

NOVEMBER 26, 2018 | EVENTS

## Announcing Conn Maciel Carey's 2019 OSHA Webinar Series



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### ... 2019 OSHA WEBINAR series ...

We are now two years into the Trump Administration, and we have seen a mixed bag of changes in the OSHA enforcement and regulatory landscape. We have watched some late Obama-era OSHA rules get repealed by the Congressional Review Act or delayed and amended through deregulatory rulemaking. We have seen some efforts to boost up the VPP Program and other cooperative programs—the sorts of policy shifts at OSHA many expect in a transition to a republican administration. However, we have also been surprised by OSHA increasing the number of inspections, setting records for the number of \$100K+ enforcement actions, and continuing to issue hard hitting press releases. And most surprising of all, OSHA still does not have a Senate-approved Assistant Secretary—the longest ever wait for a permanent OSHA Administrator.

As we move into the out years of Pres. Trump's first term, we expect more reshuffling of OSHA's enforcement priorities and policies, and more surprises, so it is critical to stay abreast of OSHA developments. This complimentary 2019 OSHA Webinar Series, presented by the OSHA-specialist attorneys in [Conn Maciel Carey's national OSHA Practice Group](#), is designed to give employers insight into changes and developments at OSHA during this unpredictable time.

To register for an individual webinar, click the registration link in the program descriptions below. To [register for the entire 2019 Series, click here](#) to send an email request, and we will get you registered. If you missed any of our OSHA programs, here is a [link to our webinar archive](#).

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2019 OSHA Webinar Series – Program Schedule

**OSHA Year in Review & 2019 Forecast**

Tuesday, January 15th

**Updates on OSHA's E-Recordkeeping and Serious Injury Reporting Rules**

Tuesday, February 12th

**OSHA's New Site-Specific Targeting Enforcement Program**

Tuesday, March 19th

**Responding to 11(c) Retaliation Claims & Employee Safety Complaints**

Tuesday, April 16th

**New Cal/OSHA Enforcement Issues**

Tuesday, May 28th

**The Fate of Numerous Midnight Obama-Era OSHA Rules**

Tuesday, June 18th

**Tips to Survive an OSHA Inspection**

Tuesday, July 23rd

**Joint- and Multi-Employers, Contractors and Temps**

Tuesday, August 13th

**OSHA's Electrical Safety Standards – Top 5 Risks and Mistakes**

Tuesday, September 24th

**What You Need to Know About OSHA's Health Exposure Standards**

Tuesday, October 22nd

**OSHA PSM and EPA RMP Update**

Tuesday, November 19th

**Workplace Violence & Harassment – OSHA & Employment Law Issues**

Tuesday, December 17th

## See below for descriptions of the webinars and registration links

### [OSHA's 2018 in Review and 2019 Forecast](#)

Tuesday, January 15, 2019 at 1 PM ET

Presented by the *Partners in the [OSHA Practice Group at Conn Maciel Carey](#)*

The ball has dropped, the confetti has been swept out of Times Square, and 2018 is in the books. It's time to look back and take stock of what we learned from and about OSHA over the past year. More importantly, it is time to look at what we can expect from OSHA as we transition to the out years of President Trump's first term. In [this webinar](#) event, attorneys from the Partners in the [OSHA Practice Group at Conn Maciel Carey](#) will review OSHA enforcement, rulemaking, and other developments from 2018, and will discuss the top OSHA Issues employers should monitor and prepare for in the New Year.

Participants in [this webinar](#) will learn the following:

- 2018 OSHA enforcement data and trends
- The future of OSHA enforcement
- Rulemaking and deregulatory developments and predictions
- Significant OSHA policy issues to watch out for in the New Year

Click [here to register](#) for this webinar.

