

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

AGENCY: Department of Labor and Training

RULE IDENTIFIER: 260-RICR-30-15-8

REGULATION TITLE: Examining and Licensing of
Hoisting Engineers

RULEMAKING ACTION: Proposed Rulemaking

TYPE OF FILING: Amendment

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public notice date of: June 5, 2018

Comment period ends: July 6, 2018

SUMMARY OF PROPOSED RULE: To provide standards for the examining and licensing of hoisting engineers.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by July 6, 2018 to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Sean M. Fontes, Executive Counsel, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920

Email Address: sean.fontes@dlt.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Mailing Address: Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI, 02920.

PUBLIC HEARING INFORMATION:

Public Hearing Date & Time: June 29, 2018 @ 2:00 PM

Public Hearing Location: Department of Labor & Training 1511 Pontiac Ave, 73-1, Cranston, RI 02920

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed or any other accommodation to ensure equal participation, please call 462-8897 or RI Relay 711 at least three (3) business days prior to the meeting

FOR FUTHER INFORMATION CONTACT:

Sean M. Fontes, Executive Counsel, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920, 462-8890, sean.fontes@dlt.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

It is beneficial for the public to have hoisting engineers licensed.

Authority for This Rulemaking: 28-26-1.1, 28-26-4 and 28-26-6

Regulatory Findings:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Amendment:

Department of Labor and Training proposes to amend the proposed rule as follows below:

TITLE 260 - DEPARTMENT OF LABOR AND TRAINING

CHAPTER 30 - WORKFORCE REGULATION AND SAFETY

SUBCHAPTER 15 - PROFESSIONAL REGULATION

PART 8 - EXAMINING AND LICENSING OF HOISTING ENGINEERS

8.1 Authority

This part is promulgated pursuant to R.I. Gen. Laws §§ 28-26-1.1, 28-26-4 and 28-26-6.

8.2 Purpose

The purpose of these rules and regulations is to provide standards for the examining and licensing of hoisting engineers.

8.3 Definitions

A. The following definitions shall apply:

1. "Department" means the Department of Labor and Training.
2. "Direct Line of Sight Supervision" means that the Trainee is within the immediate proximity of the Trainer and can read hand signs .
3. "Division" means the Division of Workforce Regulation and Safety.
3. ~~"Direct Line of Sight Supervision" means that the Trainee is within the immediate proximity of the Trainer and can read hand signs can, at all time, physically see the Trainer's hand signs and can physically hear the Trainer give voice commands.~~
4. "DOT medical care" means a card given after a Department of Transportation (DOT) physical examination conducted by a licensed medical examiner listed on the Federal Motor Carrier Safety Administration (FMCSA) National Registry.
4. ~~"Excavating Equipment" means a Hoisting Pay loader or Backhoe or other excavating equipment as defined by Rule 8.4 ;~~
5. "Operator Training" means actual ~~filed~~field instruction provided by a Trainer to a Trainee where the Trainee controls the Excavating Equipment.
6. "Trainee" means a person granted an Operator Trainee License by the Department.
7. "Trainer" means a person who holds a valid Rhode Island Excavating Equipment License ~~for at least five years, , as defined by Rule 8.4 or a Full~~

License as defined by § Rule 8.5 of this Part, and who is ~~named~~ approved as a Trainer by the Division for Operator Training of a specific Trainee.

8.4 Types of Licenses

- A. UNRESTRICTED LICENSE - qualifies the person to operate the equipment specified on the license, in the category or categories designated in rule #2, § 8.5 of this Part. This license is valid for work for multiple employers.
- B. RESTRICTED LICENSE – a restricted license is valid only for work performed in the employment of a single employer, within the premises owned and occupied by the employer, and is restricted to the type of equipment as specified on the license, in the category or categories designated in rule #2 § 8.5 of this Part. Municipal, State, and Quasi-State employees, who hold a restricted license, must follow the same provisions as the above stated restricted licensees.

8.5 Categories of Licenses

- A. FULL LICENSE -- This license allows the operation of all hoisting and excavating equipment. A full license shall be issued to any person, successfully completing an examination for the same, who previously qualified himself/herself under this chapter, as a hoisting engineer with a valid regular Rhode Island hoisting license for a period of at least two (2) years. Restricted licenses are excluded for purposes of this section.
- B. ~~CRANE~~/LATTICE CRANE LICENSE -- This license allows the operation of all lattice boom cranes, derricks, stiff legs, Chicago booms, gin poles, and tower cranes.
- C. HYDRAULIC CRANE LICENSE -- This license allows the operation of cranes and other machines in which the main boom is hydraulically telescopic. This includes, elevators, personnel and/or material hoists (as defined in the Rhode Island Elevator Safety Code (210-RICR-30-10-1) §§ 1.7 and 1.8), manipulators, winches, spider cranes, vibratory hammers, and hydraulic hoists, rotating telehandlers irrespective of attachments and any machine that is designed to rotate on a vertical axis.
- D. AERIAL LIFT LICENSE -- This license allows the operation of a boom type personnel lift that is hydraulically operated enabling the worker to lift himself/herself into an elevated working position, while lifting material.
- E. OVERHEAD ELECTRIC CRANE LICENSE -- This license allows the operation of machinery which is electrically operated, that moves along an overhead rail that supports a trolley enabling material to be hoisted from one location to another.
- F. CONVEYOR BELT LICENSE -- This license allows the operation of a self-propelled crushing and/or reclaiming equipment, and portable conveyors used to move materials.
- G. CONCRETE PUMP / SCREEDING EQUIPMENT LICENSE -- This license allows the operation of hydraulic pumps which pumps cement products from one location to another, and machines used for screeding freshly poured concrete.

