

NDA Meets with White House on Overtime Regulations

On Monday, NDA government affairs staff met with officials from the White House and Department of Labor (DOL) to discuss the Biden administration's impending proposal to amend overtime regulations. The White House's Office of Information and Regulatory Affairs (OIRA) is currently reviewing a draft proposed rule from the DOL that could make changes to federal overtime pay requirements. The DOL is aiming to publish the proposed rule later this month.

In the meeting, NDA urged the Administration to avoid making any significant changes to the existing overtime rule which went into effect at the beginning of 2020. NDA highlighted the demolition industry's ongoing concerns with workforce shortages and inflation, and the negative impact that new regulations could have on a vulnerable and recovering economy.

NDA also stressed its long-held belief that employers and employees are best served with a system that promotes maximum flexibility in structuring employee hours, employees' career advancement opportunities, and clarity for employers when classifying employees.

Instead of creating more economic uncertainty for employers and employees through new overtime regulations, NDA urged the White House to shift its focus to improving the nation's workforce development system and ensuring smooth implementation of the 2021 Bipartisan Infrastructure Law.

NDA is closely monitoring the Administration's actions on overtime pay and will keep members updated on the latest developments. NDA will be prepared to submit comments on behalf of the demolition industry should the Administration propose a new overtime rule later this month.

DOL Issues Final Rule on Davis-Bacon Act Amendments

Earlier this week, the Department of Labor (DOL) announced the issuance of the [final rule](#) to update regulations that implement the Davis-Bacon Act and Related Acts (DBRA). The rule will raise wage standards of construction workers by updating prevailing wage regulations issued under the Davis-Bacon and Related Acts, which require payment of locally prevailing wages and fringe benefits to workers on federally funded or assisted construction projects. The final rule is expected to be published in the Federal Register in the coming days and will go into effect 60 days from publication.

The final rule adds a new sub-definition to the term "construction, prosecution, completion, or repair" to the existing regulation to clarify when demolition and similar activities are covered by the Davis-Bacon labor standards. Specifically, the final rule clarifies that demolition and removal activities are subject to DBRA labor standards when such activities in and of themselves constitute construction, alteration, or repair of a building or work. If the demolition is part of a contract for construction of a building or work or if such construction is contemplated as part of a future contract, then the demolition is also within the scope of the DBRA labor standards.

According to DOL's published guidance, this new sub-definition "is already reflected in current DBRA subregulatory guidance and the Service Contract Act regulations and does not expand coverage or increase burdens or complexity." However, NDA is still thoroughly reviewing the final rule and will follow up with DOL to get further clarification if necessary.

A summary of the final rule along with guidance from DOL are detailed below:

- Updates the DOL's definition of "prevailing wage" and will make the prevailing wage equivalent to the wage paid to at least 30% of workers, rather than 50% of workers, in a given trade in a locality. Prior to the new rule, if the majority of workers in a given trade and locality did not earn a single wage rate, then the prevailing wage was determined by the average wage in a given trade in a locality.
- Gives the DOL's Wage and Hour Administrator the express authority to adopt prevailing wages determined by state and local governments, issue wage determinations for labor classifications where insufficient data was received through the wage survey process, and update outdated wage rates.
- The rule will add a new anti-retaliation provision in contract clauses. It also strengthens DOL's ability to withhold money from a contractor in order to pay employees their lost wages.

Additional Information

- [Final Rule: Updating the Davis-Bacon and Related Acts Regulations](#)
- [Frequently Asked Questions](#)
- [Comparison Chart](#)
- [Webinar Registration link](#)