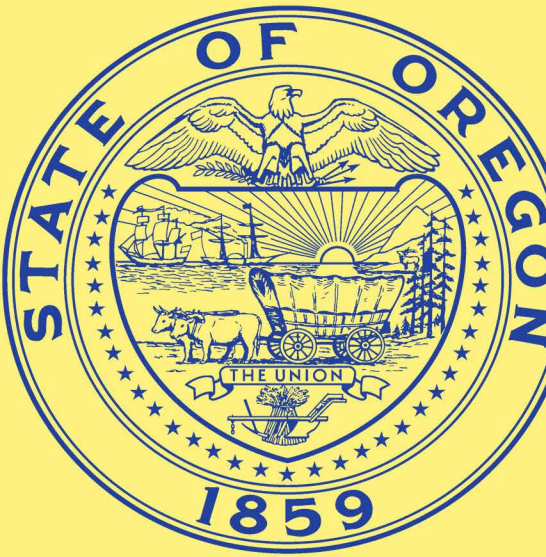
Bureau of Labor
and Industries

Child Labor Laws

A Handbook for Oregon Employers

2012 Edition



Oregon Bureau of Labor and Industries
Technical Assistance for Employers Program

Child Labor Laws

A Handbook for Oregon Employers

2012 Edition
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Oregon Bureau of Labor and Industries
Technical Assistance for Employers Program

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Commissioner

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Bureau of Labor and Industries

Dear Friend of Technical Assistance:

Welcome to the Bureau of Labor and Industries (BOLI)'s all-new handbook, *Child Labor Laws*. Thank you for investing in this convenient manual for human resources professionals, attorneys and managers and employers at all levels.

BOLI is committed to helping Oregon's businesses and employers stay strong and successful. Our primary goal through TA is to help employers and businesses stay in compliance with the law and prevent costly litigation. When the law is known and followed in the first place, it's a win for all Oregonians.

Throughout the year, TA provides a variety of services to support Oregon employers. These services are funded almost entirely through the sales of publications like this one and attendance at public seminars on various employment law topics. Customized, on-site seminars for employers are also an important part of TA's work. Through your support, TA continues to answer 15,000 to 20,000 employer questions via phone and e-mail each year, conduct more than 100 public and private seminars each year, and produce a high-quality, two-day law conference each December.

I hope you find this book to be a helpful tool for understanding and complying with state and federal employment laws. Any feedback you may have should be directed to TA, and be sure to visit www.oregon.gov/boli/ta to learn more about the resources and services that TA has to offer.

Please do not hesitate to contact our offices if you have questions or thoughts to share.

Sincerely,

Brad Avakian, Commissioner
Oregon Bureau of Labor and Industries

A WORD FROM TECHNICAL ASSISTANCE …

Thank you for purchasing this book! Proceeds from the sale of this handbook support the Technical Assistance for Employers Program (TA), a self-supporting program that receives little taxpayer funding.

As an independent unit within the Bureau of Labor and Industries, TA is dedicated to providing the resources, information and training employers need to comply with state and federal labor and employment laws.

TA offers a number of free and low-cost resources for Oregon employers, including fact sheets, employer advice columns, required workplace posters, and personal assistance by telephone and email. Our informative and practical handbook series is currently available for purchase through our website and includes topics like:

- **Civil Rights Laws;**
- **Wage and Hour Laws;**
- **Family and Medical Leave Laws in Oregon;**
- **Recent Changes in Labor and Employment Laws (for 2010-2011);**
- **Employee Classification & Wage and Hour Exemptions;**
- **Policy Writing Guidelines; and**
- **Documentation, Discipline and Discharge**

You can access the seminar descriptions, schedules and registration information for all of our public training sessions online, as well as information about arranging an on-site, customized seminar for your staff.

To contact us, please visit our website at www.oregon.gov/BOLI/TA or call our Employer Assistance line at 971-673-0824.

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BOLI
Technical Assistance for Employers

CONTACTING BOLI

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

The four principal duties of the Bureau of Labor and Industries (BOLI) are to:

(1) Protect the rights of workers and citizens to equal, non-discriminatory treatment through the enforcement of anti-discrimination laws that apply to workplaces, housing and public accommodations;
(2) Encourage and enforce compliance with state laws relating to wages, hours, terms and conditions of employment;
(3) Educate and train employers to understand and comply with both wage and hour and civil rights law; and
(4) Promote the development of a highly skilled, competitive workforce in Oregon through the apprenticeship program and through partnerships with government, labor, business, and educational institutions.

If you have questions or concerns regarding any of these areas, please feel free to contact us!

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PORTLAND	800 NE Oregon St., Ste 1045 Portland 97232	971-673-0761 TTY Relay: 711- Fax: 971-673-0762
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SALEM	3865 Wolverine Ave NE, Bldg E Ste 1 Salem, OR 97305-1268	503-378-3292
www.oregon.gov/BOLI		

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INTRODUCTION

The employment of minors (individuals under the age of 18) is well regulated – and not without good reason. The relative inexperience of minor employees can leave them less able to recognize and effectively manage workplace hazards. By regulating working hours and conditions as well as prohibiting several hazardous occupations, wage and hour laws provide one of the first lines of defense for Oregon's youngest workers.

Both state and federal laws place limitations on the number of hours minors of different ages may work and the various types of work permissible for minor employees. These provisions aim not only to protect the health of young people in the work place, but also to safeguard their well being and educational opportunities outside the workplace.

Violations of these laws can result in substantial civil penalties as well as revocation of an employer's right to hire minor employees. This handbook has been produced by the Technical Assistance for Employers Program in order to help employers understand the requirements of child labor law and to stay in compliance.

CHILD LABOR LAW AT A GLANCE

In general, the same wage and hour requirements that apply to adult employees also apply to minor employees. That said, the provisions of child labor laws (a subset of wage and hour laws) do place additional requirements on employers of minor employees as well as specific restrictions on the kinds of jobs and working hours that are allowed. This section sets out a brief summary of the provisions by which child labor laws *differ* from the general wage and hour requirements applicable to adults.

EMPLOYMENT CERTIFICATES…

(see page 15)

Oregon no longer requires minor employees to obtain an individual employment permit; however, *employers* must apply for and post a validated Employment Certificate in a conspicuous location prior to hiring any minor employee.

AGE VERIFICATION AND RECORDKEEPING…

(see page 16)

Employers must verify the age of each minor hired. Employers must also maintain a list of all minors hired, as well as additional records regarding the work day and maximum allowable hours for minors under 16.

WORKING CONDITIONS…

(see page 21)

Child labor laws place limitations on the hours of work a minor employee may work in a given day or week. Additional restrictions apply to rest and meal period requirements as well as the provision of "adequate work" or "reasonable compensation" to minor employees (page 17).

HAZARDOUS WORK…

(see page 23)

Child labor laws prohibit the employment of minors in specific occupations deemed hazardous. Among these are restrictions which apply to all minor employees as well as a set of additional restrictions which only apply to minors under 16 years of age.

INDUSTRY SPECIFIC RESTRICTIONS…

Child labor laws also set out additional provisions regarding several specific industries where minors may be employed. These include:

- **Agriculture (page 33)**
- **Entertainment (e.g., work in movies, commercials) (page 38)**
- **Canneries (page 31)**
- **Door-to-Door Sales (page 39)**
- **Youth Camps (page 22)**

Employers of minors in any of these industries should refer to the corresponding industry specific sections.

SPECIAL NOTE ON DUAL COVERAGE

Employers who hire minors should be aware that both Oregon and federal laws regulate the employment of minors. The provisions of state and federal law are NOT identical, and where one or the other provides a higher standard on items like child labor restrictions, school attendance standards or minimum ages for certain activities, the more stringent standard will apply.

OREGON CHILD LABOR LAW

All Oregon employers are subject to state wage and hour law.

The Wage and Hour Commission, a three-person board appointed by the governor, is responsible for establishing minimum standards for the work hours and working conditions of minors. ORS 653.305.

The text of Oregon child labor law (a subset of wage and hour law) is found within the Oregon Revised Statutes ("ORS") at 653.305 to 653.370. The Oregon Administrative Rules ("OAR") which implement state child labor law are found at OAR 839, division 021.

These provisions can be accessed online through BOLI's website at www.oregon.gov/BOLI/TA under the headings "Oregon Revised Statutes" and "Administrative Rules."

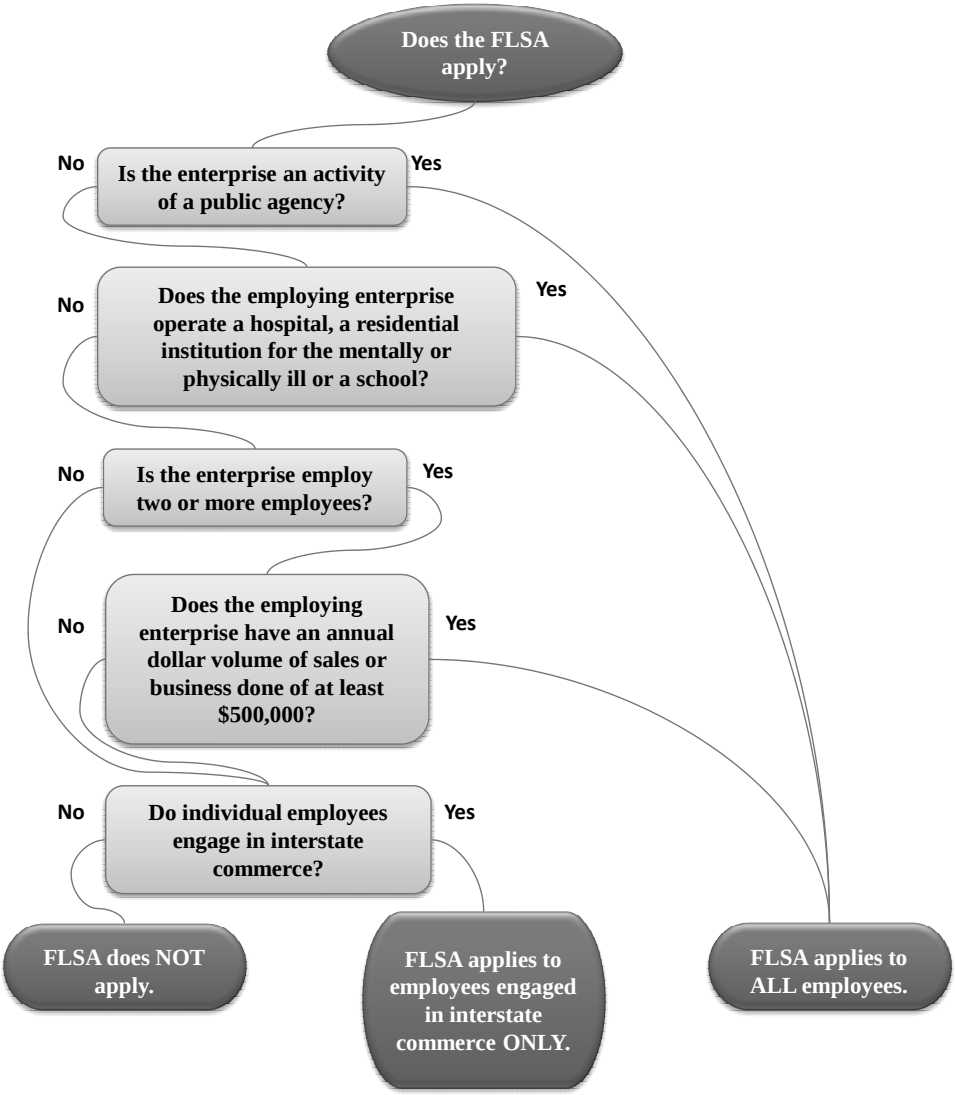
FEDERAL CHILD LABOR LAW

Federal child labor law is authorized by the Fair Labor Standards Act ("FLSA") 29 U.S.C. § 201, *et seq*. Regulations implementing the FLSA are found in the Code of Federal Regulations ("C.F.R.") at 29 C.F.R. § 570.

Not all employment relationships are subject to federal law. The FLSA applies to all employees of enterprises engaged in interstate commerce. These enterprises are those with either an annual dollar volume of business of $500,000 or more or which are engaged in the operation of hospitals; residential care facilities for the aged or physically or mentally ill or disabled; schools; or are a public agency.

The FLSA (as well as its child labor provisions) may also apply to individual employees of an enterprise even if the enterprise, itself, is not subject to federal regulation. Covered employees include any employee engaged in "interstate commerce," a concept which is very broadly interpreted.

