

IN THIS ISSUE

Regulations spike in Obama administration, study shows

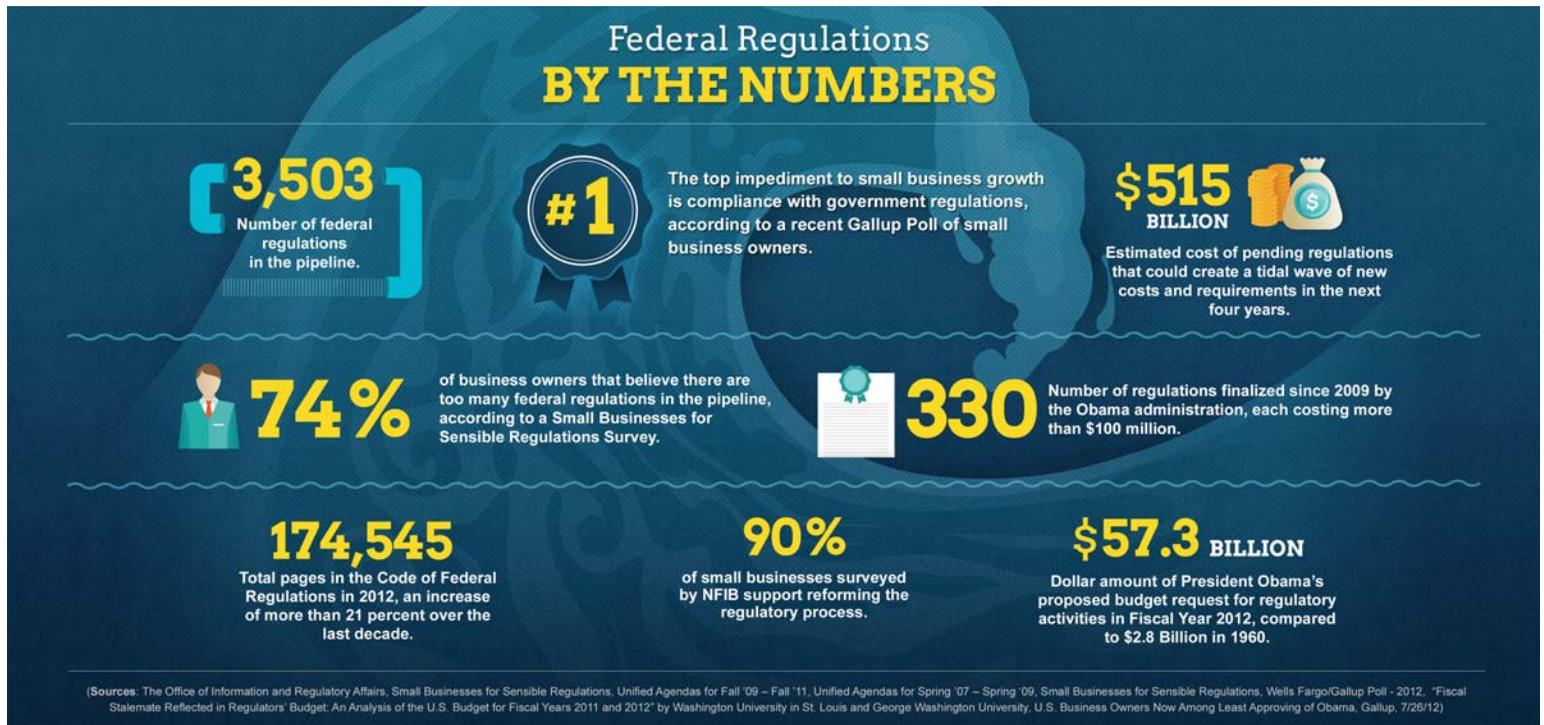
OSHA invites union reps along for inspections of non-union small businesses

Farms have until November to comply with fuel containment rule

NFIB weighs in on EPA Lead rule for commercial buildings

July | 2013

Regulations spike in Obama administration, study shows



A recent study by the non-partisan Congressional Research Service showed that from 2009 through 2012, regulations have increased at a rate of nearly five percent from the four years prior.

The CRS study found that there were more than 13,000 regulations published in the Federal Register from 2009 through 2012. In comparison, from 2005-2008 there were fewer than 12,400 regulations published.

The study highlights the need for less – and more effective – regulation; a key part of NFIB's Small Businesses for Sensible Regulations campaign.

For more information on the campaign and to share how overregulation has affected your business, visit www.sensibleregs.org.

