

Truck Drivers

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Truck Drivers - Davis Bacon Law

- Court of Appeals Ruling:
 - Material delivery truck drivers who come onto the site of work merely to drop off or pick up construction materials are not covered by the Prevailing Wage Laws if the time spent on the site of work is not more than de minimis (20%)

De Minimis Rule DBRA

- If the driver is not working exclusively on the site of work, to be covered by Davis-Bacon, the time spent working on site must be more than de minimis (20 percent or more of the work week).

Truck Drivers DBRA

- Truck drivers are always covered by Davis Bacon prevailing wage laws in the following instances:
 - They are working on the “site of the work.”
 - Hauling to or from a facility that is deemed part of the “site of the work.”
(For example, driving between the job site and a dedicated batch plant or tool yard located adjacent to, or virtually adjacent to, the job site).

Truck Drivers DBRA “site of work”

- When delivering materials to the “site of work” (project) from supply sources adjacent to and which have been set up for the project.

Examples are: batch plant, stock piles, or borrow pits set up for the project.

- The above are considered “site of work” and all of the time on the “site of work” would be covered by Davis Bacon prevailing wage laws.

Truck Drivers DBRA

- Examples when a truck driver is **NOT** covered by Davis-Bacon:
 - While off the “site of the work.” The transportation of materials, supplies, tools, equipment, etc., from one site of work to another is not covered unless such sites are dedicated and adjacent
 - While loading and/or unloading materials and supplies on the “site of the work”
 - The travel time between two Davis-Bacon projects

Truck Drivers DBRA

- Since the majority of time spent by material delivery truck drivers is off site beyond the scope of Davis-Bacon coverage and the time spent on site is relatively brief, MDOT chooses to use a rule of reason and will assume that some activities will never exceed de minimis

Truck Drivers DBRA

- WHERE DE MINIMIS WILL NOT BE EXCEEDED:
 - Trucks delivering materials to a stockpile.
(If the driver is not working exclusively on the site of work)
 - Trucks delivering materials along the jobsite for later installation.
 - Example: concrete pipe, traffic control devices, etc.

Owner Operators DBRA

- The USDOL has the following enforcement position with respect of bona fide owner-operators of trucks who own and drive their own trucks:
 - Certified payrolls including the names of such owner-operators do not need to show the hours worked or rates paid, only the notation “owner-operator”
 - This does not apply to owner-operators of other equipment such as bulldozers, backhoes etc.

Truck Drivers – Covered by State Prevailing Wage Law

- The truck driver is hired by the contractor for the sole purpose of providing transportation of materials from the source to the project as well as time spent hauling materials from the project to an off site location.
- The covered time starts when the truck driver enters the vehicle until the driver completes the transportation services.
- This time includes time spent driving to the project from the base of operations through the time the truck driver returns to the base of operations after completing the hauling services.

Truck Drivers – Covered by State Prevailing Wage Law

- The method of hire, whether subcontract, purchase order, invoice, or as an employee is immaterial.
- A typical example:
The delivery of hot mix asphalt to a road paving job, where the paving contractor has brokered non owner operator trucking to deliver the material to the project site.

Truck Drivers – Covered by State Prevailing Wage Law

- If the driver is providing material hauling services for multiple projects including non covered and state prevailing wage jobs, the covered time begins at the point where the hauling services end for the unrelated project(s).
- The covered time ends at either the point where the hauling services begin for the non covered project(s) or when the truck driver parks the vehicle if the covered work is the last operation of the day.

Truck Drivers – Covered by State Prevailing Wage Law

- IN GENERAL, when a driver is performing work for the sole intended purpose of the covered project, all time spent is covered under state prevailing wage laws.
- **NOTE: THE DE MINIMIS TIME DOES NOT APPLY**

Truck Drivers – **NOT** Covered by State Prevailing Wage Law

- A driver employed by a material supplier, not by the contractor, to deliver materials to a project site and who performs no other work on the project is not covered.
- Additional Understanding: If the material supplier does not own their own trucks and utilizes broker trucking to deliver their product to the job site and this broker truck has no contractual relationship with an onsite contractor or subcontractor the driver of such trucks are not covered.
- Owner/Operators are not covered

Thank You

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