

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

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JUN 23 A 11:09

CLERK OF COURTS

SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Labor TITLE NUMBER: 42

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §21-6-11.

AMENDMENT TO AN EXISTING RULE: YES ☒ NO ☐

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 9

TITLE OF RULE BEING AMENDED: Child Labor

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 23, 2014 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

John R. Junkins, Acting Commissioner

West Virginia Division of Labor

State Capitol Complex, Building 6, Room B-749

Charleston, WV 25305

Or by email: john.r.junkins@wv.gov

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

WEST VIRGINIA DIVISION OF LABOR

749-B Building 6 , Capitol Complex • Charleston, West Virginia 25305

Phone (304) 558-7890 • Fax (304) 558-2273

www.wvlabor.org

EARL RAY TOMBLIN
Governor



JOHN R. JUNKINS
Acting Commissioner

Statement of Facts and Circumstances

and

Summary of Proposed Amendments to Title 42, Series 9

Child Labor

The current rule, "Child Labor," Title 42, Series 9, has been in effect since 2002 and is in need of revision to clarify and reflect the Division of Labor's current practices with regard to enforcement of the Child Labor Act, W. Va. Code §21-6-1, *et seq.* In addition, the proposed rule makes the Division's practices consistent with those of the United States Department of Labor, so that West Virginia employers will have the benefit of complying with one set of rules.

- The proposed rules includes definitions for 31 terms.
- The proposed rule adopts and incorporates 34 sections from the Code of Federal Regulations. These are attached at the end of the proposed rule.
- Procedures for the application and issuance of a work permit are included.
- Provisions setting forth employer responsibilities when employing a minor pursuant to a work permit are included.
- Procedures for the application and issuance of an age certificate are included.
- Procedures for the application and issuance of a supervision permit are included.
- Procedures for the application and issuance of a blanket work permit, and provisions for employer responsibilities when employing minors pursuant to a blanket work permit are included.
- Procedures for the revocation of a work permit, age certificate, supervision permit and blanket work permit are included.
- Provisions concerning certain minors engaging in volunteer fire department activities, responsibilities of the volunteer fire department, and permitted and prohibited activities are included.



APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Child Labor

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia Division of Labor

Address: State Capitol Complex
Building 6, Room B-749
Charleston, WV 25305

Phone Number: 304.558.7890 x 58018 Email: john.r.junkins @wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure
will have on costs and revenues of state government.

This proposed rule will have no impact on the costs or revenues of state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of
Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Child Labor

Rule Title:

Child Labor

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A.

MEMORANDUM

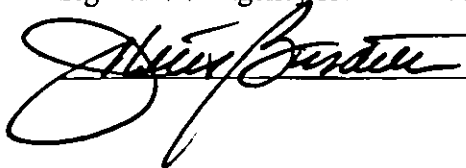
Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

N/A.

Date:

June 19, 2014

Signature of Agency Head or Authorized Representative



**TITLE 42
LEGISLATIVE RULE
DIVISION OF LABOR**

**SERIES 9
CHILD LABOR**

FILED

2014 JUN 23 A 11:10

OFFICE OF THE
SECRETARY OF STATE

§42-9-1. General.

1.1. Scope. -- This rule is for the enforcement of all matters concerning the Child Labor Act, W. Va. Code §21-6 -1, *et seq.*

1.2. Authority. -- W. Va. Code §21-6-11.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of former rule. -- This rule repeals and replaces 42 CSR 9, "Child Labor" filed July 19, 2002 and effective August 1, 2002.

§42-9-2. Application and Enforcement.

2.1. Application. This rule applies to all persons, employers, employees, and minor children governed or otherwise within the purview of the Child Labor Act, W. Va. Code §21-6 -1, *et seq.*

2.2. Enforcement. The enforcement of the Child Labor Act, W. Va. Code §21-6 -1, *et seq.* and this rule is vested with the West Virginia Division of Labor.

§42-9-3. Definitions.

3.1. The "Act" or "the law," for purposes of this rule, means the Child Labor Act, W. Va. Code §21-6 -1, *et seq.*

3.2. "Age certificate" or "certificate of age" means the form authorized by the Division of Labor for the employment of a 16 or 17 year old minor that is issued by the superintendent of schools for the purpose of certifying the minor's age and place and date of birth.

3.3. "Bar" means an establishment where the serving of alcoholic beverages is the main or primary business activity.

3.4. "Blanket work permit" means the form authorized and issued by the Division of Labor for the employment of 25 or more minor children for a period of 90 days or less, which includes an

acknowledgment from the prospective employer stating that he or she is familiar with and will abide by the Child Labor Act, W. Va. Code §21-6-1, *et seq.*, and this rule, and which lists the names, birth dates, ages, and job description for each minor child.

3.5. "Board of education" means the board of education in the county where the minor child resides.

3.6. "Business owner" means an individual who owns at least a 20% interest in the business or enterprise that employs minor children.

3.7. "Certified birth certificate" means a birth certificate issued by the West Virginia Department of Health and Human Resources, Office of Vital Statistics, by the County Clerk of the West Virginia county in which the minor was born, or by an office listed on the National Vital Statistics System maintained by the United States Centers for Disease Control and Prevention.

3.8. "Code of Federal Regulations" or "CFR" refers to the codification of the rules and regulations of an agency of the United States government.

3.9. "Commissioner" means the Commissioner of the Division of Labor, or his or her authorized designee.

3.10. "County" means the county where the minor child resides.

3.11. "Dangerous occupation," "injurious occupation," or "oppressive occupation" means an occupation identified in W. Va. Code §21-6-2, any occupation that the Commissioner determines is detrimental to a minor's health or well-being, or that interferes with a minor's education, and any occupation identified by the Secretary of the United States Department of Labor as hazardous or oppressive.

3.12. "Division" means the West Virginia Division of Labor.

3.13. "Employ" means to hire, permit, or suffer to work.

3.14. "Employer" means any person, firm, or corporation employing a minor child.

3.15. "Grain handling facility" means a facility that receives, handles, stores, processes or ships bulk raw agricultural commodities such as corn, wheat, oats, barley, sunflower seeds, and soybeans.

3.16. "Hazardous Occupations Orders" or "HO" mean the 17 orders issued by the Secretary of the United States Department of Labor restricting the types of jobs and industries in which minors under the age of 18 years may be employed, codified at 29 C.F.R. §§570.51 through 570.55 and 570.57 through 570.68.

3.17. "Immediate supervision" or "direct supervision" means supervision by a responsible party who is within the immediate physical proximity of the minor and is responsible for managing, overseeing and directing the minor's work activities.

3.18. "Issuing officer" means the person who has been authorized in writing by the county superintendent of schools to review and approve work permit applications and age certificate applications.

3.19. "NFPA" refers to the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169.

3.20. "Parent" means and includes a minor's parent, guardian, custodian, or other person standing in the place of the minor's parent.

3.21. "Personal protective equipment" or "turnout gear" means NFPA-compliant boots, coat, pants, helmet, hood, gloves and self-contained breathing apparatus with face piece.

3.22. "Responsible party" means a regular, full-time, qualified and experienced adult employee or business owner, or, pursuant to W. Va. Code §21-6-2(c), a fire line officer.

3.23. "Restaurant" means an establishment where the serving of food is the main or primary business activity, even if alcoholic beverages are also served.

3.24. "School hours" or "while school is in session" means the hours during which county public schools are in session.

3.25. "School week" means Monday through Sunday while county schools are in session.

3.26. "Special circumstances," means and includes a minor child's particular situation, life experiences, abilities, training, or any other conditions or facts that the Commissioner may consider in determining whether to issue a supervision permit.

3.27. "Superintendent of schools" means the superintendent of schools for the county where the minor child resides, or an individual who has been designated in writing to act for the superintendent in reviewing and issuing work permits and age certificates.

3.28. "Supervision permit" means the form authorized and issued by the Division of Labor for the employment of a minor child under special circumstances that promote the best interests of the minor child.

3.29. "Work experience program," "work-study program," or "work-based learning program" means a school-supervised and school-administered program for 14 and 15 year old minors enrolled in a college preparatory curriculum that meets the educational standards established by the WV

Department of Education, and has been approved by the Administrator of the Wage and Hour Division of the United States Department of Labor.

3.30. "Work experience and career exploration program" or "WECEP" means a school-supervised and school-administered program for 14 and 15 year old minors that meets the educational standards established by the WV Department of Education and has been approved by the Administrator of the Wage and Hour Division of the United States Department of Labor.

3.31. "Work permit" means the form authorized by the Division of Labor for the employment of a 14 or 15 year old minor child and issued by the county superintendent of schools.

§42-9-4. Adoption of Federal Regulations Concerning Child Labor.

The following regulations from the Code of Federal Regulations are adopted and incorporated by reference:

4.1. 29 C.F.R. §570.5, "Certificates of age and their effect," effective December 16, 2004;

4.2. 29 C.F.R. §570.6, "Contents and disposition of certificate of age," except for (b)(1) and (2), effective December 16, 2004;

4.3. 29 C.F.R. §570.7, "Documentary evidence required for issuance of a certificate of age," effective December 16, 2004;

4.4. 29 C.F.R. §570.31, "Secretary's determinations concerning the employment of minors 14 and 15 years of age," effective May 20, 2010;

4.5. 29 C.F.R. §570.32, "Effect of this subpart," effective May 20, 2010;

4.6. 29 C.F.R. §570.33, "Occupations that are prohibited to minors 14 and 15 years of age," effective May 20, 2010;

4.7. 29 C.F.R. §570.34, "Occupations that may be performed by minors 14 and 15 years of age," effective May 20, 2010;

4.8. 29 C.F.R. §570.35, "Hours of work and conditions of employment permitted for minors 14 and 15 years of age," effective May 20, 2010;

4.9. 29 C.F.R. §570.36, "Work experience and career exploration program," effective May 20, 2010;

4.10. 29 C.F.R. §570.37, "Work-study program," effective May 20, 2010;

4.11. 29 C.F.R. §570.38, “Effect of a certificate of age under this subpart,” effective May 20, 2010;

4.12. 29 C.F.R. §570.50, “General,” effective December 29, 1971;

4.13. 29 C.F.R. §570.51, “Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1),” effective December 16, 2004;

4.14. 29 C.F.R. §570.52, “Occupations of motor-vehicle driver and outside helper (Order 2),” effective December 16, 2004;

4.15. 29 C.F.R. §570.53, “Coal-mine occupations (Order 3),” effective December 29, 1971;

4.16. 29 C.F.R. §570.54, “Forest fire fighting and forest fire prevention occupations, timber tract occupations, forestry service occupations, logging occupations, and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill (Order 4),” effective May 20, 2010;

4.17. 29 C.F.R. §570.55, “Occupations involved in the operation of power-driven woodworking machines (Order 5),” effective May 20, 2010;

4.18. 29 C.F.R. §570.57, “Exposure to radioactive substances and to ionizing radiations (Order 6),” effective December 29, 1971;

