

# NEWS RELEASE

## Associated Builders and Contractors

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### **ABC Calls Labor Department Revision to Davis-Bacon 'Site of Work' Arbitrary and Capricious**

(Washington, D.C.)—December 20, 2000—Associated Builders and Contractors sharply denounced a proposed rule published in today's Federal Register revising the agency's definition of "site of work" under the Davis-Bacon Act.

ABC President W. Thomas Musser said significant portions of the rule are "arbitrary and capricious and contrary to the plain language of the Davis-Bacon Act, as interpreted by clear holdings of the courts."

"This ill-considered rule would expand the Davis-Bacon Act's coverage beyond the site of work in new and unprecedented ways," Musser said.

The Employment Standards Administration said it published the rule because of "confusion" created by court rulings that questioned the agency's interpretation of the Davis-Bacon Act. Rulings in two federal circuit courts limited the application of the Davis-Bacon Act to the actual construction site where work is performed or sites adjacent or "virtually adjacent" to the primary site.

Musser denounced the ESA's argument that new technologies allowing more work to be completed at secondary sites—such as downstream from the primary site on bridge projects—required a revision of the definition of the worksite. "It is simply arbitrary and incorrect for the department to claim that floating large pre-fabricated structures from distant locations onto water-related projects is a 'new' development. Many significant projects have featured this type of construction, and the technologies to accomplish it are at least a century old," he said.

Equally arbitrary, Musser continued, was the agency's proposal to cover drivers of materials for time spent transporting materials or pre-fabricated construction components between the newly expanded "secondary" site and the traditional site of the work.

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ABC is a national association representing more than 22,000 merit shop construction and construction-related firms in more than 80 chapters across the United States.