### [Updates About OSHA's E-Recordkeeping and Significant Injury Reporting Rules](#)

Tuesday, February 12, 2019 at 1 PM ET

Presented by *[Eric J. Conn](#), [Lindsay A. DiSalvo](#), and [Dan C. Deacon](#)*

OSHA's controversial E-Recordkeeping and Anti-Retaliation Rule has been challenged and criticized by stakeholders since its inception, with expectations that OSHA under a Trump Administration would revise or rescind the Rule. Despite all that, multiple enforcement deferrals, and two legal challenges that were Stayed pending the Trump Administration's re-evaluation of the Rule, all elements of the rule are currently in effect, including injury data submission requirements and limits to post-injury drug testing and safety incentives. Indeed, the Trump Administration has done very little to narrow the Rule. On July 30, 2018, OSHA issued a notice of proposed rulemaking to eliminate only the requirement for very large establishments to submit 300 and 301 data, but did nothing to alleviate the data submission burdens on smaller employers, and did not address the controversial anti-retaliation provisions at all. Also, the delinquent State OSH Programs are catching up with Fed OSHA's E-Recordkeeping requirements.

Not to be confused with E-Recordkeeping, OSHA's Significant Injury and Fatality Reporting Rule, has created significant new interactions between employers and OSHA since it went into effect in January 2015. Many employers still wrestle with the nuances of when and how to report significant injuries, hospitalizations, amputations, and fatalities to OSHA. In particular, employers are frequently over-reporting hospitalization events and struggling to determine what constitutes a reportable amputation.

During [this webinar](#), participants will learn about:

- Data submission and Anti-Retaliation elements of the E-Recordkeeping Rule
- OSHA enforcement of E-Recordkeeping and Anti-Retaliation Rule
- State Plan implementation of E-Recordkeeping requirements
- When and how to report significant injuries and fatalities
- Nuances of determining whether a trip to the hospital is reportable

Click [here to register](#) for this webinar.

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## **OSHA's New Site-Specific Targeting Enforcement Program**

**Tuesday, March 19, 2019 at 1 PM ET**

Presented by [Amanda Walker](#), [Aaron Gelb](#) and [Dan Deacon](#)

More than two years after OSHA published the E-Recordkeeping Rule, the agency finally revealed some of its plans for how it will utilize employers' 300A injury data collected under the new Rule. In late October 2018, OSHA launched its new Site-Specific Targeting Enforcement Program, which outlines how the agency will select non-construction establishments for programmed inspection. OSHA will create targeted inspection lists based on employers' higher than average Days Away, Restricted or Transfer ("DART") injury rates. OSHA will also include a random sample of establishments with lower than expected injury rates for quality control. Thus, all employers covered by OSHA's E-Recordkeeping Rule may be subject to an SST inspection..

Participants in [this webinar](#) will learn:

- Overview of data submission requirements of E-Recordkeeping
- How OSHA selects establishments for inspection
- Scope of inspections under the SST Program
- Applicable exceptions to the SST inspections
- Tips for Employers to Prepare for an SST inspection

Click [here to register](#) for this webinar.

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## **Guide to Responding to 11(c) Safety Retaliation Complaints & Notices of Alleged Hazards / Employee Safety Complaints**

Tuesday, April 16, 2019 at 1 PM ET

Presented by [Kara M. Maciel](#), [Kate M. McMahon](#) and [Lindsay A. DiSalvo](#)

When OSHA receives a complaint related to employee safety and health or a severe injury report, one action by OSHA is to give the employer an opportunity to respond before it takes the more extreme action of opening an inspection. In addition, when OSHA receives an allegation of retaliation, it must provide the employer a chance to explain why the action of which it is accused was legitimate or did not occur as alleged. These responses are an opportunity for the employer to provide sufficient information to avoid an inspection or litigation of a retaliation claim. A strong response could appease OSHA's concerns and resolve the complaint or report in a favorable manner for the employer. However, these responses can also create a written record of admissions to which OSHA can hold the employer accountable, and any supporting documentation may be closely scrutinized and used to create liability. Thus, employers must be strategic about the information they share at this early stage and should ensure there is a procedure in place for managing and developing these responses.

