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OSHA's Worker Walkaround Rule Clears OMB Review – Final Rule Is Imminent

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We have an important update to share about the status and now more clear outcome of [OSHA's rulemaking for a Worker Walkaround Designation Process Rule](#). Yesterday, OMB updated the [entry on its website about the Worker Walkaround Rulemaking](#) to reflect that OMB/OIRA has concluded its regulatory review under EO 12866, cancelling the remaining stakeholder meetings that had been scheduled. In total, OMB hosted sixteen EO 12866 stakeholder meetings. The entry reflecting the EO 12866 meeting with Conn Maciel Carey's Rulemaking Coalition's is [here](#).

As you can see below, OMB has updated its entry for this rulemaking to reflect: "OIRA Conclusion of EO 12866 Review."



What we can also see from this entry is that OMB has, unfortunately, NOT adjusted its preliminary conclusion about the significance (or in its view – lack thereof) of the proposed rule. The OIRA website indicates that it at this conclusion to the regulatory review, OMB still has determined that the proposed rule is neither "Section 3(f)(1) Significant" nor "Economically Significant." There is not a separate category listing whether the proposal implicates EO 12866 Section 3(f)(4) for proposed rules that raise novel legal or policy issues, but there is nothing in the entry to indicate OMB reached that conclusion. This is unfortunate, but not unexpected.

Having now cleared the EO 12866 regulatory review, there is nothing left in the way of the Worker Walkaround Rule being issued, and we expect that will happen imminently. As OSHA has done consistently over the past few years, we should expect to see a pre-publication final rule revealed some Friday afternoon in the next several weeks. This timing is consistent with our expectation that OSHA will push this rule out ahead of the Congressional Review Act window – 90 legislative days before a possible transition to a new Administration and new Congress. That is not a specific, known date at this point, but to ensure there is no risk of slipping into that zone, OSHA will surely get this rule issued ahead of the Summer.

The closer to today that the final rule issues, the more likely the final rule will look exactly like the proposed rule, or nearly so. The more time that passes between now and issuance, the more likely there will be some changes to the rule from the proposed regulatory text. But we expect to see a pre-publication notice any day now.

[Eric Conn](#), CMC's OSHA Practice Chair, was quoted extensively by Inside OSHA about these developments. [Here's a link](#) to the article with additional context and background about the rulemaking.