

Occupational Safety and Health Administration (OSHA) Interpretive Letter Allowing Union Representatives to Participate in Inspections of Non-Union Facilities

Article By:

Richard R. Symons

OSHA has issued an interpretive letter that states an employer with a non-union workforce may nevertheless have to allow a union representative into its plant to accompany the OSHA compliance officer during an inspection. Imagine having to allow a representative from a union trying to organize your workforce to walk through your facility, participate in the settlement conference, contest abatement, and even file complaints. However, according to this new interpretive letter (February 21, 2013), if the employees designate a union representative to be their representative in the inspection, and if the OSHA inspector determines that the union representative would make a "positive contribution" to a thorough and effective inspection, the employer is required to allow the union representative to participate. OSHA withdrew a prior interpretation from 2003 to the contrary.

It remains to be seen how MIOSHA will handle this issue. However, it is likely to arise. OSHA has given the inspector wide latitude to allow or disallow such employee representatives.

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