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President Biden Pushes Hard Reset Button on OSHA COVID-19 Initiatives

Authors: John Wayne Cropp

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On January 21, 2021, President Biden issued an Executive Order on Protecting Health Safety instructing the Occupational Health and Safety Administration (OSHA) in the U.S. Department of Labor to publish updated recommendations for protecting worker health and safety from COVID-19. OSHA quickly complied with the mandate on January 29, 2021 by setting forth its renewed guidance on preventing the spread of COVID-19 in the workplace. OSHA further committed to update this guidance over time to reflect best practices and science. The updated guidance can be accessed [here](#).

The Executive Order signals a new day that will extend far beyond new guidance. First, President Biden instructed OSHA to explore whether emergency temporary standards on workplace safety for COVID-19 are necessary and, if so, to issue the temporary standards by March 15, 2021. That is a very short timeframe for even emergency rulemaking. Second, the Executive Order laid out requirements for increasing the enforcement efforts of OSHA to better protect workers. Separate Center for Disease Control requirements apply for the health care industry.

With a reinvigorated enforcement program and a vaccinated OSHA workforce, it can be anticipated that new data reporting requirements will be instituted, inspections will increase, enforcement will be stepped up, whistleblowers will be empowered, and penalties will rise.

The OSHA guidance places a heavy emphasis upon the engagement of workers and unions in employer COVID-19 prevention programs. The essential components of an acceptable COVID-19 prevention program include:

- Conducting a hazard assessment;
- Identifying a combination of measures that limit the spread of COVID-19 in the workplace;
- Adopting measures to ensure that workers who are infected or potentially infected are separated and sent home from the workplace;
- Implementing protections from retaliation for workers who raise COVID-19-related concerns;
- Implementing social distancing at work when possible and installing barriers when physical distancing cannot be maintained; and
- Suppressing the spread of infections by requiring face coverings and the use of personal protective equipment.

With the strong labor presence in the new Administration, OSHA's enforcement initiatives likely will not be limited to COVID-19 safety measures, but will transcend the pandemic in an effort to reinvigorate a culture of safety in the workplace. If you have any questions on these initiatives, please contact [Wayne Cropp](#) or any member of [Baker Donelson's Environmental Group](#).