

Youth Employment Provisions for Nonagricultural Occupations Under the Fair Labor Standards Act



U. S. Department of Labor
Employment Standards Administration
Wage and Hour Division

Child Labor Bulletin 101
WH-1330
Revised February 2005



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FEDERAL YOUTH EMPLOYMENT PROVISIONS

The Federal youth employment provisions, also known as the child labor laws, are authorized by the Fair Labor Standards Act (FLSA) of 1938. These provisions were enacted to ensure that when young people work, the work is safe and does not jeopardize their health, well-being or educational opportunities. By knowing, understanding and complying with these provisions, employers, parents, and teachers can help working teens enjoy those safe, positive, early work experiences that can be so important to their development.

CHILD LABOR BULLETIN No. 101

This booklet is a guide to the provisions of the FLSA (also known as the “Wage-Hour Law”) which applies to minors employed in *nonagricultural* occupations. In addition to youth employment provisions, the FLSA contains provisions on minimum wage, overtime, and recordkeeping.

See *Child Labor Bulletin No. 102* for information regarding the employment of minors in agriculture.

OTHER LAWS THAT IMPACT YOUTH EMPLOYMENT

Other Federal and State laws may have higher standards. When these apply, the more stringent standard must be observed. All States have youth employment provisions, compulsory school attendance laws, and establish the minimum ages and conditions under which youths may operate motor vehicles.

Unless otherwise exempt, a covered minor employee is entitled to receive the same minimum wage, overtime, safety and health, and non-discrimination protections as adult workers.



Coverage of the Youth Employment Provisions

Who is Covered?

Enterprise Coverage:

All employees of certain enterprises having workers engaged in interstate commerce, producing goods for interstate commerce, or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person are covered by the FLSA. A covered enterprise is the related activities performed through unified operation or common control by any person or persons for a common business purpose and:

1. whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated); or
2. is engaged in the operation of a hospital, an institution primarily engaged in the care of those who are physically or mentally ill or disabled or aged, and who reside on the premises, a school for children who are mentally or physically disabled or gifted, a preschool, an elementary or secondary school, or an institution of higher education (whether operated for profit or not for profit); or
3. is an activity of a public agency.

Construction and laundry/dry cleaning enterprises, which were previously covered regardless of their annual dollar volume of business, are now subject to the \$500,000 test.

Any enterprise that was covered by the FLSA on March 31, 1990, and that ceased to be covered because of the increase in the enterprise coverage dollar volume test must continue to pay its employees not less than \$3.35 an hour, and continues to be subject to the overtime pay, youth employment, and recordkeeping provisions of the FLSA.

Individual Coverage:

Employees of firms which are not covered enterprises under the FLSA may still be subject to its minimum wage, overtime, and youth employment provisions if they are individually engaged in interstate commerce or in the production of goods for interstate commerce. Such employees include those who: work in communications or transportation; regularly use the mail, telephone, computer e-mail system and/or facsimile machine to communicate with persons in another State; make deposits in banks; use an electronic device which authorizes a credit card purchase; keep records of interstate transactions; handle, ship, or receive goods moving in interstate commerce; regularly cross State lines in the course of employment; or work for independent employers who contract to do clerical, custodial, maintenance, or other work for firms engaged in interstate commerce or the production of goods for interstate commerce.

Young entrepreneurs who use the family lawnmower to cut their neighbor's grass or perform babysitting on a casual basis are not covered under the FLSA.

The Federal Youth Employment Provisions Do Not:

- require minors to obtain "working papers" or "work permits," though many States do;
- limit the number of hours or times of day that workers 16 years of age and older may legally work, though many States do;
- apply to any employee whose services during the workweek are performed in a workplace within a foreign country or within a territory named in section 13(f) of the FLSA.

Check with the applicable State Department of Labor for guidance concerning State laws.



Exemptions from the Youth Employment Provisions of the FLSA

The federal youth employment provisions do not apply to:

- Children under 16 years of age employed by their parents in occupations other than manufacturing or mining, or occupations declared hazardous by the Secretary of Labor.
- Children employed as actors or performers in motion pictures, theatrical, radio or television productions.
- Children engaged in the delivery of newspapers to the consumer.
- Homeworkers engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens).

