

One Minute Memo®



What to Expect From OSHA in a President-Elect Trump Administration

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Seyfarth Synopsis: *With a dramatic change from a progressive Democratic administration to a conservative Republican administration we anticipate that OSHA is likely to pivot away from the enforcement heavy agenda to a more business friendly agency.*

As we try to anticipate the President-Elect Donald Trump's administration, supported by a Republican lead Congress, these are some of our thoughts and projections on what the future may hold for employers on the OSHA front.

Generally, we know from Candidate Trump claims that for the immediate future he may:

- Propose a hiring freeze on all federal employees to reduce the federal workforce (except military, public safety and public health)
- Propose a new requirement that for every federal regulation imposed, two existing regulations will be eliminated

While these claims are very broad in nature and offer no practical details on how they will be implemented, it sends a strong message of his goal of a more limited federal government and less federal government involvement in the workplace. Accordingly, these items may, to the extent that they are implemented, slow the frequency of planned inspections and the speed at which ongoing inspections and proposed citations are processed, and will likely halt (or dramatically slow) new regulations that may have been in the works. OSHA's current pending and suggested rulemaking activities, such as its [interpretation for narrowing the retail exemption](#) under the Process Safety Management Standard, new [permissible exposure limit](#) (PEL) rules, and [beryllium](#) rules may all be re-considered and revamped in a new Republican administration.

Specifically, we know that [David Michaels](#), PhD, MPH, Assistant Secretary of Labor for OSHA, will be leaving OSHA. Michaels will likely be replaced by someone with a more pro-business perspective. However, we also know that the recently increased OSHA penalties are the law, therefore, will not likely be rolled back under the Trump administration. We also believe that it is unlikely that the five year look back period for "repeat" violations will change.

As readers of our blog are aware, OSHA has recently proposed significant changes to the injury recordkeeping and anti-retaliation rules. Those changes are currently in [litigation](#) and OSHA has pushed back the effective date until December 1, 2016. Given the change in administration, we would not be surprised if OSHA further delays implementation of these new rules. If OSHA chooses to press forward with the new rules, they may be an early target for removal by the Trump

administration.

We also believe that OSHA's emphasis during the Obama administration on whistleblower and anti-retaliation claims will not be given the same focus under the Trump administration. Rather, we anticipate OSHA returning to more business friendly Voluntary Protection Program (VPP) and cooperative compliance programs over time.

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