Congress of the United States
Washington, DC 20515

November 22, 2013

The Honorable Margaret Hamburg, M.D.
Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Commissioner Hamburg:

We appreciate the Food and Drug Administration's (FDA) efforts to implement the Food Safety Modernization Act (FSMA) and the agency's willingness to seek input and guidance from producers and processors, which is of great value to our constituents. We are confident that the rulemaking process for the proposed Produce Safety Rule and the Preventive Controls Rule (Docket Nos. FDA-2011-N-0920 and FDA-2011-N-0921) will bolster the overall process of the law's implementation.

Despite your agency's efforts to engage with stakeholders during the rulemaking process, we remain concerned about the ambiguity surrounding many aspects of these proposed rules. In order to improve the law's implementation, we are writing to request that the FDA propose and submit second proposed rules for public comment before issuing the final rules.

After hearing many reservations from our farmers and businesses, we are concerned that the rules as currently proposed, and the heavy cost of complying with them, will force some producers and processors to shutter their operations. Food producers and processors in our states are concerned with a number of issues, including:

- The testing frequency required for certain agricultural waters;
- Restrictions placed on the usage of biological soil amendments;
- Compliance issues at mixed-use facilities;
- New requirements that conflict with existing conservation and environmental standards and practices of the U.S. Department of Agriculture;
- The limiting definitions used in the rule for "farm," "small business" and "very small business"; and
- The lack of consideration of the complexity of various farm ownership entities.

We believe the rules as currently proposed would result in a multitude of unintended consequences that would be severely detrimental to national, regional and local agriculture. By seeking additional input through second proposed rules for public comment before final rules, we believe that producers' concerns can be addressed and unintended consequences can be greatly mitigated.

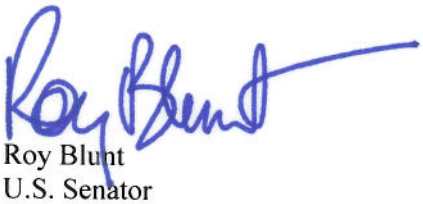
We appreciate your consideration of this request and look forward to your response.