Minimum Age Standards for Nonagricultural Employment

- 14 Minimum age for employment in specified occupations outside of school hours for limited periods of time each day and each week.
- 16 BASIC MINIMUM AGE FOR EMPLOYMENT. At 16 years of age, youth may be employed for unlimited hours in any occupation other than one declared to be hazardous by the Secretary of Labor.
- 18 Minimum age for employment in nonagricultural occupations declared hazardous by the Secretary of Labor.

Wage Payments to Young Workers

Unless otherwise exempt or employed under conditions discussed below, covered minor employees must be paid at least the statutory minimum wage for all hours worked.

Employees under 20 years of age may be paid \$4.25 per hour during their first consecutive 90 calendar days of employment with an employer.

Certain full-time students, student learners, apprentices and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

Employers of “tipped employees” must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligations. If an employee’s tips combined with the employer’s cash wage of at least \$2.13 do not equal the minimum hourly wage, the employer must make up the difference.



Employment Standards for 14- and 15-Year-Olds in Nonagricultural Employment

These requirements are published in Subpart C of Part 570 of Title 29 of the Code of Federal Regulations, Child Labor Regulation No. 3.

Employment of youths of this age group is limited to certain occupations and under conditions that do not interfere with their schooling, health or well-being.

Hours-Time Standards for 14- and 15-Year-Olds

Fourteen- and 15-Year-Olds May Not Be Employed:

1. DURING SCHOOL HOURS, *except* as provided in Work Experience and Career Exploration Programs.¹
2. BEFORE 7 a.m. or AFTER 7 p.m. *except* from June 1 through Labor Day when the evening hour is extended to 9 p.m. (time is based on local standards; i.e., whether the locality has adopted daylight savings time).
3. MORE THAN 3 HOURS A DAY ON A SCHOOL DAY, INCLUDING FRIDAYS.
4. MORE THAN 8 HOURS A DAY ON A NON-SCHOOL DAY.
5. MORE THAN 18 HOURS A WEEK DURING A SCHOOL WEEK.
6. MORE THAN 40 HOURS A WEEK DURING NON-SCHOOL WEEKS.

Limited exemption for professional sports attendants:

Section 570.35(b) of Regulations 29 CFR Part 570 grants a partial waiver from the hours standards limitations for 14- and 15-year-olds who are employed as professional sports attendants and performing the traditional duties of that position. These minors are still precluded from working during school hours.

¹ “School hours” are determined by the local public school in the area the minor is residing while employed – this is true even if the minor does not attend the public school (i.e., attends a private school or is home schooled). Special provisions apply to students participating in a State sponsored Work Experience and Career Exploration Program authorized by the Department of Labor in accordance with section 570.35(a) of Regulations 29 CFR Part 570.

Occupation Standards for 14- and 15-Year-Olds

Fourteen- and 15-Year-Olds May Not Be Employed in:

1. Any MANUFACTURING occupation.²
2. Any MINING occupation.
3. Most PROCESSING occupations such as filleting of fish, dressing poultry, cracking nuts, laundering as performed by commercial laundries, bulk or mass mailings (*except* certain occupations expressly permitted in retail, food service and gasoline service establishments as discussed below).
4. Occupations requiring the performance of any duties in WORKROOMS or WORKPLACES WHERE GOODS ARE MANUFACTURED, MINED OR OTHERWISE PROCESSED (*except* to the extent expressly permitted in retail, food service, or gasoline service establishments as discussed below; and as discussed in footnote 2 below).
5. PUBLIC MESSENGER SERVICE.
6. OPERATION OR TENDING OF HOISTING APPARATUS or of ANY POWER-DRIVEN MACHINERY, including lawnmowers, trimmers, and “weedwhackers,” but not including office

² Section 13(c)(7) of the FLSA, enacted in 2004, permits the employment of certain minors between the ages of 14 and 18, who have been excused from compulsory school attendance, inside and outside of places of business where machinery is used to process wood products. This provision, however, does not permit such minors to operate, or assist in the operation of power-driven woodworking machines.



machinery and those machines in retail, food service and gasoline service establishments that are expressly permitted and discussed below.

7. THE OPERATION OF MOTOR VEHICLES OR SERVICE AS HELPERS ON SUCH VEHICLES.
8. ANY OCCUPATION FOUND AND DECLARED TO BE HAZARDOUS BY THE SECRETARY OF LABOR.
9. 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 office or sales work in connection with a., b., c., and d. above when not performed on transportation media or at the actual construction site.

