



Trump Nominates Wayne Palmer to Lead MSHA: 3 Key Questions for Mine Operators

Insights

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President Donald Trump recently nominated Wayne Palmer to take the reins at MSHA as the Assistant Secretary for Mine Safety and Health. Palmer is currently serving as a part of the Trump transition team within the Department of Labor but most recently served as executive vice president of the D.C.-based Essential Minerals Association, a trade association representing the industrial minerals industry. Previously, he served as a political appointee within MSHA during the first Trump administration where he served as interim Assistant Secretary and Principal Deputy Assistant Secretary. He also has years of experience as a congressional staffer. What are the three key questions mine operators have given this development?

3 Key Questions for Employers

Palmer was nominated to lead MSHA at the same time that the President nominated David Keeling to lead OSHA ([which you can read about here](#)). The first thing employers should understand is that much of MSHA won't change regardless of who is in charge. The MSHA enforcement scheme is established by statute. The Federal Mine Safety and Health Act mandates that all underground mines be inspected in their entirety four times per year and all surface mines be inspected in their entirety twice a year. MSHA is also required to investigate hazard complaints, whistleblower complaints, and accidents. Regardless of who sits in the Assistant Secretary's seat, MSHA will continue to be a constant regulatory presence in the lives of mine operators.

But with Palmer poised to take over the agency, there are three key questions the regulated community probably has about the new leadership:

- **How will he handle personnel?** MSHA went on a hiring binge the past few years and promoted younger personnel to leadership roles. Those personnel remain and are who mine operators most commonly encounter on a day-to-day basis. Will new leadership impact how they do their job?
- **What will be his agenda?** During the previous Trump administration, MSHA did not pursue a robust regulatory agenda but instead focused on reforms to how the agency functions. During those years, mine operators saw a "blurring of the lines" between coal and metal/non-metal, an effort aimed to make the agency more efficient. Will Palmer's MSHA pursue a regulatory agenda, particularly as part of an administration that arrives with the promise of regulatory reform? It

should be noted that MSHA cannot simply repeal standard or make existing standards less stringent. Under Section 101(a)(9) of the Mine Act, MSHA may not enact any new rule that lessens safety relative to an existing standard. Any rulemaking conducted with an eye toward regulatory reform must take this requirement into account.

- **What will happen with the Silica Rule?** The signature piece of rulemaking put forth during the Biden administration – [the proposed silica rule](#) – is currently under contest in the 8th Circuit Court of Appeals. Will MSHA in the new administration continue to defend it? Could a resolution on the rule be reached? It should be expected that any attempts to modify or rescind the current will be met with challenges from labor.

What's Next?

The confirmation process may shed light on the priorities of Palmer's leadership of MSHA. Fisher Phillips will continue to monitor these developments and what they mean for the regulated community going forward. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have any questions, contact the authors of this Insight, your Fisher Phillips attorney, or any attorney in our [Mine Safety and Health team](#).

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