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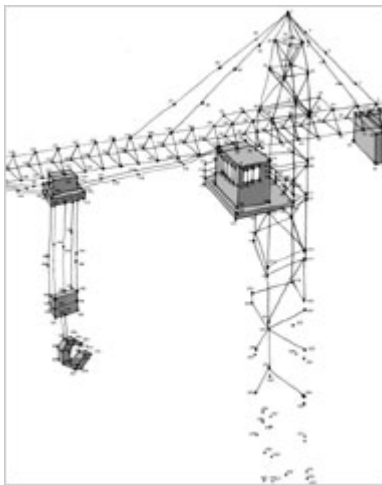
Safety Starts at the Top

By SUSAN PODZIBA
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Josh Cochran

IT'S still not clear what caused the two recent crane accidents in New York City, which killed nine people. Across the country, dozens die each year in similar accidents: 72 workers in 2006 alone, the most recent year for which federal figures are available. Yet the Occupational Safety and Health Administration has been sitting on crane-safety regulations that could prevent more deaths.

As I watched the news coverage of the second of the crane accidents last month, I felt sick to my stomach.

In 2003, OSHA hired me to bring together union and industry representatives to update federal crane and derrick regulations. The existing regulations on crane safety were created in 1971 and have not been significantly revised since then. Everyone agreed that the current regulations are archaic and fail to address the daily hazards

faced by construction workers.

From July 2003 to July 2004, representatives of labor unions, crane manufacturers, crane operators, contractors, crane rental companies, builders, crane owners, billboard installers, insurance companies, electrical power line owners and safety experts met to discuss virtually all hazards associated with cranes — and how to prevent them. The

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deliberations were governed under the Federal Advisory Committee Act, which meant that the public could attend the sessions and address the representatives.

The group reached consensus on a set of revised crane standards. OSHA officials participated in the negotiations and contributed their expertise in writing enforceable regulations. According to OSHA's analysis, these standards would prevent 37 to 48 worker deaths per year. The draft regulations are about 120 pages long, and include important new requirements like the testing and certification of crane operators and the oversight of crane assembly and disassembly.

From the first day of deliberations — in accordance with the process, called negotiated rulemaking — the parties operated under this assumption: If this balanced group of stakeholders and the government could agree on a standard, then OSHA would publish it in the Federal Register as its proposed rule. After OSHA publishes a draft rule, the public has 60 days to comment before the final rule is published and becomes law.

Having conducted 15 negotiated rulemakings for five federal agencies, I expected OSHA to publish the rule in 2006. Since the conclusion of the negotiations in 2004, two OSHA administrators have said that the revised crane standard is a priority.

For nearly four years, those of us involved in the negotiations have hoped that the power of an industry-union consensus and plain good sense would prevail, perhaps with some prodding. Just days before the March crane accident in New York, representatives of the group that developed these safety regulations wrote to Labor Secretary Elaine Chao and strongly urged her to “ensure this standard and its publication receive the immediate attention it requires.”

Later that month, OSHA said the proposed standard was expected to be published in August. But in May, Joshua B. Bolten, the White House chief of staff, informed administrative agencies that after June 1 no proposed rules were to be published except under “extraordinary” circumstances. Mr. Bolten also said that no draft rules could be made final after Nov. 1.

This means the nation will not have more protective crane standards for years unless the administrator of OSHA, Edwin G. Foulke Jr., requests, and the White House approves, an “extraordinary” exception for publication of the proposed cranes and derricks standard. When a new president takes office in January, his new appointees in the Labor Department would want to review these standards before taking any action. If they made changes to the draft regulations, the negotiations may have to be reopened.

In a speech to the American Society of Safety Engineers in June 2006, Mr. Foulke told the audience that his appointment to OSHA by President Bush was his destiny. Destiny now calls. Mr. Foulke must request, and if necessary demand, an exception to the June 1

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deadline for publishing the proposed cranes and derricks standard and the Nov. 1 deadline for making it final.

Susan Podziba is a public policy mediator.

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