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OSHA and MSHA Leadership Takes Shape with Confirmation of Trump Nominees

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On Friday, October 3, almost eight months after President Trump announced their nominations, the Senate confirmed David Keeling (OSHA) and Wayne Palmer (MSHA) to lead their respective agencies, along with other key appointees for roles that will shape the Trump administration's enforcement priorities and its regulatory (deregulatory) agenda.

Following their February nominations, Messrs. Keeling and Palmer were advanced out of the Senate Committee on Health, Education, Labor and Pensions after a public hearing for Keeling in June and without a hearing for Palmer in May. Their nominations stalled, however, in the full Senate as Senate rules required 60 votes to confirm Cabinet-level nominees, and without support from Democratic Senators, they could not advance. That changed on October 3, when the Senate exercised the "nuclear option" to allow for confirmation of Cabinet-level nominees with a simple majority vote. (A few weeks earlier, on September 19, the Senate used the "nuclear option" to confirm 48 sub-Cabinet level appointees.) After the rule change, the Senate advanced 108 nominees, including several key workplace safety and health positions:

- David Keeling – Assistant Secretary of Labor for OSHA
- Wayne Palmer – Assistant Secretary of Labor for MSHA
- Jonathan Berry – Solicitor of Labor
- Jonathan Snare – Commissioner of the Occupational Safety and Health Review Commission (OSHRC)
- Marco Rajkovich, Jr. – Commissioner of the Federal Mine Safety and Health Review Commission (FMSHRC)

The final confirmation vote was held on October 6.

Here's what we know about the newly confirmed leaders of the nation's top workplace safety agencies, and the less visible but significant roles the other appointees will play as they assume office.

Assistant Secretary of Labor for OSHA – David Keeling

Keeling, a lifelong safety professional with a distinguished record, began his career as a package handler, and

member of the Teamsters union, at United Parcel Service (UPS) in 1985. Over four decades at UPS, Keeling worked as a health and safety specialist, gaining valuable experience that he carried with him into various safety leadership roles, including Global Head of Safety. After leaving UPS, Keeling served as the Director of Road and Transportation Safety at Amazon from 2021 to 2023. Keeling's tenure at Amazon coincided with efforts to resolve OSHA investigations through improved ergonomic safety procedures.

In his confirmation hearing, Keeling expressed a desire to modernize outdated OSHA standards, including to leverage existing global industry consensus standards; this likely refers to OSHA's stalled efforts to modernize the Hazardous Energy Control (LOTO) standard, so that employers can began utilizing alternative methods provided they can reduce risk to acceptable level as set forth in ANSI Z244.1, and other standards. Keeling also emphasized collaboration between employers and employees toward the shared goal of safer and healthier workplaces, with a focus on modernizing and updating OSHA's Voluntary Protection Programs. He also highlighted the opportunity for OSHA to use predictive analytics to engage at-risk employers and employees through proactive risk mitigation and reduction programs before a serious accident or fatality occurs.

Keeling will helm OSHA's ambitious regulatory agenda, which includes potential updates to the Hazardous Energy Control (LOTO) rule, the removal of COVID-19 recordkeeping rules in healthcare settings, and updates to various respiratory protection requirements. He will also lead OSHA's efforts to finalize its heat illness standard—a rule that stakeholders are closely watching—and, to the surprise of many observers, has committed to finalizing a workplace violence rule for healthcare.

Assistant Secretary of Labor for MSHA – Wayne Palmer

Wayne Palmer, President Trump's nominee to lead MSHA, is no stranger to the agency. He served as the Principal Deputy Assistant Secretary at MSHA from 2017 to 2021 and the agency's acting head until David Zatezalo's confirmation in November 2017. After his service in MSHA, Palmer was an Executive Vice President at the Essential Minerals Association from July 2021 until January 2023, then served as an Advisor to the Industry Trade Advisory Committee on Critical Minerals & Nonferrous Metals at the Dept. of Commerce from 2023 to 2025.

The Senate did not hold a hearing on Palmer's nomination, so we don't know with certainty what his priorities for MSHA may be. But Palmer will take the reins during a busy time. MSHA has proposed more than a dozen deregulatory actions, including major changes to how MSHA approves certain mine-specific plans, which MSHA expects to finalize under Palmer's leadership. Palmer will also have significant decisions to make about MSHA's new silica rule. Enforcement remains paused under a court order following industry legal challenges to the final rule issued in April 2024 by seven state and national mining associations representing mining companies covering most, if not all, types of mines in the country, following a rushed rulemaking process. Depending on the outcome of the litigation, Palmer will face the challenge of leading MSHA's implementation and enforcement of the new rule (whatever form it may take after the litigation), preparing industry (and internal) guidance concerning the new rule, or, if the litigation leads to the rule's being found invalid, the possible challenge of developing a new rule.