4.19. 29 C.F.R. §570.58, “Occupations involved in the operation of power-driven hoisting apparatus (Order 7),” effective May 20, 2010;

4.20. 29 C.F.R. §570.59, “Occupations involved in the operation of power-driven metal forming, punching, and shearing machines (Order 8),” effective December 29, 1971;

4.21. 29 C.F.R. §570.60, “Occupations in connection with mining, other than coal (Order 9),” effective December 29, 1971;

4.22. 29 C.F.R. §570.61, “Occupations in the operation of power-driven meat-processing machines and occupations involving slaughtering, meat and poultry packing, processing, or rendering (Order 10),” effective May 20, 2010;

4.23. 29 C.F.R. §570.62, “Occupations involved in the operation of bakery machines (Order 11),” effective May 20, 2010;

4.24. 29 C.F.R. §570.63, “Occupations involved in the operation of balers, compactors, and paper-products machines (Order 12),” effective May 20, 2010;

4.25. 29 C.F.R. §570.64, "Occupations involved in the manufacture of brick, tile, and kindred products (Order 13)," effective December 29, 1971;

4.26. 29 C.F.R. §570.65, "Occupations involving the operation of circular saws, band saws, guillotine shears, chain saws, reciprocating saws, wood chippers, and abrasive cutting discs (Order 14)," effective May 20, 2010;

4.27. 29 C.F.R. §570.66, "Occupations involved in wrecking, demolition, and shipbreaking operations (Order 15)," effective December 29, 1971;

4.28. 29 C.F.R. §570.67, "Occupations in roofing operations and on or about a roof (Order 16)," effective December 16, 2004;

4.29. 29 C.F.R. §570.68, "Occupations in excavation operations (Order 17)," effective December 29, 1971;

4.30. 29 C.F.R. §570.70, "Purpose and scope," effective December 29, 1971;

4.31. 29 C.F.R. §570.71, "Occupations involved in agriculture," effective December 29, 1971;

4.32. 29 C.F.R. §570.72, "Exemptions," effective December 29, 1971;

4.33. 29 C.F.R. §570.117, "General," effective December 29, 1971; and

4.34. 29 C.F.R. §570.121, "Age certificates," effective December 29, 1971.

§42-9-5. Application for and Issuance of a Work Permit for a 14 or 15 Year Old Minor Child.

5.1. When a 14 or 15 year old minor wants to work in a permissible occupation as set forth in the Act and this rule, the Division's work permit form, available from the county superintendent of schools, shall be completed by the minor's prospective employer, the minor's parent, the minor's school principal or registrar, and the county superintendent of schools.

5.2. The Division's work permit form consists of 4 parts, as follows:

5.2.1. The minor's prospective employer shall complete Part A, to include a description of the minor's intended work activities and any equipment or machines the minor will use, the minor's intended hours of employment, the minor's total hours of work per day and per week, and the minor's total work days per week;

5.2.2. After the minor's prospective employer completes Part A, the minor's parent shall complete Part B, giving permission for his or her child to work for the prospective employer

and shall attach the minor's certified birth certificate; and

5.2.3. After Parts A and B are completed, the minor's school principal or registrar shall complete Part C, certifying that the minor is currently attending school; and

5.2.4. After Parts A, B, and C are completed, the county superintendent of schools shall review the information completed by the minor's prospective employer, the minor's parent, and the minor's school principal or registrar, and shall certify that the minor personally appeared before him or her, and shall either issue, modify, or reject the work permit.

5.3. The superintendent of schools shall retain the original work permit, shall provide the Division with a copy within 4 days of its issuance, and shall furnish copies to the minor's parent and to the minor's employer.

5.4. If required by the minor's prospective employer or the superintendent of schools, the minor's parent shall attach documentation of a current physical examination to the application for a work permit.

§42-9-6. Employer Responsibilities When Employing a 14 or 15 Year Old Minor Child Pursuant to a Work Permit.

6.1. Before allowing or permitting a 14 or 15 year old minor to work, an employer shall first have in his or her possession a properly issued work permit as set forth in W. Va. Code §21-6-4 and this rule.

6.2. An employer shall be responsible for complying with the terms and conditions of the minor's employment as set forth in the work permit.

6.3. When school is in session, an employer shall:

6.3.1. Ensure that the minor does not work before 7 a.m. or after 7 p.m.;

6.3.2. Ensure that the minor does not work for more than 3 hours a day; and

6.3.3. Ensure that the minor does not work for more than a total of 18 hours per week during a school week.

6.4. When school is in session, an employer shall ensure that the minor does not work during the hours that school is in session unless the minor is participating in an approved school-supervised work experience program or in a school-administered WECEP program.

6.4.1. An employer shall ensure that a 14 or 15 year old minor enrolled in a work experience program or WECEP program works no more than 3 hours a day on a school day.

6.4.2. An employer shall ensure that a 14 or 15 year old minor enrolled in a work experience program or WECEP program works no more than 23 hours during a school week.

6.5. During those times when school is not in session, an employer shall:

6.5.1. Limit the minor's work hours to a maximum of 8 hours per day and a maximum of 40 hours per week;

6.5.2. Limit the minor's work hours to between 7 a.m. and 9 p.m.; and

6.5.3. Ensure that the minor does not work continuously for 5 hours or more without at least a 30 minute meal break..

§42-9-7. Work Permit for a Child Under 14 Years of Age.

The Commissioner may approve a work permit for a minor under 14 years of age only when the minor plans to work in the school he or she regularly attends and only during regular school hours.

§42-9-8. Application for and Issuance of an Age Certificate for a 16 or 17 Year Old Minor Child.

8.1. A prospective employer may obtain the Division's age certificate form for a 16 or 17 year old minor from the county superintendent of schools, and shall provide the employer's name and address, a brief description of the employer's business or industry, and a brief description of the minor's occupation or job.

8.2. The minor shall furnish a certified birth certificate to the county superintendent of schools as proof his or her age.

8.3. Upon receipt of the minor's certified birth certificate establishing that he or she is 16 years old or older, and a determination that the employer's business or industry and the minor's occupation or job are permissible under the Act and this rule, the superintendent of schools shall issue an age certificate to the employer.

8.4. The superintendent of schools shall retain the original age certificate, shall provide copies to the Division, the minor's parent, and the minor's employer.

§42-9-9. Application for and Issuance of a Supervision Permit.

9.1. When a minor child wants to be employed under special circumstances, the Division's supervision permit form, available from the Commissioner, shall be completed by the minor's prospective employer and the minor's parent.

9.2. The Division's supervision permit consists of 3 parts, as follows:

9.2.1. The minor's prospective employer shall complete Part A, to include the following information:

9.2.1.a. A description of the employer's business;

9.2.1.b. A detailed description of proposed terms and conditions of the minor's job, including the minor's work schedule, the days and hours of work each week, and total hours of work each week;

9.2.1.c. A detailed description of the proposed tasks the minor will perform, and specification of the machines and equipment the minor will use;

9.2.1.d. The name and job title of the person who is going to supervise the minor, the length of time the responsible supervisor has been employed by the employer, the specifics of the responsible supervisor's work schedule, and a description of how the responsible supervisor will supervise the minor;

9.2.1.e. An explanation of the minor's special circumstances that are relevant to the proposed tasks the minor will perform and the machines and equipment the minor will use;

9.2.1.f. An explanation of how and why the proposed job will be in the minor's best interests; and

9.2.1.g. A statement that the employer is not subject to federal regulation regarding child labor;

9.2.2. After the prospective employer has completed Part A, the minor's parent shall complete Part B, to include the following information:

9.2.2.1. An explanation of how and why the proposed job will be in the minor's best interests;

9.2.2.2. A statement in support of the minor's proposed job;

9.2.2.3. A description of the minor's previous work experience or training relevant to the proposed job; and

9.2.2.4. A statement of any concerns, restrictions or conditions regarding the proposed job that the parent or guardian believes are necessary to ensure that the minor's best interests will be met, including any training the parent or guardian believes the employer must

provide.

9.3. Upon receipt of a properly completed application for a supervision permit, the Commissioner shall timely investigate the request, including interviewing the prospective employer and any other matters the Commissioner deems necessary.

9.4. If, after review of the supervision permit and the investigation, the Commissioner finds the application to be in the minor's best interests, he or she may issue or modify the supervision permit to the employer and set forth the employer's responsibility to comply with all terms and conditions of the supervision permit. The Commissioner shall provide a copy of the supervision permit to the minor's parent or guardian.

9.5. If, after review, the Commissioner finds that the application is not in the minor's best interests, he or she shall provide the employer and the minor's parent or guardian with a written explanation.

§42-9-10. Application for and Issuance of a Blanket Work Permit; Employer Responsibilities.

10.1. When an employer wants to employ 25 or more children ages 14 through 15 for a short term period of 90 days or less, the employer shall apply for a blanket work permit directly to the Commissioner.

10.2. The application for a blanket work permit shall include the following:

10.2.1. A letter from the employer acknowledging his or her familiarity with the Child Labor Act, W. Va. Code § 21-6-1, *et seq.*, and this rule, and his or her intent to abide by and comply with the Act and this rule; and

10.2.2. A list of the names, birth dates, ages, date the employment will begin and end, and job description or tasks for each child to be included in the blanket work permit.

10.3. Upon receipt of the required information, the Commissioner shall issue a letter to the employer, approving, modifying or denying the blanket work permit.

10.4. An employer shall only employ children under a blanket work permit after receiving the Commissioner's approval, and only for the approved children, dates of employment, and jobs and tasks specified.

§42-9-11. Revocation of a Work Permit, Age Certificate, Supervision Permit, or Blanket Work Permit.

11.1. If the Commissioner determines that a work permit, an age certificate, a supervision permit, or a blanket work permit was improperly issued, or contains inaccurate or false information,

he or she may revoke it.

11.2. If the Commissioner revokes a work permit, an age certificate, a supervision permit, or a blanket work permit, he or she shall immediately notify the superintendent of schools and the employer in writing of the revocation.

11.3. Upon receipt of the revocation, the employer shall immediately end the minor's employment.

§42-9-12. Minors Ages 16 and 17 Engaging in Volunteer Fire Department Activities; Responsibilities of the Volunteer Fire Department; Prohibited and Permitted Activities.

12.1. If a 16 or 17 year old minor wants to volunteer for a volunteer fire department, he or she shall :

12.1.1. Have successfully completed the minimum training requirements of one of the following: the West Virginia University Fire Service Training Program, Section One, the West Virginia State Fire Marshal's Office, a Regional Education Service Agency ("RESA") or an equivalent program; and

12.1.2. Have the written consent of his or her parent to volunteer for a volunteer fire department.

12.2. The volunteer fire department shall be responsible for and shall ensure the following:

12.2.1. That the minor has provided documentation of his or her successful completion of one of the following: the West Virginia University Fire Service Training Program, Section One, the West Virginia State Fire Marshal's Office, a Regional Education Service Agency ("RESA") or an equivalent program;

12.2.2. That the minor has provided an Age Certificate;

12.2.3. That the minor is under the direct supervision and control of trained and qualified fire protection personnel; and

12.2.4. That the minor's parent's consent is on file as long as the minor's name appears on the volunteer fire department's roster of volunteers.

