

Docket S030
Ex. 67-6

Leake, Brenda - OSHA

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Sent: Wednesday, May 26, 2004 5:53 AM
To: DOCKET S-030
Cc: Robert Weiss
Subject: Understanding Federal OSHA jurisdiction

OSHA Docket Office
Docket No. S-030
Department of Labor
200 Constitution Avenue NW
Room N-2625
Washington DC 20210

26 May 2004

Proposed Revision of Subpart N for cranes and derricks

We would like to clarify some concerns as to the relevance of individual state laws concerning cranes as a result of the 1970 Occupational Health and Safety Act 1970 and the 1992 Supreme Court ruling # 90-1676.

The accompanying flow diagram clarifies the situation that we are advised exists. It was interesting that in the 2:1 judgment that Justice Souter dissented and that the defendant had a parallel Federal safety certification. It is obvious that cross state commercial considerations will enable the large corporations to challenge quasi health and safety where no 'state plan' exists.

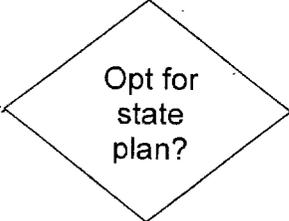
In the crane world there are a variety of power line statutes with 'state plan' and non 'state plan' states. In non 'state plan' the state statutes are sometimes enforced correctly as public health. The focus has been to protect men and equipment in power line contacts. Up to 25 states require proven personal protective equipment. To remove this without replacement could be expensive to effect, not in the public interest and only benefit the legal profession.

Yours sincerely,

Hugh Pratt
Chairman of Crane Power Line Safety Organisation
www.cranepowerlinesafety.org

5/26/2004

William Steiger
Occupational Health & Safety Act 1970
www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=OSHACT&p_id=2743



-NO

Can only issue public safety laws,
For instance
Arkansas 11-5-308,
mandating insulating links is enforced as a public safety law

Pre 1970 health or quasi health/public could be challenged in Supreme court test case #90-1676

YES

- Alaska:
- Arizona:
- California:
- Hawaii:
- Indiana:
- Iowa:
- Kentucky:
- Maryland:
- Michigan:
- Minnesota:
- Nevada:
- New Mexico:
- North Carolina:
- Oregon:
- Puerto Rico:
- South Carolina:
- Tennessee:
- Utah:
- Vermont:
- Virginia:
- Washington:
- Wyoming:

Federal OSHA applies and inspected.
Can produce and enforce more rigorous Health and Safety Laws