

OSHA HEAT HAZARD ENFORCEMENT

Oppose One-Size-Fits-All National Heat Standard / Enforcement Policy

Action Needed:

Oppose the Asuncion Valdivia Heat Illness and Fatality Prevention Act, [H.R. 4897](#) / [S. 2501](#). Congress should ensure OSHA does not arbitrarily and capriciously implement its NEP and block any legislative or regulatory efforts to accelerate a one-size-fits-all national heat standard without appropriate review and development.

Background:

- According to the National Institute for Occupational Safety and Health (NIOSH), workers who are exposed to extreme heat or work in hot environments may be at risk of heat stress. While heat illnesses can be deadly, it is preventable with proper education and teamwork. Many proven strategies to combat heat stress are common-sense, including the Occupational Safety and Health Administration's (OSHA) "[Water. Rest. Shade](#)" campaign approach. OSHA is nearly halfway through a rulemaking on a national heat standard that began in 2021. Additionally the agency in 2022 established a [National Emphasis Program](#) (NEP) meant for targeted enforcement. Despite these actions, some in Congress are calling for an accelerated timeline for OSHA to finalize a national heat standard.

AGC Message:

- **The construction industry is proactively addressing heat exposure.** Construction contractors are keenly aware of the dangers of working in extreme temperatures and have taken appropriate steps to reduce related risks. Contractors are scheduling work earlier or later to avoid performing tasks during times of extreme heat, setting up cool down areas on job sites, and taking a total wellness approach to educate employees on the importance of managing health, diet, and hydration.
- **Current proposals are unworkable and fail to set forth clear standards for compliance.** The NEP would require employers to reacclimate "returning workers"—those who take three or more days off—when it is 80 degrees or more by working half days at a full day's pay, among many other prescriptive requirements of an employer's heat illness and injury program. OSHA's NEP creates [great challenges](#) for construction firms, given its ambiguity and the uncertainty of how it will be applied on any one construction jobsite.
- **Accelerating the issuance of a federal standard and/or law is unnecessary, unworkable, and impractical.** Another federal law or standard is simply unnecessary given that: (1) current federal law already protects workers from extreme heat; (2) OSHA actively conducts inspections; (3) OSHA has an active rulemaking underway; and (4) employers may be cited for not providing a safe workplace via the OSH Act general duty clause. There is no one-size-fits all approach to address this, as climate varies from region to region and underlying health factors that contribute to heat stress vary by employee.
- **OSHA has previously determined that such a standard was unworkable.** The Obama-Biden OSHA [declined](#) to undertake a national heat standard and OSHA stated in 2022 that developing a rule within two years would be unworkable.