator training, certification/licensing, and competency. The purposes of these amendments are to alter the requirement that crane-operator certification be based on equipment “type and capacity,” instead permitting certification based on equipment “type” or “type and capacity”; continue requiring training of operators; clarify and continue the employer duty to evaluate operators for their ability to safely operate equipment covered by subpart CC; and require documentation of that evaluation.

**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 information collection requirements 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 collection is double underlined. The text of other provisions provided for context is not underlined.

**A. Operator Qualification and Certification (§ 1926.1427)**

[§§ 1926.1427(a) (introductory text), (b)(4)(iii), (b)(4)(iv)(B), (c)(1), (c)(2), (c)(5), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4), (e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii), (f)(6), (h)(1)(i), (h)(1)(ii), and (h)(2)]

The primary new information collection requirement provision associated with the final rule is paragraph (f)(6). Paragraph (d)(2) also has changes. All other information collection requirements in the final rule are substantially similar, with the exception of minor editorial and numbering changes, to the provisions currently approved under the Cranes and Derricks in Construction ICR, OMB Control Number 1218-0261.<sup>2</sup> Procedurally, OSHA was not able to amend that ICR due to other rulemakings pending related to the same OMB control number at the time the final rule was published. (See also “Note to Reviewers” at the beginning of this document.)

§ 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 information collection requirements 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.”) Therefore, OSHA does not include any burden for these activities (e.g., operator labor and travel time, testing costs) in this Supporting Statement.

Furthermore, the requirement that employers provide training to workers is not considered to be an information collection requirement. Therefore, OSHA does not take burden for this activity in this Supporting Statement.

(OSHA includes this introductory language in the ICR because the ICR assumes that the certification determination will be documented, and requires the evaluation to be

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<sup>2</sup> See: <https://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=1218-0261> and <https://www.reginfo.gov/public/do/DownloadNOA?requestID=229639>.

documented. Those costs are addressed below 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 an information collection requirement, but considers this a usual and customary work practice for the industry. Therefore, OSHA is not taking burden for this paperwork requirement in this Supporting Statement.

§ 1926.1427(b)(4)(iv) -- *Continuous monitoring while operating the equipment*. 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 an information collection requirement. Therefore, OSHA does not take burden for this activity in 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:

\* \* \*

**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.

The Agency is not taking any separate burden for § 1926.1427(c)(1) in this Supporting Statement. The administration of the certification or licensing examination is not itself an information collection requirement pursuant to 5 CFR 1320.3(h)(7).

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. Paragraph (c)(1)(v) of this section requires that a license is valid for the period of time stipulated by the licensing department/office, but no longer than 5 years.

The burden for this retention and maintenance is taken in Item 12 of the Supporting Statement with § 1926.1427(a).

(v) 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 purpose of this requirement is to periodically test the abilities of operators to ensure they retain the basic knowledge and skill required to operate a crane.

The five year validity period is an assumption included in the burden for the retention and maintenance of the license/certification taken in Item 12 of the Supporting Statement with § 1926.1427(a).

(c)(2) Certification. When an operator is not required to be licensed under paragraph (c)(1), the operator must be certified in accordance with paragraph (d) or (e) of this section.

**Purpose:** Where construction occurs in a state or local jurisdiction that does not require licensing of equipment operators, or the construction occurs in a state or local jurisdiction where the licensing program does not meet the "federal floor" of requirements established in this standard, the operator would have to be certified in accordance with paragraph (d) (third-party certification) or (e) (audited employer program) of this section.

The Agency is not taking any separate burden for § 1926.1427(c)(2) in this Supporting Statement. The administration of the certification or licensing examination is not itself an information collection requirement pursuant to 5 CFR 1320.3(h)(7).

However, OSHA assumes that this determination will be documented, which does result in a collection of information. The burden for this retention and maintenance is taken in Item 12 of the Supporting Statement with § 1926.1427(a).

