

## Chapter 33

## CHILD LABOR - FLSA

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**33a COVERAGE****33a00 Statutory provisions, regulations, and interpretative materials.**

CL Reg 3, and FLSA Secs 3(L), 12, 13(c), and 13(d) are the basic source materials which shall guide the Inv in the application of the CL provisions of FLSA. This chapter supplements these documents.

**33a01 CL coverage - Sec 12(c).**

Coverage for the prohibition of the employment of oppressive CL under Sec 12(c) is the same as under Secs 6 and 7. (See FOH Chapters 10, 11, and 12.)

**33a02 CL coverage - Sec 12(a).**

Sec 12(a) provides that no producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment in the USA in or about which, within thirty days prior to the removal of such goods therefrom, any oppressive CL has been employed. This coverage should always be considered when an underage minor is found employed and there is no coverage under Sec 12(c). For example, Sec 12(a) would apply where minors are employed to load milk on trucks at a dairy establishment and deliver it to householders if the dairy establishment produces some of its goods for shipment in commerce.

**33a03 Distinction between Secs 12(a) and 12(c) coverage.**

Coverage under Sec 12(c) is based upon the minor's performance of individually covered activities or employment in a covered enterprise. Coverage under Sec 12(a) is based upon performance of duties in or about an establishment producing goods for commerce rather than upon the nature of the work performed by the minor employee or by the nature of the enterprise. Thus, even though the underage employees do not engage in the production of goods themselves, their employment is subject to the Act if somewhere in the establishment in or about which they are employed, some goods are produced and removed for shipment in commerce during their employment or within thirty days thereafter. This coverage extends also to a minor who is employed by an employer other than the establishment owner or operator if the minor performs some work in or about the producing establishment.

**33a04 Domestic service employees - CL.**

The CL provisions, Sec 12, do not apply to domestic service employees except in the same manner that they would have prior to the 1974 Amendments, that is, only if such employees are covered on an "individual" or "enterprise" basis. (Also, if they are employed in or about a home where homeworkers produce goods for commerce.) Thus, unless such coverage exists, the prohibitions of Sec 12 are inapplicable. However, the MW and OT provisions of Sec 6(b) and 7(a)(1) are applicable, pursuant to Secs 6(f) and 7(L), if the tests are met, and unless such employment is exempt under Sec 13(a)(15) or Sec 13(b)(21).



**33b INTERPRETATIONS OF CL REG 3****33b00 Occupations and Standards under CL Reg 3.**

- (a) Sec 3(L) of the Act gives the Secretary of Labor authority to issue regulations governing the employment of minors 14 and 15 years of age under specified conditions. CL Reg 3 sets forth the conditions of employment of such minors. It should be noted that the regulations are divided into two basic parts with respect to occupations: Sec 570.33 pertains to occupations in other than retail, food service, and gasoline service establishments, and Sec 570.34 pertains to occupations in retail, food service, and gasoline service establishments. However, the hours standards in Sec 570.35 are applicable to occupations in either category.

(b) **Professional sports attendants.**

Section 570.35(b) exempts minors 14 and 15 years of age who are employed to perform sports-attending services at professional sporting events from the hours standards of CL Reg 3, provided they are employed outside of school hours and perform only the sports-attending duties listed in the Reg. Duties which are not permitted 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.

(c) **Work Experience and Career Exploration Program (WECEP).**

- (1) Sec 570.35a provides for certain variations from CL Reg 3 for minors 14 and 15 years of age who are enrolled in and employed pursuant to a work experience and career exploration program (WECEP) which has been approved by WH. In order to qualify for such variations, a State educational agency must file with the Adm a letter of application for approval of a program plan. After approval has been granted, records of the names and addresses of each school enrolling students in WECEP's as well as the number of students enrolled must be kept at the State educational office and made available for review in that office by WH representatives. Additionally, the employer and the school must keep on file a copy of the written training agreement. These records must be kept for a period of 3 years. The CL and Special Employment Team of the NO will be advised of any violations involving WECEP students by either telephone or E-Mail.

(2) **Hours for WECEP students.**

Sec 570.35a provides that students who are working under an approved program (including those employed in non-hazardous agriculture) may be employed for as many as 3 hours on any school day and 23 hours in any week school is in session, any portion of which may be during school hours. No other changes, however, in the hours provisions of CL Reg 3 are permitted.

(3) **Occupations for WECEP students.**

Sec 570.35a also provides for the employment of WECEP students in some occupations otherwise prohibited under CL Reg 3. Before a student may be employed in a prohibited occupation, a written request for variation must be made to the Adm and written approval must be given. Both the employer and the WECEP school coordinator shall maintain copies of the Adm's written variance approval. The Adm may grant permission for employment (after certain procedures) only in those occupations about which the Secretary makes determinations regarding the employment of 14- and 15-year-old youth (covered in Sec's 570.33 and 570.34). In no case may WECEP students be employed in a manufacturing or mining occupation or one that has been declared hazardous. Variances granted by the Adm run concurrently with the WECEP approval period (up to two years) but are valid only during the months school is actually in session for the WECEP student.

(4) **Wage rates for WECEP students.**

WECEP students must be paid the applicable MW rate unless a student-learner certificate has been issued. The procedures for application and issuance of certificates for WECEP students are the same as for other certificates under Part 520.

(5) **States participating in WECEP.**

As of September 1996, 15 states hold approvals to operate WECEP's; four states will expire in 1997.

<u>State</u>	<u>Expiration Date</u>
California	June 30, 1998
Florida	"
Idaho	"
Illinois	"
Minnesota	"
Nebraska	"
Nevada	"
New Jersey	"
New York	"
North Dakota	"
Ohio	"
Pennsylvania	June 30, 1997
South Dakota	"
Vermont	"
Virginia	"

NOTE: Massachusetts was a WECEP participant until June 30, 1996. It chose not to renew its program.

(6) **State WECEP contacts.**

The following individuals are those to whom the Adm has addressed the state WECEP approvals. We are also listing, when known, the individuals to whom inquiries are to be addressed:

Ms. Delaine Eastin  
Superintendent of Public Instruction  
Director of Education  
California State Department  
of Education  
515 "L" Street  
Sacramento, CA 95814  
(916) 657-2446 - Dennis Turner

Mr. Frank Brogan  
Commissioner of Education  
The Capitol  
Tallahassee, FL 32399  
(904) 487-2959 - Roger Stubing

Anne C. Fox, Ph.D.  
State Superintendent of Public Instruction  
Department of Education  
650 West State Street  
Boise, ID 83720  
(208) 334-3940 - Mel Mangum

Mr. Joseph A. Spagnolo  
State Superintendent of Education  
100 North First Street  
Springfield, IL 62777-0001  
(217) 524-1081 - Evelyn Phelps

Mr. Bruce Johnson  
Commissioner  
Minnesota Department of Children,  
Families and Learning  
550 Cedar Street  
St. Paul, MN 55101-2273  
(612) 296-6127 - Lezlie Ingvalson

Mr. Douglas D. Christensen  
Commissioner  
Nebraska Department of Education  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509-4987  
(402) 471-0948 - Carol Jurgens

Ms. Phyllis Rich  
Director, Occupational & Continuing Education  
State of Nevada  
Department of Education  
700 E. Fifth Street  
Carson City, NV 89710  
(702) 687-3144

Mr. Thomas A. Henry  
Director, Office of School-to-Work  
Initiatives  
State of New Jersey  
Department of Education  
CN 500  
Trenton, NJ 08625-0500  
(609) 292-4450 - Leon Colavita

Mr. Richard Mills  
Commissioner  
The State Education Department  
The University of the State of New York  
Albany, NY 12234  
(518) 474-5506 - Anthony Schilling

Mr. Mel Olson  
State Director  
State Board for Vocational  
and Technical Education  
State Capitol, 15th Floor  
Bismarck, ND 58505-0610  
(701) 328-3180 - Leonard Pakladnik

Mr. John M. Goff  
Superintendent of Public Instruction  
State of Ohio  
Department of Education  
65 South Front Street  
Columbus, OH 43215-4183  
(614) 466-5718 - Barbara Whitaker

Mary Ann Nobers, Ph.D  
Commissioner for Elementary  
and Secondary Education  
Commonwealth of Pennsylvania  
Department of Education  
333 Market Street  
Harrisburg, PA 17126-0333  
(717) 783-6906 - Richard Brown

The Honorable Karon L. Schaack  
Acting Secretary  
Office of the Secretary  
Department of Education and Cultural Affairs  
700 Governors Drive  
Pierre, SD 57501-2291  
800-952-3216 - Kathy Evans

Mr. Richard Mills  
Commissioner  
Department of Education  
State of Vermont  
Montpelier, VT 05602-2703  
(802) 828-5142 - Murdo "Tony" Campbell

Mr. Neils W. Brooks, Ed. D.  
Director, Office of Vocational, Adult,  
and Employment Training Services  
Commonwealth of Virginia  
Department of Education  
P.O. Box 2120  
Richmond, VA 23216-2120  
(804) 225-2847

**33b01 Manufacturing and processing.**

- (a) The definitions contained in (c) and (d) below are intended for use only in connection with the CL provisions of FLSA.
- (b) It is necessary to distinguish between manufacturing and processing only where the parental exemption is involved (see FOH 33c00), or where a minor is employed in a retail, food service, or gasoline service establishment (see CL Reg 3, Sec 570.34).

**(c) Manufacturing.**

"To manufacture" means to make anything from raw materials by hand or by machinery or by art. Any occupation involved in the manufacture of a product from the assembling of the raw materials for manufacture to the completion of the manufactured article is a part of the manufacturing process, and, therefore, a manufacturing occupation. All manufacturing is processing but not all processing is manufacturing. Examples of manufacturing within the meaning of CL Reg 3 are:

- (1) Trimming and examining when they are performed as a part of a manufacturing process.
- (2) Assembling of box shooks or crates in which goods are to be packed, including making of the lid or cover, is a change in the raw material from which the box or crate is made and constitutes "manufacturing" whether done by hand or machine. However, assembling light-weight flat- folded cartons either by stapling with hand stapler machine or by pasting with tape is not manufacturing.
- (3) "Lidding" (the operation of fastening down the cover on the filled container) when it is accomplished by use of a power-driven machine.
- (4) Stitching of bags containing produce by means of automatic electric sewing machines in fresh fruit and vegetable packing sheds.
- (5) If the article is sold to the consumer as a packaged or carded article, as is often the case with chewing gum or buttons, the packaging or carding of the article into the form in which it is offered to the public is considered an integral part of the manufacturing of the article when the work is performed in the manufacturing establishment.

**(d) Processing.**

"To process" ordinarily is understood to convey the idea of an operation in the course of which goods undergo a change in form or substance, for example:

- (1) The cleaning and filleting of fish.

- (2) The slaughtering of livestock.
  - (3) Dressing of poultry.
  - (4) Cracking of nuts.
  - (5) Laundering as performed by commercial laundries.
- (e) The trimming and shearing of ordinary household-size Christmas trees with hand tools (i.e., not power driven) does not constitute a "processing occupation" as the term is used in CL Reg 3. Therefore, minors 14 and 15 years of age may be employed in this occupation in accordance with the hours limitations of CL Reg 3. (See footnote 1, FOH 33e04, HO 4.) In some instances, activities in connection with Christmas trees may be within the definition of agriculture, Sec 3 (f) (see FOH 20b06); in such cases Secs 13(c)(1) and (2) apply.

### **33b02 Workroom.**

(a) **In other than a retail, food service, or gasoline service establishment.**

Under CL Reg 3 minors 14 and 15 years of age may not be employed in a manufacturing or processing occupation or in a workroom or workplace where such activities take place. They may be employed, however, in a manufacturing or processing establishment if they are working in a workroom separate from that in which the manufacturing or processing takes place. The type of barrier between the manufacturing or processing activities and the minors' workplace which is necessary in order for the latter to be considered a separate workroom depends in large measure upon the nature of the manufacturing or processing operation. A strong barrier of wire might be all that is necessary to constitute a separate workroom. Ordinarily, a barrier at least seven feet high is adequate. There may be openings in the partition, but they may not be wider than those made for an ordinary door, and such openings should have doors if possible. If dust or fumes are present, however, a solid partition extending all the way from floor to ceiling may be necessary.

(b) **In a retail, food service, or gasoline service establishment.**

In these establishments minors 14 and 15 years of age may be employed in certain processing and machine occupations and in workrooms where manufacturing or processing takes place as specified in CL Reg 3, Sec 570.34.

**33b03 Employment in departments or portions of the premises devoted to retailing, food service, or gasoline service.**

The occupations permitted for minors 14 and 15 years of age in retail, food service, and gasoline service establishments are also permitted in departments or portions of the premises devoted to retailing, food service, or gasoline service in other establishments. For example, a 15-year-old boy or girl may be employed in a permitted occupation in a bank lunchroom or in a factory cafeteria even though the lunchroom or cafeteria does not constitute an "establishment".

**33b04 Stuffing of newspapers.**

Newspaper stuffing, that is, the placing of one section of newspaper inside another, when done outside the workrooms in which printing, manufacturing, or processing takes place, is a distribution function rather than a manufacturing function. Therefore, children aged 14 to 16 years may be employed in such newspaper stuffing, provided all the terms and conditions of CL Reg 3 are met. This applies also to other occupations in the newspaper industry further removed from the manufacturing of the newspaper, such as bundling, tying up, addressing, and other mailing room occupations, and to employment in a wholesale house engaged in the distribution of newspapers and magazines.

**33b05 Transportation of persons or property.**

- (a) In addition to making unlawful the employment of minors subject to CL Reg 3 on trains, boats, or other media of transportation, the phrase "in connection with transportation" in Sec 570.33 (f)(1) makes unlawful the employment of these minors in jobs clearly and directly related to the operating, servicing, maintaining, or loading of media of transportation. The Reg does not, however, extend the 16-year minimum age to the employment of minors in picking up or delivering messages or packages, whether on foot, by bicycle, or riding on subways, buses, or taxis, nor does it extend to jobs classified as office or sales work unless the work is performed on trains, boats, or other media of transportation.
- (b) Occupations which are in connection with transportation within the meaning of the Reg include:
  - (1) jobs performed on trains, boats, or other media of transportation;
  - (2) jobs performed in, on, or in close proximity to roundhouses, railway tracks, repair shops, docks or wharves, hangars, runways, or other such places where power-driven equipment designed or used for transportation (including train cars) is repaired, cleaned, or serviced, or may be in motion; and,
  - (3) jobs in loading or unloading railway cars or tanks, trucks, boats, planes, or other media of transportation.



**33b06 Operators of motor vehicles or helpers on motor vehicles under CL Reg 3.**

Sec 570.33 (c) of CL Reg 3 prohibits employment of minors 14 and 15 years of age as operators of or helpers on motor vehicles, including passenger-type vehicles. This prohibition also applies to such a minor who, in the performance of his/her regular duties, rides in a passenger-type motor vehicle driven by another person. However, this would not prohibit the office boy or girl from occasionally riding in a passenger-type motor vehicle driven by someone else to deliver packages or mail. (For the application of HO 2 to 16- or 17-year-old minors acting as operators or outside helpers on motor vehicles, see FOH 33e02.)

**33b07 "Warehousing and storage".**

- (a) "Warehousing and storage" as used in CL Reg 3, includes
- (1) public warehouses;
  - (2) cold storage warehouses;
  - (3) long distance moving and storage establishments;
  - (4) wholesale houses (for exception in wholesale house engaged in the distribution of newspapers and magazines, see FOH 33b04);
  - (5) tobacco warehouses, except such employment in loose leaf tobacco warehouses as ticket or tag boy, waterboy, or sweeper during tobacco auctions, which employment is more closely allied to sales work than to warehousing and storage, but not excepting other occupations in the warehousing of tobacco, such as regrading or rechecking tobacco, or handling heavy tobacco baskets on the floor;
  - (6) warehouses operated either as departments or as separate establishments by retail stores;
  - (7) warehouses and storage establishments operated either as separate establishments or departments, by factories, canneries, and other manufacturing and processing establishments; and,
  - (8) planer mill lumber yards where lumber, green or dry, is stacked and stored.
- (b) It does not include
- (1) fresh fruit and vegetable packing sheds and concentration points; and
  - (2) stockrooms operated by retail stores as an incident to selling and located on the same premises as the retail store.

**33b08 Communications.**

- (a) Such duties as announcing, reading advertisements, and spinning records on radio or TV are exempt under FLSA Sec 13(c). (See FOH 33c01.)
- (b) Operating a switchboard in a telephone exchange is an occupation in connection with communications. This work is not considered "office work."
- (c) Answering the telephone and taking messages in a telephone answering service are considered "office work."

**33b09 Office work.**

Work, such as filing and typing, and the cleaning and dusting of an office, is considered "office work" under Sec 570.34(a)(1) of CL Reg 3.

**33b10 High school graduates, children excused from school on religious grounds, and expelled students.**

- (a) An exception from the normal CL Reg 3 hours limitations applies to certain 14- and 15-year-old minors which permits their employment during school hours for not more than eight hours a day and for not more than forty hours per week. This exception applies to each of the following groups of 14- and 15-year-old minors:
  - (1) Minors who have graduated from high school.
  - (2) Minors who have been excused from compulsory school attendance by the state or other jurisdiction on religious grounds once they have reached a certain age (at least 14) and /or attained a certain grade level if compliance is achieved with all the requirements of the state school attendance law.
  - (3) Minors who are subject to an order of the Juvenile Court prohibiting them from attending school (Inv's should view the Court Order as an affirmative showing that the minor meets the conditions outlined above.)
  - (4) Minors who have been expelled from school (not a temporary suspension). (Inv's should consult with state rehabilitation officers or any other agency sponsoring the child for confirmation of the conditions outlined above.)
- (b) The above minors, however, are subject to the remaining conditions established by CL Reg 3, including the occupational limitations and the requirement that permits them to work only between the hours of 7:00 a.m. and 7:00 p.m. (9:00 p.m. between June 1 and Labor Day). The starting and end-of-day time limitations, like the occupation standards, are important tools the Department can use to protect the health and well-being of these minors.

**33b11 "Outside school hours" defined.**

- (a) As used in CL Reg 3, Sec 570.35(a)(1), "outside school hours" means such periods as before and after school hours, holidays, summer vacations, Sundays, or any other day or part of a day when the school normally attended by the minor is not in session. The phrase "school hours" refers to the hours the school is in session during the regularly scheduled school year as determined by the State or local school district. Therefore, summer school sessions are also considered to be "outside school hours" for the purpose of applying Reg 3's hours requirements.
- (b) In some instances a school may employ a student 14 or 15 years of age to work (for example, in the cafeteria) during the noon hour or during a period when the student has no class. For purposes of CL Reg 3 (Sec 570.35(a)(1), such employment will be considered as "outside school hours". (See also FOH 10b03.)
- (c) Sec 570.35 permits enrollees in the "in school" program of the Neighborhood Youth Corps to work "during school hours," as this term is used in CL Reg 3, if the employer has on file a written statement from the Regional Administrator for Employment and Training or his/her representative countersigned by the principal of the school the minor attends that such work will not interfere with enrollee's health, well-being, or schooling. The "inschool" program of NYC is currently limited to 8 hours of "work" per week. The other provisions of CL Reg 3 apply.
- (d) When a minor 14 or 15 years of age has a child to support and appropriate state officers, pursuant to state law, have waived school attendance and State CL standards for the minor, and such is recorded on the minor's work permit, school is no longer "in session" for him or her. Therefore, the minor may work during school hours, not more than 8 hours a day, and not more than 40 hours a week, but in accordance with all the other conditions provided in CL Reg 3.

**33b12 Week defined.**

"Week" as used in CL Reg 3, 29 CFR 570.35(a)(2) and (3), is a standard calendar week of 12:01 a.m. Sunday through midnight Saturday, not a "workweek" as defined in 29 CFR 778.105 (a fixed and regularly recurring period of 168 hours which may begin on any day and at any hour of the day).

**33b13 Work in freezers and walk-in coolers.**

- (a) Sec 570.34(b)(7) of CL Reg 3 prohibits 14- and 15-year-old minors from working in freezers and meat coolers, and all work in the preparation of meats for sale. For example, minors would be prohibited from working as dairy stock clerks, meat clerks, deli clerks, produce clerks, or frozen-food stock clerks, where their duties would require them to enter and remain in coolers or freezers for prolonged durations. Reg 3 also prohibits 14- and 15-year-olds from taking inventory or performing cleanup work which would require the minors to remain in the freezer or cooler for extended periods of time.

- (b) On the other hand, food preparers in fastfood restaurants or cashiers in a grocery store should not be considered as working in coolers and freezers if their duties only require them to enter such refrigeration equipment momentarily, and if the equipment is designed to prevent the worker from being locked inside. For example, a minor who works in a fastfood restaurant making sandwiches may be required at times to go in and out of walk-in coolers to obtain food to be prepared. In such circumstances, the minor is not considered to be working in a cooler.

### **33b14 Cooking and Baking under Reg 3.**

- (a) Reg 570.34(b)(5) prohibits "Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking;...". This section was promulgated when drug store soda fountains, ten-cent store lunch counters, and other snack bar type operations constituted a distinct type of work place, quite different from the more traditional "full-menu" restaurants. These "quick service" eating places frequently employed minors to perform, in addition to a variety of duties, some simple cooking functions that were similar to what they might do in their own homes.
- (b) 14- and 15-year-olds may perform simple cooking functions when performed in areas that are not separated from the service counter by a partition and are in the full view of the customer. Permitted duties include the use of such equipment as grills, griddles, deep-fat fryers, toasters, popcorn poppers, and hot dog rotisseries.
- (c) It was never intended that minors under 16 years of age would be permitted to cook in areas or use equipment that presents risks associated with activities such as lifting large vessels of hot grease or liquids (such as hot water receptacles for steam tables); stocking, operating, and unloading large rotisseries; and working with cooking devices which operate under pressure or at extremely high temperatures. Cooking devices that clearly jeopardize the safety of 14- and 15-year-old workers and are not of the nature and design contemplated by Reg 570.34(b)(5) may not be operated by those under 16 years of age regardless of where the equipment is located within a food service establishment. Examples of such prohibited cooking equipment include the "NEICO Broilers", pressure cookers, and large rotisseries (not the type designed to cook hot dogs).
- (d) Reg 570.34(b)(5) also prohibits 14- and 15-year-olds from performing any baking for a covered establishment. Therefore, the use of ovens by 14- and 15-year-olds, including pizza ovens and convection ovens, is prohibited.
- (e) The use of warming devices to maintain the heat of cooked food is permitted by Reg 570.34(a)(7). This includes stocking and serving from steam tables, warming trays and heat lamps. The reheating of previously cooked items in microwaves designed only for food warming is also permitted.

**33c CHILD LABOR EXEMPTIONS****33c00 Employment by parents, Sec 3(L).**

- (a) FLSA Sec 3(L) exempts from the definition of "oppressive child labor", and thus from FLSA Sec 12 coverage, employment by parents or persons standing in place of parents of their own child or a child in their custody, provided that the minor is not employed in an actual manufacturing or mining occupation, or in an occupation covered by HO's other than the HO/A. The minor may be employed in processing occupations or in a manufacturing workroom, if not employed in a manufacturing occupation, or in an occupation declared hazardous. The exception applies only when the parent is the sole employer of the minor. If the parent is a partner in a partnership or an officer of a corporation the parental exemption does not apply unless the parents are the only members of a partnership or the sole owners of a corporation. (See FOH 33d03(c), HO/A.)
- (b) The words "parent" or a "person standing in place of a parent" include natural parents, or any other person where the relationship between that person and a child is such that the person may be said to stand in place of a parent. For example, Subpart G, Reg 570.126 states that one who takes a child into to his or her home and treats it as a member of his or her own family, educating and supporting the child as if it were his or her own, is generally said to stand in "place of a parent."

**33c01 Employment as actors or performers.**

FLSA Sec 13(c) provides an exemption from Sec 12 for employment as an actor or performer in motion pictures or theatrical, radio, or television productions. (See FOH 33b08(a).) Minors employed as performers in a circus also fall within this exemption.

**33c02 Newspaper delivery employees.**

FLSA Sec 13(d) provides an exemption from FLSA Secs 6, 7, and 12 for any employee engaged in the delivery of newspapers to the consumer. (See FOH 23b.)

**33c03 Homeworkers making wreaths.**

FLSA Sec 13(d), second part, provides an exemption from FLSA Secs 6, 7, and 12 for homeworkers engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths). (See FOH 25f.)

**33d CHILDREN EMPLOYED IN AGRICULTURE****33d00 Outside of school hours.**

- (a) Sec 13(c) provides that Sec 12 will apply to minors under 16 years of age employed in hazardous occupations in agriculture unless employed by a parent or person standing in the place of a parent. (See FOH 33d03.) Thus, the exemption for minors below the age of 16 employed in agriculture outside of school hours is limited to occupations which have not been declared hazardous.
- (b) The definition of "agriculture" in Sec 3(f) determines whether an employee is "employed in agriculture" for purposes of Sec 13(c)(1) or (2), regardless of whether or not the employment is subject to the (6)(a)(5) MW.
- (c) The meaning of the term "outside of school hours" refers to the hours before and after school, holidays, Saturday, Sunday, vacation time, and any day when the school in the district where the minor is living is not in session.

**33d01 Children who move into another area.**

Children who leave one district where schools have closed for summer vacation and move into and live in another district where schools are still in session may work during the hours schools are in session in this new district. This position applies only during the spring of the year. Unless there is reason to believe otherwise, the statement of the minors or their parents (or some other evidence such as a report card) that the minor has completed the school year and that the school attended is closed for summer vacation will be sufficient for investigation purposes. After May 15 each year, for investigation purposes it will be assumed that the school attended by migrant minors is closed for summer vacation unless there is evidence in hand to the contrary.

**33d02 Minimum age during school hours.**

- (a) The minimum age is 16 for employment in agriculture during school hours unless
  - (1) The minor is employed exclusively by his parent or by a person standing in the place of his parent.
  - (2) The minor has completed his high school course.
  - (3) The minor is below the eligible school entrance age in the State. In States where there is no written eligible age the compulsory age becomes the eligible age.
  - (4) The school, which the minor normally attends or would normally attend in the district where he is living, is closed for crop vacation or any other reason. In some communities, one school may close for crop vacation while others in the same community remain in session. The Inv will need to find out which public or parochial school the minor attends and in the case of the migrant minor, which public school he or she would normally attend.
  - (5) The school, due to crowded conditions, is operating on a split shift basis. Under this plan the school day is divided into half-day sessions. Some children attend classes in the morning and others in the afternoon. The children under these circumstances, could be legally employed in agriculture the half-day they are not required to attend school.

- (6) The administrative unit, such as the high school or junior high school which the minor attends, is closed. The exemption makes no provision for the release of individual children or any class or grade to work in agriculture.
- (b) Minors below 16 years of age may not be employed in HO/A's except where employed by a parent or person standing in the place of a parent (see FOH 33d03). Thus, the employment of minors under 16 years of age under the conditions set forth in (a)(2) through (6) above is permitted only where the minor does not engage in such hazardous work.

