

Kaptur on Fatal Crane Collapse: Where Was OSHA? - 06/27/2005

U.S. Rep. Marcy Kaptur lashed out at the Department of Labor, OSHA and Congress last week for allegedly neglecting their duties to promulgate and enforce safety standards that she contends might have prevented a Feb. 16, 2004, crane collapse in Toledo, Ohio, that crushed four workers to death.

In a speech on the House floor on June 24, Kaptur, a Toledo Democrat, said "these men died, in my view, because of the apparent willful negligence of the U.S. Department of Labor and OSHA."

"And there are allies here in the Congress who have been cutting back on worker safety laws and have abdicated their responsibility to conduct aggressive oversight," Kaptur said.

Kaptur said she has sent a letter to Secretary of Labor Elaine Chao asking the Department of Labor to help the Lucas County prosecutor's office with its ongoing criminal investigation of the fatal crane collapse. The collapse killed four employees of St. Louis-based Fru-Con Construction Co., which is building a new Interstate 280 bridge over the Maumee River in Toledo.

The Lucas County prosecutor's office asked Kaptur to initiate the request, according to John Weglian, chief of the prosecutor's special units division.

While Weglian noted OSHA has been cooperative in its investigation thus far, he said the prosecutor's office is looking for "technical assistance" from federal authorities to help the office determine the cause of the collapse. In particular, he said the prosecutor's office needs help to better understand the "engineering" aspects of a launching gantry, which is a type of self-launching crane that collapsed at the I-280 bridge site last year.

The prosecutor's office currently has two officials working on the investigation, while the Toledo Police Department has two people assigned "full-time" to the case, Weglian said. Kaptur, in her letter to Chao, points out that the OSH Act gives Chao the authority to provide the city of Toledo with "reimbursement" for its investigation; Weglian noted that any federal financial assistance could affect how much manpower the prosecutor's office dedicates to the case.

If the Lucas County prosecutor's office finds an individual or individuals at fault for the crane collapse, they could be charged with involuntary manslaughter, which carries a possible penalty of up to 10 years in prison, according to Weglian.

Kaptur Questions "Unclassified" Status

OSHA, after conducting its own investigation following the crane collapse, initially issued four willful violations and proposed \$280,000 in fines for Fru-Con. The agency then announced this past May that it had struck a deal with Fru-Con in which the bridge maker agreed to pay the \$280,000 and ramp up its safety oversight in exchange for OSHA reclassifying the violations to "unclassified."

Kaptur, however, in her letter to Chao said OSHA has pulled out of the agreement – in which Fru-Con agreed to hire at least one independent, qualified safety consultant at all of its work site across the country that involve bridges – "saying the firm didn't live up to the deal." Kaptur did not elaborate further.

Kaptur assailed OSHA for changing the classification of the four violations from willful to unclassified "for reasons not completely understood."

"So as the individual court cases move forward locally, somehow civil litigation will be affected by that change in words," Kaptur said on the House floor.

Kaptur also bristled at the \$280,000 fine.

"That's \$70,000 for each lost life and this money goes to the U.S. Treasury – not even to the victims' families," she said. "Well, my colleagues, there should be more than civil damages and OSHA fines paid to these families. Our chief of police has bluntly stated these men were murdered. There is criminal wrongdoing. My question is: Where was OSHA? Where was the state of Ohio on this?"

Calling the crane collapse "the worst construction accident in federal transportation history in the city of Toledo,"

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Kaptur implored her fellow members of Congress to "push for the swift implementation of construction crane safety standards so that no other family or community need endure the great tragedy that has befallen us in Northwest Ohio."

"We have been told now OSHA has not developed a standard or promulgated an add rule stating that foreign-manufactured cranes like this one must equal or exceed U.S. safety standards," Kaptur said. "Recommendations for such a standard were made nearly a year ago [as part of a rulemaking process aimed at revising the existing construction safety standards for the cranes and derricks portion of 29 CFR 1926] but have not been acted upon. Why not? Why has this Congress not demanded and implemented as soon as possible these [regulations] or made meeting U.S. standards a condition of eligibility for federal funding?"

"There is a serious abdication of responsibility by the U.S. Department of Labor because this Congress has not held them to a higher standard."

A Department of Labor spokesperson confirmed that the agency has received Kaptur's letter and plans to review it, but he added that the agency would not comment on any of Kaptur's remarks expressed in her letter or on the House floor.

- Josh Cable



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