



Oregon

Kate Brown, Governor

Department of Consumer and Business Services
Oregon Occupational Safety & Health Division (Oregon OSHA)
350 Winter Street NE PO Box 14480 Salem, OR 97309-0405
Phone: 503-378-3272; Toll Free: 1-800-922-2689; Fax: 503-947-7461
osha.oregon.gov

February 26, 2021

Text of proposed changes
September 15, 2020 Federal Register

Cranes and Derricks in Construction: Railroad Roadway Work

Due to the COVID-19 pandemic and in line with Oregon Health Authority guidelines, the hearings will be held virtually. Oregon OSHA offices remain closed to the public.

Virtual Public Hearings Scheduled for:

<u>Date</u>	<u>Time</u>
March 24, 2021	11:00 am

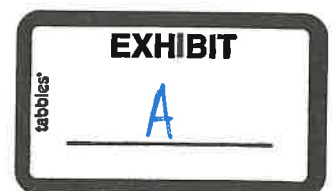
Please register for the Public Hearing for Cranes and Derricks in Construction: Railroad Roadway Work on March 24, 2021 11:00 AM PST at:
<https://attendee.gotowebinar.com/register/952991121447045643>

After registering for a webinar, you will receive a confirmation email containing information about joining the webinar. In order to ensure as many people as possible are able to testify, Oregon OSHA reserves the right to restrict testimony to no more than 5 minutes.

Rule Summary:

Oregon OSHA is proposing these rules in response to Federal OSHA rules filed in the Federal Register on September 15, 2020. Oregon OSHA as a State Plan is required to amend our standards to be identical or "at least effective as" rules adopted by Federal OSHA. This particular rulemaking is deregulatory in nature and provides exemptions from several of the rules in Subdivision CC of the construction rules. The rules also serve to clarify the situations in which either OSHA or the Federal Railway Administration (FRA) holds primary jurisdiction over worker safety during railroad construction and maintenance work.

Please visit our web site osha.oregon.gov Click 'Rules and laws' in the Common resources column and view our proposed rules, or select other rule activity from this page.



When does this happen: Adoption tentatively will be in May 2021.

To get a copy: Our web site – osha.oregon.gov Rules and laws, then,
Proposed rules
Or call 503-947-7449

To comment: Department of Consumer and Business Services/Oregon
OSHA
PO BOX 14480
Salem OR 97309-0405
E-mail – tech.web@oregon.gov
Fax – 503-947-7461

Comment period closes: April 16, 2021

Oregon OSHA contact: Jeff Carlson, Central Office @ 503-484-0628
or email at Jeffery.T.Carlson@oregon.gov

State of Oregon
Department of Consumer and
Business Services
Oregon OSHA
350 Winter St. NE
Salem, OR 97301-3882

Note: In compliance with the Americans with Disabilities Act (ADA), this publication is available in alternative formats by calling 503-378-3272.

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services/Oregon OSHA
Agency and Division

OAR 437
Administrative Rules Chapter Number

Lisa Appel
Rules Coordinator

350 Winter Street NE Salem OR 97301-3882
Address

503-378-3272
Telephone

RULE CAPTION

Cranes and Derricks in Construction: Railroad Roadway Work

Virtual Public Hearings Scheduled for:

Hearing Date	Time	Location	Hearings Officer
March 24, 2021	11:00 am	Oregon OSHA, Salem	Lisa Appel

Please register for the Public Hearing for Cranes and Derricks in Construction: Railroad Roadway Work on March 24, 2021 11:00 AM PST at:
<https://attendee.gotowebinar.com/register/952991121447045643>

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Amend: OAR 437-003-0001

ORS 654.025(2) and 656.726(4)
Stat. Auth.