Sincerely,

Jeanne Shaheen
U.S. Senator

Joe Courtney
Member of Congress

PRINTED ON RECYCLED PAPER



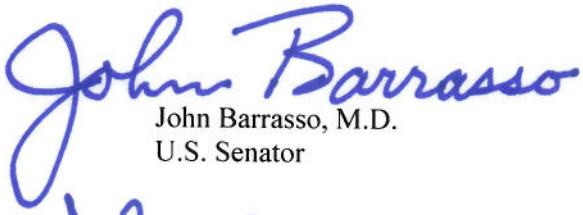
Roy Blunt
U.S. Senator

Chris Gibson
Member of Congress

Lamar Alexander
U.S. Senator

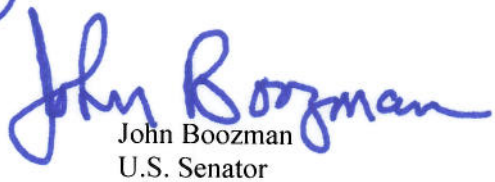
Ann McLane Kuster
Member of Congress

Kelly Ayotte
U.S. Senator



John Barrasso, M.D.
U.S. Senator

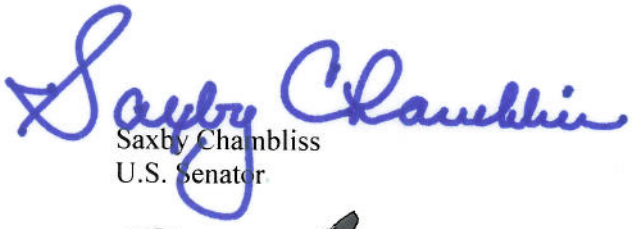
Richard Blumenthal
U.S. Senator



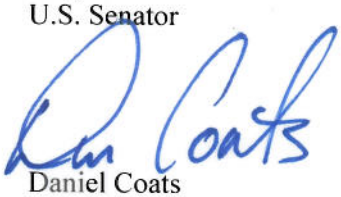
John Boozman
U.S. Senator

Richard Burr
U.S. Senator

Benjamin L. Cardin
U.S. Senator



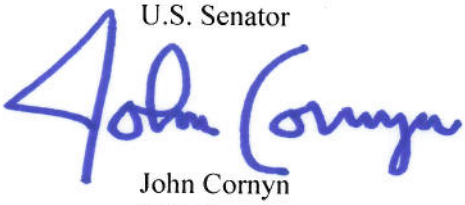
Saxby Chambliss
U.S. Senator



Daniel Coats
U.S. Senator

Thad Cochran
U.S. Senator

Susan M. Collins
U.S. Senator

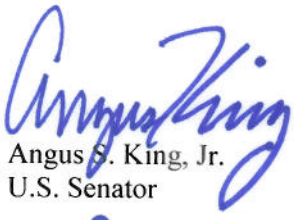


John Cornyn
U.S. Senator

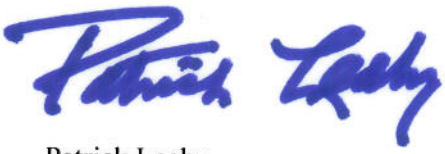
Mike Crapo
U.S. Senator

Michael B. Enzi
U.S. Senator

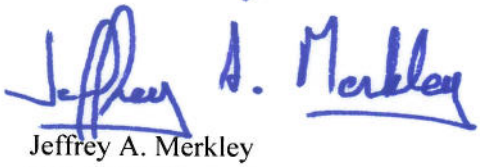
Lindsey Graham
U.S. Senator



Angus S. King, Jr.
U.S. Senator

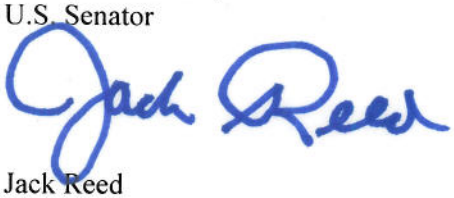


Patrick Leahy
U.S. Senator

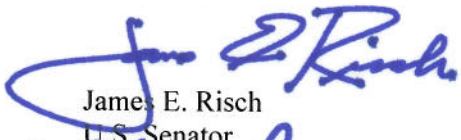


Jeffrey A. Merkley
U.S. Senator

Jerry Moran
U.S. Senator

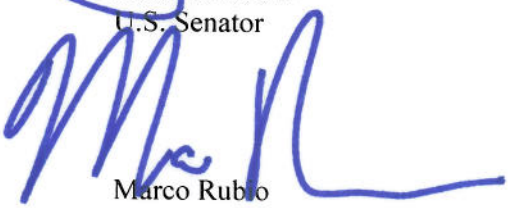


Jack Reed
U.S. Senator



James E. Risch
U.S. Senator

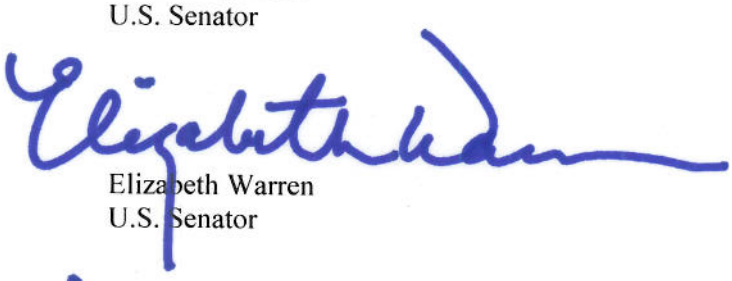
Pat Roberts
U.S. Senator



Marco Rubio
U.S. Senator

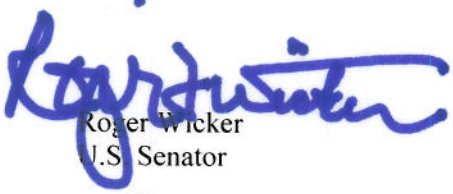
Bernard Sanders
U.S. Senator

David Vitter
U.S. Senator



Elizabeth Warren
U.S. Senator

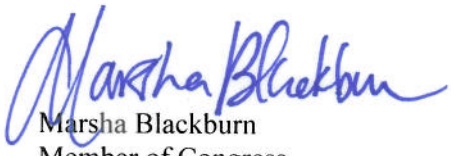
Sheldon Whitehouse
U.S. Senator



Roger Wicker
U.S. Senator

Dan Benishek
Member of Congress

Diane Black
Member of Congress



