



May 15, 2025

The Honorable Ryan Mackenzie  
Chairman  
House Committee on Education and the Workforce  
Subcommittee on Workforce Protections  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Ilhan Omar  
Ranking Member  
House Committee on Education and the Workforce  
Subcommittee on Workforce Protections  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Mackenzie, Ranking Member Omar and Members of the U.S. House Committee on Education and the Workforce Subcommittee on Workforce Protections:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 67 chapters representing more than 23,000 members, thank you for holding today's hearing, "Reclaiming OSHA's Mission: Ensuring Safety Without Overreach." ABC strives to provide all of its members with the knowledge and tools to achieve industry-leading health and safety in the construction industry. It is ABC's purpose to ensure all our members' construction workers get home in the same—or better—condition than when they arrived on the jobsite every day.

We strongly support comprehensive regulatory reform, which includes across-the-board requirements for departments and agencies to appropriately evaluate risks, weigh costs and assess the benefits of all regulations. Unfortunately, the Biden administration moved forward with an aggressive and burdensome rulemaking agenda, where regulations were promulgated hastily with limited stakeholder input and questionable legal authority. Many of the Biden-era regulations are currently being litigated.

Rescinding or withdrawing the below Biden-era regulations will eliminate needless red tape and uncertainty while providing clarity to the regulated community:

**Heat Injury and Illness Prevention in Outdoor and Indoor Settings Proposed Rule (RIN 1218–AD39)**

On Jan. 14, 2025, ABC submitted [comments](#) to OSHA on its Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings proposed rule, urging the agency to withdraw the rule as proposed and revise it to allow greater flexibility for affected industries and, at a minimum, develop a separate standard for the construction industry. OSHA's proposed rule would apply to all employers conducting outdoor and indoor work in general industry, construction, maritime and agriculture sectors where OSHA has jurisdiction and requires employers to develop programs and implement controls to protect employees from heat hazards.

ABC strongly supports worker health and safety and protection from heat injury and illness, while maintaining flexibility for the fluid nature of the construction environment. Throughout the heat rulemaking, ABC has continued to urge OSHA to focus on the key concepts of "water, rest, shade" and provide construction employers the necessary flexibility to make such a standard effective.

ABC believes employers should equip their employees and leadership teams to develop their own health and safety plans, unique to their jobsites. ABC provides tools to employers so that they can equip and empower supervisors to recognize the signs and symptoms of heat illness as well as provide necessary water, rest and shade that is dependent on local conditions. ABC's members work to ensure that jobsites are safe and strive to implement the most appropriate practices for working in extreme heat conditions that focus on the individual worker.

Unfortunately, the more than 1,000-page proposed rule imposes prescriptive, complicated requirements on construction industry employers, limiting all flexibility, which could weaken contractor efforts to prevent heat stress for workers. Flexibility is limited because OSHA has imposed rigid requirements, which include heat triggers, an acclimatization schedule for new and returning employees, mandatory rest breaks and the use of a heat safety coordinator, among others.

OSHA failed to recognize the practical applications needed on construction jobsites. Employers and employees need flexibility to account for differences among worksites, geographical locations, work responsibilities and available technology. Additionally, construction jobsites vary in size, time, scope and duration, and flexibility is needed to ensure feasibility for compliance.

ABC has consistently urged OSHA to develop a separate regulatory approach for the construction industry. Combining all employers conducting outdoor and indoor work in general industry, construction, maritime and agriculture sectors into one regulatory approach is misguided at best.

For the reasons stated above, ABC urges OSHA to withdraw the Heat Injury and Illness Prevention in Outdoor and Indoor Settings rule as proposed and revise it to allow greater flexibility for affected industries and, at a minimum, develop a separate standard for the construction industry.

### **Worker Walkaround Representative Designation Process Final Rule (RIN 1218–AD45)**

On May 21, 2024, ABC joined the U.S. Chamber of Commerce and a coalition of business groups in filing a [lawsuit](#) in the U.S. District Court for the Western District of Texas, Waco Division against the DOL's Occupational Safety and Health Administration's Worker Walkaround Representative Designation Process final rule.

Effective May 31, 2024, the final rule allows employees to choose a third-party representative, such as an outside union representative or community organizer, to accompany an OSHA safety inspector during site inspections, regardless of whether the workplace is unionized or not. Now, construction employees and employers could face serious safety concerns because the final rule has the potential to allow anyone on a jobsite.

By allowing outside union agents access to nonunion employers' private property, OSHA is injecting itself into labor-management disputes and casting doubt on its status as a neutral enforcer of the law. This final rule negatively impacts the rights of employers while simultaneously ignoring the rights of the majority of employees who have not authorized a union to represent them.

OSHA's final rule also poses unnecessary risk to the individual joining the inspection and others on the jobsite if the authorized person is not trained to safely walk a construction jobsite. The rule does not include any requirement that the authorized person be equipped or conduct themselves to the same standards as OSHA safety inspectors. Further, the final rule fails to answer who is legally responsible if the third party gets injured during the inspection or harms someone else.

OSHA can have a bigger impact on jobsite safety by fostering positive partnerships with employers and promoting safety practices that produce results. For example, according to [ABC's 2025 Health and Safety Performance Report](#), top-performing contractors that implemented [ABC's STEP® Health and Safety Management System](#) reduced recordable incidents by up to 85%, making the best-performing companies nearly seven times safer than the industry average.

For these reasons, following the completion of the litigation regardless of which way the courts decide, the DOL should rescind the Biden administration's worker walkaround final rule.

While ABC has concerns with the aforementioned rules, we remain committed to protecting workers from hazards and promoting workplace safety and total human health. ABC looks forward to opportunities to partner with OSHA to maintain and improve safety for construction workers.

Sincerely,



Kristen Swearingen  
Vice President, Government Affairs