### 33d03 HO's - agriculture.

- (a) Sec 13(c)(2) reads as follows: "The provisions of section 12 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".
- (b) The 16-year minimum age for agricultural employment in occupations declared to be hazardous applies to covered agricultural employment which meets the definition given in Sec 3(f) and without regard to whether or not such employment is subject to the MW provided by Sec 6(a)(5). The 16-year minimum age does not depend upon whether or not the employment is "outside school hours". Thus, the 16-year minimum age for such hazardous occupations applies during vacation periods as well as hours before and after school or on nonschool days.
- (c) The parental exemption in Sec 13(c)(2) from the HO/A applies to the minor's natural parent or to a "person standing in the place of his parent," (see FOH 33c00(b)) so long as the employment is on a farm owned or operated by such parent or person.
- (d) "Owned by" the parent or person standing in the place of the parent includes part ownership as a partner in a partnership or as an officer of a corporation which owns the farm if the ownership interest in the partnership or corporation is substantial.
- (e) Operated by the parent or person standing in the place of the parent means that they exert active and direct control over the operation of the farm or ranch by making day-to-day decisions affecting basic income, work assignments, hiring and firing of employees and exercising direct supervision of the farm or ranch work. Ranch managers, therefore, who meets these criteria could employ their own children under 16 on the ranch they operate without regard to the provisions of the HO/A.
- (f) The 18-year minimum age set by HO's 1 through 17 (see FOH 33e) does not apply to an employee employed in "agriculture" as defined in Sec 3(f). For example, if a minor under 18 is employed in agriculture and works as a driver on a motor vehicle, HO 2 does not apply even though the minor may go "in or about" a producing establishment to deliver the farmer's products. On the other hand, if the minor's employment does not meet the tests in Sec 3(f), HO 2 would apply in the normal manner. If a minor under 16 is employed in agriculture as defined in Sec 3(f), he or she is subject only to the hazardous occupations order in agriculture set forth in (g) below.

- (g) The following occupations in agriculture have been declared hazardous by the Secretary of Labor for the employment of minors under 16 years of age:
- (1) Operating a tractor of over 20 PTO (power takeoff) horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor:
    - a. Farm tractors overturn easily and the operator or passenger may be seriously injured. Serious injuries are complicated if the accident occurs in an isolated area and is not discovered quickly.
    - b. The rotating drive mechanisms of implements or power takeoff drives inflict serious injuries if parts of the body or clothing come in contact with the exposed driveshaft or moving parts.
    - c. Persons under 16 may still operate garden-type tractors, which are free from the extensive hazards associated with large, heavy-duty equipment.
  - (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:
    - a. Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner.
      1. These machines use rotary gears, revolving shafts, driving chains, belts, augers, conveyor belts and chains, knives, blowers, levers, and hydraulic pistons to grasp, cut, pound, grind, convey, compress, push, or pull material. The farmworker sometimes comes in contact with moving parts and is seriously injured when he or she tries to unclog, repair, or adjust the machine when the motor is running.
    - b. Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-loading wagon or trailer.
      1. These machines, except for some that are fed manually, are similar in construction and operation to those described above, and involve the same hazards. There is an additional danger that if a part of the body is caught by a turning auger, amputation is almost unavoidable.
      2. Persons under 16 may move the crop to the person feeding the machine and remove the finished product from the area; they may load and unload material from other types of conveyors, such as belt, bucket, or chain.
      3. The unloading mechanism of a bulk body truck, including machines with self-unloading bulk boxes, meets the description of this HO/A and is prohibited for minors under age 16. However, the operation of a potato bin piler is permitted for minors under 16 years of age working on farms.



- c. Power post-hole digger, power post-driver, or nonwalking type rotary tiller.
  - 1. The hazard of the post-hole digger is the danger of becoming entangled with the rotating drive; with the power post-driver, it is a possibility of being struck by the descending ram.
  - 2. Persons under 16 may set posts in holes, tamp the earth, attach and stretch wire, install gates, and repair fences.
- (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:
  - a. Trencher or earthmoving equipment;

The hazards of earthmoving or trenching equipment are entanglement with moving parts and falling under a moving piece of equipment.
  - b. Forklift;

Forklifts have a double hazard of falling loads and overturning. They also accidentally may be driven over the edge of platforms.
  - c. Potato combine; or
  - d. Power-driven circular, band, or chain saw;
  - e. The chief hazards in connection with saws are the danger of amputation and severe cuts from contact with the cutting edge.
- (4) Working on a farm in a yard, pen, or stall occupied by a:
  - a. Bull, boar, or stud horse maintained for breeding purposes; or
  - b. Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).
  - c. Handling these animals requires experience, skill, and strength. If they attack without warning, escape is especially difficult from confined areas.
  - d. This section does not prohibit work with these or any animals in an open area. It does not prohibit work with beef or range bulls and cattle, dairy cattle, or breeding stock on the range.
- (5) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.
  - a. The hazards involving in working with timber become serious when the trees have attained substantial size and weight.
  - b. Workers under 16 are still permitted to work with timber up to six inches in diameter, which includes most fence posts and tier poles.

- (6) Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over twenty feet.
- a. Most severe injuries occur when work is done from the ladder or scaffold at a considerable height.
  - b. This section does not prohibit using ladders to reach a work site above twenty feet, as long as the work is not done from a ladder or scaffold.
- (7) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
- a. Exposure to traffic while moving at considerable speed makes driving a motor vehicle on a public road or highway hazardous. The additional responsibility of carrying passengers makes such driving unsuitable for minors under 16.
  - b. In addition, most States will not issue a driver's license for a youth under 16.
  - c. Minors under 16 may drive a truck or automobile on the farm itself. However, they may not ride on any tractor or serve as a helper on any tractor.
- (8) Working inside:
- a. A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;
  - b. An upright silo within two weeks after silage has been added or when a top unloading device is in operating position;
  - c. A manure pit; or
  - d. A horizontal silo while operating a tractor for packing purposes.
    1. When oxygen is replaced by another gas or consumed by fermentation, anyone entering these storage areas is in danger of asphyxiation.
    2. If the top unloading device is in operating position in the silo, a person may become entangled in its cutting and tearing mechanism and be injured seriously.
    3. Employees under 16 may work inside the non-gas-tight type silo while the unloading device is in a raised position, and they may also operate this device from outside the silo.
    4. The hazards involved in operating a tractor for packing purposes in a horizontal silo is the danger of overturning.
- (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.

- a. Many agricultural chemicals present serious health hazards. Some have a corrosive effect on body tissue. Some affect the central nervous system, causing respiratory failures and many cause death by the accumulation of even minute quantities over a prolonged period.
- b. The hazards involved in the job of flaggers are that they stand in the line of flight to direct the pilot and also because of the possibility of contamination from the chemical being applied.
- c. Minors under 16 may handle and apply fertilizers or chemicals that are not labeled as indicated in this item.

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

The use of blasting agents requires experience and expertise. Mishandling can result in accidental detonation, and maiming or loss of life.

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

Vapors are very irritating to the eyes and to the respiratory system. In case of contact with the skin, it may result in severe burns. Too high a concentration of vapor could cause suffocation.

(h) The following are some examples of work activities not affected by the HO/A:

- (1) Handling chemical pesticides and fertilizers not included in Item (9) of Order.
- (2) Driving a truck, automobile, or bus on the farm proper and serving as helpers on such vehicles.
- (3) Loading or unloading trucks.
- (4) Operating garden-type tractors.
- (5) Picking vegetables and berries, and placing them on conveyors or in containers.
- (6) Clearing brush and harvesting trees up to 6 inches in butt diameter.
- (7) Working from ladders at heights less than 20 feet, such as picking of most fruits.
- (8) Working with farm animals, except work with certain breeding stock in confined areas, including showing any animal at livestock shows, fairs, exhibits, or similar activities when not taking place on a farm.
- (9) Hand planting and cultivation.
- (10) Raising and caring for poultry.
- (11) Milking cows.
- (12) Processing and storing milk and dairy products.

- (14) Cleaning barns, equipment storage buildings, chicken coops, etc.
- (15) Mowing lawns.
- (16) Riding, driving or exercising horses.
- (17) Picking cotton.
- (18) Handling of irrigation pipes.
- (19) Harvesting and storing tobacco.
- (20) Riding on transplanters.

**33d04 Educational and/or Training Programs providing exemptions from certain provisions of the HO/A.**

- (a) Student-learner exemption (Reg 570.72(a)). This exemption applies to minors 14 and 15 and is not limited to the school term, but also applies in the summer vacation provided all the terms of the exemption are met (see HO/A, Reg 570.72(a)). The necessary "direct and close" supervision during the summer months is ordinarily provided by a vocational agricultural teacher employed on a 12-month basis. This exemption applies only to Items (1) thru (6).
- (b) Federal Extension Service Exemption (570.72 (b))
  - (1) Any minor 14 or 15 may enroll in the tractor training course and/or the farm machinery training course set up by the local County Agricultural Extension Agent as part of the 4-H Club program. Upon satisfactory completion of one or both of these courses, he will be permitted to work in those occupations identified in Items (1) and (2) of the HO/A for which he has been trained.
  - (2) Minors may be identified by showing their "Certificate of Training".
- (c) Vocational Agriculture Training Exemption (570.72 (c))
  - (1) Any minors 14 and 15 enrolled in cooperative vocational agriculture training programs who take and successfully complete courses provided by local vocational agriculture teachers on the safe use of tractors and farm machinery will be permitted to be employed in those occupations identified in Items (1) and (2) for which he has been trained.
  - (2) Minors may be identified by showing their copy of the "Certificate of Training". The employer is also required to keep a copy of the certificate on file.

**33e00 HAZARDOUS OCCUPATIONS ORDERS (nonagricultural)****33e00a General discussion.**

- (1) Sec 3(l) of the FLSA, which defines "oppressive child labor," prohibits 16- and 17-year-olds from performing those occupations which the Secretary of Labor finds and declares to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being. Under this authority, the Secretary has issued 17 Hazardous Occupations Orders (HO's).
- (2) The HO's specifically cover 16- and 17-year-old minors. But minors under 16 years of age are also banned from performing any of the occupations prohibited by the HO's because of Child Labor Regulations No. 3 (Section 570.33(e) of 29 CFR Part 570).

**33e00b How HO's are created.**

- (1) All the HO's were originally issued between 1939 and 1963. The first six HO's were issued by the now defunct Children's Bureau. Reorganization Plan No. 2 transferred the authority to issue HO's to the Division of Labor Standards, effective July 16, 1946. HO's 7 through 17 were issued by the Child Labor and Youth Employment Branch of the Division of Labor Standards or its successor agencies, often with technical help from either the Division of Safety Standards or experts in the industry being studied.
- (2) The process used to issue the original HO's consisted of conducting an investigation (study) of an industry, process, or machinery considered to be dangerous for young employees. Hearings would often be held and a committee of interested parties would often be convened to make recommendations. The process culminated with the issuance of a report that detailed the hazards involved and actually presented the HO. The reports established the range and scope of each HO, coverage, and any exclusions and exemptions. These reports still remain the basis for opinions issued under each HO. If the original report did not review or address a specific task and the HO has not been amended to include that task – that task is not prohibited by the HO.
- (3) The procedure used to establish the HO's (found in Child Labor Regulation No. 5, previously incorporated in Subpart D, Sections 570.41 through 570.49 of Regulations, 29 CFR Part 570) preceded the enactment of the Administrative Procedures Act (APA). On April 17, 1995, the Department published a notice in the Federal Register, 60 FR 19336, which deleted Subpart D; consequently, any amendments to existing HO's or creation of new HO's must now follow the procedures established by the APA.

**33e00c The effect of the 1961 and 1966 FLSA Amendments on HO's.**

The HO's, with the exception of HO's 16 and 17, were issued before enactment of the 1961 and 1966 FLSA Amendments which brought many previously uncovered establishments under the provisions of the Act (retail, construction, state and local governments). Most of the original reports establishing the HO's did not address retail operations because of the limited FLSA coverage, however, many of the HO's have since been amended to address their application to retail operations.

**33e00d Industry, process-oriented, or machine-specific HO's.**

(1) Certain HO's apply to whole industries or processes. These would include:

- HO 1 - Manufacturing or Storing of Explosives;
- HO 3 - Coal Mining;
- HO 4 - Logging and Sawmilling Operations;
- HO 9 - Mining other than Coal Mining;
- HO 10 - Slaughtering, Meatpacking or Processing, or Rendering;
- HO 13 - Manufacturing Brick, Tile, and Kindred Products;
- HO 15 - Wrecking, Demolition and Shipbreaking Operations;
- HO 16 - Roofing Operations; and
- HO 17 - Excavation Operations.

Generally, most of the work in the named industry or process is prohibited – with a few exceptions – such as office or maintenance work performed outside of the production area.

(2) Other HO's address only families of machines or specific acts. In some instances, many machines common to an industry are prohibited. These include:

- HO 2 - Motor Vehicle Occupations;
- HO 5 - Power-Driven Woodworking Machines;
- HO 6 - Exposure to Radioactive Substances and Ionizing Radiation; and
- HO 12 - Power-Driven Paper Products Machines.

(3) Other HO's prohibit only those machines that specifically were named by the original report as being dangerous. These include:

- HO 7 - Power-Driven Hoisting Apparatus;
- HO 8 - Power-Driven Metal Forming, Punching and Shearing Machines;
- HO 11 - Power-Driven Bakery Machines; and
- HO 14 - Power-Driven Circular Saws, Bandsaws, and Guillotine Shears.

(4) Contradictory situations may appear to exist. For example, a lathe used for wood products is prohibited by HO 5, but a similar machine used for metal products is permitted by HO 8. There are also instances where the report accompanying the order only considered machines used in industrial settings and therefore other similar machines, when used in retail, recreational or service establishments, may fall outside the scope of the HO. For example, amusement park rides and automobile lifts at car dealerships can both involve power-driven hoists but remain outside the scope of HO 7.

(5) A few of the HO prohibitions are so broad in scope that they include not only the machines used in the industry at the time the report was issued but any similar machines developed after the issuance of the HO. For example, the ban on woodworking machines (HO 5) includes all the computerized woodworking machines that just recently came into being and the ban on front-lift loaders (HO 7) includes all types and uses of such loaders, including bobcat machines.

- (6) There are separate Hazardous Occupations Orders covering agricultural work (HO/A) which prohibit minors under age 16 from performing certain tasks on farms. These are discussed and defined in Subpart E of Regulations, 29 CFR Part 570. Care should be taken to separate agricultural work activities from nonagricultural activities so that the appropriate child labor standard is applied.
- (7) In order to reduce confusion, the scope of each HO is discussed separately in the sections covering the individual HO's [see FOH 33e00f(1)].

#### **33e00e Special purposes of HO 14.**

- (1) The report establishing HO 14 considered the general safety of work associated with circular saws, band saws and guillotine shears. The report found that the operation of this equipment is hazardous wherever used, and that setting up, adjusting, repairing, oiling and cleaning of these machines are also hazardous. This led WH to review the scope of other HO's and it was determined that only HO 5 specifically prohibited these ancillary activities. Accordingly, HO's 8, 10, 11 and 12 were revised to prohibit minors from setting up, adjusting, repairing, oiling and cleaning the machines prohibited by those HO's.
- (2) HO 14 serves as a "catch-all" HO. It prohibits minors from operating circular saws, bandsaws and guillotine shears in any employment situation where this machinery is not prohibited by any of the other HO's. This is discussed further in the scope of HO 14, 33e14a.

#### **33e00f HO's are mutually exclusive.**

- (1) The HO's are designed to be mutually exclusive. Thus, a bandsaw is prohibited by HO 4 when it is used to cut lumber in a sawmill; by HO 5 when used in a furniture factory or on a construction site; by HO 10 when used to saw meat or bones; by HO 11 when used for cutting cake; by HO 12 when used to cut paper, and by HO 14 when used to saw all other substances. Inv's must insure that violations are charged only under the most appropriate HO.
- (2) Certain machines, however, may fall under different HO's at different times because their functions can vary, as when different attachments are used. For example, a doughmixer prohibited under HO 11 would be prohibited under HO 10 if a meat-grinding attachment were added to make hamburger.

#### **33e00g Activities must be addressed by the HO or are not prohibited.**

- (1) If the industry, machinery or process study which created the HO did not address or review a specific activity, piece of machinery, or process, and the HO was not amended to include that activity, machinery or process – that activity, machine or process cannot be prohibited by the HO. If it is not specifically prohibited by the HO, the activity, machine or process is permitted.

- (2) Questions regarding the scope of any HO should be addressed to the ADD or DD. The Child Labor and Special Employment Team of the NO Office of Enforcement Policy maintains copies of all the HO studies and should be used as a resource.

### **33e00h Apprentices and Student-Learners.**

- (1) HO's 5, 8, 10, 12, 14, 16, and 17 contain limited exemptions for apprentices and student-learners provided they are employed under certain conditions (see 29 CFR Part 570.50). None of these limited exemptions, however, permit apprentices or student-learners to drive motor vehicles as part of their training programs.
- (2) **Apprentices.** The provisions of the HO's listed in (1) above do not apply to the employment of apprentices provided:
- (a) the apprentice is employed in a craft recognized as an apprenticeable trade [the US DOL Bureau of Apprenticeship and Training (BAT) can provide guidance];
  - (b) the work of the apprentice in the hazardous occupation is incidental to the apprentice training, is intermittent and for short periods of time, and under the direct and close supervision of a journeyman; and
  - (c) the apprentice is registered by BAT (or a State agency approved by BAT) or is employed under a written apprenticeship agreement which conforms to Federal or State standards as determined by the Secretary of Labor.
- (3) **Student-Learners.**
- (a) The provisions of the HO's listed in (1) above do not apply to the employment of a student-learner 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, provided that the student-learner is employed under a written agreement which provides:
    - 1. that the work of the student-learner in the occupation declared particularly hazardous shall be incidental to the training;
    - 2. 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;
    - 3. that safety instruction shall be given by the school and correlated by the employer with on-the-job training; and
    - 4. that a schedule of organized and progressive work processes to be performed on the job shall have been prepared.



- (b) The student-learner discussed in this section can be different from those student-learners for whom an employer may obtain a certificate to pay a subminimum wage under 29 CFR Part 520. An employer does not have to obtain the special certificate that allows him to employ student-learners at wages less than the minimum wage in order to take advantage of this limited exemption from certain HO's.
  - (c) Wage and Hour considers a Jobs Corps training program to be equivalent to "a course of study in a substantially similar program conducted by a private school" under 29 CFR 570.50(c)(1) and employers of Job Corps enrollees could take advantage of the limited exemption for student-learners if all the other conditions listed in 29 CFR 570.50(c) are met.
  - (d) A high school graduate may be employed in an **occupation in which he or she has completed training** as provided in this section as a student-learner even though he or she is not yet 18 years of age. The limited exemptions to the HO's listed above do not apply to any minor merely because he or she has graduated from high school.
  - (e) The student-learner exemption is not limited to the school term but applies during the summer vacation provided all the terms of the exemption are met (see 570.50(c)). The required "direct and close supervision" and safety instructions should ordinarily be provided by the coordinator or an appropriate school official during the summer months. It should also be established that the student plans to be enrolled in a bona fide vocational education program the term following the vacation period.
- (4) Definitions applicable to the limited exemption from certain HO's.
- (a) The terms *intermittent* and *short periods of time* are not defined in the regulations and determinations concerning the employment of each apprentice and student-learner are made on a case-by-case basis after reviewing all the facts of the particular situation. The following items shall be considered when making such determinations:
    1. Wage and Hour's position is that apprentices or student-learners may not be the principal operators of prohibited machinery. They must work under the close supervision of a fully qualified and experienced adult, such as a journeyman worker in the case of an apprentice.
    2. The duties assigned the minor may not be such that he or she is constantly operating the prohibited machinery during the work shift, but only does so when required by the training experience. This precludes an apprentice or student-learner from being a production worker responsible for spending a significant proportion of the workday performing prohibited work.
    3. While no universal timeline may be imposed, we would consider the continuous performance of otherwise prohibited work (operating prohibited machinery) for more than one hour in a workday to be more than intermittent and a short period of time. We would also consider the performance of otherwise prohibited work throughout a work shift which

totals more than 20% of the apprentice's or student-learner's work shift to be more than a short period of time.

- (b) The term *direct and close supervision* is not defined in the regulations. Apprenticeship agreements registered with BAT or BAT-approved State agencies, however, do establish ratios concerning the number of journeymen and apprentices that may be on the jobsite at any one time. These ratios help ensure worker safety and that the apprentices receive both proper training and supervision. BAT has advised us that the most widely used ratio is one apprentice for the first journeyman onsite and one apprentice for every three additional journeymen thereafter. For the purpose of the limited exemption contained in 29 CFR 570.50, we will consider the requirement of direct and close supervision to be met when there is one journeyman or experienced adult working with the first apprentice or student-learner onsite, and at least three journeymen or experienced adults working along side each additional apprentice or student-learner. **Note:** It is important to remember that the requirement for direct and close supervision only applies during the periods when the apprentice or student-learner is actually performing the otherwise prohibited work.

### **33e00i Format of Section 33e.**

The following format is used to discuss each HO:

- (1) **Scope of HO:** This section discusses the scope and extent of the HO, including whether the HO is industrywide, process, or machine specific. It also discusses whether the HO prohibits ancillary duties (assisting to operate, riding on, cleaning, oiling, etc.) and whether the named machines are prohibited in all covered establishments. A “definitions” section is included where appropriate.
- (2) **Occupations Prohibited:** This section describes the occupations that are prohibited by the HO based on the original order issued in conjunction with the HO.
- (3) **Occupations Not Specifically Banned:** This section describes the occupations that are not specifically banned and, therefore, are permitted for 16- and 17-year-olds. This section lists the occupations, processes or machines specifically stated in the original order and those added by later rulemaking.
- (4) **Exemptions:** This section discusses statutory or regulatory exemptions, such as the exemption for student-learners and apprentices.
- (5) **Enforcement Positions:** This section lists Wage and Hour's current enforcement positions regarding certain activities, machines, or processes. This section is designed to address the more frequently encountered situations.
- (6) **Quick Reference Chart:** These charts present a thumbnail sketch of the major provisions of each HO. They provide only general information and Inv's should continue to refer to the detailed information contained in the above named sections and in Subpart E of 29 CFR Part 570.

**33e00j Wage and Hour “STOP” stickers for hazardous equipment.**

- (1) As part of our *Work Safe This Summer Campaign*, the Wage and Hour Division has printed a supply of special “STOP” stickers which employers may place on hazardous equipment to alert workers that they must be at least 18 years of age to operate and/or clean the equipment. The stickers are appropriate for use on meat slicers, forklifts, balers, compactors, power-driven bakery equipment, freight elevators, powersaws, etc.
- (2) There are two versions of these stickers. One warns employees that they must be “18 TO OPERATE OR CLEAN THIS EQUIPMENT” and the other states “NO OPERATORS UNDER 18 YEARS OF AGE.” Both versions encourage the reader to contact the Wage and Hour Division for more information about the child labor laws.
- (3) **Investigators may not, under any circumstances, place these stickers on equipment.** Only the employer, or the designated representative of the employer, may place stickers on equipment.
- (4) Although in all cases the use of the stickers will be voluntary, placement of the stickers may be negotiated as part of a “stipulation of compliance” or “compelled partnership.” Such agreements should be in writing.
- (5) Employers who use these stickers should be reminded to place them in conspicuous spots on the equipment, but never cover up other important information such as safety instructions, model numbers, or emergency guidelines.
- (6) Use of the stickers does **not** ease, in any way, an employer’s obligation to ensure compliance with all child labor provisions at all times. Employer use of the stickers would constitute “prior knowledge” of the child labor laws should violations be documented in future investigations. In cases where the use of stickers is the basis for documenting the employer’s “prior knowledge” of the child labor provisions, Inv’s should take photographs of stickers placed on the employer’s machinery.
- (7) Sufficient numbers of the stickers have been printed, but demand is expected to be high. We should not be providing large numbers of stickers to employers who can afford to create their own. Employers may reproduce or redesign the stickers as they wish – firms can even add their own logo or ombudsman contact.
- (8) Offices requiring additional supplies of the stickers should contact the NO Office of Enforcement Policy, Child Labor and Special Employment Team.

### 33e01 HAZARDOUS OCCUPATIONS ORDER 1 - Manufacturing or Storage Occupations Involving Explosives

**Name:** Occupations in or about Plants or Establishments Manufacturing or Storing Explosives  
or Articles Containing Explosive Components

**Effective Date:** July 1, 1939

#### 33e01a Scope of HO 1.

- (1) Workers in plants manufacturing explosives, including articles containing explosive components, are especially subject to accident from explosions despite the progress made by manufacturers and OSHA in developing safeguards. The finding of the original investigation accompanying the report was that accident severity rate for explosive manufacturing was about twice as great as the average for all manufacturing industries in 1936. The injuries resulting from such explosions are often serious resulting in fatalities or permanent injuries.
- (2) This order deals with occupations in plants or establishments engaged in manufacturing, storing, and transporting explosives, or articles containing explosive components, small arms ammunition, including blasting caps and primers. This includes fireworks. It prohibits the handling of these materials and employment in all buildings and areas containing explosives as defined by the Interstate Commerce Commission (ICC). (**NOTE:** Congress abolished the ICC in 1995. Rulemaking will be undertaken in the near future to substitute definitions created by the Bureau of Alcohol, Tobacco and Firearms).
- (3) The order does not apply to the following:
  - (a) Retail stores including the storage of ammunition in gunshops, sporting goods stores, building supplies and hardware stores; retail fireworks stands and other retail establishments.
  - (b) Gun clubs, trap and skeet ranges, turkey shoots, certain armories, police stations and other such areas where only small arms ammunition is being stored.
  - (c) The use of explosives in mining operations is covered by HO's 3 and 9; the use of explosives in demolition and shipbreaking work is covered by HO 15; and the use of explosives in excavation work is covered by HO 17. However, the storage of explosives at such sites would be covered under HO 1.
- (4) Definitions.
  - (a) The terms *explosives* and *articles containing explosive components* mean and include: ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and, upon completion of rulemaking, all goods classified and defined as explosives by the Bureau of Alcohol, Tobacco and Firearms. Even though gases and liquids may be extremely flammable, the order does not apply to them unless they are mixed with "explosives" as defined above.

- (b) The term *plant or establishment manufacturing or storing explosives or articles containing explosive components* means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components. Types of establishments which may store these materials include ammunition depots, dynamite magazines, bunkers, armories, fireworks warehouses.
- (c) The term *nonexplosives areas* as used in the exception in HO 1 are those which meet all four criteria found in 29 CFR Part 570.51(b)(3) and listed below (the criteria are such that ordinarily only areas in large plants or establishments could qualify – a small fireworks plant or establishment would not ordinarily cover such a large area that it could sustain a "nonexplosives area"):
1. None of the work performed in the area involves the handling or use of explosives.
  2. 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. The *American Table of Distances*, published by the Institute of Makers of Explosives, was last revised in 1991. The table lists "minimum safe distances" for the location of explosive storage and manufacturing buildings from inhabited buildings, railways, highways, etc. These distances vary with the type and amount of explosive materials. Copies of the Table have been provided to all RO's.
  3. The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area. The phrase "or is otherwise located so that it constitutes a definite designated area" was included to bring in any area which is located at a great distance from the explosives area, or is on the other side of a natural barricade at least comparable to a fence.
  4. 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 that does not meet the above three criteria. The painting of a warning on the doors of all buildings containing explosives advising minors under 18 years of age to stay out does not satisfy this requirement. Such warnings would have no actual restraining effect on employees under 18 years of age, of and by themselves, and would not constitute a satisfactory control within the intent of 29 CFR 570.51(b)(3).