- H. CONSTRUCTION FORKLIFT/ TELEHANDLER LICENSE -- This license allows the operation of a hydraulic equipment, that does not have a cable winch, but has forks and/or attachments to lift and/or transport material from one location to another, with an extendable boom for height and reach.
- I. EXCAVATING EQUIPMENT LICENSE -- This license allows the operation of rubber tired, crawler, or robotic equipment (whose primary function is not designed for hoisting) machinery for excavating, grading, demolition, crushing, grinding, reclaiming, paving and compaction of earth or asphalt.
- J. DRILLING RIG LICENSE -- This license allows the operation of truck or track mounted, rotary type machine used to test and/or excavate the earth.
- K. HYDRAULIC DELIVERY TRUCK-- This license allows the operator of a supply, delivery, or equipment rental company to only unload their product or equipment at their delivery destination by whatever hydraulic means that is on the transport vehicle.
- L. SIGN CRANE -- This license allows sign contractors to perform installation and removal of signs only.
- M. SEGMENTAL LIFT HOIST OR SEGMENTAL ERECTING ARM -- This license allows operation of machinery that is used for hoisting and setting precast concrete segments underground in tunnel construction only.

8.6 License Requirements

- A. The Division of Professional Regulation shall conduct examinations every thirty (30) days, or sooner, as the Director deems necessary. The passing score shall be seventy (70) percent.
- B. Any person holding a Restricted License may, at any time, apply for examination to qualify for operation of additional types of machinery. If applicant passes such examination, applicant's license shall be stamped indicating indicate equipment for which he/she qualifies.

~~A qualified person shall be issued a Restricted License, which shall be valid only for work performed in the employ of a single employer. Any application and license fee for the Restricted License shall be provided by the employer. A Restricted License will terminate when the employee leaves that employ.~~

- DC. Licenses shall show the date of issuance and shall expire on the licensee's birthday every two (2) years. Licenses may be renewed on or after that date, within a two (2) year period, upon payment of the appropriate renewal fees, plus a twelve-dollar (\$12.00) per month administrative assessment fee for the delinquency period. No re-examination shall be permitted during the twenty- four (24) month delinquency period.

1. If licenses are not renewed in two (2) years, the applicant will be subjected to re-examination.

~~Clarifying Comment: An individual wishing to reinstate a license that has lapsed for a period under two (2) years will not be permitted to a re-examination without paying late fees or until the two (2) year period has expired.~~

2. Any person with a pending violation will not be permitted to take a hoisting engineer examination, until such time as the fine and/or violation has been settled.
3. Any license expiring while the holder thereof is in the active military, naval, or air service of the United States shall be renewed without further examination, upon payment of the prescribed fee, at any time within four (4) months after the person's discharge from the service.

~~E. In case of licenses lost or destroyed, the holder shall notify the Examining Board immediately. A duplicate license will be issued properly marked and indicating the original date of issue upon a notarized application with the necessary fees, filed with the Board of Examiners, stating circumstances surrounding the loss or destruction.~~

~~F. Any individual who has failed an examination shall not be permitted to reexamine until after two (2) consecutive monthly exam periods from the failure date of his/her last examination. Every retest or new test shall require payment of a separate test fee.~~

~~G. Each applicant who has attained a score of seventy (70) or higher on the examination shall be issued a license with the endorsement tested for, by the Division upon receipt of proper payment.~~

H~~D~~. Every person shall have his/her license in his/her possession and on his/her person at all times while engaged in actual operation of hoisting machinery. No person shall transfer his/her license to another person. No licensee shall voluntarily give up possession of his/her license or place it beyond his/her personal control by pledging or depositing it with another person. Failure to comply with the above shall subject the holder to revocation of his/her license and any other penalties prescribed by law.

~~†~~E. All applications for a license must be accompanied by a Medical Certification (DOT medical card), affidavit detailing work history, ~~two~~ one (21) photos of applicant, and a non-refundable fee of seventy-five (\$75.00) dollars, ~~which is not refundable.~~

~~J~~F. The Board of Examiners has the power to disregard any of the above rules and regulations if necessary, during a governmentally declared state of emergency.