12.3. A minor shall not engage in the following activities or use, or assist in the use of, the following tools or equipment:

12.3.1. Drive any fire apparatus, ambulance or other official fire vehicle;

12.3.2. Operate flashing lights, a siren or other audible signal when responding to an alarm in his or her own personal vehicle or any other vehicle;

12.3.3. Operate or climb an aerial ladder, aerial platform or hydraulic jack at a fire scene or an emergency scene;

12.3.4. Rubber electrical gloves, insulated wire gloves, insulated wire cutters, life nets, acetylene cutting units, K-12 fire rescue saws, air chisels, jaws of life or other hydraulic rescue tools, or other equipment related to rescue and fire operations at a fire scene or an emergency scene;

12.3.5. Operate the pumps or high-pressure hoses of any fire vehicle while at a fire scene or an emergency scene; or

12.3.6. Enter a burning structure.

12.4. A minor is permitted to engage in the following activities, as long as he or she is wearing personal protective equipment:

12.4.1. Training activities of the West Virginia University Fire Service Training Program, Section One, the West Virginia State Fire Marshal's Office, a Regional Education Service Agency ("RESA") or an equivalent program approved by the Commissioner;

12.4.2. Administering first-aid at a fire scene or an emergency scene, but only at a safe distance away from any building or structure;

12.4.3. After a fire has been declared by the official in charge to be under control, cleaning up the outside area, but not inside a structure or building, at a fire scene or an emergency scene; and

12.4.4. Providing coffee and food service at a fire scene or an emergency scene, if needed, but only at a safe distance away from any building or structure.

12.5. A minor shall not be permitted to respond to a fire while school is in session or during school hours, unless the fire official in charge has obtained permission from the minor's school principal.

ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR Data is current as of April 29, 2014**

Title 29: Labor

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart B—Certificates of Age

§570.5 Certificates of age and their effect.

(a) To protect an employer from unwitting violation of the minimum age standards under the Act, section 3(1) of the Act provides that "oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child-labor age." The provisions of this subpart provide for age certificates based on the best available documentary evidence of age. Certificates issued and effective pursuant to this subpart furnish an employer with proof of the age of a minor employee upon which he may rely in determining whether the minor is at least the minimum age for the occupation in which he is to be employed.

(b) The employment of any minor shall not be deemed to constitute oppressive child labor under the Act if his employer shall have on file an unexpired certificate, issued and held in accordance with this subpart, which shall be either:

(1) A Federal certificate of age, issued by a person authorized by the Administrator of the Wage and Hour Division, showing that such minor is above the oppressive child-labor age applicable to the occupation in which he is employed, or

(2) A State certificate, which may be in the form of and known as an age, employment, or working certificate or permit, issued by or under the supervision of a State agency in a State which has been designated for this purpose by the Administrator showing that such minor is above the oppressive child-labor age applicable to the occupation in which the minor is employed. States so designated are listed in §570.9(a). Any such certificate shall have the force and effect specified in §570.9.

(c) The prospective employer of a minor, in order to protect himself from unwitting violation of the Act, should obtain a certificate (as specified in paragraphs (b) (1) and (2) of this section) for the minor if there is any reason to believe that the minor's age may be below the applicable minimum for the occupation in which he is to be employed. Such certificate should always be obtained where the minor claims to be only 1 or 2 years above the applicable minimum age for the occupation in which he is to be employed. It should also be obtained for every minor claiming to be older than 2 years above the applicable minimum age if his physical appearance indicates that this may not be true.

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Title 29: Labor

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart B—Certificates of Age

§570.6 Contents and disposition of certificates of age.

(a) Except as provided in §§570.9 and 570.10, a certificate of age which shall have the effect specified in §570.5 shall contain the following information:

(1) Name and address of minor.

(2) Place and date of birth of minor, together with a statement indicating the evidence on which this is based. The place of birth need not appear on the certificate if it is obtained and kept on file by the person issuing the certificate.

(3) Sex of minor.

(4) Signature of minor.

(5) Name and address of minor's parent or person standing in place of parent. This information need not appear on the certificate if it is obtained and kept on file by the person issuing the certificate.

(6) Name and address of employer, if minor is under 18.

(7) Industry of employer, if minor is under 18.

(8) Occupation of minor, if minor is under 18.

(9) Signature of issuing officer.

(10) Date and place of issuance.

(b)(1) We will send a certificate of age for a minor under 18 years of age to the prospective employer of the minor. That employer must keep the certificate on file at the minor's workplace. When the minor terminates employment, the employer must give the certificate to the minor. The minor may then present the previously issued certificate to future employers as proof of age as described in §570.5.

(2) Whenever a certificate of age is issued for a minor 18 or 19 years of age it may be given to the minor by the person issuing the certificate. Every minor 18 or 19 years of age shall, upon entering employment, deliver his certificate of age to his employer for filing and upon the termination of the employment, the employer shall return the certificate to the minor.

(The information collection requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 1215-0083)

[41 FR 26835, June 29, 1976, as amended at 49 FR 18294, Apr. 30, 1984; 69 FR 75402, Dec. 16, 2004]

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart B—Certificates of Age

§570.7 Documentary evidence required for issuance of a certificate of age.

(a) Except as otherwise provided in §§570.9 and 570.10, a certificate of age which shall have the effect specified in §570.5 shall be issued only upon application of the minor desiring employment or of the prospective employer to the person authorized to issue such certificate and only after acceptable documentary evidence of age has been received, examined, and approved. Such evidence shall consist of one of the following to be required in the order of preference herein designated:

(1) A birth certificate or attested transcript thereof or a signed statement of the recorded date and place of birth, issued by a registrar of vital statistics or other officer charged with the duty of recording births.

(2) A record of baptism or attested transcript thereof showing the date and place of birth and date and place of baptism of the minor, or a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or other documentary evidence satisfactory to the Administrator, such as a passport showing the age of the minor, or a certificate of arrival in the United States issued by the United States immigration office and showing the age of the minor, or a life-insurance policy: *Provided*, That such other documentary evidence has been in existence at least 1 year prior to the time it is offered as evidence: *And provided further*, That a school record of age or an affidavit of a parent or a person standing in place of a parent, or other written statement of age shall not be accepted except as specified in paragraph (a) (3) of this section;

(3) The school record or the school-census record of the age of the minor, together with the sworn statement of a parent or person standing in place of a parent as to the age of the minor and also a certificate signed by a physician specifying what in his opinion is the physical age of the minor. Such certificate shall show the height and weight of the minor and other facts concerning his physical development which were revealed by such examination and upon which the opinion of the physician as to the physical age of the minor is based. If the school or school-census record of age is not obtainable, the sworn statement of the parent or person standing in place of a parent as to the date of birth of the minor, together with a physician's certificate of age as hereinbefore specified, may be accepted as evidence of age.

(b) The officer issuing a certificate of age for a minor shall require the evidence of age specified in paragraph (a)(1) of this section in preference to that specified in paragraphs (a)(2) and (3) of this section, and shall not accept the evidence of age permitted by either subsequent paragraph unless he shall receive and file evidence that reasonable efforts have been made to obtain the preferred evidence required by the preceding paragraph or paragraphs before accepting any subsequently named evidence: *Provided*, That to avoid undue delay in the issuance of certificates, evidence specified in paragraph (a)(2) of this section may be accepted, or if such evidence is not available, evidence specified in paragraph (a)(3) of this section may be accepted if a verification of birth has been requested but has not been received from the appropriate bureau of vital statistics.

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

§570.31 Secretary's determinations concerning the employment of minors 14 and 15 years of age.

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions specified in §570.34 and §570.35, does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

[75 FR 28448, May 20, 2010]

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Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

§570.32 Effect of this subpart.

This subpart concerns the employment of youth between 14 and 16 years of age in nonagricultural occupations; standards for the employment of minors in agricultural occupations are detailed in subpart E-1. The employment (including suffering or permitting to work) by an employer of minors 14 and 15 years of age in occupations detailed in §570.34, for the periods and under the conditions specified in §570.35, shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938, as amended. Employment that is not specifically permitted is prohibited.

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

§570.33 Occupations that are prohibited to minors 14 and 15 years of age.

The following occupations, which is not an exhaustive list, constitute oppressive child labor within the meaning of the Fair Labor Standards Act when performed by minors who are 14 and 15 years of age:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined or otherwise processed, except as permitted in §570.34 of this subpart.

(b) Occupations that the Secretary of Labor may, pursuant to section 3(l) of the Fair Labor Standards Act, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being.

(c) Occupations that involve operating, tending, setting up, adjusting, cleaning, oiling, or repairing hoisting apparatus.

(d) Work performed in or about boiler or engine rooms or in connection with the maintenance or repair of the establishment, machines, or equipment.

(e) Occupations that involve operating, tending, setting up, adjusting, cleaning, oiling, or repairing any power-driven machinery, including but not limited to lawn mowers, golf carts, all-terrain vehicles, trimmers, cutters, weed-eaters, edgers, food slicers, food grinders, food choppers, food processors, food cutters, and food mixers. Youth 14 and 15 years of age may, however, operate office equipment pursuant to §570.34(a) and vacuum cleaners and floor waxers pursuant to §570.34(h).

(f) The operation of motor vehicles; the service as helpers on such vehicles except those tasks permitted by §570.34(k); and the riding on a motor vehicle, inside or outside of an enclosed passenger compartment, except as permitted by §570.34(o).

(g) Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes.

(h) All baking and cooking activities except that cooking which is permitted by §570.34(c).

(i) Work in freezers and meat coolers and all work in the preparation of meats for sale except as permitted by §570.34(j). This section, however, does not prohibit the employment of 14- and 15-year-olds whose duties require them to occasionally enter freezers only momentarily to retrieve items as permitted by §570.34(i).

(j) Youth peddling, which entails the selling of goods or services to customers at locations other than the youth-employer's establishment, such as the customers' residences or places of business, or public places such as street corners and public transportation stations. Prohibited activities associated with youth peddling not only include 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 in conjunction

with his or her sales such as the loading and unloading of vans or other motor vehicles, the stocking and restocking of sales kits and trays, the exchanging of cash and checks with the employer, and the transportation of minors to and from the various sales areas by the employer. Prohibited youth peddling also includes such promotion activities as the holding, wearing, or waving of signs, merchandise, costumes, sandwich boards, or placards in order to attract potential customers, except when performed inside of, or directly in front of, the employer's establishment providing the product, service, or event being advertised. This provision does not prohibit a young salesperson from conducting sales for his or her employer on property controlled by the employer that is out of doors but may properly be considered part of the employer's establishment. Youth may conduct sales in such employer exterior facilities, whether temporary or permanent, as garden centers, sidewalk sales, and parking lot sales, when employed by that establishment. Youth peddling does not include the activities of persons who, as volunteers and without compensation, sell goods or services on behalf of eleemosynary organizations or public agencies.