Special provisions apply to 14- and 15-year-olds employed in Retail, Food Service, and Gasoline Service Establishments.

Fourteen- and 15-year-olds MAY be employed to perform the following in Retail, Food Service, and Gasoline Service Establishments:

1. OFFICE and CLERICAL WORK, including operation of office machines.
2. CASHIERING, SELLING, MODELING, ART WORK, WORK IN ADVERTISING DEPARTMENTS, WINDOW TRIMMING and COMPARATIVE SHOPPING.
3. PRICE MARKING and TAGGING by hand or by machine. ASSEMBLING ORDERS, PACKING and SHELVING.
4. BAGGING and CARRYING OUT CUSTOMER ORDERS.
5. ERRAND and DELIVERY WORK by foot, bicycle, and public transportation.
6. CLEANUP WORK, including the use of vacuum cleaners and floor waxers. The CLEANING OF KITCHEN EQUIPMENT, including the filtering, transporting, and disposal of oil and grease, is permitted as long as the temperatures of the surfaces and the oil and grease do not exceed 100° F.
7. MAINTENANCE of GROUNDS, but not including use of power-driven mowers or cutters.
8. KITCHEN WORK and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as, but not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, coffee grinders and microwave ovens that do not have the capacity to warm above 140° F.
9. WORK IN CONNECTION WITH CARS AND TRUCKS if confined to the following:
 - Dispensing gasoline and oil.
 - Courtesy service on premises of gasoline service station.



- Car cleaning, washing, and polishing.
- Other occupations permitted by this section.

BUT NOT INCLUDING WORK involving the use of pits, racks or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.

10. CLEANING VEGETABLES and FRUITS, and WRAPPING, SEALING, LABELING, WEIGHING, PRICING, and STOCKING GOODS when performed in areas physically separate from areas where meat is prepared for sale and outside of freezers and meat coolers.

Fourteen- and 15-year-old employees MAY NOT be employed to perform the following in Retail, Food Service, and Gasoline Service Establishments:

1. Work performed IN or ABOUT BOILER or ENGINE ROOMS.
2. Work in connection with MAINTENANCE or REPAIR OF THE ESTABLISHMENT, MACHINES, or EQUIPMENT.
3. OUTSIDE WINDOW WASHING that involves working from windowsills, and all work requiring the use of LADDERS, SCAFFOLDS, or their substitutes.
4. COOKING (*except* with electric or gas grilles 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).
5. BAKING.

6. Occupations which involve OPERATING, SETTING UP, ADJUSTING, CLEANING, OILING, or REPAIRING power-driven FOOD SLICERS and GRINDERS, FOOD CHOPPERS and CUTTERS, and BAKERY-TYPE MIXERS.
7. Work in FREEZERS and MEAT COOLERS and all work in PREPARATION OF MEATS FOR SALE (*except* wrapping, sealing, labeling, weighing, pricing, and stocking when performed in other areas).
8. LOADING and UNLOADING GOODS to and from trucks, railroad cars, or conveyors.
9. All occupations in WAREHOUSES *except* office and clerical work.

Work Experience and Career Exploration Programs (WECEP)

Some of the provisions of Child Labor Regulation No. 3 are varied for 14- and 15-year-old participants in approved school-supervised and school-administered WECEPs. Enrollees in WECEP may be employed:

- During school hours.
- For as many as 3 hours on a school day, including Fridays.
- For as many as 23 hours in a school week.
- In occupations otherwise prohibited but only after a specific variance has been granted by the Administrator of the Wage and Hour Division.

The State Educational Agency must obtain approval from the Administrator of the Wage and Hour Division before operating a WECEP program.



Employment Standards for 16- and 17-Year-Olds in Nonagricultural Employment

The Hazardous Occupations Orders (HOs) for Nonagricultural Employment

These Orders are published in Subpart E of Part 570 of Title 29 of the Code of Federal Regulations.

The FLSA provides a minimum age of 18 years for any nonagricultural occupations which the Secretary of Labor “shall find and by order declare” to be particularly hazardous for 16- and 17-year-old persons, or detrimental to their health and well-being. This minimum age applies even when the minor is employed by the parent or person standing in place of the parent.

The seventeen HOs 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 found. Some of the HOs contain limited exemptions.

