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

June 13, 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 recent admission, and subsequent publication in the *Federal Register,* that over 10 million employees from the United States Postal Service, state and local governments, and railroad industries were not covered in the economic analysis of the proposed ergonomics standard is inexcusable.[1] Furthermore, the analysis that OSHA has offered to define the economic impact of the proposal on these sectors is severely flawed and demonstrates the continued weakness of OSHA's grasp of the impact of this regulation. These reasons alone are adequate justifications for OSHA to suspend the rulemaking and abandon the goal of getting this regulation done by the end of the year. When combined with the impossibly vague language and other problems that have been well documented, it is clear that OSHA must withdraw this proposal and reconsider its approach to this regulation.

By failing to include these employees in the economic analysis, OSHA is confirming my long held belief that the agency is clueless about the impact of the proposed ergonomics regulation; the most complicated and far reaching regulation OSHA has ever attempted. I am further dismayed that in attempting to determine the cost of this regulation on state and local governments, OSHA relied on data supplied by the AFL-CIO for the number of injuries to these employees.[2] Organized labor's support for this rule is widely known and to rely on their numbers for determining the cost merely pushes OSHA's credibility to a new low. This is truly asking the fox to count the chickens in the hen house. If OSHA's only source for data on these injuries among local and state employees is the AFL-CIO, it is further evidence that OSHA should not be attempting to finalize this regulation on the expedited schedule that has been publicized.

For categorizing the number of injuries to postal workers, OSHA relied on claims filed

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[1] 65 Fed. Reg. 33263, May 23, 2000.

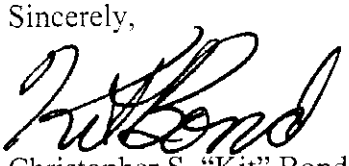
[2] 65 Fed. Reg. 33264.

with the Federal Office of Workers' Compensation Programs for "exertion" injuries. This term is even more vague than "musculoskeletal disorder." Again, for OSHA to have no clearer idea than this of what injuries covered by this regulation have been incurred by a group of almost one million employees clearly indicates an inadequate foundation of data to proceed with the regulation.

The recent Bureau of Labor Statistics data indicates a distinct decline in musculoskeletal disorders despite the absence of a regulation or OSHA's assistance.[3] It is clear that employers are exploring solutions that are tailored to their workplaces and responsive to their employees' needs. Unfortunately, under the proposed regulation, there is no guarantee that these solutions or programs would satisfy OSHA's requirements, regardless of how successful they were, or how many injuries were prevented. This progress, without OSHA's involvement, suggests that OSHA should avoid reinventing this wheel, and instead should determine how they can help employers outside the context of promulgating a confusing and complicated regulation.

OSHA's recent admission that local and state government employees, postal workers, and railroad employees were not included in the original economic analysis for the proposed ergonomics regulation, and the weaknesses of the data relied upon for the analyses of those employees once again makes it clear that OSHA should withdraw this proposal. I hope you will seriously consider this approach.

Sincerely,



Christopher S. "Kit" Bond

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[3] The BLS Press Release of April 20, 2000, reporting the statistics for 1998, indicates that repeated trauma cases are down 28% since 1994, carpal tunnel syndrome cases are down 20.3% since 1992, tendinitis cases are down 33. 5% since 1992, and sprains, strains and tears are down 25.7% since 1992.