(k) Loading and unloading of goods or property onto or from motor vehicles, railroad cars, or conveyors, except the loading and unloading of personal non-power-driven hand tools, personal protective equipment, and personal items to and from motor vehicles as permitted by §570.34(k).

(l) Catching and cooping of poultry in preparation for transport or for market.

(m) Public messenger service.

(n) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office work (including ticket office) or sales work in connection with paragraphs (n)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

§570.34 Occupations that may be performed by minors 14 and 15 years of age.

This subpart authorizes only the following occupations in which the employment of minors 14 and 15 years of age is permitted when performed for periods and under conditions authorized by §570.35 and not involving occupations prohibited by §570.33 or performed in areas or industries prohibited by §570.33.

(a) Office and clerical work, including the operation of office machines.

(b) 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, as long as such employment complies with all the other provisions contained in §§570.33, 570.34, and 570.35. Artistically creative work is limited to work in a recognized field of artistic or creative endeavor.

(c) Cooking with electric or gas grills which does not involve cooking over an open flame (Note: This provision does not authorize cooking with equipment such as rotisseries, broilers, pressurized equipment including fryolators, and cooking devices that operate at extremely high temperatures such as "Neico broilers"). Cooking is also permitted with deep fryers that are equipped with and utilize a device which automatically lowers the baskets into the hot oil or grease and automatically raises the baskets from the hot oil or grease.

(d) Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping.

(e) Price marking and tagging by hand or machine, assembling orders, packing, and shelving.

(f) Bagging and carrying out customers' orders.

(g) Errand and delivery work by foot, bicycle, and public transportation.

(h) Clean up 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.

(i) 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. 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. Minors are also

permitted to occasionally enter freezers momentarily to retrieve items in conjunction with restocking or food preparation.

(j) 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.

(k) The 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 are not 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.

(l)(1) *Lifeguard*. The employment of 15-year-olds (but not 14-year-olds) to perform permitted lifeguard duties at traditional swimming pools and water amusement parks (including such water park facilities as wave pools, lazy rivers, specialized activity areas that may include water falls and sprinkler areas, and baby pools; but not including the elevated areas of power-driven water slides) when such youth have been trained and certified by the American Red Cross, or a similar certifying organization, in aquatics and water safety.

(2) *Definitions*. As used in this paragraph (l):

Permitted lifeguard duties include the rescuing of swimmers in danger of drowning, the monitoring of activities at poolside to prevent accidents, the teaching of water safety, and providing assistance to patrons. Lifeguards may also help to maintain order and cleanliness in the pool and pool areas, give swimming instructions (if, in addition to being certified as a lifeguard, the 15-year-old is also properly certified as a swimming instructor by the American Red Cross or some other recognized certifying organization), conduct or officiate at swimming meets, and administer first aid. Additional lifeguard duties may include checking in and out items such as towels and personal items such as rings, watches and apparel. Permitted duties for 15-year-olds include the use of a ladder to access and descend from the lifeguard chair; the use of hand tools to clean the pool and pool area; and the testing and recording of water quality for temperature and/or pH levels, using all of the tools of the testing process including adding chemicals to the test water sample. Fifteen-year-olds employed as lifeguards are, however, prohibited from entering or working in any mechanical room or chemical storage areas, including any areas where the filtration and chlorinating systems are housed. The term permitted lifeguard duties does not include the operation or tending of power-driven equipment including power-driven elevated water slides often found at water amusement parks and some swimming pools. Minors under 16 years of age may not be employed as dispatchers or attendants at the top of elevated water slides performing such tasks as maintaining order, directing patrons as to when to depart the top of the slide, and ensuring that patrons have begun their "ride" safely. Properly certified 15-year-old lifeguards may, however, be stationed at the "splashdown pools" located at the bottom of the elevated water slides to perform those permitted duties listed in this subsection.

Traditional swimming pool means a water tight structure of concrete, masonry, or other approved materials located either indoors or outdoors, used for bathing or swimming and filled with a filtered and disinfected water supply, together with buildings, appurtenances and equipment used in connection therewith, excluding elevated "water slides." Not included in the definition of a traditional swimming pool would be such natural environment swimming facilities as rivers, streams, lakes, ponds, quarries, reservoirs, wharfs, piers, canals, or oceanside beaches.

Water amusement park means an establishment that not only encompasses the features of a traditional swimming pool, but may also include such additional attractions as wave pools; lazy rivers; specialized activities areas such as baby pools, water falls, and sprinklers; and elevated water slides. Not included in the definition of a water amusement park would be such natural environment swimming facilities as rivers, streams, lakes, reservoirs, wharfs, piers, canals, or oceanside beaches.

(m)(1) *Employment inside and outside of places of business where machinery is used to process wood products.* The employment of a 14- or 15-year-old who by statute or judicial order is exempt from compulsory school attendance beyond the eighth grade inside or outside places of business where machinery is used to process wood products if:

(i) The youth is supervised by an adult relative of the youth or is supervised by an adult member of the same religious sect or division as the youth;

(ii) The youth does not operate or assist in the operation of power-driven woodworking machines;

(iii) 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

(iv) The youth is required to use, and uses, personal protective equipment to prevent exposure to excessive levels of noise and saw dust.

(2) *Compliance.* Compliance with the provisions of paragraphs (m)(1)(iii) and (m)(1)(iv) of this section 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. The employment of youth under this section must comply with the other sections of this subpart, including the hours and time of day standards established by §570.35.

(3) *Definitions.* As used in this paragraph (m):

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.

Operate or assist in the operation of power-driven woodworking machines shall mean the operating of 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.

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.

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.

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. *Supervised* means that the youth's on-the-job activities must be directed, monitored, overseen, and controlled by certain named adults. Such supervision must be close, direct, constant, and uninterrupted. An *adult* shall mean an individual who is at least eighteen years of age. A *relative* shall mean the parent (or someone standing in the place of a parent), grandparent, sibling, uncle, or aunt of the young worker. A *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.

(n) Work in connection with cars and trucks if confined to the following: dispensing gasoline and oil; courtesy service; car cleaning, washing and polishing by hand; and 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.

(o) Work in connection with riding inside passenger compartments of motor vehicles except as prohibited by §570.33(f) or §570.33(j), or when a significant reason for the minor being a passenger in the vehicle is for the purpose of performing work in connection with the transporting—or assisting in the transporting of—other persons or property. The transportation of the persons or property does not have to be the primary reason for the trip for this exception to apply. Each minor riding as a passenger in a motor vehicle must have his or her own seat in the passenger compartment; each seat must be equipped with a seat belt or similar restraining device; and the employer must instruct the minors that such belts or other devices must be used. In addition, each driver transporting the young workers must hold a State driver's license valid for the type of driving involved and, if the driver is under the age of 18, his or her employment must comply with the provisions of §570.52.

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)**§570.35 Hours of work and conditions of employment permitted for minors 14 and 15 years of age.**

(a) *Hours standards.* Except as provided in paragraph (c) of this section, employment in any of the permissible occupations to which this subpart is applicable shall be confined to the following periods:

- (1) Outside of school hours;
- (2) Not more than 40 hours in any 1 week when school is not in session;
- (3) Not more than 18 hours in any 1 week when school is in session;
- (4) Not more than 8 hours in any 1 day when school is not in session;
- (5) Not more than 3 hours in any 1 day when school is in session, including Fridays;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

(b) *Definitions.* As used in this section:

Outside school hours means such periods as before and after school hours, holidays, summer vacations, weekends, and any other day or part of a day when school is not in session as determined by the local public school district in which the minor resides when employed. Summer school sessions, held in addition to the regularly scheduled school year, are considered to be *outside of school hours*.

School hours refers to the hours that the local public school district where the minor resides while employed is in session during the regularly scheduled school year.

Week means a fixed and regularly recurring period of 168 hours—seven consecutive 24-hour periods—that is identical to the workweek the employer establishes for the employee under §778.105 of this title.

Week when school is in session refers to any week the local public school district where the minor resides while employed is in session and students are required to attend for at least one day or partial day.

(c) *Exceptions.* (1) School is not considered to be in session, and exceptions from the hours limitations standards listed in paragraphs (a)(1), (3), and (5) of this section are provided, for any youth 14 or 15 years of age who:

- (i) Has graduated from high school;

(ii) Has been excused from compulsory school attendance by the state or other jurisdiction once he or she has completed the eighth grade and his or her employment complies with all the requirements of the state school attendance law;

(iii) Has a child to support and appropriate state officers, pursuant to state law, have waived school attendance requirements for this minor;

(iv) Is subject to an order of a state or federal court prohibiting him or her from attending school; or

(v) Has been permanently expelled from the local public school he or she would normally attend, unless the youth is required, by state or local law or ordinance, or by court order, to attend another school.

(2) In the case of minors 14 and 15 years of age who are employed to perform sports-attending services at professional sporting events, *i.e.*, baseball, basketball, football, soccer, tennis, etc., the requirements of paragraphs (a)(2) through (a)(6) of this section shall not apply, provided that the duties of the sports-attendant occupation consist of pre- and post-game or practice setup of balls, items and equipment; supplying and retrieving balls, items and equipment during a sporting event; clearing the field or court of debris, moisture, etc., during play; providing ice, drinks, towels, etc., to players during play; running errands for trainers, managers, coaches, and players before, during, and after a sporting event; and returning and/or storing balls, items and equipment in club house or locker room after a sporting event. For purposes of this exception, impermissible duties include grounds or field maintenance such as grass mowing, spreading or rolling tarpaulins used to cover playing areas, etc.; cleaning and repairing equipment; cleaning locker rooms, showers, lavatories, rest rooms, team vehicles, club houses, dugouts or similar facilities; loading and unloading balls, items and equipment from team vehicles before and after a sporting event; doing laundry; and working in concession stands or other selling and promotional activities.

(3) Exceptions from certain of the hours standards contained in paragraphs (a)(1) and (a)(3) of this section are provided for the employment of minors who are enrolled in and employed pursuant to a school-supervised work-experience and career exploration program as detailed in §570.36.

(4) Exceptions from certain of the hours standards contained in paragraphs (a)(1) and (a)(5) of this section are provided for the employment of minors who are participating in a work-study program designed as described in §570.37.

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

§570.36 Work experience and career exploration program.

(a) This section varies some provisions of this subpart for the employment of minors between 14 and 16 years of age who are enrolled in and employed pursuant to a school-supervised and school-administered work-experience and career exploration program which meets the requirements of paragraph (b) of this section, in the occupations permitted under paragraph (c) of this section, and for the periods and under the conditions specified in paragraph (d) of this section. With these safeguards, such employment is found not to interfere with the schooling of the minors or with their health and well-being and therefore is not deemed to be oppressive child labor.

(b)(1) A school-supervised and school-administered work-experience and career exploration program shall meet the educational standards established and approved by the State Educational Agency in the respective State.