OSHA invites union reps along for inspections of non-union small businesses

The U.S. Occupational Safety and Health Administration quietly issued a letter of interpretation that has caused alarm for many small businesses.

In the letter, issued in February, OSHA said that employees in a non-union business can have a union representative serve as a representative of the employees during an OSHA inspection. The letter, while not a formal regulation, has the practical effect of changing a long-held OSHA policy that the person representing employees during an inspection should be an actual employee of the business being inspected.

Small businesses are concerned this change will make companies more likely to become a target of unionization, presents safety issues, and violates OSHA's requirement to appear neutral in labor-relations issues.

NFIB is working with a coalition of concerned groups to bring attention to the letter, in the hopes of getting OSHA to reverse its new position or get Congress to step in and put a stop to it.

Farms have until November to comply with fuel containment rule



The U.S. Environmental Protection Agency's Spill Prevention, Control, and Countermeasure (SPCC) rule went into effect for farms on May 10, 2013. Fortunately, EPA will not enforce the rule until November.

The rule requires facilities with the capacity to store more than 1,320 gallons of oil or fuel above ground, or 42,000 gallons below ground, to have a certified spill prevention and control plan. EPA broadly defines oil as diesel, gasoline, hydraulic oil, lube oil, crop oil or vegetable oil, etc.

What must farms do to comply?

- First, farms must calculate their total amount of above ground storage capacity. To calculate capacity, add up the oil storage capacity of each aboveground tank on your farm (only count

tanks/drums of 55 gallons or larger in capacity). When adding up the capacity, use the maximum volume of the container (as if it were full), not the actual amount of oil stored in the container.

- Second, figure out what "tier" your farm falls into. If your farm has more than 10,000 gallons of capacity it is considered a "Tier III" facility and must have a plan developed and certified by a public engineer (PE). If your farm has less than 10,000 gallons of capacity and has had no spills in the last three years, it is either a "Tier II" or "Tier I" facility and you may self-certify your plan.
- For those in Tiers I and II looking to self-certify, EPA has sample SPCC plans available for use at:

http://www.epa.gov/emergencies/content/spcc/spcc_ag.htm. Click on "Create your SPCC Plan".

How has NFIB represented its members on this issue?

- NFIB has closely followed this latest version of the rule since it was originally proposed in 2005. It worked with EPA to make it easier and less expensive for farmers to comply.
- When EPA first proposed the rule, it wanted all farms – regardless of size – to hire a PE to develop and certify their plan. NFIB led an effort to have those with smaller capacity be able to self-certify their own plan – a significant savings.
- In addition, NFIB helped get a delay of the compliance date for farms until May 10, 2013. When the rule was originally finalized, the compliance date was in October 2010.

NFIB weighs in on EPA Lead rule for commercial buildings



NFIB recently joined a coalition of concerned industry groups to weigh in with concerns about a forthcoming rule from the U.S. Environmental Protection Agency that would expand its controversial Lead: Renovation, Repair and Painting rule to cover work done on public and commercial buildings.

The EPA's Lead: RRP program is a series of regulations aimed at prescribing EPA certification, training and work practice requirements for renovators and painters to prevent possible releases of lead from older buildings.

In comments filed in April, NFIB expressed concern about the EPA expanding the program to public and commercial buildings because it could further limit available work for renovators and construction companies. Furthermore, since many small business

owners own their facilities, it is likely that costs to renovate or expand a facility would increase significantly. In short, expanding the rule would put more small businesses at a competitive disadvantage compared to larger businesses.

NFIB will continue to follow developments in the program to help ensure small businesses are not unfairly disadvantaged.

Other Regulations NFIB is Watching

DOL's Wage and Hour Division: The Wage and Hour Division (WHD) has proposed that third-party employers – small businesses – pay minimum wage and overtime to home care workers. Expanding the coverage of the Fair Labor Standards Act to these workers will significantly increase the cost of in-home companion care. The result will be fewer businesses in the industry, fewer jobs and less reliable employment for workers, and unsustainable costs for the elderly and disabled. NFIB believes that the WHD should keep the companionship exemption for minimum wage and overtime pay to covered workers. A rule is expected in 2013.

OSHA's Injury and Illness Prevention Programs: OSHA has started developing a rule requiring employers to implement an Injury and Illness Prevention Program. It involves planning, implementing, evaluating, and improving processes and activities affecting employee safety and health. Developing a formal program could be a costly exercise for small businesses and become a paperwork nightmare. A proposed rule is expected in by the end of 2013.