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OSHA Opens Your Doors to Union Reps

On Friday, OSHA issued its final revisions to its “walkaround rule” to allow non-employees to participate in OSHA inspections. The previous OSHA rule allowed an employee representative to participate in inspections, but required that the representative had to be an employee. The new rule allows an employee representative from a third party when, in the OSHA inspector’s judgment, good cause has been shown that the third-party’s participation is reasonably necessary to the conduct of an effective inspection. This “good cause” can be because of the third party’s knowledge, skill or experience with conditions in similar workplaces.

Notably, the new rule does not specify how an outside employee representative would be selected. Arguably, in non-union workplaces, some employees could advocate for an outside representative from a union trying to organize the workforce. We expect that the rule will be challenged in court.