Updated March 7, 2025 (original February 5, 2025; rev. February 20, 2025)

Tariffs, National Security, and the Electrical Construction Industry

On February 1, 2025, President Trump announced executive actions that have imposed significant, additional trade tariffs on imports from Canada, Mexico, and the People's Republic of China (PRC), citing "extraordinary threat[s] posed by illegal aliens and drugs, including deadly fentanyl". Under the authority of the International Emergency Economic Powers Act (IEEPA), and the National Emergencies Act (NEA), these tariffs target the largest U.S. trade partners, accounting for billions of dollars in imports annually on things such as steel and lumber. Whether or not the courts uphold President Trump's use of the IEEPA remains to be seen.

While aimed at addressing illicit drug trafficking and border security, these tariffs may introduce economic challenges for industries dependent on international supply chains – including electrical construction. Understanding the implications of these policies is crucial for contractors to navigate potential cost increases, project delays, or shifts in material sourcing.

As of February 3, 2025, a one-month delay on implementation for tariffs between both Canada and Mexico was enacted in exchange for U.S. border enhancements.

As of February 4, 2025, China announced that it will implement a 15% tariff on certain types of coal and liquefied natural gas, and a 10% tariff on crude oil, agricultural machinery, large-displacement cars and pickup trucks. These levies are set to take effect on February 10th. China's Ministry of Commerce also announced export controls effective immediately on more than two dozen metal products including tungsten and tellurium; critical minerals used in industrial and defense applications as well as solar cells.

Effective March 4, 2025, the Trump Administration officially enacted tariffs on imports from Mexico, Canada as outlined in the Scope of Tariffs section below and blanket tariffs on China were increases from 10% to 20%. This action aligns with President Trumps' broader "America First Trade Policy" which seeks to boost domestic manufacturing, strengthen national defense, and reduce the trade deficit by leveraging trade policies to support a production-focused economy.

Effective March 5, 2025, tariffs on an estimated 50% of imports from Mexico and 38% of imports from Canada will be exempt until April 2, 2025.

This has been addressed officially from the White House through several Executive Orders.

- **Amendment to Duties to Address the Situation at the Southern Border**
- **Amendment to Duties to Address the Flow of Illegal Drugs Across the Northern Border**
- **Addressing the Threat to National Security From Imports of Timber, Lumber | Fact Sheet**
- **Immediate Expansion of American Timber Production | Fact Sheet**

Two Federal Register orders were published on March 6, 2025:

- [Mexico]
- [Canada]

NECA members should prepare for increased costs of key construction materials. It will be critical for contractors to review existing contracts and consider the potential for cost escalations. Newly bid contracts should include causes or contingencies for material cost increases and potential supply chain disruptions.

In addressing the impact of tariffs within construction contracts, standard contract documents from organizations like the American Institute of Architects (AIA) and ConsensusDocs offer different approaches:

AIA Contract Documents:

- **The AIA's standard contracts, such as the A201–2017 General Conditions, do not explicitly include clauses that address tariffs or material price escalations. Instead, these contracts often rely on the change order process to manage unforeseen cost increases. For example, Section 3.6 of AIA Document A201–2017 stipulates that the contractor is responsible for paying sales, consumer, use, and similar taxes for the work provided. This section does not specifically mention tariffs, potentially leaving contractors exposed to tariff-induced cost increases.**

ConsensusDocs Contract Documents:

- **ConsensusDocs provides a more direct approach to handling material price fluctuations due to tariffs through its ConsensusDocs 200.1 Material Price Escalation Amendment. This standard clause allows for contract price adjustments based on significant changes in material costs, which can result from new or increased tariffs. By incorporating this amendment, parties can establish baseline material prices and agree on mechanisms to adjust the contract sum if prices escalate beyond predefined thresholds.**

Key Considerations:

- **Inclusion of Price Escalation Clauses: Given that standard AIA documents do not typically address tariffs, contractors using these forms may consider negotiating custom price escalation clauses to mitigate the financial risks associated with tariff-induced material cost increases.**
- **Utilizing ConsensusDocs Provisions: For those seeking standardized solutions, the ConsensusDocs 200.1 amendment offers a ready-made clause to address material price volatility, including that caused by tariffs.**

Incorporating appropriate contractual provisions is essential for electrical contractors aiming to manage the financial uncertainties associated with tariffs effectively. Careful selection and negotiation of contract terms can provide a structured approach to handling potential cost escalations.

