

July 18, 2023

Chairman Jim Jordan
Ranking Member Jerrold Nadler
Subcommittee Chairman Darrell Issa
Subcommittee Ranking Member Henry C. Johnson

Re: Pro Codes Act (H.R. 1631, S. 835)

Dear Chairman Jordan, Ranking Member Nadler, Subcommittee Chairman Issa, and Subcommittee Ranking Member Johnson:

On behalf of our members, we write regarding the upcoming House Judiciary Committee consideration of H.R. 1631, the Pro Codes Act (H.R. 1631, S. 835).

As three of the leading Standards Development Organizations (SDOs) in the United States and the National Board of Boiler and Pressure Vessel Inspectors that applies standards nationwide, we are all grateful for the bipartisan work on this legislative effort, and steadfastly support the intent of the Pro Codes Act: copyright protection for SDOs in the important public safety work of their standard setting. All SDOs – the undersigned and those who support the current Pro Codes Act language—face continuous efforts to infringe on our copyrighted standards, which for many SDOs, are the sole source of revenue to fund their future standard setting activities.

Unfortunately, at this point in the process without a public hearing, the legislation noticed for markup tomorrow does not yet reflect the unified view of the SDO community and may work to fractionalize the SDO community along differing business models and litigation postures.

In particular, we are greatly concerned with the language providing that an otherwise valid copyright in a standard would be lost if a Federal, State, or local government decides to refer to that standard, however obliquely, in a law or regulation unless the SDO posts the entire text of the standard on a publicly available website without needed conditions. Nonetheless, there can be a path forward to capture appropriate copyright protection for the entire community.

There are ways to reconcile these efforts through modest adjustments to the current language, and by so doing, achieve SDO protection in the same bipartisan spirit that underlies the Pro Codes Act.

Accordingly, we respectfully request that the Committee consider the views of ASME, IEEE, AWS, NBBI and others in joining together to achieve the public policy balance that is needed to ensure that SDOs will continue to have copyright protection as they pursue their public safety standard setting.

Thank you for your consideration,

American Society of Mechanical Engineers (ASME)
Institute of Electrical and Electronics Engineers, Inc. (IEEE)
American Welding Society (AWS)
National Board of Boiler and Pressure Vessel Inspectors (NBBI)