

ACCSH Presentation: Railroad Cranes Amendments
Nov 30-Dec 1, 2016

Railroad Crane Amendments Background:

- The final rule for Cranes and Derricks in Construction was published on August 9, 2010. The Association of American Railroads (AAR) filed a petition for review on October 7, 2010, challenging certain exemptions affecting railroad roadway work equipment.
 OSHA and AAR negotiated a settlement agreement, filed with the court on September 9, 2014. The agreement was reviewed by the relevant railway worker labor organizations and the Federal Railroad Administration.
- The agreement requires OSHA to undertake rulemaking and included draft regulatory text that serves as the basis for this proposed rule.
- Per the agreed-upon regulatory language, OSHA proposes two groups of exemptions from 29 CFR 1926 subpart CC for certain types of railroad equipment.
 - 1) A complete exclusion for specified welding trucks and other equipment where the only hoisting device is a low-hanging attachment used for railroad track work.
 - 2) A series of partial exclusions of railroad roadway maintenance machines from specific subpart CC requirements. The exemptions are limited to track-related work and would not apply to equipment when used to build bridges, station houses, platforms, or other structures. These exemptions are to be added in a new section 29 CFR § 1926.1442, once existing § .1442 is renumbered 29 CFR § 1926.1443.
- Per the agreement, AAR has provided statistical data to aid OSHA in its economic analysis of the rulemaking (and to fill in data missing from its original economic analysis of the railroad industry). As part of the agreement, AAR agreed to move for the court to dismiss with prejudice its petition for review once OSHA publishes a final rule addressing the exemptions.

Side by Side Chart: Proposed regulatory text changes are indicated with **bold** text.

Current Standard	Proposed Changes
<p>§1926.1400 Scope</p> <p>(c) Exclusions. This subpart does not cover: * * *</p> <p>(17) Material Delivery * * *</p>	<p>§1926.1400 Scope</p> <p>(c) Exclusions. This subpart does not cover: * * *</p> <p>(17) Material Delivery * * *</p> <p>(18) Flash-butt welding trucks or other roadway maintenance machines which are not equipped with any hoisting device other than that used to suspend and move a welding device or workhead assembly. For purposes of this exclusion, the terms, a 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 are used only for railroad track work. * * * * *</p>
	<p>Insert a new § 1926.1442 immediately following existing §</p>

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Sec. 1926.1442 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.

1926.1441 and immediately before new § 1926.1443 to read as follows:

* * * * *

§ 1926.1442 Railroad roadway maintenance machines.

- (a) For bridge construction work, employers using equipment covered by this Subpart CC that meets the definition of "Roadway Maintenance Machine," as defined in 49 CFR 214.7, must comply with all of the requirements in this Subpart CC.
- (b) For construction work other than bridge construction, employers using equipment covered by Subpart CC that meets the definition of "Roadway Maintenance Machine" must comply with the requirements in Subpart CC, except as provided in paragraphs (1) through (7) of this section:
 - (1) Operator certification and training. The requirements in §§1427 (Operator qualification and certification) and 1430 (Training) do not apply.
 - (2) Rail clamps, rail stops, and work-area controls.
 - (i) The requirement for rail clamps in §1415(a)(6) does not apply; except, § 1415(a)(6) applies when a manufacturer requires rail clamps, unless a registered professional engineer determines that rail clamps are not necessary;
 - (ii) The requirement for rail stops in § 1415(a)(6) does not apply; and
 - (iii) The work-area controls specified by § 1424(a)(2) do not apply when employers have implemented an on-track safety program that addresses work-area safety for the equipment, and the Federal Railroad Administration approved the on-track safety program in accordance with 49 CFR 214.307(b).
 - (3) Out-of-level work. The restrictions on out-of-level work (including the requirements in §§1926.1402(b), 1926.1412(d)(l)(xi), and 1926.1415(a)(l)), and the requirements for crane-level indicators and inspections of those indicators, do not apply when the employer uses equipment purchased before November 8, 2010, or when:
 - (i) The manufacturer approves or modifies the equipment for out-of-level operation, or a registered professional engineer who is a qualified person with respect to the equipment involved approves such out-of-level work; and
 - (ii) The employer uses the equipment within limitations specified by the manufacturer or the registered professional engineer, or a qualified person modifies the load chart for such approved out-of-level work and the employer uses the equipment in accordance with that load chart.
 - (4) Dragging a load sideways. The prohibition in § 1417(q) on dragging a load sideways does not apply.

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	<p>(5) Boom-hoist limiting device. The requirement in § 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.</p> <p>(6) Manufacturer guidance for modifications covered by §1434. The requirements to follow the manufacturer's guidance set forth in § 1434 do not apply when employers meet all of the following conditions:</p> <p>(i) A registered professional engineer who is a qualified person with respect to the equipment:</p> <p>(A) Approves the procedure, modification, addition, or repair, and specifies the equipment configurations to which that approval applies; and</p> <p>(B) Modifies load charts, procedures, instruction manuals, and instruction plates, tags, and decals, as appropriate.</p> <p>(ii) The employer uses the equipment in accordance with all of the engineer's specifications and modifications.</p> <p>(iii) The original safety factor of the equipment is not reduced below 1.7 for the structural boom, and 1.25 for stability, unless the original safety factor is lower.</p> <p>(7) Other manufacturer guidance. The requirements to follow the manufacturer's guidance, instructions, procedures, prohibitions, limitations, or specifications, set forth in §§1404(j), (m), or (q); 1417(a), (r), (u), or (aa); 1433(d)(l)(i); or 1441 do not apply when:</p> <p>(i) A registered professional engineer familiar with the type of equipment involved determines the appropriate limitations on the equipment in writing; and</p> <p>(ii) The employer does not exceed those limitations.</p> <p>* * * * *</p>
<p><u>Sec. 1926.1442 Severability.</u></p> <p>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.</p>	<p>Re-designate existing § 1926.1442 as new § 1926.1443.</p> <p><u>Sec. 1926.1443 Severability.</u></p> <p>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.</p>