Other Authority

ORS 654.001 through 654.295
Stats. Implemented

RULEMAKING SUMMARY

Oregon OSHA is proposing these rules in response to Federal OSHA rules filed in the Federal Register on September 15, 2020. Oregon OSHA as a State Plan is required to amend our standards to be identical or "at least effective as" rules adopted by Federal OSHA. This particular rulemaking is deregulatory in nature and provides exemptions from several of the rules in Subdivision CC of the construction rules. The rules also serve to clarify the situations in which either OSHA or the Federal Railway Administration (FRA) holds primary jurisdiction over worker safety during railroad construction and maintenance work.

INDIVIDUAL RULE SUMMARY (By rule number)

Provide a brief summary of the rule (if new adoption), or a brief summary of changes made to the rule (if amending)

437-003-0001 – Revisions of 29 CFR 1926.1440, 1442, and 1443 will be adopted by reference to align with Federal OSHA rules.

29 CFR 1926.1400 – Adding an exclusion for certain flash-butt welding trucks to the scope of the standard.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services/Oregon OSHA
Agency and Division

OAR 437
Administrative Rules Chapter Number

In the Matter of:

Amending: OAR 437-003-0001

Rule Caption: Cranes and Derricks in Construction: Railroad Roadway Work

Statutory Authority: ORS 654.025(2) and 656.726(4)

Stats. Implemented: ORS 654.001 through 654.295

Need for the Rule(s):

Oregon OSHA is proposing these rules in response to Federal OSHA rules filed in the Federal Register on September 15, 2020. Oregon OSHA as a State Plan is required to amend our standards to be identical or "at least effective as" rules adopted by Federal OSHA. This particular rulemaking is deregulatory in nature and provides exemptions from several of the rules in Subdivision CC of the construction rules. The rules also serve to clarify the situations in which either OSHA or the Federal Railway Administration (FRA) holds primary jurisdiction over worker safety during railroad construction and maintenance work.

Documents Relied Upon, and where they are available:

Federal Register filing by Federal OSHA. Federal Register Volume 85, Number 179 Tuesday, September 15, 2020. This document can be accessed at <https://www.regulations.gov/>

Fiscal and Economic Impact:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

Due to the fact that this rulemaking is deregulatory in nature, Oregon OSHA does not anticipate any additional costs as part of this.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Federal OSHA estimates that there are roughly 767 firms classified as small businesses in this category nationwide. For the railroad industry the Small Business Administration (SBA) classifies an entity as "small" if it employs less than 1,501 people. Federal OSHA projects that this rulemaking will result in a nationwide cost savings of \$2.5 million per year with a discount rate of 3% for employers in this category. This rulemaking will not impose new costs on small businesses in the state.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services.

This rulemaking is largely deregulation and regulatory agency jurisdictional deconfliction. There is no foreseeable expectation that this rulemaking will increase administrative costs to affected employers because it does not require that any new or additional actions be taken.

c. Equipment, supplies, labor and increased administration required for compliance.

This rulemaking will not require new equipment as it allows the unmodified use of equipment already owned by employers for their core business tasks. The rule will not require new supplies as the supplies used and quantities of those supplies are purposefully unaffected by this rulemaking. The training requirements of railroad maintenance workers will not change in response to this rulemaking. There will not be any driver of extra costs in this category due to this rulemaking.

How were small businesses involved in the development of this rule?

Small businesses were part of the original Federal OSHA construction crane rulemaking process in the form of the Small Business Advocacy Review Panel (SBAR) and Small Entity Representatives (SERs).

Administrative Rule Advisory Committee consulted?: Yes

This rulemaking concerns adopting federal rules as written and will only affect federal rules previously adopted by Oregon OSHA. A stakeholder meeting was held on February 16, 2021 and all stakeholders that attended were in support of adoption.

If not, why?:



Signature

Michael D. Wood 2/26/2021

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534)
FOR ADMINISTRATIVE RULES

AGENCY NAME: DCBS/Oregon OSHA
ADDRESS: 350 Winter Street NE
CITY/STATE: Salem OR 97301-3882
PHONE: (503) 947-7449

PERMANENT: XX

HEARING DATE: Mar 24, 2021

TEMPORARY:

EFFECTIVE DATE: May 2021

BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL RESULT FROM THIS PROPOSED CHANGE.