### **33e01b Occupations PROHIBITED.**

Sixteen- and 17-year-olds are prohibited from performing:

- (1) All occupations in or about any plant or establishment (other than retail establishments and those establishments which manufacture or store small arms ammunition as described in 33e01b(2) below); except 16- and 17-year-olds may perform work that does not involve the handling or use of explosives in qualifying "nonexplosives areas."

- (2) The following work in plants 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 ammunitions:
- (a) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.
  - (b) All occupations 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.
  - (c) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rimfire cartridges are primed.
  - (d) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.
  - (e) All occupations involved in the loading, inspecting, packing, shipping, and storage of blasting caps.
- (3) The following work peculiar to the “fireworks” industry.
- (a) HO 1 applies to homeworkers engaged in the manufacture of fireworks in their own homes. Since explosives are stored in the home prior to and after assembly, a homeworke’s home would meet the definition of a “plant or establishment manufacturing or storing explosives.”
  - (b) HO 1 applies to “shooters” who are hired by various civic organizations and governments to transport fireworks from the manufacturer or wholesaler to the display site, set up the fireworks at the site, load mortars (tubes from which the shells are fired), and fire shells. Fireworks must be temporarily stored at the site prior to the display. The term “establishments storing explosives” in 29 CFR Part 570.51(b)(1) is sufficiently broad to cover these storage situations. **Note:** it may be necessary to establish individual coverage where members of the shooting crew are not employees of a fireworks manufacturer or wholesaler.
- (4) Work which involves the storage of ammunition and/or explosives.
- (a) HO 1 applies to any establishment, other than a retail establishment, which stores ammunition (other than small arms ammunition not exceeding .60 caliber) or explosives, regardless of whether or not manufacturing takes place at the facility.
  - (b) Minors 16 and 17 years of age, however, could work in a “nonexplosives area” of such an establishment or at an establishment where only small arms ammunition was stored. Central warehouses used by retail stores, lacking the retail concept, would also be covered by HO 1.

**33e01c Occupations NOT SPECIFICALLY BANNED.**

- (1) HO 1 does not cover retail establishments selling explosives or articles containing explosive components such as hardware stores, fireworks outlets, or building supply stores. Individual storerooms, located at retail stores used to stock merchandise sold by that store, are also not covered by HO 1 (see 33e01b(4)(b) above concerning warehouses).
- (2) Work in plants manufacturing explosives, in plants storing explosives, and in plants manufacturing articles containing explosive components which does not involve the handling or use of explosives and which is performed in a “nonexplosives area.”
- (3) All work in plants manufacturing or storing small arms ammunition (not exceeding .60 caliber) or blasting caps **that is not specifically prohibited by HO 1**. Examples include working as an inspector, office work, machine operators (if not covered by Orders 5 or 8), packing (except blasting caps), shipping, and other work not involving the handling of explosives.

**33e01d Exemptions.**

There are no provisions in HO 1 for apprentices or student-learners. There are no other exemptions applicable to this order.

**33e01e Enforcement Positions.**

- (1) Geophysical survey crews.
  - a. Jug handlers (those who help string the wire from the shooting hole to the recording equipment) in geophysical surveys which involve the detonation of explosives in underground locations are not subject to the prohibitions of HO 1.
  - b. The overnight parking of explosive trucks used by the survey crews is not sufficient for the trucks to be considered establishments storing explosives.
- (2) Generally, we have held that no areas in fireworks plants can meet the “nonexplosives area” criteria of 29 CFR 570.51(b)(3).
- (3) In the interest of safety, Inv’s should not enter explosive plants or fireworks manufacturing areas, and should confine their investigation activities to offices or areas outside the plants. When necessary, OSHA inspectors will be able to assist the Wage and Hour Division by making a visual inspection of the manufacturing areas and reporting any potential child labor violation to us [see FOH 50f 21(d) & (e)].

## **A QUICK LOOK AT HO 1 EXPLOSIVES**

### **Occupations/Machines PROHIBITED**

Any work in plants manufacturing explosives, in plants storing explosives, and in plants manufacturing articles containing explosive components is prohibited.

Work involved in the handling of explosives in plants manufacturing or storing small arms ammunition or blasting caps such as rifle shells (not exceeding .60 caliber), shotgun shells, blasting caps, electric blasting caps.

Work in warehouses (lacking the retail concept) where explosives and/or ammunition (other than small arms ammunition not exceeding .60 caliber) is stored.

### **Occupations/Machines PERMITTED**

Work that does not involve the handling of explosives when performed in a "nonexplosives area" of a plant which manufactures and/or stores explosives or articles containing explosive components.

All work in small arms manufacturing which is not prohibited. Examples include: inspector, officework, machine operator (if not covered by HO 6 or 8), packer (except blasting caps), shipping and any other work not involving the handling of explosives.

Gun clubs, trap and skeet ranges, turkey shoots, certain armories, police stations and other such areas where only small arms ammunition (not exceeding .60 caliber) may be stored.

All work in retail establishments selling explosives or explosive components and storage of ammunition in gun shops, sporting goods stores, building supply and hardware stores; retail fireworks stands and other retail establishments.

### **Enforcement Positions**

Generally, no areas in fireworks plants would meet the "nonexplosive area" criteria.

### **Exemptions**

HO 1 does **not** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.



**33e02 HAZARDOUS OCCUPATIONS ORDER 2 - Motor-Vehicle Occupations**

**Name:** Occupations of Motor-vehicle Driver and Outside Helper

**Effective Date:** January 1, 1940

**33e02a Scope of HO 2.**

- (1) Driving a motor vehicle involves a high degree of accident risk for persons of all ages, and is particularly hazardous for minors between the ages of 16 and 18 due to their lack of experience. Despite the prohibitions of HO 2, automobile crashes remained the number one cause of occupational deaths of 16- and 17-year-olds throughout the 1980s and 1990s. This order applies to all employers subject to the nonagricultural child labor provisions of the FLSA and specifically prohibits the employment of persons under the age of 18 as motor-vehicle operators and as “outside helpers” on any public road, highway and in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation covered by HO 17. However, driving on private property (other than described above) is permitted. These provisions apply whether the employee is driving a personal or business owned vehicle.
- (2) The Drive for Teen Employment Act, effective October 31, 1998, amended the FLSA and established the conditions under which 17-year-olds (but not those under 17 years of age) may drive on the job. Rulemaking will be undertaken in the near future to incorporate the statutory language into HO 2.
- (3) Definitions
  - (a) 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.
    1. The above definition is not dependent upon the source of energy – vehicles may be propelled by gasoline, propane, electricity, etc.
    2. This definition does not require that the motor vehicle be licensed or outfitted with special equipment, nor is the size of the vehicle a factor. Golf carts and riding mowers used as a means of transportation meet the definition of “motor vehicles” and fall within the scope of HO 2 when operated on any public road or highway.
    3. The term “similar vehicle” includes buses, vans, mopeds, pickup trucks, panel trucks, recreational vehicles, ice cream and chuckwagon-type trucks, motorized trail bikes, jeeps, and other all terrain vehicles.
  - (b) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

- (c) 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.
- (d) 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.
- (e) The term *occasional and incidental driving* is now defined in the FLSA as driving that involves no more than one-third of the worktime in any work day and no more than 20 percent of the worktime in any workweek.
- (f) 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 timelines, 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 customers; the delivery of materials under a deadline (such as deposits to a bank at closing, or parts to a job site for the completion of an emergency repair job); 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.

### **33e02b Occupations PROHIBITED.**

- (1) Driving any type of motor vehicle on public roads or highways and in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation covered by HO 17.
- (2) All schoolbus driving by persons under the age of 18. **Note:** a special exemption permitting minors to drive schoolbuses under certain conditions expired in 1996. This exemption is no longer applicable.
- (3) Riding outside the cab of a vehicle as an outside helper.
- (4) Towing of any vehicles.

### **33e02c Occupations NOT SPECIFICALLY BANNED.**

- (1) Sixteen- and 17-year-olds may operate motor vehicles on private property other than any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation covered by HO 17.

(2) Other motorized vehicles to which HO 2 does not apply.

- (a) HO 2 does not apply to self-propelled vehicles that are designed to perform work as distinguished from being used “as a means of transportation.” This includes certain types of riding mowers, farm tractors, bulldozers, road scrapers, and other vehicles not suitable for travel on public streets, geared only for off-the-road use, and only designed for use on construction sites, grassy areas and along walk paths. When it is necessary to move such vehicles any distance, they are generally loaded on a lowboy-type flatbed trailer and transported from job site to job site. Some of these vehicles, however, may be prohibited under HO 17 when used in excavation. **Note:** See “Enforcement Positions” regarding riding mowers and golf carts that must cross public roads to complete a work assignment.
- (b) Certain electric carts are used as a means of transportation in large industrial plants, and at railroad stations and airport terminals. Generally, such vehicles are outside the scope of HO 2 unless employees use these vehicles as a means of transportation on a public street. Thus, 16- and 17-year-old minors may operate motorized vehicles such as riding mowers or golf carts as long as they are not driven on public roads.

**33e02d Exemptions.**

- (1) HO 2 does not contain an exemption for apprentices or student-learners. Furthermore, none of the limited exemptions applicable to HOs 5, 8, 10, 12, 16, and 17 permit apprentices or student-learners to drive motor vehicles as part of their training programs.
- (2) **Occasional and incidental driving by 17-year-olds.** The Drive for Teen Employment Act, enacted on October 31, 1998, amends the FLSA to permit 17-year-olds (but not those under 17 years of age) to drive automobiles and trucks as part of their employment if all of the following criteria are met:
  - (a) The automobile or truck does not exceed 6,000 pounds gross vehicle weight;
  - (b) The driving is restricted to daylight hours;
  - (c) The minor holds a State license valid for the type of driving involved in the job performed;
  - (d) The minor has successfully completed a State approved driver education course;
  - (e) The minor has no records of any moving violation at the time of hire;
  - (f) The vehicle is equipped with a seat belt for the driver and any passengers and the employer has instructed the youth that the seat belts must be used when driving the vehicle;
  - (g) The driving does not involve:
    - 1. Towing vehicles;

2. Route deliveries or route sales;
3. Transportation for hire of property, goods, or passengers;
4. Urgent, time-sensitive deliveries;
5. Transporting more than 3 passengers, including employees of the employer;
6. Driving beyond a 30 mile radius from the minor's place of employment;
7. More than two trips away from the primary place of employment in any single day to deliver the employer's goods to a customer (other than urgent, time-sensitive deliveries which are prohibited);
8. More than two trips away from the primary place of employment in any single day to transport passengers, other than employees of the employer;

(h) Such driving is only occasional and incidental to the minor's employment. This means that the youth may spend no more than one-third of the worktime in any workday and no more than 20 percent of the worktime in any workweek driving.

**Note:** The NO will soon commence rulemaking to revise 29 CFR Part 570.52 to comport with the provisions of the Drive for Teen Employment Act.

### **33e02e Enforcement Positions.**

#### (1) Ambulance attendants.

Minors 16 and 17 years of age who have completed the necessary training as Emergency Medical Technicians (EMT's) and are employed as qualified ambulance attendants are not "outside helpers" within the meaning of HO 2 and may ride in the rear of the ambulance while attending the patient being transported.

#### (2) Cart caddy.

The operation of battery operated "cart caddy" machines used by grocery stores to move large strings of shopping carts back to the front area of the store would be a permissible occupation for minors 16 and 17 years of age. This machine is not considered a "motor vehicle" and does not fall within the scope of HO 2. However, as it is a power-driven machine, its use by 14- and 15-year-olds is prohibited under CL Reg. 3.

#### (3) Golf carts and riding mowers.

- a. Golf carts and, riding mowers and similar motorized vehicles fall within the scope of HO 2 if used as a means of transportation on public roads.
- b. There are certain situations where a public road traverses a golf course or other establishments where motorized vehicles are used off the roadway. It may be necessary for golf carts, riding mowers, or other motorized vehicles to cross the public road in order to reach a particular work site or return to the club house. Although a strict interpretation of HO 2 would prohibit those under 18 years of age from driving the carts and mowers across public roads, WH will

not assert a violation of HO 2 if the contact with the public road involves only the crossing of that road, and such crossings occur only at marked crosswalks and pathways.

(4) Messengers.

Fourteen- and 15-year-olds may be employed as messengers and errand boys/girls to pickup and deliver messages or packages in passenger type vehicles operated by someone other than the minor.

## A QUICK LOOK AT HO 2 DRIVING

### Occupations/Machines PROHIBITED

Motor-vehicle driver on a public road or highway, in or about any mine (including open pit, mine or quarry), place where logging or sawmill operations are in progress or where any excavation covered by HO 17 is being done except as specifically permitted.

Outside helper when riding outside the cab 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 where any excavation covered by HO 17 is being done.

Towing a vehicle at any time.

Driving a school bus.

### Occupations/Machines PERMITTED

Driver on private property except as specifically prohibited.

Helper riding inside cab of any motor vehicle regardless of where operated.

Outside helper when riding outside the cab of any motor vehicle on private property except as specifically prohibited.

### Enforcement Positions

**Ambulance Attendants** – EMT’s who have completed necessary training are not “outside helpers” under HO 2 and may ride in rear of ambulances.

**Cart Caddy Machines** - are not considered “motor vehicles” under HO 2 and 16- and 17-year-olds may operate them.

**Golf Carts and Riding Mowers** - Do fall under HO 2 when used as means of transportation on a public road. Are not considered “automobiles or trucks” for purpose of limited exemption described below.

**Messengers** - Fourteen- and 15-year-olds may be employed as messengers and errand boys/girls to pick up and deliver messages or packages in passenger type vehicles operated by someone other than the minor.

HO 2 does **not** contain an exemption for Apprentices and Student-Learners. Furthermore, none of the limited exemptions applying to HO's 5, 8, 10, 12, 16, and 17 permit Apprentices or Student-Learners to drive motor vehicles as part of their training program.

Limited Exemption for Driving by 17-Year-Olds Which is “Occasional and Incidental.”  
(Effective October 31, 1998)

Seventeen-year-olds (**but not those under 17 years of age**) may drive automobiles and trucks as part of their employment if **all** of the following criteria are met:

1. The automobile or truck does not exceed 6,000 pounds gross vehicle weight.
2. The driving is restricted to daylight hours.
3. The driving is only occasional and incidental\* to the minor's employment.
4. The minor holds a State license valid for the type of driving involved in the job performed.
5. The minor has successfully completed a State-approved driver education course.
6. The minor has no records of any moving violations at the time of hire.
7. The vehicle is equipped with a seatbelt for the driver and any passengers and the employer has instructed the youth that the seatbelts must be used when driving;
8. The driving does not involve:
  - Towing vehicles;
  - Route deliveries or route sales;
  - Transportation for hire of property, goods, or passengers;
  - Urgent, time-sensitive deliveries;
  - Transporting more than 3 passengers, including employees of the employer;
  - Driving beyond a 30-mile radius from the minor's place of employment;
  - More than two trips away from the primary place of employment in any single day to deliver the employer's goods to a customer (other than urgent, time-sensitive deliveries which are prohibited);
  - More than two trips away from the primary place of employment in any single day to transport passengers, other than the employer's employees.

*\*Driving is “occasional and incidental” when the minor spends no more than one-third of the worktime in any workday and no more than 20 percent of the worktime in any workweek driving.*

**33e03 HAZARDOUS OCCUPATIONS ORDER 3 - Coal Mine Occupations**

**Name:** Coal Mine Occupations

**Effective Date:** September 1, 1940

**33e03a Scope of HO 3.**

- (1) The report that established HO 3 found accident rates (including death and dismemberment) for adults employed in and about coal mines far exceed accident rates in other industries. This report did not address long term occupational illnesses such as “black lung.” As of the last census before the report was issued (1930), three percent of workers employed in coal mines were under the age of eighteen (approximately 16,000 minors). Typically, if employed underground, the young people worked as “miner’s helpers” loading coal, or as “trappers” or “door boys” opening and closing doors (regulating air flow) to allow the passage of coal cars. If employed above ground, they worked as slate pickers, as helpers in repair shops, or in general cleanup work. The report concluded that the risk of injury to youths employed in coal mines was great due to the rate of accidents involving adults, and due to their lack of experience and good judgment.
- (2) HO 3 is industry specific. Its scope includes all types of work performed in or about an underground mine, an open-pit (strip) mine, or at the surface part of the mining plant that contributes to the extraction, grading, cleaning, or other handling of coal. The scope of this order does not cover slate or refuse picking at certain designated areas, and work solely in offices, or in repair and maintenance shops located in the surface area of any coal-mining plant.
- (3) Definitions.
  - (a) *Coal* shall mean any rank of coal, including lignite, bituminous, and anthracite coals.
    1. *Lignite coal* is a brownish-black coal intermediate between peat and bituminous coal.
    2. *Bituminous coal* is of medium age (geologically). It is “soft” and after burning it leaves bitumen - a tar like substance. It makes up the majority of the coal reserves in the United States.
    3. *Anthracite coal* is the oldest coal (geologically). It is “hard” and burns clean. It is found almost exclusively in Pennsylvania.
  - (b) The term *occupation 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.
  - (c) The term *tipple* refers to a place where, or an apparatus by which, cars of coal are loaded or emptied.



(d) A *breaker* is a machine that breaks rock.

### **33e03b Occupations PROHIBITED.**

- (1) All work in underground coal mines, such as: miner, miner's helper, loader, shearing-machine operator, loading-machine operator, driller, shot firer, motorman, trackman, or timberman, etc.
- (2) All work in an open pit coal mine, such as: miner, shovel operator, electrician, etc.
- (3) All work on the surface part of an underground or open-pit mine (or mining plant) except that permitted in FOH 33e03(c).

### **33e03c Occupations NOT SPECIFICALLY BANNED.**

On the surface part of the coal mining plant, 16- and 17- year-olds may:

- (1) Engage in slate or other refuse picking at a picking table, or at a picking chute in a tipple or a breaker.
- (2) Engage in occupations where the work occurs solely in offices, or in repair or maintenance shops (which are located above ground).

### **33e03(d) Enforcement Positions.**

- (1) Stock clerk working on the premises of a coal mine.

This occupation is prohibited for 16- or 17-year-olds if it involves moving about the mine premises delivering supplies, crossing railroad tracks, being in the vicinity of loading chutes, or otherwise working outside of the warehouse. Conversely, this work is permitted if it is confined solely to the warehouse structure on the surface part of the mining plant.

- (2) Motor-vehicle operator and outside helper.

HO 3 prohibits almost all work in or about a mine, which would include the occupations of motor-vehicle driver and outside helper. HO 2 also specifically prohibits 16- and 17-year-olds from performing the occupations of motor-vehicle driver and outside helper in or about any mine, including open pit mine or quarry. Child labor violations involving these two occupations in or about a mine should be recorded as violations of HO 2.

- (3) Cleaning under a coal tipple or breaker.

This work is prohibited by HO 3, as is the pining of railroad cars onto the main spur track, and the cleaning of railroad cars.

(4) Watchman.

HO 3 prohibits 16- or 17-year-olds from working as watchmen if they work in or about the surface part of the mining operation (i.e. working around railroad tracks, loading chutes, etc.). However, if the area where the work is performed is sufficiently removed (one mile or more) from the site of the mining operation, then it would not be work “in or about a mine”, and such work would be permissible for 16- and 17- year-olds. For example, 16- or 17- year-olds may work as watchmen at the front gate of the mine, or at an office, if they are located more than one mile from the site of the mining operation.

(5) Surveying.

Surveying work to plan future mining fields that is done well in advance of any mining operation and at least one mile from current mining operations is not work in the “surface part of any coal mining plant.” Consequently, such work is permitted for 16- and 17-year-olds.

(6) Screening Coal.

The screening of coal is an occupation prohibited by HO 3.

**33e03e Exemptions.**

There are no provisions in HO 3 for apprentices or student-learners. There are no other exemptions applicable to this order.

## A QUICK LOOK AT HO 3 COAL MINING

Occupations/Machines PROHIBITED	Occupations/Machines PERMITTED
All underground work in coal mines.	Slate or other refuse picking at a picking table or at a picking chute in a tippie or a breaker.
All work in open-pit (strip) coal mines.	
All work on the surface of the mining plant, unless otherwise permitted by HO 3.	Work on the surface part of the mining plant <b>solely</b> in offices, or repair or maintenance shops.

### Enforcement Positions

**Stock Clerk** - may work solely in warehouse. Work outside of building delivering supplies, crossing railroad tracks, etc., is prohibited.

**Motor-Vehicle Operator and Outside Helper** - Both HO 2 and HO 3 prohibit minors from performing these occupations in or about a mine. Violations involving these occupations in or about a mine should be charged under HO 2.

**Cleaning Under a Coal Tippie or Breaker** - is prohibited by HO 3.

**Watchman** - permitted if work is performed in an area sufficiently removed (one mile or more) from the site of the mining operation.

**Surveying** - permitted if done well in advance of new mining operations and at least one mile away from current mining operation.

**Screening Coal** - is prohibited by HO 3.

### Exemptions

HO 3 does **not** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

**33e04 HAZARDOUS OCCUPATIONS ORDER 4 - Logging and Sawmilling**

**Name:** Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill.

**Effective Date:** August 1, 1941

**33e04a Scope of HO 4.**

- (1) The many accidents and injuries in logging made it the most hazardous manufacturing industry at the time of the original order. Sawmilling ranked second. This was based on both the frequency with which accidents occurred as well as the severity of the resulting injuries. A December 1994 National Institute for Occupational Safety and Health (NIOSH) Alert – *Request for Assistance in Preventing Injuries and Deaths of Loggers* – confirmed the earlier finding of the risks involved in logging. During the period from 1980-1989, the National Traumatic Occupational Fatalities Surveillance System reported 1,492 deaths of workers in the logging industry, resulting in an annual fatality rate more than 20 times that for all workers (164 deaths per 100,000 workers compared with 7 per 100,000 for all workers). Most of these deaths occurred in four occupational groups: logging occupations (for example, feller, limber, buckler, and choker setters), truck drivers, general laborers, and material machine operators.
- (2) HO 4 prohibits, with a few exceptions, the performance of all occupations in the logging industry, in sawmills, lath mills, and cooperage-stock mills. HO 4 was amended several times and new sections were added during World War II (on September 11, 1942, and June 24, 1943), to permit the employment of 16- and 17-year-olds in sawfiling and certain occupations in logging for the duration of the war and six months afterwards.
- (3) On February 2, 1948, and again on April 15, 1967, HO 4 was amended to permit 16- and 17-year-olds to perform specific tasks in logging, logging camps, and outside shake and shingle mills.
- (4) Definitions.
  - (a) The term *all occupations in logging* shall mean all work performed in conjunction with the felling of timber; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, 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; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timberstand improvement, or in emergency firefighting.
  - (b) The term *all occupations in the operation of any sawmill, lathe mill, shingle mill, or cooperage-stock mill* shall mean all work performed in or about any such mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock, or other products of such mills; and other work performed in connection

with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill. The term shall not include work performed in the planing-mill department or other remanufacturing departments of any sawmill, or in any planing-mill or remanufacturing plant not a part of a sawmill (Note: this work could be prohibited under HO 5).

### **33e04b Occupations PROHIBITED.**

(1) The following occupations in **logging** are prohibited:

- (a) Logging engineering - Work involving the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.
- (b) Work in the construction, repair and maintenance of railroads, roads, or flumes - Any work that involves the construction of railroads, roads, or flumes, and any work that involves the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.
- (c) Felling and bucking trees in the woods - The following occupations fall within this category:
  - 1. Faller - cuts down the tree.
  - 2. Bucker - cuts tree into length.
  - 3. Sealer - measures the amount of lumber in the log.
  - 4. Swamper - laborer, cuts brush, etc.
  - 5. Limber - cuts limbs from fallen trees.
  - 6. Sawfiler - keeps saws and axes filed and ground.
- (d) Skidding or yarding logs into place for loading on trucks or train - The following occupations fall within this category:
  - 1. Power skidding.
    - a. Rigging Slinger - installs equipment for yarding, helps yard logs.
    - b. Chokesetter - places choker (wire sling) about log to be moved, attaches sling to cable.
    - c. Chaser - removes the sling after log has been moved.
    - d. Whistle punk - transmits signals to yarder engineer for starting and stopping yarder engines.
    - e. Hook tender - foreman of yarding crew.
    - f. Sniper - rounds off end of log to be moved.
    - g. Yarder, engineer or skidder leverman - operates the yarder engine used to move logs.
    - h. Swamper - laborer, cuts away brush, etc.
    - i. Fireman - fires the boiler on yarder engine.

2. Tractor skidding.

- a. Tractor operator or cat skinner - operates tractors used to move logs.
- b. Chokesetter - places choker about log to be moved.
- c. Tongs hooker - places tongs on log when tongs are used instead of slings.
- d. Swamper laborer who clears away brush and helps make landing for logs.

3. Animal skidding - The following occupations fall within this category:

- a. Loader - loads logs for transportation.
- b. Swamper - laborer who clears away brush and helps make landing for logs.
- c. Log snaker - drives animals used in skidding logs.

(e) Loading logs on trucks or trains for transportation - The following occupations fall within this category:

1. Tongs hooker or loader - places tongs or hooks on log to be loaded.
2. Loader engineer or jammer operator - operates loading engine.
3. Toploader - foreman of loading crew.
4. Fireman - fires the boiler or loader.

(f) Transportation of logs by truck, train or water - The following occupations fall under this category:

1. Traincrew - engineer, fireman.
2. Truckdriver.
3. Boom Crewman - crew which transports logs by water.
4. Unloader - unloads truck or train.
5. Teamster - drives animals when used for hauling logs.
6. Sealer - measures number of board feet in logs of truck.

(g) Maintenance or repairs of equipment - Any maintenance or regular work on equipment other than in shops.

(h) Peeling of fenceposts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when done in conjunction with and at the same time and place as jobs declared hazardous.

(i) Fire watch - stationed near the logging operation, while work is in progress, to watch for sparks from rigging and machinery.

