



May 15, 2025

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

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

Dear Chairman Mackenzie and Ranking Member Omar,

The National Roofing Contractors Association appreciates the opportunity to provide input regarding regulations and policies of the Occupational Safety and Health Administration that are of importance to the roofing industry. NRCA commends you for holding a hearing entitled “Reclaiming OSHA’s Mission: Ensuring Safety Without Overreach” to review stakeholder input on workplace safety and health issues and requests this letter be included in the hearing record.

Established in 1886, NRCA is one of the nation’s oldest trade associations and the voice of roofing professionals worldwide. Our nearly 4,000 member companies represent all segments of the industry, including contractors, manufacturers, distributors, consultants, and other employers in all 50 states and internationally. NRCA members are typically small, privately held companies with the average member employing 45 people and attaining sales of \$4.5 million per year. The U.S. roofing industry is an essential \$100 billion sector with nearly one million employees that provides critical materials and services to ensure home and business safety.

Promoting workplace safety within the roofing industry is a core function of NRCA. In furtherance of our mission, NRCA has developed more than 50 roofing safety-related publications, programs or training materials on diverse topics including asbestos, hazard communication, fall protection and cranes. We have represented our members in proceedings before OSHA’s Advisory Committee for Construction Safety and Health, the American National Standards Institute’s A10 Committee on Construction and Demolition Operations, ISO 45001 Occupational Safety and Health Management Systems Technical Advisory Group, and participate in other organizations that impact safety in the roofing industry.

NRCA would like to comment on several regulatory initiatives and policies that OSHA has pursued in recent years that are of great interest to our members.

Heat Injury and Illness Proposed Rule

First and foremost is the agency's Notice of Proposed Rulemaking entitled Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings released in 2024. As part of our longstanding commitment to health and safety, NRCA provides members with tools to help them prevent heat-related injuries and illnesses. We have been engaged with agency officials on this proposed regulation for many years, and in 2022, submitted comments to OSHA's Advanced Notice of Proposed Rulemaking on this topic. These comments outlined our view that any federal standard designed to guard against heat hazards must address the unique characteristics of workplaces within the construction industry. Moreover, any protective measures must be practical so that employers are not overwhelmed by regulatory complexity. Our view is that any successful regulatory approach must be kept clear and concise by integrating the key concepts of "water, rest, and shade plus training" for how to deal with potential heat stress exposures.

NRCA further engaged in the regulatory process by arranging for two of our employer members to provide detailed input to OSHA as Small Entity Representatives in the Small Business Regulatory Enforcement Fairness Act (SBREFA) process on the proposed rule. These contractors provided agency officials with detailed information on current practices to protect workers and recommendations on how to make any regulatory standard effective and practical for small employers. During the process, they stressed that any new standard must provide maximum flexibility and contain performance-based criteria if it is to be effective. This included a recommendation that OSHA consider a separate regulatory approach for the construction industry, given the unique characteristics of construction worksites, in any new standard.

Regrettably, OSHA failed to incorporate much of the information and recommendations provided by our contractors and other employers in the SBREFA process. As a result, NRCA joined with the Construction Industry Safety Coalition in submitting comprehensive comments that outlined numerous concerns with the proposed rule. While we share OSHA's goal of protecting employees from heat illness, the proposed rule contains numerous overly prescriptive compliance requirements, severely underestimates regulatory costs and fails to provide the flexibility that small employers need to effectively comply with the standard. Critically, it does not contain a separate regulatory approach for the construction industry that is essential to making the rule effective for our construction worksites. The comments concluded by urging OSHA to "reconsider such a broadly sweeping proposed standard and reengage with stakeholders to focus on industry-specific solutions."

NRCA is pleased the incoming Trump administration has paused the rulemaking process to review this and other proposed rules, and we urge the administration to engage with NRCA and other stakeholders to fully address our concerns before moving forward with any final rule.

Worker Walkaround Final Rule

In 2024, OSHA published a final rule, commonly known as the "Worker Walkaround Rule," to revise the process for determining who may act as an employee representative to accompany agency compliance officers during routine workplace inspections. OSHA officials indicated this rule was needed to clarify the right of employees to authorize an employee or a non-employee

from a third party as their representative if the compliance officer determines a third party is reasonably necessary to conduct an effective inspection.

Based on input from our membership, NRCA has numerous concerns on how this rule may negatively affect employers and employees by broadly expanding the eligibility of who can be considered a third-party representative for workplace inspections. These concerns include increased safety risks for employees and greater exposure to liability for employers on multi-employer worksites, conflicts with longstanding agency guidance and existing federal laws, lack of clarity in how the rule will be implemented, and substantial increased costs incurred by employers. Moreover, the final rule injects a high degree of uncertainty and could, in fact, be counterproductive to OSHA's purpose of ensuring workplace safety. As current litigation challenging the rule has argued, the rule is not a reasonable interpretation of the Occupational Safety and Health Act and may be unconstitutional.

Given these serious concerns, NRCA urges the new administration to review this rule and consider rescinding it, should the current litigation challenging the rule not prevail. NRCA stands ready to work with members of this subcommittee, other lawmakers, and agency officials to craft a more balanced policy with respect to ensuring worksite inspections are effective in advancing safe work practices.

Improve Tracking of Workplace Injuries and Illnesses Final Rule

In July 2023, OSHA published the "Improve Tracking of Workplace Injuries and Illnesses" final rule, which reprised OSHA's 2016 rulemaking that requires employers to submit all three required injury records and OSHA's expressed intent to publish them on its website. NRCA had serious concerns with the proposed rule and submitted comments in June 2022 in opposition to the proposed rule as part of a coalition of stakeholders. The comments specifically addressed concerns with duplicative recordkeeping and reporting requirements; concerns regarding OSHA's ability to appropriately manage the increased data collection; continued concerns regarding confidentiality and protection of sensitive employer and employee data; and uncertainties in compliance resulting from OSHA's ever-changing recordkeeping requirements.

NRCA believes that requiring the information from OSHA forms 300, 301 and 300A be submitted by employers, and posting them on OSHA's website is not necessary for the proper performance of the agency's duties and does not serve to prevent employee injuries or illnesses in the workplace. However, it does unnecessarily expose employers to improper disclosure, mischaracterization of the data and release of sensitive employer and employee information. Small businesses are even more vulnerable to the negative impacts of the release of such information, including employee personal information being easier to identify.

Of further concern to NRCA membership is OSHA's failure to make accurate estimates of the burden and cost of the collection of information by employers, coupled with OSHA's assertion that the benefit of collecting and publishing the data for improving safety and health outweighs the potential privacy problems.

NRCA encourages the administration to review this rule and consider restructuring or rescinding it to address the concerns outlined here. As previously stated, NRCA stands ready to work with members of the subcommittee and other stakeholders to address the rule.

Thank you for your consideration of the views of NRCA members on the important issue of workplace safety. If you have questions or need more information, please contact Duane Musser, NRCA's vice president of government relations (dmusser@nrca.net) or Cheryl Ambrose, NRCA's vice president of enterprise risk management (camprose@nrca.net).

Sincerely,

A handwritten signature in black ink, appearing to read "M. K. O'S", written in a cursive style.

Chief Executive Officer

CC: All Members of the Subcommittee