(2) The State Educational Agency shall file with the Administrator of the Wage and Hour Division a letter of application for approval of a State program as one not interfering with schooling or with the health and well-being of the minors involved and therefore not constituting oppressive child labor. The application must include information concerning the criteria listed in paragraph (b)(3) of this section. The Administrator of the Wage and Hour Division shall approve the application, or give prompt notice of any denial and the reasons therefor.

(3) The criteria to be used in consideration of applications are the following:

(i) *Eligibility.* Any student aged 14 or 15 years who authoritative local school personnel identify as being able to benefit from the program shall be eligible to participate.

(ii) *Credits.* Students shall receive school credits for both in-school related instruction and on-the-job experience.

(iii) *Size.* Each program unit shall be a reasonable size. A unit of 12 to 25 students to one teacher-coordinator would be generally considered reasonable. Whether other sizes are reasonable would depend upon the individual facts and circumstances involved.

(iv) *Instructional schedule.* There shall be (a) allotted time for the required classroom instruction in those subjects necessary for graduation under the State's standards and (b) regularly scheduled classroom periods of instruction devoted to job-related and to employability skill instruction.

(v) *Teacher-coordinator.* Each program unit shall be under the supervision of a school official to be designated for the purpose of the program as a teacher-coordinator, who shall generally supervise the program and coordinate the work and education aspects of the program and make regularly scheduled visits to the work stations.

(vi) *Written training agreement.* No student shall participate in the program until there has been made a written training agreement signed by the teacher-coordinator, the employer, and the student. The agreement shall also be signed or otherwise consented to by the student's parent or guardian.

(vii) *Other provisions.* Any other provisions of the program providing safeguards ensuring that the employment permitted under this section will not interfere with the schooling of the minors or with their health and well-being may also be submitted for use in consideration of the application.

(4) Every State Educational Agency having students in a program approved pursuant to the requirements of this section shall comply with the following:

(i) *Permissible occupations.* No student shall be assigned to work in any occupation other than one permitted under paragraph (c) of this section.

(ii) *Records and reports.* The names and addresses of each school enrolling work experience and career exploration program students and the number of enrollees in each unit shall be kept at the State Educational Agency office. A copy of the written training agreement for each student participating in the program shall be kept in the State Educational Agency office or in the local educational office. The records required for this paragraph shall be kept for a period of 3 years from the date of enrollment in the program and shall be made available for inspection or transcription to the representatives of the Administrator of the Wage and Hour Division.

(c) Employment of minors enrolled in a program approved pursuant to the requirements of this section shall be permitted in all occupations except the following:

(1) Manufacturing and mining.

(2) Occupations declared to be hazardous for the employment of minors between 16 and 18 years of age in subpart E of this part, and occupations in agriculture declared to be hazardous for employment of minors below the age of 16 in subpart E-1 of this part.

(3) Occupations other than those permitted under §570.34, except upon approval of a variation by the Administrator of the Wage and Hour Division in acting on the program application of the State Educational Agency. The Administrator shall have discretion to grant requests for special variations if the applicant demonstrates that the activity will be performed under adequate supervision and training (including safety precautions) and that the terms and conditions of the proposed employment will not interfere with the health or well-being or schooling of the minor enrolled in an approved program. The granting of a special variation is determined on a case-by-case basis.

(i) The Administrator's decision on whether to grant a special variation will be based on information provided in the application filed by the State Educational Agency, and/or any supplemental information that may be requested by the Administrator.

(ii) The Administrator's decision shall be in writing, and may designate specific equipment safeguards or other terms and conditions governing the work-activity approved by variation. If the request is denied, in whole or part, the reason(s) for the decision will be provided to the applicant, who may request reconsideration.

(iii) A special variation will be valid only during the period covered by an approved program, and must be renewed with the filing of a new program application.

(iv) The Administrator shall revoke or deny a special variation, in whole or in part, where there is reason to believe that program participants have been or will be employed contrary to terms and conditions specified for the variation, or these regulations, other provisions of the Fair Labor Standards Act, or otherwise in conditions detrimental to their health or well-being or schooling.

(v) Requests for special variations and related documentation will be available for examination in the Branch of Child Labor and Polygraph Standards, Wage and Hour Division, Room S3510, 200 Constitution Avenue, NW., Washington, DC 20210. Any interested person may oppose the granting of a special variation or may request reconsideration or revocation of a special variation. Such requests shall set forth reasons why the special variation should be denied or revoked.

(d) Employment of minors enrolled in a program approved pursuant to the requirements of this section shall be confined to not more than 23 hours in any 1 week when school is in session and not more than 3 hours in any day when school is in session, any portion of which may be during school hours. Insofar as these provisions are inconsistent with the provisions of §570.35, this section shall be controlling.

(e) The employment of a minor enrolled in a program pursuant to the requirements of this section must not have the effect of displacing a worker employed in the establishment of the employer.

(f) Programs shall be in force and effect for a period of two (2) school years from the date of their approval by the Administrator of the Wage and Hour Division. A new application for approval must be filed at the end of that period. Failure to meet the requirements of this section may result in withdrawal of approval.

(The information collection requirements contained in paragraphs (b)(3)(vi) and (4) were approved by the Office of Management and Budget under control number 1215-0121)

[40 FR 40801, Sept. 4, 1975; 40 FR 44130, Sept. 25, 1975; 47 FR 145, Jan. 5, 1982; 47 FR 28095, June 29, 1982, as amended at 49 FR 18294, Apr. 30, 1984; 60 FR 19339, Apr. 17, 1995. Redesignated and amended at 75 FR 28452, May 20, 2010]

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Title 29: Labor

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)**§570.37 Work-study program.**

(a) This section varies the provisions contained in §570.35(a)(1) and (a)(5) for the employment of minors 14 and 15 years of age who are enrolled in and employed pursuant to a school-supervised and school-administered work-study program that meets the requirements of paragraph (b) of this section, in the occupations permitted by §570.34, and for the periods and under the conditions specified in paragraph (c) of this section. With these safeguards, such employment is found not to interfere with the schooling of the minors or with their health and well-being and therefore is not deemed to be oppressive child labor.

(b)(1) A school-supervised and school-administered work-study program shall meet the educational standards established and approved by the State Educational Agency in the respective state.

(2) The superintendent of the public or private school system supervising and administering the work-study program shall file with the Administrator of the Wage and Hour Division a letter of application for approval of the work-study program as one not interfering with schooling or with the health and well-being of the minors involved and therefore not constituting oppressive child labor. The application shall be filed at least sixty days before the start of the school year and must include information concerning the criteria listed in paragraph (b)(3) of this section. The Administrator of the Wage and Hour Division shall approve the application, or give prompt notice of any denial and the reasons therefor.

(3) The criteria to be used in consideration of applications under this section are the following:

(i) *Eligibility.* Any student 14 or 15 years of age, enrolled in a college preparatory curriculum, whom authoritative personnel from the school attended by the youth identify as being able to benefit from the program shall be able to participate.

(ii) *Instructional schedule.* Every youth shall receive, every school year he or she participates in the work-study program, at least the minimum number of hours of classroom instruction, as required by the State Educational Agency responsible for establishing such standards, to complete a fully-accredited college preparatory curriculum. Such classroom instruction shall include, every year the youth participates in the work-study program, training in workplace safety and state and federal child labor provisions and rules.

(iii) *Teacher-coordinator.* Each school participating in a work-study program shall designate a teacher-coordinator under whose supervision the program will operate. The teacher-coordinator shall generally supervise and coordinate the work and educational aspects of the program and make regularly scheduled visits to the workplaces of the participating students to confirm that minors participating in the work-study program are employed in compliance with all applicable provisions of this part and section 6 of the Fair Labor Standards Act. Such confirmation shall be noted in any letters of application filed by the superintendent of the public or private school system in accordance with paragraph (b)(2) of this section when seeking continuance of its work-study program.

(iv) *Written participation agreement.* No student shall participate in the work-study program until there has been made a written agreement signed by the teacher-coordinator, the employer, and the student. The agreement shall also be signed or otherwise consented to by the student's parent or guardian. The agreement shall detail the objectives of the work-study program; describe the specific job duties to be performed by the participating minor as well as the number of hours and times of day that the minor will be employed each week; affirm that the participant will receive the minimum number of hours of class-room instruction as required by the State Educational Agency for the completion of a fully-accredited college preparatory curriculum; and affirm that the employment of the minor will be in compliance with the child labor provisions of both this part and the laws of the state where the work will be performed, and the applicable minimum wage provisions contained in section 6 of the FLSA.

(v) *Other provisions.* Any other provisions of the program providing safeguards ensuring that the employment permitted under this section will not interfere with the schooling of the minors or with their health and well-being may also be submitted for use in considering the application.

(4) Every public or private school district having students in a work-study program approved pursuant to these requirements, and every employer employing students in a work-study program approved pursuant to these requirements, shall comply with the following:

(i) *Permissible occupations.* No student shall be assigned to work in any occupation other than one permitted under §570.34.

(ii) *Records and reports.* A copy of the written agreement for each student participating in the work-study program shall be kept by both the employer and the school supervising and administering the program for a period of three years from the date of the student's enrollment in the program. Such agreements shall be made available upon request to the representatives of the Administrator of the Wage and Hour Division for inspection, transcription, and/or photocopying.

(c) Employment of minors enrolled in a program approved pursuant to the requirements of this section shall be confined to not more than 18 hours in any one week when school is in session, a portion of which may be during school hours, in accordance with the following formula that is based upon a continuous four-week cycle. In three of the four weeks, the participant is permitted to work during school hours on only one day per week, and for no more than for eight hours on that day. During the remaining week of the four-week cycle, such minor is permitted to work during school hours on no more than two days, and for no more than for eight hours on each of those two days. The employment of such minors would still be subject to the time of day and number of hours standards contained in §§570.35(a)(2), (a)(3), (a)(4), and (a)(6). To the extent that these provisions are inconsistent with the provisions of §570.35, this section shall be controlling.

(d) Programs shall be in force and effect for a period to be determined by the Administrator of the Wage and Hour Division, but in no case shall be in effect for longer than two school years from the date of their approval by the Administrator of the Wage and Hour Division. A new application for approval must be filed at the end of that period. Failure to meet the requirements of this section may result in withdrawal of the approval.

(The information collection requirements contained in §570.37 were approved by the OMB under Control No. 1215-0208)

[75 FR 28452, May 20, 2010]

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Title 29: Labor

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

§570.38 Effect of a certificate of age under this subpart.

The employment of any minor in any of the occupations to which this subpart is applicable, if confined to the periods specified in §570.35, shall not be deemed to constitute oppressive child labor within the meaning of the act if the employer shall have on file an unexpired certificate, issued in substantially the same manner as that provided for the issuance of certificates in subpart A of this part relating to certificates of age, certifying that such minor is of an age between 14 and 16 years.

