



OSHA Enforcement & Policy Shifts

April 22, 2025

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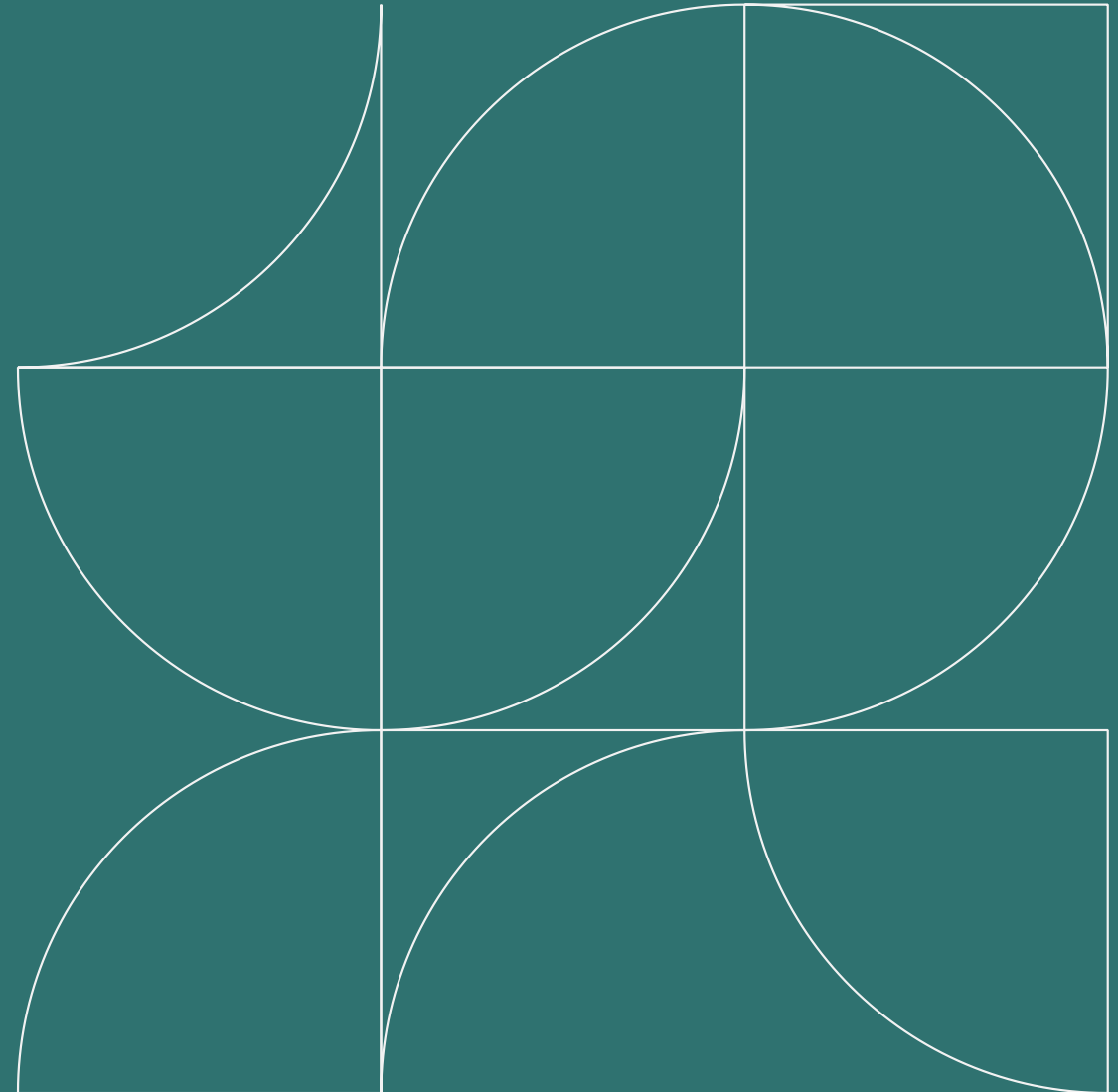


