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Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Labor and Industry/Safety and Health Codes Board
Virginia Administrative Code (VAC) citation(s)	16VAC25-175-1926.1427(k)
Regulation title(s)	Cranes and Derricks in Construction: Operator Qualification and Certification
Action title	Operator Qualification and Certification; Extension of Deadline
Final agency action date	November 30, 2017
Date this document prepared	December 6, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Federal OSHA adopted this delay to further extend by one year the employer duty to ensure the competency of crane operators involved in construction work. Previously, this duty was scheduled to terminate for federal OSHA and VOSH on November 10, 2017, but now continues for an additional year until November 10, 2018.

OSHA also further delayed the deadline for crane operator certification for one year from November 10, 2017, to November 10, 2018.

At its meeting on December 11, 2014, the Board adopted federal OSHA's enactment dates for these competency and certification requirements. VOSH continues to believe that there is benefit to employers who may operate in multiple states or jurisdictions to having federal identical enforcement dates for this competency and certification.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On November 30, 2017, the Safety and Health Codes Board adopted federal OSHA's one-year additional extension of its deadline, until November 10, 2018, for Operator Qualification and Certification, §1926.1427(k), of the Final Rule on Cranes and Derricks in Construction, with an effective date of February 15, 2018.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action does not appear to have any impact on the institution of the family and family stability.

To access the Cranes and Derricks in Construction: Operator Certification; Extension of Deadline, §1926.1427(k) for the Final Rule on Cranes and Derricks in Construction, please click on the link below:

<https://www.osha.gov/sites/default/files/laws-regs/federalregister/2017-11-09.pdf>

**Cranes and Derricks in Construction:
Extension of Operator Certification, §1926.1427(k); Final Rule**

As Adopted by the
Safety and Health Codes Board

Date: November 30, 2017



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: February 15, 2018

16VAC25-175-1926.1427, Operator Qualification and Certification, §1926.1427(k)

When the regulations, as set forth in the Operator Certification Extension, §1926.1427 (k), of the Final Rule for Cranes and Derricks in Construction, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

November 10, 2017

February 15, 2018

51998 Federal Register / Vol. 82, No. 216 / Thursday, November 9, 2017 / Rules and Regulations

§ 1926.1427 Operator qualification and certification.

* * * * *

(k) *Phase-in.* (1) The provisions of this section became applicable on November 8, 2010, except for paragraphs (a)(2) and (f) of this section, which are applicable November 10, 2018.

(2) When paragraph (a)(1) of this section is not applicable, all of the requirements in paragraphs (k)(2)(i) and (ii) of this section apply until November 10, 2018.

(i) The employer must ensure that operators of equipment covered by this standard are competent to operate the equipment safely.

(ii) When an employee assigned to operate machinery does not have the required knowledge or ability to operate the equipment safely, the employer must train that employee prior to operating the equipment. The employer must ensure that each operator is evaluated to confirm that he/she understands the information provided in the training.

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