[16 FR 7008, July 20, 1951. Redesignated at 27 FR 4165, May 2, 1962, and 28 FR 1634, Feb. 21, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971. Redesignated at 75 FR 28452, May 20, 2010]

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being

§570.50 General.

(a) *Higher standards.* Nothing in this subpart shall authorize non-compliance with any Federal or State law, regulation, or municipal ordinance establishing a higher standard. If more than one standard within this subpart applies to a single activity the higher standard shall be applicable.

(b) *Apprentices.* Some sections in this subpart contain an exemption for the employment of apprentices. Such an exemption shall apply only when: (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 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 United States 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.

(c) *Student-learners.* Some sections in this subpart contain an exemption for the employment of student-learners. Such an exemption shall apply when:

(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:

(i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training;

(ii) 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;

(iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training; and

(iv) 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 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 he has completed training as provided in this paragraph as a student-learner, even though he is not yet 18 years of age.

[28 FR 3449, Apr. 9, 1963, as amended at 33 FR 12777, Sept. 10, 1968. Redesignated and amended at 36 FR 25156, Dec. 29, 1971]

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Title 29: Labor

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18
Years of Age or Detrimental to Their Health or Well-Being

§570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).

(a) *Finding and declaration of fact.* The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in paragraph (a)(2) of this section) manufacturing or storing explosives or articles containing explosive components except where the occupation is performed in a "nonexplosives area" as defined in paragraph (b)(3) of this section.

(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:

(i) 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.

(ii) All occupations involved in 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.

(iii) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(iv) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.

(v) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

(b) *Definitions.* For the purpose of this section:

(1) The term *plant or establishment manufacturing or storing explosives or articles containing explosive component* 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 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 include 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, Department of Justice. This list is not intended to be all-inclusive and is updated and published annually in the FEDERAL REGISTER pursuant to 18 U.S.C. 841(d). A copy of the most recent version of the list may be found through the Bureau of Alcohol, Tobacco, Firearms, and Explosives' Web site at <http://www.atf.gov>.

(3) An area meeting all of the criteria in paragraphs (b)(3) (i) through (iv) of this section shall be deemed a "nonexplosives area":

(i) None of the work performed in the area involves the handling or use of explosives;

(ii) 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;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) 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 of paragraphs (b)(3) (i) through (iii) of this section.

[17 FR 4324, May 13, 1952. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3449, Apr. 9, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971; 69 FR 75403, Dec. 16, 2004]

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Title 29: Labor

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18
Years of Age or Detrimental to Their Health or Well-Being

§570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

(a) *Findings and declaration of fact.* Except as provided in paragraph (b) of this section, the occupations 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 §570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Exemption—Incidental and occasional driving by 17-year-olds.* Minors who are at least 17 years of age may drive automobiles and trucks on public roadways when all the following criteria are met:

- (1) The automobile or truck does not exceed 6,000 pounds gross vehicle weight, and the vehicle is equipped with a seat belt or similar restraining device for the driver and for any passengers and the employer has instructed the employee that such belts or other devices must be used;
 - (2) The driving is restricted to daylight hours;
 - (3) The minor holds a State license valid for the type of driving involved in the job performed and has no records of any moving violations at the time of hire;
 - (4) The minor has successfully completed a State-approved driver education course;
 - (5) The driving does not involve: the towing of vehicles; route deliveries or route sales; the transportation for hire of property, goods, or passengers; urgent, time-sensitive deliveries; or the transporting at any one time of more than three passengers, including the employees of the employer;
 - (6) The driving performed by the minor does not involve more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the minor's employer to a customer (except urgent, time-sensitive deliveries which are completely banned in paragraph (b)(5) of this section);
 - (7) The driving performed by the minor does not involve more than two trips away from the primary place of employment in any single day for the purpose of transporting passengers (other than the employees of the employer);
 - (8) The driving takes place within a thirty (30) mile radius of the minor's place of employment; and,
 - (9) The driving is only occasional and incidental to the employee's employment.
- (c) *Definitions.* For the purpose of this section:

(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 a 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 *occasional and incidental* means no more than one-third of an employee's worktime in any workday and no more than 20 percent of an employee's worktime in any workweek.

(6) The term *urgent, time-sensitive deliveries* means 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 time-lines, schedules, and/or turn-around 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* would not depend on the delivery's points of origin and termination, and would include the delivery of people and things to the employer's place of business as well as from that business to some other location.

[56 FR 58630, Nov. 20, 1991, as amended at 69 FR 75403, Dec. 16, 2004]

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ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR Data is current as of May 1, 2014****Title 29: Labor****PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION****Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being****§570.53 Coal-mine occupations (Order 3).**

(a) *Finding and declaration of fact.* All occupations in or about any coal mine, except the occupation 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, are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Definitions.* For the purpose of this section:

(1) The term *coal* shall mean any rank of coal including lignite, bituminous, and the 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 contribute to the extraction, grading, cleaning, or other handling of coal.

[16 FR 7008, July 20, 1951. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3449, Apr. 9, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971]

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being

§570.54 Forest fire fighting and forest fire prevention occupations, timber tract occupations, forestry service occupations, logging occupations, and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill (Order 4).

(a) *Finding and declarations of fact.* 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 this subpart:

(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 section.

(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 §§570.34(m) and 570.54(c):

(i) Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.

(ii) 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 §570.33(e) of this part.

(iii) Clean-up in the lumberyard.

(iv) 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 §570.33(n)(1) of this part.

(v) Clerical work in yards or shipping sheds, such as done by ordermen, tally-men, and shipping clerks.

(vi) Clean-up work outside shake and shingle mills, except when the mill is in operation.

(vii) Splitting shakes manually from precut and split blocks with a froe and mallet, except inside the mill building or cover.

(viii) Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, except inside the mill building or cover.

(ix) 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 §570.33(k) of this part.

(b) *Definitions.* As used in this section:

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.

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.

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.

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.

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 29 U.S.C. 203(f).

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.

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.

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.

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.

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.

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.

Supervised by an adult relative or is supervised by an adult member of the same religious sect or division as the youth, as a term, has several components. *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. An *adult* shall mean an individual who is at least eighteen years of age. A *relative* shall mean the parent (or someone standing in place of a parent), grandparent, sibling, uncle, or aunt of the young worker. A *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.

(c) *Exemptions.* (1) The provisions contained in paragraph (a)(8) of this section 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:

(i) The youth is supervised by an adult relative or by an adult member of the same religious sect or division as the youth;

(ii) The youth does not operate or assist in the operation of power-driven woodworking machines;

(iii) 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

(iv) The youth is required to use, and uses, personal protective equipment to prevent exposure to excessive levels of noise and saw dust.

(2) Compliance with the provisions of paragraphs (c)(1)(iii) and (iv) of this section 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.

[75 FR 28453, May 20, 2010]

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§570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).

(a) *Finding and declaration of fact.* The following occupations involved in the operation of power-driven wood-working machines are particularly hazardous for minors between 16 and 18 years of age:

(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 occupations of off-bearing from circular saws and from guillotine-action veneer clippers.

(b) *Definitions.* As used in this section:

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:

(i) 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

(ii) 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.

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.

(c) *Exemptions.* This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

[16 FR 7008, July 20, 1951. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3449, Apr. 9, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971; 75 FR 28455, May 20, 2010]

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§570.57 Exposure to radioactive substances and to ionizing radiations (Order 6).

(a) *Finding and declaration of fact.* The following occupations involving exposure to radioactive substances and to ionizing radiations are particularly hazardous and detrimental to health for minors between 16 and 18 years of age:

(1) Any work in any workroom in which (i) radium is stored or used in the manufacture of self-luminous compound, (ii) self-luminous compound is made, processed, or packaged, (iii) self-luminous compound is stored, used, or worked upon, (iv) incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged, (v) other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational 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.

(b) *Definitions.* As used in this section:

(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.

[22 FR 3657, May 24, 1957, as amended at 26 FR 8885, Sept. 21, 1961. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3449, Apr. 9, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971]

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§570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).

(a) *Findings and declaration of fact.* 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.

(b) *Definitions.* As used in this section:

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.

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.

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.

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 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.

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.

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.

(c) *Exception.* (1) 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 over travel by the car.

(2) For the purpose 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.

(3) For the purpose of this exception, 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.

[16 FR 7008, July 20, 1951, as amended at 20 FR 6386, Aug. 31, 1955. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3449, Apr. 9, 1963; 32 FR 15479, Nov. 7, 1967. Redesignated and amended at 36 FR 25156, Dec. 29, 1971; 75 FR 28455, May 20, 2010]

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§570.59 Occupations involved in the operation of power-driven metal forming, punching, and shearing machines (Order 8).

(a) *Finding and declaration of fact.* The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:

(i) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(ii) 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 area between the dies; power presses; and plate punches.

(iii) All bending machines, such as apron brakes and press brakes.

(iv) All hammering machines, such as drop hammers and power hammers.

(v) 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.

(b) *Definitions.* (1) The term *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.

(2) The term *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.

(3) The term *forming, punching, and shearing machines* shall mean power-driven metal-working 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.

(c) *Exemptions.* This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

[16 FR 7008, July 20, 1951, as amended at 25 FR 9848, Oct. 14, 1960. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3449, Apr. 9, 1963. Redesignated at 36 FR 25156, Dec. 29, 1971]

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§570.60 Occupations in connection with mining, other than coal (Order 9).

(a) *Finding and declaration of fact.* All occupations in connection with mining, other than coal, are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being and employment in such occupations is therefore prohibited under section 12 of the Fair Labor Standards Act, as amended, 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 clean-up 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 open-cut 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:

(i) Work involving the operation of jigs, sludge tables, flotation cells, or drier-filters;

(ii) Work of hand-sorting at picking table or picking belt;

(iii) General clean-up work:

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

(b) *Definitions.* As used in this section: 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 open-cut 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 bore-hole 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 a 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.

[16 FR 7008, July 20, 1951. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3449, Apr. 9, 1963. Redesignated at 36 FR 25156, Dec. 29, 1971]

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§570.61 Occupations in the operation of power-driven meat-processing machines and occupations involving slaughtering, meat and poultry packing, processing, or rendering (Order 10).

(a) *Findings and declaration of fact.* The following occupations in or about slaughtering and meat packing establishments, rendering plants, or wholesale, retail or service establishments are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations 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.

(2) All occupations involved in the recovery of lard and oils, except packaging and shipping of such products and the operation of lard-roll machines.

(3) All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(4) 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 (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese, etc.): meat patty forming machines, meat and bone cutting saws, poultry scissors or shears; meat slicers, knives (except bacon-slicing 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 §570.62(b)(1) of this chapter when used as a mixer to process materials other than meat or poultry.

(5) All boning occupations.

(6) All occupations that involve the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

(7) All occupations involving the handlifting or handcarrying any carcass or half carcass of beef, pork, horse, deer, or buffalo, or any quarter carcass of beef, horse, or buffalo.

(b) *Definitions.* As used in this section:

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.

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.

Hide cellar includes a workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

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.

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 section.

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.

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.

