

Big Changes Could Be Coming To MSHA's Leadership Under The Biden Administration

Insights

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In what could be one of the more significant redirections of a government agency, the Biden administration's transition team will almost certainly appoint a union-supported candidate to replace the current Assistant Secretary of Labor, Mine Safety and Health Administration, David Zatezalo. Biden's candidacy revolved around a pro-labor agenda, and his transition team remains focused on expanding workers' rights in the workplace.

The first candidate name with full labor support has been reported by Bloomberg Law – Robert Lesnick, former Chief Administrative Law Judge for the Federal Mine Safety and Health Review Commission, has reportedly expressed interest in heading MSHA. With the backing of the United Mine Workers and the United Steelworkers, Judge Lesnick represents a near-complete rejection of current MSHA leadership and a move towards a pro-labor MSHA.

According to Bloomberg's Fatima Hussein, Judge Lesnick was a special trial counsel with the Treasury Department in the 1990s and began his federal service in 1979, serving in the Labor Department's Office of the Solicitor in Kansas City, then Denver, and later in Washington, D.C. He became Chief ALJ for FMSHRC in 2003 and served in that position until February 2019.

While he was the chief judge of the agency charged with keeping MSHA in check, there are those who believe Judge Lesnick encouraged and facilitated MSHA's agenda in weakening existing case law that had developed over the years in its favor and stripping operators of effective review of MSHA's actions. The fact that labor unions have voiced support for Judge Lesnick is not surprising, as labor expects the new head of MSHA to reengage Obama-era enforcement and prioritize rulemaking on Silica.

Regardless of who the next leader of MSHA is, operators should absolutely expect a union-backed candidate to change MSHA's approach to safety and return to its core mission – enforcement. Now is the time for operators to inject new energy into their safety programs, focusing on compliance-based activities.

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