Agenda

- 01** New OSHA Leadership: What's Ahead
- 02** Emerging Enforcement Issues

01

New OSHA Leadership: What's Ahead



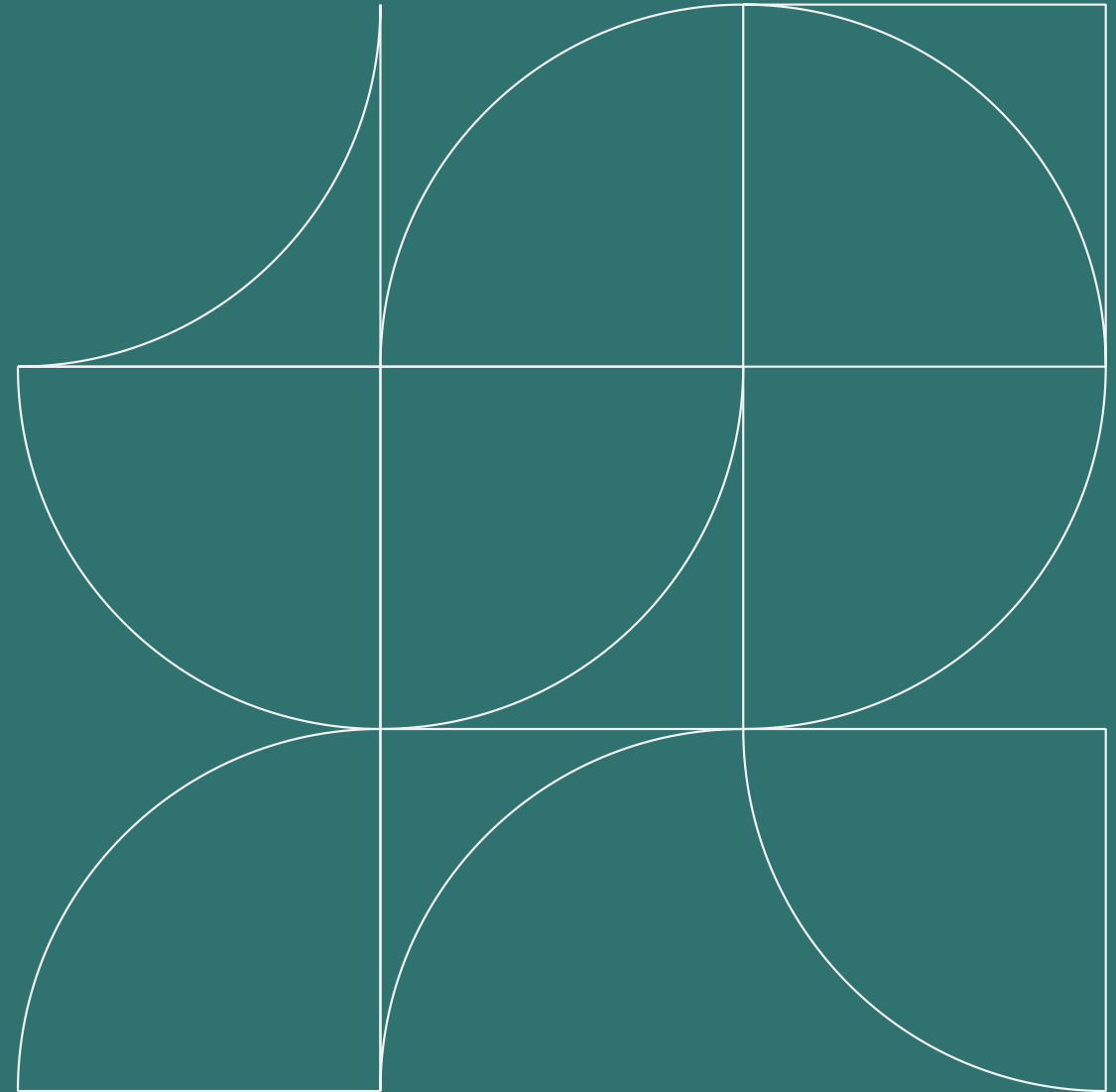
Trump Administration Nominates David Keeling as Assistant Secretary of Labor



- Secretary of Labor
- Role of Assistant Secretary of Labor
- Nomination
- Background
- Anticipated stance

02

Emerging Enforcement Issues



OSHA Under the Biden Administration

- National OSHA enforcement leadership, led by Doug Parker, a former head of California OSHA (Cal/OSHA)
 - Pursuit of Cal/OSHA priorities at the federal level, including heat illness
 - NEP Falls (2023), National Safety Stand Down on Falls
- Enhanced union role in OSHA inspections, settlement
 - Union OSHA Walkaround Rule
- Heat illness standard

Aggressive Enforcement During Biden Administration

- Shaming through Press Releases
- Severe Violator Enforcement Program (SVEP)
- Focus on Repeats and Willfuls
 - Use of knowledge of previous inspection to justify willful citation
- Enhanced use of General Duty Clause
- Enhanced referrals to Department of Justices for criminal prosecution in fatality cases
- Focus on record-keeping
- Requests for Root Cause analysis and company insurance audits

OSHA During the First Trump Administration



- Initial two years of flat budgets
- No confirmed OSHA leadership
- Declining number of OSHA CSHOs
- Declining number of inspections
- New National Emphasis Programs
- New regulations
(e.g. Crystalline Silica (2020))
- 2020 refocus on COVID-19 complaints
- Limited employer-friendly policy change
 - post-accident drug testing
 - wellness programs
 - openness to VPP



New leadership with more cooperative orientation



Potential elimination, merger, or relocation of federal Department of Labor



Flat or reduced budgets



Fewer CSHOs and inspections



Enhanced consultation, cooperative program resources



Less emphasis programs, programmed inspection activity



Reduced emphasis on whistleblower and anti-retaliation claims

Projecting OSHA During the Second Trump Administration

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Focus on egregious and willful offenders

Limiting penalties for first time offenders

Exemptions for small businesses

No new rule-makings (?)

Abandonment of heat illness rule

Halt to workplace violence rulemaking

Potential withdrawal of OSHA walkaround rule

- Ongoing litigation
- OSHA could withdraw rule and issue a new clarification

Power Shift Away From Administrative State

- *Loper Bright Enterprises v. Raimondo*, No. 22-451, 603 U.S. __ (2024)
 - Courts, not agencies, are best situated to interpret ambiguous statutory provisions, even in areas of agency expertise.
- *National Federation of Independent Business v. Department of Labor, Occupational Safety and Health Administration*, 595 U.S. ____ (2022)
 - “The question before us is not how to respond to the pandemic, but who holds the power to do so. ...[T]hat power rests with the States and Congress, not OSHA.”
 - Courts may question regulations of broad applicability.
- New *Department of Government Efficiency* (DOGE) aimed at wasteful spending across federal agencies.
- Project 2025 states general goals to limit new regulations, reduce footprint of agencies.





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Please reach out to us with any questions:

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