NECA members are encouraged to work closely with their legal team for all customer-contract matters.

Scope of Tariffs

Effective February 14, 2025, President Trump announced a memo on the administrations "Fair and Reciprocal Plan" to adjust trade tariffs on most economic trading partners with the United States. Although no concrete details of the plan have been released, the memo details that the plan seeks to correct longstanding trade disparities, highlighting areas such as agricultural goods, ethanol tariffs, and automobile tariffs. The administration argues that such disparities contribute to the U.S.'s persistent trade deficit.

Effective February 12, 2025, President Trump signed proclamations to restore tariffs on steel and elevate tariffs on aluminum imports. These imports, including imports from previously exempt countries, will now face full tariff rates. The key provisions include:

- 25% tariff on all imported steel, including downstream products such as fabricated structural steel and prestressed concrete stands.
- 25% tariff on aluminum imports, up from the previous 10%.
- Stricter definitions of "melted and poured" to prevent transshipment and misclassification.
- Termination of all general approved exclusions, limiting exemption-based imports from countries such as Argentina, Australia, Brazil, Canada, Japan, Mexico, South Korea, and the United Kingdom.

Going into effect 12:01am eastern time on February 4th, 2025, goods imported from Canada, Mexico, and China are now subject to additional tariffs under the recent executive actions. Please note, tariffs on imported goods from Canada and Mexico have a one-month delayed implementation. These include:

- 25% tariff on most Canadian and Mexican imports, with a 10% tariff on Canadian energy products and a 10% tariff on all imports from China.
- The Executive Orders do not provide for a product exclusion process, meaning that every imported product from Canada, Mexico and China faces the tariff until otherwise noted by the President. Retaliation Provisions – If Canada, Mexico, or China retaliate with their own tariffs, the President retains the authority to expand or increase duties further.
- On February 1, 2025, Canadian Prime Minister Justin Trudeau announced Canada would impose retaliatory tariffs against the U.S. Canada's Department of Finance and Ministry of Foreign Affairs confirmed it would impose 25% counter-tariffs on U.S. Goods effective on February 4, 2025.
- On February 2, 2025, Mexican President Claudia Sheinbaum ordered her economy minster to implement tariff and non-tariff measures to defend Mexico's interests. While no additional details have been provided, Sheinbaum emphasized that her government did not want confrontation, but rather collaboration and dialogue.
- Trade Policy Flexibility – Tariffs may be lifted, reduced, or further delayed if Canada and Mexico take decisive action to curb illicit drug trafficking.

Impact on Electrical Contractors

The electrical construction industry may face considerable risks due to these tariffs. The most immediate effects may include:

- Increased Material Costs – Essential imports such as copper wiring, electrical panels, and transformers will now be subject to significant cost increases.
- Supply Chain Disruptions – Delays in material procurement could impact project timelines, particularly for contractors working on large-scale infrastructure projects.
- Contractual Challenges – Employers with fixed-price contracts may face significant financial strain if existing agreements do now allow for adjustments due to increased tariffs.
- Shift to Domestic Suppliers – Some employers may seek U.S. based manufacturers to mitigate tariff exposure, though domestic suppliers may not be able to meet increased demand, further inflating prices.

Strategies for Navigating the Tariff Landscape

Employers and industry stakeholders should adopt a proactive approach to mitigate risks associated with these trade policies. Recommended strategies include:

- Diversified Sourcing – Exploring alternative suppliers, including domestic manufacturers or other countries' imports, can help offset price increases.
- Contractual Adjustments – Proactively negotiating cost escalation clauses in new contracts and reviewing existing agreements for provisions like "force majeure" or "change-in-law" to address tariff-related risks.
- Strategic Inventory Management – Utilizing creative strategic inventory management and coordinating with existing third-party vendors may prevent shortages in materials.
- Policy Advocacy – Engaging with policymakers may help to influence future trade negotiations and provide long term economic relief for affected businesses.
- Legal and Financial Consultation – Consult with legal and financial experts to evaluate contracts, ensure compliance, and manage risks effectively.

The NECA Labor Relations and Government Affairs teams will continue to monitor this rapidly changing landscape and provide regular updates to members and the industry.

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