§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:** While the administration of the certification examination (described in (d)(1) and (d)(2) and its subparagraphs) 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 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) and (d)(1)(ii) and its subparagraphs ensure that the tests meet nationally-recognized test administration standards. OSHA uses certification by “type, or type and capacity” language in paragraph (d)(1)(ii)(B) to make it clear that the agency will accept certifications that only list the type of crane for which the operator was certified, and will also accept certifications that specify both a type and capacity.

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 operate the type of cranes on which they have demonstrated basic competence.

The requirement in § 1926.1427(d)(3) is portable because the testing organization is fully independent of all employers who may employ a crane operator and there is no reason to limit the certification to a particular employer.

The requirement in § 1926.1427(d)(4) for recertification establishes a standardized, baseline knowledge of equipment operation for operators and indicates to an employer that a certified operator has at least a certain knowledge of how to operate a crane. Recertification also ensures continuing education for certified operators so they are aware of any regulatory changes that impact their work. The Agency believes there are some employers that would find it difficult to make sure their operators are up to date on changes to equipment and updates to regulations that affect their operation unless they had the ability to have their operators recertified.

All paperwork burdens for these provisions are taken in Item 12 with § 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 certification.

(ii) Valid for 5 years.

**Purpose:** OSHA proposed and finalized this requirement in the 2010 cranes standard based largely on the recommendation of the Cranes and Derricks Negotiated Rulemaking Advisory Committee “that independent, third-party involvement was needed to ensure the reliability and integrity of any testing program.” (75 FR 48020).

The testing requirements of (e)(1) and (e)(2), specifically paragraphs (e)(1)(ii) and (e)(2)(i), help ensure that operators are capable of operating the equipment safely. The Agency is not taking any separate burden for (e)(1) and (e)(2) in this Supporting Statement because the administration of the certification examination is not itself a collection of information pursuant to 5 CFR 1320.3(h)(7). However, 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. The Agency includes costs for this activity in Item 13 of this Supporting Statement.

Paragraph (e)(3) 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. The Agency includes costs for this activity in Item 13 of this Supporting Statement.

Paragraph (e)(4) 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 Agency includes costs for this activity in Item 13 of this Supporting Statement.

The exchange of information required in paragraph (e)(5)(ii) 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 Agency includes costs for this activity in Item 13 of this Supporting Statement.

The documentation required in paragraphs (e)(5)(iii) and (e)(5)(iv) requires the filing and maintenance of reports to facilitate enforcement of the requirements. The Agency includes costs for this activity in Item 13 of this Supporting Statement.

Paragraph (e)(6)(i) provides that portability should be limited for the employer audited programs to ensure certification consistency among accredited crane operator testing organizations and employer-audited programs. The Agency does not consider this provision to be a collection of information and does not include costs for this provision in this Supporting Statement.

Paragraph (e)(6)(ii) 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. The five year validity period is an assumption included in the burden for the retention and maintenance of the license/certification taken in Item 12 of the Supporting Statement with § 1926.1427(a).

§1926.1427 (f) *Evaluation.*

(1) Through an evaluation, the employer must ensure that each operator is qualified by a demonstration of:

(i) The skills and knowledge, as well as the ability to recognize and avert risk, necessary to operate the equipment safely, including those specific to the safety devices, operational aids, software, and the size and configuration of the equipment. Size and configuration includes, but is not limited to, lifting capacity, boom length, attachments, luffing jib, and counterweight set-up.

(ii) The ability to perform the hoisting activities required for assigned work, including, if applicable, blind lifts, personnel hoisting, and multi-crane lifts.

(2) For operators employed prior to 30 days after the date the rule published, the employer may rely on its previous assessments of the operator in lieu of conducting a new evaluation of that operator's existing knowledge and skills.

\* \* \*

(5) The evaluator must be an employee or agent of the employer. Employers that assign evaluations to an agent retain the duty to ensure that the requirements in paragraph (f) are satisfied. Once the evaluation is completed successfully, the employer may allow the operator to operate other equipment that the employer can demonstrate does not require substantially different skills, knowledge, or ability to recognize and avert risk to operate.

