



**Division of Occupational Safety and Health
POLICY AND PROCEDURES MANUAL**

**P & P C-27A MONITORING OF CRANE CERTIFIERS AND
SURVEYORS**

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MONITORING OF CRANE CERTIFIERS AND SURVEYORS

P&P C-27A

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AUTHORITY: California Labor Code Sec. 60.5, 6308, 7375 through 7384, and Title 8 California Code of Regulations Sec. 344.60 through 344.67.

POLICY: It is the policy of the Division of Occupational Safety and Health to monitor licensed crane certifiers and surveyors to ensure that crane certifiers and surveyors certify cranes and derricks in accordance with all applicable California laws and regulations.

PROCEDURES:

A. CRANE CERTIFIER AUDITS

1. Crane Certifiers and Surveyors

Any person engaging in the testing, examination and/or certification of cranes and derricks used in lifting service, exceeding three tons rated capacity, is required to be licensed as a crane certifier by the Division of Occupational Safety and Health, or be approved by the Division as a surveyor to certify cranes under the authority and supervision of a licensed crane certifier.

2. Frequency of Crane Certifier Audits

- a. Audits of the activities which are performed by crane certifiers and surveyors licensed by the Division may be conducted by Crane Unit personnel at least once during each certifier's licensing period. These audits are non-enforcement activities where citations are not issued.
- b. Complaints and accidents involving crane certifiers or surveyors shall be given a higher priority for investigational resources by the Crane Unit. Crane Unit responses to complaints and accidents are enforcement activities which may result in the issuance of citations.

NOTE: Many Crane Certifying Agencies are one person operations with no employees. Appointments are allowed for non-enforcement audits. Appointments are not allowed for any enforcement activities.

3. Scope of Crane Certifier Audit

Audits shall consist of, but not be limited to, the following:

- a. An on-site review of a representative sample of inspection records from recent crane certifications;
 - b. A review of the crane certifier's or surveyor's inspection and testing procedures; and
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- c. A review of all Notices of Crane Safety Deficiencies, verifications of Corrections of Crane Safety Deficiencies, and crane certifications issued which are required to be maintained for a period of five years in accordance with applicable regulations.
 - d. The Crane Unit may also inspect a recently certified crane to verify if the surveyor missed deficiency items.
4. Documentation
 - a. Crane certifier audits shall be documented and any deficiencies shall be placed in the Certifying Agency's files. The Crane Unit shall provide the crane certifier a copy of the deficiencies.
 - b. The Crane Unit shall discuss the deficiencies and necessary corrections with the crane certifier. The Crane Unit shall document corrective actions to be taken by the crane certifier.
 5. Follow-up
 - a. The Crane Unit may issue a warning letter to the crane certifier of deficiencies found during the audit. For serious or ongoing deficiencies, the Crane Unit may pursue suspension or revocation of the license as described in Section D.
 - b. The Crane Unit may refer the Crane Certifier to the local District Office of the Enforcement Branch for a separate and independent enforcement inspection, using a Cal/OSHA Form 90 (Referral Form).

B. COMPLAINTS ABOUT CRANE CERTIFIERS

1. Complaint Referral

Any complaint received by the Division about a crane certifier or surveyor alleging improper inspection, certification, or failure to adhere to any applicable Labor Code requirement or Title 8 Safety Order pertaining to crane certification shall be referred to the Division's Crane Unit for evaluation. When referring a complaint about a crane certifier or surveyor to the Crane Unit, the District shall complete a Cal/OSHA Form 90 (Referral Form).

NOTE: Each complaint about a crane certifier or surveyor shall be subject to the confidentiality requirements found in Labor Code Sec. 6309.

2. Crane Unit Evaluation

The Crane Unit will evaluate each complaint to determine an appropriate response. An appropriate response may consist of a letter from the Crane Unit to the crane certifier or surveyor asking for additional information and/or an inspection of the activities of a crane certifier or surveyor.

3. Inspections

Inspections of crane certifiers and surveyors require the participation of District Office compliance personnel. Any referral from the Crane Unit for District Office assistance in the investigation shall be

approved by the Deputy Chief for Research and Standards or the Principal Safety Engineer. Approved referrals shall be directed through the Deputy Chief for Field Enforcement and the Regional Manager to the appropriate District Manager. Any investigation of a complaint about a crane certifier or surveyor shall be conducted by a team consisting of District Office and Crane Unit personnel in accordance with the appropriate procedures found in the Division's Policy and Procedure Manual.

4. Citations

- a. Based upon determination by the inspection team, the District Office shall issue citations to crane certifiers if a violation of a Title 8 Safety Order can be established and documented in accordance with appropriate procedures found in the Division's Policy and Procedure Manual.
- b. Crane certifiers may be cited for violations of Title 8 California Code of Regulations.

