



## Memorandum

To: Obama-Biden Transition Project  
From: The National Federation of Independent Business  
Date: 12/16/2008  
Re: The Occupational Safety and Health Administration (OSHA)

OSHA impacts small business differently than large business. Unlike large businesses that often have safety and health divisions, in a small business the owners themselves are often responsible for ensuring a safe workplace. According to a 2002 NFIB Small Business Poll on workplace safety, in 80 percent of businesses with fewer than 10 employees, the owner assumes responsibility for safety. Keeping track of OSHA regulations and recordkeeping requirements poses a greater challenge for small businesses.

Outreach to small business community important. In recent years, OSHA has designated an individual to serve as a business liaison. NFIB thinks such outreach is needed to promote awareness of agency regulatory and enforcement initiatives and invite comment from small business. The Department of Labor placed a lot of emphasis on forming partnerships with trade associations, among others, and we had such an arrangement at the Department level as well as with OSHA. The partnership centered on making sure compliance materials were helpful and reached small business owners.

Common sense is regulation needed. NFIB has opposed some OSHA regulations, most recently the proposed ergonomics rule. The cost of complying with the rule was too great for most small business owners, not to mention the standard's overlap with workers' compensation. The hazard communication standard's complex recordkeeping requirements frustrate small businesses. Mandating workplace safety committees does not make sense for a small business with few employees. The cost of compliance in terms of time, recordkeeping and workability should be considered in any rulemaking undertaking. It's critical that OSHA adhere to Regulatory Flexibility Act and the Small Business Regulatory Fairness Act requirements throughout the regulatory process. NFIB strongly encourages that agency to work with the Office of Advocacy at the Small Business Administration to ensure that these laws are followed and small business impact analyses are thoroughly completed.

Enforcement should not replace compliance assistance. We encourage OSHA to continue to fund adequately its on-site consultation program that provides free and confidential advice on safety to small business owners. In addition, we hope that OSHA enforcement guidance documents instruct OSHA inspectors to waive first time penalties for non serious violations, especially paperwork violations.