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United States Senate
COMMITTEE ON SMALL BUSINESS
WASHINGTON, DC 20510-6350

January 5, 2000

VIA FACSIMILE: (202) 693-2106

The Honorable Charles Jeffress
Assistant Secretary of Labor
Occupational Safety and Health Administration
U.S. Department of Labor
Room S-2315
Washington, DC 20210

Dear Assistant Secretary Jeffress:

The Occupational Safety and Health Administration's (OSHA/Agency) recent announcement that employers will be responsible for home-based work areas is a flagrantly intrusive fix for a problem that does not exist. This will jeopardize the ways employers are giving about 20 million employees more time with their children and elderly parents, reducing traffic congestion, and allowing employees more flexibility in their personal lives, all while still maintaining the high levels of productivity that have propelled our economy to record levels.

This policy gives the federal government a license to stage an "in-home" invasion. Traditionally homes have been the last refuge from government intrusion. It also gives employers the authority to come through the door and control an employee's private space in ways that have never been allowed before. The mother working at home who needs to step over a child safety gate can now be considered in a hazardous work environment and subject to an OSHA inspection or disciplinary action from her employer. Your assertions that OSHA will not conduct home inspections ring hollow given the Secretary's statement that OSHA will conduct home inspections.

Many constituents, both employers and employees, have contacted our offices since this story broke to complain about OSHA's policy and to express their outrage about the impact this will have on their ability to work at home. For instance, under the proposed ergonomics regulation, employers will have to make a determination of whether an injury was caused, or contributed to, by workplace exposures to risks. With this new policy making employers responsible for work activities in the home, whatever distinction may have existed between workplace and non-workplace activities just evaporated.

It is clear that the Agency intends the letter of November 15, 1999 to the CSC Credit Services Company to stand as a new policy and to be applied broadly across all employment sectors. Because of this applicability, such a broad redefinition of the workplace must be handled through a formal rulemaking complete with full small business participation, and sufficient public notice and comment. Accordingly, we request that the Agency withdraw this policy until it has been promulgated through an appropriate rulemaking. If the Agency ignores this request, we will have no alternative but to convene a hearing to explore fully the thinking, or lack thereof, behind this intrusion into American homes.

Sincerely,

Senator Spencer Abraham
Member

Senator Christopher S. Bond
Chairman

Senator Olympia J. Snowe
Member