

**Congress of the United States**  
**Washington, DC 20515**

January 17, 2012

The Honorable Hilda L. Solis  
Secretary of Labor  
United States Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Dear Secretary Solis,

On September 2, 2011, the Department of Labor (DOL) published a Notice of Proposed Rulemaking (NPRM), RIN 1235-AA06, regarding changes to its interpretation of the Fair Labor Standards Act, and how it applies labor regulations for younger workers in agriculture, generally those below the age of 16. As the DOL's website states, these proposed changes are not minor in nature but represent a "dramatic" departure from decades of precedent. After reviewing the NPRM, we have several concerns.

No one wants to see a child or younger worker seriously injured, and we support safe industry standards and practices. However, it is also important to weigh the effects of any new rules and regulations before they are implemented.

Ninety-eight percent of the farms in this country are family owned operations. The NPRM would have a detrimental effect on many farming families and communities because it appears to depart significantly from the DOL's own interpretation of the parental exemption, which has been unchanged for decades. The NPRM would restrict many jobs currently available to younger workers, unless employed directly by a parent. However, many farms are jointly owned by several family members and farming is often a community affair. Extended family members provide invaluable help and the success of family farms often depends on them. The proposed rule would essentially prohibit nieces, nephews, cousins, neighbors, etc. from assuming roles they have traditionally participated in. The DOL needs to consider all relevant factors before moving forward with this NPRM.

There are a number of problematic provisions in this particular NPRM. Listed below are two that illustrate the broader concerns;

- The NPRM is overly broad and ambiguous when it discusses younger workers and the use of power equipment. "The Department proposes to define the term *power-driven equipment* to include all machines, [...] operated by any power source other than human hand or foot power..." This may be interpreted to mean that a younger worker is banned from operating a flashlight.
- Individuals under the age of 16 will be unable to engage in any occupations "involving work on roofs, scaffolds, and at elevations greater than six feet." Someone under the age of 16, employed in an agricultural position, could no longer work on a ladder or in a hayloft if they were more than six feet above the ground.

Of further concern is that the DOL has formulated this NPRM without substantial evidence to show the need for the changes or their economic impact on those affected. For more than a decade, injuries of younger workers have steadily decreased. The DOL has acknowledged that several of the changes in the NPRM were made without a complete set of independent data or factual substantiation:

- The “Department is not aware of any data on the number of youths under 16 years of age performing construction, demolition, or [...] performing work on scaffolds above 6 feet but less than 20 feet;”
- “NIOSH states that there is no evidence that working with timber with a butt diameter of six inches or less is any safer than working with larger timber;”
- “The Department is not aware of data regarding the number of 14- and 15-year-olds hired to work on machinery that would be newly barred under this proposal;”
- “The Department is not aware of any data on the number of youths under 16 years of age performing work inside a manure pit or a silo, fruit, forage, or grain storage facility; performing tasks performed by pesticide handlers; handling explosive materials; or transporting, transferring, or applying anhydrous ammonia;” and
- “The Department is not aware of any data on the number of youths under 16 years of age performing otherwise prohibited agriculture work under the auspices of the existing certification programs.”

Government intervention in the private lives of citizens should take place minimally and never without a thorough and careful evaluation of supporting data. However, the DOL appears to lack the figures to prove the necessity for some of the modifications.

If implemented, the NPRM may also negatively affect America’s competitiveness abroad. Ben Bernanke, Chairman of the Federal Reserve, has said that the “development of a skilled workforce” would help the US economy grow and expand. During these challenging economic times, promoting private sector growth should be a primary goal of the federal government. The NPRM would reduce opportunities to increase the number of skilled individuals in the agricultural sector, which has also consistently been one of the most important sectors for exports to foreign countries. We believe it is possible to accomplish the goal of training and educating future farmers without exposing youths to tasks that are particularly hazardous, and we believe the department should not sacrifice either goal at the expense of the other.

The NPRM will negatively affect organizations that teach children and young adults the necessary skills to succeed in agricultural work through experiential learning. A hands-on approach to learning is critical. The National FFA Organization (formerly known as Future Farmers of America) is one of the nation’s most prominent organizations that teaches and exposes youth to agricultural work and occupations, and they have posted comments that the NPRM will “limit, if not eliminate,” their opportunities to effectively “teach students to be safe when working in agriculture.” The 4-H program, administered by the Department of Agriculture (USDA), would also be impacted. Their website states that “4-H activities use a hands-on learning approach to teach both new topics and life skills.” The DOL’s NPRM appears to

directly conflict with the USDA's 4-H program and the underlying goal of exposing younger workers to real world experiences in agricultural occupations.

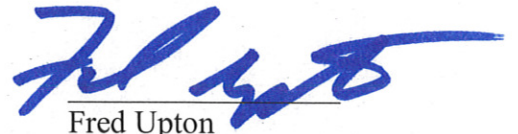
This NPRM may potentially impose substantial financial burdens on families and small farms, and hamper effective teaching methods that increase skilled labor. The federal government has a responsibility to carefully evaluate the burdens and restrictions it places on citizens and businesses – especially on those who can least afford it.

Before moving forward with the NPRM, we request that you carefully review the thousands of comments and concerns submitted by individual farmers and the organizations that represent them. Further, we urge you to consider the unique manner in which farms, especially family owned farms, operate and reevaluate the proposed rule.

