



USDOL Withdraws Independent-Contractor, Joint-Employment "Administrator Interpretations"

Insights

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The U.S. Department of Labor announced today that it has withdrawn:

Administrator Interpretation No. 2016-1, entitled "Joint Employment under the Fair Labor Standards Act and Migrant and Seasonal Agricultural Worker Protection Act", about which we wrote last year, and

Administrator Interpretation No. 2015-1, dealing with "The Application of the Fair Labor Standards Act's 'Suffer or Permit' Standard in the Identification of Employees Who Are Misclassified as Independent Contractors", which was the subject of our related post at the time.

USDOL's announcement contained no rationale for why it took these actions. Neither did it indicate whether either or both of these interpretations will be re-issued or replaced in a different form in the future.

The release did caution that employers' legal responsibilities remain the same, and it said that USDOL will "continue to fully and fairly enforce all laws within its jurisdiction". It remains to be seen whether the agency's principal enforcement priorities will shift away from matters of joint-employment or independent-contractorship, but for now employers should not assume that this will be the case. And even if it turns out that USDOL's attention is directed to other things, individual workers can still independently pursue their claims.

Employers should continue to be sure that their compliance evaluations correctly take into account all applicable, longstanding independent-contractor and joint-employment principles.