C. CRANE ACCIDENTS INVOLVING CRANE CERTIFIERS

Whenever a District Office initiates an investigation into the cause of an accident involving a crane, the Crane Unit shall be immediately notified by the District Office of the accident by telephone or email, and a Referral Form shall be completed and transmitted to the Crane Unit. Upon notification and after determining the nature and scope of the accident, the Crane Unit shall work cooperatively with the District Office as part of the inspection team, and in addition to the main accident investigation shall determine if any act or omission by a crane certifier or surveyor licensed by the Division was associated with the accident.

D. SUSPENSION OR REVOCATION OF CRANE CERTIFIER LICENSURE

1. Conditions for Licensure Suspension or Revocation

A crane certifier's or surveyor's license to certify cranes may be suspended or revoked under any one of the following conditions:

- a. Gross negligence, gross incompetence, a pattern of incompetence, or fraud in the certification of a crane;
- b. Willful or deliberate disregard of any occupational safety order while certifying a crane;
- c. Misrepresentation of a material fact in applying for, or obtaining, a license to certify cranes; or
- d. Upon showing of good cause.

2. Suspension or Revocation Decision

The adverse findings from any non-enforcement audit, programmed or complaint inspection or any accident-initiated investigation of a crane certifier or surveyor shall be reviewed by the Deputy Chief for Research and Standards or Principal Safety Engineer, and the Chief Counsel to determine whether sufficient grounds exist to suspend or revoke the license of a crane certifier or surveyor.

3. Period of Suspension or Revocation

The period of suspension or revocation shall be for six months for a first suspension or revocation, and one year for each subsequent suspension or revocation. The certificating agency shall obtain a new license from the Division following a suspension or revocation.

4. Suspension or Revocation Hearing Procedures

- a. A hearing shall be held to determine whether the license of a crane certifier or surveyor should be suspended or revoked. Written notice shall be provided by the Crane Unit to the Crane Certifier or Surveyor License Holder of the date, time, and place of the hearing at least 48 hours in advance. Service shall be by personal service or certified mail to the address shown on the crane certifier application form. The hearing notice must specify the reasons for the contemplated suspension or revocation action so that the License Holder is adequately able to prepare for the hearing.

NOTE: The Division shall also include within the Notice of Revocation or Suspension specific conditions which must be met before the applicant shall be entitled for a new certification.

- b. The hearing shall be held at Division Headquarters or such other location as may be designated by the Director. The Chief of the Division, or his or her designee, shall serve as the hearing officer. A representative of the Crane Unit shall present the Division's case at the hearing; unless the Chief Counsel determines that a staff attorney shall present the Division's case.
- c. The hearing officer shall preside at the hearing and shall electronically record the entire hearing.
- d. The hearing officer shall make a judgment whether the license of a crane certifier or surveyor should be suspended or revoked based on the evidence presented at the hearing. During the hearing, the Division shall establish good cause for the action taken.

NOTE: Good cause is deemed to exist if the Division establishes any of the following criteria:

- (1) Gross negligence, gross incompetence, a pattern of incompetence, or fraud in the certification of a crane;
 - (2) Willful or deliberate disregard of any occupational safety order while certifying a crane;
 - (3) Misrepresentation of a material fact in applying for, or obtaining, a license to certify cranes;
 - (4) Upon showing of good cause; or
 - (5) That the licensed certifier has committed any of the following acts:
 - (a) Failure to meet or comply with the requirements of this article or the limitations imposed on the license; or
 - (b) Performance of work not in compliance with applicable laws and regulations.
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- e. If the hearing officer decides not to suspend or revoke the license of a crane certifier or surveyor, then the hearing officer shall inform the crane certifier or surveyor of the decision as soon as possible after the conclusion of the hearing, but in no case more than 24 hours after the hearing.
- f. If the hearing officer concludes that the license should be suspended or revoked, then the hearing officer shall render a final decision as soon as possible, but in no case more than 24 hours after the hearing.

NOTE: The period of suspension or revocation for the commission of any act in the NOTE in Section D.4.d (1) through (4) above shall be six months for the first such suspension and one year for each subsequent suspension or revocation. The commission of an act referenced in NOTE in Section D.4.d.(5) above may result in suspension or revocation for up to one year.

- g. The Chief, or his or her designee, shall notify the crane certifier or surveyor and the Crane Unit of the final decision. In addition, the Chief, or his or her designee, shall notify in writing all compliance and consultation offices of the final decision, if it results in license suspension or revocation.
- h. When notifying the crane certifier or surveyor of a suspension or revocation decision, the Chief, or his or her designee, shall also inform the crane certifier or surveyor of the right to request an appeal of the Division's decision to the Director of the Department of Industrial Relations and their right to file an application for licensure with the Division after the period of suspension or revocation has run.
- i. If the crane certifier or surveyor requests an appeal of a suspension or revocation decision, the filing of an appeal shall not stay the revocation or suspension and such action shall remain in effect as such time as the applicant presents proof that the specified written conditions required by the Division are met or until otherwise ordered after resolution of the appeal.

