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Murray, Senate Democrats Call on Labor Secretary to Protect Workers with Crane and Worker Fall Standards

With crane and worker deaths on the rise, Senators call on Labor Secretary to immediately issue a safety standard for cranes and to fully enforce existing standards for falls

(Washington, D.C.) – Today, U.S. Senator Patty Murray (D-WA), Chairman of the Senate HELP Subcommittee on Employment and Workplace Safety, led a group of Senate Democrats in calling on Labor Secretary Elaine Chao to take measures to protect America's construction workers. In a letter to Secretary Chao, the Senators called for her to ensure that the Occupational Safety and Health Administration (OSHA) immediately issues a long awaited safety standard for cranes and derricks and enforces safety standards that protect workers from deadly falls. The Senators' letter comes after a rash of crane and construction deaths across the country in recent months.

"Our nation's construction workers and their families should be confident that when they go to work, they will return home safely," the Senators write. "Thus, OSHA should ensure that the cranes and derricks standard that has languished for four years before being sent to the OMB for final review is issued immediately, and that it and all fall protections are fully and vigorously enforced."

Recent crane disasters in New York City <<http://www.cnn.com/2008/US/03/15/crane.collapse/index.html>> and Houston <<http://www.chron.com/disp/story.mpl/ap/nation/5897378.html>> have pointed to the overwhelming need for a new crane safety standard. The current crane safety standard is over 30 years old and was designed for cranes and derricks far different from today's models. In July 2004, a 23-member industry and union advisory committee that OSHA established issued its recommendations and a proposed standard on crane safety. Since that time, OSHA has yet to implement their recommendations by issuing a new standard.

Falls are the leading cause of worker deaths in the construction industry, accounting for about 36 percent of all fatalities. However, as the Senators point out in their letter, *"OSHA encourages employers to ignore OSHA's own long-standing regulation that requires employers to place planking, decking or netting no more than 30 feet below where workers work – regardless of whether safety harnesses are in use."*

The full text of the Senators letter follows:

July 22, 2008

The Honorable Elaine L. Chao
Secretary of Labor
United States Department of Labor
200 Constitution Avenue N.W.
Washington, D.C. 20210

Dear Secretary Chao:

Our nation's construction workers are in danger. They are laboring on increasingly complex projects, and workers and contractors alike are under pressure to bring those projects in on time and within budget. The number of fatalities in recent months is growing evidence that workers' safety is being sacrificed for speed as well as cost. In 2006, 1,226 construction workers were killed on the job – the most of any industry sector. These alarming numbers raise significant

concerns with the Occupational Safety and Health Administration's (OSHA) work in two areas: worker falls and unsafe construction cranes.

Falls are the leading cause of worker deaths in the construction industry, accounting for about 36 percent of all fatalities. Temporary planked or decked floors and netting are critical safety features at construction sites – and the last chance for a worker whose safety harness fails or becomes detached. It may be the only chance to stop an accident from becoming fatal. Workers, therefore, are best protected when both forms of fall protection are in place – safety harnesses and decking or netting. We find it difficult to understand, therefore, why OSHA encourages employers to ignore OSHA's own long-standing regulation that requires employers to place planking, decking or netting no more than 30 feet below where workers work – regardless of whether safety harnesses are in use. OSHA's current policy to allow employers who provide safety harnesses to forgo decking or netting seems designed to minimize costs – not maximize safety. There is no acceptable rationale for a policy that encourages contractors to cut costs at the expense of workers' safety and lives. The use of both safety harnesses and decking or netting is critical and federal inspectors should enforce rules requiring both of them.

Industry experts claim a crane is one of the most dangerous pieces of equipment on a construction site. According to a July 16, 2008 New York Times article, 72 workers died in crane - related accidents across the country in 2006 (the most recent statistic available). As the skills and knowledge necessary to operate construction cranes has increased, standards to operate them safely have not kept pace. Cities and states have varying rules governing contraction cranes, and some choose to rely on outdated federal guidelines from 1971, even though technology has greatly changed crane operations and substantially increased crane size.

The Department of Labor has failed to provide the needed safety standards for cranes and derricks during this Administration. In 2003, OSHA established a negotiated rulemaking committee, bringing together representatives of industry and labor, to develop a consensus documents to serve as the foundation of a proposed OSHA standard on crane and derricks. Four years ago, the committee completed its work, and only now has OSHA submitted a proposed rule to the Office of Management and Budget (OMB) for approval. This delayed action is unfathomable – particularly since the committee included a revised standard with specific rules on critical aspects of the issue, such as crane assembly. OSHA's delay has resulted in more needless deaths and injuries in crane accidents.

In addition, federal inspections are failing to provide adequate safety oversight. Annual inspections are rare. In states without any state regulations, many crane owners are able to side step inspections all together.

Our nation's construction workers and their families should be confident that when they go to work, they will return home safely. Thus, OSHA should ensure that the cranes and derricks standard that has languished for four years before being sent to the OMB for final review is issued immediately, and that it and all fall protections are fully and vigorously enforced. We respectfully request within 30 days of the date of this letter, that you: (1) notify the construction industry that all fall protection requirements will be fully enforced by federal inspectors; (2) explain how OSHA will help bring state OSHA policy and practice into compliance with the original 2002 rule on falls; (3) inform us of the date when OSHA submitted the proposed cranes and derricks rule to OMB and the date that the cranes and derricks standard will be issued; (4) provide us with a detailed explanation of OSHA's four-year delay in taking action to issue the cranes and derricks standard; (5) forward a copy of the Cranes and Derricks Advisory Committee Consensus report as soon as possible, accompanied by a list of the stakeholders engaged in developing the consensus; and (6) describe OSHA's plan to increase the number and thoroughness of construction crane site inspections by federal and state personnel and collect more complete and timely information on crane safety.

American construction workers have waited too long of OSHA to do its job. It is time for prompt, decisive action. We urge you to act now.

With respect and appreciation,

Sincerely,

Patty Murray
U.S. Senator

Harry Reid
U.S. Senator

Edward M. Kennedy
U.S. Senator

Christopher Dodd
U.S. Senator

Jack Reed
U.S. Senator

Hillary Rodham Clinton
U.S. Senator

Barack Obama
U.S. Senator

Sherrod Brown
U.S. Senator

Charles E. Schumer
U.S. Senator

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