(6) 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 while the operator is employed by the employer. For experienced operators assessed per paragraph (f)(2) of this section, the documentation must reflect the date of the employer's determination of the operator's

abilities and the make, model and configuration of equipment on which the operator has previously demonstrated competency.

**Purpose:** Paragraph (f)(6) requires the employer to document the evaluation of each operator and to ensure that the documentation is available at the worksite. While the administration of the evaluation (paragraphs (f)(5) and (f)(7)) is not considered collection of information pursuant to 5 CFR 1320.3(h)(7), OSHA assumes that this determination will be documented, which does result in an collection of information.

The documentation under § 1926.1427(f)(6) must 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. But the documentation would not need to be in any particular format. Employers are free to, but not required to, list all of the makes, models, and configurations of all of the equipment that the operator is permitted to operate. For example, the employer may document that the operator has previously demonstrated that he or she is qualified to operate Crane A, and then also record that, based on that qualification to operate Crane A, the operator is also qualified to perform the same tasks using the Cranes B, C, and D. In that example, the employer does not have to record the make and model of Cranes B, C, and D in order for the operator to operate them as long as it is clear which cranes are referenced.

The documentation requirement will ensure accountability and direct the employer's attention to the critical aspects of operating the assigned equipment that must be considered during the evaluation. The documentation of the evaluation will record key baseline information that an employer can use to help make subsequent determinations about whether the operator is competent to operate other equipment on future projects. It will also provide a quick reference for site supervisors, lift directors, and any employee, such as a hoist crew member, whose safety is affected by crane operations.

The text of paragraph (f)(6) provides a corollary to the provision in paragraph (f)(2) that allows employers to provide initial documentation for operators that they are employing on the effective date of the rule, based on prior evaluations of those operators by the employers---another evaluation of those operators is not required for initial compliance with paragraph (f)(2). OSHA added this provision to assist employers with the initial implementation of the evaluation requirement.

(7) When an employer is required to provide an operator with retraining under paragraph (b)(5) of this section, the employer must re-evaluate the operator with respect to the subject of the retraining.

**Purpose:** While the administration of the re-evaluation itself is not considered an collection of information pursuant to 5 CFR 1320.3(h)(7), these re-evaluations must still be documented in accordance with (f)(6).

§ 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 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).

The Agency notes that the testing entity is likely to retain the documentation of the results of the two pre-requisites for verbal testing. 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. 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.

§ 1926.1427(k) -- Effective dates.

(k) Effective dates.

(1) Apart from the evaluation and documentation requirements in § 1926.1427(a) and (f), this section will become effective 90 days after publication of the final rule.

(2) The evaluation and documentation requirements in § 1926.1427(a) and (f) will become effective 90 days after publication of the final rule.

Purpose: Almost all of Subpart CC has already been in effect since 2010, the certification requirements were scheduled to go into effect on November 10, 2018 per OSHA's extension rule published last year (see 82 FR 51986 (November 9, 2017)). The effective date of this final rule applies to the certification requirements and all but one of the amendments. OSHA has decided to allow 90 days after the publication of the final rule for employers to conform their practices for evaluating their operators, including documenting the evaluations, to the requirements of OSHA's standard. OSHA anticipates that most employers will require only minimal adjustment to their current practices, if any, such as documenting evaluations if they have not previously followed that practice.

**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 and/or maintain written documents to document employee qualifications. The following paragraphs of this standard have been identified for these purposes: 29 CFR 1926.1427(a), 1926.1427(c)(1), 1926.1427(c)(2), 1926.1427(f)(6), 1926.1427(h)(1)(i) and 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 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 1926.1427(e)(6)(ii) matches the time period for the third-party certification.

Under 1926.1427(f)(4), the employer must make the evaluation document available at the worksite while the operator is employed by the employer. This is necessary so that the employer can use the record for comparison with future equipment usage, thereby reducing the need for additional evaluations.

