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Announcing Conn Maciel Carey's 2021 MSHA Webinar Series



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With the Trump Administration's time in office behind us, mine operators must prepare for a changing MSHA regulatory landscape under the Biden Administration. While MSHA continued its mission under Assistant Secretary Zatezalo the past few years, and some significant changes to the MSHA were put into effect – like the "blurring" of the Metal/Nonmetal and Coal divisions – there are a number of outstanding items that we now expect to move forward at the direction of the Biden team. While it is yet to be seen who will head MSHA for President Biden's term, the anticipated leaders of the Department of Labor and OSHA have strong ties to labor organizations, which historically results in more stringent regulation and greater enforcement for employers. These impacts may be even more acutely felt by the industry when MSHA eventually publishes its rulemaking efforts on topics such as Crystalline Silica (Quartz) and Powered-Haulage Safety, which were expected before the Trump team left office. With the winds of change moving through Washington D.C., it is now as important as ever to keep tabs on MSHA developments and prepare for inspections.

Conn Maciel Carey's complimentary 2021 MSHA Webinar Series includes free programs put on by attorneys in the firm's national MSHA Practice Group, and is designed to give you insight into the changes and developments at MSHA during this period of flux and unpredictability.

To register for an individual webinar, click the registration link in the program descriptions below. To register for the entire 2021 series, click here to send an email request, and we will get you registered. If you miss any of the programs this year or those hosted during prior years, here is a link to our webinar archive.

MSHA's 2020 in Review and 2021 Forecast
Wednesday, February 24th

MSHA Update and FMSHRC Decision Review
Thursday, August 19th

[COVID-19 & MSHA: Best Practices and Compliance Strategies](#)
Thursday, March 18th

[MSHA Special Investigation Management: Handling 110 and 105(c) Investigations](#)
Wednesday, May 26th

[What to Expect from DOL Under a Biden Admin.](#)
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[MSHA/OSHA Jurisdiction: When, How and Why to Challenge](#)
Tuesday, September 14th

[Contesting MSHA Citations and Orders: Tips and Strategies when Challenging](#)
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[Recap of Year One of the Biden Administration](#)
Tuesday, December 14th

SEE BELOW FOR DESCRIPTIONS OF THE WEBINARS AND REGISTRATION LINKS

MSHA 2020 in Review and 2021 Forecast

Wednesday, February 24, 2021 at 1 PM ET

Presented by Nicholas W. Scala

With 2020 behind us, now is the time to take stock of the state of MSHA as the Biden Administration begins. We will review the past year's enforcement trends and initiatives, as well as regulatory agenda, highlighting the evolution of MSHA and its priorities during the Trump Administration. We will also look to the future, examining how MSHA is most likely to change in the first year of the Biden Administration, and what new enforcement policies will replace those the industry has grown accustomed to the last 4 years.

During this webinar, participants will learn about:

- 2020 MSHA enforcement data, predictions for future areas of emphasis
- MSHA and other DOL organizational developments
- The future of OSHA enforcement
- Other MSHA implications of the 2020 Presidential Election

Click here to register.

COVID-19 and MSHA: Best Practices and Compliance Strategies for Mine

Operators

Thursday, March 18, 2021 at 1 PM ET

Presented by Nicholas W. Scala

COVID-19 is, has been, and will continue to be part of every workplace in the nation for the foreseeable future. To this point during the pandemic, MSHA has largely taken a back seat in providing guidance to the nation's mine operators regarding COVID or attempting to enforce new or existing regulations with respect to COVID-19 in mine. The onus was passed onto mine operators to establish and implement best practices for the workforce. Now, as we enter the Biden Administration, mine operators will still shoulder the responsibility for ensuring workplace safety considerations are put into effect for COVID-19, but also, it is likely that MSHA may take a more active roll. This webinar will review lessons learned and best practices for mine operators regarding COVID-19 in the workplace, while also looking to any new or existing regulatory compliance obligation facing mine operators.

During this webinar, participants will learn about:

- An account of MSHA's handling of the COVID-19 crisis and predictions about where MSHA will go next in regulating COVID-19 in the workplace
- Review of any existing or new regulation, including MSHA/OSHA Emergency Temporary Standards
- A forecast of COVID-related enforcement under President Biden's Department of Labor
- COVID-19 best practices for employers in the workplace

Click here to register.

MSHA Special Investigation Management: Handling §105(c) and §110 Investigations

Wednesday, May 26, 2020 at 1 PM ET

Presented by Nicholas W. Scala

In any given year MSHA inspections are common and required. Depending on the operation, MSHA will be on-site at least two times per year for a surface mine, and at least 4 times per year at an underground operation. But what happens when MSHA's presence on site is more targeted, whether to investigate complaints of discrimination or interference with a miner's rights under the Mine Act, or to look into the alleged personal culpability of a member of mine management? In these circumstances, the individual managers who typically act as the operator's representative can be caught off guard and even be the target of the investigations This presentation will explore the framework of these investigation, and strategies for managing the investigation while also protecting the rights and defenses of individuals and the company.

During this webinar, participants will learn about:

- What are §105 or §110 investigation and how are they initiated

- How to manage a special investigation as a mine operator or independent contractor
- What types of actions are protected by §105
- Best practices and strategies for defending against special investigations

Click here to register.