(2) The following occupations in **sawmills** are prohibited:

(a) All occupations are prohibited in permanent sawmills when the work entails entering the sawmill building. In the sawmill building - the following occupations fall under this category:

1. Scaler - measures logs on log deck and rolls log into position for the head saw.
  2. Log deckman or log turner - the scaler's assistant.
  3. Head sawyer - operates the head saw.
  4. Dogger - operates the log-holding mechanism on the head saw log carriage.
  5. Block setter - operates mechanism controlling thickness of the cut of head saw.
  6. Tail Sawyer - removes boards and refuse at rear of lead saw.
  7. Edgerman - operates the edger saw that cuts off bark from side of boards.
  8. Edger lineup man or edger spotter - lines up boards for edgerman.
  9. Edger off-bearer - separates good boards from scrap at rear of edger.
  10. Slasher man - operates slasher saw cutting up waste lumber.
  11. Trimmer man - operates trimmer saw that cuts lumber to length.
  12. Trimmer spotter - lines up boards for trimmer saw.
  13. Gangsawyer - operates gangsaw that saws large lumber into small boards.
  14. Gang loader - lines up lumber for the gangsawyer.
  15. Gangsaw tailer - removes lumber at rear of gangsaw.
  16. Resaw operator - operates saw for resawing boards.
  17. Resaw lineup - lines up lumber for resaw operator.
  18. Resaw tailer - removes lumber at rear of resaw.
  19. Hog feeder - operates hog mill to grind up scrap lumber.
  20. Cleanup man - sweeps sawdust and refuse into refuse conveyors.
  21. Sawfiler - sharpens saws in the filing room.
- (b) Portable sawmills - HO 4 prohibits 16- and 17-years from performing any work in portable sawmills (sawmills that are readily dismantled and moved from one tract of timber to another) in which the lumber yard is used only for the temporary storage of green lumber and in connection with which no office, repair shop or maintenance shop is ordinarily maintained.
- (c) Log pond and log storage yard - The following occupations fall under this category:
1. Pondman - poles logs into the log slip for moving to log deck.
  2. Dragsaw operator - cuts long logs in half.
  3. Yardman - rolls logs to log deck.
- (d) On the green or dry chain, the dry kiln and in the lumber yard - the following occupations fall under this category:
1. Grader, tallyman, and puller on the green chain and all other work on the green chain.
  2. Lumber stacker, unstacker, loader, and unloader - stacks lumber or lumber products, unstacks lumber, loads or unloads cars.
  3. Crane operator - operates a crane for handling lumber.
  4. Crane hooker - hooks lumber on the crane for moving.
  5. Jitney operator, truckdriver, carrier operator - operates a lumber carrier or lumber truck for moving lumber.

(e) In a lath mill, shingle mill, or cooperage-stock mill - The following occupations fall under this category:

1. Handling and shipping of laths.
2. Stockpicker (lath mill) - picks pieces from conveyor for making into laths.
3. Bolterman (lath mill) - operates a small gang saw.
4. Lathfeeder (lath mill) - operates lath machines.
5. Lath tier - ties laths into bundles.
6. Shingle packer (shingle mill) - packs shingles into bundles.
7. Cutoff sawyer (shingle mill) - cuts logs into shingle lengths.
8. Knee bolter (shingle mill) - cuts shingle bolts in quarters.
9. Block piler (shingle mill) - piles blocks for shingle sawyer.
10. Shingle sawyer (shingle mill) - operates shingle saw.
11. Splitter (cooperage-stock mill) - splits bolts of cooperage stock.
12. Knee bolter, head turner, equalizer operator, cutoff sawyer, jointer operator, matcher operator, stave-saw operator, etc. (cooperage-stock mill) - operates various machines.
13. Off-bearers, gluers, etc. (cooperage-stock mill) - off-bearing from machines and other hand work.

(f) Miscellaneous work about a sawmill.

1. Millwright and maintenance work in the sawmill.
2. Work in the boilerhouse or powerhouse.
3. Work in the sawdust storage bins.

### **33e04c Occupations NOT SPECIFICALLY BANNED.**

(1) HO 4 does not apply to the following **logging** occupations:

(a) In logging engineering:

1. Timber cruising which involves estimating the amount of timber in a tract, map making and similar activities.
2. Survey parties including transitman, rodman, chainman and similar duties.

(b) Repair and maintenance of railroads, roads, or flumes (but not construction work) as performed by section hands, grade and track crews, laborers, swampers, and carpenters, as long as the work is not prohibited by any other HO.

(c) The construction, operation, repair or maintenance of living and administrative quarters of logging camps as long as the work is not prohibited by any other HO. Occupations that fall within this category include cooks, cookhouse crew, and carpenters.



- (d) Any work done in the maintenance and repair shop such as blacksmith, mechanic and carpenter, and other maintenance and repair work as long as the work is not prohibited by any other HO
- (e) Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, including the jobs of peeler, barker, and rosser, when not done in conjunction with, and at the same time as, other jobs declared hazardous under HO 4.
- (f) Miscellaneous work in conjunction with logging such as:
  - 1. Fire patrolman and fire lookout, who watch for fires, build firetrails and telephone lines, and collect and burn brush if not stationed near the logging operation, while work is in progress.
  - 2. Stableman and hostler.
  - 3. Officework.

(2) HO 4 does not apply to the following **sawmilling** occupations:

- (a) The following occupations on the green or dry chain, the dry kiln and in the lumber yard:
  - 1. Grader, tallyman and puller on a dry chain or on a drop sorter-grader.
  - 2. Shipping clerk tallyman, orderman and other clerical work in yards or shipping sheds.
  - 3. Cleanup in yard.
- (b) The following occupations in a lath mill, shingle mill, or cooperage-stock mill:
  - 1. Handling and shipping of cooperage stock in yards or storage sheds except operating or assisting in the operation of power-driven equipment.
  - 2. Cleanup work outside shake and shingle mills, except when mill is in operation.
  - 3. Splitting shakes manually from pre-cut split blocks with a froe and mallet, except inside the mill building or cover.
  - 4. Packing shakes into bundles when done in conjunction with splitting shakes manually with froe and mallet, except inside the mill building or cover.
  - 5. Manual loading of bundles of shingles or shakes into trucks or railroad cars (provided employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor is capable of performing this work without injury to himself or herself).
  - 6. Work in offices or in repair or maintenance shops.
  - 7. Cleanup in the lumberyard.
  - 8. Clerical work in yards or shipping sheds, such as done by ordermen, tallymen, and shipping clerks.

(c) In miscellaneous work about a sawmill (but not requiring entering the sawmill building):

1. Any work done in the repair or maintenance shop, except the operation of power-driven woodworking machines (mechanics, blacksmiths, etc.).
2. Officework.

### **33e04d Exemptions.**

There is no provision in HO 4 for apprentices or student-learners. The logging section of the order was reviewed in 1974 in response to a request for a student-learner exemption in logging operations. It was determined that the industry had not substantially changed, the hazards remained the same, and the request was denied. There are no other exemptions applicable to this order.

### **33e04e Enforcement Positions.**

(1) Veneer mills.

Veneer mills expose minors to similar, if not identical, hazards that are present in sawmills – saws, sharp blades, heavy logs, hoisting apparatus, cranes, forklifts, as well as dust and noise pollution. Veneer mills are treated the same as sawmills under HO 4.

(2) Firewood.

Cutting and splitting logs and the collecting, stacking, and loading of firewood are considered “converting of timber into pulpwood, cordwood, or similar products” and therefore this work is prohibited by HO 4. Note: In certain firewood cutting operations, where all the wood is cut and sold locally, there may not be FLSA coverage.

(3) Power-driven woodchipping machines.

Occupations in connection with the operation of woodchipping machines when used in the woods in logging operations would be subject to the 18-year minimum age under HO 4. The operation of woodchipping machines elsewhere, such as in a mill, would also be subject to the 18-year minimum age, but would be recorded as being subject to HO 5.

(4) Stump removal.

Stump pulling using tractors in nonagricultural situations is not subject to HO 4.

(5) Christmas trees.

An ordinary household-sized Christmas tree is not considered to be timber, nor is it cut into log lengths or converted into lumber products – therefore, HO 4 does not apply.

(6) Clearing right-of-way for powerlines, highways.

Activities in connection with the clearing of a right-of-way would not be within the scope of HO 4 since these are not logging operations. HO 4 does not cover the clearing of land in preparation for highway construction.

## **A QUICK LOOK AT HO 4 LOGGING AND SAWMILLING**

### **Occupations/Machines PROHIBITED**

### **Occupations/Machines PERMITTED**

#### **How It Applies To Logging**

Most work in logging with a few exceptions. Any work that involves timbering, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.

Engineering work involving timbering, the collection or transport of logs, the operation of power-driven machinery, handling or the use of explosives, or work on trestles.

Construction work involving timbering, the collection or transport of logs, the operation of power-driven machinery, the handling or use of explosives, or work on trestles.

Maintenance and repair of equipment in places other than in shop such as in the sawmill.

Fire watch stationed near the logging operation.

Most logging engineering work on survey parties.

Most construction and repair or maintenance of railroads, roads, or flumes.

Construction, operation, repair, or maintenance of living and administrative quarters of logging camps.

Maintenance and repair of equipment but only in shops.

Peeling of fence posts, pulpwood, chemical wood, cordwood, or similar products.

Fire patrolman and fire lookout.

Stableman and Hostler (other work with horses).

Officework.

#### **How It Applies To Sawmilling**

Most work in sawmills with a few exceptions. All work that involves entering the sawmill.

Most work on the green chain.

Handling and shipping of laths and most work in lath mill, shingle mill or cooperage-stock mill.

Most work on the dry chain.

Handling and shipping of cooperage stock.

Cleanup work outside shake and shingle mill when mill is not in operation.

(continued on next page)

Millwright and maintenance work in sawmill.

Splitting shakes manually except inside the mill.

Work in the boilerhouse or powerhouse.

Packing shakes into bundles except inside the building or cover.

Manual loading of bundles of shingles or shakes into trucks or railroad cars with doctor's certificate.

Work in offices.

Cleanup in the lumberyard.

Clerical work in yards or shipping sheds.

Most work done in the repair or maintenance shop except using power-driven woodworking machines.

### **Enforcement Positions**

Veneer mills are subject to the prohibitions of HO 4.

Cutting firewood; the use of woodchipping machines is subject to HO 4.

Stump pulling using tractors, clearing land for powerlines or road right-of-way is not subject to HO 4.

### **Exemptions**

HO 4 does **not** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

### 33e05 HAZARDOUS OCCUPATIONS ORDER 5 - Power-Driven Woodworking Machine Operations

**Name:** Occupations involved in the operation of power-driven woodworking machines.

**Effective Date:** August 1, 1941

#### 33e05a Scope of HO 5.

- (1) Power-driven woodworking machines are among the most hazardous of all machine tools. Although great strides have been made by manufacturers and OSHA to improve the safety of such machines through design changes and guarding, the risk of injury to operators or workers assisting to operate such machines has not been eliminated. Several hazardous factors are inherent to woodworking machines - extremely high speeds of operation, sharpness of cutting tools, the lightness of material being cut making "kick-backs" possible. The fact that many woodworking machines are hand fed increases the hazards.
- (2) This order is very broad in scope and is applied on a machine basis. Basically, if a minor, while performing covered employment, is operating, setting up, adjusting, repairing, oiling and/or cleaning a power-driven woodworking machine, HO 5 most likely applies.
- (3) HO 5 does not apply when the machinery or tools are designed to be used, and used exclusively, on materials other than wood – such as metal, plastic or stone. Another HO (such as HO 8, 14, 16 or 17) may prohibit such work.
- (4) HO 5 applies in any industries where power-driven woodworking tools are used – including furniture plants; cabinet makers and other woodworking plants and shops; construction sites; packing sheds; retail and service establishments such as hardware and lumber stores; state and local government entities; and other industries which may not directly manufacture wood products but use power-driven woodworking machines.
- (5) Definitions.
  - (a) The term *power-driven woodworking machine* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer. This definition is broad and includes machines used at the time the order was issued as well as all power-driven woodworking machines developed in subsequent years. It may also apply to multiple-use woodworking machines as well as those designed for a single woodworking purpose.
  - (b) The term *driven by power* shall mean machines driven by electrical, mechanical, or other power such as steam or hydraulic. It also includes battery-operated machines and tools but does not apply to machines or tools driven by foot or hand power, such as footpowered jig saws or hand-operated saws or drills.

- (c) The term *off-bearing* shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations **not** considered as off-bearing within the intent of HO 5 include:
1. 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 sawtable or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and
  2. The following operations when they do not involve the removal of material or refuse directly from a saw or from the point of operation:
    - a. The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another;
    - b. the piling, stacking, or arranging of materials for feeding into a machine by another person;
    - c. the sorting, tying, bundling or loading of materials.
- (6) The following are examples of power-driven machines and tools, when used for "cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer," are subject to HO 5. This list is not all-inclusive – other machines exist or may be developed which meet the definition of power-driven woodworking machines:
- (a) **Cutting** – circular saw, bandsaw, jigsaw, dragsaw, chain saw, veneer clipper.
  - (b) **Shaping and forming** – shaper, molder, heelturmer, lathe, tenoner, mortiser, sticker, drill, boring machine, hole cutter.
  - (c) **Surfacing** – planer, jointer, sander, barker.
  - (d) **Nailing** – nailer, box nailer, cleat nailer, roofing gun, drywall gun (when used to attach drywall to wood studs), siding gun, finishing nail gun.
  - (e) **Stapling** – stapler.
  - (f) **Wire stitcher** – wire stitcher, berry-basket machine, bushel-tub machine.
  - (g) **Fastening or otherwise assembling** – corrugator or other similar type machine for fastening two pieces of wood together by means of a metallic fastener of some type.
  - (h) **Pressing** – veneer press, boxboard squeezer, and printing press used on wood.

- (7) HO 5 does not apply to logging occupations and occupations in the operation of sawmills, lath mills, shingle mills, or cooperage-stock mills as these industries are covered by HO 4. However, HO 5 (rather than HO 4) applies to the planing mill department or other re-manufacturing departments of these enterprises when contained in buildings separate from the sawmill, lath mill, shingle mill or cooperage-stock mill.
- (8) Guards. The fact that a machine is guarded has no effect on the application of HO 5. Woodworking machines are the most difficult to guard and guards alone cannot be relied upon to protect minors from the hazards of woodworking machines.

### **33e05b Occupations PROHIBITED.**

- (1) HO 5 prohibits minors under 18 years of age from 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.
- (a) The occupations of operating woodworking machines includes starting and stopping the machine, adjusting for the type of work being performed, and placing the wood stock on the machine. Machines may be automatic, hand fed or power-fed.
- (b) HO 5 does not prohibit these minors from placing materials on a moving chain or in a hopper or slide for automatic feeding.
- (2) HO 5 prohibits minors under 18 years of age from the occupation of setting-up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.
- (3) HO 5 prohibits minors under 18 years of age from the occupation of off-bearing (unloading materials) from circular saws when the material is not conveyed away from the machine by some mechanical means.
- (4) HO 5 prohibits minors under 18 years of age from the occupation of off-bearing (unloading materials) from guillotine-action veneer clippers when the material is not conveyed away from the point of operation by a moving belt or gravity chain.
- (5) The following is a partial list of power-driven woodworking machines prohibited by HO 5. This equipment may be stationary or portable and may be powered by batteries:
- (a) Bandsaws.
- (b) Circular saws (table saws, swing saws, portable saws, etc.).
- (c) Surfacing machines (planers, shapers, jointers, molders, matchers, stickers, panel raisers, tenoners, etc.).
- (d) Lathes.
- (e) Drills, boring machines, mortisers.
- (f) Sanding machines (belt sanders, disc sanders, drum sanders, cone sanders, etc.).
- (g) Nailing and stapling machines, wire stitchers, berry box machines.



- (h) Veneer presses, other pressing machines; machines designed to print on wood.
- (i) Woodchippers when used to shape the wood for pressing into fiberboard such as in mills.
- (j) Veneer lathe.
- (k) Veneer clipper.
- (l) Veneer press.
- (m) Nail guns (as used to attach drywall to wood studs; roofing materials to wooden roof decks; siding to studs; millwork to doors, windows, corners, rails; etc.).
- (n) Powerline AO nailer used to attach wire to power poles.
- (o) Chuckers used for tapering one end of a wooden handle, and “threaders” used to cut a screw thread on the other end for later insertion into the threaded hole of a brush or broom.
- (p) Air clamps used to assemble furniture.
- (q) Routers designed to be used on wood and used to finish countertops, molding and other wood products.
- (r) Struct-O-Matic and similar machines used to press clamps into trusses during the manufacturing of preassembled roofing trusses.

**33e05c Occupations NOT SPECIFICALLY BANNED.**

- (1) The following work in a planing mill, box factory, or other remanufacturing department is permitted:
  - (a) Off-bearing or tailing from:
    - 1. Bandsaws.
    - 2. Circular saws when the material is conveyed away from the saw table by some mechanical means such as an expulsion roller (cleat saw), moving belt, or gravity chute.
    - 3. Planers, molders, or other surfacing machines.
    - 4. Sanding machines.
    - 5. Nailing or wire-stitching machines.
    - 6. Presses, such as glue presses and boxboard squeezers.
  - (b) Placing material on a moving chain or in hopper or slide for automatic feeding of machines so equipped, such as:
    - 1. Band resaw with a chain feed.
    - 2. Automatic nailing machine with hopper, belt, or chain feed.
    - 3. Automatic wire-stitching machines with hopper or chain feed.
    - 4. Boxboard squeezers (Linderman machines with chain feed).
  - (c) Carrying or moving material from one machine to another (hike-away).
  - (d) Arranging materials for another person to feed into machine (table-up).
  - (e) Work in preparation for shipment (tying-up, bundling, wrapping, etc.).

(f) Handling or shipping of lumber products.

(g) Operating machines or tools that are **not** woodworking machines such as:

1. Screwdrivers.
2. Wood polishing machines.
3. Machines for tightening bolts.

(2) The following work in the manufacturing of veneer is permitted:

(a) Work about the soaking pit.

(b) Off-bearing from:

1. Veneer lathe.
2. Guillotine-action veneer clipper when material is conveyed away from the point of operation by moving belt or gravity chute.
3. Other machines as listed under planing mill, etc.

(c) Operating or assisting to operate:

1. Veneer-taping machine.
2. Glue spreader
3. Veneer drier.

(d) Carrying or moving material from one machine to another or otherwise handling or shipping veneer.

### **33e05d Exemptions.**

HO 5 does provide an exemption for apprentices and student-learners. There are no other exemptions applicable.

### **33e05e Enforcement Positions.**

(1) Chain saws.

HO 5 prohibits work in occupations in connection with the operation of "power-driven woodworking machines". The HO defines such machines to include all fixed or portable power-driven machines used or designed for cutting wood or veneer. While a chain saw is not specifically named in HO 5, it falls within the definition of a power-driven woodworking machine. Therefore, HO 5 prohibits the operation of chain saws by minors under age 18. HO 4 also prohibits the use of chain saws by minors in logging and sawmilling operations.

- (2) Power-driven machines used to cut materials other than wood or veneer.
- (a) HO 5 applies to any power-driven machines **used** or **designed** for cutting or shaping wood or veneer regardless of what material is cut by it.
  - (b) HO 5 does not prohibit minors from operating machines designed and used exclusively to cut or shape plastic, leather, or items other than wood. HO 14, however, may prohibit minors from using circular saws, bandsaws, and guillotine shears to cut these materials.
  - (c) Certain machine tools are designed to cut or shape metal. These tools may have the same name as woodworking tools and may share many characteristics of woodworking tools. But if they are designed to be used on metal, they are not subject to HO 5. Such tools include metal drills, lathes, planers, grinders, borers, etc. (see 33e08 for a list of these machines).
- (3) The following situations were determined not to fall under HO 5, mainly because the power-driven woodworking machines were not designed to be used or used in the cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing or printing wood or veneer:
- (a) Operation of staple machines in the upholstery department of furniture manufacturers, in boat yards or automobile repair shops, when used to attach vinyl, plastic film, webbing straps, velcro, plastic molding or fabric to a wooden or plastic seat.
  - (b) Operation of drywall screwguns when used only to attach drywall to metal studs.
  - (c) Operation of belt sanders when the sandpaper is designed for use on products other than wood.
  - (d) Operation of rivet machines used to attach hardware to other objects.
  - (e) Operation of portable electric drills used to bore holes in products other than wood such as metal.
  - (f) Operation of tumbler machines used to polish wood products.
  - (g) Operation of electric, pneumatic and battery-operated screwdrivers which tighten screws but perform no work on the wood itself.
  - (h) Operation of routers designed to be used on metal and used to finish metal countertops and other products not made of wood (note also that HO 8 does not apply to metal routers).

## **QUICK LOOK AT HO 5 WOODWORKING MACHINES**

### **Occupations/Machines PROHIBITED**

### **Occupations/Machines PERMITTED**

#### **In planing mills and other industries**

Operating or assisting to feed power-driven woodworking machines.

Off-bearing or tailing from circular saws.

Setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

Off-bearing or tailing from other than circular saws.

Placing material on moving chain or in a hopper or slide for automatic feeding of machines so equipped.

Moving material from one machine to another and arranging material for another person to feed into the machine.

Work in preparation for shipping and the handling and shipping of lumber products.

Using staple machines in upholstery departments, boat or car shops.

Using electric, pneumatic and battery-powered screwdrivers which only tighten screws.

#### **In the manufacturing of veneer**

Operating or assisting the operator to feed veneer lathes, clippers, presses and any other woodworking machine covered above.

Off-bearing from a guillotine-action veneer clipper when material is not conveyed away.

Work about a veneer soaking pit.

Off-bearing from a veneer lathe or guillotine clipper when conveyed away by mechanical means.

Operating or assisting to operate veneer-taping machine, glue spreader, and veneer drier.

Setting up, adjusting, repairing, oiling, cleaning machines.

Carrying or moving materials, including the shipping of veneer products.

### **Enforcement Positions**

**Chain Saws** – HO 5 prohibits work in occupations in connection with the operation of “power-driven woodworking machines”, including chain saws. Chain saws are also prohibited by HO 4.

**Power-driven woodworking machines used to cut materials other than wood or veneer** – HO 5 applies to any power-driven machines designed or used for cutting or shaping wood or veneer regardless of what material is cut by it.

**Screwdrivers, wood polishing machines, and machines for tightening bolts.** These machines/tools are not considered to be “power-driven woodworking machines” by HO 5.

### **Exemptions**

HO 5 **does** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

**33e06 HAZARDOUS OCCUPATIONS ORDER 6 - Radioactive Substances**

**Name:** Hazardous Occupations Order 6 - Exposure to Radioactive Substances and to Ionizing Radiations.

**Effective Date:** May 1, 1942

**33e06a Scope of HO 6.**

- (1) Many deaths from radiation poisoning were reported in 1929. A number of these cases involved young women who were engaged in manufacturing luminous compounds. Their exposure to radiation began before they were 18 years of age. The hazards of radiation exposure have been found to be greater for young persons since they are less likely to exercise care to avoid contamination. Moreover, according to the Occupational Safety and Health Division of the National Institute of Science and Technology, several studies have shown that radiation exposure caused more injury to rapidly growing and dividing cells than to mature cells. The significant health risk connected with exposing young people to radiation is highlighted by the fact that OSHA has recognized this risk by making it its only age specific standard.
- (2) HO 6 was issued to protect people under the age of 18 from exposure to radiation in the workplace and it applies to manufacturing plants, storage facilities, hospitals, clinics, laboratories, dental offices, colleges and universities, and all other covered locations where there are X-ray machines or other sources of radiation contamination.
- (3) HO 6 was issued before the development of atomic energy as a weapon during World War II and later as an energy source. Consequently, HO 6 does not address problems related to exposure to atomic energy. Workers are protected from such hazards by regulations issued and enforced by the Department of Energy.
- (4) HO 6 adopted as its tolerance to the exposure to radioactive substance in the air the occupational standards established by the National Committee on Radiation Protection. This tolerance was set forth in 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*. The rules on annual intake of radiation were changed in 1993, and the maximum permissible concentrations in the air for exposure has been replaced by what is known as the "derived air concentration." These requirements, which do not apply to naturally formed radiation nor to medical radiation, are found in Part 20 of 10 CFR - Standards for Protection Against Radiation.
- (5) Definitions.
  - (a) The term *self-luminous compound* shall mean any mixture of phosphorescent material and radium, mesothorium, or other radioactive element.
  - (b) The term *workroom* shall include the entire area bounded by walls of solid material and extending from floor to ceiling.

- (c) the term *ionizing radiation* 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.

### **33e06b Occupations PROHIBITED.**

- (1) Any work in any workroom in which:
- (a) Radium is stored or used in the manufacture of self-luminous compound;
  - (b) Self-luminous compound is made;
  - (c) Self-luminous compound is stored, used or worked on;
  - (d) Incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged;
  - (e) Other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational exposure by the National Committee on Radiation Protection and Exposure, as set forth in §20.1207 of **Title 10 CFR Part 20- *Standards for Protection Against Radiation.***
- (2) Any other work which involves exposure to ionizing radiation in excess of 0.5 rem per year.

### **33e06c Occupations NOT SPECIFICALLY BANNED.**

- (1) Work in medical facilities such as X-ray rooms and laboratories where exposure to ionizing radiation is less than 0.5 rem per year.
- (2) Work involving exposure to naturally-occurring radiation such as radiation in soil or sunlight radiation.

### **33e06d Exemptions.**

There are no provisions in HO 6 for apprentices or student-learners. There are no other exemptions applicable to this order.

### **33e06e Enforcement Positions.**

- (1) Compliance with the National Committee on Radiation Protection updates and clarifications of Handbook No. 69, including compliance with the standards of **Title 10 CFR Part 20**, is considered compliance with the radiation exposure requirements of HO 6.
- (2) Inv's may not be able to determine from a physical investigation of a workplace whether a minor is employed contrary to the requirements of HO 6. If the Inv finds minors under 18 employed, and persons are available who know the means for measuring radiation and calculating dosage are

available in the plant, hospital or other work area, their advice should be sought. If there is no such person available, a memorandum giving full details shall be forwarded through channels to the RA. As necessary, the RA should seek advice through the local Public Health Service, the City or State Health Departments, or an appropriate federal energy agency to determine if a violation has occurred.

- (3) Although HO 6 still applies, the manufacture of products containing radium and radium compounds used to make self-luminous parts, such as but not limited to watch dials that glow at night, is no longer a problem. This type of manufacturing was discontinued a number of years ago and seldom are any products manufactured using such lumination. With regard to thorium salts used to make incandescent gas mantles such as those used on Coleman Lanterns, this also is no longer an exposure problem. The radiation level is so low on each mantle that one would have to concentrate hundreds of these mantles together to achieve an exposure level even approaching a health risk.



## **A QUICK LOOK AT HO 6 RADIOACTIVE SUBSTANCES**

### **Occupations/Machines PROHIBITED**

Any work in any workroom in which:

- radium is stored or used in the manufacture of self-luminous compound;
- self-luminous compound is made;
- self-luminous compound is stored, used or worked on;
- incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged;
- other radioactive substances are present in the air in average concentrations exceeding the standard set by law.

Any other work which involves exposure to ionizing radiation in excess of 0.5 rem per year.

### **Occupations/Machines PERMITTED**

Any work in medical facilities such as X-ray rooms and laboratories where exposure to ionizing radiation is less than 0.5 rem per year.

Any work involving exposure to naturally-occurring radiation such as radiation in soil or sunlight radiation.