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.**

OSHA published the Cranes and Derricks: Crane Operator Qualification proposed rule on May 21, 2018 (83 FR 23534) and extended the comment period by an additional 15 days (83 FR 28562). The Agency received over 1,200 public comments before the comment period closed on July 5, 2018.

The NPRM provided an initial 30 days for the public to comment on the ICR corresponding to the general comment period for the rulemaking (83 [FR](#) 23534). OSHA published a second notice to the NPRM on July 30, 2018 (83 FR 36507), allowing the

public an additional 30 days to comment on the collection of information contained in the proposal.

Concurrent with the proposed rule, OSHA submitted the ICR to OMB for review (ICR Reference Number 201710-1218-002) in accordance with 44 U.S.C. 3507(d). (See: [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201710-1218-002#](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201710-1218-002#)). On July 31, 2018, OMB issued a Notice of Action (NOA) assigning the proposal's ICR a new control number, 1218-0270, to be used in future ICR submissions. OMB noted that this action had no effect on any current approvals. OMB also noted that the NOA is not an approval to conduct or sponsor the information collection contained in the proposal. Finally, OMB requested that, "Prior to publication of the final rule, the agency should provide a summary of any comments related to the information collection and their response, including any changes made to the ICR as a result of comments. In addition, the agency must enter the correct burden estimates." (See: <https://www.reginfo.gov/public/do/DownloadNOA?requestID=285900>)

Appendix A provides a discussion of the significant public comments related to the cranes and derricks in construction operator qualification rule information collection requirements and the agency response.

Appendix B lists the comments sent in response to the proposed rule and subsequent Federal Register notice inviting public input.

**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 collection of information specified in the Standard does 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 collection of information 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 employers of crane operators in this ICR reflects the Agency's best estimate of the number of crane operators affected by the rule, 117,130 operators from the preliminary economic analysis (PEA), plus an additional 2,774 propane field technician operators ("propane operators") from the FEA, for a total of 119,904.

When it issued the final crane rule in 2010, OSHA prepared a final economic analysis (FEA) as required by the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 651 et seq.) and Executive Orders 12866 (58 FR 51735 (Sept. 30, 1993)) and a corresponding ICR, for which OMB approval has been extended in accordance with the PRA under OMB control Number 1218-0261. On September 26, 2014, the Agency included a separate FEA when it published a final rule extending until November 10, 2017, both the deadline for all crane operators to become certified, and the employer duty to ensure operator competency (79 FR 57785.) In 2017 OSHA published another extension for an additional year, until November 10, 2018 (82 FR 51986), with an economic analysis that closely tracks the 2014 analysis. For each rulemaking, OSHA published a preliminary economic analysis and received public comment on the analysis before publishing the final analysis. After soliciting public comment on whether either of these extensions necessitated any change to the ICR, OSHA concluded that they did not.

In its May 2018 NPRM for this rulemaking, OSHA included a PEA that relied on some of those earlier estimates, extensive Agency interviews with industry stakeholders, crane incident data, and other documents in the rulemaking record. For example, the 2017 FEA for the deadline extension rule included a cost analysis of the employer evaluation to ensure operator competency. As a result, the cost estimates in the PEA were based on that analysis, which in turn is drawn from the 2014 FEA. Following the approach taken in the PEA, the FEA for this final rule estimates new costs only for elements that have not

previously been accounted for in either the 2010 final rule or in the deadline extensions, including the documentation of operator evaluations conducted by employers.

In determining the wage rates for the various occupations that perform the collection of information, the Agency relied on the rates used in the FEA 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 2017 Occupational Employment Statistics (OES) 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 (March 2018). For the construction industry, this gives a fringe benefit markup of 1.445. The estimated wage rates are listed as follows:

<b>WAGE HOUR ESTIMATES</b>				
<b>Occupational Title</b>	<b>Standard Occupation Code</b>	<b>Mean Hour Wage Rate (A)</b>	<b>Fringe Benefits (B)</b>	<b>Loaded Hourly Wage Rate (C) = ((A) x (B))</b>
First-line Supervisors of Transportation and Material-Moving Machine and Vehicle Operators	53-1031 <sup>3</sup>	\$28.97	1.445	\$41.86
First-Line Supervisors of Construction Trades and Extraction Workers (Qualified Person)	47-1011	\$33.27	1.445	\$48.08
Crane and Tower Operators	53-7021	\$26.78	1.445	\$38.70
File Clerks (Clerical Employee)	43-4071	\$15.48	1.445	\$22.37

**1) 29 CFR 1926.1427(a), (c)(1), (c)(1)(v), (c)(2), (d)(2), (d)(4), (e)(6)(ii) and (h)(2)**

<sup>3</sup> As stated in the FEA, the 2017 OES does not include the same occupation category for crane inspector (SOC 5353-1031 First-Line Supervisors of Transportation and Material-Moving Machine and Vehicle Operators) that was in the 2016 OES and was used in the PEA. The agency instead proxies the 2017 mean wage for this SOC category by adjusting the 2017 OES crane operator wage by the percentage markup of the 2016 crane inspector wage over the 2016 crane operator wage (8%, 28.75/26.58). This gives an estimated crane inspector annual wage of \$28.97 (26.78 x 1.08). Including a benefit markup of 1.45, this gives full wages of crane operator, \$38.70, and crane inspector, \$41.86.

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 three methods available for non-military personnel (state/local license; certification by a third party, or audited certification by the employer). These unit estimates are the same as in the 2010 ICR and the proposed ICR for this rulemaking, and did not draw any comment. Certification is valid for five years, so the annual recertification rate is 20%.

The initial cost of operator certification and recertification every five years are not re-analyzed in the FEA because they are unchanged by the final rule. The rule makes no changes that would impact the costs of certification by type of crane; OSHA simply allowed the existing operator certification deadline to be instituted as planned. OSHA is updating the existing ICR equation to include increased cost estimates for operator certification documentation that result from updated wages and additional operators in the propane industry.

Based on the 2018 FEA, OSHA has increased its certification estimate to 119,904 operators (2,774 additional propane operators + 117,130 operators accounted for in the previous estimate in the PEA) per year who will use equipment covered by this standard to perform construction work. In the PEA and the FEAs for the two deadline extension rulemakings, the Agency estimated that there were 15,000 operators with compliant certification (by type and capacity), 71,700 operators with certification for type only (which is compliant under the 2018 final rule), 30,430 crane operators with no crane certification, and a 23% turnover rate (*see*: 2014 FEA (79 FR 57793; September 26, 2014) and 2017 FEA (92 FR 51993; November 9, 2017)). For the purposes of this analysis, OSHA is grouping all 2,774 propane operators with the group of operators without any certificates for a total of 33,204 operators seeking certification.

As in the 2018 PEA, the agency assumes a turnover rate of 23% of operators each year, or 27,578 (i.e.,  $0.23 \times 119,904$ ). The 23% turnover rate includes new apprentice operators with no experience or certification who will need an initial certification (5%), as well as operators who are changing jobs (9%), and operators working on a new equipment in the same job thereby requiring a recertification (9%). (*See*: 2014 FEA (79 FR 57793; September 26, 2014) and 2017 FEA (92 FR 51993; November 9, 2017)). Consequently, with a constant total number of operators, the same number of operators (27,578) will be leaving the profession each year and will not require recertification when their current 5-year certification ends. This leaves 92,326 operators (i.e.,  $119,904 - 27,578$ ) who will need such periodic recertification. In the first year, the Agency estimates that there are 86,700 certified operators ( $15,000 + 71,700$  certifications) and 33,204 operators seeking certification.

