



FP Snapshot for Manufacturers: Workplace Safety Will Take the Front Seat in 2023

Insights

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Welcome to FP Snapshot on Manufacturing Industry, where we take a quick snapshot look at the most significant workplace law developments over the past month with an emphasis on how they impact manufacturers. This edition is devoted to ensuring manufacturers are aware that the Federal Occupational Safety and Health Administration (OSHA) released new enforcement directives and plans that will affect employers in the coming year.

OSHA Plans to Allow Union Walkthroughs of Non-Union Worksites

First, OSHA has issued a new proposal that would give workers and certified bargaining units the right to designate a worker or union representative to accompany an OSHA inspector during a facility walkaround — *regardless of whether the representative is your employee or the facility is a union shop*. The agency intends to issue its Notice of Proposed Rulemaking (NPRM) in May, but you can plan ahead by [reviewing this five-step plan from our insight](#).

This issue is especially important to non-unionized manufacturers. If finalized, the rule will encourage unions to get involved in inspections at non-organized facilities as a means of gaining access. This change could be a big boost to union organizing – which is why it has been widely applauded by most, if not all, labor unions.

OSHA to Issue More Citation Items After Inspections

Second, OSHA Regional Administrators and Area Directors now have the authority to cite certain types of violations as “instance-by-instance citations” for cases where the agency identifies “high gravity” serious violations of OSHA standards specific to certain conditions where the language of the rule supports a citation for each instance of non-compliance. OSHA’s memorandum also reminds Regional Administrations and Area Directors of their authority not to group citations.

As a result, manufacturers should be on the lookout for more citations as a result of OSHA inspections. And, as [discussed more fully here](#), manufacturers should consider a six-step plan in response to the current situation – which includes performing safety audits, focus on training, and reviewing records and recordkeeping practices.

What Else Can Manufacturers Do?

Finally, review [these comprehensive OSHA Inspection FAQs](#), then put together a plan for when OSHA arrives at your worksite. One key aspect of prepping for OSHA's visits is to understand the impact of supervisor interviews by OSHA.

For example, one strategy: don't permit any manager or supervisor interviews by OSHA on the day the agency arrives. Without a warrant or subpoena, the agency cannot compel you to do anything. By preventing same-day interviews, the inspection can proceed based solely on your narrowly tailored consent, and OSHA has to conduct its inspection within the parameters of that consent. Read [our insight to learn more](#) on this topic.

Want More?

We will continue to monitor workplace law developments as they apply to manufacturers, so make sure you are subscribed to [Fisher Phillips' Insight system](#) to get the most up-to-date information directly to your inbox. If you have questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney on our [Manufacturing Industry Team](#).

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