### **Enforcement Positions**

Inv's may not readily be able to determine from a worksite inspection whether a minor working there is safe from radiation exposure. If any persons are available onsite who have the scientific knowledge to determine a safe exposure level, their advice should be sought. Otherwise, submit the matter by memo to the RA who then may seek advice from appropriate agencies.

### **Exemptions**

HO 6 does **not** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

### 33e07 HAZARDOUS OCCUPATIONS ORDER 7 - Power-Driven Hoisting Apparatus Occupations

**Name:** Occupations Involved in the Operation of Power-driven Hoisting Apparatus

**Effective Date:** July 16, 1946

#### 33e07a Scope of HO 7.

- (1) The investigation of occupations involved in the operation of hoisting apparatus was initiated because of the generally accepted belief that such equipment presented a high degree of accident risk and was inappropriate for young workers. Accidents have involved improper rigging where loads have fallen on people and crushed them; persons falling from stacked materials or down elevator shafts; and people coming into contact with overhead electrical conductors. These injuries not only occurred during the operation of the equipment, but also while assisting in the operation of hoisting apparatus.
- (2) HO 7 prohibits 16- and 17-year-olds from operating (or, in some cases, assisting to operate) certain power-driven hoisting apparatus which consists of elevators, cranes, derricks, hoists, highlift trucks, portable elevators, and tiering or piling machines. HO 7 is broadly written and prohibits the operation of this equipment no matter where located.
- (3) This order does not prohibit the operation of an unattended automatic-operating passenger elevator and electric or air-operated hoists not exceeding a one-ton capacity.
- (4) Definitions.
  - (a) The term *elevator* shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. This term includes both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.
  - (b) 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.
  - (c) 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.

- (d) The term *crane* shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. This term includes all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot pouring, jib, locomotive, motortruck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.
- (e) The term *derrick* shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism or operating ropes. This term includes all types of derricks, such as A-frame, breast, Chicago boom, ginpole, guy and stiff-leg derrick.
- (f) The term *hoist* shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. This term includes all types of hoists, such as base-mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.
- (g) The term *highlift 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 platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. This term shall mean and include highlift trucks known under such names as **forklifts**, fork trucks, forklift trucks, tiering trucks, or stacking trucks, but shall not mean lowlift trucks or lowlift platform trucks that are designed for the transportation of but not the tiering of material.
- (h) The term *manlift* means a device intended for the conveyance of brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom. The term *substantial vertical direction*, though not defined in the regulations, has been interpreted by WH to mean that the manlift travels in a vertical direction that is greater than the horizontal distance traveled.
- (i) The term *regular operator* shall mean a person whose regular and practical duty is the operation of the elevator.
- (j) The term *assigned operator* shall mean a person who has been specifically designated to operate the elevator. Such a person may be a “regular” operator. *Assigned operator* may also mean a person who is designated to operate the elevator in addition to his/her regular job. More than one person may be assigned to operate the same elevator.

### **33e07b Occupations PROHIBITED.**

- (1) Operator of passenger, freight and combination passenger-freight elevators (also known as service elevators) - except for certain automatic or automatic signal operation elevators. Note: CL Reg 3 prohibits 14- and 15-year-olds from operating most power-driven equipment, including “automatic” elevators.

- (2) Operator of a portable elevator or tiering machine.
- (3) Operator of a crane, derrick, or hoist - except for an electric or air-operated hoist not exceeding one-ton capacity. The capacity may be measured under “long ton”, “short ton”, or “metric ton” as described in the manufacturer’s specifications.
- (4) Assisting in the operation of a crane, derrick, or hoist such as performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, floormen, and the like (members of an oil-well drilling crew are considered as assisting in the operation of such equipment).
- (5) Operator of a highlift truck such as a forklift, fork truck, forklift truck, tiering truck, stacking truck and a bobcat loader.
- (6) Riding on a manlift.
- (7) Riding on a freight elevator, when the elevator is not operated by an assigned operator.

**33e07c Occupations NOT SPECIFICALLY BANNED.**

- (1) Automotive and truck servicing establishments.
  - (a) HO 7 does not apply to “grease rack” lifts used in gasoline service stations, tire stores and other establishments servicing automobiles, since such lifts were not included in the investigation which led to HO 7.
  - (b) Service jacks, hand jacks, air compressors, tire changers, truck tire changers, and wheel balancers are all outside the scope of HO 7.
  - (c) Hoists commonly used on tow trucks and other hoists (if not over a ton capacity) are permitted by HO 7 (Note: HO 2 prohibits minors from operating a motor vehicle while towing another vehicle).
- (2) Operation of amusement park rides.
  - (a) The operation of amusement park rides is not prohibited by HO 7.
  - (b) Although a number of rides in amusement and theme parks have characteristics similar to certain machines that minors under 18 years of age are prohibited from operating under HO 7, a careful review of these rides, which have a variety of names, has concluded that none of the machines are “derricks”, “cranes”, “hoists”, “elevators” or “manlifts” within the meaning of the HO.
    1. Swing-type rides appear very similar to a stiff-leg derrick or various types of cranes including a jib crane. However, these rides only swing or rotate and lack any hoisting apparatus.

2. A number of roller coasters and similar rides are connected cars operated on a rail and driven by a chain pull. They are not operated by hoists, nor are they considered elevators or manlifts.
3. Water rides often follow the flow of the water down a trough and are repositioned at a higher level by a conveyor belt. Since the boats carrying the riders remain within the trough, these rides are not considered elevators or manlifts.

(3) Operation of motorized handtrucks.

Motorized handtrucks, such as the Yale Low Lift Pallet-Walkie Motorized Hand Truck, models MPW 040 and 060, are not considered to be “highlift trucks.” Designed for transportation but not the tiering of materials, they are lowlift trucks and not subject to HO 7.

(4) Hanglines in poultry processing plants and drycleaners are considered to be “chain conveyors” and are not covered by HO 7. These apparatus do not have hoists to raise and lower the loads.

(a) Hanglines in poultry processing plants are usually made up of a metal I-beam, a continuous chain, and shackles attached to the chain. The chain may be powered by an electric motor or other means and generally runs from the loading dock or platform, through the plant where the poultry is processed and back to the loading dock in a continuous loop. Crews on the platform (or sometimes in a darkened room nearby) attach the live poultry to the shackles by their feet where they hang upside down. The hangline then moves to the killing area within the plant and may in the course of its route rise or descend within the plant to different levels. The speed of the chain is coordinated with the loading crew’s ability to hang a fowl on each shackle and not leave any without a bird on it.

(b) Hanglines in drycleaners that hold finished garments to be picked up operate in a similar manner as the hanglines in poultry processing plants.

(5) Power-driven scaffolding, as used to wash windows of tall buildings, is not prohibited by HO 7.

(6) Hydraulic lifts or “cherry pickers” as used by utility companies primarily to hoist workers and materials to overhead powerlines are not covered by HO 7.

**33e07d Exemptions.**

(1) There is no provision in HO 7 for apprentices or student-learners.

(2) Sixteen- and 17-year-olds may operate an automatic elevator and an automatic signal operation elevator provided that all the following conditions have been met:

- a. the exposed portion of the car interior, the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend;

- b. 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;
- c. the elevator is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and,
- d. 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.

### 33e07e Enforcement Positions.

#### (1) Bobcat loaders.

Bobcat loaders are highlift trucks designed and used for moving material around a worksite and placing or depositing material at a considerable height above the ground. Their placement of materials has been found to fall within the meaning of “tiering” as discussed in 570.58(b)(5). Bobcat loaders are subject to HO 7 when used to raise or lower materials. Bobcat loaders with attachments designed to handle special loads are also covered.

#### (2) Chairlifts at ski resorts.

Chairlifts at ski resorts which operate in a substantially vertical direction – where the lifts travel in a vertical direction that is greater than the horizontal distance traveled – are manlifts subject to HO 7 and may not be operated by minors under 18 years of age. Those chairlifts which travel a greater distance horizontally than vertically, are outside the scope of HO 7.

#### (3) Airport baggage handling equipment.

- (a) A **conveyor belt loader** is a wheeled vehicle, equipped with a movable conveyor belt, used to load and unload individual baggage items from the cargo hold of aircraft. The front end of the conveyor is raised and lowered by a hydraulic piston located under the conveyor belt. The operation of the conveyor belt loader is not prohibited by HO 7.
- (b) A **canister loader truck** is a wheeled vehicle with a lifting device which moves baggage between the terminal and the aircraft. Baggage is placed in canisters which hold 50 to 70 bags and suitcases. The canisters are then pushed onto the bed of the loader which is equipped with rollers. The canisters are rolled onto the loader and are rolled off onto the plane. Most of the time this function is automated, however, sometimes hand loading and/or unloading of the canisters is required. The load is raised and lowered by hydraulics to and from the ground level to the cargo hold of the airplane. The reverse process takes place during the unloading of the plane. Canister loader trucks are highlift trucks as defined in 570.58(b) and therefore HO 7 prohibits 16- and 17-year-olds from operating, loading and unloading such equipment.

## A QUICK LOOK AT HO 7 HOISTING DEVICES

### Occupations/Machines PROHIBITED

Operation of a passenger or freight elevator.

Operation of a combination passenger/freight elevator (also known as “service elevators”).

Operation of elevators which do not meet specific requirements.

Riding on a manlift.

Riding on a freight elevator when elevator is not operated by an assigned operator.

Operating or assisting in the operation of all cranes, derricks, or hoists (except electric or air hoists not exceeding one ton capacity).

### Occupations/Machines PERMITTED

Operator or rider on elevators provided the elevators meet certain specific requirements.

Operator of dumbwaiters, conveyors (such as endless belts, chain conveyors, bucket conveyors).<sup>1</sup>

Riding on freight elevator when elevator is operated by an assigned operator.

May operate an electric or air operated hoist not exceeding one-ton capacity.

### Enforcement Positions

**Bobcat Loaders** are highlift trucks and covered by HO 7 when used to raise or lower loads.

**Chairlifts** at ski resorts are covered under HO 7 as manlifts only when they travel a greater distance vertically than they do horizontally.

### Exemptions

HO 7 does **not** contain an exemption for Apprentices and Student-Learners.

Sixteen- and 17-year-olds may operate electric or air operated hoists not exceeding a one-ton capacity.

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<sup>1</sup> Conveyors are specifically named and prohibited for 14- and 15-year-olds under CL Reg 3.

### 33e08 HAZARDOUS OCCUPATIONS ORDER 8 - Power-Driven Metal Forming, Punching, and Shearing Machine Occupations.

**Name:** Occupations involved in the operations of power-driven metal forming, punching, and shearing machines.

**Effective Date:** October 30, 1950

#### 33e08a Scope of HO 8.

- (1) The report establishing HO 8 concluded that metal forming, punching and shearing machines are dangerous because they utilize a heavy crushing or powerful cutting action to perform their work, and because the operator is required in many cases to place his or her hands close to the point of operation in feeding them. Even with guards and better feeding methods, the report continued, these machines are extremely dangerous. In light of the preceding and the fact that State child labor laws varied greatly and did not reflect "an awareness of the hazards of operating" these machines, the report recommended the establishment of HO 8.
- (2) HO 8 is machine specific and it prohibits the operation, helping to operate, setting up, adjusting, repairing, oiling, or cleaning power-driven metal forming, punching, and shearing machines. The scope of this HO is narrow and **does not** include a very large group of metalworking machines known as **machine tools**.
- (3) Definitions.
  - (a) The term *operator* shall mean a person who operates a machine covered by this HO by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.
  - (b) The term *helper* shall mean a person who assists in the operation of a machine covered by this HO by helping place materials into or removing them from the machine.
  - (c) The term *forming, punching, and shearing machines* shall mean power-driven metalworking machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts.
  - (d) A *rolling machine* is a machine used to change the size or shape of metal by running it between rolls under pressure.
  - (e) The term *pressing or punching machines* shall mean any machine falling within one of the three following types of machines:
    - (1) A *punch press* is a machine fitted with a ram or plunger and a die for the purpose of blanking, trimming, drawing, punching, or stamping metal.



- (2) A **power press** is a large, slow acting press which performs an operation similar to a punch press, but is intended to handle very large or very heavy work.
- (3) A **plate punch** is a machine for punching holes (such as for rivets) in heavy metal plate.
- (f) A **bending machine** is a machine for bending metal plate between a stationary bed and a moving ram (metal bending machines are known as brakes).
- (g) A **hammering machine** is a machine which employs a ram or plunger to pound the material being worked on into the desired shape.
- (h) A **shearing machine** is a machine for cutting metal by the shearing action of a movable blade or blades.
- (i) A **guillotine shear** is a machine used for cutting heavy metal plates which consists of a movable upper blade and a stationary lower blade. The upper blade comes down vertically to meet the lower stationary blade.
- (j) An **alligator shear** is a machine used for cutting barstock which consists of a movable upper blade and a stationary lower blade operating like scissors.
- (k) A **circular shear** is a machine with revolving disks which cut the material when it passes through the point where the revolving disks meet. It is used for cutting light metal sheets such as those used in tin cans.
- (l) **Machine tools** are power-driven complete metalworking machines having one or more tool-or work-holding devices, and are used for progressively removing metal in the form of chips. The following are the five principle types of machine tools classified by their function:
- (1) **Milling machine tools** machine a piece of metal by bringing it into contact with a rotating cutter with multiple cutting edges.
  - (2) **Planing machine tools** machine a surface by moving the work back and forth under a stationary cutting tool.
  - (3) **Turning machine tools** shape a rotating piece by means of a cutting tool to generate a cylindrical surface.
  - (4) **Boring machine tools** cut a round hole by means of a rotating cutting tool.
  - (5) **Grinding machine tools** shape a piece by bringing it into contact with a rotating abrasive wheel.

**33e08b Occupations Prohibited.**

All occupations as an operator of, helper on, or in setting up, adjusting, repairing, oiling, or cleaning the following power-driven metal forming, punching, and shearing machines:

- (1) All **rolling machines** such as: beading, straightening, corrugating, flanging, or bending rolls, and hot or cold rolling mills.
- (2) All **pressing and punching machines** [except as an operator or helper on a punch press with automatic feeding and ejection as discussed in 33e08(c)(1) below] such as: punch press, blanking press, forming press, drawing press, stamping press, extrusion press, embossing press, coining press, assembling press, bending press, power press, riveting press, eyeletting machine, and plate punch.
- (3) All **bending machines** such as: apron breaks and press breaks.
- (4) All **hammering machines** such as: drophammer, helve hammer, board drophammer, rope drop hammer, air drophammer, steam drophammer, power hammer, airhammer, and steam hammer.
- (5) All **shearing machines** such as: guillotine shears, squaring shears, alligator shears, rotary shears.

**33e08c Occupations NOT SPECIFICALLY BANNED.**

- (1) Occupations as an **operator of or as helper on a punch press** equipped with full automatic feed and ejection 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.
- (2) HO 8 **does not** apply to the operation of **machine tools**. The following is a list of machine tools classified by function:
  - (a) **Milling machines:** horizontal milling machines, vertical milling machines, universal milling machines, planer-type milling machines, gear cutting machines, profilers, routers, and circular saws (Note: circular saws are subject to HO 14).
  - (b) **Planing machines:** planers, shapers, slotters, broaches, keyseaters, hack and bandsaws (Note: bandsaws are subject to HO 14).
  - (c) **Turning machines:** engine lathes, turret lathes, hollow spindle lathes, automatic lathes, and automatic screw machines.
  - (d) **Boring machines:** vertical boring mills, horizontal boring mills, jig borers, drilling machines, pedestal drills, radial drills, gang drills, upright drills, drill presses, multiple spindle drills, centering machines, reamers, and honers.

- (e) **Grinding machines:** grinders, abrasive wheels, abrasive belts, abrasive disks, abrasive points, buffing wheels, polishing wheels, stropers, and lapping machines.

### **33e08d Exemptions.**

There is a provision in HO 8 for apprentices and student-learners. There are no other exemptions applicable to this order.

### **33e08e Enforcement Positions.**

- (1) The following is a list of power-driven machines that have been determined **to be covered** by HO 8:
- (a) **Automatic Bulkan Assembler** (the Bulkan). This power-driven machine performs a bending, or crimping action on metal and is covered by HO 8. The machine attaches preformed metal edged paper disks to the top and bottom of cylindrical paper sidewalls.
  - (b) **Hager press**. This hydraulic press, designed to install a broad range of fasteners in flat or preformed sheet metal assemblies, is covered by HO 8.
  - (c) **Metal bottom seamer**. This power-driven machine performs a rolling and bending action on metal and is covered under HO 8.
- (2) The following is a list of power-driven machines that have been determined **not to be covered** by HO 8:
- (a) **Wheel crusher or rim removing machine**. This machine separates a rim from a tire by using three dies attached to three rams to bend the tire and the metal rim. The rim is circular metal structure specially formed to fit the shape of a wheel, and not a metal plate or a flat piece of (sheet) metal as required by the HO. Moreover, the purpose of the machine is to separate the tire from its rim and not to form the rim into another shape (which would be the purpose of a bending machine). In light of the preceding, a wheel crusher is not a bending machine, or any other kind of metal forming, punching and shearing machine, and is not covered by HO 8.
  - (b) **Walco Precision Roller** (series 60 and 67). This machine is used to coat metal and other materials with paint, various adhesives, and other substances. The machine does not form, shape, or reduce the thickness of metal (the function of a rolling machine) and it is not covered by HO 8.
  - (c) **Injection molding press**. When used to manufacture plastic parts (as opposed to cutting or shaping metal), this machine is not covered by HO 8.
  - (d) **Elox wire-cut electrical discharge machine**. This machine cuts metal using a brass wire as an electrode. When the wire is brought near metal, an arc is created eroding the metal. Since

this technology does not cut or shape metal with tools mounted on rams, plungers, or other moving parts, it is not a power-driven metal forming, punching or shearing machine, and is not covered by HO 8.

(3) The following is a list of **machine tools** which are not covered by HO 8:

- (a) **Key Duplicating Machines.** These machines, often located in hardware stores and other retail establishments, duplicate keys by using a metal cutter. These machines are machine tools and therefore outside the scope of HO 8. An example of a key duplicating machine that has been determined to be a machine tool is the Axxess PC key machine (serial #0595187FP).
- (b) **Ridgid 535 pipe and bolt threading machine.** This machine is classified as machine tool and not a shearing machine, even though the cutting knife has a rotary motion. Since it is a machine tool, it is not covered by HO 8.
- (c) **Landis pipe nipple and automatic pipe nipple machines.** These machines are considered to be machine tools and not covered under HO 8.
- (d) **Brake drum and brake disc lathes.** These lathes (used to repair brakes in automotive and truck repair shops) are turning machines and are considered machine tools. They are outside the scope of HO 8.
- (e) **Pipe threading equipment.** Turning machines, such as the Ridgid Model 1234 Threading Machine, are machine tools and not covered under HO 8.

## **A QUICK LOOK AT HO 8 METAL WORKING MACHINES**

### **Occupations/Machines PROHIBITED**

Operating, helping to operate, setting up, adjusting, repairing, oiling or cleaning:

All rolling machines;

All bending machines;

All hammering machines;

All shearing machines.

### **Occupations/Machines PERMITTED**

Operating and helping to operate punch presses equipped with full automatic feed and ejection and with a fixed barrier guard to protect the operator's hands and fingers.

Operating all machine tools.

### **Enforcement Positions**

**The following machines are covered by HO 8:**

Automatic Bulkan Assembler, Hager press, and metal bottom seamer.

**The following machines are not covered by HO 8:**

Wheel crusher or rim removing machine, Walco precision roller, injection molding press, and Elox wire-cut electrical discharge machine.

**The following machine tools are not covered by HO 8:**

Axxess PC key machine, Ridgid 535 pipe and bolt threading machine, Landis pipe nipple and automatic pipe nipple machines, brake drum and brake disc lathes.

### **Exemptions**

HO 8 **does** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

**33e09 HAZARDOUS OCCUPATIONS ORDER 9 - Occupations in Mining Other Than Coal.**

**Name:** Occupations in Connection with Mining, Other than Coal

**Effective Date:** January 6, 1951

**33e09a Scope of HO 9.**

- (1) Prior to HO 9, only coal mining (HO 3) was covered by a hazardous occupations order. Since the issuance of HO 9, all mining, with the exception of mining in the petroleum and natural gas industries, falls within the scope of a hazardous occupations order. An investigation of the mining industry concluded, in an April 1950 report, that all work in this industry involved an “exceptionally high degree of accident risk” and the employment of young people should be prohibited in the vast majority of mining occupations. Moreover, the report cited inadequate state child labor laws, which in many instances allowed children as young as 14 years of age to work in underground mines, as an additional reason for establishing HO 9.
- (2) HO 9 is industry specific. It applies to metal mines, nonmetal mines, ore-dressing plants, quarries, claypits and clay mines, and sand and gravel operations. In terms of product mined, the HO covers: iron, copper, lead, zinc, and other metals, barite, gypsum, salt, sulfur, and other nonmetals, limestone, marble, granite, and other minerals. Its scope includes all occupations in connection with mining, other than coal, with the exception of certain surface occupations not directly concerned with the extraction or haulage of the mined material.
- (3) Many occupations prohibited by HO 9 may also be prohibited by other HO’s. Examples include operating motor-vehicles (HO 2), using a power-driven chain saw to cut timber (HO 5), and operating some earth moving equipment while working in a tunnel (HO 17). Inv’s should ensure that each violation is only charged once and recorded under the proper HO.
- (4) HO 9 does not cover work in coal mines which is prohibited by HO 3; in petroleum production; or in the production of natural gas. The HO also does not prohibit work involving most manufacturing or processing operations applied to the extracted materials.
- (5) Definitions.
  - (a) The term *all occupations in connection with mining, other than coal* shall mean:
    1. All work performed underground in mines and quarries; on the surface at underground mines and underground quarries; in or about opencut mines, open quarries, claypits, and sand and gravel operations; at or about placer mining operations; at or about dredging operations for clay, sand or gravel; at or about borehole mining operations; in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals and at or about any other crushing, grinding, screening, sizing, washing or cleaning

operations performed upon the extracted minerals **except** when those operations are performed as part of a manufacturing process.

2. 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.
  3. Neither shall the term include work performed in connection with coal mining (See HO 3), 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.
- (b) The term ***placer mining*** shall mean the mining of a placer deposit (a surface deposit of loose particles of certain heavy minerals - frequently gold) utilizing the following methods:
1. ***Placer dredging operations*** – Operating in a pond, a placer dredge (a kind of floating washer plant) utilizes a series of buckets connected by a chain to scoop gravel from the bottom of the pond. The dredge is also equipped with machinery to recover the heavy metal from the gravel and dispose of the refuse.
  2. ***Surface placer operations*** – This method, often called sluicing, requires a source of water large enough to make a fast-flowing stream in a sluice box. At the upper end of the sluice there is a screen onto which gravel is shoveled or dumped. Water runs over the gravel on the screen, washing the fine gravel through it, and the heavy metal is caught on a bar fastened across bottom of the sluice box.
  3. ***Hydraulic placer operations*** – In this method, a powerful stream of water is used to break down earth and rock and guide the particles through channels into long sluices. Diesel power is used extensively for pumps, tractors, or for draglines, and some operations use tractors equipped with a blade to push the material to the sluice box.
- (c) The term ***borehole mining*** shall mean a method of recovering some minerals (most notably sulfur and salt) by pumping compressed air into the holes bored down to the deposit to force the mineral to the surface.
- (d) The term ***metal mill operations*** shall mean a highly automated operation requiring few employees consisting of three distinct steps: 1) preparation (crushing, grinding, cleaning, and classifying); 2) separation (jigging, tabling, heavy-media separation, and froth flotation); and 3) finishing (including settling, filtering, drying, and otherwise preparing the concentrates for shipment).
- (e) The term ***washer plant operations*** shall mean an operation performed to the ore after it is mined to remove clay and dirt from the solids.

- (f) The term *grinding mill operations* shall mean the reduction of the concentrate into a powder form at a grinding mill. This operation occurs after the ore is cleansed at a washer plant.

### **33e09b Occupations PROHIBITED.**

- (1) All occupations involving underground work in mines or underground quarries.
- (2) All surface occupations at underground mines unless otherwise permitted by FOH 33e09c(1).
- (3) All occupations involving work in or about opencut mines, open quarries (including crushing, screening, and washing), claypits (including dredging), and sand and gravel operations (including dredging, washing, and screening), unless otherwise permitted by FOH 33e09c(1).
- (4) All occupations involving work at or about placer mining and borehole mining operations, unless otherwise permitted by FOH 33e09c(1).
- (5) All occupations involving work in metal mills, unless otherwise permitted by FOH 33e09c(2).
- (6) All occupations involving work in washer plants or grinding mills, unless otherwise permitted by FOH 33e09c(1).

### **33e09c Occupations NOT SPECIFICALLY BANNED.**

- (1) The following occupations are permitted for 16 and 17 year olds when performed at the surface of underground mines; in or about open pit mines, open quarries, claypits and sand and gravel operations; in surface placer mines, including placer dredging operations, hydraulic placer mining operations and borehole mining operations; and in washer plants or grinding mills:
  - (a) 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. **Note:** In the case of open quarries and other types of open pit operations, this work is permitted in the pit or quarry proper, but not outside of the building itself.
  - (b) Work in the operation and maintenance of living quarters (Note: some of this work may be prohibited by another HO).
  - (c) Work outside of the mine in surveying, in the repair and maintenance of roads, and in general cleanup about the mine property (such as clearing brush and digging drainage ditches). This work is not permitted when done underground or in an open quarry or pit. For example, maintenance of roads in an opencut mine would only be allowed if it was done outside of the opencut.
- (2) The following work is permitted in metal mills:
  - (a) Work involving the operation of jigs, sludge tables, flotation cells, or drier-filters.



- (b) Handsorting work at picking table or a picking belt.
- (c) General cleanup work.
- (d) Work of track crews in the building and maintenance of railroad tracks located in an area of an opencut metal mine, if haulage and mining activities are not being conducted where the track crew is working. This exception applies only to metal mines, since such operations are vast in scale, much of the track work is physically removed from the extractive operation, and the track crew can work without undue exposure to hazard.
- (e) The only work permitted in mercury-recovery mills or mills using the cyanide process is the kind of work stated in 33e09c(1) above.

### **33e09d Exemptions.**

There are no provisions in HO 9 for apprentices or student-learners. There are no other exemptions applicable to this order.

### **33e09e Enforcement Positions.**

- (1) Peatmoss.

HO 9 **does not** apply to cutting, gathering, piling or any other occupation performed on peatmoss. Peatmoss is defined as partially decomposed sphagnum; consequently, it is not a mineral within the meaning of this order and any activities performed on it or to it would not be “occupations in connection with mining.”

- (2) Motor vehicle operator and outside helper.

HO 9 prohibits almost all work in or about a mine, which would include the occupations of motor vehicle driver and outside helper. HO 2 also specifically prohibits 16- and 17-year-olds from performing the occupations of motor vehicle driver and outside helper in or about any mine, including open pit mine or quarry. Child labor violations involving these two occupations in or about a mine should be recorded as violations of HO 2.

