



**January 14, 2025**

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

**RE: Notice of Proposed Rulemaking, “Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings” (Docket No. OSHA-2021-0009)**

Dear Assistant Secretary Parker:

The National Demolition Association (NDA) represents nearly 500 U.S. and Canadian family-owned 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, environmental, and societal benefits of the demolition industry.

The Occupational Safety and Health Administration (OSHA) has announced a Notice of Proposed Rulemaking (NPRM) that would establish a programmatic standard requiring employers to create a heat injury and illness prevention plan to evaluate and control heat hazards in their workplace. It establishes requirements for identifying heat hazards, implementing engineering and work practice control measures at or above two heat trigger levels, developing and implementing a heat illness and emergency response plan, providing training to employees and supervisors, and retaining records. The proposed rule would apply to all employers conducting outdoor and indoor work in all general industry, construction, maritime, and agriculture sectors.<sup>1</sup>

The demolition industry is deeply committed to the safety and protection of workers and takes that responsibility seriously. NDA member companies have an excellent record of providing a safe environment and regularly work with federal regulators to mitigate hazards, including heat-related injuries and illnesses. While ensuring the safety of workers in extreme weather will always be a priority for the demolition industry, NDA is concerned that OSHA’s proposed standard is inordinately complex and does not take into account the unique nature of a construction work environment.

**I. OSHA’s Proposed Rule Fails to Consider the Unique Characteristics of Construction Worksites**

*(a) Varying Environmental Factors*

NDA has concerns regarding the broad applicability of the rule’s requirements to all industry sectors, which may not account for the wide range of environmental factors and logistical complexities that

---

<sup>1</sup> 89 FR 70699



apply only to construction and demolition worksites. Under the proposed rule, employers would be required to monitor heat conditions by tracking local heat index forecasts or measuring heat index or wet bulb globe temperature. Certain requirements and control measures by employers would be automatically triggered depending on specific temperature thresholds recorded in 15-minute increments.

NDA believes these rigid temperature thresholds will pose serious challenges for contractors as most demolition jobs are performed in outdoor settings where environmental conditions can vary significantly depending on the geographic region, elevation, time of day, and other outdoor factors. Outdoor weather conditions can change rapidly over the course of a workday, making it difficult for employers to precisely monitor the temperature that every worker is exposed to at any given time on the jobsite.

Other unique aspects of a construction site such as the intensity of the work being performed and personal protective equipment (PPE) requirements can play a role in how workers respond to heat-related stress. These constantly changing variables will make implementation particularly difficult for small and medium-sized employers with limited administrative resources to comply with the proposed rule's monitoring and recordkeeping requirements.

Further, a construction worksite cannot be neatly categorized as an "indoor" or "outdoor" work environment. A worksite may transition between being an outdoor and an indoor environment over the course of a project. Depending on job responsibilities, certain workers will frequently transition between indoor and outdoor environments within the same day. This will add layers of complexities and challenges for employers as they attempt to monitor every individual worker's heat exposure and implement control measures based on time spent indoors or outdoors.

#### *(b) Operational Challenges*

OSHA's requirement to mandate 15-minute rest breaks every two hours will cause considerable operational challenges for employers on construction sites and potentially increase safety risks for workers, especially in the demolition industry.

Construction and demolition worksites are complex, interconnected work environments that can require meticulous communication and coordination among a wide array of subcontractors and laborers. Mandated and inflexible rest breaks can disrupt the timing and workflow on jobsites, leading to delays in the completion of critical time-sensitive tasks. These disruptions could significantly increase costs and cause logistical hurdles to completing projects on time.

Most importantly, construction activity must be carefully coordinated to adequately protect workers from safety hazards. Demolition work can involve high-risk tasks such as the operation of heavy machinery, handling hazardous materials, and working in or around unstable structures. These tasks require constant attention, focus, and coordination from workers and do not always align with a regimented break schedule. Any ill-timed pauses or disruptions in the middle of these activities can potentially lead to miscommunication and confusion between workers, lapses of concentration, and other unintended consequences that threaten worker safety on the jobsite.



### *(c) Acclimatization*

The proposed rule includes specific guidelines for acclimatization, requiring new or returning workers to gradually adjust to high-heat conditions over the course of at least seven days before they can return to fulltime work on a jobsite. NDA believes this process will be difficult to implement effectively, particularly in industries like construction where temporary workers are hired for short-term assignments.

Employers may find it impractical to spend a week acclimatizing a worker for a job that only lasts a few days or weeks. These strict requirements will be onerous for construction and demolition employers who are already dealing with labor shortages. While NDA acknowledges the importance of climate acclimatization to worker safety, any requirements should be flexible and take into account the unique realities of the construction workforce and labor needs.

## **II. OSHA’s Proposed Rule Fails to Consider the Unique Characteristics of Individual Workers**

Several factors influence how individuals react to heat, making it difficult to implement a one-size-fits-all approach to protecting workers from heat injuries and illnesses. For example, an individual’s age, diet, sleep schedule, pre-existing health conditions, and alcohol and drug use will all play a role in how their body responds to heat-related stress. Individuals may also respond differently based on the climate, elevation, and geographic region in which they are located. Some workers may experience more heat-related stress in sunnier and arid climates while others may struggle more in humid climates. These unique personal characteristics are out of the employer’s direct control and make it more difficult to assess a worker’s heat-related stress based on temperature levels alone.

## **III. OSHA Should Prioritize Guidance that is Flexible and Tailored to the Construction Industry**

Demolition contractors diligently follow existing OSHA guidance to protect workers from heat-related injuries and illnesses, including the agency’s “Water. Rest. Shade” program. NDA believes OSHA should forgo an overarching heat standard that applies to all industries in favor of a flexible regulatory approach that is tailored to the construction industry and builds on the guidance in the “Water. Rest. Shade” program. OSHA should consider the following principles in future regulatory actions:

- Partner with the construction industry to develop additional guidance on how employers can best monitor worksite conditions and manage heat stress in multifaceted construction work environments.
- Emphasize training and education so employees can identify the signs and symptoms of heat stress.
- Allow employers to adapt work schedules or task assignments based on real-time environmental conditions rather than following rigid, pre-defined rest break schedules.



- Ensure recordkeeping and documentation requirements remain feasible for small and medium-sized businesses.
- Allow states and employers to tailor heat injury and illness prevention programs to the specific conditions of their individual regions and work environments, rather than implementing a one-size-fits-all approach.
- Any new regulations should be backed by sound scientific evidence and demonstrate tangible safety benefits to workers.

## **Conclusion**

As currently written, NDA believes OSHA's one-size-fits-all heat standard could cause significant operational challenges, impose unnecessary costs, and have unintended consequences on both the safety and productivity of workers. NDA urges OSHA to withdraw their proposed rule and partner with the construction industry on guidance that is workable for employers and effectively protects employees from heat-related hazards.

Thank you for the opportunity to submit comments on OSHA's proposed heat injury and illness prevention standard. For any questions, please contact NDA's Director of Government Affairs Alex McIntyre at [amcintyre@demolitionassociation.com](mailto: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)