



ILA-USMX JOINT SAFETY COMMITTEE

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The Biden Administration's OSHA: What Will Likely Happen First

Across all businesses and industries, management and labor interests should rightly be thinking about what measures the incoming presidential administration's OSHA will first work toward upon taking office in January.

The ILA~USMX Joint Safety Committee is of the mind that we should expect that one of OSHA's top priorities will be to issue a specific emergency standard for COVID-19, that will remain in effect until the pandemic subsides. The new rules may make compliance with OSHA and CDC guidance on COVID-19 protections mandatory for employers, including requiring that all employees wear masks and socially distance. It may also compel employers to:

- Develop detailed written plans to reduce the spread of the virus at work and submit those plans to the agency;
- Report all employees who test positive or have symptoms of COVID-19 to the agency; and
- Provide specific employee training.

Employers and employees can also expect the Biden administration's OSHA to aggressively pursue complaints about COVID-19 exposure at work, hiring more inspectors and conducting more inspections; issuing more citations and penalties; and perhaps publicly releasing information about cited employers.

Some states (Virginia, Michigan, and Oregon, as examples) have already created emergency temporary COVID-19 standards. Other states are in the process of doing so. OSHA will certainly use those state standards to pattern a national set of COVID-19 standards after.

Here are links to those state COVID-19 standards.

Virginia: <https://www.doli.virginia.gov/wp-content/uploads/2020/07/COVID-19-Emergency-Temporary-Standard-FOR-PUBLIC-DISTRIBUTION-FINAL-7.17.2020.pdf>

Michigan: https://www.michigan.gov/documents/leo/Final_MIOSHA_Rules_705164_7.pdf

Oregon: <https://osha.oregon.gov/OSHArules/div1/437-001-0744.pdf>

The best way to protect workers and stay ahead of OSHA enforcement (as well as potential civil and criminal liability for failure to protect workers) is to pay careful attention to OSHA and the CDC's COVID-19-related guidance, understanding that the guidance may soon be revised to place more obligations on employers and that it may soon become mandatory.

Got a question about this particular subject? Write to the JSC at: blueoceana@optonline.net

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