

Signs OSHA Priorities are Shifting Under Trump Administration?

Article By:

Carla J. Gunnin

There are new developments related to OSHA's Electronic Recordkeeping Rule and the Volks Rule. As a reminder, the Electronic Recordkeeping Rule requires certain employers to electronically file their OSHA recordkeeping data with OSHA as well as heightens scrutiny related to both drug testing and safety incentive programs. The Volks Rule essentially reversed the decision held in ***AKM LLC dba Volks Constructors v. Secretary of Labor***, 675 F.3d 752 (DC Cir. 2012) (the "Volks Decision") that limited OSHA's ability to cite recordkeeping violations to six months.

The Electronic Recordkeeping Rule has been highly controversial. There are two pending litigations related to the rule currently – one in Texas and one in Oklahoma. In a recent [filing in the Texas case](#), both OSHA and industry plaintiffs have agreed that the Court should consider last minute motions filed by the Obama Administration to be moot. The Obama Administration's motions were asking the Court to find in favor of OSHA on the merits of the drug testing and safety incentive provisions of the rule. This new filing certainly backs off of the Obama Administration's defenses to the litigation that were previously raised. Could this be a sign that the Trump Administration is going to back off of this rule in whole or part in an effort to settle the pending litigations?

The [Volks Rule](#) has now come under attack by a member of the House of Representatives. Rep. Bradley Byrne (R-Ala.), the chairman of the House Education and the Workforce's Subcommittee on Workforce Protections, introduced resolution ([H.J. Res. 83](#)) on Feb. 21. Representative Byrne is attempting to use the Congressional Review Act ("CRA") to revoke the rule that was issued on December 19, 2106 . The CRA process empowers Congress to review new federal regulations issued by government agencies roughly within 60 days of their issuance (there can be exceptions to this timing). By passing a joint resolution, Congress can overrule a regulation. This process was only done successfully once before and that was to overturn an OSHA regulation related to ergonomics in 2000.

Jackson Lewis P.C. © 2025

National Law Review, Volume VII, Number 53

Source URL: <https://natlawreview.com/article/signs-osh-priorities-are-shifting-under-trump->

[administration](#)