The chart below may help to illustrate where the FLSA and its child labor provisions apply.



Employers with questions regarding coverage under the FLSA should contact the U.S. Department of Labor directly at 503-326-3057.

"EMPLOYMENT RELATIONSHIP" REQUIRED

Wage and hour laws, including state and federal child labor laws, apply to employment relationships. Some workers, however, are not considered "employees" and as a result, the obligations and protections of these employment laws do not apply. There are three specific types of workers which are NOT considered employees:

1. **Independent contractors,**
2. **Volunteers, and**
3. **Student interns and trainees.**

INDEPENDENT CONTRACTORS

A person who provides services for remuneration (pay) will be considered an ***employee*** by the courts and state regulatory agencies - unless that individual also meets the criteria required of an independent contractor.

Unfortunately many employers are unaware that specific legal criteria distinguish a *bona fide* "independent contractor" from an "employee." Too often, businesses and workers instead rely on considerations that **do not** create an independent contractor relationship; such as whether:

- **The work was "casual" or a short term assignment;**
- **Payment was made in cash or off the books "under the table";**
- **Payment to the worker is reported by way of a Form 1099 rather than a Form W-2; or**
- **There is a contract in which the worker is identified as an "independent contractor."**

Confusing an employee with an independent contractor can result in some very expensive consequences, including liability for unpaid back taxes, unpaid insurance premiums, unpaid wages and overtime as well as penalties and interest. Employers may be responsible for workers compensation claims and liability for employee benefits or employee negligence.

For purposes of wage and hour law (and child labor laws), BOLI and the courts apply specific legal criteria to the facts of each case to determine whether the worker is an employee. If a worker is dependent upon the alleged

employer in order to be able to provide the services rendered, the worker will be considered an employee.

For additional guidance on making independent contractor classification determinations, you may wish to purchase a copy of Technical Assistance's comprehensive handbook, *Employee Classification & Wage and Hour Exemptions*. Specific information regarding independent contractors under both wage and hour laws as well as the laws enforced by other state agencies is available online at www.oregon.gov/ic.

VOLUNTEERS

Under Oregon's minimum wage and overtime law, the definition of "employ" at ORS 653.010(2) *excludes* "voluntary or donated services performed for no compensation or without expectation or contemplation of compensation as the adequate consideration for the services performed for a public employer, or a religious, charitable, educational, public service or similar nonprofit corporation, organization or institution for community service, religious or humanitarian reasons."

From this, a *bona fide* volunteer need not be paid minimum wage or overtime wages so long as the work performed is:

1. **For no compensation or without expectation of compensation as the adequate consideration for the services performed;**
2. **For community service, religious, or humanitarian reasons; and**
3. **For a public employer or a religious, charitable, educational, public service or similar nonprofit corporation or organization for community service.**

Generally, private or for-profit businesses may not accept the services of volunteers as they do not meet the third criterion listed above. However, a civic-minded employee may volunteer time to a public or non-profit employer under limited circumstances so long as the work performed otherwise meets the requirements listed above and (1) the duties performed are not the same as those performed in the course of the employee's regular employment and (2) the work is performed outside of the employee's normal work hours. OAR 839-020-0046(3).

COMMONLY ASKED QUESTIONS

Q. ***Are there restrictions on the kinds of work that volunteers under 18 years old can perform?***

A. No. Assuming a minor meets the criteria for a volunteer (listed above), there is not an employment relationship, and for that reason, the restrictions of wage and hour law and child labor law do not apply. That said, permitting a minor volunteer to perform hazardous work may still expose a business to potential liability for workplace injuries which may or may not be covered by general liability insurance or your workers' compensation policy. Damages or injuries caused by a minor volunteer performing hazardous work could likewise expose your company to a claim for its failure to adequately select, train, or supervise its volunteer.

STUDENT INTERNS AND TRAINEES

Although both Oregon and federal law define "employ" as "to suffer or permit to work," not everyone who performs work is an employee. Apart from independent contractors and volunteers, the Supreme Court has held that individuals who work for their own advantage on the premises of another without any express or implied compensation agreement are not necessarily employees. The U.S. Department of Labor (DOL) has clarified that student interns and participants in pre-employment training programs need not be considered employees provided the following criteria are continuously met:

1. **The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;**
2. **The training is for the benefit of the trainees or students;**
3. **The trainees or students do not displace regular employees, but work under close supervision;**
4. **The employer that provides the training receives no immediate advantage from the activities of the trainees or students and, on occasion, the employer's operations may even be impeded;**
5. **The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and**

6. **The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.**

BOLI applies these same criteria in determining whether someone is a "trainee" under Oregon's minimum wage, overtime and wage collection laws.

It is important to note, however, that the determination as to whether a student intern or trainee is an employee will depend on all the circumstances surrounding their work activities, and while the courts have generally confirmed that DOL's criteria are relevant, they have not always applied the criteria consistently. In some cases, the courts have found that not all the criteria need be met (promise of employment) or that the focus of the test ought to be weighted toward determining who received the primary benefit of the training. What is clear is that labeling the relationship an "unpaid internship" or "work based training program" has no bearing on whether the work performed is subject to wage and hour law.

School-to-Work Programs …

Students participating in qualifying work based learning programs, including work experience and "school-to-work" programs, under the School-to-Work Opportunities Act of 1994 (STW) need not be considered employees.

A learning experience at an employer's work site that includes all of the following elements is consistent with a learning experience under the STW:

1. A planned program of job training and work experience for the student, appropriate to the student's abilities, which includes training related to pre-employment and employment skills to be mastered at progressively higher levels that are coordinated with learning in the school-based learning component and lead to the awarding of a skill certificate;
2. The learning experience encompasses a sequence of activities that build upon one another, that increase in complexity and promote mastery of basic skills;
3. The learning experience has been structured to expose the student to all aspects of an industry and promotes the development of broad, transferable skills; and,

4. The learning experience provides for real or simulated tasks or assignments which push students to develop higher-order critical thinking and problem-solving skills.

A student enrolled in such programs would not be considered an employee under wage and hour laws provided he or she met all four of the following criteria:

1. The student receives ongoing instruction at the employer's worksite and receives close on-site supervision throughout the learning experience, with the result that any productive work that the student performs is offset by the burden to the employer from the training and supervision provided; and
2. The placement of the student at a worksite during the learning experience does not result in the displacement of any regular employee -- i.e., the presence of the student at the worksite may not result in an employee being laid off, may not result in the employer not hiring an employee it would otherwise hire, and may not result in an employee working fewer hours than he or she would otherwise work; and
3. The student is not entitled to a job at the completion of the learning experience -- but this does not mean that employers are to be discouraged from offering employment to students who might successfully complete the training; and
4. The employer, student, and parent or guardian understand that the student is not entitled to wages or other compensation for the time spent in the learning experience -- although the student may be paid a stipend for expenses such as books or tools.

Practice Points

Keep in mind that students may be considered employees and subject to both state and federal wage and hour laws if, among other things:

1. **They provide essential services to the employer; or**
2. **They are working in a position where someone is normally paid; or**
3. **There is a history of paying someone to do the same or similar work; or**

4. **Other people are currently paid for the same or similar work.**

Be sure to closely monitor the activities performed by student interns or trainees within your operation, and make sure the emphasis stays on providing a transferable, educational experience.

EXEMPTIONS TO CHILD LABOR LAW

Young workers who are deemed employees may still qualify for one of several specific exemptions to the requirements of child labor laws (including the provisions on recordkeeping, hours of work, and prohibited occupations). Keep in mind, however, that an exemption from child labor law does not relieve an employer from meeting the requirements of other employment laws, like minimum wage, overtime, working conditions and wage collection laws.

SPECIFIC OCCUPATIONAL EXEMPTIONS

State and federal laws specifically exempt employers of minors from child labor laws with regard to employment in the following work or occupations:

- **DOMESTIC WORK or chores undertaken in or about a private residence. OAR 839-021-0500. Federal coverage does not extend to young entrepreneurs who use the family lawnmower to cut their neighbor's grass or perform babysitting *on a casual basis only*. Questions on federal coverage should be directed to the U.S. Department of Labor directly at 503-326-3057.**
- **NEWSPAPER CARRIERS OR VENDORS, including stuffing and folding of newspapers which is done in service of the minor's own newspaper sales or delivery to individual customers. Folding and stuffing of newspapers which is done only at the employer's place of business, or the folding and stuffing of newspapers for other carriers or vendors is NOT exempt from child labor laws. OAR 839-021-0500; 29 C.F.R. § 570.124.**
- **SOCCER REFEREES. Under Oregon law, persons under 18 years of age serving as a referee or assistant referee in a youth or adult recreational soccer match are exempt under both the child labor and minimum wage laws because they are considered independent contractors. ORS 670.610; OAR 839-021-0500. NOTE: Federal law does not provide a similar exemption. Any employer subject to the FLSA will need to ensure the employment of minors as soccer referees conforms with the requirements of federal law.**

PARENTAL AND FAMILY EXEMPTIONS

Federal law allows parents to employ their own children in any occupation except those that have been declared hazardous by the Secretary of Labor. Federal law places additional restrictions on parents of minors who are under 16 by prohibiting employment not only in occupations declared hazardous but also in manufacturing, construction, and mining occupations. 29 U.S.C. § 203(l).

Under Oregon law, parents who employ their own children must comply with the same requirements that apply to all other employers of minors, including:

- **Obtaining Employment Certificates (for minors 14–17) and employment permits (for minors under the age of 14) for non-agricultural employment,**
- **Complying with the maximum hours provisions of the Child Labor law, and**
- **Paying no less than the minimum wage as well as overtime for all hours work in excess of 40 in a workweek.**

Parents may apply to the Wage and Hour Commission for special permits to employ their children to work at later times than are otherwise permitted by law but may not employ their children to work more hours than the law permits.

A minor may be employed by a parent or person standing in place of the parent in agriculture to operate power-driven farm machinery without an employment certificate.[1] OAR 839-021-0276(1)(d). Minors who are employed by an agricultural employer who is an immediate family member are exempt from the payment of minimum wage. ORS 653.020(1)(b). See the "*Employment of Minors in Agriculture*" section below.

Under ORS 653.365, parents are exempt from the imposition of civil penalties for any violation of child labor laws. Oregon law does not, however, provide

[1] Non-parental agricultural employers only need an Employment Certificate if the minor will be operating power-driven farm machinery. See the section on *EMPLOYMENT OF MINORS IN AGRICULTURE* for details.

a parental exemption from criminal sanctions. Under ORS 653.991, any violation of child labor laws or Wage and Hour Commission rules is punishable as a misdemeanor.

HIRING MINORS

The process of hiring a minor employee is very much like the process for hiring an adult employee. There are, however, three additional administrative requirements which pertain to the employment of any minor:

1. **Obtaining an annual Employment Certificate;**
2. **Verifying the applicant's age; and**
3. **Meeting special posting / recordkeeping requirements.**

NOTE: There are additional conditions placed on the employment of minors under 14 years of age and for specific industries like door to door sales and the entertainment industry (see relevant sections below).

ANNUAL EMPLOYMENT CERTIFICATE

Employers who employ minors 14–17 years of age must first obtain an Employment Certificate from the Child Labor Unit of the Bureau's Wage and Hour Division. This employment certificate is renewable annually. Individual work permits are not required for minors ages 14 through 17, but employers are required to verify the ages of all minors hired.

Employment Certificate applications may be obtained from the Bureau's website at www.oregon.gov/boli or by calling BOLI's Child Labor Unit at 971-673-0836. Yearly renewal applications are sent to employers who have been issued an Employment Certificate. Each employer who applies for an employment certificate receives a summary of state and federal child labor laws. ORS 653.307.

The Employment Certificate application requires: the name and address(es) of the employer and the company representative who completes the application, an estimate of the number of minors to be employed during the year, the ages of the minors anticipated to be employed, and a description of the duties to be performed, including any equipment or machinery to be operated by minors. If any changes in the duties or equipment to be operated are made after the Employment Certificate is issued, the employer must complete and submit a "Notice of Change in Duties" form. OAR 839-021-0220(2)(b).

BOLI's Process for Issuing Employment Certificates

BOLI's Child Labor Unit reviews each Employment Certificate application. If the proposed employment complies with state and federal child labor regulations, the Bureau will issue a validated Employment Certificate to the employer. The validated certificate must be posted in a conspicuous location where employees may easily review it. If the employer employs minors at multiple sites, a copy of the Employment Certificate must be posted at each site.

If the employment proposed by the employer in the Employment Certificate application appears not to comply with state or federal law, the employer will be contacted by the Child Labor Unit. Sometimes the Employment Certificate is issued with restrictions relating to the work which may be performed by minors.

