

## THERE'S A NEW SHERIFF IN TOWN - PRESIDENT OBAMA'S ENFORCEMENT-DRIVEN OSHA

Publication  
Jun 1, 2009

*(Retail Industry Update, No. 2, June 2009)*

Throughout his campaign, Sen. Barack Obama continually promised change if he was elected President, and he is now making good on that promise. If you read the safety-activist blogs and media reports, many seem to believe that OSHA is broken and the Obama Administration has to fix it. They cite the decrease in OSHA funding (adjusted for inflation) and a decrease in the number of OSHA inspectors as proof positive that this is not the OSHA that should be.

This ignores the fact that injury, illness and fatality rates in the American workplace are the lowest in recorded history. When this fact is presented to them, they dismiss it on the claim that companies are not accurately reporting the injuries and illnesses and the statistics reported by the U.S. Bureau of Labor Statutes are incorrect.

Regardless, the Democrats won the 2008 election and it is clearly a new day at OSHA. President Obama's selection of Rep. Hilda Solis to be Secretary of Labor is a strong signal to all in the businesses community that there will be substantial changes at the Labor Department, and a clear departure from the Bush Administration's policies.

### **What's In Store For Stores?**

The changes will not be subtle. Gone will be the days of strong emphasis on compliance assistance to employers by OSHA. Substituted will be strong emphasis on enforcement and rulemaking. In fact, Secretary Solis stated in a speech to the AFL-CIO Executive Committee that she was "bringing

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back enforcement to the Department of Labor.” This is not to say that compliance assistance programs like Voluntary Protection Programs, alliances and partnerships will disappear. They did not go away in the Clinton Administration and they will not go away during the Obama Administration. But they will not have the focused attention that they did in the Bush Administration.

Secretary Solis has already made changes at OSHA. She recently appointed Jordan Barab to be Deputy Assistant Secretary of Labor for OSHA and immediately made him the Acting Assistant Secretary. In this role, Mr. Barab can run OSHA and start making the changes that the Obama Administration and the unions want. He has already testified twice before Congress and announced support for several congressional bills to expand OSHA enforcement areas. OSHA has already received additional funding focused on enforcement.

There are other changes that American businesses can expect at OSHA. While increased enforcement will most likely be the watchword for the next four years, it is interesting to note that the recently-ended Bush Administration conducted *more* OSHA inspections than the prior Clinton Administration. Clearly, there will be more OSHA inspections, and the Obama Administration is already ramping up on the number of inspectors. In addition to increased inspections there will be an increase in the number of citations and the amount of penalties. Businesses can also expect that there will be a number of new national, regional and local emphasis programs covering different industries and other identified safety-and-health issues.

### **Here Come The Rules**

Another area scheduled for big change is in the area of standards and rulemaking. One of the biggest complaints from the non-business side of the fence was that OSHA, in the past eight years, did not do much in promulgating safety-and-health standards and that OSHA's regulating agenda was basically cut in half at the beginning of the Bush Administration. It's true that then Assistant Secretary John Henshaw did reduce the number of standards listed on the OSHA regulation agenda, but the main reason for the reduction was to give a more accurate reflection of the standards that OSHA was actually working on. You can be fairly certain that there will be more standards added to OSHA's rulemaking list.

While certain industries, such as construction and chemicals, are the most likely to see new standards, all businesses will see some major proposed OSHA standards, such as the Global Harmonization standard and the walking/working surfaces standard. The Obama Administration will be able to quickly complete these proposed and final standards since 95% of the work had already been completed during the Bush Administration. In addition, a revival of the Clinton Administration's ergonomics standard will most likely be attempted as well as a push to lower many of the current permissible exposure limits on chemicals.

Finally, there may be an attempt to take OSHA's recently updated voluntary safety-and-health-management system guidelines and make them a mandatory standard. This would be a mistake. An attempt to mandate that every employer have a one-size-fits-all safety-and-health management system will fail, because it would be either economically infeasible or so generic that it would be ineffective.

#### **At The End Of The Day . . .**

But as spelled out in OSHA's mission statement, it is important that every worksite in America have an effective (voluntary) safety and health management system in place that fits that facility or that worksite.

The bottom line is this: no matter what changes come to OSHA in the next four years, the ultimate goal for the agency must still be that each employee returns home from work safely to their families and loved ones every night. If this becomes a reality, America would truly show its greatness.