

OSHA ADVISORY

President Biden's Early Moves At OSHA



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On the first day of his administration, President Joe Biden named James Frederick as deputy assistant secretary at OSHA. He will serve as the acting director of the agency until a permanent assistant secretary is nominated by the president and confirmed by the Senate, a process that entails some uncertainty given the evenly divided body. Mr. Frederick spent 25 years with the United Steelworkers and is viewed as a staunch supporter of tougher regulations. His appointment on the first day of the administration signals that workplace safety and health is a top priority for the new president.

Another move demonstrating President Biden's approach to safety and health matters is an [executive order signed today](#) requiring OSHA to determine whether temporary emergency standards should be issued to address the COVID-19 pandemic. Fourteen states that run their own occupational safety and health "state plans" already have enacted such measures. Colorado, which does not have its own state plan, and Arizona, which does, do not have any COVID-specific OSHA standards. If OSHA determines to implement such emergency standards it is impossible to say what exact form they will take. However, employers can expect that some requirements, such as mask mandates, employer testing, and exposure control plans, may be forthcoming. Any such standards must be issued by March 15, 2021. The order also directs the federal Mine Safety and Health Administration ("MSHA") to consider such standards as well.

Other requirements of the executive order include:

- A requirement that OSHA, within two weeks, issue "revised guidance to employers on workplace safety during the COVID-19 pandemic." This move comes in response to criticism that OSHA's prior guidance on the issue has been unhelpful;



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- A requirement that OSHA review its COVID-19 enforcement efforts and “identify any short-, medium-, and long-range changes that can be made to better protect workers and ensure equity in enforcement;”
- A requirement that OSHA “launch a national program to focus OSHA enforcement efforts related to COVID-19 on violations that put the largest number of workers at serious risk or are contrary to anti-retaliation principles.” Any such enforcement efforts may target industries with the largest outbreaks, such as healthcare, food manufacturing, and grocery stores;
- A requirement that OSHA engage in outreach on the issue of COVID-19;
- A requirement that OSHA review state plan standards related to COVID-19 to ensure that they are adequate and consistent with OSHA guidance and/or temporary standards.

These early moves are just the beginning. It can be expected that the Biden Administration will continue to bolster OSHA standards and enforcement. Employers are encouraged to stay abreast of these developments and implement the appropriate measures. We will be issuing further updates as developments come in.

Questions

If you have any questions, please contact [Pat Miller](#), [Dana Svendsen](#), or [Alyssa Levy](#).