Confusion About the Shutdown's Effect On OSHA May Trip Up Employers

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OSHA requirements, including contest and abatement periods, are continuing during the shutdown, even if OSHA personnel are not present. State OSHA plans are continuing work, but they get substantial funding from federal OSHA and are beginning to take alter their operations. Many opportunities exist to misstep now and especially when the federal government resumes normal operations.

Under federal OSHA's Contingency Plan, all but approximately 10 percent of its employees are furloughed. If you call an area office, you'll encounter an area director and perhaps an assistant area director who will respond to workplace fatalities or complaints of situations threatening a high risk of death or serious injury. In some cases, senior compliance officers instead may be involved. Similarly, the five or six top managers in each region and a core group at OSHA headquarters in Washington, D.C. working. Below is a typical out-of-office email response:

Thank you for your email. Although I am in the office today, due to a lapse in funding I may only perform certain "excepted" activities, those related to a fatality, hospitalizations or an imminent danger. If your message does not pertain to an "excepted" activity, I will not be able to respond to it until after funding has been restored. If your message pertains to an "excepted" activity, I will respond as soon as possible.

If you need to report a fatality, hospitalizations or an imminent danger, please contact OSHA's toll free number immediately: 1-800-321-OSHA (6742); TTY 1-877-889-5627.

Twenty seven states run state OSHA plans with federal OSHA financial support or plans covering public employees. Outwardly, those agencies are conducting business as usual, but what happens if the shutdown drags on? How long can the state plans continue normal operations without federal funding? The answer seems to depend upon how well the state has been financing its share of the plan's operation.

An excellent BNA article this week and various inquiries have provided the following information: The current chair of the Occupational Health & Safety Plan Association stated that Iowa OSHA began some furloughs on Oct. 4, and that Michigan OSHA may have to start furloughs as soon as Oct. 14. New Mexico has limited programmed inspections due to travel restrictions but is otherwise

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normally functioning. Nevada OSHA said that it is good for 90 to 120 days. So far, it's business as usual for Tennessee, Kentucky, California, Washington State, Indiana, Maryland, North Carolina, Arizona and Oregon. We have heard that Tennessee may have make cuts in another week or so, and Kentucky perhaps a week or two later. We haven't heard any reports from plans in Virginia, South Carolina or Minnesota.

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