

Resolution No. 3

Date: 5/20/2011

City: Washington, DC

NAHB Resolution

Title: Occupational Safety and Health Program Reform  
Sponsor: Construction Safety and Health Committee  
Submitted by: Dean Mon

WHEREAS, the National Association of Home Builders recognizes that its members have both a moral and legal obligation to provide a safe and healthful workplace for their employees;

WHEREAS, every worker also has a responsibility to act safely on the job site and to follow all safety rules and regulations;

WHEREAS, residential construction practices are distinctly different from heavy commercial construction in terms of project timing and management, construction methods, materials and equipment used, as well as safety hazards on the job site;

WHEREAS, many of the Occupational Safety and Health Administration's (OSHA) safety standards and regulations have been on the books for decades and may no longer reflect residential construction practices;

WHEREAS, federal and state regulators continue to impose costly and infeasible safety and health standards, rules, orders and regulations on the residential construction industry that are not supported by good data, fail to recognize the way the industry operates, continue to increase the amount of government-mandated paperwork, and do little to enhance worker safety;

WHEREAS, OSHA has moved away from its model of partnership and compliance assistance to help employers identify and control workplace hazards to relying on traditional enforcement and levying monetary penalties to force compliance;

WHEREAS, OSHA's inspection, enforcement, and citation policies are problematic, as they discourage the agency from giving warnings before citations are issued, allow OSHA to issue citations up to 6 months following a site inspection, provide limited time for recipients to respond to violation notices and intimidate builders and subcontractors, confusing them about their rights and responsibilities;

WHEREAS, OSHA's Multi-Employer Citation Policy outlines agency procedures for compliance officers to issue citations on work sites where there is more than one employer and under this policy, OSHA can cite the "controlling employer," typically the general contractor, regardless of whose employees created or were exposed to a safety violation.

NOW, THEREFORE, BE IT RESOLVED that the National Association of Home Builders pursue all options to compel the Occupational Safety and Health Administration to:

1. Ensure that occupational safety and health regulations are based on, and take into account, the distinct differences between residential construction and heavy commercial construction;
2. Use a risk based approach to evaluate sound science, information, engineering principles, data and analysis to ensure there is a compelling rationale for each regulation; demonstrate that each regulation will improve the safety and health protection of workers; and adopt and promulgate regulations that are technologically attainable, flexible, practical, feasible and cost-effective, and minimize paperwork;
3. Clarify responsibilities on multi-employer worksites so that an employer may not be cited for a violation by OSHA if the employer:
  - a. Has not created the condition that caused the violation;
  - b. Has no employees exposed to the violation; or
  - c. Has not assumed responsibility for ensuring compliance by other employers on the work site;
4. Review its existing occupational safety and health regulations and guidance to reduce unnecessary burdens, promote economic growth and job creation, and minimize the impacts of government actions on small businesses;
5. Reestablish its focus and efforts on compliance assistance and revise its inspection, enforcement, and penalty policies and practices to ensure they are applied fairly and consistently by:
  - a. Making fine notification less intimidating and more practical by adopting a system that allows warnings in lieu of citations;

- b. Providing penalty relief for small businesses that make good faith efforts to comply;
  - c. Employing and allowing only those compliance officers who have direct experience in residential construction and are familiar with the industry to perform residential site inspections; and
  - d. Reducing the amount of time that OSHA has to issue citations for violations at residential construction sites from six months to a more reasonable amount of time, with a goal of not more than 15 days from the date of the site inspection.
6. Inform and educate all employers affected by OSHA standards or regulations of their responsibilities and help them operate safe job sites, improve compliance and reduce occupational injuries and illnesses; all training shall emphasize employee's responsibilities and duties to abide by all standards set by OSHA; in addition to individual company policies.

Board of Directors Action:

Executive Board Action:

Resolutions Committee Action:

Construction Safety & Health Committee Action:

APPROVED

Recommends Approval

Recommends Approval

Recommends Approval