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Employers OSHA Modernization Coalition (Update and Next Steps)

BY ERIC J. CONN

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Last month, the national OSHA Practice at Conn Maciel Carey LLP kicked off a new initiative to work with employers and trade groups to advocate to the new Administration about OSHA standards, interpretations, enforcement policies, and agency procedures that should be evaluated for reform or rescission.

CMC has been organizing the ***Employers OSHA Modernization Coalition*** directly in response to various invitations from the second Trump Administration to identify opportunities to "modernize" the regulatory landscape. For example, on April 11, 2025, the White House's Office of Management and Budget (OMB) published a Request for Information (RFI) soliciting stakeholders' feedback on federal regulations that are onerous, outdated, or unnecessary. That RFI followed on the heels of other deregulatory steps taken by the White House, including:

- A January Memorandum published in the Federal Register directing executive agencies to cease implementing or issuing new federal regulations until political leadership had been installed. It also directed those agencies to rescind ten existing regulations for every new rule promulgated moving forward.
- A February Executive Order entitled: *Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative*, directing OSHA and other agencies to coordinate with Elon Musk's DOGE Team and OMB to identify regulations that, among other things:

    - Raise "serious constitutional difficulties";
    - Impose significant costs on private parties;
    - Impede innovation and economic development; or
    - Impose undue burdens on small businesses.

OMB's April RFI was the Administration's attempt to communicate directly with employers and other stakeholders to understand which regulations should be revisited, and what other ideas stakeholders may have to reduce burdens imposed by executive agencies.

Because OMB provided a very short turnaround for an initial submission to that RFI, CMC's Employers OSHA Modernization Coalition submitted a high level outline of opportunities for rulemaking or policymaking to ease regulatory burdens. We intend for that submission to serve essentially as a placeholder list of standards, policies, and processes that OSHA should consider for modernization or rescission. With each topic, we included a paragraph or two explaining at a high level what was wrong with the status quo and what the Administration should consider doing with respect to each.

We also forecasted our intention to make a subsequent more fulsome submission within a couple of months explaining in more detail the why (why the current standards or policies harm business without a commensurate safety benefit) and what (what we recommend the Administration do to improve the regulatory landscape), and perhaps to identify some additional standards and policies the Administration should reevaluate.

We understand that the April OMB RFI is just the start of a lengthy, thoughtful process to execute real reform at executive agencies, including OSHA, and we have been assured the Administration would welcome a more detailed submission later this Summer.

So, that brings us to where we go from here with the Employers OSHA Modernization Coalition. If your organization believes in this effort and wants to add your voice and support for the positions we will be advocating to the Administration over the next several months and years, please contact us to learn more about how to get involved.

We will continue to organize the coalition to support the more important and more substantial next steps, including:

- Development of a follow-up comprehensive written set of comments to be submitted to OMB in a few weeks;
- Seek meetings (with coalition member participation) with relevant agency decisionmakers (e.g., OMB/OIRA, Department of Commerce, White House Domestic Policy Council, OSHA and MSHA), as well as on the Hill with the relevant oversight committees;
- Petition OSHA and MSHA to initiate rulemakings to address the standards about which we recommend reform (e.g., to modernize the Lockout/Tagout standard, to rescind the Worker-Walkaround Rule, etc.), and actively participate in any rulemakings or other requests for information or comment; and
- Pursue Letters of Interpretation and policy changes directly from OSHA leadership (e.g., expanding the Cold and Flu Exemption for Recordkeeping to include COVID-19 and other airborne infectious diseases).

Because the next steps, beyond the initial submission on Monday and the more comprehensive submission we will make in a few weeks, are hard to predict, our intention is to break the coalition into at least two phases. The first phase will just cover the initial work (some that has already been done), but mostly the work over the next couple of months gathering more information from coalition members (e.g., buy-in about the standards, enforcement policies, and agency processes that we will really target, data and anecdotes to support the reform we are seeking, etc.), and feedback about the draft comprehensive submission we will make to OMB in July or August.

After the first two submissions, we will regroup, identify specific work streams about the various standards and

policies, and propose an outline for Phase 2 participation. That may turn into separate coalitions to work on separate rulemakings if the Administration does launch formal rulemakings at our recommendation.

For any company that participates, we welcome the active involvement of as many representatives as you would like. For trade groups, we would welcome the active involvement by as many staff and member company representatives as you would like. Send us a list of contacts to include on the distribution list for the updates we circulate, any draft work product (e.g., draft written comments and hearing testimony), and invites to our strategy meetings and exclusive webinars.

The Employers OSHA Modernization Coalition will be fee-based and will keep the members' identities anonymous. If you are interested in learning more, contact Eric Conn, Chair of CMC's OSHA Practice.