EMPLOYMENT PERMITS FOR MINORS UNDER 14

Oregon's Wage and Hour Commission has authorized the Bureau's Wage and Hour Division to issue employment permits to children under 14 years of age under limited circumstances. The permit authorizes the child to work for one particular employer and then only when the federal FLSA does not apply. ORS 653.320. Authorized occupations and hours are very restricted for this age group. OAR 839-021-0246.

The application for an Employment Permit for a minor under 14 are available from the BOLI's website at www.oregon.gov/boli or by contacting BOLI's Child Labor Unit at 971-673-0836.

Federal law does not generally permit the employment of minors under 14 years of age in non-agricultural employment.

AGE VERIFICATION

When an employer hires a minor, the employer must require the minor to produce an acceptable document that verifies his or her age, such as a birth certificate or hospital birth record, driver's license or state-issued photo ID card, passport, alien registration card, U.S military card, certificate of U.S. citizenship, or a baptism record that includes the minor's date of birth. Records must be maintained to show that the employer has met this

requirement. A notation in the employee's personnel file of which document was used to verify the minor's age or a copy of the document will meet the recordkeeping requirement. OAR 839-021-0185.

POSTING / RECORDKEEPING REQUIREMENTS

In addition to records and postings required for employers of adult employees, there are several additional requirements which apply to all employers of minors.

A LIST OF ALL MINORS EMPLOYED

Oregon law requires employers to maintain a list of all minors employed. ORS 653.310; OAR 839-021-0170.

In addition to the minor employee's full name (as used for social security recordkeeping purposes) the employer's records are required to contain the following information for each minor employed:

- **Any identifying symbol or number if such is used in place of name on any time, work or payroll records;**
- **Home address, including zip code;**
- **Date of birth;**
- **Sex;**
- **Occupation in which the minor is employed;**
- **Time of day and day of week on which the minor's workweek begins;**
- **Hours worked each workday and total hours worked each workweek; and**
- **Date the minor became employed by the employer and date employment was terminated.**

For minors under 16 years of age, employers must also maintain and preserve records containing:

- **The time of day that each minor began working and the time of day that each minor stopped working; and**

- **A schedule of the maximum number of hours to be worked each day and each week by each minor.**

OAR 839-021-0170.

POSTING REQUIREMENTS

In addition to general postings required for all employers, employers of minors under the age of 16 must also post the schedule of maximum hours of work (required by OAR 839-021-0170(2)(b)) in a conspicuous place where minor employees may regularly view it. OAR 839-021-0180.

RECORDS AVAILABILITY

Any record required to be maintained under child labor law must be preserved for two years. The record must be kept in a safe place which is readily accessible; the records must be made available for inspection and or transcription by the Bureau.

PAYMENT OF WAGES

The state minimum wage and overtime requirements for minors are the same as for adults. Where there is a conflict between state and federal law, the standard most beneficial to the employee will apply.

MINIMUM WAGE

Although federal law allows a "training wage" of less than the federal minimum wage rate to be paid to workers under the age of 20 during their first 90 consecutive calendar days of employment with an employer, Oregon law does not allow the payment of such a training wage. Unless otherwise exempt from state law, all minors employed must be paid no less than the state minimum wage.

Minors who are immediate family members of an agricultural employer are exempt from the payment of minimum wage. ORS 653.020(1)(b).

OVERTIME FOR MINOR EMPLOYEES

Employees under 18 years of age must be paid time and one-half their regular rates of pay for any overtime hours worked, just like their adult counterparts. There are, however, additional restrictions on the number of hours minors of various ages are permitted to work. See "*Working Conditions for Minor Employees*" below. OAR 839-021-0067 and -0070.

ADEQUATE WORK OR "SHOW-UP PAY"

An employer may not require a minor to report for work without providing adequate work to earn a "reasonable compensation" or paying the minor a reasonable compensation in lieu of providing adequate work.

Adequate work is defined as sufficient work to earn at least one-half the amount the minor would have earned at the minor's regular rate had the minor worked the hours to which the minor and employer previously agreed.

Reasonable compensation means the greater of the amount the minor receives for one hour of work at the minor's regular rate of pay or the amount determined by multiplying the minor's regular rate of pay by one-half the number of hours the minor and employer agreed the minor would work.

The requirement to provide "adequate work" does not apply if a minor was provided notice not to report to work and ALL the following conditions are met:

- **The employer has a policy describing how notice not to report to work will be provided to minors; and**
- **The policy is posted in a conspicuous place frequented by employees at the worksite where the minor is employed; and**
- **The employer communicates this policy to the minor prior to the minor's first day of work; and**
- **The employer makes a good faith attempt to follow its policy so as to give the minor notice before the minor must leave home to travel to work; or**
- **When circumstances beyond the employer's control prevent the performance of the work the minor was to perform during the hours the minor had agreed to or was scheduled to work. Such circumstances include, but are not limited to, acts of nature (snowstorms, flooding, etc.), emergencies (fires, power outages, etc), and unforeseeable equipment failures.**

OAR 839-021-0087(5), (6) and (7).

WORKING CONDITIONS

One of the primary differences between adult and minor employees is the limitations placed on the hours of work a minor employee may work in a given day or week.

HOURS OF WORK FOR MINORS AGES 16 AND 17

Although 16 and 17-year-old employees are free to perform work at any time of day, they may not be required to work more than 44 hours in any one workweek unless their employer has obtained a special emergency overtime permit from the Wage and Hour Commission. OAR 839-021-0067.

Minors employed in canneries may not work longer than 10 hours in any one day without a special permit.

HOURS OF WORK FOR MINORS AGES 14 AND 15

General Limitation

Fourteen and 15-year-olds may not work during school hours when school is in session.

Daily Limitations

During the school year, 14 and 15-year-olds may work up to 3 hours per day on school days and up to 8 hours per day when school is not in session. Work must be performed between the hours of 7 AM and 7 PM.

During the summer, specifically, June 1 through Labor Day, a minor employee may work up to 8 hours per day. Work must be performed between the hours of 7 AM and 9 PM.

Weekly Limitations

During the school year, 14 and 15-year-olds may work up to 18 hours per week.

During summer (June 1 through Labor Day), 14 and 15-year-olds may work up to 40 hours per week. OAR 839-021-0070; 29 C.F.R. 570.35.

Limitations on Employment in Youth Camps

Minors 14 and 15 years of age employed in youth camps may not work before the hours of 6 AM or past 10 PM and may not work more than 8 hours per day. OAR 839-021-0097.

REST PERIOD REQUIREMENTS

Paid rest periods of at least 15 minutes must be provided for ***all*** minors during each work period of four hours or the major part of four hours. If possible, breaks should be given approximately midway in the work period. The Wage and Hour Commission may exempt an employer from the rest period rule if good cause is shown. OAR 839-021-0072(3) and (4).

REQUIRED MEAL PERIODS

Meal periods of at least 30 minutes must begin no later than five hours and one minute after the minor reports for work. This time is not required to be paid if the employee is relieved of all duty. Sixteen and 17-year-old employees may be required to remain on duty or on call while eating their meal, but this is only permissible when the nature of the work prevents the minor from being relieved of all duty. In this case, the time must be paid. OAR 839-021-0072(2). If the minor is under 16 years of age, he or she *must be* relieved of all duty during meal periods.

WEIGHT LIFTING RESTRICTIONS

No minor may be required to lift excessive weights. Complaints of violations of this rule are investigated on a case by case basis. OAR 839-021-0092.

PROHIBITED EMPLOYMENT

Both state and federal law prohibit the employment of minors in certain occupations or operations deemed hazardous. Among these are restrictions which apply to all minor employees, as well as a set of additional restrictions which apply to minors under 16 years of age only.

Prohibited activities for non-agricultural occupations also apply to agricultural work under state law, however, there a number of special exceptions. For specifics, see the "*Employment of Minors in Agriculture*" section below. OAR 839-021-0285.

PROHIBITED EMPLOYMENT: ALL MINORS (Hazardous Occupations Orders)[2]

The following 17 occupations and operations have been declared by the U.S. Department of Labor to be particularly hazardous for all minors, or detrimental to their health and well-being, regardless of whether the minor is employed by a parent or person standing in the place of a parent.

1. **Manufacturing and storing of explosives. (Oregon law further prohibits the employment of minors in occupations where explosives are used).**
2. **Motor-vehicle driving and outside helper on a motor vehicle.**
3. **Coal mining.**
4. **Occupations in forest fire fighting, forest fire prevention, timber tract operations, forestry service, logging, and sawmilling.**
5. **[†] Power-driven woodworking machines.**

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[2] The full text of these orders as adopted by state law may be found in 29 C.F.R. § 570.50-68. Explanatory summaries of these orders have been adapted from *Child Labor Bulletin 101, WH-1330* (available online at www.dol.gov) and included as an appendix to this volume.

[†] Exemptions for hazardous occupations nos. 5, 8, 10, 12, 14, 16, and 17 are provided for 16 and 17-year-old apprentices and student-learners so long as they meet the requirements for "student-learners" and "apprentices" described in the Appendix.

6. **Exposure to radioactive substances.**
7. **Power-driven hoisting apparatus, including forklifts.**
8. **† Power-driven metal-forming, punching, and shearing machines.**
9. **Mining, other than coal mining.**
10. **† Operating power-driven meat processing equipment, including meat slicers and other food slicers, in retail establishments (such as grocery stores, restaurants kitchens and delis) and wholesale establishments, and most occupations in meat and poultry slaughtering, packing, processing, or rendering.**
11. **Power-driven bakery machines including vertical dough or batter mixers.**
12. **† Power-driven balers, compactors, and paper processing machines.**
13. **Manufacturing bricks, tile, and kindred products.**
14. **† Power-driven circular saws, bandsaws, chain saws, guillotine shears, wood chippers, and abrasive cutting discs.**
15. **Wrecking, demolition, and shipbreaking operations.**
16. **† Roofing operations and all work on or about a roof.**
17. **† Excavation operations.**

These hazardous occupations apply either on an industry basis, specifying the occupations in the industry that are not permitted, or an occupational basis irrespective of the industry in which they are found.

Oregon law adopts the federal Hazardous Occupations Orders within state law and applies them to ***all minors under the age of 18***. OAR 839-021-0104; 29 C.F.R. 570.50-570.68.

In addition to these hazardous occupations, occupations as messengers or delivery persons before 5 a.m. or after 10 p.m. are also prohibited for all minors under 18 years of age under Oregon law. ORS 653.340.

PROHIBITED EMPLOYMENT: MINORS UNDER 16

Both state and federal law provide additional restrictions (beyond the hazardous occupations described above) for 14 and 15-year-old minor employees.

REMINDER: Unless exempt from federal law, employers are required to apply the more restrictive standard of either state or federal law.

For example, federal law permits the employment of certain minors between the ages of 14 and 18, who have been excused from compulsory school attendance, within places of business where machinery is used to process wood products. State law, however, prohibits the employment of minors under 16 in a workshop or any premise, room or place where power-driven machinery is used (OAR 839-021-0102(2)(v)). Employers would need to apply the more restrictive standard for minors under 16 which prohibits minors from working in places where power-driven machinery is in use – even if the minor is not operating, or assisting in the operation of power-driven machines.

IN ORDER TO DETERMINE whether a given occupation or type of work is permitted for a minor under the age of 16:

1. **Check the federal list of occupations that MAY be performed by minors under 16 (below).**
2. **If the occupation or activity does not fit squarely within one of the permitted occupations, minors under 16 may NOT perform that duty if the employment is subject to the FLSA.**
3. **If the occupation or activity appears to fit within one of the permitted occupations, (or the employment is not subject to federal law), proceed to verify that the it does not appear within:**
   a. **the hazardous occupations listed in the previous section;**
   b. **the federal list of *prohibited* occupations for minors under 16; or**

   c. **the state restrictions on the employment of minors under 16.**[3]

4. **If the occupation or activity appears on any of the lists named above in step 3, minors under 16 may NOT perform that duty.**

Keep in mind that restrictions on the total number of daily and weekly hours a minor may work and restrictions on the schedule a minor may work will apply to any work permitted for minors (see section on working conditions above).