The yearly burden hours and cost of these paragraphs are estimated to be:

	<b>Respondents (Employers)</b>	<b>Frequency</b>	<b>Responses</b>	<b>Clerical Time</b>	<b>Burden Hours</b>	<b>Wage Rate</b>	<b>Cost</b>
<i>First Year</i>							
Operators Certified	86,700	<b>0.2</b>	17,340	0.05	867	\$22.37	\$19,395
Operators Not Certified	33,204	1	33,204	0.05	1,660	\$22.37	\$37,134
<b>Subtotal</b>	<b>119,904</b>		<b>50,544</b>		<b>2,527</b>		<b>\$56,529</b>
<i>Second Year</i>							
Operators Seeking Certification	92,326	<b>0.2</b>	18,465	0.05	923	\$22.37	\$20,648
Turnover (23%)	27,578	1	27,578	0.05	1,379	\$22.37	\$30,848
<b>Subtotal</b>	<b>119,904</b>		<b>46,043</b>		<b>2,302</b>		<b>\$51,496</b>
<i>Third Year</i>							
Operators Seeking Certification	92,326	<b>0.2</b>	18,465	0.05	923	\$22.37	\$20,648
Turnover (23%)	27,578	<b>1</b>	27,578	0.05	1,379	\$22.37	\$30,848
<b>Subtotal</b>	<b>119,904</b>		<b>46,043</b>		<b>2,302</b>		<b>\$51,496</b>
<b>Total</b>	<b>359,712</b>		<b>142,630</b>		<b>7,131</b>		<b>\$159,521</b>
<b>3-Year Average</b>	<b>119,904</b>		<b>47,543</b>		<b>2,377</b>		<b>\$53,174</b>

**2) 29 CFR 1926.1427(f)(6)**

The proposed rule added a new documentation requirement for a successful evaluation. This final rule retains this requirement and requires that employers document information about the equipment on which the operator is evaluated and include the evaluator's signature. Because of this, the agency determined that the evaluator will complete all recordkeeping related to this documentation.

OSHA believes it will take an evaluator five minutes (.08 hours) to create, file and maintain the needed information.

There will also be the need in the first year for some employers to document previous evaluations that the employer had not documented. OSHA noted in the PEA and FEA that many employers already maintain documentation that would comply with OSHA’s revised standard. In the PEA, the agency estimated that the number of evaluations needing such documentation is 15 percent of the number of operators, or 17,570 (15% x 117,130 (excluding the propane industry operators)). The FEA is raising the number of evaluations needing documentation to 85 percent of the number of operators, or 99,561 (85% x 117,130 (excluding the propane operators)). With the addition of 2,774 propane operators, whom the record indicates may not be documenting any evaluations, the total number of evaluations needing documentation is estimated to be 102,335 (99,561 + 2,774) in this FEA. This estimate is based on the final rule’s clarification that all evaluations of existing employees must be documented (but not that all operators need to be evaluated from scratch). This estimate assumes, for the 85% of employers not-in compliance with the standard, all existing operators not subject to turnover or changes in equipment will need documentation.

In addition, there are 15,490 yearly evaluations will lead, with a 15% failure rate, to 13,470 successful initial evaluations that will need documentation (15,490/1.15) ongoing each year. Then, additionally, there will be documentation of previous successful evaluations due to the rule. OSHA estimates that 85 percent of an estimated total of 2,324 new evaluations, or 2,020 (85% x 2,324), will be successful. Hence, the total number of documented evaluations is 15,490 (13,470 + 2,020). Including propane field technician operators adds another 367 successful evaluations that will need to be documented for a total of 15,857 documented evaluations.

The yearly burden hours and cost of this paragraph are estimated to be:

<b>Evaluation Documentation</b>	<b>Respondents</b>	<b>Frequency</b>	<b>Responses</b>	<b>Supervisor Time</b>	<b>Burden Hours</b>	<b>Wage Rate</b>	<b>Cost</b>
<i>First Year</i>							
<i>New</i>	2,020	1	2,020	0.08	162	\$41.86	\$6,781
<i>Successful Initial</i>	13,470	1	13,470	0.08	1,078	\$41.86	\$45,125
<i>Additional Propane Field Technician Operators</i>	2,774	1	2,774	0.08	222	\$41.86	\$9,293
<i>Previous Assessments Requiring Documentation</i>	99,561	1	99,561	0.08	7,965	\$41.86	\$333,415
<b>Subtotal</b>	<b>117,825</b>		<b>117,825</b>		<b>9,427</b>		<b>\$394,614</b>
<i>Second Year</i>							
<i>New</i>	2,020	1	2,020	0.08	162	\$41.86	\$6,781
<i>Successful Initial</i>	13,470	1	13,470	0.08	1,078	\$41.86	\$45,125
<i>Additional</i>	367	1	367	0.08	29	\$41.86	\$1,214

