SMALL BUSINESS HANDBOOK - LAWS, REGULATIONS AND TECHNICAL ASSISTANCE SERVICES

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Read This First

This Handbook on the basic regulations and related services administered by the Department of Labor (DOL) is designed primarily for small businesses in general industry. It begins with a general overview of DOL requirements. This is followed by ten sections containing information on the specific laws and regulations. Read the overview first to find out which requirements apply to your business. For each requirement the overview refers to specific sections or to a DOL office. Employers in certain industries (such as agriculture and mining) or employers working on government contracts should contact the referenced DOL offices for further information and assistance.

Each section discusses: covered employers; basic provisions and requirements; how to obtain information and assistance from DOL; penalties for non-compliance; and relation to state, local and other federal laws. The section subtitles identify the applicable laws and the associated regulations, which can be found in the Code of Federal Regulations (CFR). Many sections refer to an appendix which provides additional addresses and phone numbers for obtaining DOL assistance.

You should be aware that other federal agencies besides DOL enforce laws and regulations that affect employers. For example, statutes designed to ensure non-discrimination in employment are generally enforced by the Equal Employment Opportunity Commission. Also, the Taft-Hartley Act regulating employer conduct with regard to employees in a wide range of areas is administered by the National Labor Relations Board. Please consult these agencies for further information on their requirements.

The information contained in this publication is not to be considered a substitute for any provisions of the laws enforced by the Department of Labor or for any regulations issued by the Department.

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I. Requirements Applicable to Most Employers

Wages and Hours

The Fair Labor Standards Act (FLSA) prescribes minimum wage and overtime pay (and record-keeping) standards affecting most private and public employment, including homework. This is administered by

the Wage and Hour Division of DOL's Employment Standards Administration (ESA).

1. The Minimum Wage and Overtime provisions of the FLSA require the following from employers ofcovered employees who are not otherwise exempt:

Pay covered employees a minimum wage of not less than $4.25 an hour effective April 1, 1991. (Employers may pay employees on a piece-rate basis and under some circumstances consider the tips of employees as part of their wages.)

Until March 31, 1993, employers may pay a training wage, under certain conditions, of at least 85 percent of the minimum wage (but not less than $3.35 an hour) for up to 90 days to employees under age 20.

While not placing a limit on the total hours which may be worked, the Act requires that covered employees, unless otherwise exempt, be paid not less than one and one-half times their regular rates of pay for all hours worked in excess of 40 in a workweek.

2. Homework requirements of the FLSA generally prohibit the performance of certain types of work in an employee's home unless the employer has obtained prior certification from the Department of Labor.

See Section 1, page 11, for more detail on wages and hours.

Who May Work, and When (administered by the Wage and Hour Division)

1. Child Labor provisions of the FLSA (Non-agriculture) include restrictions on the hours of work and occupations for youths under age 16, and these provisions set forth 17 hazardous occupations orders for jobs declared by the Secretary of Labor to be too dangerous for minors under age 18 to perform.

See Section 2, page 17, for more detail.

2. Immigrant Labor is regulated by the Immigration and Nationality Act (INA). Under the INA, employers may legally hire workers only if they are citizens of the U.S. or aliens authorized to work in the United States. The INA requires that employers verify the employment eligibility of all individuals hired after November 6, 1986.

See Section 3, page 20, for more detail.

The Immigration Nursing Relief Act of 1989 (INRA) was enacted to provide relief for the shortage of registered nurses by legalizing current nonimmigrant registered nurses and ensuring employer efforts to attract and develop more U. S. employees to the nursing

profession. Contact your local ESA Wage and Hour Division office for more details (see page 54).

Workplace Safety and Health

The Occupational Safety and Health Act (OSH Act), which is administered by DOL's Occupational Safety and Health Administration (OSHA) regulates safety and health conditions in most private industries (except those regulated under other federal statutes, e.g., transportation). Many private employers are regulated through states operating under OSHA-approved plans.

It is the responsibility of employers to become familiar with standards applicable to their establishments, to eliminate hazardous conditions to the extent possible, and to comply with the standards. Compliance may include assuring that employees have and use personal protective equipment when required for safety or health. Employees must comply with all rules and regulations that are applicable to their own actions and conduct.

Covered employers are required to maintain workplaces that are safe and healthful, including meeting many regulatory requirements. OSHA promulgates safety and health standards, and makes distinctions by type of industry.

Safety standards include regulations covering hazards such as falls, explosions, electricity, fires, and cave-ins, as well as machine and vehicle operation and maintenance, etc.
Health standards regulate exposures to a variety of health hazards through engineering controls, the use of personal protective equipment (e.g., respirators, ear protection etc.), and work practices.

Where OSHA has not promulgated a specific standard, employers are responsible for complying with the OSH Act's "general duty" clause [Section 5(a)(1)], which states that each employer "shall furnish . . . a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

When OSHA develops effective safety and health regulations, safety and health regulations originally issued under the following laws administered by the Department of Labor are superseded: the Walsh-Healey Act, the Service Contract Act, the Contract Work Hours and Safety Standards Act, the Arts and Humanities Act, and the Longshore and Harbor Workers' Compensation Act.