- (3) Weighing trucks.

The weighing of trucks filled with gravel, crushed stone, or other minerals **is prohibited** by HO 9. This work is prohibited even if the minors spend only a small percentage of their time weighing trucks and the majority of their work is confined to an office environment.

- (4) Processing stockpiled limestone into lime.

HO 9 **does not** apply to occupations involved in the processing of stockpiled limestone into hydrated lime. This process is deemed to be manufacturing and not mining (the crushed stockpiled

limestone is heated at extreme temperatures to create quicklime, water is then added to the quicklime to make hydrated lime which is shipped to the consumer). The prohibitions of HO 9 would cease to apply when the extracted, crushed, and screened limestone was stockpiled.

(5) Railroad trackwork.

Trackwork performed three miles from the open quarry is not an occupation prohibited by HO 9 as the work is not in close proximity to the mining haulage or to mining activities.

(6) Processing marble into a finished building product.

The prohibitions of HO 9 **apply** to occupations in the processing of marble into a finished building material when it involves the following steps:

The marble is quarried, run through a primary crusher, through a secondary crusher or grinding operation, and then into elevated storage bins. The finished product is loaded from these bins into bulk trucks or it is sacked and stored for later shipment.

This process is not deemed to be manufacturing since the marble has not been chemically changed and nothing was manufactured from the crushed marble (i.e. bricks, blocks, tile, etc.).

## **A QUICK LOOK AT HO 9 MINING OTHER THAN COAL**

### **Occupations/Machines PROHIBITED**

All underground work in mines or underground quarries.

All work in or about opencut mines, open quarries, and sand and gravel operations unless otherwise permitted.

All work at or about placer mining or borehole mining operations unless otherwise permitted.

All work in metal mills, unless otherwise permitted.

All work in washer plants and grinding mills unless otherwise permitted.

### **Occupations/Machines PERMITTED**

Work in offices, in warehouses or supply houses, in change houses, in laboratories, and in repair or maintenance shops if located above ground.

Work outside of the mine in surveying, in repair and maintenance of roads, and in general cleanup if done above ground.

Work of track crews in metal mines, if the work is done away from haulage and mining activities.

All work at surface placer mines and work at metal mills involving the operation of jigs, sludge table, flotation cells, or drier-filters, handsorting work at picking tables, and general cleanup.

### **Enforcement Positions**

**Peatmoss** – HO 9 does not apply to cutting, gathering, piling, or any other occupations performed on peatmoss.

**Weighing trucks** – The weighing of trucks filled with gravel, stone, or other minerals is prohibited by HO 9.

**Processing stockpiled limestone into lime** – Is not subject to HO 9 because it is a manufacturing process that involves a chemical change in the limestone.

**Track work** – Done three miles or more from the open quarry or mine is not subject to HO 9.

**Processing marble into crushed stone** – Is subject to HO 9 because there is no chemical change in the marble and the crushed stone is the finished product.

### **Exemptions**

HO 9 does **not** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

**33e10 HAZARDOUS OCCUPATIONS ORDER 10 - Slaughtering, meatpacking, processing and rendering**

**Name:** Occupations in the operation of power-driven meatprocessing machines and occupations involving slaughtering, meatpacking or processing, or rendering.

**Effective Date:** May 8, 1952

**33e10a Scope of HO 10.**

- (1) Meatpacking was one of the most hazardous industries at the time HO 10 was promulgated. The Bureau of Labor Statistics issued Bulletin No. 855 (*Injuries and Accident Causes in the Slaughtering and Meat-Packing Industries, 1943*), which documented the hazards in this industry. Dangers included slips and falls on slippery floors, injuries from live animals, strains from overlifting, cutting hazards from sharp knives, and injuries from power-driven equipment. More recent publications issued by the National Institute for Occupational Safety and Health (NIOSH) confirm the continued existence of these hazards and also cite the danger of steam burns, electric shock, and ergonomic injuries and illnesses.
- (2) HO 10 originally applied only to occupations in the slaughtering, rendering, and meatpacking industries. When Congress amended the FLSA in 1961 to cover certain retail and service enterprises, WH amended HO 10 to cover work in such firms. Thus, HO 10 applies both on an industry basis (slaughtering, rendering, and meatpacking) and to the use of certain power-driven meatprocessing machines (including meat slicers) whenever located in covered establishments and regardless of the material being processed. In 1981, HO 10 was again amended to clarify that restaurants, fastfood establishments and other retail and service establishments are subject to HO 10 and that 16- and 17-year-olds are prohibited from using power-driven meatprocessing equipment in those establishments.
- (3) HO 10 does not apply to the killing and processing of poultry, rabbits, or small game in areas physically separated from the “killing floor”, or in separate establishments. It also does not apply to fish and seafood processing plants. These establishments were not included in the original study of meatpacking plants and were specifically excluded from the Order when it was issued.
- (4) HO 10 was amended in 1960 to add the occupations of settingup, adjusting, repairing, oiling or cleaning certain power-driven meatprocessing machines. Prior to this, only the occupations of operating or feeding the various named machines were prohibited by HO 10.
- (5) Definitions.
  - (a) The term *retail/wholesale or service establishments* includes establishments where meat or meat products are processed or handled, such as butcher shops, grocery stores, restaurants/fast food establishments, hotels, delicatessens, and meat-locker (freezer-locker) companies, and establishments where any food product is prepared or processed using machines prohibited by this Order.

- (b) The term *slaughtering and meatpacking establishments* means places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term also includes establishments which manufacture or process meat products or sausage casings from such animals.
- (c) The term *rendering plants* means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.
- (d) The term *killing floor* includes a workroom or workplace where cattle, calves, hogs, sheep, lambs, goats or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling. The killing floor does not include coolers.
- (e) The term *curing cellar* includes a workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include a workroom or workplace solely where meats are smoked. The curing cellar may be located above or below ground.
- (f) The term *hide cellar* includes a workroom or workplace where hides are graded, trimmed, salted, and otherwise cured. The hide cellar may be located above or below ground,
- (g) The term *boning occupations* means the removal of bones from meat cuts. It does not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

### **33e10b Occupations PROHIBITED.**

- (1) HO 10 prohibits 16- and 17-year-olds from employment in all occupations involving the operation or feeding of the following power-driven machines, including setting up, adjusting, repairing, oiling, or cleaning of such machines, regardless of the product being processed by these machines (including, for example, the slicing in a retail restaurant of bread, cheese, vegetables or poultry):
  - (a) meatpatty forming machines, meat and bone cutting saws, meat slicers, knives (except bacon slicing machines), head splitters, and guillotine cutters;
  - (b) snoutpullers and jawpullers;
  - (c) skinning machines;
  - (d) horizontal rotary washing machines;
  - (e) casing-cleaning machines such as crushing, stripping, and finishing machines;
  - (f) grinding, mixing, chopping, and hashing machines; and
  - (g) presses (except belly-rolling machines).
- (2) HO 10 prohibits 16- and 17-year-olds from performing 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 the killing floor area infrequently and for short periods of time. HO 10 also prohibits these minors from performing all **boning** occupations, all occupations that involve the **pushing or dropping** of any suspended carcass, half carcass, or

quarter carcass; and all occupations involving the **handlifting** or **handcarrying** of any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

(a) The following is a list of occupations customarily performed on **killing floors** (place where animals are immobilized, or shackled, or killed; blood drained from the carcass; the hide, hair, head, and entrails removed; and the carcass divided into halves and further dressed prior to chilling) and prohibited under HO 10:

1. Immobilizer - stuns animal prior to shackling and killing.
2. Shackler, slinger - shackles animal.
3. Sticker, bleeder - severs larger blood vessels of neck.
4. Dropper - drops slaughtered hogs from overhead conveyor into scalding tanks.
5. Scalding - pushes hogs through scalding tanks.
6. Dehairing machine attendant - feeds hogs into dehairing machines.
7. Header, headskinner, scalper - skins hides from heads and removes head from carcass.
8. Toe puller - pulls nails from hoof.
9. Gambrel man, sinew cutter - cuts incision in hind legs and places ends of gamb stick in incision so carcass can be suspended from trolley.
10. Hanger, handoff man - suspends carcasses from overhead rail. May use mechanical hoist.
11. Rosin man - covers hog carcasses with rosin.
12. Scraper - removes rosin.
13. Singer - uses blowtorch to remove hair.
14. Shaver, benchman - uses knives to shave off hair.
15. Washer - washes carcass.
16. Steamer - sprays steam on carcass.
17. Legskinner, legbreaker - cuts hide from legs and severs legs.
18. Floorsman, sider - removes hides from bellies.
19. Aitchbone breaker, crotch sawer - saws or splits pelvis bone.
20. Breast sawer, brisket cutter, brisket opener - opens chest cavity by sawing through breastbone.
21. Rumper, rump skinner - skins hide from rump.
22. Bungdropper - cuts bunghole from surrounding flesh.
23. Bruise trimmer - cuts away bruised sections on carcass.
24. Belly opener - opens bellies with knife.
25. Gutter, gut snatcher - cuts and pulls entrails from carcass.
26. Pluck snatcher - removes liver, heart, and lungs from carcass.
27. Kidney puller - cuts kidney from carcass. May also insert kidney and neck rags.
28. Gut truck jumper - pushes gut truck from place to place on killing floor.
29. Backer - skins hide from back.
30. Hide dropper - completes removal of hide.
31. Slunk skinner - skins unborn animals.
32. Splitter - cuts carcass into halves.
33. Sawyer - similar to splitter.
34. Chuck splitter - similar to splitter
35. Scribesawer - partially saws through ribs.

36. Facer - shapes carcass by cutting away skin and surplus fat.
37. Head dropper - severs strip of skin holding hog head to carcass.
38. Leaf fat puller - pulls strips of fat from carcass.
39. Fat scraper - scrapes fat from suspended carcass.
40. Stamper - stamps carcass with inspection seal.
41. Neck pinner - pins up loose flesh on carcass.
42. Neckwasher - washes neck with water hose.
43. Shrouder, clother, bagger - covers sides with white shrouds or cloths.
44. Retaining room man - cuts out and disposes of condemned meat.
45. Scaler, weigher - records weights of dressed carcasses. May push carcasses on to weighing rail.
46. Coolerman, pusher - pushes carcasses from killing floor into cooler.

(b) HO 10 prohibits 16- and 17-year-old minors from performing all work on the killing floor in the **fancy meats unit, selected meats unit, or rough tallow unit** [also known as viscera unit or offal (other than hides and casings) department]. This is the place where viscera and heads are separated and processed. HO 10 also prohibits the following related occupations even if not done on the killing floor:

1. Head splitter, brainer, skullcracker - uses power-driven machine to split skull.
2. Snoutpuller, headsnooter, snoutpulling machine operator - uses power-driven machine to remove snouts from heads.
3. Jawpuller - uses power-driven machine to remove jaws from heads.
4. Washing machine operator - washes tripe, tongues, stomachs, etc. in horizontal rotary washing machine.

(c) HO 10 prohibits 16- and 17-year-old minors from performing the following work in **coolers or chillrooms** (place where carcasses and other meats are chilled):

1. Coolerman, pusher - pushes carcasses into cooler.
2. Spacer - spaces carcasses.
3. Poleman - uses pole to transfer carcasses from storage rails to conveyor rail. (Some cutting department occupations [see (e) below] are also sometimes performed in coolers.)

(d) HO 10 prohibits 16- and 17-year-old minors from performing the following work in the **cutting department** (place where carcasses are portioned, boned and trimmed):

1. Pusher, lugger, chain feeder - pushes or carries carcasses into cutting department.
2. Dropper, blocker, trolley unloader - drops carcass from overhead conveyor.
3. Cutdown man - assists dropper.
4. Ham cutter, ham sawer - uses power-driven saw to cut hams from carcass.
5. Bandsaw operator - uses bandsaw to cut meat.
6. Loin scribe - uses power-driven saw to cut ribs.
7. Shoulder chopper - uses power-driven saw or power-driven knife to remove shoulder from carcass.

8. Foot sawer - saws feet with power-driven saw.
  9. Skinning machine operator, skinner - uses power-driven machine to skin cuts.
  10. Boner, neck boner, shoulder boner, ham boner, beef boner - debones cuts.
  11. Sawyer, butcher, ribber - quarters beef and sides and may also cut up the quarter with power-driven equipment.
  12. Butt presser - flattens hog butts on power-driven press.
- (e) HO 10 prohibits 16- and 17-year-old minors from performing the following work in the **casings department** (place where animal casings are processed):
- Casing machine operator, casing crusher, casing stripper, casing finisher - cleans casing by running them through power-driven rolls.
- (f) HO 10 prohibits 16- and 17-year-old minors from performing the following work in the **sausage department** (place where sausage is prepared or manufactured):
1. Guillotine cutter, frozen meat cutter - uses a power-driven guillotine cutter to cut up meat.
  2. Grinder, grinding machine operator - operates power-driven machine which grinds up meat.
  3. Mixer, mixing machine operator - operates power-driven machine which mixes meat.
  4. Chopper, cutting machine operator, silent-cutter operator - operates power-driven machine which chops and mixes meat.
- (g) HO 10 prohibits 16- and 17-year-old minors from performing the following work in the **curing cellar** (place where cuts are preserved or flavored by the absorption of curing materials prior to smoking or shipment). The curing cellar may be located above or below ground level and does not include places where meats are smoked:
1. Grader - grades cuts prior to curing.
  2. Dry cure man, dry curer, packer, vat packer - coats cuts with dry curing mixture and packs in boxes or vats.
  3. Pickle maker, pickleman, pickle mixer - prepares and cooks pickling solution.
  4. Pumper, pickle pumper - pumps curing solution into cuts.
  5. Pickler packer, pickling man, sweet pickle curer - packs cuts in vats for curing and fills vat with pickle solution.
  6. Piler, overhauler - piles cuts for dry salt cure.
  7. Salter, dry salter - rubs salt into cuts.
  8. Overhauler, overhaul man, tester - transfers cuts from one vat to another.
  9. Vat unloader, vat puller - removes cuts from vat after draining off solution.
  10. Vat washer - washes vat.
- (h) HO 10 prohibits 16- and 17-year-old minors from performing the following work in the **smoked meat processing area** (place where meat is prepared for smoking, is smoked, and further processed prior to shipment):



1. Neck machine feeder - operates power-driven machine which compresses and stuffs neck meat into cotton bags for smoking.
2. Boner - bones cuts.
3. Ham presser, ham packer, floorman, presser - operates power-driven machine which compresses the tops on the meat-filled molds.
4. Bacon skinner, skinning machine operator, belly skinner - operates power-driven skinning machine.
5. Bacon molder, bacon former, bacon mold loader, bacon presser, bacon press operator - operates power-driven press which compresses bacon into uniformly shaped slabs. Such work is permitted if it is done by hand.

(i) HO 10 prohibits 16- and 17-year-old minors from performing the following work in the **hide cellar** (place where hides are cured and prepared for shipment to leather manufacturers – may be located above or below ground level):

1. Hide inspector, pelt grader - inspects and grades hides.
2. Hide trimmer - trims hides with knife.
3. Hide salter - sprinkles salt over hides and piles them.
4. Hide shaker, hide spreader - shakes salt from hides.
5. Hide bundler - folds and ties hides into bundles.

(3) HO 10 prohibits 16- and 17-year-old minors from performing all occupations in the recovery of lard and oils, except packaging and shipping of such products and the operation of lard-roll machines. The following work in the **lard and oil refining department** (place where fats are converted into lard and various edible oils) is prohibited.

- (a) Hasher - chops fat in power-driven machine.
- (b) Lard cooker, Lard renderer - cooks fat.
- (c) Refiner, bleacher - refines and bleaches cooked fat.
- (d) Cracklings press operator - operates press which presses cracklings.
- (e) Grinding mill operator – grinds cracklings in power-driven grinder.

(4) HO 10 prohibits 16- and 17-year-old minors from performing the following occupations involved in the **tankage or inedible rendering departments** and in independent rendering plants (these are places where dead animals, animal offal, animal fats, scrap meats, blood and bones are rendered into stockfeeds, tallow, inedible greases, fertilizer ingredients, and similar products):

- (a) Skinner - skins dead animals.
- (b) Hasher operator, gut hasher, hashman - operates hashing machine which chops up offal.
- (c) Bone sawer - cuts up bones with bandsaw.
- (d) Bone crusher, bone grinder - operates bone crushing machine.
- (e) Tank loader, melter loader - feeds offal into cooking tanks.
- (f) Cooker, extractor, tank changer, tanker - boils refuse in extractor tanks to obtain grease.
- (g) Tankage press operator, hydraulic press operator, tank pressman - operates press to recover grease from tankage.

- (h) Drier, drying machine feeder - operates machine which dries tankage.
  - (i) Cooker, cookbox filler, tankman - dry cooks refuse.
  - (j) Expeller, oil expeller, pressman, press operator - operates press which expels soap fats from refuse.
  - (k) Mill operator, tankage grinder - operates crusher which pulverizes refuse prior to bagging.
  - (l) Mixer - operates machine which mixes pulverized materials.
  - (m) Sacker, drawoff man - fills bags from spouts of grinding or mixing machine.
  - (n) Blood cooker, blood pumper - cooks blood in a tank.
  - (o) Hoof trimmer, sinew cutter - trims hoofs.
  - (p) Neatsfoot oil cooker - cooks bones in cooker.
  - (q) Tallow pumper - cooks viscera and bones to recover tallow.
  - (r) Tallow refiner - refines tallow by bleaching and running through filter press.
  - (s) Tallow chandler - fills barrels with tallow.
  - (t) Tallow pumpman - pumps tallow.
- (5) HO 10 prohibits 16- and 17-year-old minors from performing the following work in the **shipping department**:

The work of pushers, luggers, platform men, lumpers, carriers are prohibited occupations if the work involves pushing or dropping any suspended carcass, half carcass, or quarter carcass, or involves the hand-lifting or hand-carrying of any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

### **33e10c Occupations NOT SPECIFICALLY BANNED.**

- (1) Sixteen- and 17-year-olds may operate bacon slicing and belly-rolling machines in **wholesale, retail and service establishments**.
- (2) HO 10 places no limitations on the occupations that may be performed in the **livestock departments** of slaughtering establishments. Sixteen- and 17-year-olds may work as livestock handlers, livestock punchers, drivers, penners, and tenders – workers who drive, feed, and water livestock; clean pens and drive livestock to holding pens outside of killing floor.
- (3) HO 10 prohibits 16- and 17-year-olds from performing all occupations on the **killing floor, in curing cellars, and in hide cellars** except they may perform the work of messengers, runners, handtrucks, and similar occupations which require entering these areas infrequently and for short periods of time.
- (4) HO 10 permits 16- and 17-year-olds to work in the following occupations in the **fancy meats unit, selected meats unit, or rough tallow unit** (also known as viscera unit or offal department - other than hides and casings). This is the place where viscera and heads are separated and processed, provided no work is performed on the killing floor:
  - a. Gut and pluck separator - separates guts (stomach and intestines) from pluck (liver, hearts, lungs, and windpipe).

- b. Bladder trimmer - removes fat from bladder.
- c. Stomach or paunch washer - opens and washes stomach.
- d. Paunch opener, belly dumper - opens stomachs and dumps contents.
- e. Paunch trimmer, tripe trimmer - trims stomachs.
- f. Caul and ruffle fat remover or puller - cuts fat from stomachs.
- g. Headskinner - skins heads.
- h. Ear cleaner - trims ears.
- i. Head chiseler - loosens meat on heads.
- j. Headtrimmer, headboner - trims meat from heads.
- k. Tonguer, tongue puller - removes and trims tongue.
- l. Head splitter (hand) - splits skull with cleaver and removes brain.
- m. Gullet Splitter or trimmer - trims or splits gullets.
- n. Liver trimmer - trims and brands livers.
- o. Saver - removes brains from split skulls.
- p. Hock trimmer - removes fat from hocks
- q. Chitterling cleaner or washer - washes chitterlings (large intestine).
- r. Pluck trimmer, giblet meat trimmer - trims pluck and separates parts.
- s. Leaf fat hanger - loads racks with leaf fat.
- t. Black gut puller - separates intestines.
- u. Small gut puller - straightens out intestines.
- v. Bungpuller - removes bung from intestines.
- w. Bungflusher - washes bungs.
- x. Bungtrimmer - trims bungs.
- y. Fat washer - washes fat.
- z. Capgut trimmer - trims fat from part of intestine.
- aa. Jawbone trimmer - trims meat from jawbone.
- bb. Tripe or paunch cooker - cooks tripe.

(5) HO 10 permits 16- and 17-year-olds to work in the following occupations in the **cooler or chill rooms** (place where carcasses and other meats are chilled):

- a. Stamper - stamps carcasses
- b. Runners, truckers - trucks meat products into and out of coolers.
- c. Grader - establishes sales values.

(6) HO 10 permits 16- and 17-year-olds to work in the following occupations in the **cutting department** (place where carcasses are portioned, boned and trimmed):

- (a) Clodpuller - removes clods with knife and meat hook.
- (b) Steak cutter - cuts meat into cubes.
- (c) Trimmer - trims various cuts
- (d) Wrapper - wraps cuts of meat.
- (e) Loin scriber, scriber - cuts ribs with handsaw (not permitted if power-driven saw is used.)
- (f) Shoulder chopper - uses cleaver or handsaw to remove shoulder (not permitted if power-driven saw or power-driven knife is used).

- (g) Ham cutter, ham sawer - uses handsaw to saw hams from carcass (not permitted if power-driven saw is used or work involves handlifting the half carcass.)
  - (h) Loin puller - cuts out loins
  - (i) Grader - grades various cuts.
  - (j) Butt puller - cuts fat from butts
  - (k) Foot sawer - uses handsaw to remove feet (not permitted if power-driven saw is used).
  - (l) Foot cleaner, foot trimmer, foot washer - trims and cleans feet.
  - (m) Ham blocker, ham shaper - trims hams.
  - (n) Ribber - uses knife to sever ribs from belly.
  - (o) Belly roll feeder - feeds bellies into belly-rolling machine.
  - (p) Cutter off, fatback splitter - cuts fat from bellies.
  - (q) Trucker - trucks materials in and about departments.
- (7) HO 10 permits 16- and 17-year-olds to work in the following occupations in the **casings department** (place where animal casings are processed):
- (a) Bungpuller - tears bung from intestines.
  - (b) Bung grader - grades bungs.
  - (c) Bungtrimmer - trims fat from bungs.
  - (d) Bungflusher - washes bungs.
  - (e) Casing puller - cuts intestine from viscera.
  - (f) Casing soaker - washes casings.
  - (g) Casing selector - inspects and grades intestines.
  - (h) Rounds runner - cuts small intestines from viscera.
  - (i) Bung and middle fatter - cuts fat from intestine.
  - (j) Casing tier - ties one end of intestine.
  - (k) Casing measurer, casing bundler - measures and ties casings in bundle.
  - (l) Slimer - cleans casings by hand.
  - (m) Casing salter - covers casings with salt and packs in barrels.
  - (n) Casing sewer - uses power-driven sewing machine to sew casings together.
- (8) HO 10 permits 16- and 17-year-olds to work in the following occupations in the **sausage department** (place where sausage is prepared or manufactured):
- (a) Trimmer, piece meat trimmer - trims meat.
  - (b) Spice mixer - mixes spices by hand.
  - (c) Sausage maker, cooker - cooks meat.
  - (d) Loaf man, sausage molder - packs ground meat in pans to be cooked.
  - (e) Stuffer - operates sausage-stuffing machine which forces meat into casings.
  - (f) Linker, linking machine operator - links sausages either by hand or machine.
  - (g) Tier - ties end of stuffed casings.
  - (h) Sausage roper - ties heavy cord around large sausages.
  - (i) Hanger, tree loader - hangs pieces of meat on tree arms or on conveyor studs.
  - (j) Bander - prepares skinless sausages and bands them for sale.
  - (k) Trolley boy - pushes sausage-loaded racks into spraying booth for washing.

- (l) Sealer and cooker - seals and cooks sausages in glass jars or other containers.
  - (m) Sausage cooker - cooks sausage in cooking tanks.
  - (n) Packer, packager - packs sausages in cartons or other containers.
- (9) HO 10 permits 16- and 17-year-olds to work in the following occupations in the **smoked meat processing departments** (place where meat is prepared for smoking, is smoked, and further processed prior to shipment):
- (a) Soaker, thrower - soaks cuts in water vats to clean them for smoking.
  - (b) Trimmer - trims cuts prior to smoking.
  - (c) Washer - washes cuts.
  - (d) Scraper, scrubber - scrapes cuts with bell scraper.
  - (e) Stringer - strings cord through cuts for hanging.
  - (f) Hanger - hangs cuts on trees for smoking.
  - (g) Brander, stamper - brands or stamps cuts.
  - (h) Stockinette man, bagger - places cuts in cotton bags.
  - (i) Ripper - cuts slits in cotton bags.
  - (j) Comber, sciver - attaches slabs of bacon to combs.
  - (k) Tier, lacer - wraps smoked cuts
  - (l) Stapling machine operator, stitching machine operator - operates stapling machine.
  - (m) Smoker, smokehouse man - operates smokehouse.
  - (n) Meat puller - pulls meat-loaded equipment from smokehouse.
  - (o) Stuffer - stuffs meat into casing for smoking.
  - (p) Tree washer - washes trees or racks.
  - (q) Trier, testor, inspector - inserts a trier (similar to ice pick) into cuts to detect sourness by smelling trier.
  - (r) Sewer, stitcher, tier - sews up edges and openings in ham.
  - (s) Fatter - slices excess fat from cuts.
  - (t) Mold packer, ham molder - handpacks boned hams into metal molds.
  - (u) Ham rolling machine operator – operates power-driven machine which winds cord around hams.
  - (v) Ham cooker, cooker, ham boiler - cooks hams.
  - (w) Ham washer - removes hams from molds and washes them.
  - (x) Bacon skin lifter - prepares slabs of bacon for skinning by slicing between the fat and skin at one end of slab.
  - (y) Bacon slicer - operates power-driven bacon slicing machine.
  - (z) Bacon scaler - weighs bacon.
  - (aa) Bacon packer, wrapper - wraps and packs bacon.
- (10) HO 10 permits 16- and 17-year-olds to work in the following occupations in the **lard and oil refining department** (place where fats are converted into lard and various edible oils):
- (a) Rollman, lard rollerman - operates lard roll machine that chills and congeals lard oil preparatory to packaging.