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|--------|--|--------|---|
| HO 1 | Manufacturing and storing of explosives. | HO 12* | Power-driven paper-products machines including scrap paper balers and cardboard box compactors. |
| HO 2 | Motor-vehicle driving and outside helper on a motor vehicle. | HO 13 | Manufacturing bricks, tile, and kindred products. |
| HO 3 | Coal mining. | HO 14* | Power-driven circular saws, bandsaws, and guillotine shears. |
| HO 4 | Logging and sawmilling. | HO 15 | Wrecking, demolition, and shipbreaking operations. |
| HO 5* | Power-driven woodworking machines. | HO 16* | Roofing operations and all work on or about a roof. |
| HO 6 | Exposure to radioactive substances. | HO 17* | Excavation operations. |
| HO 7 | Power-driven hoisting apparatus, including forklifts. | | |
| HO 8* | Power-driven metal-forming, punching, and shearing machines. | | |
| HO 9 | Mining, other than coal mining. | | |
| HO 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), wholesale establishments, and most occupations in meat slaughtering, packing, processing, or rendering. | | |
| HO 11 | Power-driven bakery machines including vertical dough or batter mixers. | | |
- * These HOs provide limited exemptions for 16- and 17-year-olds who are bona-fide student-learners and apprentices.*



HO 1 - Manufacturing or Storage Occupations Involving 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 “non-explosives 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 www.aft.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.

HO 2 – Motor-Vehicle Occupations

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.

Exemption

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.

HO 3 - Coal Mining Occupations

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 tippie 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.

HO 4 - Logging and Sawmilling Occupations

All occupations in logging and all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill³ are prohibited *except* the following:

1. Exceptions applying to logging:
 - a. Work in offices or in repair or maintenance shops.
 - b. Work in the construction, operation, repair, or maintenance of living and administrative quarters of logging camps.
 - c. Work in timber cruising, surveying, or logging-engineering parties; work in the repair or maintenance of roads, railroads, or flumes; work in forest protection, such as clearing fire trails or roads, piling and burning slash, maintaining firefighting equipment, constructing and maintaining telephone lines, or acting as fire lookout or fire patrolman away from the actual logging operations – *Provided*, that the provisions of this paragraph shall not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.
 - d. Peeling of fenceposts, 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 section.
 - e. Work in the feeding or care of animals.

³ Section 13(c)(7) of the FLSA, enacted in 2004, permits the employment of certain minors between the ages of 14 and 18, who have been excused from compulsory school attendance, inside and outside of places of business where machinery is used to process wood products. This provision, however, does not permit such minors to operate, or assist in the operation of power-driven woodworking machines.



2. Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill – *Provided*, that these exceptions do not apply to a portable sawmill the lumber yard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained; and *Further Provided*, that these exceptions do not apply to work which entails entering the sawmill building:
 - a. Work in offices or in repair or maintenance shops.
 - b. Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.
 - c. Pulling lumber from the dry chain.
 - d. Cleanup in the lumberyard.
 - e. Piling, handling, or shipping of cooperage stock in yards or storage sheds, other than operating or assisting in the operation of power-driven equipment.
 - f. Clerical work in yards or shipping sheds, such as done by ordermen, tallymen, and shipping clerks.
 - g. Cleanup work outside shake and shingle mills, *except* when the mill is in operation.
 - h. Splitting shakes manually from pre-cut and split blocks with a froe and mallet, *except* inside the mill building or cover.
 - i. Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, *except* inside the mill building or cover.
 - j. 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 or herself.

Definitions

1. The term *all occupations in logging* shall mean all work performed in conjunction

with the felling of timber, the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fenceposts, or similar products; the collecting, skidding, yarding, loading, transporting, and unloading of such products in conjunction 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. The term shall not apply to work performed in timber culture, timber stand improvement, or in emergency firefighting.

2. 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, laths, shingles, or 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 department of any sawmill, or in any planing-mill or remanufacturing plant not a part of a sawmill.

HO 5 - Power-Driven Woodworking Machine Occupations

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. 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 or veneer.
2. The term *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 material or refuse directly from a saw table or from a point of operation:
 - the carrying or 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.

HO 6 - Occupations Involving Exposure to Radioactive Substances and to Ionizing Radiation

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.