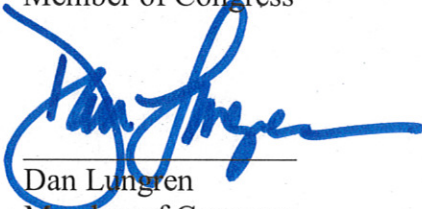
Sincerely,



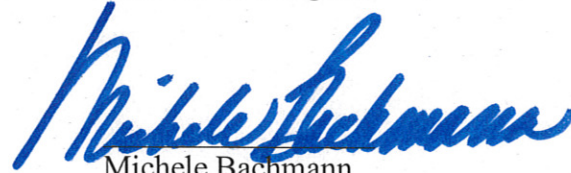
Darrell Issa  
Member of Congress



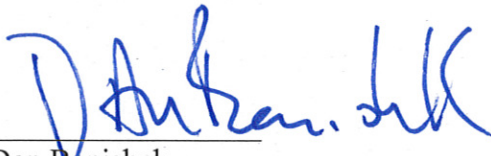
Fred Upton  
Member of Congress



Dan Luyten  
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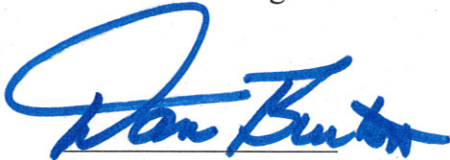
Michele Bachmann  
Member of Congress



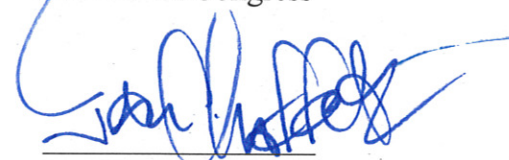
Dan Benishek  
Member of Congress



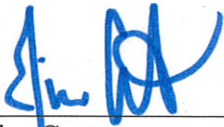
Leonard Boswell  
Member of Congress



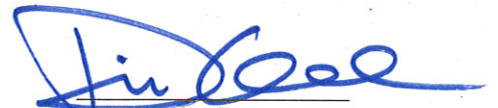
Dan Burton  
Member of Congress



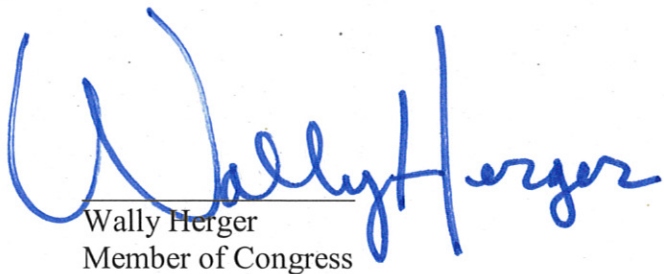
Jason Chaffetz  
Member of Congress



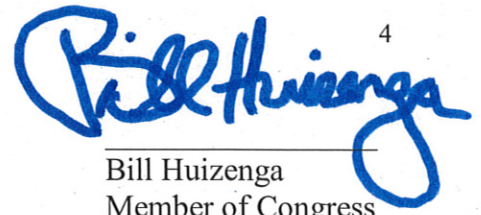
Jim Costa  
Member of Congress



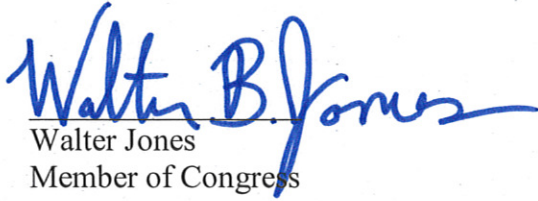
Jim Gerlach  
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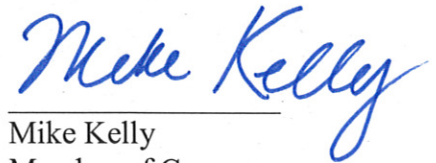
Wally Herger  
Member of Congress

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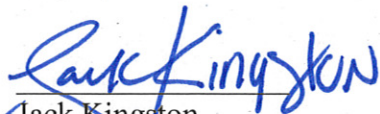
Bill Huizenga  
Member of Congress



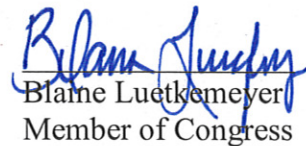
Walter Jones  
Member of Congress



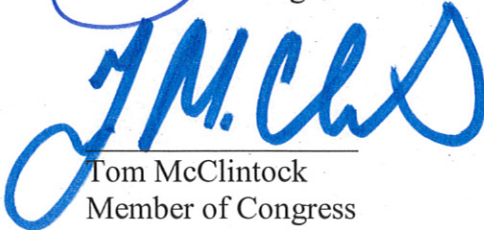
Mike Kelly  
Member of Congress



Jack Kingston  
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Blaine Luetkemeyer  
Member of Congress



Tom McClintock  
Member of Congress



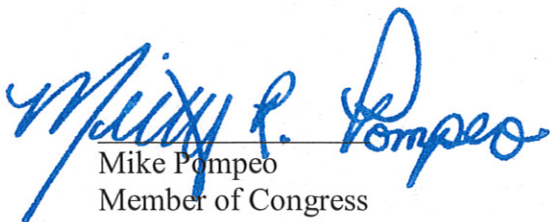
Ron Paul  
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Todd Platts  
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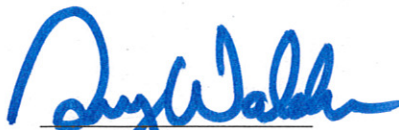
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