1. Occupations that MAY be performed by minors under 16

(29 C.F.R. 570.34)

1. Office and clerical work, including operation of office machines.
2. Work of an intellectual or artistically creative nature such as but not limited to computer programming, the writing of software, teaching or performing as a tutor, serving as a peer counselor or teacher's assistant, singing, the playing of a musical instrument, and drawing.
3. Cooking with electric or gas grills that do not involve cooking over an open flame and with deep fat fryers that are equipped with and utilize devices that automatically lower and raise the baskets into and out of the oil or grease. **NOTE:** This section does NOT permit cooking with equipment such as rotisseries, broilers, pressurized equipment including fryolators, and cooking devices that operate at extremely high temperatures such as "Neico broilers."
4. Cashiering, selling, modeling, art work, work in advertising departments, window trimming and comparative shopping.
5. Price marking and tagging by hand or by machine. assembling orders, packing and shelving.
6. Bagging and carrying out customer orders.
7. Errand and delivery work by foot, bicycle, and public transportation. Except such youth may not be employed by a public messenger service.
8. Cleanup work, including the use of vacuum cleaners and floor waxers, and the maintenance of grounds, but not including the use of power-driven mowers, cutters, trimmers, edgers, or similar equipment.

[3] If the occupation or activity is agriculture, see also the section below on agricultural employment. Unless specifically stated otherwise, prohibited activities for non-agricultural work also apply to agricultural work. OAR 839-021-0285.

9. Kitchen work and other work involved in preparing and serving food and beverages, including operating machines and devices used in performing such work. Examples of permitted machines and devices include, but are not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, coffee grinders, automatic coffee machines, devices used to maintain the temperature of prepared foods (such as warmers, steam tables, and heat lamps), and microwave ovens that are used only to warm prepared food and do not have the capacity to warm above 140° F.
10. Cleaning kitchen equipment. Minors are permitted to clean kitchen equipment (not otherwise prohibited), remove oil or grease filters, pour oil or grease through filters, and move receptacles containing hot grease or hot oil, but only when the equipment, surfaces, containers and liquids do not exceed a temperature of 100°F.
11. Cleaning vegetables and fruits, and the wrapping, sealing, labeling, weighing, pricing, and stocking of items, including vegetables, fruits, and meats, when performed in areas physically separate from a freezer or meat cooler.
12. Loading onto motor vehicles and the unloading from motor vehicles of the light, non-power-driven, hand tools and personal protective equipment that the minor will use as part of his or her employment at the work site; and the loading onto motor vehicles and the unloading from motor vehicles of personal items such as a back pack, a lunch box, or a coat that the minor is permitted to take to the work site. Such light tools would include, but not be limited to, rakes, hand-held clippers, shovels, and brooms. Such light tools would not include items like trash, sales kits, promotion items or items for sale, lawn mowers, or other power-driven lawn maintenance equipment. Such minors would not be permitted to load or unload safety equipment such as barriers, cones, or signage.
13. The occupation of lifeguard (15-year-olds but not 14-year-olds) at traditional swimming pools and water amusement parks (including such water park faculties as wave pools, lazy rivers, specialized activity areas, and baby pools, but not including the elevated areas of water slides) when properly trained and certified in aquatics and water safety by the American Red Cross or a similar certifying organization. No youth under 16 years of age may be employed as a lifeguard at a natural environment such as an ocean side beach, lake, pond, river, quarry, or pier.

14. Employment of certain youth under specified conditions inside and outside of establishments where machinery is used to process wood products.[4]

2. Occupations specifically PROHIBITED for minors under 16 years of age under federal law

(29 C.F.R. 570.33)

1. Any manufacturing occupation.
2. Any mining occupation.
3. Most processing occupations such as filleting of fish, dressing poultry, cracking nuts, developing of photographs, laundering, bulk or mass mailings (except certain occupations expressly permitted as discussed below).
4. Occupations requiring the performance of any duties in workrooms or workplaces where goods are manufactured, mined or otherwise processed.
5. Any occupation found and declared to be hazardous by the secretary of labor (See Hazardous Occupations Orders above).
6. Occupations involved with the operating, tending, setting up, adjusting, cleaning, oiling or repairing of hoisting apparatus.
7. Work performed in or about boiler or engine rooms or in connection with the maintenance or repair of the establishment, machines, or equipment.
8. Occupations involved with the operating, tending, setting up, adjusting, cleaning, oiling or repairing or of any power-driven machinery, including, but not limited to, lawnmowers, golf carts, all-terrain vehicles, trimmers, cutters, weed-eaters, edgers, food slicers, food grinders, food choppers, food processors, food cutters, and food mixers. Minors age 14 and 15 may operate most office machinery.
9. The operation of motor vehicles or service as helpers on such vehicles.
10. The riding on a motor vehicle inside or outside of an enclosed passenger compartment except as permitted above.
11. Outside window washing that involves working from window sills.
12. All work requiring the use of ladders, scaffolds, or their substitutes.

[4] Note however, that *state law* prohibits the employment of minors under 16 in a workshop or any premise, room or place where power-driven machinery is used. OAR 839-021-0102(2)(v).

13. All baking and most cooking activities except as permitted above.
14. Work in freezers and meat coolers and all work in the processing of meat for sale; however, youth are permitted to occasionally enter freezers only momentarily to retrieve items.
15. Youth peddling, including not only the attempt to make a sale or the actual consummation of a sale, but also the preparatory and concluding tasks normally performed by a youth peddler, such as the loading and unloading of motor vehicles, the stocking and restocking of sales kits and trays, the exchanging of cash and checks with the employer, and the transportation of the minors to where the sales will be made.
16. Loading and unloading of goods or property onto or from motor vehicles, railroad cars, and conveyors, except as permitted above.
17. Catching and cooping of poultry in preparation for transport or for market.
18. Public messenger service.
19. Occupations in connection with:
    a. Transportation of persons or property by rail, highway, air, on water, pipeline, or other means.
    b. Warehousing and storage.
    c. Communications and public utilities.
    d. Construction (including repair).

    Except 14 and 15 year olds may perform office or sales work in connection with a., b., c., and d. above when not performed on transportation media, on an actual means of transportation, or at the actual construction site.

3. Occupations specifically PROHIBITED for minors under 16 years of age by Oregon law

(OAR 839-021-0097 to -0102)

NO MINOR UNDER 16 YEARS OF AGE:

1. **May be employed in an occupation or type of work declared hazardous by the commission (see OAR 839-021-0102);**
2. **May be assigned any duties in connection with an organized youth camp prior to 6 AM or after 10 PM, or more than eight hours per day;**

3. **May be employed to act as a canvasser, peddler or "outside salesperson" as defined in ORS 653.010(7), from house to house.**

In addition to the foregoing restrictions, workers younger than 16 are not permitted to work in any of the following industries or occupations:

Baking;
Blast furnaces;
Breweries;
Bridge operations;
Briquette plants;
Building cleaning (exterior);
Canvassing door-to-door;
Cattle handling;
Coal plants or bunkers;
Cold storage plants;
Commercial docks;
Construction;
Cooking (except cooking with a gas or electric grill that does not have an open flame, using a microwave to warm food, or using a deep fryer that is equipped with a device that automatically raises and lowers the basket);
Creosoting works;
Distilleries;
Electric power plants, lines;
Electric light plants, lines;
Engineering works;
Fire fighting;
Foundries;
Garbage works;
Gas works;
Grain elevators;
Gravel, sand pit or bunker;
Ice plants;
Kitchen cleaning of equipment when the surface is hotter than 100 degrees Fahrenheit or filtering or disposing of cooking oil or grease that is hotter than 100 degrees Fahrenheit;
Land clearing with blasting or heavy equipment;
Logging operations;
Longshoring;
Lumber loading;
Mechanical amusements;
Milk condenseries;
Mines;
Moving buildings, bridges, and structures;
Peace officer work;
Powder works;
Quarries;
Railroads;
Reduction works;
Rock crusher;
Smelters;
Stockyards;
Surveying;
Tanneries;
Tree surgery;
Well digging, drilling;
Window cleaning outside;
Wineries; and
Woodcutting, sawing.

Minors under 16 may not be employed IN ANY ROOM OR AREA CONTAINING POWER-DRIVEN MACHINERY in the following industries:

Boat repair shops;
Canneries;
Chop mills;
Creameries;
Cycle repair shops;
Electrotyping plants;
Engraving plants;
Factories (manufacturing, repair, alteration);
Feed mills;
Flour mills;
Garages;
Grain warehouses;
Irrigation works;
Laundries;
Lithographing plants;
Mills;
Motor repair shops;
Photoengraving plants;
Printing plants;
Shipbuilding operations; and
Stereotyping plant

Minors under 16 MAY NOT work on any premises or in any room or place where power-driven machinery is used for the purpose of adapting goods for sale.

Minors under 16 may not be employed in the following industries EXCEPT IN THE OFFICE:

Auto wrecking yards;
Junk dealers;
Motor vehicle (transportation);
Lumbering; and
Water works.

PARTIAL PROHIBITIONS IN SPECIAL EMPLOYMENT SITUATIONS

PUBLIC MESSENGER SERVICE. Federal law prohibits public messenger service altogether for minors 14 and 15 years old. 29 C.F.R. 570.33(d). Oregon prohibits all minors under 18 from serving as public messenger service or delivery persons *before 5 AM or after 10 PM*. ORS 653.340.

COMMERCIAL WHARVES OR DOCKS. A partial prohibition on work on or around any unenclosed commercial wharves or docks or in any unenclosed buildings extending over water applies to all minors unless:

1. **There is located at the site of the work and conspicuously displayed at such site adequate safety equipment including, but not limited to:**

   a. **For every 30 linear feet of unenclosed area no less than one Type IV personal flotation device containing 16.5 pounds of buoyancy and one polypropylene line no less than 30 feet in length attached thereto;**

   b. **No less than one pole of not less than ten feet in length with a blunt hook attached thereto; and**

2. **The minors have been adequately instructed in the use of such equipment;**

3. **There is provision made that no minor employee ever be required to work out of sight and hearing of another employee; and**

4. **There is located at the site of the work and conspicuously displayed an alarm device adequate to alert all employees on the job site to the existence of a perilous situation.**

OAR 839-021-0097

FISHING VESSELS. A partial prohibition on employment on or around fishing vessels applies to all minors except under the following conditions:

1. **Minors of 16 and 17 years of age may be employed as assistants on chartered fishing or pleasure boats;**

2. **Minors of 14 and 15 years of age may be employed at dock areas used by chartered fishing or pleasure boats; and**

3. **Minors may be employed on commercial fishing vessels without an employment certificate when employed and supervised by the minors' grandfather, grandmother, father, mother, brother, sister, uncle, or aunt.**

OAR 839-021-0097

INDUSTRY SPECIFIC PROVISIONS

EMPLOYMENT OF MINORS IN AGRICULTURE

Unless specifically excluded, all rules pertaining to the non-agricultural employment of minors also apply to the employment of minors in agriculture. This includes all the rules pertaining to rest periods, meal periods, working conditions and weight lifting as well as the prohibitions on employment in hazardous occupations for all minors and those pertaining to minors under 16 years of age.

This section of the handbook will describe the points at which the requirements for employment of minors in agriculture *differ* from those set out under child labor laws for non-agricultural employment. As before, when state and federal laws address the same issue, the stricter standard applies.

NOTE: The U.S. Department of Labor (USDOL) has recently proposed amendments to its regulations regarding the employment of minors in agriculture. While no changes have been adopted as of this writing, the proposed changes could among other things impact:

- **CERTIFICATION PROGRAMS** for 14-15 year old minors to use tractors and other power-driven equipment on the farm – certification programs administered by 4-H, FFA and Voc Ag Extension programs would no longer qualify;
- **DRIVER LICENSES** may be required for a minor employee to drive a tractor across a public road;
- **ANIMAL HUSBANDRY,** handling, confining and herding may be prohibited for minors under 16 years of age; and
- **CONSTRUCTION,** including working at heights over 6 feet may also be prohibited.

TA will post notice of any relevant changes to USDOL's regulations online at www.oregon.gov/BOLI/TA.

ANNUAL EMPLOYMENT CERTIFICATE

The requirement to obtain an annual employment certificate does NOT apply to employers of minors in agriculture **UNLESS** a minor is employed to:

1. **operate or assist in the operation power-driven farm machinery;**
2. **ride in or on power-driven farm machinery; or**
3. **ride in or on equipment, trailers, or similar conveyances connected to power-driven farm machinery for the purpose of transporting, sorting, delivering, or otherwise processing farm products.**

Employment certificates are not required if a minor is employed by their parent or person standing in the place of their parent. OAR 839-021-0276.

AGE VERIFICATION

Nothing in the rules for agricultural employment of minors relieves employers of the requirement to verify the age of minor employees. Verification of age is specifically required for minors to be employed to operate, assist in the operation of, or ride in or on power-driven farm machinery. OAR 839-021-0280(3).