HO 7 - Power-Driven Hoisting Apparatus Occupations

The following occupations involved in the operation of power-driven hoisting apparatus are prohibited:

1. Work of operating an elevator, crane, derrick, hoist, or highlift truck (including a forklift), *except* operating an unattended automatic elevator or an electric or air-operated hoist not exceeding one ton capacity.
2. Work which involves riding on a manlift or on a freight elevator, *except* a freight elevator operated by an assigned operator.
3. Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

Exemption

This section shall 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.⁴

⁴ For purposes of this exception the term *automatic elevator* shall mean a passenger elevator, a freight elevator or a combination passenger-freight

Definitions

1. The term *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.
2. The term *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, ingotpouring, jib, locomotive, motor truck, overhead traveling, pillar jib, pintle, portal, semigantry, semiportal, storage bridge, tower, walking jib, and wall cranes.
3. The term *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 and operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy, and stiff-leg derricks.
4. The term *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.
5. The term *highlift truck* shall mean a power-driven industrial type of truck used for

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.



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 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 forklifts, forklift trucks, tiering trucks, 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, material.

6. The term *manlift* shall mean a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain, or similar method of suspension; 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.

HO 8 - Power-Driven Metal Forming, Punching, and Shearing Machine Occupations

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:



Milling Function Machines

Horizontal Milling Machines
Vertical Milling Machines
Universal Milling Machines
Planer-type Milling Machines
Gear Hobbing Machines
Profilers
Routers

Turning Function Machines

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

HO 9 - Occupations in Connection with Mining, Other than Coal

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 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.

HO 10 - Occupations Involving the Operation of Power-Driven Meat-Processing Machines and Occupations Involving Slaughtering, Meatpacking, Processing, or Rendering

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 machines⁵).

2. 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: headsplitters, and guillotine cutters; snoutpullers and jawpullers; skinning machines; horizontal rotary washing machines; casing-cleaning machines; and presses (*except* belly-rolling machines).
3. All boning operations.
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 that involve the pushing or dropping of any suspended carcass, half-carcass, or quarter-carcass of beef.
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.

⁵ 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.



Exemptions

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

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

Definitions

1. The term *slaughtering and meatpacking establishments* shall mean places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term shall also include establishments which manufacture or process meat products or sausage casings from such animals.
2. The term *rendering plants* shall mean 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.
3. The term *killing floor* shall include that workroom or workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.
4. The term *curing cellar* shall include that workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include that workroom or workplace where meats are smoked.
5. The term *hide cellar* shall include that workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.
6. The term *boning occupations* shall mean the removal of bones from meat cuts. It shall not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

HO 11 - Power-Driven Bakery Machine Occupations

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; battermixer⁶; 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.

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

Ingredient Preparation and Mixing

Flour-sifting Machine Operator
Flour-blending Machine Operator
Sack-cleaning Machine Operator

Product Forming and Shaping

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

Finishing and Icing

Depositing Machine Operator
Enrobing Machine Operator
Spray Machine Operator
Icing Mixing Machine Operator

⁶ HO 11 prohibits minors from operating any vertical or horizontal mixer (including countertop models) 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.



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

HO 12 - Power-Driven Paper-Products Machine Operations Including Scrap Paper Balers and Paper Box Compactors

The following occupations are prohibited in any type of establishment (manufacturing, nonmanufacturing, 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 bandsaw, 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 setting-up, adjusting, repairing, oiling or cleaning these machines including those which do not involve hand feeding.

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 meet the American National Standard Institute's (ANSI) Standard ANSI Z245.5-1990 or ANSI Z245.5-1997; and the paper box compactors meet the American National Standard Institute's Standard ANSI Z245.2-1992 or ANSI 245.2-1997;⁷
 - 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 provides notice and posts notice on each scrap paper baler and each paper box compactor that 16- and 17-year-olds will be loading which states:
 - 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

⁷ 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.



- 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.⁸

Definitions

1. The term *operating or assisting to operate* shall mean all work that involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, 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.
2. The term *paper products machine* shall mean all power-driven machines used in:
 - the remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for recycling; or
 - the preparation of such material for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or non-manufacturing establishment.
3. Note: There are many machines not covered by HO 12. The most important of these machines are the following:

Bag Machine, Bagmaking Machine
Bottoming Machine (Bags)
Boxmaking Machine (Collapsible Boxes)
Bundling Machine
Calendar Roll and Plating Machines
Cigarette Carton Opener and Tax Stamping Machine

⁸ 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.