- (b) Lard filling machine operator, filler operator - operates machine which feeds lard into containers.
  - (c) Carton forming machine operator - operates carton forming machines.
  - (d) Conveyor tender - picks up cartons from conveyor belt.
  - (e) Carton packer - packs containers of lard into large cartons or boxes.
- (11) HO 10 permits 16- and 17-year-olds to work in the following occupations in the **tankage or inedible rendering department or independent rendering plants** (places where dead animals, animal offal, animal fats, scrap meats, and bones are rendered into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products):
- Office and clerical occupations and occupations concerned with repair and maintenance of the buildings and grounds.
- (12) HO 10 permits 16- and 17-year-olds to work in the following occupations in the **shipping department**:
- (a) Icer, car icer - ices refrigerator cars or trucks.
  - (b) Runner, trucker - trucks meat from various departments.
  - (c) Carton folder, carton former - operates carton closing machine.
  - (d) Checker - checks quantity and weight of products.
  - (e) Order filler - selects and prepares products for shipment.
  - (f) Scaler, weigher - weighs products.
  - (g) Labeler, marker - labels containers.
  - (h) Packer - packs meat into containers.
  - (i) Wrapper - wraps meats products
- (13) HO 10 permits 16- and 17-year-olds to perform all occupations in the **boiler rooms, engine rooms, laboratories and offices** of slaughtering and meatpacking establishments, rendering plants, or wholesale, retail or service establishments, except those prohibited by another HO.
- (14) HO 10 permits 16- and 17-year-olds to perform all occupations in the **cooperage and box department** except as prohibited by HO's 5, 12 and 14.
- (15) HO 10 permits 16- and 17-year-olds to perform all occupations in the **poultry, rabbit, seafood, small game or egg departments** except those prohibited by other HO's.
- (16) HO 10 permits 16- and 17-year-olds to perform the occupations of operating, feeding, settingup, adjusting, repairing, oiling, or cleaning power-driven **bacon-slicing machines and belly-rolling machines**. The term "bacon-slicing machine" as used in HO 10 refers to those machines which are designed solely for the purpose of slicing bacon and are equipped with enclosure or barrier guards that prevent the operator from coming in contact with the blade or blades, and with devices for automatic feeding, slicing, shingling, stacking, and conveying the sliced bacon away from the point of operation.

**33e10d Exemptions.**

HO 10 does contain an exemption for apprentices and student-learners. No other exemptions are applicable to this order.

**33e10e Enforcement Positions.****(1) Application of HO 10 to handling of hot oils.**

- (a) The original HO 10 banned, among other things, employment of minors in occupations involved in the recovery of lard and oils from slaughtered animals, and the rendering of animal fat. When Congress amended the FLSA in 1961 to cover certain retail and service enterprises, the Department of Labor amended HO 10 to extend to retail establishments, including fastfood and full-service restaurants. Many such restaurants use commercial deep-fat fryers which have various attachments or built-in features to facilitate the refining and/or recycling of cooking fats or oils.
- (b) The refining, removing and/or recycling of cooking fats or oils in restaurants is not a process of “rendering” or “recovery” as described in the original HO 10 [see Reg 570.61(a)(2) and (3)]; neither is such refining, removing and/or recycling of cooking fats or oils covered by any other provision of HO 10. Furthermore, there was no specific change in the FLSA in 1961 to indicate any Congressional intent to include within the HO 10 prohibition, the handling of cooking fats or oils in restaurants.
- (c) Consequently, HO 10 **does not** prohibit minors under age 18 from being employed to clean such restaurant machines, to remove cooking fats or oils from them, or to clean the screening or filtering equipment.

**(2) Application of HO 10 to power-driven meat processing machines and bakery machines with attachments.**

- (a) A meat slicer with a chute attachment for processing hard-to-handle foods is covered by HO 10 as long as the meat-cutting blades are used, even though only non-meat items are being processed. Consequently, a 16- or 17-year-old **may not** operate, dismantle, or reassemble this machine.
- (b) "Food processors" are prohibited if used to process meat. Likewise, bakery machines such as vertical doughmixers that have meat-processing attachments are covered by HO 10 when used to process meat; and HO 11 when used to process dough.

(3) Cleaning of power-driven meatprocessing machines.

- (a) HO 10 prohibits minors under 18 years of age from cleaning power-driven meatprocessing machines. This prohibition does not apply to the cleaning of the individual parts of such machines, including the blades, if the machine is dismantled and reassembled by an adult. This change from WH's previous policy resulted from an ALJ decision which found that cleaning the individual parts of a machine is not the same as HO 10's prohibition regarding "cleaning the machine," [Administrator v. Chrislin, Inc. d/b/a Big Wally's and Walter A. Christensen (ARB Case No. 00-022, ALJ Case No. 99-CLA-5)].
- (b) 29 CFR Part 570.34(b)(6) prohibits the employment of 14- and 15-year-olds in occupations which involve operating, settingup, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, foodchoppers, and cutters, and bakery-type mixers. Such minors may, however, clean the disassembled parts of power-driven meatprocessing machines. The minors may wash these machine parts by hand or by using an automatic dishwasher.
- (c) The positions in (a) and (b) above apply only if the minor does not also dismantle or reassemble the machine. As dismantling and/or reassembling would constitute "adjusting or settingup" under HO 10, only workers 18 years of age and older may perform these tasks.

(4) Power-driven machines determined to be **subject** to HO 10.

- (a) Foodprocessors when used to process meats.
- (b) Meatchoppers when used to grind or chop cheese or other products.
- (c) Liver-skinning machine used to skin squid or other seafood products.
- (d) Meatslicers with tubular feeding attachments.

(5) Power-driven machines determined **not to be subject** to HO 10:

- (a) Meat tenderizers.
- (b) Foodprocessors with attachments used only for processing vegetables.
- (c) Prawnto Shrimp Machine used to devein and cut shrimp.
- (d) Jonsson Shrimp Peeling Machine used to peel shrimp.
- (e) Vegetable slicers.
- (f) Poultry cutters.
- (g) Colton Granulator used to force products through a set of grinder bars and forces the reduced sized products through a preset mesh screen (i.e. granulator is not a meatgrinder).



**A QUICK LOOK AT HO 10  
MEAT PROCESSING AND MEAT SLICERS**

**Occupations/Machines  
PROHIBITED**

**Occupations/Machines  
PERMITTED**

**As It Applies To Slaughtering, Meatpacking, Processing Or Rendering Plants**

All operations involved in the operation of several named power-driven meat processing machines including setting-up, adjusting, repairing, oiling, or cleaning such machines regardless of the product being processed.

All occupations on the killing floor, in curing cellars, and in hide cellars except for work of messengers, runners, hand-truckers which require entering such areas infrequently.

All occupations involved in the recovery of lard and oils, except packaging and shipping of such products and the operation of lard rolling machines.

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.

All boning occupations.

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

All occupations involving handlifting or handcarrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

Minors may operate several named power-driven machines and perform several jobs if not performed on the killing floor, curing cellar, or hide cellar.

May work as messengers, runners and handtruckers if work requires them to enter killing floor, curing cellar, and hide cellar only infrequently.

May perform office and clerical work and occupations concerned with repair and maintenance of buildings and grounds in rendering departments and plants.

May perform all occupations (not prohibited by other HO's) in boiler rooms, engine rooms, laboratories, offices, and the cooperage and box department.

May perform all occupations (not prohibited by other HOs) in poultry, rabbit, small game or egg departments.

## As HO 10 Applies In Wholesale, Retail And Service Stores

### Occupations/Machines PROHIBITED

The operation, feeding, setting up, adjusting, repairing, oiling or cleaning of power-driven meatpatty forming machines; meat and bone cutting saws; **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).

### Occupations/Machines PERMITTED

The use of bacon slicing and belly-rolling machines.

### Enforcement Positions

HO 10 **allows** the use of the following power-driven machines: meat tenderizers; food processors with attachments used for processing vegetables; Prawnto Shrimp Machines used in deveining and cutting shrimp; Jonsson Shrimp Peeling Machines used to peel shrimp; vegetable slicers; and poultry cutters

**Cleaning of Deep Fat Fryers:** HO 10 **does not prohibit** minors from cleaning deep-fat fryers, from removing cooking oils, or from screening or filtering the oils. Such work does not constitute the "recovery of lard or the rendering of fat" under the HO.

A **meat slicer** with a chute attachment for processing hard-to-handle foods is covered by HO 10 as long as the meat-cutting blades are used, even though only non-meat items are being processed. "**Food processors**" are prohibited if used to process meat.

**Cleaning Power-driven Meat Processing Machines.** HO 10 **prohibits** minors from cleaning power-driven meat-processing equipment. This prohibition **does not** extend to the hand-washing of individual parts of the machines if the machine is dismantled and reassembled by an adult.

### Exemptions

HO 10 **does** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

### 33e11 HAZARDOUS OCCUPATIONS ORDER 11 – Power-Driven Bakery Machine Occupations

**Name:** Occupations Involved in the Operation of Bakery Machines

**Effective Date:** July 21, 1952

#### 33e11a Scope of HO 11.

- (1) Historically, many occupational injuries occurring in bakeries are caused by a few specific machines. These injuries are often serious, producing a disproportionate share of deaths or permanent disabilities. HO 11 was issued to prohibit 16- and 17-year-olds from operating certain power-driven bakery machines. This HO is machine specific as discussed in 33e00. The operation by 16- and 17-year-olds of other bakery machines not specifically prohibited by the order, while not encouraged, is permitted.
- (2) This order became effective prior to the 1961 and 1966 FLSA amendments which brought many previously uncovered retail bakeries and stores under the child labor provisions. Some machines prohibited by HO 11 are found in retail bakeries, pizzerias, restaurants and other food service establishments – others are only found in wholesale bakeries. Violations are often found in small bakeries where there is little division of labor and most jobs are performed by all employees.
- (3) The scope of this order includes **operating, assisting to operate and cleaning** the named machines wherever found in a covered establishment. Manually operated (not power-driven) machines are outside the scope of HO 11.

#### 33e11b Occupations PROHIBITED.

Sixteen- and 17-year-olds are prohibited from operating, assisting to operate, setting up, adjusting, repairing, oiling, or cleaning the following power-driven bakery machines:

- (1) Horizontal doughmixer – a horizontal cylinder with a horizontal shaft with mixing arms; revolves to mix the flour with water, yeast, salt, etc. to make dough.
- (2) Vertical doughmixer – a large bowl in which a vertical spindle with paddles attached mixes flour, water, etc. to make dough (often used in small bakeries and some pizzerias).
- (3) Battermixer – very similar to vertical doughmixer, except different shaped paddles are used; often used for making cake batter.
- (4) Bread dividing, rounding, or molding machine – a combination of three separate machines which cut dough into lumps (for one loaf), roll the lump into a ball, and after "proofing", form them into loaves. Operation is continuous, dough being carried from one machine to another by conveyor.

- (5) Doughbrake – a machine which rolls dough into sheets.
- (6) Doughsheeter – a machine which rolls dough into very thin sheets.
- (7) Combination breadslicing and wrapping machine – a machine that slices a loaf of bread and wraps it in a continuous process (generally only found in large, wholesale type bakeries).
- (8) Cake cutting bandsaw – a machine for cutting baked cakes into squares or rectangles.
- (9) Cookie and cracker machines – combination machines which form cookies or crackers from dough. The operation is continuous, dough entering at one end and complete cookies or crackers, ready for baking, emerging at the other end.

**NOTE:** Sixteen- and 17-year-olds may serve on a cookie and cracker machine crew which actually tends the machine while producing cookies or crackers. These minors, however, may not **set up or adjust** these machines [see FOH 33e11c(7)].

### **33e11c Occupations NOT SPECIFICALLY BANNED.**

There are a number of occupations involving the operation of power-driven machines in industrial and retail bakeries that are permitted for 16-and 17-year-old minors, including the following:

- (1) Ingredient preparation and mixing – floursifting machine operator, flourblending machine operator and sack-cleaning machine operator.
- (2) Product forming and shaping – roll-dividing machine operator, roll-making machine operator, batter-sealing machine operator, depositing machine operator, cookie or cracker machine operator (but not setup or adjusting), wafer machine operator, pretzel-stick machine operator, piedough sealing machine operator, piedough rolling machine operator, and pie-crimping machine operator.
- (3) Finishing and Icing – depositing machine operator, enrobing machine operator, spray machine operator, icing mixing machine operator.
- (4) Slicing and Wrapping – roll slicing and wrapping machine operator, cake wrapping machine operator, carton packing and sealing machine operator.
- (5) Panwashing – spray-type panwashing machine operator, tumbler-type panwashing machine operator.
- (6) Donut and pastry filling – donut and pastry filling machines, including Homogenette and similar machines which automatically inject fillings into donuts and pastries.

- (7) Cookie or Cracker Machine Crew Member – Sixteen- and 17-year-olds may work on a crew operating a cookie or cracker machine. These machines, found in some wholesale bakeries, usually require crews of two to six persons. But minors may not perform work involving the setting up or adjusting of the cookie or cracker machine. These tasks, more hazardous than the operation of the machine during production, are usually performed by the crew chief [see FOH 33e11b(9)].
- (8) Bread slicing – Sixteen- and 17-year-old bakery or deli clerks may operate bread slicing and roll slicing machines of the type usually found in retail bakeries.
- (9) Cleaning individual parts of power-driven bakery machines. HO 11 prohibits minors under 18 years of age from cleaning power-driven bakery machines, but this prohibition does not apply to the cleaning of the individual parts of such machines. Only employees over 18 years of age may dismantle or reassemble such machines.

### **33e11d Exemptions.**

There are no provisions in HO 11 for apprentices or student-learners. There are no other exemptions applicable to this order.

### **33e11e Enforcement Positions.**

- (1) Operation and cleaning of power-driven bagel slicers.
  - (a) Bagel slicers which operate as electric knives. Sixteen- and 17-year-old employees may operate and clean power-driven bagel slicers, such as the *Edgcraft Chef's Choice Bagel Pro Bagel Slicer*, which have two blades mounted next to each other running in opposing directions
  - (b) Bagel slicers with circular cutting blades.
    - 1. Some power-driven bagel slicers, like the *Oliver Products Bagel and Bun Slicer* (Model 702) meet the definition of a *circular saw* under HO 14. These machines saw bagels in half by means of a thin steel disc, having a continuous series of notches or teeth on the periphery, mounted on shafting. Although HO 11 does not address such bagel slicers, HO 14 would normally prohibit employees under 18 years of age from operating, setting up, adjusting, repairing, oiling, or cleaning such machines.
    - 2. At the request of WH, the National Institute for Occupational Safety and Health (NIOSH) has examined the operation of these machines and has advised us that employees 16 and 17 years of age who operate and clean such slicers (with circular blades and enclosed feed chutes) are exposed to low safety risks. NIOSH cited the machine's adjustable guard and the manufacturer's warning sign as important contributors to this low degree of risk.

3. WH will not assert a violation of HO 14 when 16- and 17-year-old employees operate a power-driven bagel slicer with a circular blade and enclosed feedchute when the machine is equipped with an adjustable guard that covers the feedchute and the manufacturer's warning sign is affixed to the machine. WH will not assert a violation of HO 14 when 16- and 17-year-old employees clean such machines. Such minors, however, continue to be prohibited from setting up, adjusting, repairing, or oiling such machines.

- (c) All power-driven bagel slicers are "food slicers" under CL Reg. 3 and therefore minors under 16 years of age may not operate, setup, adjust, clean, oil or repair such equipment [see 29 CFR Part 570.34(b)(8)].

(2) Operation of pizza-dough rollers by 16- and 17-year-olds.

- (a) No violation of HO 11 shall be charged for the employment of 16- and 17-year-olds who **operate** pizza-dough rollers 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; which have gears that are completely enclosed; and have microswitches that disengage the machinery if the backs or sides of the rollers are removed. This policy applies to such machinery provided that all safeguards are present on the machine, are operational, and cannot be overridden.
- (b) The policy described in (a) above does not extend to minors who set up, repair, oil or clean the assembled machine. Violations shall be charged if workers under 18 years of age setup, repair, oil or clean this equipment.

(3) Operation of piedough rollers by 16- and 17-year-olds.

- (a) The original investigative report establishing HO 11 determined that the operation of piedough rollers by 16- and 17-year-olds is safe, however, this determination applies only to those piedough rollers which involve a **completely automated process** as used in large wholesale bakeries.
  1. This process includes the use of a piedough scaling machine which automatically cuts a predetermined portion of piedough and drops it into the "hopper feed" of the piedough roller. The piedough roller then flattens the dough and automatically rotates the dough through an arc of 90°. The piedough is again flattened to form the desired final shape. The entire process eliminates any hand contact by the operator with the rollers during operation.
  2. If a piedough roller operates as described above – in an entirely automatic process with a machine that cuts the dough into predetermined portions and drops it into a hopper feed or chute attachment that prevents an operator from making contact with any in-running points of the rollers – 16- and 17-year olds may operate this equipment.
  3. If the piedough roller does not operate as described above, it is prohibited by HO 11.

- (b) Certain piedough rolling machines are very similar to pizza-dough roller machines in appearance and function. HO 11 prohibits the operation of all piedough rollers except those described in (a) above. However, a violation of HO 11 shall not be charged for the employment of 16- and 17-year-olds who **operate** piedough rollers that are constructed with safeguards contained in the basic design that prevent fingers, hands, and 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. The policy applies to such machinery provided that all safeguards are present on the machine, are operational, and cannot be overridden. This “no violation” policy does not extend to minors who setup, repair, oil or clean this equipment.
- (4) Application of HO 11 to doughmixers used to mix ingredients other than dough or batter and to attachments designed for uses other than dough or batters.
- (a) Under HO 11 the function of the agitators determines coverage of the HO. Therefore, a dough mixer used to mix vegetables is covered by HO 11 if the same agitators are used as for mixing dough. Agitators such as the flat beater, heavy-duty wirewhip, dough arm, and sweet dough arm are covered by HO 11 because they are designed for use with dough and batter. However, if the machine is equipped with separate agitators designed for use with vegetables or with icing, the functional use of the machine would be different and it would not be covered.
- (b) D-Wire Whip – Occasionally, manufacturers will report that some attachments are designed solely for use on products lighter than dough or batters such as whipping cream, egg whites, light icings, and meringues. This was the case with the D-Wire Whip manufactured by Hobart. Field experience has documented that employers are using the D-Wire-Whip to mix batters and other items like cream cheese despite the intentions or statements of the manufacturer. When 16- and 17-year-olds mix batter, cream cheese, or dough using a power-driven battermixer or doughmixer, a violation of HO 11 shall be charged regardless of the design specifications or intentions of the manufacturer.
- (c) I-Wire Whip – The I-Wire Whip attachment, which is used for heavier products such as cake batter and heavy whipping cream, is also prohibited by HO 11 for use by 16- and 17-year-olds.

## A QUICK LOOK AT HO 11 BAKERY MACHINERY

### Occupations/Machines PROHIBITED

Horizontal Doughmixer  
Vertical Doughmixer  
Battermixer  
Bread Dividing, Rounding, Slicing  
and wrapping  
Doughbrake and Doughsheeter  
Combination Bread Slicing and  
Wrapping Machine - Wholesale  
Bakery Type  
Cookie/Cracker Machine setup  
or adjustment  
Cake-cutting Bandsaw

### Occupations/Machines PERMITTED

Ingredient Preparation and Mixing  
Product Forming and Shaping  
Finishing and Icing  
Doughnut and Pastry  
Filling Machine  
Molding Machine  
Bread Slicing and Wrapping  
Machine - Retail Bakery  
Type  
Cookie/Cracker Machine  
Crewmember  
Panwashing

### Enforcement Positions

**Cleaning of bakery machines** - HO 11 **prohibits** minors from cleaning power-driven meat-processing equipment. This prohibition **does not** extend to the hand-washing of individual parts of the machines if the machine is dismantled and reassembled by an adult.

**Pizza Dough Rollers** - no violation for operators if machine has roller safeguards, enclosed gears and microswitches that turn off the machine if it is opened.

**Piedough Rollers** - are permitted in large wholesale bakeries when the automated process ensures minors do not handle the dough. But those pie rollers that operate like pizza dough rollers are prohibited unless they have the roller safeguards, enclosed gears and microswitches that turn off the machine if it is opened.

**"D Wire Whip"** (used on dough mixers) - are permitted if used to mix vegetables or items other than batter; are prohibited if used to mix batter.

**Bagel slicers with circular saw** - 16- and 17-year-old minors may operate and clean if blade is enclosed, adjustable guard is in place, and manufacturer's warning signage is in place. All other power-driven bagel slicers are permitted.

### Exemptions

HO 11 **does not** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.



### 33e12 HAZARDOUS OCCUPATIONS ORDER 12 - Power-Driven Paper-Products Machines

**Name:** Occupations involved in the operation of paper-products machines

**Effective Date:** September 11, 1954

#### 33e12a Scope of HO 12.

- (1) HO 12 was issued in response to the finding that the paper-products industry experienced a somewhat higher general frequency of injury rate than all manufacturing industries as a whole, and a somewhat higher frequency of the more serious types of injuries and of deaths. The prohibitions regarding scrap paper balers were established to combat the dangers of being caught in the plungers during the compression process and suffering strains and other injuries while moving the compressed bales.
- (2) HO 12 prohibits those under 18 years of age from operating and assisting to operate certain power-driven machines used in the manufacture or conversion of paper or pulp into a finished product or in the preparation of such products for recycling or disposal. The HO applies wherever the machines are located when operated by a covered employee.
- (3) Definitions.
  - (a) The term *operating or assisting to operate* shall mean all work which involves starting or stopping a machine covered by this HO, placing or removing materials into or from the machine (see exemption section), or any other work directly involved in operating the machine. This 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.
  - (b) The term *paper-products* machine shall mean all power-driven machines used in:
    - (1) the remanufacture or conversion of paper or pulp into a finished product, including preparation of materials for recycling; or
    - (2) the preparation of such materials for disposal - whether the machines are used in establishments that manufacture converted paper or pulp products or in any other type of establishment.

#### 33e12b Occupations PROHIBITED.

- (1) HO 12 prohibits 16- and 17-year-olds from operating, assisting to operate, setting up, adjusting, repairing, oiling or cleaning the following power-driven paper-products machines, including those which do not involve hand feeding:

- (a) Arm type wire stitcher or stapler – a power-driven machine, operated by a foot treadle, which stitches cartons together. The carton is held by the operator during the operation. May be single action or it may operate continuously.
- (b) Circular or bandsaw – similar to and operating the same as woodworking saws, used for sawing fiber or corrugated paper stock. It is hand-fed.
- (c) Corner cutter or mitering machine – a type of punch press used for cutting away corners for setup box blanks. May be horizontal or vertical, cutting one corner (single) or two corners (double) at a time. It is hand-fed, treadle operated, operating continuously when pedal is depressed.
- (d) Corrugating and single- or double-facing machine – a large machine which combines plain paperboard (liners) with corrugated paper (filler) to form corrugated paperboard. Single facing means a liner on one side; double facing means liners on both sides. Machine consists of a series of rolls which corrugates the center and glues the facing to it. Operates continuously from rolls of paper stock, cutting to size as the last operation.
- (e) Envelope die-cutting press – a machine for cutting envelope blanks. A die is placed by hand on a stack of paper and a plunger forces the die through the paper. May be single-acting or continuous in operation.
- (f) Guillotine papercutter or shear – a machine consisting of a heavy knife blade held vertically by the headwork of the machine used for cutting flat paper stock. Paper is placed on the bed of the machine by hand and the machine operated by a foot treadle, hand lever, or two-handed tripping device. Machine is single action, making one stroke at a time.
- (g) Horizontal bar scorer – a little used machine for scoring (cutting part-way through) heavy fiber stock. A die is supported by a head frame and when operated, descends into the fiber. The machine is foot operated and hand-fed.
- (h) Laminating or combining machine – a machine for gluing together two or more piles of paper to make a fiberboard. Operates in same manner as corrugating and single- or double-facing machine.
- (i) Sheeting machine – a machine for cutting sheets of paper from a roll of paper. Knives, mounted on revolving arms, cut the paper as it goes through the machine. It operates continuously, the operator threading the paper through the machine and taking away the cut sheets.
- (j) Scrap paper baler – a machine for compressing scrap paper into a bale and, quite possibly, fastening it with metal straps.
- (k) Vertical slotter – a machine for cutting slots in fiberboard or boxboard stock by means of a die which descends when the machine is operated. It is hand-fed, foot or hand operated. The

eccentric type employs a toothed die, actuated by a horizontal eccentric-revolving shaft. It operates continuously and is hand-fed.

- (2) HO 12 prohibits 16- and 17-year-olds from operating platen diecutting presses, platen printing presses, and punch presses which involve hand-feeding of the machines. It also prohibits these minors from setting up, adjusting, repairing, oiling or cleaning **all** these types of machines, regardless of whether hand-fed or automatically fed.
- (a) platen diecutting press – a machine for cutting paper stock by means of a die mounted on the frame of the press (the chase). Paper is placed on the platen which swings up against the die. It operates continuously.
- (b) platen printing press – a machine similar to a platen diecutting press, except that type for printing is mounted in the chase, instead of a die.
- (c) punch press – a machine for cutting out paper stock by means of a die, mounted on a plunger, which descends when the press is operated. May be operated by foot treadle, lever, or two-handed tripping device. May be single-acting or continuous.

### **33e12c Occupations NOT SPECIFICALLY BANNED.**

- (1) There are many machines used in the paper-products industries which are not covered by this HO. The most important of these machines are the following:

Bag machine, bagmaking machine	Lacer machine
Bottoming machine (bags)	Parchmentizing, waxing, or coating machines
Boxmaking machine (collapsible boxes)	Partition assembling machine
Bundling machine	Quadruple stayer
Calendar roll and plating machine	Rewinder
Cigarette carton opener and tax stamping machine	Rotary printing press
Clasp machine	Ruling machine
Counting, stacking, and ejecting machine	Slitting machine
Corner stayer	Straw winder
Covering, lining, or wrapping machines (setup boxes)	Stripping machine
Creping machine	Taping machine
Dornbusch machine (wallpaper)	Tubecutting machine
Ending machine (setup boxes)	Tubemachine (paper bags)
Envelope machine	Tubewinder
Folding machine	Window patch machine
Gluing, scaling, or gumming machine	Wire- or tag-stringing machine
Interfolding machine	
Jogging machine	

- (2) HO 12 does not apply to machines which process leather or any substance other than paper or paper products.

**33e12d Exemptions.**

- (1) HO 12 contains an exemption for student-learners and apprentices.

- (2) Loading of certain scrap paper balers and paper box compactors.

- (a) Public Law 104-174, signed August 6, 1996, amends section 13(c) of the FLSA and modifies HO 12 to permit minors 16 and 17 years of age to load (**but not operate or unload**) certain scrap paper balers and paper box compactors **if all of the following requirements are met:**

1. The employer must ensure that the equipment meets, and continues to meet, the American National Standards Institute's (ANSI) Standard ANSI Z245.5-1990 for scrap paper balers or Standard ANSI Z245.2-1992 for paper box compactors.
  - a. The ANSI standards are industry standards which govern the design, manufacture, operation and maintenance of the equipment.
  - b. Copies of the standards are available in each RO. The standards are technical and should it be absolutely necessary to make a determination regarding whether a specific machine meets the applicable standard, contact the NO Child Labor and Special Employment Team for guidance.
  - c. The FLSA does permit the Secretary to adopt any newer ANSI standards under HO 12 once it is determined that they are at least as protective as the two standards listed above.
2. The employer must provide notice and post a notice on each piece of equipment that:
  - a. The equipment meets the appropriate ANSI standard named above; and
  - b. Sixteen- and 17-year-olds may only load the equipment; and
  - c. Any employee under 18 may not operate or unload such equipment.
3. The equipment must include an on-off switch incorporating a keylock or other system, and the control of the system must be maintained in the custody of employees who are at least 18 years of age.
4. The on-off switch of the equipment must be maintained in an off position when the equipment is not in operation.
5. The equipment cannot be operated while it is being loaded.