PARENTAL / FAMILY EXEMPTIONS IN AGRICULTURE

Minors of any age may work at any time in any occupation on a farm owned or operated by their parents or a person standing in the place of their parent. OAR 839-021-0297.

The parent, spouse, child or other member of the agricultural employer's immediate family are exempt from both minimum wage and overtime. ORS 653.020(1)(b).

MINIMUM AGE REQUIREMENTS FOR AGRICULTURAL EMPLOYMENT

Minors age 16 and above may work at any time in jobs not declared hazardous by the Secretary of Labor (USDOL).

Minors ages 14 and 15 may work outside school hours in jobs not declared hazardous by the Secretary of Labor (USDOL).

Minors ages 12 and 13 may work outside school hours in jobs not declared hazardous either with written parental consent or on the same farm where their parents are employed.

Minors ages 9 through 11 may pick berries and beans outside school hours if the child has the written consent of his/her parents or guardians and ONLY if the farm has used fewer than 500 man days of labor in all calendar quarters of the preceding year OR the produce is sold within the state AND the produce is not transported outside the state in any form. The container must be distinctly marked so as to prevent the product from entering interstate commerce.

Local minors ages 10 and 11 may hand harvest short-season crops outside school hours for no more than eight weeks between June 1 and October 15 IF their employers have obtained special waivers from the Secretary of Labor (USDOL).

HOURS LIMITATIONS IN AGRICULTURAL EMPLOYMENT FOR MINORS UNDER 16

Minors under age 16 may not work while school is in session. A maximum of three hours/day may be worked on school days; 10 hours/day on non-school days; and a maximum of 25 hours/week may be worked during school weeks.

During the summer months or other school vacation periods of one week or more, a maximum of 10 hours/day and 60 hours/week may be worked unless a special permit is first obtained from the Wage and Hour Commission. No more than six days/week may be worked. OAR 839-021-0290(2).

Minors under age 16 employed to operate, assist in the operation of, or ride in or on power-driven farm machinery may work a maximum of eight hours/day on non-school days; and 18 hours/week during school weeks. During the harvest season (summer months), a maximum of 10 hours/day and 60 hours/week may be worked unless a special permit is first obtained from the Wage and Hour Commission. Outside the harvest season, a maximum of 44 hours/week is allowed without an emergency overtime permit. Minors under 16 years of age may not be employed to work more than six days/week. OAR 839-021-0290(3).

There is no restriction on daily starting and stopping times for minors employed in agriculture, so long as the minor does not work when school is in session. OAR 839-021-0290(5); OAR 839-021-0292(4).

HOURS LIMITATIONS IN AGRICULTURAL EMPLOYMENT FOR MINORS OVER 16

Minors 16 and 17 years of age who are employed to operate, assist in the operation of, or ride in or on power-driven farm machinery may work a maximum of 25 hours/week during school weeks and 60 hours/week during the harvest season unless a special permit is first obtained from the Wage and Hour Commission. OAR 839-021-0292(1). Emergency and special overtime permits may be obtained by applying to the Wage and Hour Commission in care of the Bureau of Labor and Industries. OAR 839-021-0292(3).
Minors 16 and 17 years of age who are employed to operate, assist in the operation of, or ride in or on power-driven farm machinery may not be employed to work more than six days/week.

FARM MACHINERY OCCUPATIONS

Employers who employ minors in agricultural employment are not required to obtain an employment certificate unless they employ minors to operate or assist in the operation of power-driven farm machinery or to ride in or on power-driven farm equipment or conveyances connected to power-driven farm machinery. Minors who are so employed must have a Certificate of Training on tractor operation or tractor and machinery operation issued by a 4-H Extension Service Program or approved secondary vocational agriculture program. OAR 839-021-0276; OAR 839-021-0280.

Prior to the employment of minors to operate or assist in the operation of farm equipment, the employer must obtain proof that the minor has the required Certificate of Training and apply for an Employment Certificate. The proof of training must be retained for two years. OAR 839-021-0280(2); OAR 839-021-0175(1).

The requirements for obtaining an Employment Certificate and a Certificate of Training do not apply to a minor employed in agricultural employment by the minor’s parent(s) or person(s) standing in the place of the parent(s). OAR 839-021-0276(1)(d); OAR 839-021-0280(4); OAR 839-021-0297.

If no training program is available within 35 miles of the minor's residence, 16- and 17-year-olds may be employed to operate or assist in the operation of power-driven farm equipment if all of the following conditions are met:

- **The employer has verified the minor's age to be 16 or 17;**
- **The employer has applied for an employment certificate;**
- **The minor, the minor's parent or guardian, and the employer sign a statement attesting that the training is not available within 35 miles, that the employer has provided to the minor not less than eight hours of instruction, including four hours of hands-on training under the supervision of an adult experienced in the safe and proper operation of the specific equipment the minor is to use before the minor begins work, and that the employer agrees to closely supervise the minor. The statement and Employment Certificate application must be submitted to the Child Labor Unit.**

OAR 839-021-0280(3).

If no training program is available within 35 miles of the minor's residence, minors under 18 may be employed to ride in or on conveyances connected to power-driven farm equipment if all of the same conditions above are met except that the employer must provide two hours of instruction instead of eight hours of instruction. OAR 839-021-0282.

EMPLOYMENT OF MINORS IN AGRICULTURAL WAREHOUSES

Minors under 16 may not be employed in feed mills, flour mills, grain warehouses, or any workplace where power-driven machinery is used to process agricultural commodities.

Minors 16 and 17 years of age may be employed to operate or assist in the operation of power-driven machinery in an agricultural warehouse if certain conditions are met. OAR 839-021-0287.

PAYMENT OF MINIMUM WAGE AND OVERTIME IN AGRICULTURAL EMPLOYMENT

Minimum wage must be paid to all minor employees employed in agriculture unless an exemption applies. (See *Agricultural Employment* section.)

Agricultural employment is exempt from the overtime provisions of Oregon and federal law. ORS 653.261(2); OAR 839-020-0135.

EMPLOYMENT OF MINORS IN THE ENTERTAINMENT INDUSTRY

Oregon's Wage and Hour Commission has adopted administrative rules regulating the employment of minors in the entertainment industry. OAR 839-021-0300 to OAR 839-021-0375.

Minors of any age, except babies younger than 15 days, may work in films, television productions, or stage entertainment productions. OAR 839-021-0305.

Federal law exempts any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions from child labor laws. 29 U.S.C. § 213(c); 29 C.F.R. § 570.125.

EMPLOYER REGISTRATION

If an entertainment industry employer will be employing minors for more than five working days, the employer must obtain an Employment Certificate to employ minors 14–17 years of age and individual employment permits for any minors employed under the age of 14. OAR 839-021-0310(1).

If the proposed employment is for five or fewer working days, the employer may either apply for a regular Employment Certificate for minors 14–17 and individual employment permits for minors under age 14 or, if ten or more minors will be employed, the employer may apply for a "short duration" permit to employ all of the minors, regardless of age. OAR 839-021-0310(2).

Entertainment industry employers who anticipate employing minors in more than one "short term" production may apply to the Wage and Hour

Commission for certification as a registered entertainment productions employer. Registration entitles an employer to hire any number of minors for short-term jobs (five days or less) without first obtaining employment certificates or individual work permits. For periods of employment longer than five days, employment certificates and "under 14" permits are required. OAR 839-021-0320. Registered employers must notify the Bureau's Child Labor Unit no less than 24 hours in advance of employing minors in short term employment. OAR 839-021-0320(4).

The times and maximum number of hours minors may work in entertainment productions are regulated according to the age of the minor. OAR 839-021-0335.

The Wage and Hour Commission's entertainment industry rules include restrictions relating to hazardous work, and set out education, rest periods and transportation requirements.

For complete administrative rules see OAR 839-021-0300 to 0375, available online by clicking on the link for "Division 21" from www.oregon.gov/BOLI/LEGAL/H_OAR.shtml.

EMPLOYMENT OF MINORS IN DOOR-TO-DOOR SALES

Minors aged 16 or 17 may not be employed to act as canvassers, peddlers, or outside salespersons from house to house unless the employer obtains and maintains a valid registration certificate issued by the Bureau. Minors under 16 years of age may not be employed in outside sales.

In addition to complying with all requirements of the child labor law, employers employing persons 16 and 17 years of age to work in door-to-door employment must provide each minor with an identification card that must be shown to each customer or potential customer of the minor employee.

Minors employed in door-to-door employment may not work later than 9 PM. The Wage and Hour Commission may revoke the registration certificate of an employer when it determines that the employer failed to comply with any rule of the commission or law covering the employment of minors. OAR 839-021-0265.

PENALTIES FOR CHILD LABOR VIOLATIONS

The Commissioner of the Bureau of Labor and Industries may impose civil penalties for violations of Oregon's child labor laws (ORS 653.305 to 653.370) and the Bureau's administrative rules (OAR 839-021-0001 to 839-021-0500) or terms of Wage and Hour Commission orders.

The Commissioner considers the following circumstances when determining the amount of civil penalties:

- **The history of the employer in terms of taking corrective and preventive measures to avoid violations;**
- **Prior violations, if any;**
- **The magnitude and seriousness of the violation;**
- **The opportunity and degree of difficulty to comply;**
- **Any mitigating circumstances. OAR 839-019-0020.**

The maximum penalty per violation is $1,000. Each violation is a separate and distinct offense. A serious injury or death of a minor as the result of being employed in violation of the law may result in the maximum penalty per violation. OAR 839-019-0015 to OAR 839-019-0025(4).

In addition to the Commissioner's assessment of civil penalties for child labor violations, the Wage and Hour Commission may revoke the employer's right to hire minors. OAR 839-021-0490.

Under ORS 653.991, any violation of child labor laws or Wage and Hour Commission rules is punishable as a misdemeanor.

Technical Assistance for
Employers

APPENDIX: Hazardous Occupations Orders

The U.S. Department of Labor has issued the following seventeen Hazardous Occupations Orders describing industries or types of work in which any employment of minors is prohibited:

1. **Manufacturing and storing of explosives.**
2. **Motor-vehicle driving and outside helper on a motor vehicle.**
3. **Coal mining.**
4. **Occupations in forest fire fighting, forest fire prevention, timber tract operations, forestry service, logging, and sawmilling.**
5. **† Power-driven woodworking machines.**
6. **Exposure to radioactive substances.**
7. **Power-driven hoisting apparatus, including forklifts.**
8. **† Power-driven metal-forming, punching, and shearing machines.**
9. **Mining, other than coal mining.**
10. **† Operating power-driven meat processing equipment, including meat slicers and other food slicers, in retail establishments (such as grocery stores, restaurants kitchens and delis) and wholesale establishments, and most occupations in meat and poultry slaughtering, packing, processing, or rendering.**
11. **Power-driven bakery machines including vertical dough or batter mixers.**
12. **† Power-driven balers, compactors, and paper processing machines.**
13. **Manufacturing bricks, tile, and kindred products.**
14. **† Power-driven circular saws, bandsaws, chain saws, guillotine shears, wood chippers, and abrasive cutting discs.**

15. **Wrecking, demolition, and shipbreaking operations.**
16. **† Roofing operations and all work on or about a roof.**
17. **† Excavation operations.**

The full text of the U.S. Department of Labor's Hazardous Occupations Orders (also adopted by state law) may be found at
29 C.F.R. § 570.50-68.

The explanatory summaries of these orders which follow have been adapted from *Child Labor Bulletin 101, WH-1330* (full text available online at www.dol.gov).

NOTE: *Hazardous Occupations Orders Nos. 5, 8, 10, 12, 14, 16, and 17 (marked with a "†" above) contain exemptions for 16- and 17-year-old apprentices and student-learners provided they meet the requirements described below for "student-learners" and "apprentices."*

Bona fide student-learners or apprentices will meet the following criteria:

For Apprentices:

1. the apprentice is employed in a craft recognized as an apprenticeable trade;
2. the work of the apprentice in the occupations declared particularly hazardous is incidental to his or her training;
3. such work is *intermittent* and for short periods of time and is under the *direct and close supervision* of a journeyman as a necessary part of such apprentice training; and
4. the apprentice is registered by the Bureau of Apprenticeship and Training (BAT) of the U. S. Department of Labor as employed in accordance with the standards established by BAT, or the Oregon Bureau of Labor and Industries.

† Exemptions for hazardous occupations nos. 5, 8, 10, 12, 14, 16, and 17 are provided for 16- and 17-year-old apprentices and student-learners so long as they meet the requirements for "student-learners" and "apprentices" described in the Appendix.