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.

IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)
See attached Notice of Proposed Rulemaking Hearing.

Description of the need for, and objectives of the rule:
See attached Notice of Proposed Rulemaking Hearing.

List of rules adopted or amended:

AMEND: OAR 437-003-0001

Materials and labor costs increase or savings:

This rulemaking is focused on deregulating equipment and processes commonly used in railroad roadway construction and maintenance. Oregon OSHA expects this rule to have no effect on labor costs in the residential construction industry. Oregon OSHA does not expect this rule to incur any cost increases on materials in the residential construction industry.

Estimated administrative construction or other costs increase or savings:

There is no projected effect on administrative costs in the residential construction industry in Oregon.

Land costs increase or savings:

This rulemaking will not have any direct effect on right of way requirements in the railroad industry.

Other costs increase or savings:

Oregon OSHA foresees no other cost impacts on housing construction in Oregon.

*Typical-Single story 3 bedrooms, 1 1/2 bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

PREPARERS NAME: Jeffery Carlson
EMAIL ADDRESS: Jeffery.t.carlson@oregon.gov

Cranes and Derricks in Construction: Railroad Roadway Work

February 2021

Text removed is in ~~[brackets with line through]~~.

Text added is in **bold and underline**.

437-003-0001 Adoption by Reference In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, in the Federal Register:

(28) Subdivision CC – Cranes and Derricks in Construction.

- (a) 29 CFR 1926.1400 Scope, published 4/11/14, FR vol. 79, no. 70, p. 20316; amended with Oregon OSHA AO 3-2015, f. 10/9/15, ef. 1/1/16.
- (b) 29 CFR 1926.1401 Definitions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (c) 29 CFR 1926.1402 Ground conditions, published 8/9/10, FR vol. 75, no. 152. Pp. 47906-48177.
- (d) 29 CFR 1926.1403 Assembly/Disassembly – selection of manufacturer or employer procedures, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.1404 Assembly/Disassembly – general requirements (applies to all assembly and disassembly operations), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (f) 29 CFR 1926.1405 Disassembly – additional requirements for dismantling of booms and jibs (applies to both the use of manufacturer procedures and employer procedures), published 8/9/10, FR vol. 75, no. 152. Pp. 47906-48177.
- (g) 29 CFR 1926.1406 Assembly/Disassembly – employer procedures – general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (h) 29 CFR 1926.1407 Power line safety (up to 350 kV) – assembly and disassembly, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (i) 29 CFR 1926.1408 Power line safety (up to 350 kV) – equipment operations, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

- (j) 29 CFR 1926.1409 Power line safety (over 35 kV), published 8/9/10, FR vol. 75, vol. 152, pp. 47906-48177.
- (k) 29 CFR 1926.1410 Power line safety (all voltages) – equipment operations closer than the Table A zone, published 4/11/14, FR vol. 79, no. 70, p. 20316.
- (l) 29 CFR 1926.1411 Power line safety – while traveling, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (m) 29 CFR 1926.1412 Inspections, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (n) 29 CFR 1926.1413 Wire rope – inspection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (o) 29 CFR 1926.1414 Wire rope – selection and installation criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (p) 29 CFR 1926.1415 Safety devices, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (q) 29 CFR 1926.1416 Operational aids, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (r) 29 CFR 1926.1417 Operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (s) 29 CFR 1926.1418 Authority to stop operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (t) 29 CFR 1926.1419 Signals – general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (u) 29 CFR 1926.1420 Signals – radio, telephone or other electronic transmission of signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (v) 29 CFR 1926.1421 Signals – voice signals – additional requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (w) 29 CFR 1926.1422 Signals – hand signal chart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (x) 29 CFR 1926.1423 Fall protection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (y) 29 CFR 1926.1424 Work area control, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (z) 29 CFR 1926.1425 Keeping clear of the load, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (aa) 29 CFR 1926.1426 Free fall and controlled load lowering, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

