



REGULATORY SUMMARY
US OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
WORKER WALKAROUND RULE
April 2024

On April 1, 2024, the US Occupational Safety and Health Administration (OSHA) finalized a rule expanding the parameters for who can accompany an OSHA job-site inspector during inspections. Specifically, at the request of an employee, an OSHA inspector may allow an individual access to the job site if the inspector deems it "reasonably necessary". Further details are available on [OSHA's website](#).

ARTBA [filed comments](#) on the rule on November 13, 2023, both individually and as part of a [broader industry coalition](#). ARTBA's comments emphasized that OSHA had not adequately demonstrated the necessity of the rule and cautioned against potential unintended negative consequences that could detract from the inspection's primary purpose. Despite substantial feedback urging OSHA not to proceed with the rulemaking, the agency not only finalized the rule, but expanded the pool of individuals eligible to accompany inspectors, disregarding any industry comments on the matter.

Key provisions of the rule include:

- Previously, only employees of the employer could accompany an inspector as employee representatives. OSHA has now expanded this to include third parties.
- No specific qualifications or parameters have been provided for the term "third party."
- The rule removes previous examples of qualified individuals who could accompany an inspector, such as industrial hygienists or safety engineers.
- The rule now allows a third party to accompany an inspector if it's demonstrated that their presence is reasonably necessary to the inspection.
- While the rule provides some guidelines for what constitutes "reasonably necessary," it also grants discretion to the OSHA inspector by expanding these parameters. For instance, the language states, "good cause has been shown why accompaniment by a third party is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace (**including but not limited** to their relevant knowledge, skills, or experience with workplace hazards or conditions, or similar workplaces, as well as language or communication skills)."
- OSHA expands eligible third parties by including "communication skills" as a basis for accompaniment. This may involve individuals with prior relationships with employees or those who can facilitate communication with employees.

Potential impacts for members:

The rule is problematic because it allows third parties without any required knowledge of a job site to accompany an OSHA inspector. This could result in:

- Union representatives gaining access to non-union worksites for organizing purposes.
 - Third parties with ulterior motives using an inspection to gain access to the job site for gathering information to use in litigation.
 - Exposure and liability for the employer in the case of an injury to a third party during a jobsite inspection.
 - Decreased safety for employees who may become distracted by a third party.
 - Safety risks to third parties unfamiliar with jobsite safety protocols.
 - Increased privacy concerns and potential exposure of proprietary information to third parties.
 - Lost profits and delayed project costs for employers who need to shut down due to the inspection creating unsafe conditions.
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- For more information, please contact ARTBA's [Brad Sant](#) or [Prianka Sharma](#).

REGULATORY TEXT REDLINE

PART 1903—INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

29 CFR Part 1903

The authority citation for part 1903 is revised to read as follows:

Authority:

29 U.S.C. 657; Secretary of Labor's Order No. 8-2020 (85 FR 58393); and 5 U.S.C. 553.

§ 1903.8 Representatives of employers and employees.

(c) The representative(s) authorized by employees shall ~~may~~ be an employee(~~s~~) of the employer. ~~When representative (s) authorized by employees is not an employee of the employer, they may accompany the Compliance Safety and Health Officer during the inspection, However,~~ if in the judgment of the Compliance Safety and Health Officer, good cause has been shown why accompaniment by a third party ~~who is not an employee of the employer (such as an industrial hygienist or a safety engineer)~~ is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, ~~such third party may accompany the Compliance Safety and Health Officer during the inspection.~~ ~~(including but not limited to because of their relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language or communication skills).~~ **When representative (s) authorized by employees is not an employee of the employer, they may accompany the Compliance Safety and Health Officer during the inspection, (including but not limited to because of their relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language or communication skills).**