

DOL Rescinds Previous Joint Employer Rule

In a final rule released on July 29, the Department of Labor (DOL) rescinded the 2020 Joint Employer Status Under the Fair Labor Standards Act rule. The rescission will take effect on September 28, 2021.

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SMACNA supported this action by the DOL, as the 2020 rule made it easier for contractors to misclassify workers as independent contractors.

Furthermore, the 2020 rule limited scenarios in which multiple businesses share liability for wage violations, allowing employers to exert more control and influence over independent contractors without the risk of being considered a joint employer.

The DOL Wage and Hour Division will more aggressively evaluate joint employment relationships, in which two or more entities jointly control, oversee and administer employees' jobs. Under the rescission, companies can be held more broadly accountable for wage violations of business partners.

Currently, the 2020 rule is pending before the U.S. Court of Appeals for the 2nd Circuit. Biden administration attorneys will seek to dismiss the case since the regulation has been repealed, however, business groups may continue to fight the effort.