- (bb) 29 CFR 1926.1427 Operator qualification and certification, published 11/9/18, FR vol. 83, no. 218, p. 56198.
- (cc) 29 CFR 1926.1428 Signal person qualifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (dd) 29 CFR 1926.1429 Qualifications of maintenance & repair employees, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (ee) 29 CFR 1926.1430 Training, published 11/9/18, FR vol. 83, no. 218, p.56198.
- (ff) 29 CFR 1926.1431 Hoisting personnel, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (gg) 29 CFR 1926.1432 Multiple-crane/derrick lifts – supplemental requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (hh) 29 CFR 1926.1433 Design, construction and testing, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (ii) 29 CFR 1926.1434 Equipment modifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (jj) 29 CFR 1926.1435 Tower cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (kk) 29 CFR 1926.1436 Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (ll) 29 CFR 1926.1437 Floating cranes/derricks and land cranes/derricks on barges, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (mm) 29 CFR 1926.1438 Overhead & gantry cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (nn) 29 CFR 1926.1439 Dedicated pile drivers, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (oo) 29 CFR 1926.1440 Sideboom cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (pp) 29 CFR 1926.1441 Equipment with a rated hoisting/lifting capacity of 2,000 pounds or less, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (qq) 29 CFR 1926.1442 Cranes and Derricks in Construction: Railroad Roadway Work, published 9/15/20, FR vol. 85, no. 179, pp 57109-57122.**
- ~~(qq)~~**(rr)** 29 CFR 1926.144~~2~~**3** Severability, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- ~~(rr)~~**(ss)** Appendix A to Subdivision CC of 1926 – Standard Hand Signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

[(ss)] **(tt)** Appendix B to Subdivision CC of 1926 – Assembly/Disassembly – Sample Procedures for Minimizing the Risk of Unintended Dangerous Boom Movement, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

[(tt)] **(uu)** Appendix C to Subdivision CC of 1926 – Operator Certification – Written Examination – Technical Knowledge Criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: APD Admin. Order 5-1989, f. 3/31/89, ef. 5/1/89 (temp).

APD Admin. Order 8-1989, f. 7/7/89, ef. 7/7/89 (perm).

APD Admin. Order 14-1989, f. 7/20/89, ef. 8/1/89 (temp).

APD Admin. Order 15-1989, f. 9/13/89, ef. 9/13/89 (perm).

APD Admin. Order 16-1989 (temp), f. 9/13/89, ef. 9/13/89.

OR-OSHA Admin. Order 2-1989, f. 10/17/89, ef. 10/17/89.

OR-OSHA Admin. Order 3-1990, f. 1/19/90, ef. 1/19/90 (temp).

OR-OSHA Admin. Order 7-1990, f. 3/2/90, ef. 3/2/90 (perm).

OR-OSHA Admin. Order 8-1990, f. 3/30/90, ef. 3/30/90.

OR-OSHA Admin. Order 13-1990, f. 6/28/90, ef. 8/1/90 (temp).

OR-OSHA Admin. Order 19-1990, f. 8/31/90, ef. 8/31/90 (perm).

OR-OSHA Admin. Order 27-1990, f. 12/12/90, ef. 2/1/91.

OR-OSHA Admin. Order 6-1991, f. 3/18/91, ef. 4/15/91.

OR-OSHA Admin. Order 7-1991, f. 4/25/91, ef. 4/25/91.

OR-OSHA Admin. Order 15-1991, f. 12/13/91, ef. 12/13/91.

OR-OSHA Admin. Order 16-1991, f. 12/16/91, ef. 1/1/92.

OR-OSHA Admin. Order 6-1992, f. 5/18/92, ef. 5/18/92.

OR-OSHA Admin. Order 11-1992, f. 10/9/92, ef. 10/9/92.

