




Reply to the attention of:

APR 25 2017

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

THROUGH:


DOROTHY DOUGHERTY
Deputy Assistant Secretary for OSHA

FROM:


THOMAS GALASSI
Director, Directorate of Enforcement Programs

SUBJECT:

Rescission of February 21, 2013 letter to Mr. Steve Sallman and
Update to the OSHA Field Operations Manual

The memorandum replaces guidance provided in OSHA's February 21, 2013 letter to Mr. Steve Sallman regarding workers at a worksite without a collective bargaining agreement designating a person affiliated with a union or a community organization to act on their behalf as a walkaround representative.

Section 8(e) of the OSH Act provides that, "[s]ubject to the Secretary's regulations, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace . . . for the purpose of aiding such inspection." 29 U.S.C. § 657(e). In turn, 29 CFR 1903.8(c) clarifies that although generally "[t]he representative(s) authorized by employees shall be an employee(s) of the employer," where good cause is shown and where "reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace," a Compliance Safety and Health Officer (CSHO) may allow a third party who is not an employee of the employer to accompany the CSHO during the inspection.

Given the express guidance in the statute and the applicable regulation, OSHA is withdrawing the February 21, 2013 letter to Mr. Sallman as unnecessary. Likewise, the guidance in this memorandum supersedes OSHA Instruction CPL 02-00-160, Field Operations Manual (FOM) (8/2/2016), Chapter 3, Section VII.A, which will be revised accordingly. This memorandum supersedes the memorandum dated April 12, 2017, on the same subject.