Clasp Machine
Counting, Stacking and Ejecting Machine
Corner Stayer
Covering, Lining, or Wrapping Machines (Setup Boxes)
Creping Machine
Dornbusch Machine (Wallpaper)
Ending Machine (Setup Boxes)
Envelope Machine
Folding Machine
Gluing, Scaling, or Gumming Machine
Interfolding Machine
Jogging Machine
Lacer Machine
Parchmentizing, Waxing, or Coating Machines
Partition Assembling Machine
Paper Cut Machine
Quadruple Stayer
Rewinder
Rotary Printing Press
Ruling Machine
Slitting Machine
Straw Winder
Stripping Machine
Taping Machine
Tubecutting Machine
Tubewinder
Tube Machine (Paper Bags)
Window Patch Machine
Wire- or Tag- Stringing Machine

HO 13 - Occupations Involved in the Manufacture of Brick, 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.

HO 14 - Occupations Involved in the Operation of Power-Driven Circular Saws, Bandsaws, and Guillotine Shears

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 setting-up, adjusting, repairing, oiling, or cleaning circular saws, bandsaws, and guillotine shears.

Exemption

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

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 operation of the machine.
2. The term *helper* shall mean a person who assists in the operation of a machine covered by this HO by helping place materials onto or removing them from the machine.
3. The term *machine equipped with full automatic feed and ejection* shall mean machines covered by this HO which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his or her body in the point-of-operation area.
4. The term *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. The term *bandsaw* 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.
6. The term *guillotine shears* shall mean a machine equipped with a movable 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.

HO 15 - Occupations Involved in 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.

HO 16 - Occupations in 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 *on 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.

HO 17 - Occupations in 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.



Special Provisions Permitting the Employment of Certain Minors in Places of Business that Use Machinery to Process Wood Products

Section 13(c)(7) of the FLSA permits the employment of certain minors between the ages of 14 and 18, inside and outside of places of businesses where machinery is used to process wood products.

This exemption applies only to a minor who is:

1. exempt from compulsory school attendance beyond the eighth grade either by statute or judicial order, and,
2. is supervised in the work place by an adult relative or adult member of the same religious sect or division as the minor.

Although a minor meeting these requirements maybe employed inside and outside of places of businesses that use machinery to process wood products – activities normally prohibited by Child Labor Regulation No. 3 and HO 4 – the minor is still prohibited from operating, or assisting to operate, any power-driven woodworking machines. This prohibition includes the starting and stopping of the machines and the feeding of materials into the machines as well as the off-bearing of materials from the machines.

Such minors are also prohibited from cleaning, oiling, setting-up, adjusting and maintaining the machines. In addition, such minors must be 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. The minors are also required to use personal protective equipment to prevent exposure to excessive levels of noise and sawdust.

Exemptions from Certain HOs for Apprentices and Student-Learners

Hazardous Occupations Orders Nos. 5, 8, 10, 12, 14, 16, and 17 contain exemptions for 16- and 17-year-old apprentices and student-learners provided they are employed under the following conditions:

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 of the U. S. Department of Labor as employed in accordance with the standards established by that Bureau, or is registered by a State agency as employed in accordance with the standards of the State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, or is employed under a written apprenticeship agreement and conditions which are found by the Secretary of Labor to conform substantially with such Federal or State standards.

Student-Learners:

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.

Each such written agreement shall contain the name of the student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder.

A high school graduate may be employed in an occupation in which training has been completed as provided in this paragraph as a student-learner, even though the youth is not yet 18 years of age.

Although the regulations do not provide definitions of the terms *intermittent* and *short periods of time*, the Wage and Hour Division interprets those terms to mean that an apprentice or student-learner may not be the principal operator of prohibited machinery. He or she must work under the close supervision of a fully qualified and experienced adult, such as a journeyman. Further, the duties assigned the minor may not be such that he or she is constantly operating the prohibited machinery during the work shift, but only doing so as part of the training experience. This would preclude an apprentice or student-learner from being a production worker, responsible for spending a significant portion of the workday operating prohibited machinery or performing prohibited tasks. The Wage and Hour Division considers the continuous performance of otherwise prohibited work that exceeds one hour a day to

be more than *intermittent* and more than *for short periods of time*. The Wage and Hour Division also considers the performance of otherwise prohibited work which totals more than 20% of the student-learner's work shift to be more than *for short periods of time*.