Participants in [this webinar](#) will learn about:

- The types of complaints and incidents that lead OSHA to request information from the employer;
- Specific prohibitions of Section 11(c) (OSHA's anti-retaliation law) and how retaliation complaints are evaluated;
- Strategies employers can use to effectively respond to Section 11(c) complaints, Notices of Alleged Hazards, and RRI requests; and
- Proactive measures employers can take to avoid employee complaints.

Click [here to register](#) for this webinar.

## **Key Cal/OSHA Issues California Employers Must Track**

Tuesday, May 28, 2019 at 4 PM EST / 1 PM PST

Presented by [Andrew J. Sommer](#), [Eric J. Conn](#), and [Megan S. Shaked](#)

The state of California's Division of Occupational Safety and Health, better known as Cal/OSHA, is perhaps the most aggressive and enforcement-heavy approved state OSH Program in the nation. California employers face a host of requirements that other employers around the country do not. Likewise, the Cal/OSHA inspection and appeal process creates several unique landmines for California employers. Of particular significance in the coming year, California employers should be on the lookout for new E-Recordkeeping injury data submission requirements, a new focus on finding Repeat violations, and the real roll-out of new rules promulgated last year, such a ergonomics in hospitality, workplace violence in healthcare, and others.

During [this webinar](#), participants will learn about:

- Trends in Cal/OSHA Enforcement
- New E-Recordkeeping electronic injury data submission requirements
- The impact of Cal/OSHA's Repeat Violation Rule and Increased Penalty Authority
- Tips for Navigating the Cal/OSHA Appeals Process
- Other Developments, such as Cal/OSHA's Proposed Indoor Heat Illness Rule, Workplace Violence in General Industry Rule, and others

Click [here to register](#) for this webinar.

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## Fate of Midnight Obama-Era OSHA Rules

Tuesday, June 18, 2019 at 1 PM ET

Presented by [Kate McMahon](#), [Micah Smith](#), [Dan Deacon](#), and [Beeta Lashkari](#)

OSHA made several significant changes to its standards during the late stages of the Obama Administration. After a several decades long effort, it updated the Walking Working Surfaces Standard (the regulation covering slips, trips and falls). It published its controversial E-Recordkeeping Rule for injury and illness data submissions. It also promulgated two new occupational health exposure standards for silica and beryllium after years of rulemaking. And, it brought its Hazard Communication Standard (the chemical right-to-know regulation) more in line with the United Nation's Globally Harmonized System of Classification and Labeling of Chemicals. To name a few.

But, as midnight fell on the Obama Administration, so too did it fall on the fates of these rules. Or did it? While some executive agency regulations have been subject to additional rulemaking (or, more accurately, rule-rescinding) as expected given the Trump Administration's promise for deregulation, others have remained untouched. So, what is the fate of these, and other, midnight Obama-era OSHA rules? In [this webinar](#), we will make our predictions as to where the Rules may be headed, and offer our advice for how employers should prepare for OSHA enforcement in these areas.

During [this webinar](#), participants will learn about:

- Changes made to the Walking Working Surfaces Standard, E-Recordkeeping Rule, Silica and Beryllium Standards, HazCom Standard, and other rules during the Obama Admin.
- How these Obama-era OSHA Rules have already changed (if at all) under the Trump Admin., and what future changes we may expect
- What to do as an employer to avoid OSHA citations during a time of flux

Click [here to register](#) for this webinar.

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## Prepare For and Manage an OSHA Inspection

Tuesday, July 23, 2019 at 1 PM ET

Presented by [Eric J. Conn](#) and [Amanda R. Walker](#)

Confounding expectations, OSHA under Pres. Trump has continued the same aggressive enforcement model as we saw during the Obama Administration. We are seeing more inspections, higher penalties, record numbers of \$100K+ citation packages, and a continuing rise in willful and repeat citations and worker safety criminal prosecutions. OSHA has also continued its aggressive inspection strategies that create a minefield for employers. In short, the consequences for employers being caught ill-prepared for an OSHA inspection, and making bad choices during an inspection, are more dire now than ever.