OR-OSHA Admin. Order 1-1993, f. 1/22/93, ef. 1/22/93.

OR-OSHA Admin. Order 16-1993, f. 11/1/93, ef. 11/1/93 (Lead).

OR-OSHA Admin. Order 1-1994, f. 4/27/94, ef. 4/27/94.

OR-OSHA Admin. Order 4-1994, f. 8/4/94, ef. 8/4/94 (HazCom).

OR-OSHA Admin. Order 6-1994, f. 9/30/94, ef. 9/30/94.

OR-OSHA Admin. Order 1-1995, f. 1/19/95, ef. 1/19/95 (DOT markings, placards & labels).

OR-OSHA Admin. Order 3-1995, f. 2/22/95, ef. 2/22/95 (Haz Waste).

OR-OSHA Admin. Order 4-1995, f. 3/29/95, ef. 3/29/95 (Asbestos).

OR-OSHA Admin. Order 5-1995, f. 4/6/95, ef. 4/6/95 (HazCom).

OR-OSHA Admin. Order 6-1995, f. 4/18/95, ef. 6/1/95 (Fall Protection).

OR-OSHA Admin. Order 8-1995, f. 8/25/95, ef. 8/25/95 (Asbestos).

OR-OSHA Admin. Order 5-1996, f. 11/29/96, ef. 11/29/96.

OR-OSHA Admin. Order 6-1996, f. 11/29/96, ef. 11/29/96.

OR-OSHA Admin. Order 2-1997, f. 3/12/97, ef. 3/12/97.

OR-OSHA Admin. Order 4-1997, f. 4/2/97, ef. 4/2/97.

OR-OSHA Admin. Order 6-1997, f. 5/2/97, ef. 5/2/97.

OR-OSHA Admin. Order 7-1997, f. 9/15/97, ef. 9/15/97 (Fall Protection).

