



Insights: Alerts

OSHA Rescinds Policy Allowing Union Access to Nonunionized Facilities

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On April 25, 2017, the Occupational Safety and Health Administration (“OSHA”) rescinded a four-year-old policy allowing unions to participate in OSHA safety and health inspections at nonunionized facilities. Under a long-standing OSHA regulation, employees may authorize a non-employee representative to participate in an OSHA walkaround inspection, and OSHA has historically recognized that a labor union that is the certified representative of the employees at the inspection site could be an appropriate employee representative for such an inspection. In 2013, however, OSHA issued an interpretation letter adopting the position that employees at a nonunionized facility could designate a union that was not their certified or recognized representative for collective bargaining purposes as their representative for an OSHA walkaround inspection. This interpretation letter was discussed in our [May 14, 2013 Legal Alert](#). Recently, the 2013 interpretation letter was challenged in a federal district court lawsuit. After failing to get the lawsuit dismissed at an early stage of the litigation, OSHA rescinded the 2013 interpretation letter in an April 25, 2017 memorandum to OSHA regional administrators. Thus, OSHA policy no longer endorses the designation of a union as the representative of employees for purposes of a walkaround inspection at a nonunionized facility, and unions will have far less opportunity to use such inspections as an organizing tool.

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