[This webinar](#) will provide employers with the knowledge and tools they need to prepare in advance for an OSHA inspection, and once an OSHA inspection begins, to manage it to a successful outcome. Participants in [this webinar](#) will learn:

- Employers' Goals for managing an OSHA inspection
- Steps employers can take now to prepare in advance for an OSHA inspection
- Employers', employees', and OSHA's rights during OSHA inspections
- Stages of OSHA inspections, with tips and strategies to manage each stage

Click [here to register](#) for this webinar.

## Joint and Multi-Employer, Independent Contractor, and Temp Labor OSHA and Employment Law Issues

Tuesday, August 13, 2019 at 1 PM ET

Presented by [Jordan B. Schwartz](#), [Eric J. Conn](#) and [Lindsay A. DiSalvo](#)

Employment relationships can take many forms, and employers' perceptions of their legal responsibilities for certain workers is not always reality. An employer may classify workers as temporary workers or independent contractors, but that does not mean the Dept. of Labor will agree. This is particularly challenging due to continuous changes in the law relating to these types of employment relationships.

One particular area in flux over the past several years has been the joint-employer standard, significantly expanding in the Obama-era NLRB decision in *Browning-Ferris*, but in the wake of change through an ongoing NLRB rulemaking. Similarly, the boundary between employees and independent contractors has also been a moving target. Although the prior Administration took the view that a majority of workers should be treated as employees in its guidance to employers, the Trump Administration has signaled a change in direction.

Even where there is not a legal employer-employee relationship, companies may have certain safety and health obligations and potential liabilities depending on their role at multi-employer worksites or the use of temporary

workers. Protecting temporary workers and enforcing the responsibilities of host employers and staffing agencies was a priority of OSHA in the Obama Administration, and the Temporary Worker Initiative it initiated continues today. OSHA has also continued to defend its multi-employer worksite enforcement policy through legal challenges.

Participants in [this webinar](#) will learn about:

- The current joint-employer standard and the NLRB's rulemaking;
- Criteria used to evaluate the employer-employee relationship;
- Guidance on how to clearly establish an independent contractor relationship;
- Lawfully and effectively managing temporary workers at your workplace; and
- How OSHA applies its multi-employer worksite enforcement policy

Click [here to register](#) for this webinar.

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## **Electrical Safety Under OSHA's Subpart S– 5 Reasons It Is Critical to Get It Right and 5 Common Mistakes**

Tuesday, September 24, 2019 at 1 PM ET

Presented by [Micah Smith](#), [Aaron R. Gelb](#), and [Dan Deacon](#)

Working with electricity can be dangerous, and electrical safety has long been an enforcement priority for OSHA. OSHA's electrical standards are designed to protect employees against hazards of electric shock, electrocution, flash fires, and explosions. Too often, workers and/or their employers are unaware of the potential electrical hazards present in their work environment, or more often, they are unfamiliar with the nuances of OSHA's regulatory requirements in this area.

[This webinar](#) will highlight the most frequent causes of electrical injuries, explain some of the most misunderstood provisions of the applicable OSHA standards, and discuss strategies to limit exposure to the most common electrical safety violations. Participants in [this webinar](#) will learn:

- The top 5 reasons why employers should make complying with the applicable electrical safety standards a priority
- The 5 most common electrical safety mistakes employers
- Steps employers can take to avoid reduce exposure to electrical safety hazards and OSHA violations.

Click [here to register](#) for this webinar.