OR-OSHA Admin. Order 8-1997, f. 11/14/97, e. 11/14/97 (Methylene Chloride).
OR-OSHA Admin. Order 1-1998, f. 2/13/98, e. 2/13/98 (Methylene Chloride).
OR-OSHA Admin. Order 3-1998, f. 7/7/98, ef. 7/7/98 (Respiratory Protection).
OR-OSHA Admin. Order 6-1998, f. 10/15/98, ef. 10/15/98 (Slings 3/H).
OR-OSHA Admin. Order 7-1998, f. 12/28/98, ef. 12/28/98 (Asbestos).
OR-OSHA Admin. Order 1-1999, f. 3/22/99, e. 3/22/99 (Methylene Chloride).
OR-OSHA Admin. Order 4-1999, f. 4/30/99, ef. 4/30/99.
OR-OSHA Admin. Order 6-1999, f. 5/26/99, ef. 5/26/99.
OR-OSHA Admin. Order 3-2000, f. 2/8/00, ef. 2/8/00.
OR-OSHA Admin. Order 3-2001, f. 2/5/01, ef. 2/5/01 (Fall Protection/Oregon Exceptions).
OR-OSHA Admin. Order 3-2002, f. 4/15/02, ef. 4/18/02 (Steel Erection).
OR-OSHA Admin. Order 5-2002, f. 6/28/02, ef. 10/1/03 (GFCI 3/K).
OR-OSHA Admin. Order 6-2002, f. 7/19/02, ef. 7/19/02 (Fall Protection/Steel Erection).
OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03 (3/Q Masonry Wall Bracing).
OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03 (3/G).
OR-OSHA Admin. Order 7-2003, f. 12/5/03, ef. 12/5/03 (3/O).
OR-OSHA Admin. Order 8-2003, f. 12/30/03, ef. 1/1/04 (3/R).
OR-OSHA Admin. Order 1-2005, f. 4/12/05, ef. 4/12/05 (3/D and 3/Z).
OR-OSHA Admin. Order 2-2006, f. 4/28/06, ef. 4/28/06 (3/R).
OR-OSHA Admin. Order 4-2006, f. 7/24/06, ef. 7/24/06.
OR-OSHA Admin. Order 5-2006, f. 8/7/06, ef. 1/1/07.
OR-OSHA Admin. Order 6-2006, f. 8/30/06, ef. 8/30/06.
OR-OSHA Admin. Order 10-2006, f. 11/30/06, ef. 11/30/06.
OR-OSHA Admin. Order 6-2007, f. 9/26/07, ef. 9/26/07 (3/O).
OR-OSHA Admin. Order 5-2008, f. 5/1/08, ef. 5/15/08 (PPE).
OR-OSHA Admin. Order 5-2009, f. 5/29/09, ef. 5/29/09.
OR-OSHA Admin. Order 3-2010, f. 6/10/10, ef. 6/15/10.
OR-OSHA Admin. Order 1-2011, f. 2/9/11, ef. 2/9/11.
OR-OSHA Admin. Order 4-2011, f. 12/8/11, ef. 12/8/11.
OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12.
OR-OSHA Admin. Order 1-2012, f. 4/10/12, ef. 4/10/12.
OR-OSHA Admin. Order 5-2012, f. 9/25/12, ef. 9/25/12.
OR-OSHA Admin. Order 1-2013, f. 2/14/13, ef. 2/14/13.
OR-OSHA Admin. Order 2-2013, f. 2/15/13, ef. 4/1/13.
OR-OSHA Admin. Order 4-2013, f. 7/19/13, ef. 7/19/13.
OR-OSHA Admin. Order 5-2013, f. 9/13/13, ef. 9/13/13.
OR-OSHA Admin. Order 6-2013, f. 10/9/13, ef. 10/9/13.
OR-OSHA Admin. Order 7-2013, f. 12/12/13, ef. 12/12/13.
OR-OSHA Admin. Order 6-2014, f. 10/28/14, ef. 5/1/15.
OR-OSHA Admin. Order 7-2014, f. 11/7/14, ef. 11/9/14.
OR-OSHA Admin. Order 3-2015, f. 10/9/15, ef. 1/1/16.
OR-OSHA Admin. Order 1-2016, f. 3/1/16, ef. 1/1/17.
OR-OSHA Admin. Order 3-2016, f. 8/19/16, ef. 8/19/16.
OR-OSHA Admin. Order 4-2016, f. 9/7/16, ef. 9/7/16.
OR-OSHA Admin. Order 1-2019, f. 5/9/19, ef. 5/9/19.
OR-OSHA Admin. Order 3-2019, f. 10/29/19, ef. 5/29/19.
OR-OSHA Admin. Order X-XXXX, f. XX/XX/XX, ef. XX/XX/XX.

