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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Labor and Industry/Safety and Health Codes Board
<b>Virginia Administrative Code (VAC) citation(s)</b>	16 VAC25-175-1926.1427
<b>Regulation title(s)</b>	Cranes and Derricks in Construction: Operator Certification
<b>Action title</b>	Amendment to Cranes and Derricks in Construction: Operator Certification
<b>Final agency action date</b>	December 11, 2014
<b>Date this document prepared</b>	December 11, 2014

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 published this final rule amendment to extend for an additional three years the employer duty to ensure crane operator competency for construction work, from November 10, 2014, to November 10, 2017 as well as the enforcement date for crane operator certification for three years from November 10, 2014, to November 10, 2017 for a total federal extension of seven years.

The Virginia Occupational Safety and Health (VOSH) Program also seeks to extend this deadline to November 10, 2017. The Board originally adopted its own unique initial delayed enactment dates for

these competency and certification requirements at its meeting on January 20, 2011 for OSHA's original August 9, 2010 overall revision of the standard in order to account for the time interval between OSHA's adoption and VOSH's subsequent adoption.

With this second federal delay, now a total of seven (7) years from the 2010 federal adoption, VOSH believes that the benefit to employers who may operate in multiple states or jurisdictions to having federal identical enforcement dates for this competency and certification outweighs any loss by the shortfall of approximately three months by not continuing with a VOSH unique effective date for the full additional three years. Adoption of the federal deadline this time results in 2.75 years of additional extension in Virginia for a total of 6.75 years.

### 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.*

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On December 11, 2014, the Safety and Health Codes Board adopted federal OSHA's Amendment to the Final Rule for Cranes and Derricks in Construction: Operator Certification, §1926.1427(k), as published in 79 FR 57785 on September 26, 2014, with an effective date of February 15, 2015.

### 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.*

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The Amendment to this standard will have no impact on the institution of the family and family stability.

**Cranes and Derricks in Construction: Operator Certification, §1926.1427(k); Amendment**

As Adopted by the  
Safety and Health Codes Board

Date: December 11, 2014



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: February 15, 2015

16VAC25-175-1926.1427, Cranes and Derricks in Construction: Operator Certification, §1926.1427(k)

When the regulations, as set forth in the Amendment to the Final Rule for Cranes and Derricks in Construction: Operator Certification, §1926.1427 (k), 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, 2014

February 15, 2015

**PART 1926—[AMENDED]**

**Subpart CC—Cranes and Derricks in Construction**

■ 2. Amend § 1926.1427 by revising paragraph (k) to read as follows:

**§ 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), which are applicable November 10, 2017.

(2) When § 1926.1427(a)(1) is not applicable, all of the requirements in paragraphs (k)(2)(i) and (ii) of this section apply until November 10, 2017.

(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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