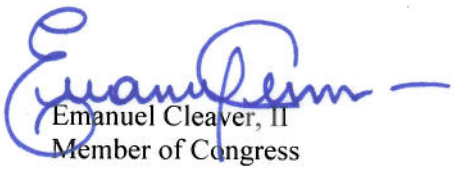
Marsha Blackburn
Member of Congress

Earl Blumenauer
Member of Congress

Suzanne Bonamici
Member of Congress

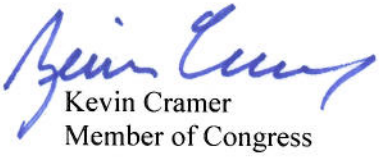
Bill Cassidy, M.D.
Member of Congress

David Cicilline
Member of Congress



Emanuel Cleaver, II
Member of Congress

Chris Collins
Member of Congress



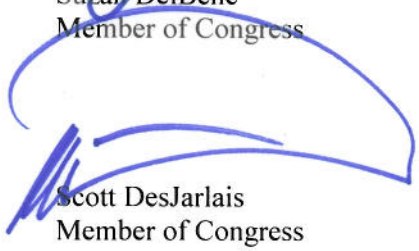
Kevin Cramer
Member of Congress

Peter DeFazio
Member of Congress

John Delany
Member of Congress

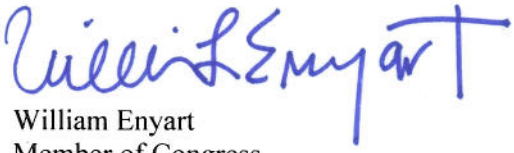
Suzan DelBene
Member of Congress

Charles W. Dent
Member of Congress



Scott DesJarlais
Member of Congress

John Duncan
Member of Congress

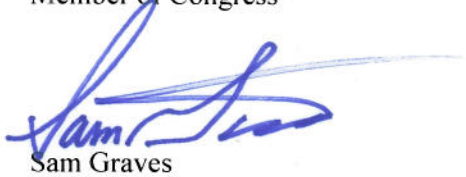


William Enyart
Member of Congress

Elizabeth Esty
Member of Congress

Stephen Fincher
Member of Congress

Chuck Fleischmann
Member of Congress



Sam Graves
Member of Congress

Andy Harris
Member of Congress

Vicky Hartzler
Member of Congress

Jaime Herrera Beutler
Member of Congress

Walter B. Jones
Member of Congress

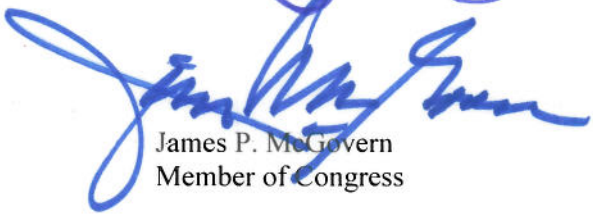
William R. Keating
Member of Congress

Jim Langevin
Member of Congress

John Larson
Member of Congress

Billy Long
Member of Congress

Sean Patrick Maloney
Member of Congress



James P. McGovern
Member of Congress

Mike McIntyre
Member of Congress

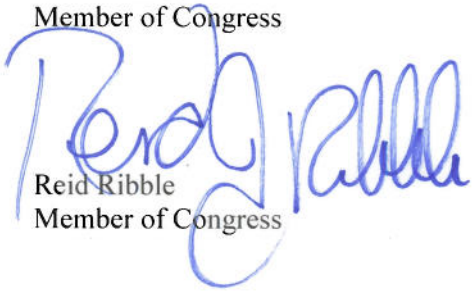
Patrick Meehan
Member of Congress

Mike Michaud
Member of Congress

Bill Owens
Member of Congress

Steve Pearce
Member of Congress

Chellie Pingree
Member of Congress



Reid Ribble
Member of Congress

Phil Roe
Member of Congress

Kurt Schrader
Member of Congress

Carol Shea Porter
Member of Congress

Peter Welch
Member of Congress