The regulations do not define the term *direct and close supervision*. The Wage and Hour Division's interpretation of *direct and close supervision* as it applies to apprentices and student-learners is based on guidance received from the Bureau of Apprenticeship and Training (BAT) which is part of the U. S. Department of Labor's Employment and Training Administration. BAT establishes ratios governing the number of journeymen and apprentices that may be employed on the job site in order to ensure worker safety and that the apprentices receive both proper training and supervision. BAT has advised the Wage and Hour Division that the most widely used ratio is one apprentice for the first journeyman on-site, and one apprentice for every three additional journeymen thereafter. The Wage and Hour Division considers the requirement of *direct and close supervision* to be met when there is one journeyman or experienced adult working with the first apprentice/student-learner on-site, and at least three journeymen or experienced adults working alongside each additional apprentice/student-learner. Of course, the requirement for *direct and close supervision* applies only during the periods when the apprentice/student-learner is actually performing work that would otherwise be prohibited by the HO.

Age Certificates

Employers may protect themselves from unintentional violation of the youth employment provisions by keeping on file an employment or age certificate for each minor employed to show that the minor is the minimum age for the job. Certificates issued under most State laws are acceptable for purposes of the FLSA.



Enforcement of the Federal Youth Employment Provisions

The Wage and Hour Division, which is part of the Department of Labor's Employment Standards Administration, administers and enforces the youth employment, minimum wage, overtime and recordkeeping provisions of the Fair Labor Standards Act. The Wage and Hour Division also has enforcement responsibility for programs covering such things as prevailing wages for government contracts, the payment of special minimum wages, farm labor, family and medical leave, immigration and polygraph testing. Wage and Hour Division Investigators, who are stationed across the United States, are authorized to conduct investigations and gather data on wages, hours of work, and compliance with the all the provisions of the FLSA, including the youth employment provisions.

Penalties for Violation

Civil Money Penalties

Employers may be subject to a civil money penalty of up to \$11,000 for each employee who is the subject of a youth employment violation. When a civil money penalty is assessed against an employer for a youth employment violation, the employer has the right, within 15 days after receipt of the notice of such penalty, to file an exception to the determination that the violation or violations occurred. When such an exception is filed with the office making the assessment, the matter is referred to the Chief Administrative Law Judge, and a formal hearing is scheduled. At such a hearing, the employer may, or an attorney retained by the employer may, present such witnesses, introduce such evidence and establish such facts as the employer believes will support the exception. The determination of the amount of any civil money penalty becomes final if no exception is taken to the administrative assessment thereof, or if an exception is filed pursuant to the decision and order of the administrative law judge.

Hot Goods Injunction

The FLSA authorizes the Department of Labor to seek injunctions to halt interstate commerce of goods tainted by "oppressive child labor." Section 12(a)(29 U.S.C. 212(a)) prohibits interstate commerce in such "hot" goods, stating that "[n]o producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment in the United States in or about which within 30 days prior to the removal of such goods therefrom any oppressive child labor [as defined in section 3(l), 29 U.S.C. 203(l)] has been employed." It is not necessary for the employees to be working on the goods that are removed for shipment in order for those goods to be considered "hot goods."

Injunction to Compel Compliance

The FLSA authorizes the Department of Labor to seek injunctions against violators of the youth employment provisions to compel their compliance with the law. Further violations could result in sanctions against such persons for contempt of court.

Criminal Sanctions

The FLSA also provides, in the case of willful violation, for a fine up to \$10,000; or, for a second offense committed after the conviction of such person for a similar offense, for a fine of not more than \$10,000 or imprisonment for not more than 6 months, or both.



Additional Information

Inquiries about the Fair Labor Standards Act or any other law administered by the Wage and Hour Division may be addressed to any local office of the Wage and Hour Division. Additional information is available on our Home Page located at http://www.dol.gov/dol/esa/public/whd_org.htm.

To locate the Wage and Hour Division office nearest to you, telephone our toll-free information and helpline at 1-866-4US-WAGE (1-866-487-9243): a customer service representative is available to assist you with referral information from 8am to 5pm **in your own time zone**; or log onto the nationwide listing of Wage-Hour District Offices located at: <http://www.dol.gov/dol/esa/public/contacts/whd/america2.htm>.