5. Suspension or Revocation Appeal Hearing Procedures

If the crane certifier or surveyor indicates to the Chief that he or she wishes to avail themselves of their right to appeal the Division's final decision to suspend or revoke their license, the Chief shall immediately notify the Director and the following appeal hearing procedures shall be followed.

- a. The Director shall conduct the appeal hearing at a place designated by the Director within five working days of the appeal by the crane certifier or surveyor of the revocation or suspension decision.
- b. Written notice shall be provided to the crane certifier or surveyor of the date, time, and place of the appeal hearing at least 24 hours in advance. The appeal hearing notice shall specify the reasons for the revocation or suspension so that the crane certifier or surveyor is adequately able to prepare for the appeal hearing.
- c. The Director shall preside at the appeal hearing and shall electronically record the entire hearing. The certifying agency shall have the burden establishing qualification for licensure.
- d. The Director shall make a judgement whether the suspension or revocation of the license should be upheld or overturned based upon a review of the evidence presented at the first hearing and any new

evidence presented at the appeal hearing. The hearing officer shall inform the crane certifier or surveyor of the final decision as soon as possible after the conclusion of the hearing, but in no case more than 24 hours after the hearing.

- e. The Director's decision shall be final except for any rehearing or judicial review provided for by law.
- f. Requests for a rehearing shall be filed with the Director within ten days from the date of the Director's decision.

E. RESTRAINING ORDER AND ORDER PROHIBITING USE

1. If the license of the crane certifier or surveyor has been suspended or revoked and the crane certifier and surveyor continues to engage in work which requires a valid license, a request for a restraining order shall be made by the Crane Unit, through the Deputy Chief for Research and Standards or Principal Safety Engineer, to the Chief Counsel.
2. If the Crane Unit determines that a crane certified by a crane certifier or surveyor whose license has been suspended or revoked and the crane poses an imminent hazard, as described in Labor Code Sec. 6325, then an Order Prohibiting Use shall be issued by the Crane Unit in conjunction with the appropriate District Office.

F. MISDEMEANOR VIOLATIONS INVOLVING CRANE CERTIFIERS

1. Unlicensed Crane Certifiers

Labor Code Sec. 7379 makes it a misdemeanor for an individual to engage in the certification of a crane if that individual is not licensed pursuant to the Division's Crane Certifier licensure regulations.

- a. If a District Office learns that any person is engaging in the certification of cranes in the State of California without having first obtained a license to do so by the Division, the District shall immediately notify (by completing a Referral Form) the Crane Unit which shall conduct an investigation to determine the licensure status of the crane certifier or surveyor.

NOTE: Prior to initiating the investigation, the Crane Unit will confer with the Deputy Chief for Research and Standards or Principal Safety Engineer and the Chief Counsel to determine the need for involvement in the investigation by the Bureau of Investigations.

- b. If, after investigation, the Crane Unit finds that the crane certifier or surveyor is unlicensed, the Deputy Chief for Research and Standards or Principal Safety Engineer shall be informed. The Deputy Chief or Principal Safety Engineer will consult with the Chief Counsel to determine an appropriate course of action.

2. Licensed Crane Certifiers

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- a. Labor Code Sec. 7378 makes it a misdemeanor for a licensed crane certifier or surveyor to fraudulently certify that a crane is in compliance with the criteria established by the Division when it is not.
 - b. If a District Office learns that any crane certifier or surveyor has fraudulently certified a crane in the State of California, the District Office shall notify (by completing a Referral Form) the Crane Unit which shall conduct an investigation to determine the status of allegedly fraudulent crane certification.

NOTE: Prior to initiating the investigation, the Crane Unit will confer with the Deputy Chief for Research and Standards or Principal Safety Engineer and the Chief Counsel to determine the need for involvement in the investigation by the Bureau of Investigations.

- c. If, after investigation, the Crane Unit finds that the crane certifier or surveyor has fraudulently certified a crane, the Deputy Chief Research and Standards or Principal Safety Engineer shall be informed. The Deputy Chief or Principal Safety Engineer will consult with the Chief Counsel to determine an appropriate course of action.

G. OFFICE PROCEDURES

1. The Crane Unit shall develop a separate file for each non-enforcement audit, complaint inspection and accident investigation involving a crane certifier or surveyor.
 2. The Crane Unit shall forward a complete copy of the contents of any file resulting from enforcement action to the District Office for inclusion in the District Office enforcement file.
 3. All OIS data entry shall be done by the District Office and not the Crane Unit.
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