Congress of the United States
House of Representatives
Washington, DC 20515

January 28, 2014

The Honorable Thomas E. Perez, Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Dear Secretary Perez:

Since 1976, Congress has statutorily prohibited the Occupational Safety and Health Administration (OSHA) from using funds to regulate farming operations with ten or fewer employees under the Occupational Safety and Health Act of 1976. We are now receiving reports OSHA has begun taking enforcement action against small farms based on an operations memo issued June 28, 2011, entitled "OSHA's authority to perform enforcement activities at small farms with grain storage structures involved in postharvest crop activities."

While the memo, issued by OSHA Director of Enforcement Programs Thomas Galassi, acknowledges current law prohibits OSHA from regulating small farms engaged in growing and harvesting crops and any "related activities," the memo proceeds to indicate grain "handling," such as drying and fumigating, is not central to an agricultural operation and is therefore subject to OSHA regulation. The memo has since been broadly interpreted to provide OSHA inspectors authority to regulate on-farm grain storage and other activities not directly related to growing and harvest.

Farmers and landowners have a strong vested and personal interest in keeping their operations safe and viable, and they are already subject to countless regulations to ensure operational integrity. If the Administration believes OSHA should be given authority to regulate small farming operations, evidence would need to be presented to Congress and passed through the normal legislative process.

We thank you for your recent acknowledgement of the issue and ask you to direct OSHA to adhere to the intent of Congress by terminating and retroactively dismissing all action taken based on the abovementioned interpretation, and issue an updated memo clarifying OSHA has no authority to regulate any aspect of an agricultural operation with ten or fewer employees. While the Fiscal Year 2014 Omnibus includes a provision prohibiting enforcement, smaller farmers and ranchers need the certainty of knowing OSHA will continue following the letter of the law in future years.

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Thank you for your attention to this matter. We look forward to a timely response.

Sincerely,

Adrian Smith

Kristi Noem

Mike McSullyne

Eric Cat

Collin C. Peterson

Dan Benishek

Blake Farenthold

Daniel B. McTiernan

Kevin Yoder

Scott Rigsten

Bob Gibbs

Tommy Chavez

Marcelline Boley

Paul Chan

Doug LaMalfa

Terri Sewell

Walter B. Jones

Mo Brooks

Vicky Hartzler

Paul A. Gosar

Tim Griffin

Bill Huizenga

Tom Graham

Steve King

Bill Shuster

John Barrow

J. Butler

Billy Long

Michael R. Turner

Kevin Cramer

Bob Goodlatte

[illegible]

[illegible]

Brad R. Wenstrup

[illegible]

Troy Goudy

Billy Long

Raúl R. Labrador

Diane Black

Richey Jaime

Bill Johnson

Mike R. Pompeo

Kurt Schrader

Cynthia M. Lummis

Glenn GT Thompson

Scott Perry

Tim Huelskamp

Chuck Fleischmann

Mark V. Amodei

Candice S. Miller

Chris Stewart

TN-04

Tom Marino

Marsha Blackburn

Jeff Fortenberry

Mike Kelly

Bill Posey

Lou Barletta

Jeff Flake

Cory Gardner

Mike Rogers - AL

Richard Hanna

Joseph R Pitts

Tom Cotton

Jim Wagner

Cl W. Dent

[illegible]

Stephen Lee Fincher

Andy Byrne