

NLRB Extends Comment Period for Joint Employer Rule

The National Labor Relations Board (NLRB) recently extended the deadline for submitting comments on its [proposed rule](#) concerning the standard for determining joint-employer status under the National Labor Relations Act to Dec. 7, 2022.

Under the proposed rule announced by the NLRB on September 6, 2022, two or more employers would be considered joint employers if they “share or codetermine those matters governing employees’ essential terms and conditions of employment,” such as wages, benefits and other compensation, work and scheduling, hiring and discharge, discipline, workplace health and safety, supervision, assignment, and work rules. The Board proposes to consider both direct evidence of control and evidence of reserved and indirect control over these essential terms and conditions of employment.

NDA is reviewing the proposed rule and will be submitting comments on behalf of the demolition industry.

DOL Extends Comment Period for Independent Contractor Rule

The Department of Labor (DOL) recently extended the deadline for submitting comments on its [proposed rule](#) to revise the standard for determining whether a worker is an employee or “independent contractor” under the Fair Labor Standards Act (FLSA). The new deadline to submit public comments is now Dec. 13, 2022.

Specifically, the proposed rule would do the following:

- Align the department’s approach with courts’ FLSA interpretation and the economic reality test.
- Restore the multifactor, totality-of-the-circumstances analysis to determine whether a worker is an employee or an independent contractor under the FLSA.
- Ensure that all factors are analyzed without assigning a predetermined weight to a particular factor or set of factors.
- Revert to the longstanding interpretation of the economic reality factors. These factors include the investment, control and opportunity for profit or loss factors. The integral factor, which considers whether the work is integral to the employer’s business, is also included.
- Assist with the proper classification of employees and independent contractors under the FLSA.
- Rescind the 2021 Independent Contractor Rule issued under the Trump Administration.

NDA is reviewing the proposed rule and will be submitting comments on behalf of the demolition industry.