2025 Edition Highlights

In 2024, the absence of a quorum at the Occupational Safety and Health Review Commission precluded the issuance of its customary number of Commission decisions. This gap in occupational safety and health law was filled by administrative developments and Supreme Court decisions.

The Occupational Safety and Health Administration (OSHA) amended its "walkaround" regulation to broaden the non-employee exception to who can accompany the OSHA inspector during a workplace inspection. 89 Fed. Reg. 22,558 (2024), discussed in Section 10:24.

In one of the most important administrative law decisions in years, the Supreme Court overruled Chevron U.S.A. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 104 S. Ct. 2778, 81 L.Ed.2d 694 (1984), which declared that federal courts should defer to the statutory interpretations of administrative agencies. In Loper Bright Enterprises v. Raimondo, 603 U.S. 369, 144 S. Ct. 2244, 219 L. Ed. 2d 832, Fed. Sec. L. Rep. (CCH) P 101887 (2024), the Supreme Court held that Chevron was contrary to the Administrative Procedure Act provision requiring that courts decide all relevant questions of law. The implications of this decision for OSH Act decisions are explored in Section 19:9.

In Murray v. UBS Securities, LLC, 601 U.S. 23, 144 S. Ct. 445, 217 L. Ed. 2d 343, Fed. Sec. L. Rep. (CCH) P 101762 (2024), the Supreme Court held that a whistleblower bears the initial burden of showing that protected activity was a contributing factor in the unfavorable personnel action alleged in the complaint. Then the burden shifts to the employer to show that it would have taken the same unfavorable action in the absence of protected activity. This case is discussed in Section 20:2.