What to Expect from the Biden Administration on the OSHA/MSHA and Labor and Employment Fronts

Wednesday, June 16, 2021 at 1 PM ET

Presented by Nicholas W. Scala, Amanda R. Strainis-Walker, and Lindsay A. DiSalvo

President-elect Joe Biden will be inaugurated as the 46th President of the United States on Jan. 20, 2021 and his admin. is sure to usher in significant changes for employers. During the Trump Admin., the federal government focused on deregulation and the rules and regulations that were promulgated by federal agencies tended to minimize the regulatory burden on employers. In the safety and health context, OSHA passed a regulation that narrowed the injury and illness information required to be submitted by covered employers on an annual basis per a rule originally passed in the Obama Admin. While MSHA significantly curbed its significant enforcement actions, and largely moved on from Obama era enforcement tools such as Rules To Live By and monthly targeted Impact Inspections, but also left the door open for the Biden Admin. to carry on rulemaking efforts for Crystalline Silica exposure in mines.

Initial actions taken by the Biden Admin. will likely be focused on addressing the ramifications of COVID-19 and the economic recovery, which, in and of itself will have substantial ramifications for employers. In addition, the regulated community is likely to see an increase in enforcement, as well as efforts to pass regulations that were in the works during the Obama Admin., like the proposed rule on workplace violence. Employers are also likely to see a shift in agency practices and priorities.

During this webinar, participants will learn about:

- Potential changes in approach to combatting COVID-19
- Predictions as to impact on leadership at the relevant federal agencies (OSHA, MSHA, EEOC, etc.)
- Potential regulatory priorities and changes in the regulatory landscape
- Impact on agency enforcement efforts and initiatives

Click here to register.

Mid-Year MSHA Update and FMSHRC Significant Decision Review

Thursday, August 19, 2021 at 1 PM ET

Presented by Nicholas W. Scala

The first year in an administration is full of change and depending on the speed with which a MSHA Assistant Secretary is confirmed, by mid-year the agency can begin to take shape for the coming years. Therefore, maybe even more so that other years, it is imperative that we keep tabs on MSHA, and its evolving staff and priorities. This webinar will take a look at what has transpired at MSHA 2021, including enforcement, new initiatives, and/or rulemaking. Additionally, it will review significant case decisions that have come down from the Federal Mine Safety and Health Review Commission (FMSHRC) and its Administrative Law Judges (ALJs) that will impact the mining industry.

Participants in this webinar will learn about:

- MSHA enforcement trends and initiatives through mid-2021
- FMSHRC decisions impacting mine operators and independent contractors
- Strategies to prepare operations for changing enforcement tactics and standard interpretations

Click here to register.

MSHA and OSHA Jurisdiction: When, How, and Why to Challenge Your Regulator

Tuesday, September 14, 2021 at 1 PM ET

Presented by Nicholas W. Scala

The line of demarcation between MSHA and OSHA jurisdiction is clear-cut and it is easy to determine which regulator has authority over your operations, right? While that is sometimes the case, where the MSHA/OSHA Interagency Agreement specifically outlines which agency has authority of which operation, there are most definitely gray areas. Whether looking at where the mining process ends and manufacturing beings, or what is the exact definition of mineral milling and how is it applied, there are frequently questions and concerns regarding MSHA/OSHA jurisdiction. However, frequently employers just accept the status quo or agency determination without question. This presentation will help employers ask the right questions regarding MSHA/OSHA jurisdiction at their facilities and determine whether or not challenging the agency in control is merited and worthwhile.

During this webinar, participants will learn about:

- What is the MSHA/OSHA Interagency Agreement on jurisdiction
- Common operations or scenarios that present MSHA/OSHA jurisdiction questions
- Tips and strategies for how and when to challenge jurisdiction over a facility
- Relevant case law regarding agency jurisdiction over mining and non-mining operations

Click here to register.

Contesting MSHA Citations and Orders: Tips and Strategies to Protect Your Company's History

Wednesday October 27, 2021 at 1 PM ET

Presented by Nicholas W. Scala

MSHA citations and orders can vary significantly in severity, penalty, and how they might impact your company, whether mine operators or independent contractors, moving forward. Contesting MSHA citations is a right that all operators have post issuance, whether that is done informally through MSHA's 10-day conference program, or formally through the Federal Mine Safety and Health Commission. This presentation will discuss the different avenues for contesting MSHA citations/orders, what aspects of the citations to look at when deciding whether to contest or not, and strategies for best protecting your company's MSHA enforcement history.

During this webinar, participants will learn about:

- How to contest different types of MSHA citations and orders
- What aspects of MSHA citations and orders are most important to review when determining which to contest
- Tips and strategies for developing defenses for the contest process
- The impacts of citations and orders on mine operator and independent contractor enforcement history, and how that can negatively impact the company in the future

Click here to register.

Recap of Year One of the Biden Administration

Tuesday, December 14, 2021 at 1 PM ET

Presented by Kara M. Maciel, Eric J. Conn and Nicholas W. Scala

As we transitioned to a new Biden Administration, questions swirled about what the Department of Labor would look like in a Biden Administration, and we all made predictions about how DOL's priorities would shift, who would be appointed to key positions, what would come of Trump-era DOL policies. Now, a year into the Biden Administration, we will check on those predictions and take stock of the lay of the land at Biden's DOL, evaluating how the Department and its agencies have changed in 2021, from the status of presidential appointments at DOL, EEOC, NLRB, OSHA, and MSHA, to those agencies' rulemaking, policymaking, and enforcement activity. And of course, we will make more predictions about what employers can expect from the Biden Administration's DOL over the remainder of this presidential term.

During this webinar, participants will learn about:

- Biden Administration's DOL Regulatory Agenda, including rulemaking and policy setting priorities around

COVID-19 and other topics
- Status of Presidential Appointees in the Department of Labor and key agencies like EEOC, NLRB, OSHA and MSHA
- Enforcement initiatives and emphasis programs at those same DOL agencies
- Predictions for the Department of Labor over the next three years

Click here to register.