

A Kinder, Gentler OSHA for Construction?

September 24, 2018

Related Services

Construction

Workplace Safety and Health

While President Donald Trump's choice to lead the Occupational Safety and Health Administration (OSHA) is awaiting Congressional confirmation, key agency decision makers are listening to the construction industry.

J. Gary Hill, Chairman of National Association of Home Builders' Construction Health and Safety Committee, had testified before a House Committee on the "regulatory tsunami" OSHA unleashed in recent years. He suggested ways the agency can streamline and clarify workplace safety rules and reinvigorate relationships with industry experts through its Alliance program and OSHA's Advisory Committee on Construction Safety and Health.

OSHA held a listening tour, asking industry stakeholders about how to enhance its compliance assistance efforts. On the day of the Congressional hearing, OSHA's top official met with industry leaders to discuss agency plans to boost voluntary compliance.

Labor Secretary Alexander Acosta confirmed OSHA's new approach. He assured workplace safety experts that "we're not interested in playing a game of gotcha [T]he goal is to help the individual or the company that is trying in good faith to comply."

OSHA appears to be changing the way it does business.

Today, OSHA is readdressing the controversial electronic recordkeeping requirements enacted in the waning days of the Obama Administration. Construction stakeholders have long expressed concerns about the risk of potentially disclosing private employee information. They also questioned the benefit of making injury information public.

In response, OSHA reopened its rulemaking process. It proposed eliminating the requirement that employers electronically submit the highly detailed incident information on their OSHA 300 Logs and 301 Forms. Instead, OSHA proposed requiring employers to provide only aggregated summary information on the OSHA 300A Form. (See our article, [OSHA Recordkeeping: OSHA Only Requiring Electronic Submission of 300A Forms.](#))

Finally, construction and other industry stakeholders increasingly have voiced concerns to regulators and lawmakers that OSHA airs one-sided news releases when it cites companies. They pointed out that there is no "unsend" button for news releases based on facts an inspector got wrong. While OSHA has not abandoned the practice, it has noticeably taken a more reserved approach lately.

Please contact Jackson Lewis with any questions about developments at OSHA.

©2018 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.