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## **President Biden Installs Two Deputy Assistant Secretaries at Workplace Safety and Health Agency to Jump-Start Agenda**

On Jan. 19, 2020, the day before President Biden was sworn in as the 46th president of the United States, his transition team announced that James Frederick will be appointed deputy assistant secretary of labor for occupational safety and health, a non-Senate confirmed position. In this role, Mr. Frederick will run the Occupational Safety and Health Agency (OSHA) until President Biden nominates someone for assistant secretary of labor for occupational safety and health and the Senate confirms the nominee.

Since September 2019, Mr. Frederick has been a part-time consultant for ORC HSE Strategies, LLC, where he provided member employers with, among other things, advice on and assistance with regulatory and legislative matters and assessment and integration of health and safety management systems. Before that, he was assistant director of the Health, Safety & Environment Department of the United Steel, Paper and Forestry Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), the largest industrial union in North America. As assistant director, Mr. Frederick testified before congressional panels and federal agencies regarding safety and health issues including workplace violence, beryllium, silica, hazard communication and ergonomics. Mr. Frederick worked for more than 20 years at USW, which represents workers employed in the metals, rubber, chemicals, paper, energy, and government and service sectors.

In addition to installing Mr. Frederick to a leadership position within OSHA, the new administration also announced that Joseph T. Hughes will serve as deputy assistant secretary for pandemic and emergency response for OSHA. Previously, Mr. Hughes was director of the National Institute for Environmental Health Sciences Worker Education and Training program, which provides grants to unions and nonprofit organizations to train workers on occupational safety and health.

It is unclear whether President Biden will formally nominate Mr. Frederick to be the permanent assistant secretary of labor for OSHA or whether Mr. Frederick will remain within the agency's leadership if the president nominates someone else to head the agency. It is also unclear when President Biden will officially nominate someone for the position and when the Senate will hold a hearing on the nomination. As a point of reference, the Senate did not confirm Dr. David Michaels, assistant secretary of labor for OSHA during the Obama administration, until December 2009, nearly a year after President Obama assumed office.

Because a permanent assistant secretary of labor for OSHA will likely not be confirmed for at least a few months, if not more, Mr. Frederick and Mr. Hughes will likely play a significant role in jump-starting the Biden administration's workplace safety agenda. This includes, among other things, assessing the need for and enacting an enforceable standard that would require employers to take steps to protect workers from contracting COVID-19 at the workplace. To the extent OSHA adopts an emergency temporary standard (or permanent standard) related to COVID-19, or infectious diseases more generally, OSHA may look to the COVID-19 safety and health regulations that "state-plan" states like Virginia, California, Oregon, and Michigan have enacted as a model.

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