<u>For Student-Learners</u>:

1. the student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized state or local educational authority or in a course of study in a substantially similar program conducted by a private school; and
2. such student-learner is employed under a written agreement which provides:
   a. that the work of the student-learner in the occupations declared particularly hazardous shall be incidental to the training,
   b. that such work shall be *intermittent* and for *short periods of time*, and under the *direct and close supervision* of a qualified and experienced person,
   c. that safety instruction shall be given by the school and correlated by the employer with on-the-job training, and
   d. that a schedule of organized and progressive work processes to be performed on the job shall have been prepared.

To qualify for the exemptions, "student learners" must be:

- currently enrolled in a vocational training program and under *close supervision* by the school; or
- if the employee has completed vocational training for the occupation and has either graduated from high school or is working during the summer vacation period.

ORS 653.326 and 653.070.

Definitions

1. Neither state or federal regulations define *intermittent*, or *short periods of time*. The U.S. Department of Labor ("DOL") has interpreted these terms and the continuous performance of otherwise prohibited work that exceeds 1 hour a day or more than 20 percent of the work shift to be more than *intermittent* and more than *for short periods* of time.

2. Likewise, the regulations do not define *direct and close supervision*, however, DOL would consider the requirement for *direct and close supervision* to be met where there is one journeyman or experienced adult working with the apprentice or student learner and at least three additional journeymen/experienced adults for each additional apprentice or student learner.

1. Manufacturing and storing of explosives

The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are prohibited:

1. All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in subparagraph 2. below) manufacturing or storing explosives or articles containing explosive components *except* where the occupation is performed in a "nonexplosives area" as defined in subparagraph 3. below.
2. The following occupations in or about any plant or establishment manufacturing or storing small arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small arms ammunition:
   a. All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.
   b. All occupations involving the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.
   c. All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rimfire cartridges are primed.
   d. All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.
   e. All occupations involved in the loading, inspecting, packing, shipping, and storage of blasting caps.

Definitions

1. The term *plant or establishment manufacturing or storing explosives or articles containing explosive components* means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

2. The terms *explosives* and *articles containing explosive* components mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all explosives and explosive materials as defined in 18 U.S.C. § 841(c)-(f) and the implementing regulations at 27 CFR Part 555. The terms included any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, as well as all goods identified in the most recent list of explosive materials published by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice. This list may be found through the ATF website at http://www.atf.gov.
3. An area meeting the following criteria shall be deemed a *nonexplosives area*:
    a. None of the work performed in the area involves the handling or use of explosives;
    b. The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;
    c. The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and
    d. Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria a through c.

In addition to the provisions of Hazardous Occupations Order 1 (above), under state law, no minor under the age of 18 may be employed in any occupation where explosive materials are manufactured, stored, or used, except in accordance with the following conditions:

1. Employment in retail establishments including the storage of ammunition in gunshops, sporting goods stores, building supplies and hardware stores, retail fireworks stands, and other retail establishments;
2. Employment in gun clubs, trap and skeet ranges, turkey shoots, certain armories, police stations, and other such areas where only small arms ammunition is being stored; and
3. Employment performed in a "nonexplosives area." A nonexplosives area is one in which:
    a. None of the work performed in the area involves the handling or use of explosives;

b. The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;
c. The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and
d. Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area which does not meet criteria (a) through (c).

OAR 839-021-0106.

2. Motor-vehicle driving and outside helper on a motor vehicle.

The occupation of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in HO 17 are prohibited for minors between 16 and 18 years of age *except* that 17-year-olds may drive automobiles and trucks on an incidental and occasional basis if all of the criteria listed in the following exemption are met.

Limited exemption from HO 2 for 17 year old employees:
Seventeen-year-olds, but no one under 17 years of age, may drive automobiles and trucks on public roads as part of their employment on an occasional and incidental basis if all the following requirements are met:

- the automobile or truck does not exceed 6,000 pounds gross vehicle weight;
- the driving is limited to daylight hours;
- the 17-year-old holds a state license valid for the type of driving involved;
- the 17-year-old has successfully completed a state-approved driver education course and has no record of any moving violations at the time of hire;
- the driving takes place within a thirty (30) mile radius of the minor’s place of employment;
- the automobile or truck is equipped with a seat belt for the driver and any passengers and the employer has instructed the youth that the seat belts must be used when driving the vehicle;
- the driving may not involve:

- towing vehicles;
- route deliveries or route sales;
- transportation for hire of property, goods, or passengers;
- urgent, time-sensitive deliveries;
- transporting more than three passengers, including employees of the employer;
- more than two trips away from the primary place of employment in any single day to deliver the employer's goods to a customer (other than urgent, time-sensitive deliveries which are prohibited);
- more than two trips away from the primary place of employment in any single day to transport passengers, other than employees of the employer.

Definitions

1. The term *motor vehicle* shall mean any automobile, truck, truck tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.
2. The term *driver* shall mean any individual who in the course of employment drives a motor vehicle at any time.
3. The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.
4. The term *gross vehicle weight* includes the truck chassis with lubricants, water, and full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body, and special chassis and body equipment, and payload.
5. The term *urgent, time-sensitive deliveries* shall mean trips which, because of such factors as customer satisfaction, the rapid deterioration of the quality or change in temperature of the product, and/or economic incentives, are subject to timelines, schedules, and/or turnaround times which might impel the driver to hurry in the completion of the delivery. Prohibited trips would include, but are not limited to, the delivery of pizzas and prepared foods to the customer; the delivery of materials under a deadline (such as deposits to a bank at closing); and the shuttling of passengers to and from transportation depots to meet transport schedules. *Urgent, time-sensitive deliveries* do not depend on the delivery's points of origin and termination, and include the delivery of people and things *to* the employer's place of business as well as *from* that business to some other location.

6. The term *occasional and incidental* shall mean no more than one-third of the 17-year-old driver's worktime in any workday and no more than 20 percent of the 17-year-old driver's worktime in any workweek.

3. Coal mining

All occupations in or about any coal mine are prohibited *except* the occupations of slate or other refuse picking at a picking table or picking chute in a tipple or breaker and occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface part of any coal mining plant.

Definitions

1. The term *coal* shall mean any rank of coal, including lignite, bituminous, and anthracite coals.
2. The term *all occupations in or about any coal mine* shall mean all types of work performed in any underground working, open pit, or surface part of any coal mining plant that contributes to the extraction, grading, cleaning, or other handling of coal.

4. Occupations in forest fire fighting, forest fire prevention, timber tract operations, forestry service, logging, and sawmilling

All occupations in forest fire fighting and forest fire prevention, in timber tracts, in forestry services, logging, and the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill are particularly hazardous for the employment of minors between 16 and 18 years of age, *except* the following when not prohibited by any other section of Subpart E of 29 CFR 570:

1. Work in offices or in repair or maintenance shops.
2. Work in the construction, operation, repair, or maintenance of living and administrative quarters, including logging camps and fire fighting base camps.
3. Work in the repair or maintenance of roads, railroads or flumes and work in construction and maintenance of telephone lines, but only if the minors are not engaged in the operation of power-driven machinery, the handling or use of explosives, the felling or bucking of timber, the collecting or transporting of logs, or work on trestles.
4. The following tasks in forest fire prevention *provided* none of these tasks may be performed in conjunction with or in support of efforts to extinguish a forest fire: the clearing of fire trails or roads; the

construction, maintenance, and patrolling of fire lines; the piling and burning of slash; the maintaining of fire fighting equipment; and acting as a fire lookout or fire patrolman.

5. Work related to forest marketing and forest economics when performed away from the forest.
6. Work in the feeding or care of animals.
7. Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging occupations declared hazardous by this HO.
8. The following additional exceptions apply to the operation of a permanent sawmill or the operation of any lath mill, shingle mill, or cooperage stock mill, but not to a portable sawmill. In addition, the following exceptions do not apply to work which entails entering the sawmill building, except for those minors whose employment meets the requirements of the limited exemptions discussed in Regulations 29 CFR Part 570, sections 570.34(m) and 570.54(c) (*see Exception* section below):
    a. Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.
    b. Pulling lumber from the dry chain, *except* minors under 16 years of age may not pull lumber from the dry chain as such youth are prohibited from operating or tending power-driven machinery by the occupations standards contained in Child Labor Regulation No. 3.
    c. Clean-up in the lumberyard.
    d. Piling, handling, or shipping of cooperage stock in yards or storage sheds other than operating or assisting in the operation of power-driven equipment; *except* minors under 16 years of age may not perform shipping duties as they are prohibited from employment in occupations in connection with the transportation of property by rail, highway, air, water, pipeline, or other means by the occupations standards contained in Child Labor Regulation No. 3.
    e. Clerical work in yards or shipping sheds, such as done by ordermen, tally-men, and shipping clerks.
    f. Clean-up work outside shake and shingle mills, except when the mill is in operation.
    g. Splitting shakes manually from precut and split blocks with a froe and mallet, except inside the mill building or cover.

h. Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, except inside the mill building or cover.
i. Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury to himself, *except* minors under 16 years of age may not load bundles of shingles or shakes into trucks or railroad cars as they are prohibited from loading and unloading goods or property onto or from motor vehicles, railroad cars, or conveyors by the occupations standards contained in Child Labor Regulation No. 3.

Exemption
The provisions contained in paragraph 8 above that prohibit youth between 16 and 18 years of age from performing any work that entails entering the sawmill building do not apply to the employment of a youth who is at least 14 years of age and less than 18 years of age and who by statute or judicial order is exempt from compulsory school attendance beyond the eighth grade, if:

1. the youth is supervised by an adult relative or by an adult member of the same religious sect or division as the youth;
2. the youth does not operate or assist in the operation of power-driven woodworking machines;
3. the youth is protected from wood particles or other flying debris within the workplace by a barrier appropriate to the potential hazard of such wood particles or flying debris or by maintaining a sufficient distance from machinery in operation; and
4. the youth is required to use, and uses, personal protective equipment to prevent exposure to excessive levels of noise and saw dust.

Compliance with the provisions of paragraphs 3 and 4 above will be accomplished when the employer is in compliance with the requirements of the applicable governing standards issued by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) or, in those areas where OSHA has authorized the state to operate its own Occupational Safety and Health Plan, the applicable standards issued by the Office charged with administering the state occupational safety and health plan.

Definitions

1. The term *all occupations in forest fire fighting and forest fire prevention* shall include the controlling and extinguishing of fires, the

wetting down of areas or extinguishing of spot fires, and the patrolling of burned areas to assure the fire has been extinguished. The term shall also include the following tasks when performed in conjunction with, or in support of, efforts to extinguish a forest fire: the piling and burning of slash; the clearing of fire trails or roads; the construction, maintenance, and patrolling of fire lines; acting as a fire lookout or fire patrolman; and the maintaining of fire fighting equipment. The prohibition concerning the employment of youth in forest fire fighting and fire prevention applies to all forest and timber tract locations, logging operations, and sawmill operations, including all buildings located within such areas.

2. The term *all occupations in forestry services* shall mean all work involved in the support of timber production, wood technology, forestry economics and marketing, and forest protection. The term includes such services as timber cruising, surveying, or logging-engineering parties; estimating timber; timber valuation; forest pest control; forest fire fighting and forest fire prevention as defined in this section; and reforestation. The term shall not include work in forest nurseries, establishments primarily engaged in growing trees for purposes of reforestation. The term shall not include the gathering of forest products such as balsam needles, ginseng, huckleberry greens, maple sap, moss, Spanish moss, sphagnum moss, teaberries, and tree seeds; the distillation of gum, turpentine, and rosin if carried on at the gum farm; and the extraction of pine gum.
3. The term *all occupations in logging* shall mean all work performed in connection with the felling of timber; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting and unloading of such products in connection with logging; the constructing, repairing and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging.
4. The term *all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill* shall mean all work performed in or about any such mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, lathers, shingles, or cooperage stock; storing drying, and shipping lumber, laths, shingles, cooperage stock, or other products of such mills; and other work performed in connection with the operation of any sawmill, lath mill,

shingle mill, or cooperage-stock mill. The term shall not include work performed in the planing-mill department or other remanufacturing departments of any sawmill or remanufacturing plant not a part of a sawmill.