Solicitor of Labor – Jonathan Berry

Jonathan Berry will bring to DOL's legal office his experience in law, politics, and policy. He worked as a litigator, handling cases involving regulatory issues, at Morgan, Lewis & Bockius LLP and Jones Day, and as the Managing Partner at Boyden Gray PLLC. He also served as DOL's Principal Deputy Assistant Secretary for Policy during the first Trump administration, playing a major role in DOL's regulatory work.

The Solicitor of Labor is the Department of Labor's head attorney and takes an active role in helping DOL agencies set policy. Berry is likely to play a major part in advising OSHA and MSHA during their regulatory efforts and on enforcement policies. He will work closely with OSHA and MSHA as they implement President Trump's deregulatory agenda and handle any litigation that may result. Berry's appointment also comes at a consequential time, with DOL agencies responding to an array of challenges in the wake of recent Supreme Court decisions, including challenges to the constitutionality of OSHRC proceedings. Berry's views may shape how the agencies respond to these challenges and how OSHA, MSHA, and other DOL litigation unfolds in a time of major change.

In his confirmation hearing, Berry stated that he aims to focus on protecting workers while "honoring employers' essential role as job creators," suggesting that he will advocate for a balanced approach to DOL's work. Berry has opposed certain DEI initiatives and what he has termed the Biden "administration's overreach," so we may expect the Solicitor's office under his leadership to continue the administration's efforts to challenge what it concludes are unlawful DEI initiatives and to embrace a more limited view of agency authority.

OSHRC Commissioner – Jonathan Snare

Jonathan Snare, President Trump's nominee to be a Commissioner on OSHRC, has held many roles in the Department of Labor. Between 2003 and 2009, he served as the Acting Assistant Secretary for OSHA, Deputy Assistant Secretary of Labor, Deputy Solicitor of Labor, and Acting Solicitor of Labor. He also spent 15 years as a partner in the Washington, D.C. office of Morgan Lewis & Bockius in its labor/employment law group. Most recently, beginning in February, Snare served as Deputy Solicitor of Labor, leading the Department of Labor's legal department.

OSHRC has three seats but currently has no members since Cynthia Attwood's term expired in April. Snare's confirmation will restore some functioning, including OSHRC's ability to direct review of Administrative Law Judge's decisions. Two Commissioners, however, are necessary for OSHRC to have a quorum to conduct most of its functions, so litigation before OSHRC will continue to be delayed until at least two Commissioners are confirmed.

Snare's term will expire on April 27, 2029. The other two terms expire in April 2027 and 2031. Appointing members to OSHRC will allow the Trump administration to make a lasting impact on how OSHA standards are applied and enforced.

FMSHRC Commissioner – Marco Rajkovich, Jr.

Marco Rajkovich, Jr. brings to FMSHRC a wealth of experience in mining and law. He began his career as an Engineer & Foreman for U.S. Steel Mining Company, then earned his law degree and worked in private practice from 1986 through 2017. President Trump nominated him to FMSHRC during his first term in 2019, and he served as Commissioner until his term expired in 2024 (including a term as Chair from 2019 through January 2021).

FMSHRC has five seats, with two vacant and three currently filled by President Biden's appointees. Rajkovich's confirmation is unlikely to lead to immediate changes to the current decision trends of FMSHRC. But with the terms of two Biden-appointed Commissioners expiring in 2026, and Rajkovich's term not expiring until 2030, President Trump will have the opportunity to appoint a majority of FMSHRC Commissioners. That majority will, like OSHRC, make a lasting impact on how MSHA standards are applied and enforced.

Newly Confirmed Leadership to Step into Their Roles

Once funding is restored and the federal government resumes operations, these individuals will step into their new positions and begin putting their stamp on their respective agencies. In the case of OSHA and MSHA, industry observers, unions, and public advocates alike will be watching Keeling and Palmer closely, looking for clues for how they will use their positions to protect workers while advancing deregulatory agendas and meeting employers where they are as well.