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March 10, 2015

Dr. David Michaels, Assistant Secretary of Labor
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Dear Dr. Michaels,

I write today on behalf of numerous companies in Maine who will be impacted by your Department's November 2014 memorandum, *Safety and Health Achievement Recognition Program: Updated Size*, which informs states that the Department will no longer recognize employers with more than 250 on-site employees or more than 500 corporate-wide for the purposes of participation in the Safety and Health Achievement Recognition Program (SHARP).

This recent guidance reverses a policy directive from OSHA in February 2012, which granted flexibility to state consultation programs – with approval from the relevant regional OSHA office – to consider businesses that fell outside of the strict 250/500 cap for the purposes of SHARP. As the more recent memorandum indicates, this flexibility was granted primarily to allow subsidiaries of larger companies that did not receive adequate support from their corporate parent to develop a robust safety program.

In keeping with the spirit of the 2012 guidance, several Maine companies that met appropriate criteria worked with the state's on-site consultation program to develop safety programs they might not have otherwise had the capacity to implement. Many of these companies have a limited presence in the United States – let alone in Maine – which made this additional flexibility granted by OSHA ideal. One company, a woodstove manufacturer, has only 77 employees in the entire country – all located in Maine.

Further, the November 2014 memorandum indicates that this change in eligibility criteria for the program applies retroactively – meaning that small companies, like the woodstove manufacturer, stand to lose their SHARP status imminently. While the guidance indicates that these companies can retain their SHARP designation so long as they apply for OSHA's Voluntary Protection Program (VPP), Maine's state consultation program indicates that few of these companies will pursue this path. While a useful program for larger companies, VPP is ill-suited for small subsidiaries that lack the support or resources to pursue the lengthy and business-driven application process.

Maine has enjoyed an outstanding record in promoting and certifying SHARP businesses – indeed, there are currently more SHARP-designated sites in Maine than in the rest of New

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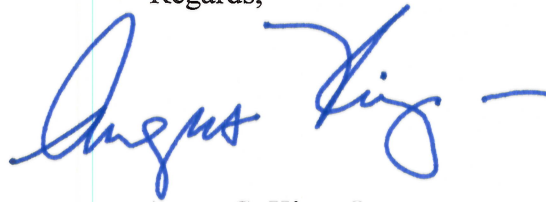
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England combined. I credit the dedicated employees of Maine's on-site consultation program as well as the many small businesses in the state who have been willing to devote time and resources to making their workplaces safer for all employees. Maine has managed to accommodate a limited number of worksites that do not fit into the 250/500 cap without compromising its primary goal of assisting small businesses – indeed, over 98% of the businesses our on-site consultation program worked with in 2014 had fewer than 250 employees.

I ask the Department to seriously reconsider its position regarding SHARP eligibility – particularly in light of the seemingly contradictory guidance issued in 2012. Many businesses that exceed the corporate-wide threshold deserve the support, opportunity, and recognition that SHARP presents – and I am confident that state consultation programs, with approval from OSHA's regional administrators, can ensure that truly capable large businesses are excluded from participation in the program. At a bare minimum, I urge the Department to retreat from its decision to apply this policy change retroactively and allow current SHARP participants to remain in the program.

Thank you for your time and attention to my concerns. Should you have any questions about this issue, please do not hesitate to contact Aisha Woodward on my staff at 202-224-5344 or aisha_woodward@king.senate.gov.

Regards,

A handwritten signature in blue ink that reads "Angus King" with a horizontal line extending to the right.

Angus S. King, Jr.
United States Senator