1926.1400 Scope

- (a) This standard applies to power-operated equipment, when used in construction, that can hoist, lower and horizontally move a suspended load. Such equipment includes, but is not limited to: articulating cranes (such as knuckle-boom cranes); crawler cranes; floating cranes; cranes on barges; locomotive cranes; mobile cranes (such as wheel-mounted, rough-terrain, all-terrain, commercial truck-mounted, and boom truck cranes); multi-purpose machines when configured to hoist and lower (by means of a winch or hook) and horizontally move a suspended load; industrial cranes (such as carry-deck cranes); dedicated pile drivers; service/ mechanic trucks with a hoisting device; a crane on a monorail; tower cranes (such as a fixed jib, i.e., "hammerhead boom"), luffing boom and self-erecting); pedestal cranes; portal cranes; overhead and gantry cranes; straddle cranes; sideboom cranes; derricks; and variations of such equipment. However, items listed in paragraph (c) of this section are excluded from the scope of this standard.
- (b) Attachments. This standard applies to equipment included in paragraph (a) of this section when used with attachments. Such attachments, whether crane-attached or suspended include, but are not limited to: hooks, magnets, grapples, clamshell buckets, orange peel buckets, concrete buckets, drag lines, personnel platforms, augers or drills and pile driving equipment.
- (c) Exclusions. This subpart does not cover:
- (1) Machinery included in paragraph (a) of this section while it has been converted or adapted for a non-hoisting/lifting use. Such conversions/adaptations include, but are not limited to, power shovels, excavators and concrete pumps.
 - (2) Power shovels, excavators, wheel loaders, backhoes, loader backhoes, track loaders. This machinery is also excluded when used with chains, slings or other rigging to lift suspended loads.
 - (3) Automotive wreckers and tow trucks when used to clear wrecks and haul vehicles.
 - (4) Digger derricks when used for augering holes for poles carrying electric or telecommunication lines, placing and removing the poles, and for handling associated materials for installation on, or removal from, the poles, or when used for any other work subject to subpart V of this part. To be eligible for this exclusion, digger derrick use in work subject to subpart V of this part must comply with all of the provisions of that subpart, and digger derrick use in construction work for telecommunication service (as defined at 1910.268(s)(40)) must comply with all of the provisions of 1910.268.
 - (5) Machinery originally designed as vehicle-mounted aerial devices (for lifting personnel) and self-propelled elevating work platforms.
 - (6) Telescopic/hydraulic gantry systems.

- (7) Stacker cranes.
- (8) Powered industrial trucks (forklifts), except when configured to hoist and lower (by means of a winch or hook) and horizontally move a suspended load.
- (9) Mechanic's truck with a hoisting device when used in activities related to equipment maintenance and repair.
- (10) Machinery that hoists by using a come-a-long or chainfall.
- (11) Dedicated drilling rigs.
- (12) Gin poles when used for the erection of communication towers.
- (13) Tree trimming and tree removal work.
- (14) Anchor handling or dredge-related operations with a vessel or barge using an affixed A-frame.
- (15) Roustabouts.
- (16) Helicopter cranes.
- (17) Material Delivery.
 - (i) Articulating/knuckle-boom truck cranes that deliver material to a construction site when used to transfer materials from the truck crane to the ground, without arranging the materials in a particular sequence for hoisting.
 - (ii) Articulating/knuckle-boom truck cranes that deliver material to a construction site when the crane is used to transfer building supply sheet goods or building supply packaged materials from the truck crane onto a structure, using a fork/cradle at the end of the boom, but only when the truck crane is equipped with a properly functioning automatic overload prevention device. Such sheet goods or packaged materials include, but are not limited to: sheets of sheet rock, sheets of plywood, bags of cement, sheets or packages of roofing shingles, and rolls of roofing felt.
 - (iii) This exclusion does not apply when:
 - (A) The articulating/knuckle-boom crane is used to hold, support or stabilize the material to facilitate a construction activity, such as holding material in place while it is attached to the structure;
 - (B) The material being handled by the articulating/knuckle-boom crane is a prefabricated component. Such prefabricated components include, but are not limited to: precast concrete members or panels, roof trusses (wooden, cold-formed metal, steel, or other material), prefabricated building sections such as, but not limited to: floor panels, wall panels, roof panels, roof structures, or similar items;

(C) The material being handled by the crane is a structural steel member (for example, steel joists, beams, columns, steel decking (bundled or unbundled) or a component of a systems-engineered metal building (as defined in 29 CFR 1926 subpart R).

(D) The activity is not specifically excluded under 1400(c)(17)(i) and (ii).

(18) Flash-butt welding trucks. Flash-butt welding trucks or other roadway maintenance machines not equipped with any hoisting device other than that used to suspend and move a welding device or workhead assembly. For purposes of this paragraph (c)(18), the terms flash-butt welding truck and roadway maintenance machine refer to railroad equipment that meets the definition of "roadway maintenance machine" in 49 CFR 214.7 and is used only for railroad track work.

