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August 31, 2010

The Honorable Tom Harkin  
Chairman  
The Honorable Michael B. Enzi  
Ranking Member  
Committee on Health, Education, Labor, and Pensions  
United States Senate

The Honorable George Miller  
Chairman  
The Honorable John Kline  
Ranking Member  
Committee on Education and Labor  
House of Representatives

Subject: *Department of Labor, Occupational Safety and Health Administration:  
Cranes and Derricks in Construction*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Labor, Occupational Safety and Health Administration (OSHA), entitled “Cranes and Derricks in Construction” (RIN: 1218-AC01). We received the rule on August 19, 2010. It was published in the *Federal Register* as a final rule on August 9, 2010, with a stated effective date of November 8, 2010. 75 Fed. Reg. 47,906.

The final rule revises the Cranes and Derricks Standard and related sections of the Construction Standard to update and specify industry work practices necessary to protect employees during the use of cranes and derricks in construction. This rule also addresses advances in the designs of cranes and derricks, related hazards, and the qualifications of employees needed to operate them safely. Under this final rule, employers must determine whether the ground is sufficient to support the anticipated weight of hoisting equipment and associated loads. The employer is then required to assess hazards within the work zone that would affect the safe operation of hoisting equipment, such as those of power lines and objects or personnel that would be within the work zone or swing radius of the hoisting equipment. Finally, the employer is required to ensure that the equipment is in safe operating condition via required inspections and that employees in the work zone are trained to

recognize hazards associated with the use of the equipment and any related duties that they are assigned to perform.

Enclosed is our assessment of OSHA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that OSHA complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Ben Bare  
Acting Director, OSHA Directorate  
of Construction  
Department of Labor

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF LABOR,  
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
ENTITLED  
"CRANES AND DERRICKS IN CONSTRUCTION"  
(RIN: 1218-AC01)

(i) Cost-benefit analysis

Occupational Safety and Health Administration (OSHA) analyzed the costs and benefits of this final rule. OSHA estimated that the annualized costs include the costs of crane assembly and disassembly (\$16.3 million), power line safety (\$68.2 million), crane inspections (\$16.5 million), ground conditions (\$2.3 million), and operator qualification and certification (\$50.7 million) for a total annualized cost of \$154.1 million. OSHA estimated that the annual benefits include injuries prevented (175), fatalities prevented (22), and property damage from tipovers prevented (\$7 million) for total monetized benefits of \$209.3 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

OSHA certified that this final rule will not have a significant impact on a substantial number of small firms.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

OSHA's stated that its standards do not apply to state, local, or tribal governments except in states that have elected voluntarily to adopt a State Plan approved by OSHA. Consequently, OSHA determined that this rule does not meet the definition of a federal intergovernmental mandate under the Act. However, OSHA did determine that the rule imposes costs of over \$100 million per year on the private sector and is thus required to review private sector costs. OSHA stated that it met this requirement as part of its economic and regulatory flexibility analyses.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On July 16, 2002, OSHA published a notice of intent to form a committee to engage in negotiated rulemaking. 67 Fed. Reg. 46,612. The committee met 11 times between July 30, 2003 and July 9, 2004. On October 9, 2008, OSHA issued a proposed rule

based on the committee's work requesting public comments through December 8, 2008. 73 Fed. Reg. 59,713. The deadline for comments was extended to January 22, 2009. 73 Fed. Reg. 73,197. On March 17, 2009, OSHA convened a 4-day public hearing on the proposed rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

OSHA determined that this final rule contains information collection requirements under the Act. OSHA submitted the information collection requirement entitled "Cranes and Derricks in Construction (29 C.F.R. part 1926 subpart CC)" to the Office of Management and Budget (OMB) for review. OMB assigned it OMB Control Number 1218-0261.

Statutory authorization for the rule

OSHA promulgated this final rule under the authority of section 553 of title 5; sections 653, 655, and 657 of title 29; and sections 3701 to 3708 of title 40, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

OSHA determined that this final rule is an economically significant rule under the Order and examined the costs and benefits as discussed above.

Executive Order No. 13,132 (Federalism)

OSHA reviewed this final rule under the Order. In particular, OSHA examined a concern raised during public commenting as to whether this rule would preempt any non-conflicting local or municipal building codes designed to protect the public from the hazards of cranes. OSHA determined that this rule would not have such a preemptive effect.