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<i>Propane Field Technician Operators</i>							
<b>Subtotal</b>	<b>15,857</b>		<b>15,857</b>		<b>1,269</b>		<b>\$53,120</b>
<i>Third Year</i>							
<i>New</i>	2,020	1	2,020	0.08	162	\$41.86	\$6,781
<i>On-going</i>	13,470	1	13,470	0.08	1,078	\$41.86	\$45,125
<i>Additional Propane Field Technician Operators</i>	367	1	367	0.08	29	\$41.86	\$1,214
<b>Subtotal</b>	<b>15,857</b>		<b>15,857</b>		<b>1,269</b>		<b>\$53,120</b>
<b>Total</b>	<b>149,539</b>		<b>149,539</b>		<b>11,965</b>		<b>\$500,854</b>
<b>3-Year Average</b>	<b>49,846</b>		<b>49,846</b>		<b>3,988</b>		<b>\$166,951</b>

**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 documentation of a demonstration of literacy and ability to use applicable manufacturer procedures. Again, OSHA estimates that a minimum of 119,904 operators per year will use equipment covered by this standard to perform construction work per year. The same economic assumptions are maintained from the certification equations in paragraph one of Item 12 of this analysis.

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. Certification is valid for five years, so the annual recertification rate is 20%. 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 and ability to use manufacturer procedures. The yearly burden hours and cost of this paragraph are estimated to be:

	<b>Respondents</b>	<b>Frequency</b>	<b>Responses</b>	<b>Operator Time</b>	<b>Burden Hours</b>	<b>Wage Rate</b>	<b>Cost</b>
<i>First Year</i>							
Operators Certified	86,700	0.2 x 0.1	1,734	0.17	295	\$41.86	\$12,349
Operators Not Certified	33,204	0.1	3,320	0.17	564	\$41.86	\$23,609
<b>Subtotal</b>	<b>119,904</b>		<b>5,054</b>		<b>859</b>		<b>\$35,958</b>
<i>Second Year</i>							
Operators Seeking Certification	92,326	0.2 x 0.1	1,847	0.17	314	\$41.86	\$13,144
Turnover	27,578	0.1	2,758	0.17	469	\$41.86	\$19,632

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(23%)							
<b>Subtotal</b>	<b>119,904</b>		<b>4,605</b>		<b>783</b>		<b>\$32,776</b>
<b>Third Year</b>							
Operators Seeking Certification	92,326	0.2 x 0.1	1,847	0.17	314	\$41.86	\$13,144
Turnover (23%)	27,578	0.1	2,758	0.17	469	\$41.86	\$19,632
<b>Subtotal</b>	<b>119,904</b>		<b>4,605</b>		<b>783</b>		<b>\$32,776</b>
<b>Total</b>	<b>359,712</b>		<b>14,264</b>		<b>2,425</b>		<b>\$101,510</b>
<b>3-Year Average</b>	<b>119,904</b>		<b>4,755</b>		<b>808</b>		<b>\$33,837</b>

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

Collection of Information	Type of Respondent (Employer)	No. of Respondents	No. of Responses per Respondent	Total No. of Responses	Average Burden per Response (in hours)	Total Burden Hours	Avg. Hourly Wage Rate	Total Burden Costs
(1) 29 CFR 1926.1427(a), (c)(1), (c)(1)(v), (c)(2), (d)(2), (d)(3), (d)(4), (e)(6)(ii), and (h)(2)								
	Clerical	119,904	0.39651	47,543	0.05	2,377	\$22.37	\$53,174
(2) 29 CFR 1926.1427(f)(6)								
	Supervisor	49,846	1	49,846	0.08	3,988	\$41.86	\$166,951
(3) 29 CFR 1926.1427 (h)(1)(i) and (h)(1)(ii)								
	Supervisor	119,904	0.03965	4,755	0.19	808	\$41.86	\$33,837
<b>GRAND TOTAL</b>			--	102,144	--	7,173	--	\$253,962