- (d) All sections of this subpart CC apply to the equipment covered by this standard unless specified otherwise.
- (e) The duties of controlling entities under this subpart include, but are not limited to, the duties specified in 1926.1402(c), 1926.1402(e) and 1926.1424(b).
- (f) Where provisions of this standard direct an operator, crewmember, or other employee to take certain actions, the employer must establish, effectively communicate to the relevant persons, and enforce, work rules to ensure compliance with such provisions.
- (g) For work covered by Division 2/RR, compliance with OAR 437-002-2315 is deemed compliance with 1926.1407 through 1926.1411.
- (h) Section 1926.1402 does not apply to cranes designed for use on railroad tracks, when used on railroad tracks that are part of the general railroad system of transportation that is regulated pursuant to the Federal Railroad Administration under 49 CFR part 213, and that comply with applicable Federal Railroad Administration requirements. See 1926.1402(f).

[75 FR 48135, Aug. 9, 2010, as amended at 78 FR 32116, May 29, 2013; 79 FR 20743, Apr. 11, 2014]

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 1-2011, f. 2/9/11, ef. 2/9/11.

OR-OSHA Admin. Order 5-2013, f. 9/13/13, ef. 9/13/13.

OR-OSHA Admin. Order 3-2015, f. 10/9/15, ef. 1/1/16.

OR-OSHA Admin. Order X-XXXX, f. XX/XX/XX, ef. XX/XX/XX.

Sec. 1926.1442 Railroad roadway maintenance machines.

(a) General rule. Employers using equipment covered by this subpart

that meets the definition of "roadway maintenance machine," as defined in 49 CFR 214.7, must comply with the requirements in this subpart, except as provided in paragraphs (b)(1) through (7) of this section when subject to the authority of the Federal Railroad Administration.

(b) Exceptions

(1) Operator certification, training, and evaluation. The requirements in Sec. Sec. 1926.1427 (Operator qualification and certification) and 1926.1430 (Training) do not apply. The qualification and training requirements contained in Sec. Sec. 1926.1436(q) (Qualification and training for derricks), 1926.1440(a) (Sideboom cranes), and 1926.1441(a) (Equipment with a rated hoisting/lifting capacity of 2,000 pounds or less) do not apply.

(2) Rail clamps, rail stops, and work-area controls.

(i) The requirement for rail clamps in Sec. 1926.1415(a)(6) does not apply;

(ii) The requirement for rail stops in Sec. 1926.1415(a)(6) does not apply; and

(iii) The work-area controls specified by Sec. 1926.1424(a)(2) do not apply.

(3) Out-of-level work. The restrictions on out-of-level work, and the requirements for crane-level indicators and inspections of those indicators (including the requirements in Sec. Sec. 1926.1402(b), 1926.1412(d)(1)(xi), and 1926.1415(a)(1)), do not apply.

(4) Dragging a load sideways. The prohibition in Sec. 1926.1417(q) on dragging a load sideways does not apply.

(5) Boom-hoist limiting device. The requirement in Sec. 1926.1416(d)(1) for a boom-hoist limiting device does not apply to roadway maintenance machines when the cranes use hydraulic cylinders to raise the booms.

(6) Manufacturer guidance for modifications covered by Sec. 1926.1434. The requirements to follow the manufacturer's guidance set forth in Sec. 1926.1434 do not apply if the employer is subject to the requirements of 49 CFR part 214.

(7) Other manufacturer guidance. The requirements to follow the manufacturer's guidance, instructions, procedures, prohibitions, limitations, or specifications, set forth in Sec. 1926.1404(j), (m), or (q); Sec. 1926.1415(a)(6); Sec. 1926.1417(a), (r), (u), or (aa); Sec. 1926.1433(d)(1)(i); or Sec. 1926.1441 do not apply if the employer is subject to the requirements of 49 CFR part 214.

1926.144[2]3 Severability

Should a court of competent jurisdiction hold any provision(s) of subpart CC to be invalid, such action shall not affect any other provision of the subpart.