



Comments of the National Demolition Association

to the

House Committee on Education and Labor

June 9, 2021

Hearing on: “Examining the Policies and Priorities of the U.S.  
Department of Labor”

The National Demolition Association (NDA) would like to thank the House Committee on Education and Labor for the opportunity to provide written comments regarding the hearing titled “Examining the Policies and Priorities of the U.S. Department of Labor” on June 9, 2021 featuring U.S. Secretary of Labor Martin J. Walsh.

The National Demolition Association (NDA) represents nearly 500 U.S. and Canadian companies that offer standard demolition services as well as a full range of demolition-related services and products. NDA educates members on the latest advances in equipment and services, provides educational programs and tools to stay abreast of regulatory and safety matters and keeps regulators informed about issues in our industry. NDA also increases public awareness of the economic and societal benefits of demolition.

We write to the committee today to express our industry’s priorities regarding several key labor-related agency rules and legislation currently under consideration by the Biden administration and Congress. These are all issues that have a substantial impact on the demolition industry and will shape the direction of our nation’s economic recovery coming out of the COVID-19 pandemic.

NDA believes policymakers and the Administration should balance the needs of small business owners with the regulations that impact demolition. Sensible regulation that is substantiated by sound science and treats businesses fairly are important for a thriving workforce. NDA members are proud to support reasonable federal regulations, worker safety and environmental stewardship.

As an industry, we establish checks and balances to ensure demolition professionals are safe and accounted for at our job sites, and we are dedicated to providing high quality products and services that aid in curbing our society’s impact on the environment. As Congress and the Administration work to explore all areas of sensible legislation and regulation, NDA reiterates its call for a balanced approach.

### **Workplace Safety and Health**

NDA is committed to the safety and protection of workers at all times and takes that responsibility seriously. Laws and regulations relating to demolition safety are necessary but should remain practical and not impose undue burdens on industry practitioners. NDA supports efforts to address the health of workers, including from exposure to harmful levels of toxins. Government action must be grounded in sound science, sustainable, and a proven benefit to the public.

As DOL considers new rules relating to the control of hazardous energy, respirable crystalline silica, powered industrial trucks, hazard communication, an Emergency Temporary Standard on COVID-19, and other construction standards, NDA urges the Administration to fully consider

the economic costs and benefits of these regulations prior to proposal to ensure that federal and private resources are utilized efficiently to improve safety.

Further, NDA calls on the Administration to consider the specific challenges faced by the demolition industry and to work collaboratively in an effort to ensure that demolition contractors are not unfairly burdened by any new rules and regulations.

### **Independent Contractor Rule**

NDA has concerns regarding DOL’s recent proposal to rescind its final rule clarifying the definition of employee under the Fair Labor Standards Act (FLSA). NDA supports the adoption of the economic reality test to distinguish between employees and independent contractors under the FLSA and believes a patchwork of sporadic DOL guidance and legal proceedings is unacceptable as demolition contractors navigate worker classification issues. Any new rule proposed by DOL with respect to independent contractors should not make any substantial revisions to the previous rule that was finalized by DOL in January of this year.

### **Joint Employer Standard**

NDA also has concerns regarding the future of the joint employer standard and the impact that an expanded definition of joint employer status could have on small businesses. NDA opposes the dramatic expansion of the traditional test for joint employer status in which a company must exercise “direct and immediate control” over an employment relationship and urges the Administration to reject new regulations to this effect.

### **Overtime Rule**

NDA opposes any increase to the overtime pay eligibility threshold that does not factor into consideration regional variations in wages and cost of living, would decrease workplace flexibility, or make it more difficult to develop future managerial talent. To this end, NDA opposes any substantial changes to DOL’s existing overtime rule which went into effect on Jan. 1, 2020.

Thank you for the opportunity to submit comments on these critical issues impacting the demolition industry. NDA members are actively interested in aiding our country’s economic growth and are ready to work with lawmakers and regulators to ensure economic success for years to come.

For any questions, please contact NDA’s Director of Government Affairs Kevin McKenney at [kmckenney@demolitionassociation.com](mailto:kmckenney@demolitionassociation.com) or 202-367-2480.