(c) *Exemptions.* This section shall not apply to:

(1) The killing and processing of rabbits or small game in areas physically separated from the killing floor.

(2) The employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

[56 FR 58631, Nov. 20, 1991, as amended at 75 FR 28455, May 20, 2010]

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§570.62 Occupations involved in the operation of bakery machines (Order 11).

(a) *Finding and declaration of fact.* The following occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

(2) The occupation of setting up or adjusting a cookie or cracker machine.

(b) *Exceptions.* (1) This section 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 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 $\frac{1}{2}$ 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 §570.61(a)(4).

(2) This section 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.

[17 FR 5610, June 21, 1952, as amended at 25 FR 9849, Oct. 14, 1960. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3449, Apr. 9, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971; 75 FR 28456, May 20, 2010]

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§570.63 Occupations involved in the operation of balers, compactors, and paper-products machines (Order 12).

(a) *Findings and declaration of fact.* The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) 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 paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap paper baler, paper box compactor, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of operation 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.

(b) *Definitions.* As used in this section:

Applicable ANSI Standard means the American National Standard Institute's Standard ANSI Z245.5-1990 *American National Standard for Refuse Collection, Processing, and Disposal—Baling Equipment—Safety Requirements* (ANSI S245.5-1990) for scrap paper balers or the American National Standard Institute's Standard ANSI Z245.2-1992 *American National Standard for Refuse Collection, Processing, and Disposal Equipment—Stationary Compactors—Safety Requirements* (ANSI Z245.2-1992) for paper box compactors. Additional applicable standards are the American National Standard Institute's Standard ANSI Z245.5-1997 *American National Standard for Equipment Technology and Operations for Wastes and Recyclable Materials—Baling Equipment—Safety Requirements* (ANSI Z245.5-1997), the American National Standard Institute's Standard ANSI Z245.5-2004 *American National Standard for Equipment Technology and Operations for Wastes and Recyclable Materials—Baling Equipment—Safety Requirements for Installation, Maintenance and Operation* (ANSI Z245.5-2004), and the American National Standard Institute's Standard ANSI Z245.5-2008 *American National Standard for Equipment Technology and Operations for Wastes and Recyclable Materials—Baling Equipment—Safety Requirements* (ANSI Z245.5-2008) for scrap paper balers or the American National Standard Institute's Standard ANSI Z245.2-1997 *American National*

Standard for Equipment Technology and Operations for Wastes and Recyclable Materials—Stationary Compactors—Safety Requirements (ANSI Z245.2-1997), the American National Standard Institute's Standard ANSI Z245.2-2004 *American National Standard for Equipment Technology and Operations for Wastes and Recyclable Materials—Stationary Compactors—Safety Requirements for Installation, Maintenance and Operation* (ANSI Z245.2-2004), and the American National Standard Institute's Standard ANSI Z245.2-2008 *American National Standard for Equipment Technology and Operations for Wastes and Recyclable Materials—Stationary Compactors—Safety Requirements for Installation, Maintenance and Operation* (ANSI Z245.2-2008) for paper box compactors, which the Secretary has certified to be at least as protective of the safety of minors as Standard ANSI Z245.5-1990 for scrap paper balers or Standard ANSI Z245.2-1992 for paper box compactors. 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. These ANSI standards are incorporated by reference in this paragraph and have the same force and effect as other standards in this part. Only the mandatory provisions (*i.e.*, provisions containing the word "shall" or other mandatory language) of these standards are adopted as standards under this part. These standards are incorporated by reference as they exist on the date of the approval; if any changes are made in these standards which the Secretary finds to be as protective of the safety of minors as the current standards, the Secretary will publish a Notice of the change of standards in the FEDERAL REGISTER. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these standards are available for purchase from the American National Standards Institute (ANSI), 25 West 43rd St., Fourth Floor, New York, NY 10036. The telephone number for ANSI is (212) 642-4900 and its Web site is located at <http://www.ansi.org>. In addition, these standards are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. These standards are also available for inspection at the Occupational Safety and Health Administration's Docket Office, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, or any of its regional offices. The telephone number for the Occupational Safety and Health Administration's Docket Office is (202) 693-2350 and its Web site is located at <http://dockets.osha.gov>.

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.

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.

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.

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.

Paper products machine means all power-driven machines used in remanufacturing or converting paper or pulp into a finished product, including preparing such materials for recycling; or preparing such materials 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 nonmanufacturing establishment. The term also applies to those machines which, in addition to paper products, process other material for disposal.

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.

(c) *Exemptions.* (1) Sixteen- and 17-year-olds minors may load materials into, but not operate or unload, those scrap paper balers and paper box compactors that are safe for 16- and 17-year-old employees to load and cannot be operated while being loaded. For the purpose of this exemption, a scrap paper baler or a paper box compactor is considered to be safe for 16- and 17-year-old to load only if all of the following conditions are met:

(i) The scrap paper baler or paper box compactor meets the applicable ANSI standard (the employer must initially determine if the equipment meets the applicable ANSI standard, and the Administrator or his/her designee may make a determination when conducting an investigation of the employer);

(ii) The scrap paper baler or paper box compactor includes 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;

(iii) The on-off switch of the scrap paper baler or paper box compactor is maintained in an off position when the machine is not in operation; and

(iv) The employer posts a notice on the scrap paper baler or paper box compactor (in a prominent position and easily visible to any person loading, operating, or unloading the machine) that includes and conveys all of the following information:

(A)(1) That the scrap paper baler or compactor meets the industry safety standard applicable to the machine, as specified in paragraph (b) of this section and displayed in the following table.

In order for employers to take advantage of the limited exception discussed in this section, the <i>scrap paper baler</i> must meet one of the following ANSI Standards:	In order for employers to take advantage of the limited exception discussed in this section, the <i>paper box compactor</i> 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.

(2) The notice shall completely identify the appropriate ANSI standard.

(B) That sixteen- and 17-year-old employees may only load the scrap paper baler or paper box compactor.

(C) That no employee under the age of 18 may operate or unload the scrap paper baler or paper box compactor.

(2) This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

[56 FR 58632, Nov. 20, 1991, as amended at 69 FR 75403, Dec. 16, 2004; 75 FR 28456, May 20, 2010]

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being

§570.64 Occupations involved in the manufacture of brick, tile, and kindred products (Order 13).

(a) *Findings and declaration of fact.* The following occupations involved in the manufacture of clay construction products and of silica refractory products are particularly hazardous for the employment of minors between 16 and 18 years of age, and detrimental to their health and well-being.

(1) All work in or about establishments in which clay construction products are manufactured, except (i) work in storage and shipping; (ii) work in offices, laboratories, and storerooms; and (iii) 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 occupation prohibited by any other hazardous occupations order issued by the Secretary of Labor.

(b) *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 drain tile. 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.

[21 FR 5773, Aug. 2, 1956, as amended at 23 FR 6240, Aug. 14, 1958. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3450, Apr. 9, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971]

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Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being

§570.65 Occupations involving the operation of circular saws, band saws, guillotine shears, chain saws, reciprocating saws, wood chippers, and abrasive cutting discs (Order 14).

(a) *Findings and declaration of fact.* The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven fixed or portable machines except machines equipped with full automatic feed and ejection:

- (i) Circular saws.
- (ii) Band saws.
- (iii) Guillotine shears.

(2) The occupations of operator of or helper on the following power-driven fixed or portable machines:

- (i) Chain saws.
- (ii) Reciprocating saws.
- (iii) Wood chippers.
- (iv) 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.

(b) *Definitions.* As used in this section:

Abrasive cutting disc shall mean a machine equipped with a disc embedded with abrasive materials used for cutting materials.

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.

Chain saw shall mean a machine that has teeth linked together to form an endless chain used for cutting materials.

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.

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.

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.

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.

Reciprocating saw shall mean a machine equipped with a moving blade that alternately changes direction on a linear cutting axis used for sawing materials.

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.

(c) *Exemptions.* This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

[25 FR 9849, Oct. 14, 1960. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3450, Apr. 9, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971; 75 FR 28457, May 20, 2010]

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being

§570.66 Occupations involved in wrecking, demolition, and shipbreaking operations (Order 15).

(a) *Finding and declaration of fact.* All occupations in wrecking, demolition, and shipbreaking operations are particularly hazardous for the employment of minors between 16 and 18 years of age and detrimental to their health and well-being.

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

[25 FR 9850, Oct. 14, 1960. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3450, Apr. 9, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971]

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18
Years of Age or Detrimental to Their Health or Well-Being

§570.67 Occupations in roofing operations and on or about a roof (Order 16).

(a) *Finding and declaration of fact.* All occupations in roofing operations and all occupations on or about a roof are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health.

(b) *Definitions.* *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.

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.

(c) *Exemptions.* This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

[27 FR 102, Jan. 5, 1962. Redesignated at 28 FR 1634, Feb. 21, 1963, and amended at 28 FR 3450, Apr. 9, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971; 69 FR 57404, Dec. 16, 2004]

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being

§570.68 Occupations in excavation operations (Order 17).

(a) *Finding and declaration of fact.* The following occupations in excavation operations are particularly hazardous for the employment of persons between 16 and 18 years of age:

(1) Excavating, working in, or backfilling (refilling) trenches, except (i) manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or (ii) 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: (i) Manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or (ii) working in an excavation not exceeding such depth, or (iii) 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.

(b) *Exemptions.* This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

[28 FR 3449, Apr. 9, 1963. Redesignated at 36 FR 25156, Dec. 29, 1971]

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Title 29: Labor

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart E-1—Occupations in Agriculture Particularly Hazardous for the Employment of Children
Below the Age of 16**§570.70 Purpose and scope.**

(a) *Purpose.* Section 13(c)(2) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 213(c)(2)) states that the "provisions of section 12 [of the Act] relating to child labor shall apply to an employee below the age of 16 employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below the age of 16, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person." The purpose of this subpart is to apply this statutory provision.

(b) *Exception.* This subpart shall not apply to the employment of a child below the age of 16 by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

(c) *Statutory definitions.* As used in this subpart, the terms *agriculture*, *employer*, and *employ* have the same meanings as the identical terms contained in section 3 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203), which are as follows:

(1) *Agriculture* includes farming in all its branches and among other things includes the cultivation and tillage of soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(2) *Employer* includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State (except with respect to employees of a State or a political subdivision thereof, employed:

(i) In a hospital, institution, or school referred to in the last sentence of section (r) of the Act, or

(ii) In the operation of a railway or carrier referred to in such sentence), or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(iii) *Employ* includes to suffer or permit to work.

[35 FR 221, Jan. 7, 1970, as amended at 35 FR 2822, Feb. 11, 1970. Redesignated at 36 FR 25156, Dec. 29, 1971]

ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR Data is current as of May 1, 2014****Title 29: Labor****PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION****Subpart E-1—Occupations in Agriculture Particularly Hazardous for the Employment of Children****Below the Age of 16****§570.71 Occupations involved in agriculture.**

(a) *Findings and declarations of fact as to specific occupations.* The following occupations in agriculture are particularly hazardous for the employment of children below the age of 16:

(1) Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

(2) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;

(ii) Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or

(iii) Power post-hole digger, power post driver, or nonwalking type rotary tiller.