**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.**

**(1) 29 CFR 1926.1427(e)**

While OSHA had previously estimated that as many as 10 employers might choose to certify their 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). OSHA included this estimate in its proposed ICR and received no comment on it.

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 \$48.08 (wage of qualified person- auditor) = \$32.00 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 \$48.08 (wage of qualified person- auditor) = \$32.00 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 \$48.08 (wage - qualified person, auditor) = \$8.00 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 \$48.08 per hour (wage- qualified person, auditor) = \$12 per year

**Table B**

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

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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)	\$273	\$32	-\$241
29 CFR 1926.1427(e)(2)(i), (e)(3), and (e)(4)	\$273	\$32	-\$241
29 CFR 1926.1427(e)(3), (e)(5)(ii) and (e)(5)(iv)	\$68	\$8	-\$60
29 CFR 1926.1427(e)(5)(iii)	\$41	\$12	-\$29
Totals	\$655	\$84	-\$571

**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 \$23.12<sup>4</sup> and a fringe benefit rate of 34.4 percent<sup>5</sup>, 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 without the paperwork requirements specified by the Standard. Therefore, **the total cost of these information collection requirements to the Federal government is:**

$$\text{Cost: } 1 \text{ report} \times .25 \text{ hour} \times (\$23.12 / (1-.344)) = \$8.81 \text{ per year}$$

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

<sup>4</sup> Source: OPM SALARY TABLE 2018-RU ([https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/18Tables/html/RUS\\_h.aspx](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/18Tables/html/RUS_h.aspx)).

<sup>5</sup> 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](http://comptroller.defense.gov/Portals/45/documents/rates/fy2017/2017_d.pdf).

The Agency is requesting a total burden hour program change increase of 7,173 hours. The increase is related to new evaluation documentation burden hours associated with 29 CFR 1926.1427(f) of the final rule. The increase is also related to increased certification recordkeeping costs consistent with the FEA assumptions that reflect an increase in the number of operators subject to the standard.

The Agency is seeking approval for this Supporting Statement under new OMB Control number 1218-0270 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 (Cranes and Derricks in Construction: Railroad Cranes). 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 3,185 burden hours and a 3,988 burden hour program change. The program change increase would be related to the evaluation recordkeeping costs of 29 CFR 1926.1427(f)(6). This adjustment increase would be related to increased certification recordkeeping costs consistent with the FEA assumptions. Also, the change would result in an adjustment decrease of \$571 in capital costs due to the Agency's belief that only 1 employer 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 for the data collections within the ICR. OSHA traditionally publishes the expiration date in the Federal Register announcing OMB approval of the Information collection requirement, in cases where the IC are citations and not forms. OSHA believes that this is the most appropriate and accurate mechanism to inform interested parties of these expiration dates.

**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 collection of information that employs statistical methods.

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

<b>Item 12 Information Collection Requirement</b>	<b>Approved Burden Hours (OMB # 1218-0261)</b>	<b>Requested Burden Hours</b>	<b>Adjustment</b>	<b>Program Change</b>
<b>A 29 CFR 1926.1427(a), (c)(1), (c)(1)(v), (c)(2), (d)(2), (d)(3), (d)(4), (e)(6)(ii), and (h)(2)</b>	820	2,377	2,377	0
<b>B 29 CFR 1926.1427(f)(6)</b>	0	3,988	0	3,988
<b>C 29 CFR 1926.1427(h)(1)(i) and (h)(1)(ii)</b>	223	808	808	0
<b>Totals</b>	<b>1,043</b>	<b>7,173</b>	<b>3,185</b>	<b>3,988</b>