

September 18, 2023

Douglas L Parker
Assistant Secretary
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Re: Notice of Proposed Rulemaking, “Personal Protective Equipment in Construction” (RIN: 1218-AD25)

Dear Assistant Secretary Parker:

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.

On July 20, 2023, the Occupational Safety and Health Administration (OSHA) published a Notice of Proposed Rulemaking (NPRM) in the Federal Register regarding personal protective equipment (PPE) in construction. OSHA is proposing to revise its PPE standard for construction to explicitly state that PPE must fit properly to protect workers from workplace hazards.¹ This revision would align the language in the PPE standard for construction with the corresponding language in OSHA's PPE standards for general industry and maritime and affirm OSHA's interpretation of its PPE standard for construction as requiring properly fitting PPE.²

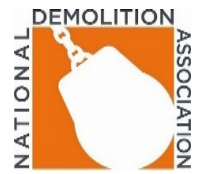
Demolition contractors are deeply committed to the safety and protection of workers at all times and takes that responsibility seriously. NDA member companies have an excellent record of providing a safe environment and work with government officials regularly to mitigate hazards. The demolition industry believes that PPE is a crucial element of an effective safety program for workers and is committed to ensuring all existing OSHA regulations and guidance regarding PPE are followed on demolition worksites. This includes the existing OSHA standard that PPE be of safe design and construction for the work being performed.³

NDA believes OSHA has a responsibility to balance regulations that provide for a safe and healthy work environment while considering its effects on small businesses. To this end, NDA has concerns with any one-size-fits-all federal regulation on “properly fitting” PPE that does not take into consideration the differences between climate regions, weather conditions, and the performance of the PPE product as it is exposed to varying environmental conditions across the country.

¹ 29 CFR 1926.95

² FR 88 46707

³ 29 CFR 1926.95



Further, OSHA cites the need to “align the language in the PPE standard for construction with the corresponding language in OSHA's PPE standards for general industry and maritime”⁴ as one of its primary reasons for issuing the proposed rule. NDA believes this approach by OSHA does not appropriately factor in the significant distinctions between the construction industry and other sectors covered by the general industry and maritime standards. A jobsite in the construction industry presents uniquely different challenges and work conditions than jobsites categorized under OSHA’s other industry standards.

Conclusion

It is reasonable to question how OSHA will enforce a federal regulation on “properly fitting” PPE given the vast geographical diversity and work conditions in the United States along with the unique characteristics that separate the construction industry from other sectors of the economy.

To this end, NDA believes that any further regulations regarding “properly fitting” PPE in the construction industry should be left to state and local governments who can work with regulated stakeholders to best determine which regulations will be most effective and sensible for employers and employees in their communities. NDA requests that OSHA forgo any new requirements to its existing standard for PPE in construction at this time.

Thank you for the opportunity to provide comment on this issue. For any questions, please contact NDA’s Director of Government Affairs Alex McIntyre at amcintyre@demolitionassociation.com.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lambert", is positioned above the typed name.

Jeff Lambert
Chief Executive Officer
National Demolition Association (NDA)

⁴ Ibid.