5. The term *all occupations in timber tracts* means all work performed in or about establishments that cultivate, manage or sell standing timber. The term includes work performed in timber culture, timber tracts, timber-stand improvement, and forest fire fighting and fire prevention. It includes work on tree farms, except those tree farm establishments that meet the definition of agriculture contained in section 3(f) of the FLSA.
6. The term *inside or outside places of business* shall mean the actual physical location of the establishment employing the youth, including the buildings and surrounding land necessary to the business operations of that establishment.
7. The term *operate or assist in the operation of power-driven woodworking machines* includes operating such machines, including supervising or controlling the operation of such machines, feeding material into such machines, helping the operator feed material into such machines, unloading materials from such machines, and helping the operator unload materials from such machines. The term also includes the occupations of setting-up, adjusting, repairing, oiling, or cleaning such machines.
8. The term *places of business where machinery is used to process wood products* shall mean such permanent workplaces as sawmills, lath mills, shingle mills, cooperage stock mills, furniture and cabinet making shops, gazebo and shed making shops, toy manufacturing shops, and pallet shops. The term shall not include construction sites, portable sawmills, areas where logging is being performed, or mining operations.
9. The term *portable sawmill* shall mean a sawmilling operation where no office or repair or maintenance shop is ordinarily maintained, and any lumberyard operated in conjunction with the sawmill is used only for the temporary storage of green lumber.
10. The term *power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening or otherwise assembling, pressing or printing wood, veneer, trees, logs, or lumber.
11. The term *remanufacturing department* shall mean those departments of a sawmill where lumber products such as boxes, lawn furniture,

and the like are remanufactured from previously cut lumber. The kind of work performed in such departments is similar to that done in planing mill departments in that rough lumber is surfaced or made into other finished products. The term is not intended to denote those operations in sawmills where rough lumber is cut to dimensions.

12. The term *supervised by an adult relative or is supervised by an adult member of the same religious sect or division as the youth* has several components.
    a. *Supervised* refers to the requirement that the youth's on-the-job activities be directed, monitored, and controlled by certain named adults. Such supervision must be close, direct, constant and uninterrupted.
    b. *Adult* shall mean an individual who is at least eighteen years of age.
    c. *Relative* shall mean the parent (or someone standing in place of a parent), grandparent, sibling, uncle, or aunt of the young worker.
    d. *Member of the same religious sect or division as the youth* refers to an individual who professes membership in the same religious sect or division to which the youth professes membership.

5. Power-driven woodworking machines

The following occupations involved in the operation of power-driven woodworking machines are prohibited:

1. The occupation of operating power-driven woodworking machines including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.
2. The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.
3. The operations of off-bearing from circular saws and from guillotine-action veneer clippers.

Exemption
The exemption for student-learners and apprentices applies to HO 5.

Definitions

1. *Off-bearing* shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include:

   a. The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller; and
   b. The following operations when they do not involve the removal of materials or refuse directly from a saw table or point of operation: The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.
2. *Power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening or otherwise assembling, pressing or printing wood, veneer, trees, logs, or lumber.

6. Exposure to radioactive substances

The following occupations are prohibited:

1. Any work in any workroom in which:
   a. radium is stored or used in the manufacture of self-luminous compound;
   b. self-luminous compound is made, processed, or packaged;
   c. self-luminous compound is stored, used, or worked upon;
   d. incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged;
   e. other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupations exposure by the National Committee on Radiation Protection, as set forth in the 40-hour week column of Table One of the National Bureau of Standards Handbook No. 69 entitled *Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and In Water for Occupational Exposure* issued June 5, 1959.
2. Any other work which involves exposure to ionizing radiations in excess of 0.5 rem per year.

Definitions

1. The term *self-luminous compound* shall mean any mixture of phosphorescent material and radium, mesothorium, or other radioactive element.
2. The term *workroom* shall include the entire area bounded by walls of solid material and extending from floor to ceiling.
3. The term *ionizing radiations* shall mean alpha and beta particles, electrons, protons, neutrons, gamma, and X-ray and all other radiations which produce ionizations directly or indirectly, but does not include electromagnetic radiations other than gamma and X-ray.

7. Power-driven hoisting apparatus, including forklifts

The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors between 16 and 18 years of age:

1. Work of operating, tending, riding upon, working from, repairing, servicing, or disassembling an elevator, crane, derrick, hoist, or high-lift truck, except operating or riding inside an unattended automatic operation passenger elevator. Tending such equipment includes assisting in the hoisting tasks being performed by the equipment.
2. Work of operating, tending, riding upon, working from, repairing, servicing, or disassembling a manlift or freight elevator, except 16- and 17-year-olds may ride upon a freight elevator operated by an assigned operator. Tending such equipment includes assisting in the hoisting tasks being performed by the equipment.

Exemption

HO 7 does not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch

which will prevent the movement in either direction and will open in case of excessive overtravel by the car.[5]

Definitions

1. *Crane* shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.
2. *Derrick* shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy, and stiff-leg derrick.
3. *Elevator* shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.
4. *High-lift truck* shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or a platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include highlift trucks known under such names as fork lifts, fork trucks, fork lift trucks, tiering trucks, backhoes, front-end loaders, skid loaders, skid-steer loaders, Bobcat

[5] For purposes of this exception the term *automatic elevator* shall mean a passenger elevator, a freight elevator or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic. The term *automatic signal operation elevator* shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors – from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

loaders, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of materials.

5. *Hoist* shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum, and trolley suspension hoists.
6. *Manlift* shall mean a device intended for the conveyance of persons that consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; with such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom. The term shall also include truck- or equipment-mounted aerial platforms commonly referred to as scissor lifts, boom-type mobile elevating work platforms, work assist vehicles, cherry pickers, basket hoists, and bucket trucks.

8. Power-driven metal-forming, punching, and shearing machines

The following occupations are prohibited:

1. The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:
   a. All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.
   b. All pressing or punching machines, such as punch presses *except* those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the areas between the dies; power presses; and plate punches.
   c. All bending machines, such as apron brakes and press brakes.
   d. All hammering machines, such as drop hammers and power hammers.
   e. All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.
2. The occupations of setting-up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

Exemption
The exemption for student-learners and apprentices applies to HO 8.

Definitions

1. The term *operator* shall mean a person who operates a machine covered by this HO by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in the operation of the machine.
2. The term *helper* shall mean a person who assists in the operation of a machine covered by the HO by helping place materials into or removing them from the machine.
3. The term *forming, punching, and shearing* shall mean power-driven metalworking machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching and shearing machines enumerated in this section are the machines to which the designation is by custom applied. Not included in this term are metalworking machines known as *machine tools*.
4. The term *machine tools* shall mean power-driven complete metalworking machines having one or more tool- or work-holding devices and used for progressively removing metal in the form of "chips." Since the HO does not apply to machine tools, the 18-year minimum age does not apply. The following is a list of common machine tools:

   <u>Milling Function Machines</u>
   - Horizontal Milling Machines
   - Vertical Milling Machines
   - Universal Milling Machines
   - Planer-type Milling Machines
   - Gear Hobbing Machines
   - Profilers
   - Routers

   <u>Turning Function Machines</u>
   - Engine Lathes
   - Turret Lathes
   - Hollow Spindle Lathes
   - Automatic Lathes

Automatic Screw Machines

Planing Function Machines
- Planers
- Shapers
- Slotters
- Broaches
- Keycasters
- Hack Saws

Grinding Function Machines
- Grinders
- Abrasive Wheels
- Abrasive Belts
- Abrasive Disks
- Abrasive Points
- Polishing Wheels
- Buffing Wheels
- Stroppers
- Lapping Machines

Boring Function Machines
- Vertical Boring Mills
- Horizontal Boring Mills
- Jig Borers
- Pedestal Drills
- Radial Drills
- Gang Drills
- Upright Drills
- Drill Presses
- Centering Machines
- Reamers
- Honers

9. Mining, other than coal mining

All occupations in connection with mining, other than coal (see HO 3), are prohibited *except* the following:

1. Work in offices, in the warehouse or supply house, in the change house, in the laboratory, and in repair or maintenance shops not located underground.

2. Work in the operation and maintenance of living quarters.
3. Work outside the mine in surveying, in the repair and maintenance of roads, and in general cleanup about the mine property such as clearing brush and digging drainage ditches.
4. Work of track crews in the building and maintaining of sections of railroad track located in those areas of opencut metal mines where mining and haulage activities are not being conducted at the time and place that such building and maintenance work is being done.
5. Work in or about surface placer mining operations other than placer dredging operations and hydraulic placer mining operations.
6. The following work in metal mills other than in mercury-recovery mills or mills using the cyanide process:
    a. Work involving the operation of jigs, sludge tables, flotation cells, or drier-filters.
    b. Work of handsorting at picking table or picking belt.
    c. General cleanup work.

Provided, however, that nothing in this section shall be construed as permitting employment of minors in any occupation prohibited by any other HO issued by the Secretary of Labor.

Definitions
The term *all occupations in connection with mining, other than coal* shall mean all work performed:

- underground in mines and quarries;
- on the surface at underground mines and underground quarries;
- in or about opencut mines, open quarries, clay pits, and sand and gravel operations;
- at or about placer mining operations;
- at or about dredging operations for clay, sand, or gravel; at or about borehole mining operations;
- in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and
- at or about any other crushing, grinding, screening, sizing, washing, or cleaning operations performed upon the extracted minerals *except* where such operations are performed as part of a manufacturing process.

The term *all occupations in connection with mining, other than coal* shall not include work performed in subsequent manufacturing or processing operations, such as work performed in smelters, electro-metallurgical plants,

refineries, reduction plants, cement mills, plants where quarried stone is cut, sanded, and further processed, or plants manufacturing clay, glass, or ceramic products. Neither shall the term include work performed in connection with coal mining, in petroleum production, in natural-gas production, nor in dredging operations which are not a part of mining operations, such as dredging for construction or navigation purposes.

10. Operating power-driven meat processing equipment

The following occupations in retail establishments, wholesale establishments, service establishments, slaughtering and meatpacking establishments, or rendering plants are prohibited:

1. All occupations involved in the operation or feeding of the following power-driven machines, including setting-up, adjusting, repairing, oiling, or cleaning such machines, regardless of the product being processed by these machines (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese, etc.): meat slicers, meat patty forming machines, meat and bone cutting saws, knives (*except* bacon-slicing machines[6]).
2. All occupations involved in the operation or feeding of the following power-driven machines, including setting-up, adjusting, repairing, or oiling such machines or the cleaning of such machines or the individual parts or attachments of such machines, regardless of the product being processed by these machines: headsplitters, and guillotine cutters; snoutpullers and jawpullers; skinning machines; horizontal rotary washing machines; casing-cleaning machines such as crushing, stripping, and finishing machines; grinding, mixing, chopping, and hashing machines; and presses (except belly-rolling machines). *Except*, the provisions of this subsection shall not apply to the operation of those lightweight, small capacity, portable, countertop mixers discussed in HO 11 when used as a mixer to process materials other than meat or poultry.
3. All boning operations.

[6] The term bacon slicing machine as used in this HO refers to those machines which are designed solely for the purpose of slicing bacon and are equipped with enclosure or barrier guards that prevent the operator from coming in contact with the blade or blades, and with devices for automatic feeding, slicing, shingling, stacking, and conveying the sliced bacon away from the point of operation.

4. All operations on the killing floor, in curing cellars, and in hide cellars, *except* the work of messengers, runners, handtruckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time.
5. All occupations involved in the recovery of lard and oils, *except* packaging and shipping of such products and the operations of lard-roll machines.
6. All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stockfeeds, tallow, inedible greases, fertilizer ingredients, and similar products.
7. All occupations involving the handlifting or handcarrying of any carcass or half carcass of beef, pork, horse, deer, or buffalo, or any quarter carcass of beef, horse, or buffalo.
8. All occupations involving hand-lifting or hand-carrying any carcass or half-carcass of beef, pork, or horse, or any quarter-carcass of beef or horse.

Exemptions
The exemption for student-learners and apprentices applies to HO 10.

HO 10 shall not apply to the killing and processing of rabbits or small game in areas physically separated from the killing floor.

Definitions

1. The term *boning occupations* means the removal of bones from meat cuts. It does not include work that involves cutting, scraping, or trimming meat from cuts containing bones.
2. The term *curing cellar* includes a workroom or workplace which is primarily devoted to the preservation and flavoring of meat, including poultry, by curing materials. It does not include a workroom or workplace solely where meats are smoked.
3. The term *hide cellar* includes a workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.
4. The term *killing floor* includes a workroom, workplace where such animals as cattle, calves, hogs, poultry, sheep, lambs, goats, buffalo, deer, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.
5. The term *retail/wholesale or service establishments* include establishments where meat or meat products, including poultry, are processed or handled, such as butcher shops, grocery stores,

restaurants and quick service food establishments, hotels, delicatessens, and meat locker (freezer-locker) companies, and establishments where any food product is prepared or processed for serving to customers using machines prohibited by paragraph (a) of this HO.