~~K~~G. In accordance with the Federal Regulations, 29 C.F.R. §§ 570.58 and 570.68 ~~Section 12~~ of the Fair Labor Standards Act ~~—(29 CFR—570)~~, no license shall be granted to a person less than eighteen (18) years of age.

8.6 Definitions

~~A. As used for Rule 14, the following definitions shall apply:~~

1. ~~“Department” means the Department of Labor and Training;~~
2. ~~“Division” means the Division of Workforce Regulation and Safety;~~
3. ~~“Direct Line of Sight Supervision” means that the Trainee can, at all time, physically see the Trainer’s hand signs and can physically hear the Trainer give voice commands;~~
4. ~~“Excavating Equipment” means a Hoisting Pay loader or Backhoe or other excavating equipment as defined by Rule 2(I) of these rules;~~
5. ~~“Operator Training” means actual filed instruction provided by a Trainer to a Trainee where the Trainee controls the Excavating Equipment;~~
6. ~~“Trainee” means a person granted an Operator Trainee License by the Department;~~
7. ~~“Trainer” means a person who holds a valid Rhode Island Excavating Equipment License, as defined by Rule 2(I) of these rules or a Full License as defined by Rule 2(A) of these rules, and who is named as a Trainer by the Division for Operator Training of a specific Trainee;~~

8.7 Operator Trainee License:

- A. The Operator Trainee License shall allow a Trainer to provide Operator Training to a Trainee in the proper and safe use of Excavating Equipment, as defined in § 8.5(I). -and shall be valid for a two (2) year period or until such time as the Trainer notifies the Division that he/she is no longer providing Operator Training to the Trainee.;
- B. A Trainee ~~must~~ is required to sit for the Hoisting Engineer’s examination following the expiration of the two (2) -year term of the Operator Trainee License.;
- C. Applicants who hold an Operator Trainee License and sit for a Hoisting Engineer examination and fail may sit for a second Hoisting Engineer examination after a thirty (30) -day period.;
- D. A Trainee holding an Operator’s Trainee License and who has failed the Hoisting Engineer’s examination may request to come before the Board of Examiners of Hoisting Engineers to request an additional one (1) year extension of his/her Operator Trainee License.;

8.8 Operator Trainee Application Process

- A. Persons seeking an Operator Trainee License must make submit an application to the Division.;
- B. The Division shall approve applications from persons over the age of eighteen (18) upon submission of a complete application for an Operator Trainee License.;
- C. The application for Operator Trainee Licenses shall include:

1. A notarized letter or statement from the owner/lessee of the proposed Excavating Equipment, upon which the applicant will receive Operator Training in which the owner/lessee grants the applicant and proposed Trainer permission to perform Operator Training on his/her Excavating Equipment;
2. A notarized letter from the proposed Trainer stating that he/she will provide the applicant with Operator Training in compliance with the rules stated herein and that the applicant possesses the competency to train to run Excavation Equipment;
3. The applicant's name, address and telephone number;
4. The proposed Trainer's name, business name, address and his/her Rhode Island Hoisting Engineer License number; and
5. A seventy- five dollar (\$75) application fee;

8.9 Trainer's Responsibilities

A. A trainer shall:

1. Provide Operator Training to only one (1) Trainee at any given time;
- 2B. Remain in the Trainee's Direct Line of Sight Supervision at all times in which the Trainee receives Operator Training;
- 3C. Directly supervise the Trainee's Operator Training at all times, a Trainee shall cease operation of excavating equipment when the designated Trainer is not in the immediate proximity-;
- 4D. ~~E~~nsure that the Trainee performs Operator Training only within the Trainee's scope of operational competence and only on the Excavating Equipment, as defined in § 8.54(I) of this Part approved by the Division;
- 5E. Notify the Division in writing, within three (3) business days from the date when the Trainer ceases providing Operator Training to the Trainee;
~~Notify the Division in writing within three (3) business days from the date when the Trainer ceases providing Operator Training to the Trainee; and~~
- 6F. ~~Maintain Operator Trainee~~ shall maintain a valid Hoisting Engineer License during the training period;
~~Shall cease operation of Excavating Equipment when the Designated Trainer is not providing Direct Line of Sight Supervision; (F)~~

8.10 Penalty for Violations:

- A. Whoever, ~~being a Trainer or Trainee,~~ violates any provision of this Rule shall be fined pursuant to R.I. Gen. Laws § 28-26-11, not less than three hundred (\$300) nor more than one thousand one hundred and fifty dollars (\$1,150) per offense;

~~Each day in which a violation occurs shall be deemed a separate offense;~~

B. Persons aggrieved by any proposed penalty for violation of this rule may appeal imposition of said penalty pursuant to R.I.G.L. §28-26-16.

~~These rules and regulations constitute the entire rules and regulations under Title 28, Chapter 26, of the Rhode Island General Laws. All prior rules and regulations are hereby rescinded.~~

~~Adopted by the Board of Hoisting Engineers as formal and official Rules and Regulations pursuant to R.I.G.L. 2826-4 and 42-35-3.~~