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A (Brief) Preview of the Future of Workplace Safety & Health: Trump's Nominee to Lead OSHA Appears Before the Senate HELP Committee

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On Thursday, June 5, David Keeling, President Trump's nominee to serve as Assistant Secretary of Labor (OSHA), appeared before the Senate Committee on Health, Education, Labor and Pensions (the "HELP Committee"). After starting his career as a package handler, and member of the Teamsters union, at United Parcel Service (UPS) in 1985, held a variety of safety-focused roles, eventually serving as the global head of safety for the package handling giant. After his long and distinguished career in safety at UPS, Keeling served as the Director of Road and Transportation Safety at Amazon from 2021 to 2023, during which time the company was working to resolve OSHA investigations through improved ergonomic safety procedures.

Regular readers of the OSHA Defense Report no doubt recall that during the first Trump Administration (2017-2021), for the first time in OSHA's history, the agency went four years without a Senate-confirmed Assistant Secretary at the helm. The second Trump Administration appears to be taking a very different approach by quickly nominating Keeling and ensuring that he gets his turn before the Senate HELP Committee before the Summer begins, increasing the odds that there will be a Trump-appointed Head of OSHA before the Fall of the first year of President's Trump second term.

Keeling prefaced his remarks by stating OSHA finds itself at a crossroads and risks losing its position of leadership in the global health and safety space if it does not change. Rather than place the blame at the feet of OSHA's people or past leaders, Keeling believes that outdated systems and processes have thwarted efforts at common sense improvement. If confirmed, Keeling plans to prioritize 3 "straightforward and simple" goals:

1. **Regulatory Oversight and Rulemaking.** Characterizing many of OSHA's existing standards as antiquated or inapplicable due to modernization and/or technological advancements, Keeling committed as his first priority to accelerate the modernization current standards by using technology and predictive analytics to move from simple regulatory compliance and post-injury response to injury prevention through informed design. As part of this effort, he would seek to leverage existing global industry consensus standards which he describes as having gone through more rigorous review, regular updating, and continuous improvement than many of OSHA's existing rules. This likely refers to OSHA's stalled efforts to modernize

the Hazardous Energy Control (LOTO) standard, so that employers can begin utilizing alternative methods provided they can reduce risk to acceptable level as set forth in ANSI Z244.1, and other standards.

2. **Public/Private Partnerships.** Asserting that professional groups, companies, and unions all want the same thing—safer and healthier workplaces—while acknowledging that the parties sometimes differ on the best way to achieve that goal, Keeling said that he intends to expand OSHA’s leadership in a concerted effort to “move beyond existing silos and self-imposed barriers to achieve real improvement.” Significantly, Keeling stated that “nothing is more beneficial than collaboration between employers and employees.” It remains to be seen whether OSHA actually takes steps to require employers to create safety committees (as some state plans do) or to seek employee input in the development of safety programs and/or procedures. Imposing such requirements would qualify as something of a surprise but this is certainly an area to watch closely. Keeling also told the Committee that he believes most safety improvements come from the employees on the front lines, suggesting that he may put pressure on employers to create safety committees and/or mandate efforts to obtain employee input. As part of his effort to get different groups working together, Keeling will focus on modernizing and updating OSHA’s Voluntary Protection Programs. Describing the current VPP programs as providing only a basic platform, Keeling maintained that critical work needs to be done in this area to achieve successful outcomes.
3. **Enforcement Transformation.** Explaining that technologies exist today that were not available when most OSHA standards were promulgated, Keeling testified that OSHA now has the ability to use existing data to greatly enhance on-site safety efforts through predictive analytics, emphasizing that the agency must engage at-risk employers and employees through proactive risk mitigation and reduction programs before a serious accident or fatality occurs. While he did not provide specifics as part of his prepared remarks, Keeling may be referring to efforts to replace OSHA’s current recordkeeping requirements with Safety 2.0 principles surrounding Serious Injuries and Fatalities (SIFs) and potential Serious Incidents and Fatalities (pSIFs), often referred to as the Stuff That Can Kill You (STCKY).

Workplace Violence in Healthcare Standard

Given that he was one of four nominees appearing before the Committee, Keeling faced a limited number of questions, in large part due to the fact that two of his fellow nominees (for roles in the Department of Education) faced the majority of questions from both sides of the aisle. One of Keeling’s answers, however, has piqued the interest of many in the workplace safety and health community. When asked by Senator Tammy Baldwin (D-WI) whether he would commit to finalizing OSHA’s Prevention of Workplace Violence in Healthcare and Social Assistance standard, Keeling mentioned that he has two relatives who work in healthcare before committing to working with Sen. Baldwin’s office on the proposed standard, characterizing it as “a massive opportunity for improvement.”

Notably, Sen. Baldwin recently introduced *The Workplace Violence Prevention in Healthcare and Social Services Act* which directs OSHA to issue a standard requiring health care and social service employers to write and implement a workplace violence prevention plan to prevent and protect employees from violent incidents. While a number of commentators have seized on this brief exchange to trumpet that Keeling will support a broad-based workplace violence standard for general industry, both the question and answer make it clear that the only industry segments likely to be covered by such a standard are healthcare and social services. Of course, it is possible that OSHA will seek to cover other industries sectors such as late-night retail, or even hospitality. Although unlikely, OSHA could even undertake a series of separate rulemakings focused on discrete industries

as Washington State is currently doing with respect to ergonomics. A workplace violence prevention regulation at the federal level would follow a national trend at the state level, including [California's statute for general industry](#) and [New York's retail specific legislation](#). In addition, seventeen states currently have a workplace violence prevention statute or regulation for healthcare.

Emergency Response Standard

While OSHA's proposed heat illness rule has and continues to be a top priority for employers and employee groups alike, the proposed Emergency Response Standard has perhaps been the most controversial, drawing fierce opposition from a variety of first responder groups. This proposed rule that would update and replace the existing Fire Brigades standard, which hasn't been significantly updated since 1980, imposing requirements that many observers worry would impose crippling financial burdens on volunteer fire departments and other entities. When asked by Senator Angela Alsobrooks (D-MD) whether he would shepherd this proposed standard through, Keeling highlighted the potential budgetary impacts of the rule before repeating—several times—that he does see a path through which the standard could be finalized. Noting that he has not spoken with the career professionals at OSHA yet as he is still a nominee, Keeling told Sen. Alsobrooks that the proposed ERS standard would be the subject of one of his first conversations with the career people at OSHA if and when he is confirmed.

The Future of NIOSH

Keeling's last question came from Sen. Lisa Murkowski (R-AK), who asked whether OSHA can and will fill the data and information gap that is likely to be created by the changes at NIOSH. After acknowledging that a gap will exist and reiterating that he would first want to speak with the career people at OSHA, Keeling said that he believes a path forward exists using data obtained from private resources and professional groups. Keeling acknowledged, however, that doing so would not be easy and would likely not fully replace what NIOSH has historically done. Given the bipartisan response to the NIOSH cuts, it is not surprising that a dedicated safety professional like Keeling would strive to help offset the anticipated changes at NIOSH.

Takeaways

As explained in prior OSHA Defense Reports, Keeling's nomination has generally been well-received by stakeholders across the spectrum, from labor, to employee rights advocates, and employers alike. Key members of the business community appreciate his solid technical safety credentials and hands-on experience with workplace safety and have been encouraged by his interest in public/private partnerships. His leadership will be crucial in balancing the challenges of a smaller federal workforce and reduced budget while sustaining OSHA's mission to protect workers. His appearance did nothing to dampen those expectations and the regulated community looks forward to working with him as well as the career professionals once he is confirmed—hopefully soon.