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**FOR FURTHER INFORMATION CONTACT:** For general information and press inquiries, contact Ms. Bonnie Friedman, OSHA, Office of Public Affairs, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1900. For technical inquiries contact Mr. Michael Buchet, OSHA, Office of Construction Standards and Guidance, Room N-3468, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2020. For additional copies of this **Federal Register** notice, contact OSHA, Office of Publications, Room N-3101, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; telephone (202) 693-1888. Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's web page on the Internet at <http://www.osha.gov>.

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##### **I. Background**

On July 16, 2002, OSHA published a **Federal Register** notice of intent to establish a negotiated rulemaking

committee for cranes and derricks (volume 67 of the **Federal Register**, page 46612). The notice requested comments on the appropriateness of using negotiated rulemaking to develop a proposed rule for cranes and derricks used in construction and requested nominations for membership on the Committee. In addition, the notice described the negotiated rulemaking process and identified some key issues anticipated to be addressed in the negotiation.

Fifty-five nominations for membership on the Committee and several comments were received during the comment period. There was broad support for using negotiated rulemaking to update the standard and OSHA decided to go forward with the negotiated rulemaking process.

##### **II. Discussion of Comments on the Proposed Membership List**

The Agency published a proposed membership list and requested public comment (68 FR 9036, February 27, 2003). In response to the notice of proposed members, OSHA received 29 sets of comments. Of the comments received, 13 supported OSHA's proposed member list and 16 asked for individuals to be added to the list. Below is a discussion of the comments that recommended adding members to the committee.

Three commenters (Exs. 6-1, 7-7 and 7-13) indicated that there should be an additional representative from the mobile crane manufacturing industry. In their view there was an imbalance in the proposed committee list with respect to the number of manufacturing representatives relative to the number of user representatives. The proposed committee included a representative from Manitowoc Cranes, Inc. OSHA agrees with these commenters and has decided to add Bernie McGrew of Link-Belt Construction Equipment Company to the Committee to provide additional technical expertise on the design, manufacturing and testing of mobile cranes.

One industry commenter (Ex. 7-12) suggested that the committee needs a representative from the Department of Defense and in particular the Navy Nuclear Crane Program. The Agency, however, is not aware of aspects of cranes used by the Navy that cannot be addressed by the proposed members of the Committee. Furthermore, no comments were received from the Navy objecting to the proposed membership list.

One commenter (Ex. 7-9) asserted that the proposed committee did not represent hydraulic telescoping boom

cranes. However, since Manitowoc owns Grove, a major manufacturer of hydraulic cranes, their member will represent that interest. Also, Link-Belt manufacturers hydraulic cranes, so with the addition of Mr. McGrew, the interests of manufacturers of hydraulic telescoping boom cranes will be represented.

That commenter also asserted that the committee should have a representative of an "independent" trainer. The proposed list included David Ritchie of The St. Paul Companies, who has extensive experience as a trainer. The commenter did not explain why the interest of trainers can only be represented by an independent trainer. Accordingly, the Agency concludes that the trainer interest is adequately represented.

One commenter (Ex. 7-4) stated that cranes and derricks are used extensively in marine construction (bridge, dock, outfall, pipeline and dredging work) and that the marine construction environment is very different from a landside environment. He asked that a representative of the marine construction industry be added. He also noted that, "in lieu of appointing a marine construction representative to the committee, we request that OSHA provide some vehicle to ensure that marine construction interests may offer valuable input to the negotiated rulemaking committee. \* \* \*

OSHA believes that the marine construction interest can effectively form coalitions with other committee members. In addition, the marine construction interest will have ample opportunities to present information to and work with the C-DAC committee as issues relating to that type of work arise. This type of information can be provided at the public meetings of the full committee and in committee workgroups.

Seven commenters (Exs. 6-7, 6-9, 6-10, 6-11, 6-13, 6-14 and 6-15) objected to the composition of the committee stating that the Specialized Carriers & Rigging Association's (SC&RA) nominee should be added to the committee. The SC&RA is an association with a large, broad-based membership of crane-related businesses. The comments reflect a cross-section of industry support for including the SC&RA nominee, Doug Williams of Buckner Heavylift Cranes. The Agency has decided to add Mr. Williams as a member of the committee.

One commenter (Ex. 6-6) stated that the proposed committee did not have sufficient representation from "public entities;" it appears from the context of the comment that the commenter is