



July 27, 2022

The Honorable Robert “Bobby” Scott
Chairman
Committee on Education and Labor
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515

The Honorable Virginia Foxx
Ranking Member
Committee on Education and Labor
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515

RE: Full Committee Markup of H.R. 2193 - Asuncion Valdivia Heat Illness and Fatality Prevention Act

Dear Chairman Scott and Ranking Member Foxx:

The National Demolition Association (NDA) represents nearly 500 U.S. and Canadian companies that offer standard demolition services as well as a full range of demolition-related services and products. NDA educates members on the latest advances in equipment and services, provides educational programs and tools to stay abreast of regulatory and safety matters and keeps regulators informed about issues in our industry. NDA also increases public awareness of the economic and societal benefits of demolition.

NDA writes today to express concern over H.R. 2193, the Asuncion Valdivia Heat Illness and Fatality Prevention Act. This legislation seeks to direct the Occupational Safety and Health Administration (OSHA) to issue an occupational safety and health standard to protect workers from heat-related injuries and illnesses. Among several provisions, the bill requires OSHA to introduce a proposed standard on the prevention of occupational exposure to excessive heat within one year from the date of enactment of the legislation. OSHA would then be required to issue a final rule within one year of a proposed rule.

The health and safety of employees continues to be of utmost importance for NDA members. The industry has taken numerous steps over the last several years to improve safety measures and protect employees in the workplace. NDA regularly educates its members on OSHA’s heat injury and illness standards to ensure employees are protected from heat-related hazards at the jobsite. While NDA shares OSHA’s commitment to protecting the health and safety of employees, we believe H.R. 2193 takes an unnecessary approach to heat illness and injury prevention and would place an arduous burden on demolition contractors.

NDA believes that Congress mandating a one-size-fits-all approach would be onerous on small businesses and would fail to take into account the individual characteristics of every worksite and important regional variations. To promulgate a workable nationwide standard, OSHA must consider region and climate, work setting, nature of work and individual tolerance. To this end, heat exposure does not lend itself to a rushed, arbitrarily imposed process by Congress. OSHA is already working on a standard for heat exposure and the agency has more expertise to develop a refined standard than Congress does.

Based on OSHA's guidance, many demolition contractors have designed effective heat injury and illness prevention programs consistent with OSHA's existing approach to address heat-related illnesses. OSHA's use of this guidance, paired with the general duty clause in enforcement proceedings in heat illness cases, has had positive results. This approach gives employers the flexibility to create a program that fits their unique environment while still providing useful information and elevating the concern around heat exposure. Every worksite is different and all these workplaces have different factors related to protecting employees from excessive exposure to heat. A top-down approach imposed by Congress would be effective in improving worker safety and would place an onerous burden on small businesses.

In addition, NDA is concerned this legislation would circumvent the opportunity for regulated stakeholders to provide input and comments by imposing an interim final standard in an unrealistic time frame. The interim final standard approach would bypass the requirements of the Administrative Procedure Act (APA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA) regulatory review process.

NDA shares the Committee's goal of ensuring employees are fully protected from the hazards of heat. However, for the reasons listed above, NDA has significant concerns with H.R. 2193. Thank you for the opportunity to provide comment. Please contact NDA's Senior Legislative and Regulatory Coordinator Alex McIntyre at amcintyre@demolitionassociation.com with any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lambert", written in a cursive style.

Jeff Lambert
Chief Executive Officer
National Demolition Association