(3) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Trencher or earthmoving equipment;

(ii) Fork lift;

(iii) Potato combine; or

(iv) Power-driven circular, band, or chain saw.

(4) Working on a farm in a yard, pen, or stall occupied by a:

(i) Bull, boar, or stud horse maintained for breeding purposes; or

(ii) Sow with suckling pigs, or cow with newborn calf (with umbilical cord present)

(5) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.

(6) Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

(7) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

(8) Working inside:

- (i) A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;
- (ii) An upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position;
- (iii) A manure pit; or
- (iv) A horizontal silo while operating a tractor for packing purposes.

(9) Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 *et seq.*) as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label;

(10) Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or

(11) Transporting, transferring, or applying anhydrous ammonia.

(b) *Occupational definitions.* In applying machinery, equipment, or facility terms used in paragraph (a) of this section, the Wage and Hour Division will be guided by the definitions contained in the current edition of *Agricultural Engineering*, a dictionary and handbook, Interstate Printers and Publishers, Danville, Ill. Copies of this dictionary and handbook are available for examination in Regional Offices of the Wage and Hour Division, U.S. Department of Labor.

[35 FR 221, Jan. 7, 1970. Redesignated at 36 FR 25155, Dec. 29, 1971]

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart E-1—Occupations in Agriculture Particularly Hazardous for the Employment of Children
Below the Age of 16

§570.72 Exemptions.

(a) *Student-learners.* The findings and declarations of fact in §570.71(a) shall not apply to the employment of any child as vocational agriculture student-learner in any of the occupations described in paragraph (1), (2), (3), (4), (5), or (6) of §570.71(a) when each of the following requirements are met:

(1) The student-learner is enrolled in a vocational education training program in agriculture under a recognized State or local educational authority, or in a substantially similar program conducted by a private school;

(2) Such student-learner is employed under a written agreement which provides; (i) that the work of the student-learner is incidental to his training; (ii) that such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person; (iii) that safety instruction shall be given by the school and correlated by the employer with on-the-job training; and (iv) that a schedule of organized and progressive work processes to be performed on the job have been prepared;

(3) Such written agreement contains the name of the student-learner, and is signed by the employer and by a person authorized to represent the educational authority or school; and

(4) Copies of each such agreement are kept on file by both the educational authority or school and by the employer.

(b) *Federal Extension Service.* The findings and declarations of fact in §570.71(a) shall not apply to the employment of a child under 16 years of age in those occupations in which he has successfully completed one or more training programs described in paragraph (b) (1), (2), or (3) of this section provided he has been instructed by his employer on safe and proper operation of the specific equipment he is to use; is continuously and closely supervised by the employer where feasible; or, where not feasible, in work such as cultivating, his safety is checked by the employer at least at midmorning, noon, and midafternoon.

(1) *4-H tractor operation program.* The child is qualified to be employed in an occupation described in §570.71(a)(1) provided:

(i) He is a 4-H member;

(ii) He is 14 years of age, or older;

(iii) He is familiar with the normal working hazards in agriculture;

(iv) He has completed a 10-hour training program which includes the following units from the manuals of the 4-H tractor program conducted by, or in accordance with the requirements of, the Cooperative Extension Service of a land grant university:

(a) First-year Manual:

Unit 1—Learning How to be Safe;

Unit 4—The Instrument Panel;

Unit 5—Controls for Your Tractor;

Unit 6—Daily Maintenance and Safety Check; and

Unit 7—Starting and Stopping Your Tractor;

(b) Second-year Manual:

Unit 1—Tractor Safety on the Farm;

(c) Third-year Manual:

Unit 1—Tractor Safety on the Highway;

Unit 3—Hitches, Power-take-off, and Hydraulic Controls;

(v) He has passed a written examination on tractor safety and has demonstrated his ability to operate a tractor safely with a two-wheeled trailed implement on a course similar to one of the 4-H Tractor Operator's Contest Courses; and

(vi) His employer has on file with the child's records kept pursuant to part 516 of this title (basically, name, address, and date of birth) a copy of a certificate acceptable by the Wage and Hour Division, signed by the leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university to the effect that the child has completed all the requirements specified in paragraphs (b)(1) (i) through (v) of this section.

(2) *4-H machine operation program.* The child is qualified to be employed in an occupation described in §570.71(a)(2) providing:

(i) He satisfies all the requirements specified in paragraphs (b)(2)(i) through (v) of this section;

(ii) He has completed an additional 10-hour training program on farm machinery safety, including 4-H Fourth-Year Manual, Unit 1, Safe Use of Farm Machinery;

(iii) He has passed a written and practical examination on safe machinery operation; and

(iv) His employer has on file with the child's records kept pursuant to part 516 of this title (basically, name, address, and date of birth) a copy of a certificate acceptable by the Wage and Hour Division, signed by the leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university, to the effect that the child has completed all of the requirements specified in paragraphs (b)(2) (i) through (iii) of this section.

(3) *Tractor and machine operation program.* The child is qualified to be employed in an occupation described in §570.71(a) (1) and (2) providing:

(i) He is 14 years of age, or older;

(ii) He has completed a 4-hour orientation course familiarizing him with the normal working hazards in agriculture;

(iii) He has completed a 20-hour training program on safe operation of tractors and farm machinery, which covers all material specified in paragraphs (b) (1)(iv) and (2)(ii) of this section.

(iv) He has passed a written examination on tractor and farm machinery safety, and has demonstrated his ability to operate a tractor with a two-wheeled trailed implement on a course similar to a 4-H Tractor Operator's Contest Course, and to operate farm machinery safely.

(v) His employer has on file with the child's records kept pursuant to part 516 of this title (basically, name, address and date of birth) a copy of a certificate acceptable by the Wage and Hour Division, signed by the volunteer leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university, to the effect that all of the requirements of paragraphs (b)(2) (i) through (iv) of this section have been met.

(c) *Vocational agriculture training.* The findings and declarations of fact in §570.71(a) shall not apply to the employment of a vocational agriculture student under 16 years of age in those occupations in which he has successfully completed one or more training programs described in paragraph (c)(1) or (2) of this section and who has been instructed by his employer in the safe and proper operation of the specific equipment he is to use, who is continuously and closely supervised by his employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, and who also satisfies whichever of the following program requirements are pertinent:

(1) *Tractor operation program.* The student is qualified to be employed in an occupation described in §570.71(a)(1) provided:

(i) He is 14 years of age, or older;

(ii) He is familiar with the normal working hazards in agriculture;

(iii) He has completed a 15-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare and acceptable by the U.S. Department of Labor. The training program is outlined in Special Paper No. 8, April 1969, prepared at Michigan State University, East Lansing, Mich., for the Office of Education. Copies of this training program outline are available for examination in the Regional Offices of the Wage and Hour Division, U.S. Department of Labor, and a copy may be obtained from the Office of Education, U.S. Department of Health, Education, and Welfare, Washington, DC 20202.

(iv) He has passed both a written test and a practical test on tractor safety including a demonstration of his ability to operate safely a tractor with a two-wheeled trailed implement on a test course similar to that described in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare; and

(v) His employer has on file with the child's records kept pursuant to part 516 of this title (basically, name, address, and date of birth) a copy of a certificate acceptable by the Wage and Hour Division, signed by the Vocational Agriculture teacher who conducted the program to the effect that the student has completed all the requirements specified in paragraphs (c)(1)(i) through (iv) of this section.

(2) *Machinery operation program.* The student is qualified to be employed in an occupation described in paragraph (2) of §570.71(a) provided he has completed the Tractor Operation Program described in paragraph (c)(1) of this section and:

(i) He has completed an additional 10-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare and approved by the U.S. Department of Labor;

(ii) He has passed both a written test and a practical test on safe machinery operation similar to that described in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare; and

(iii) His employer has on file with the child's records kept pursuant to part 516 of this title (basically, name, address and date of birth) a copy of a certificate acceptable by the Wage and Hour Division, signed by the Vocational Agriculture teacher who conducted the program to the effect that student has completed all the requirements specified in paragraphs (c)(2)(i) and (ii) of this section.

(d) *Agency review.* The provisions of paragraphs (a), (b), and (c) of this section will be reviewed and reevaluated before January 1, 1972. In addition, determinations will be made as to whether the use of protective frames, crush resistant cabs, and other personal protective devices should be made a condition of these exemptions.

[35 FR 221, Jan. 7, 1970. Redesignated at 36 FR 25156, Dec. 29, 1971]

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ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR Data is current as of May 1, 2014****Title 29: Labor**

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart G—General Statements of Interpretation of the Child Labor Provisions of the Fair Labor
Standards Act of 1938, as Amended

§570.117 General.

(a) Section 3(1) of the Act defines "oppressive child labor" as follows:

Oppressive child labor means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being, but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age. The Secretary of Labor shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(b) It will be noted that the term includes generally the employment of young workers under the age of 16 years in any occupation. In addition, the term includes employment of minors 16 and 17 years of age by an employer in any occupation which the Secretary finds and declares to be particularly hazardous for the employment of children of such ages or detrimental to their health or well-being. Authority is also given the Secretary to issue orders or regulations permitting the employment of children 14 and 15 years of age in nonmanufacturing and nonmining occupations where he determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being. The subsection further provides for the issuance of age certificates pursuant to regulations of the Secretary which will protect an employer from unwitting employment of oppressive child labor.

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PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION
Subpart G—General Statements of Interpretation of the Child Labor Provisions of the Fair Labor Standards Act of 1938, as Amended

§570.121 Age certificates.

(a) To protect an employer from unwitting violation of the minimum age standards, it is provided in section 3(1)(2) of the Act that "oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age." An age certificate is a statement of a minor's age issued under regulations of the Secretary (Child Labor Regulation No. 1),³¹ based on the best available documentary evidence of age, and carrying the signatures of the minor and the issuing officer. Its purpose is to furnish an employer with reliable proof of the age of a minor employee in order that he may, as specifically provided by the act, protect himself against unintentional violation of the child labor provisions. Pursuant to the regulations of the Secretary, State employment or age certificates are accepted as proof of age in 45 States, the District of Columbia, and Puerto Rico, and Federal certificates of age in Idaho, Mississippi, South Carolina and Texas. If there is a possibility that the minor whom he intends to employ is below the applicable age minimum for the occupation in which he is to be employed, the employer should obtain an age certificate for him.

³¹Subpart A of this part.

(b) It should be noted that the age certificate furnishes protection to the employer as provided by the act only if it shows the minor to be above the minimum age applicable thereunder to the occupation in which he is employed. Thus, a State certificate which shows a minor's age to be above the minimum required by State law for the occupation in which he is employed does not protect his employer for purposes of the Fair Labor Standards Act unless the age shown on such certificate is also above the minimum provided under that act for such occupation.

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