

Administrative Rules – Employed in a Manufacturing Establishment

839-001-0125

Individual Exemptions

(1) The following employees are exempt from the provisions of ORS 652.020:

(a) Any employee whose primary duty is that of a member of a logging train crew;

(b) Any employee whose primary duty is that of watchman/woman;

(c) Any employee whose primary duty is that of fireman/woman. As used in this rule, the term "fireman" means a person whose primary duty is to operate and clean boilers or to maintain fuel and steam pressure levels in those boilers;

(d) Any employee who as one of his/her regular duties is engaged in the transportation of other employees to and from work;

(e) Any employee whose primary duty is that of making necessary repairs. This includes employees conducting maintenance on buildings, equipment or machinery;

(f) Employees engaged in emergency work pursuant to section (2) of this rule;

(g) Any employee whose primary duty is that of cleaning, guarding, repairing and otherwise caring for the living quarters and immediate surrounding areas of other employees;

(h) Any employee whose primary duty is that of feeding, grooming, guarding or otherwise caring for livestock by, among other things, cleaning and repairing the areas in which the livestock is kept;

(i) Any employee whose primary duty is to be employed in messhalls where meals are served to other employees. This would include any and all employment necessary to conduct the messhall operations;

(j) Any employee whose primary duty is that of supervising and directing work. This includes supervisors, managers, foremen/women and persons who are temporarily acting in these capacities in the absence of the named employees;

(k) Any employee whose primary duty is the loading and removal of finished forest products. This includes employees engaged in shipping or otherwise removing the final

finished forest product from the establishment's premises. This applies to finished products only and not to products shipped for further processing at another location.

(2) Employees engaged in activities under emergency situations are only exempt when the emergency puts life or property in imminent danger. In order to be exempt, therefore, employees must be employed in an emergency situation which threatens to harm or destroy life or property. When the normal production process is interrupted by a breakdown of machinery or unexpected absences of employees, life and property are not normally threatened with harm or destruction. For this reason, the exemption is not applicable to normal routine operational occurrences.

(3) Employees who are party to a collective bargaining agreement are not subject to ORS 652.020, provided that:

(a) The agreement is in effect at the employee's work site;

(b) The agreement contains a provision which limits the employee's required hours of work; and

(c) The agreement contains a provision for the payment of overtime hours of work.

(4) Except as provided in section (5) of this rule, employees who are party to a collective bargaining agreement which, for any reasons, was not renewed, extended or not otherwise in force are not subject to ORS 652.020, provided that:

(a) The agreement was in effect at the employee's work site;

(b) The limits on the employee's required hours of work continue as if the agreement were still in effect; and

(c) The payment of overtime continues as if the agreement were still in effect.

(5) Section (4) of this rule does not apply under the following circumstances:

(a) Employees who are party to the collective bargaining agreement are locked out;

(b) Employees who are party to the collective bargaining agreement are engaged in a strike; or

(c) The employer has unilaterally implemented new terms and conditions of employment.

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Determination of Employees "Employed in" a Named Establishment

(1) As used in ORS 652.020, the term "employed in" refers to employees who are actually employed in the mill, factory or manufacturing establishment. Employees who are employed by the same employer but not employed to perform duties in a mill, factory, or manufacturing establishment are not covered by ORS 652.020 because they are not "employed in" the establishment.

(2) Employees who are employed to perform duties that do not include work in connection with production machinery in a mill, factory, or manufacturing establishment but perform their duties in a location that is physically separated from the actual production process by means of an architectural barrier, are not covered by ORS 652.020 because they are not "employed in" the establishment.