

APRIL 13, 2021 | OSHA RULEMAKINGS & STANDARDS

# Pres. Biden Nominates an Assistant Secretary of Labor for OSHA – Doug Parker, the Current Head of Cal/OSHA

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Last Friday, April 9th, the White House announced [Pres. Biden's nomination of Doug Parker](#) for Assistant Secretary of Labor for OSHA – the top job at federal OSHA. Mr. Parker is currently the Chief of California's Division of Occupational Safety and Health (Cal/OSHA), serving as the Head of Cal/OSHA since the summer of 2019. Mr. Parker was considered a leading candidate for this nomination to head OSHA since he was picked for a spot on the Biden-Harris Labor Transition Team to focus on worker safety and health issues.



In his role as Division Chief at Cal/OSHA, Mr. Parker has been involved in numerous major developments, including:

- Developing the enforcement plan for Cal/OSHA's new-ish regulation for Workplace Violence Prevention in Healthcare;
- Rolling out Cal/OSHA's emergency Wildfire Smoke Rule and overseeing the development of the Permanent Wildfire Smoke Rule;
- Overseeing an extension of the statute of limitations for injury and illness recordkeeping violations – making them “continuing violations” for the five-year record-retention period;
- Advancing a rulemaking for an *Indoor* Heat Illness Prevention standard; and
- Implementing a Cal/OSHA operational change to significantly expand the agency's definition of “Repeat” violations

Even with all that, Mr. Parker's tenure at Cal/OSHA will likely be best remembered for his role in developing and rolling-out [Cal/OSHA's COVID-19 Emergency Temporary Standard \(ETS\)](#). California is one of only four State OSH Plans to adopt an ETS on COVID-19.

In his first day in office, Pres. Biden issued an [Executive Order focused on federal OSHA's approach to managing the COVID-19 crisis](#), in part directing OSHA to “[c]onsider whether an emergency temporary standard on COVID-19, including with respect to masks in the workplace, is necessary.” The EO also set a deadline by when OSHA must finalize and issue the ETS, if OSHA determined it necessary – March 15, 2021. We are now about a month passed that deadline, and every day that passes without the big ETS news, more American workers get vaccinated and we learn more about the effectiveness of the vaccines, all of which weakens OSHA's justification for an emergency standard. However, Mr. Parker's nomination certainly increases the likelihood that fed OSHA will issue an ETS. We have a pretty clear sense of Mr. Parker's views about the necessity of an ETS, given his role in pushing out Cal/OSHA's COVID-19 ETS, and his nomination also makes it more likely the federal rule incorporates more of the onerous provisions in the Cal/OSHA ETS that we have covered in detail in [prior blog articles](#).

### **More About Mr. Parker's Background**

Prior to his appointment to Cal/OSHA in 2019, Mr. Parker had been the Executive Director of [WorkSafe](#), a California-based worker safety advocacy group. During his three-plus years at the helm of WorkSafe, Parker focused on worker safety issues affecting vulnerable groups, like immigrant workers in construction and in California's massive agriculture industry.

Before moving to California and leading WorkSafe, Mr. Parker served for most of the Obama/Biden Administration in the Department of Labor, as both the Deputy Assistant Secretary for Policy and a Special Assistant in DOL's Mine Safety and Health Administration (MSHA), where he was major player in the agency's response to the 2010 Upper Big Branch mine disaster.

Like too few prior Assistant Secretaries at OSHA, Parker is an experienced attorney, studying law at the University of Virginia (Go Hoos!), and practicing labor law as a partner at the Washington, DC labor-side law firm

Mooney, Green, Baker, and Saindon (now, Mooney, Green, Saindon, Murphy and Welch), representing unions in responding to governmental investigations and collective bargaining, and advising on regulatory compliance, internal union affairs, organizing, and strike conduct.



### **The Significance of Mr. Parker's Nomination**

This nomination, both in terms of the candidate and the timing of the nomination, signal a renewed prioritization of OSHA and workplace safety. As has been well-chronicled, for the first time in OSHA's fifty-year history, the Assistant Secretary position at OSHA remained vacant for an entire Presidential term. Although Pres. Trump did eventually [nominate Scott Mugno](#) for the top job at OSHA, that nomination made its way to Congress in November 2017, nearly a full year into his term, and Mr. Mugno ultimately had to withdraw his name from consideration nineteen months later after waiting for the Republican-controlled Senate and Pres. Trump to prioritize the nomination enough to push it to the Senate floor for a final confirmation vote. The Trump White House did not make another nomination to lead OSHA for the remainder of his presidency.

By contrast, on his very first day in office, Pres. Biden installed a Deputy Assistant Secretary, Mr. Jim Frederick, and now, only two and a half months into his term, President Biden has announced a nomination to fill the long-empty Assistant Secretary seat, as well. In addition to the timing of the nomination, which signals the high priority the Biden Administration is placing on OSHA, the selection of Mr. Parker for the role similarly indicates that OSHA will renew a focus on enforcement and rulemaking. Cal/OSHA has always been among the more aggressive, enforcement-heavy State OSH Plans, and Mr. Parker's tenure there was no exception. Under his leadership, Cal/OSHA rewrote the rule book to find and cite more Repeat violations (much like Fed OSHA did during the Obama/Biden Administration), developed a series of new California-unique regulations that have been on fed OSHA's wish list for years (e.g., heat illness and workplace violence rules), issued two emergency rules (Wildfire Smoke and COVID-19), and much more.

Now we wait to see how smoothly the nomination moves towards confirmation. In the meantime, we also continue to wait to see when or whether OSHA will issue a COVID-19 ETS. There are more eyes on OSHA early in a Presidential Administration than perhaps ever before.