6. The term *rendering plants* means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.
7. The term *slaughtering and meat packing establishments* means places in or about which such animals as cattle, calves, hogs, poultry, sheep, lambs, goats, buffalo, deer, or horses are killed, butchered, or processed. The term also includes establishments which manufacture or process meat or poultry products, including sausage or sausage casings from such animals.

11. Power-driven bakery machines including vertical dough or batter mixers

The following occupations involved in the operation of power-driven bakery machines, no matter where performed, are prohibited:

1. The occupations of operating, assisting to operate, or setting-up, adjusting, repairing, oiling, or cleaning any horizontal or vertical doughmixer; battermixer[7]; bread dividing, rounding, or molding machine; doughbrake; doughsheeter; combination breadslicing and wrapping machine; or cake-cutting bandsaw.
2. The occupation of setting-up or adjusting a cookie or cracker machine.

Exemptions

1. This HO shall not apply to the operation, including the setting up, adjusting, repairing, oiling and cleaning, of lightweight, small capacity, portable counter-top power-driven food mixers that are, or

[7] HO 11 prohibits minors from operating any vertical or horizontal mixer (except lightweight, portable, countertop models discussed in the exemption) when used to mix dough, batter, and items such as vegetables, meat mixtures and other heavier products that require the use of the same strength or design of agitators, whips, or beaters as those used to mix dough or batter. HO 11 does not prohibit minors from using such equipment to mix lighter fare such as meringues and light icings when the agitators or whips used are designed solely for such use.

are comparable to, models intended for household use. For purposes of this exemption, a lightweight, small capacity mixer is one that is not hardwired into the establishment's power source, is equipped with a motor that operates at no more than ½ horsepower, and is equipped with a bowl with a capacity of no more than five quarts. *Except*, this exception shall not apply when the mixer is used, with or without attachments, to process meat or poultry products as prohibited by HO 10.

2. This HO shall not apply to the operation of pizza-dough rollers, a type of dough sheeter, that: have been constructed with safeguards contained in the basic design so as to prevent fingers, hands, or clothing from being caught in the in-running point of the rollers; have gears that are completely enclosed; and have microswitches that disengage the machinery if the backs or sides of the rollers are removed. This exception applies only when all the safeguards detailed in this paragraph are present on the machine, are operational, and have not been overridden. This exception does not apply to the setting up, adjusting, repairing, oiling or cleaning of such pizza-dough rollers.

HO 11 does not apply to the following list of bakery machines which may be operated by 16- and 17-year-olds minors:

<u>Ingredient Preparation and Mixing</u>
- Flour-sifting Machine Operator
- Flour-blending Machine Operator
- Sack-cleaning Machine Operator

<u>Product Forming and Shaping</u>
- Roll-dividing Machine Operator
- Roll-making Machine Operator
- Batter-sealing Machine Operator
- Depositing Machine Operator
- Cookie or Cracker Machine Operator
- Wafer Machine Operator
- Pretzel-stick Machine Operator
- Piedough Rolling Machine Operator
- Piedough Sealing Machine Operator
- Pie-crimping Machine Operator

<u>Finishing and Icing</u>
- Depositing Machine Operator
- Enrobing Machine Operator

Spray Machine Operator
Icing Mixing Machine Operator
Slicing and Wrapping
Roll Slicing and Wrapping Machine Operator
Cake Wrapping Machine Operator
Carton Packing and Sealing Machine Operator
Panwashing
Spray-type Panwashing Machine Operator
Tumbler-type Panwashing Machine Operator

12. Power-driven balers, compactors, and paper processing machines

The following occupations are prohibited in any type of establishment (manufacturing, non-manufacturing, retail, wholesale, service, etc.):

1. The occupations of operating or assisting to operate any of the following power-driven paper-products machines:
   a. Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single- or double-facing machine, envelope die-cutting press, guillotine papercutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, or vertical slotter.
   b. Scrap paper balers and paper box compactors, including those machines that process other materials in addition to paper.
   c. Platen diecutting press, platen printing press, or punch press which involves hand feeding of the machine.
2. The occupations of operating or assisting to operate any baler that is designed or used to process materials other than paper.
3. The occupations of operation or assisting to operate any compactor that is designed or used to process materials other than paper.
4. The occupations of setting up, adjusting, repairing, oiling, or cleaning any of the machines listed in paragraphs (a)(1), (2), and (3) of this section.

Exemptions

1. The exemption for student-learners and apprentices applies to HO 12.
2. Section 13(c)(5) of the FLSA permits 16- and 17-year-old employees to load, but not operate or unload, certain scrap paper balers and paper box compactors if all of the following conditions are met:

a. the scrap paper balers and the paper box compactors must meet an applicable American National Standard Institute (ANSI) Standard as discussed in the following chart:[8]

In order for employers to take advantage of the limited exception discussed in this section, the *scrap paper baler* must meet one of the following ANSI Standards:	In order for employers to take advantage of the limited exception discussed in this section, the *paper box compactor* must meet one of the following ANSI Standards:
ANSI Standard Z245.5-1990	ANSI Standard Z245.2-1992
ANSI Standard Z245.5-1997	ANSI Standard Z245.2-1997
ANSI Standard Z245.5-2004	ANSI Standard Z245.2-2004
ANSI Standard Z245.5-2008	ANSI Standard Z245.2-2008

b. the scrap paper balers and paper box compactors cannot be operated while being loaded;
c. the scrap paper balers and paper box compactors include an on-off switch incorporating a key-lock or other system and the control of the system is maintained in the custody of employees who are 18 years of age or older;
d. the on-off switch of the scrap paper balers and paper box compactors is maintained in an off position when the equipment is not in operation; and
e. the employer posts a notice on each scrap paper baler and each paper box compactor that 16- and 17-year-olds will be loading which states (*see* §:570.63(c)):
   - the equipment meets an appropriate ANSI Standard mentioned above, or a more recent applicable ANSI Standard that the Secretary of Labor has certified as being as protective of minors as those listed above – *Note: the specific standard must be listed on the notice in its entirety*;
   - Sixteen- and 17-year-old employees may only load the scrap paper baler and paper box compactor; and
   - any employee under the age of 18 may not operate or unload the scrap paper baler and paper box compactor.[9]

[8] The FLSA also allows the equipment to meet more recent ANSI standards that the Secretary of Labor has certified to be at least as protective of the safety of minors as the Standards listed above.

Definitions

1. *Applicable ANSI Standard* means one of the American National Standard Institute Standards listed in the above chart, or a newer standard that the Secretary of Labor has certified as being as protective of minors as those listed in the chart on page 21. The ANSI standards for scrap paper balers and paper box compactors govern the manufacture and modification of the equipment, the operation and maintenance of the equipment, and employee training.
2. *Baler that is designed or used to process materials other than paper* means a powered machine designed or used to compress materials other than paper and cardboard boxes, with or without binding, to a density or form that will support handling and transportation as a material unit without requiring a disposable or reusable container.
3. *Compactor that is designed or used to process materials other than paper* means a powered machine that remains stationary during operation, designed or used to compact refuse other than paper or cardboard boxes into a detachable or integral container or into a transfer vehicle.
4. *Operating or assisting to operate* means all work that involves starting or stopping a machine covered by this section, placing materials into or removing materials from a machine, including clearing a machine of jammed materials, paper, or cardboard, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.
5. *Paper box compactor* means a powered machine that remains stationary during operation, used to compact refuse, including paper boxes, into a detachable or integral container or into a transfer vehicle.
6. *Paper products machine* means all power-driven machines used in (1) remanufacturing or converting paper or pulp into a finished product, including preparing such materials for recycling; or (2) preparing such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted

[9] There is no prescribed format for the notice but it must contain all the information as stated in subparagraph 2e. Posting a notice will satisfy the requirement that employers also provide notice.

paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment. The term also applies to those machines which, in addition to paper products, process other material for disposal.

7. *Scrap paper baler* means a powered machine used to compress paper and possibly other solid waste, with or without binding, to a density or form that will support handling and transportation as a material unit without requiring a disposable or reusable container.

13. Manufacturing bricks, tile, and kindred products

The following occupations involved in the manufacture of clay construction products and of silica refractory products are prohibited:

1. All work in or about establishments in which clay construction products are manufactured, *except*
    a. work in storage and shipping;
    b. work in offices, laboratories, and storerooms; and
    c. work in the drying departments of plants manufacturing sewer pipe.
2. All work in or about establishments in which silica brick or other silica refractories are manufactured *except* work in offices.
3. Nothing in this section shall be construed as permitting employment of minors in any occupations prohibited by any other HO issued by the Secretary of Labor.

Definitions

1. The term *clay construction products* shall mean the following clay products: brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and draintile. The term shall not include the following non-structural-bearing clay products: ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor shall the term include non-clay construction products such as sand-lime brick, glass brick, or non-clay refractories.
2. The term *silica brick or other silica refractories* shall mean refractory products produced from raw materials containing free silica as their main constituent.

14. Power-driven circular saws, bandsaws, chain saws, guillotine shears, wood chippers, and abrasive cutting discs

The following occupations are prohibited in any type of establishment (manufacturing, non-manufacturing, retail, wholesale, service, etc.):

1. The occupations of operator of or helper on the following power-driven fixed or portable machines *except* for machines equipped with full automatic feed and ejection: circular saws, band saws, and guillotine shears.
2. The occupations of operator of or helper on the following power-driven fixed or portable machines: chain saws, reciprocating saws, wood chippers, and abrasive cutting discs.
3. The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, guillotine shears, chain saws, reciprocating saws, wood chippers, and abrasive cutting discs.

Exemption
The exemption for student-learners and apprentices applies to HO 14.

Definitions

1. *Abrasive cutting disc* shall mean a machine equipped with a disc embedded with abrasive materials used for cutting materials.
2. *Band saw* shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.
3. *Chain saw* shall mean a machine that has teeth linked together to form an endless chain used for cutting materials.
4. *Circular saw* shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.
5. *Guillotine shear* shall mean a machine equipped with a moveable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.
6. *Helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.
7. *Operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the

machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

8. *Reciprocating saw* shall mean a machine equipped with a moving blade that alternately changes direction on a linear cutting axis used for sawing materials.
9. *Wood chipper* shall mean a machine equipped with a feed mechanism, knives mounted on a rotating chipper disc or drum, and a power plant used to reduce to chips or shred such materials as tree branches, trunk segments, landscape waste, and other materials.

15. Wrecking, demolition, and shipbreaking operations

All occupations in wrecking, demolition, and shipbreaking operations are prohibited.

Definitions

The term *wrecking, demolition, and shipbreaking operations* shall mean all work, including cleanup and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, or other structure, ship or other vessel.

16. Roofing operations and all work on or about a roof

All occupations in roofing operations and all work on or about a roof are prohibited.

Exemption

The exemption for student-learners and apprentices applies to HO 16.

Definitions

1. The term *roofing operations* means all work performed in connection with the installation of roofs, including related metal work such as flashing, and applying weatherproofing materials and substances (such as waterproof membranes, tar, slag or pitch, asphalt prepared paper, tile, composite roofing materials, slate, metal, translucent materials, and shingles of asbestos, asphalt, wood or other materials) to roofs of buildings or other structures. The term also includes all jobs on the ground related to roofing operations such as roofing laborer, roofing helper, materials handler and tending a tar heater.
2. The term o*n or about a roof* includes all work performed upon or in close proximity to a roof, including carpentry and metal work, alterations, additions, maintenance and repair, including painting and

coating of existing roofs; the construction of the sheathing or base of roofs (wood or metal), including roof trusses or joists; gutter and downspout work; the installation and servicing of television and communication equipment such as cable and satellite dishes; the installation and servicing of heating, ventilation and air conditioning equipment or similar appliances attached to roofs; and any similar work that is required to be performed on or about roofs.

17. Excavation operations

The following occupations in excavation operations are prohibited:

1. Excavating, working in, or backfilling (refilling) trenches, *except*
   - manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or
   - working in trenches that do not exceed four feet in depth at any point.
2. Excavating for buildings or other structures or working in such excavations, *except*
   - manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or
   - working in an excavation not exceeding such depth, or
   - working in an excavation where the side walls are shored or sloped to the angle of repose.
3. Working within tunnels prior to the completion of all driving and shoring operations.
4. Working within shafts prior to the completion of all sinking and shoring operations.

Exemption
The exemption for student-learners and apprentices applies to HO 17.

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