- (b) The language and legislative history of the amendment make it clear that it is the responsibility of the employer to make the initial determination that the equipment to be loaded by 16- and 17-year-olds meet the appropriate ANSI standards. It is also the employer's responsibility to provide the notice and post it on each piece of equipment which is loaded by 16- and 17-year-olds. For enforcement purposes, the posting of the notice will also satisfy the requirement that notice be provided.
- (c) The amendment also required that employers report to DOL any injuries that occurred to minors because of contact with balers or compactors. These reporting requirements expired on August 5, 1998.

**Note:** The NO will soon commence rulemaking to revise 29 CFR Part 570.63 to comport with the provisions of Public Law 104-174.

### **33e12e Enforcement Positions.**

#### **(1) Paper box compactors.**

Scrap paper balers are specifically identified in HO 12 as prohibited paper-products machines.

Paper box compactors generally perform the same function as scrap paper balers (even if they do not wrap the bale with wire or metal straps), and present the same danger of being caught in the machine during the compression process. Therefore, paper box compactors that utilize the same process of compacting and bailing as scrap paper balers (i.e., those using power-driven high pressure compression to convert loose paper or paper products into dense masses or bales) are the type of machines contemplated in the report implementing HO 12. Where such machines are used for compacting paper boxes or other paper products, HO 12 coverage will be asserted. The requirement that paper-products machines must recycle paper products or remanufacture them into a finished product for HO 12 coverage was eliminated with the amendments to HO 12 effective December 20, 1991. As of that date, the named paper-products machines used to prepare paper for disposal are also covered by HO 12.

#### **(2) Laminators and packaging machines.**

- (a) The type of laminators prohibited by HO 12 are those used to laminate or combine two or more sheets of paper or cardboard to form a multiple-ply product by applying an adhesive and running the paper through various pressure rolls.
- (b) Laminators, such as the GBC Pouch Laminator, which are designed to encase a document such as an identification card between two pieces of plastic by using heat in a simple process, are not subject to HO 12.
- (c) Machines designed to enclose and seal products (i.e., pills and capsules) in packaging consisting primarily of plastic or foil and some cardboard or paperboard, are not within the scope of HO 12. Names for this type of machine include dry mounting/laminating press; jumbo sealer; and the euclid cadet or cadet twin unit dose strip packaging machine.

(3) Silk Screen printing press.

This equipment, when designed to function in the same manner as the platen printing press, is prohibited for use by persons under the age of 18.

(4) Three spindle paper drill (Challenge Model EH-3A for example).

This equipment, used for die-cutting or embossing operations, operates in the same manner as a hand fed punch press. Minors under 18 years of age are prohibited from operating this equipment.

(5) Kansmacker.

The kansmacker is a power-driven machine that sorts, counts and flattens beverage cans. It is not covered by HO 12.

(6) Decollators and bursters.

A decollator is a machine which separates stacks of multi-part paper into individual stacks (for each copy) while removing the carbon paper. It is often capable of trimming the pin-feed holes from one or both sides. A burster is a machine that takes continuous single copy and bursts it into individual sheets or pages. These machines do not come within the definition of paper - products machines and are not covered under HO 12.

(7) Cylinder press.

HO 12 does not prohibit the operation of a cylinder press. Such machines are considered much less hazardous than platen presses, where feeding takes place at the point of operation.

(8) Paper shredders.

The operation of paper shredders is not prohibited by HO 12. In addition, paper shredders of the type normally used in offices may be operated by minors 14 and 15 years of age.

## **A QUICK LOOK AT HO 12 PAPER PROCESSING MACHINES**

### **Occupations/Machines PROHIBITED**

Operate or assist to operate:  
Arm type stitcher or stapler  
Circular or bandsaw  
Corner cutting or mitering machine  
Corrugating and single- or  
double-facing machine  
Envelope die-cutting press  
Guillotine papercutter or shear  
Horizontal bar scorer  
Laminating or combining machine  
Sheeting machine  
Scrap paper baler  
Vertical slotter

Operate platen diecutting press, platen printing press, and punch press which involve hand feeding. May not setup, adjust, repair, oil or clean such equipment, even those not involving hand feeding.

### **Occupations/Machines PERMITTED**

Load certain scrap paper balers and paper box compactors under specified conditions.

Load platen diecutting press, platen printing press, and punch press as long as hand feeding is not involved.

Operate rotary and cylinder presses.

### **Enforcement Positions**

**Paper Box Compactors** – Paper box compactors which utilize the same process of compacting as scrap paper balers are covered under HO 12.

**Paper Shredders** – The operation of paper shredders is not prohibited by HO 12. In addition, paper shredders of the type normally used in offices may be operated by minors 14 and 15 years of age.

**Pouch Laminators** – Laminators designed to encase documents such as ID cards between two pieces of plastic by using a heat process are **not** subject to HO 12.

## **Exemptions**

HO 12 **does** contain an exemption for Apprentices and Student-Learners.

Sixteen- and 17-year-olds **may load** (but not operate or unload) those scrap paper balers and paper box compactors which meet appropriate ANSI standards when:

1. The employer ensures that the equipment meets the appropriate ANSI Standard.
2. The employer provides and posts notice that the equipment meets the appropriate ANSI Standard, that 16- and 17-year-olds may only load the equipment, and any employee under 18 may not operate or unload such equipment.
3. The equipment includes an on-off switch incorporating a keylock or other system, the control of which is maintained in the custody of employees who are at least 18 years of age.
4. The on-off switch is maintained in an off position when the equipment is not in operation.
5. The equipment cannot be operated while it is being loaded.



**33e13 HAZARDOUS OCCUPATIONS ORDER 13 – Brick, Tile, and Kindred Products**

**Name:** Occupations Involved in the Manufacture of Brick, Tile, and Kindred Products

**Effective Date:** September 1, 1956

**33e13a Scope of HO 13.**

- (1) The rate of injuries in the clay/silica construction products industry (as determined by the report establishing HO 13) exceeded the injury rate (including serious injuries) found in the majority of manufacturing establishments. The report attributed the higher frequency of worker injuries in this industry to: lifting, carrying, and pushing heavy objects; bricks falling on workers from stacks or out of the workers' hands onto themselves, vehicle - pedestrian accidents, machine injuries, and falls caused by slippery floors. The report recommended that a Hazardous Occupations Order be created to ban the employment of minors in most occupations in the clay/silica construction products industry.
- (2) HO 13 is industry specific. It applies to all work in or about plants manufacturing clay construction products – except work in the drying departments of plants manufacturing sewer pipe, in storage and shipping, in offices, in laboratories, and in storerooms. It also applies to work in or about plants manufacturing silica brick, or other silica refractories, except work in offices.
- (3) Definitions.
  - (a) The term *clay construction products* includes the following: 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 **does not** include non-structural clay products, such as ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience and similar tile. Nor does the term include non-clay construction products such as sand-lime brick, glass brick, or non-clay refractories.
  - (b) The term *silica brick or other silica refractories* means refractory products produced from raw materials containing free silica as their main constituent.
  - (c) The terms *drawing and wheeling* shall mean the process of removing brick, after it has cooled, from the kiln to storage.

**33e13b Occupations PROHIBITED.**

- (1) All occupations (except those permitted in by 33e13(c)(1)) in or about establishments engaged in manufacturing clay construction products. Examples of prohibited occupations/machines include: crushers, granulators, dry pans, and screens; storage bin work; operators of pugmills, auger or extrusion machines; cutting machines; hackers; car pushers; sewer pipe press crew; brick forming machine crew; glaziers; setters, tossers; burners; and drawers.

- (2) All work/occupations (except in offices) in establishments engaged in manufacturing silica brick or other silica refractories.

**33e13c Occupations NOT SPECIFICALLY BANNED.**

- (1) The following are permissible occupations for establishments in the clay construction products industry:
- (a) Work in storage and shipping.
  - (b) Work in offices.
  - (c) Work in the drying departments of plants manufacturing sewer pipe.
- (2) Work in offices in establishments manufacturing silica brick or other silica refractories.

**33e13d Exemptions.**

There are no provisions in HO 13 for apprentices or student-learners. There are no other exemptions applicable to this order.

**33e13e Enforcement Positions.**

- (1) Glazing of cylinders.

Work in and about a plant where silica, lime, and asbestos are mixed together to form a glaze (subsequently used to coat the inside of cylinders) is work prohibited by HO 13. The glaze contains free silica as a main constituent; consequently, the area where it is produced meets the definition of an establishment where silica refractories are manufactured [see 570.64(a)(2) and 570.64(b)(2)]. In light of the preceding, work in or about such an establishment is prohibited.

- (2) Asbestos.

Asbestos is a form of magnesium silicate; however, it does not contain any free silica. Since it does not contain free silica, establishments manufacturing asbestos are not making a silica refractory and are not covered by HO 13.

- (3) Shipping and storage of brick.

- (a) Preparing bricks for storage, inside the manufacturing building and adjacent to the kilns (even after the bricks have been removed from the kiln and placed on flat cars), is work covered by HO 13. For example: stacking the bricks on skids, and strapping them down in order to move them to a storage area outside the building, is work considered to be within the drawing and wheeling department and not within the purview of storage and shipping.

(b) Removing bricks from inside the kiln in the process of loading them or moving them to storage, is not work in storage and shipping, and therefore is covered by HO 13.

(4) Clay draintile.

The setting and drawing of tile in clay draintile plant is **prohibited** by HO 13.

**A QUICK LOOK AT HO 13  
MANUFACTURE OF BRICK AND TILE**

**Occupations/Machines  
PROHIBITED**

All occupations (unless stated otherwise) in or about establishments engaged in manufacturing clay construction products.

All occupations (unless stated otherwise) in or about establishments engaged in manufacturing silica brick or other silica refractories.

**Occupations/Machines  
PERMITTED**

Work in offices and in storage and shipping departments in the clay construction products industry.

Work in offices in establishments which manufacture silica brick or silica refractories.

**Enforcement Positions**

**Silica, asbestos, and lime glaze** used to coat the inside of cylinders is a silica refractory, and work in or about the area where this process occurs is **prohibited** work under HO 13.

The setting and drawing of tile in **clay draintile** plants is **prohibited** by HO 13.

**Preparing bricks for storage** inside the manufacturing building and adjacent to the kilns is work **prohibited** by HO 13.

Removing bricks from **inside the kiln** when loading or moving them to storage is work **prohibited** by HO 13.

**Exemptions**

HO 13 does **not** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

**33e14 HAZARDOUS OCCUPATIONS ORDER 14 – Power-Driven Circular Saws, Bandsaws, and Guillotine Shears**

**Name:** Occupations involved in the operations of circular saws, bandsaws, and guillotine saws.

**Effective Date:** November 15, 1960

**33e14a Scope of HO 14.**

(1) HO 14 is broad and embraces the use of circular saws, band saws and guillotine shears wherever they are used – other than in the industries where they are already prohibited by earlier HO's. This HO differs from most other HO's in that it recognized that the above named machines, although inherently dangerous, were banned only in specific industries or when used on specific materials (paper, meat, metal). The use of most saws and shears is prohibited by HO's 4, 5, 8, 10, 11, and 12. HO 14 was issued to "close the gap" and protect youths working in other industries where such machines are used.

(a) Examples include:

HO 4 prohibits the use of saws by minors in lumbering operations and sawmills.

HO 5 prohibits the use of saws in woodworking operations such as furniture factories and construction sites.

HO 8 prohibits the use of guillotine shears on metal.

HO 10 prohibits the use of saws to cut meat and bones.

HO 11 prohibits the use of saws to cut bakery products.

HO 12 prohibits the use of saws and shears to cut paper products.

(b) There is no concurrent application. HO 14 does not apply in any of the industries/materials where saws or shears are prohibited by another HO.

(2) HO 14 became effective before the 1961 and 1966 amendments to the FLSA that made previously noncovered retail stores subject to the child labor provisions. Since the scope of HO 14 is broad, it can be applied to circular saws, bandsaws, and guillotine shears found in all establishments covered by the FLSA.

(3) The scope of this order includes operating, assisting to operate, setting up, adjusting, repairing, oiling and/or cleaning of the saws or shears wherever found in a covered establishment.

- (4) HO 14 covers only power-driven equipment; any occupation that involves only manually operated saws or shears (not power-driven) is outside the scope of the HO.
- (5) Definitions.
- (a) The term *circular saw* shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.
  - (b) The term *bandsaw* shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.
  - (c) The term *guillotine shear* shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.
  - (d) The term *operator* shall mean a person who operates a machine covered by this HO by performing such functions as starting or stopping the machines, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.
  - (e) The term *helper* shall mean a person who assists in the operation of a machine covered by this HO by helping place materials into or removing them from the machine.
  - (f) The term *machine equipped with full automatic feed and ejection* shall mean machines covered by this HO which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his or her body in the point-of-operation area.

#### **33e14b Occupations PROHIBITED.**

- (1) HO 14 prohibits minors from performing the occupations of operator of, or helper on, power-driven circular saws, bandsaws and guillotine shears which are not equipped with full automatic feed and ejection.
- (2) HO 14 prohibits minors from performing the occupations of settingup, adjusting, repairing, oiling, or cleaning power-driven circular saws, bandsaws, and guillotine shears, regardless of the manner items are fed into or ejected from the machines.

**33e14c Occupations NOT SPECIFICALLY BANNED.**

Minors may operate or help in the operation of circular saws, bandsaws and guillotine shears when the equipment is fitted with devices for full automatic feeding and ejection and with a fixed guard which prevents operators or helpers from placing any part of their bodies in the point-of-operation area.

**33e14d Exemptions.**

HO 14 does provide an exemption for student-learners and apprentices. No other exemptions apply.

**33e14e Enforcement Positions.**

- (1) HO 14 does not apply to the following machines as they fail to meet the specific definitions of circular saws, bandsaws or guillotine shears:

Abrasive Wheels	Circular Shears	Jigsaws
Alligator Shears	Disc Grinders	Paper Shredders
Circular Knives	Friction Saws	Wire Saws

- (2) **Bagel slicers** – WH will not charge a violation of HO 14 when 16- or 17-year-old employees operate or clean certain types of bagel slicers that meet the HO's definition of a *circular saw* [see FOH 33e11e(1)(b)3].

## A QUICK LOOK AT HO 14 SAWS AND SHEERS

### Occupations/Machines PROHIBITED

Occupations of operator of, and helper on, the following power-machines when the machines **are not** equipped with full automatic feed and ejection:

Circular Saws  
Bandsaws  
Guillotine Shears

Occupations of settingup, adjusting, repairing, oiling, or cleaning circular saws, bandsaws, or guillotine shears regardless of the manner items are fed into or ejected from the machine.

### Occupations/Machines PERMITTED

Occupations of operator of, and helper on, the following power-driven machines when the machines **are** equipped with full automatic feed and ejection:

Circular Saws  
Bandsaws  
Guillotine Shears

### Enforcement Positions

HO 14 does not apply to other power-driven equipment which fail to meet the specific definitions of circular saws, bandsaws or guillotine shears.

**Bagel slicers with circular saw** – 16- and 17-year-old minors may operate and clean if blade is enclosed, adjustable guard is in place, and manufacturer's warning signage is in place. All other power-driven bagel slicers are permitted.

### Exemptions

HO 14 **does** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.



**33e15 HAZARDOUS OCCUPATIONS ORDER 15 - Wrecking, Demolition, and Shipbreaking Operations**

**Name:** Occupations involved in wrecking, demolition, and shipbreaking operations.

**Effective Date:** November 15, 1960

**33e15a Scope of HO 15.**

- (1) The study promulgating HO 15 noted that wrecking and demolition work is fraught with many hazards including those involved with maintaining and operating power equipment; falls from many levels while working on scaffolds, on insecure walls and around unguarded material chutes; being struck by falling objects or swinging loads; collapse of walls; and other hazards such as the dangers of high voltage, fire, explosions, and muscle strains from handling heavy materials.
- (2) HO 15 is industry-wide and deals with occupations performed on the site of total or partial razing, demolishing, or dismantling of buildings, bridges, steeples, towers, chimneys, other structures, ships or other vessels, including cleanup and salvage work.
- (3) Definitions.

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

**33e15b Occupations Prohibited.**

All work, including cleanup and salvage work, performed at the site of the wrecking, demolition or shipbreaking operations.

**33e15c Occupations Not Specifically Banned.**

None.

**33e15d Exemptions.**

HO 15 does not contain an exemption for student-learners or apprentices. No other exemptions are applicable.

**33e15e Enforcement Positions.****(1) Demolition work.**

To be subject to HO 15, demolition work must be extensive, not just in conjunction with remodeling or repair work. Contact the NO Child Labor and Special Employment Team for guidance should questions arise as to whether a specific demolition project falls within the scope of HO 15.

**(2) Asbestos removal.**

The removal of asbestos or other hazardous materials from a building or other structure prior to demolition is not uncommon – it makes the work safer. Such work is subject to HO 15. But if the hazardous materials are being removed from the building or components of the building, such as pipes, and the building or the components remain in place to be re-insulated or recovered, the removal work will not constitute “demolition work” and is not covered by HO 15.

## **A QUICK LOOK AT HO 15 WRECKING AND DEMOLITION**

### **Occupations/Machines PROHIBITED**

All work in wrecking, demolition and shipbreaking performed onsite (place where a building, bridge, steeple, tower, chimney, ship or other structure is totally or partially razed, demolished, or dismantled).

### **Occupations/Machines PERMITTED**

None.

### **Enforcement Positions**

**Demolition work** – To be covered by HO 15, demolition work must be extensive and not just in conjunction with remodeling or repair work.

### **Exemptions**

HO 15 does **not** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

**33e16 HAZARDOUS OCCUPATIONS ORDER 16 - Roofing Operations**

**Name:** Occupations in Roofing Operations

**Effective Date:** December 27, 1961

**33e16a Scope of HO 16.**

- (1) At the time HO 16 was written, roofing had long been recognized as one of the most hazardous occupations in the building construction industry. The report establishing HO 16 determined the hazards associated with roofing – such as falling from roofs and leaning out over the edge of a roof to receive hoisted materials – were difficult to control and the resulting injuries were frequently very serious. In light of this, the report concluded that “all work performed in connection with the application of weatherproofing materials and substances to the roofs of buildings and structures is too hazardous for the employment of 16- and 17-year-old persons.”
- (2) HO 16 is industry-specific. Its scope includes all occupations in roofing operations, including those occupations not performed on a roof.
- (3) Definitions.
  - (a) The term *roofing operations* shall mean all work performed in connection with the application of weatherproofing materials and substances to roofs of buildings or other structures.
    1. Roofing operations shall also **include** work performed in connection with:
      - a. The installation of roofs, including related metalwork such as flashing, and
      - b. Alterations, additions, maintenance, and repair, including painting and coating, of existing roofs.
      - c. The installation of underlayment such as asphalt-prepared paper, tar paper, roofing paper, felt paper, membranes and ice dams.
    2. The term roofing operations **does not include** gutter and downspout work; the construction of sheathing or base of roofs, or the installation of television antennas, air conditioners, exhaust and ventilating equipment, or similar appliances attached to roofs.
  - (b) The term *weatherproofing materials and substances* shall include such things as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood.

**33e16b Occupations PROHIBITED.**

HO 16 prohibits all occupations in roofing operations. This includes work done on the ground such as material handling, tending tar kettles, and cleanup work.

**33e16c Occupations NOT SPECIFICALLY BANNED.**

HO 16 does not prohibit the following occupations:

- (1) Gutter and downspout work.
- (2) Construction of sheathing or base of roofs.
- (3) Installation of television antennas, air conditioners, exhaust and ventilation equipment, or similar appliances attached to roofs.

**33e16d Exemptions.**

HO 16 does contain an exemption for student-learners and apprentices. There are no other exemptions applicable to this order.

**33e16e Enforcement Positions.**

- (1) Removal of an old roof.

The tearing off of the old roof in conjunction with the installation of a new roof is considered a “roofing operation” and is **covered** under HO 16, notwithstanding that different mechanics may perform this work in various geographic areas.

- (2) Metal buildings.

- (a) Research of area practices in the construction industry discloses that the new construction of metal buildings, including roofing work, is done entirely by ironworkers, steelworkers, or sheetmetal mechanics – not by roofers. Consequently, in most instances, this work is not considered a “roofing operation” and not prohibited by HO 16. Note: Rulemaking is being undertaken that would expand the scope of coverage of HO 16 to include all work in roofing occupations and on or about a roof – thereby prohibiting roofing work in conjunction with the construction of new metal buildings. Until that rulemaking is complete, the above interpretation remains in effect.
- (b) Roofing companies do occasionally remove existing all-metal roofs and replace them, and the purlins, with a new roof. In this case, the work is considered to be a “roofing operation” covered by HO 16.

(3) Weatherproofing the top of television transmitting towers.

The definition of a *roofing operation* includes the application of weatherproofing materials to roofs of buildings, **or other structures** (see Reg 570.67(b)). The original Order did not define *roof* and the SOL has recommended adopting the Webster's New Collegiate Dictionary definition of "*the top or summit*" as the definition of a *roof*. In light of the preceding, weatherproofing the top of television transmitting towers is covered by HO 16.

(4) Measuring a roof.

The measuring of a roof to estimate the cost of a new roof is work "performed in connection with the installation of roofs..." and it is covered by HO 16.

## A QUICK LOOK AT HO 16 ROOFING

### Occupations/Machines PROHIBITED

Work in connection with the application of weatherproofing materials and substances to roofs of buildings or other structures. This includes work performed on the ground.

Work in connection with the installation of roofs, and alterations, additions, maintenance and repair including painting and coating of existing roofs. This includes work performed on the ground.

### Occupations/Machines PERMITTED

Gutter and downspout work.

Construction of sheathing or bases of roofs.

Installation of television antennas and other similar appliances attached to roofs.

### Enforcement Positions

The **removal of old roof** when done in preparation for the installation of a new roof is **covered** under HO 16.

Roofing work done in connection with the **new construction of metal buildings** is not covered by HO 16.

**Measuring a roof** to estimate the cost of a new roof is work **covered** by HO 16.

HO 16 **does** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.

**33e17 HAZARDOUS OCCUPATIONS ORDER 17 - Excavation Operations**

**Name:** Occupations in Excavation Operations

**Effective Date:** May 9, 1963

**33e17a Scope of HO 17.**

- (1) Individuals employed in excavation operations (which includes trenching, building excavation, tunneling, and shaft sinking) are exposed to injury-producing hazards such as cave-ins, falls climbing in and out of the excavated site, working in close proximity with heavy earthmoving machines, and the fall of rock from the sides and roof of the site. Excavation operations were selected for study, according to the report establishing HO 17, because several States had requested an investigation by the Department and because the Department had received many reports concerning minors being injured while employed in excavation operations. Fatalities and injuries resulting from cave-ins is still a problem in the construction industry. On April 17, 1998, the National Institute of Occupational Safety and Health (NIOSH) issued a "warning" concerning the danger of cave-ins. This report stated that six workers were killed by cave-ins in the first four months of 1998, and that, on average, 60 people die each year in accidents caused by cave-ins.
- (2) HO 17 is process specific. The scope of HO 17 includes all work excavating, working in, and backfilling trenches; excavating for buildings or other structures and working in such excavations; driving tunnels; and sinking shafts. It does not include site clearing or surface grading operations, dredging and borehole drilling operations, and mining and quarrying operations covered by HO's 3 and 9.
- (3) Definitions.
  - (a) The term *excavation operation* means the removal of earth, rock, or other material to form a cavity below the surface of the ground. The term trenches includes ditches.
  - (b) The term *angle of repose* is that angle where the soil comprising the cut sidewalls no longer moves or it is at rest.

**33e17b Occupations Prohibited.**

- (1) HO 17 prohibits minors from working in occupations in excavating, working in, or backfilling (refilling) trenches [except they may manually excavate/backfill and work in trenches which do not exceed four feet in depth at any point - see FOH 33e17(c)(1)].
- (2) HO 17 prohibits minors from working in occupations in excavating for buildings or other structures, or working in such excavations [except they may manually excavate to a depth not exceeding four feet below any ground surface adjoining the excavation and they may work in any excavation not exceeding four feet or where the side walls are shored or sloped to the angle of repose - see FOH 33e17(c)(2)].



- (3) HO 17 prohibits minors from working in tunnels prior to the completion of all driving and shoring operations.
- (4) HO 17 prohibits minors from working within shafts prior to the completion of all sinking and shoring operations.

### **33e17c Occupations NOT SPECIFICALLY BANNED.**

- (1) **Trenches:** Sixteen- and 17-year-olds may manually excavate, manually backfill, and work in trenches which do not exceed four feet in depth at any point.
- (2) **Excavating for buildings and other structures:**
  - (a) Sixteen- and 17-year-olds may manually excavate to a depth not exceeding four feet below any ground surface adjoining the excavation.
  - (b) Sixteen- and 17-year-olds may work in an excavation not exceeding a depth of four feet.
  - (c) Sixteen- and 17-year-olds may work in an excavation where the side walls are shored or sloped to the angle of repose.
- (3) HO 17 **does not** apply to site clearing or surface grading operations, nor to dredging and borehole drilling operations.

### **33e17d Exemptions.**

HO 17 does contain an exemption for student-learners and apprentices. There are no other exemptions applicable to this order.

### **33e17e Enforcement Positions.**

- (1) Road graders.

The use of road graders (power-driven earthmoving equipment) in excavation operations is covered by HO 17. The investigation conducted by the Department that established HO 17 did not include surface grading operations (i.e. use of road graders). However, as HO 17 only permits manual excavation or backfilling and only at a depth of up to four feet – and road graders constitute mechanized excavation, often in ditches up to six feet in depth – the use of road graders is prohibited.

## A QUICK LOOK AT HO 17 EXCAVATION

### Occupations/Machines PROHIBITED

Excavating, working in, and backfilling trenches, except as permitted.

Excavating for buildings or other structures, or working in such excavations, except as permitted.

Driving tunnel and working within tunnels prior to the completion of all driving and shoring operations.

Sinking shafts and working within shafts prior to the completion of all sinking and shoring operations.

### Occupations/Machines PERMITTED

Working in occupations in site clearing, surface grading, dredging, and borehole drilling operations.

#### Trenches:

Manual excavating, manual backfilling, and working in trenches that do not exceed four feet in depth at any point.

#### Excavating Buildings:

Manual excavating to a depth not exceeding four feet below any ground surface adjoining the excavation.

Working in an excavation not exceeding a depth of four feet.

Working in an excavation where the side walls are shored or sloped to the angle of repose.

### Enforcement Positions

The use of a road grader in excavation operations is covered by HO 17.

### Exemptions

HO 17 **does** contain an exemption for Apprentices and Student-Learners. There are no other exemptions applicable.