MARTHA ROBY
2ND DISTRICT, ALABAMA

CANNON HOUSE OFFICE BUILDING
ROOM 428
WASHINGTON, DC
PHONE: (202) 225-2901

Congress of the United States
House of Representatives
Washington, DC 20515–0102

COMMITTEE:

APPROPRIATIONS
MILITARY CONSTRUCTION/
VETERANS AFFAIRS

LABOR, HEALTH AND HUMAN SERVICES,
AND EDUCATION

LEGISLATIVE BRANCH

March 27, 2014

The Honorable Thomas E. Perez
Secretary
United States Department Of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210-0001

Dear Secretary Perez,

I write to express my concern regarding (1) the Occupational Safety and Health Administration's (OSHA) recently announced Regional Emphasis Program (REP) that imposes comprehensive inspections on auto parts manufacturers located in Alabama, Georgia, and Mississippi, and (2) a separate OSHA policy change that would appear to permit union representatives to accompany OSHA agents on these inspections.

I understand that the Occupational Safety and Health Act of 1970 grants OSHA agents, upon presentation of federal credentials, sweeping authority to enter, inspect, and investigate "without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed." But, with great authority also comes great responsibility. Reasonable rules designed to ensure worker safety should be enforced in a manner that is fair, equitable, and free from political influence. An enforcement procedure that treats similar classes of businesses differently or that applies heightened scrutiny to a particular industry or a particular geographic area is dubious, and certainly only justifiable when compelling evidence exists to warrant such a distinction.

OSHA's recently released REP is troubling in this regard. It calls for "comprehensive safety inspections" for all members of the "Auto Parts Supplier Industry" covered by OSHA's "Atlanta East, Atlanta West, Birmingham, Mobile, and Jackson" offices. Auto Parts Suppliers outside of the Southeast are not impacted. While many other regional notices provide quantitative data demonstrating a pattern of workplace injuries that might justify such a targeted program, the REP in question provides only that "hazards associated with the Auto Parts Supplier Industry that are the focus of this REP continue to be the source of serious injuries, including amputations, and deaths to employees." This statement is presented without support. My state is home to several major auto manufacturers and numerous auto parts suppliers, many of which I have personally toured. While I recognize that certain aspects of heavy manufacturing are dangerous and accidents do unfortunately sometimes occur, I am not aware of a rash of amputations or deaths in Southeastern facilities. Absent a compelling rationale grounded in fact, OSHA's

PRINTED ON RECYCLED PAPER

targeted enforcement tactics become susceptible to charges that they are at best arbitrary, and at worst discriminatory.

I am also troubled by reports that OSHA now permits union representatives to accompany OSHA agents on inspections, even to private non-union facilities. For example, according to a National Review Online article posted on March 25, 2014, "Union organizers are showing up at Occupational Safety and Health Administration inspections of an open-shop business that has been targeted by the country's second-largest union." Citing the company's human-resources manager, the article states that "on three recent occasions, SEIU representatives accompanied federal safety inspectors" to the small business after allegations that the company failed to give its employees gloves and goggles. "OSHA found no such shortcomings, though according to the citation papers, it did impose at least $14,000 in proposed penalties for other infractions, including a lack of paperwork and on-site informational posters." According to the company, the firm had operated for 26 years without an OSHA infraction.

If true, this practice is troubling. In effect, OSHA appears to have unilaterally determined that organized labor representatives—union reps associated with neither the employees of the business nor the government—may participate in formal government inspections of private businesses on private property. This significant and highly questionable policy was reportedly made not through a formal rulemaking and public comment process, but rather in response to a union inquiry.

It is understandable that many perceive these steps to be part of a coordinated effort to advance a pro-union agenda within the growing Southeastern automotive manufacturing industry, which is thriving due in part to the pro-business environment and skilled workforce found in our region. As you know, employees in Southeastern facilities have repeatedly resisted unionization, most recently in February at the Volkswagen assembly plant in Chattanooga. It is concerning that a federal government agency may be advancing on Southeastern workers a pro-union agenda that they do not want.

I continue to gather information on these issues from a variety of sources, and therefore look forward to discussing these concerns with you when you testify before the Labor, Health and Human Services, and Education Appropriations Subcommittee next week. Thank you for your time and attention to this matter.

Sincerely,

Martha

Martha Roby
Member of Congress