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## **What You Need to Know about OSHA's Health and Chemical Exposure**

## Standards

Tuesday, October 22, 2019 at 1 PM ET

Presented by [Kate McMahon](#), [Amanda Walker](#), and [Beeta Lashkari](#)

In addition to OSHA's myriad Safety regulations, the agency has also promulgated approx. 30 comprehensive Health standards, and established air exposure limitations for an additional 500 common chemicals present in U.S. workplaces, such as asbestos, lead, and silica. Knowing when and how to conduct monitoring is complex, and the chemical sampling data collected can be a double-edged sword. [This webinar](#) will help keep you clear about the requirements of OSHA's occupational health standards, provide useful guidance and tips on the types and frequency of air monitoring or other chemical sampling that may be required or warranted at your facilities, and the programs to implement if you do experience exposure levels above the minimum regulatory thresholds (or other industry consensus thresholds).

Participants in [this webinar](#) will learn:

- The basics about OSHA's Chemical Health Standards
- How long chemical sampling data must be retained
- When and how to share monitoring data with employees and regulators
- Prudent actions and policies to ensure your employees are protected from chemical exposures in the workplace without creating OSHA enforcement pitfalls

Click [here to register](#) for this webinar.

## Process Safety Update: The Latest with OSHA PSM & EPA RMP

Tuesday, November 19, 2019 at 1 PM ET

Presented by [Eric J. Conn](#), [Amanda Strainis-Walker](#), and [Micah Smith](#)

Following the tragic West Fertilizer explosion in 2013, then-President Obama issued an Executive Order directing OSHA, EPA and other agencies to "modernize" the way the government regulates chemical process safety.

OSHA and EPA took sweeping actions in response to the Executive Order, from enforcement initiatives (like a new wave of Refinery and Chemical Facility PSM National Emphasis Program inspections) to rulemaking and interpretation letters to overhaul OSHA's PSM and EPA's RMP regulatory landscape.

Then President Trump took office with a de-regulatory agenda, leaving the regulated community to wonder what this meant for these changes to process safety regulations. But rather than a continued wave of action, the momentum splintered, with some initiatives proceeding, others coming to a halt, and others still being pared back. We saw immediate delays and the beginning of rollbacks of new process safety regulations, yet enforcement initiatives appeared to move forward unhindered. And now, with two years of the Trump Administration in the books, it is still unclear where the regulatory landscape will settle.

[This webinar](#) will review the status and likely future of OSHA's PSM Standard and EPA's RMP Rule, as well as

other major process safety developments from the federal government, state governments, and industry groups.

Click [here to register](#) for this webinar.

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## **Workplace Violence and Sexual Harassment – OSHA and Employment Law Issues**

**Tuesday, December 17, 2019 at 1 PM ET**

*Presented by [Aaron R. Gelb](#), [Lindsay DiSalvo](#), and [Megan Shaked](#)*

Nearly 2 million American workers report being victims of workplace violence each year, and many cases go unreported. At the same time, the #MeToo movement has brought renewed focus on sexual harassment in the workplace. While there are no OSHA standards for workplace violence or sexual harassment, the General Duty Clause requires employers to provide employees a place of employment free from recognized serious hazards. Over the years, OSHA has issued General Duty Clause citations to employers after incidents of workplace violence or harassment.

Recently, one OSHA Regional office initiated an inspection after a pediatric services employee was sexually assaulted by a client's father after complaints were made to the employer by other employees about the alleged abuser. The EEOC, meanwhile, continues to focus on sexual harassment, having recovered nearly \$70 million for employees claiming sexual harassment through litigation and administrative enforcement in FY 2018, up from \$47.5 million in FY 2017. The question remains, however, whether OSHA will expand efforts to investigate and/or address sexual harassment, particularly in those workplaces where it is foreseeable or preventable.

Participants in [this webinar](#) will learn:

- Enforcement priorities related to sexual harassment and workplace violence at EEOC and OSHA
- Best practices related for designing effective anti-harassment policies, developing manager & employee harassment training programs, and implementing compliant investigation procedures
- Tips for creating an organizational culture in which harassment is not tolerated and ensuring employees are held accountable
- Steps that employers can take to develop and implement an effective workplace violence prevention program

Click [here to register](#) for this webinar.