



December 1, 2023

The Honorable Bernie Sanders
Chairman
Senate Committee on Health, Education,
Labor and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Bill Cassidy, M.D.
Ranking Member
Senate Committee on Health, Education,
Labor and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

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.

Today, NDA writes to express support for Senate Joint Resolution 49, a bipartisan Congressional Review Act resolution to overturn a final rule issued by the National Labor Relations Board (NLRB) on Oct. 23, 2023 to alter the standard for determining joint employer status. Under the final rule, an entity may be considered a joint employer of a group of employees if each entity has an employment relationship with the employees and they share or codetermine one or more of the employees' essential terms and conditions of employment such as wages, benefits, compensation, hours of work and scheduling, assignment of duties, and other factors. This new standard applies whether or not such control is exercised, and without regard to whether any such exercise of control is direct or indirect.

NDA has significant concerns with NLRB's final rule to redefine the joint employer relationship and its potential impact on demolition contractors and small businesses. NDA believes the rule is overly broad, inordinately complex, and will impose onerous compliance costs on employers, particularly for contractors in the construction industry.

For example, when applying this new joint employer standard to a construction site, the NLRB could determine that a general contractor is a joint employer with its subcontractor(s), even if the general contractor does not have direct control of all the terms of employment for the employees of the subcontractor(s). In effect, the final rule could make general contractors liable for every subcontractor on a construction site.

The uncertainty and confusion resulting from this expanded definition could have detrimental consequences for the construction industry, such as increased compliance and administrative costs for employers, along with stifled economic growth and job creation. Further, the final rule could harm small demolition contractors by discouraging larger employers from pursuing subcontracting opportunities with smaller employers due to concerns over liability.

For all these reasons, NDA supports Senate Joint Resolution 49 and urges your committee and Congress to pass the resolution before the final rule goes into effect next year. Thank you for the opportunity to comment and if you have 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", written in a cursive style.

Jeff Lambert
Chief Executive Officer
National Demolition Association (NDA)