See Section 4, page 22, for more detail.

Pensions and Welfare Benefits

The Employee Retirement Income Security Act (ERISA) regulates employers who have pension or welfare benefit plans. This statute preempts many state laws in this area and is administered by DOL's Pension and Welfare Benefits Administration (PWBA). The statute also provides an insurance mechanism to protect retirement benefits with employers required to pay annual pension benefit insurance premiums to the Pension Benefits Guarantee Corporation (PBGC), which is associated with the Department.

1. Pension Plans must meet a wide range of fiduciary and reporting and disclosure requirements, with regulations defining such concepts as the value of plan assets, what is adequate consideration for the sale of assets, the effects of participants having control over the assets in their plans, etc.

2. Welfare Benefit Plans also must meet a wide range of fiduciary, reporting, and disclosure requirements. In addition, PWBA administers the disclosure and notification requirements for the continuation of health care provisions that were enacted as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). These provisions cover group health plans of employers with 20 or more employees on a typical business day in the previous calendar year. COBRA gives participants and beneficiaries an election to maintain, at their own expense, coverage under the employer's health plan.

See Section 5, page 36, for more detail.

3. Pension Insurance information can be obtained from the Pension Benefits Guarantee Corporation by writing PBGC, Coverage and Inquiries Branch (25440), 2020 K Street, N.W., Washington, D.C. 20006-1860, or by calling (202) 778-8800.

Miscellaneous Requirements for Most Employers

1. The Labor-Management Reporting and Disclosure Act (also known as the Landrum-Griffin Act, LMRDA) deals with the relationship between a union and its members. It provides for safeguarding of union funds, reporting and disclosure of financial transactions, and administrative practices of union officials, labor consultants, etc. This is administered by DOL's Office of Labor-Management Standards (OLMS).
Call your local OLMS office for more detail (see page 65).

2. Employee Protection provisions are built into most labor and public safety statutes, e.g., the FLSA, the OSH Act, ERISA, many environmental protection statutes, etc. These protect employees who exercise their rights

under these Acts to complain about employers, ask for information, etc. (remedies can include back wages and reinstatement.) They are normally enforced by the DOL agency most concerned, e.g., OSHA enforces those arising under the OSH Act. For more information on employee protection under a statute administered by DOL, see the relevant section. For information on employee protection in the environmental context, see Section 6, page 42, for more detail.

3. Veteran's Reemployment Rights ensures that those who serve in the armed forces have a right to reemployment with the employer they were with when they went in service, including protection for those called up from the reserves or National Guard. These are administered by DOL's Office of the Assistant Secretary for Veterans' Employment and Training. See

Section 7, page 44, for more detail.

4. Plant Closings and Layoffs by employers may be subject to the Worker Adjustment and Retraining Notification Act (WARN) which provides for early warning to employees of the proposed layoffs or plant closings. Questions on WARN may be addressed to DOL's Employment and Training Administration (ETA).

See Section 8, page 46, for more detail.

5. The Employee Polygraph Protection Act (EPPA) prohibits most use of lie detectors by employers on their employees. This is administered by the Wage and
Hour Division of ESA.

See Section 9, page 48, for more detail.

6. Garnishment of Wages by employers is subject to regulation under the Consumer Credit Protection Act. This is administered by the Wage and Hour Division of ESA.

See Section 10, page 50, for more detail.

II. Requirements Applicable to Employers Because of the Receipt of Government Contracts, Grants, or Financial Assistance

1. Wage, Hour, and Fringe Benefit Standards
are determined for these contracts under: the Davis-Bacon and related Acts (for construction); the Contract Work, Hours, and Safety Standards Act; the McNamara-O'Hara Service Contract Act (for services); and the Walsh-Healey Public Contracts Act (for manufacturing). The Wage and Hour Division of ESA both makes the determination of wages and benefits and enforces them.
Contact your local ESA Wage and Hour Division Office for more detail (see page 54).

2. Safety and Health Standards are also issued under these Acts and are specifically applicable to covered contracts. Contact your local ESA Wage and Hour Division Office for more detail (see page 54).

3. Non-discrimination and Affirmative Action Requirements are set under Executive Order 11246, Section 503 of the Rehabilitation Act, and the Vietnam Veteran's Readjustment Assistance Act (38 U.S.C. 4212). These programs prohibit discrimination and require affirmative action with regard to race, sex, ethnicity, religion, disability and veterans' status. They are administered by ESA's Office of Federal Contract Compliance Programs (OFCCP). OFCCP works closely with EEOC to coordinate these efforts. Contact your local ESA Office of Federal Contract Compliance Programs for more detail (see page 57).

III. Industry-Specific Requirements in Addition to the Above

Agriculture

Several safety and health standards issued and enforced by OSHA (e.g., field sanitation) and the Environmental Protection Agency (e.g., pesticides) apply to this industry. In addition, several agriculture- specific programs are administered by ETA and ESA's Wage and Hour Division. For more information on these programs, contact your local ESA office (see page 54).

1. The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) requires that covered farm labor contractors, agricultural employers and agricultural associations comply with worker protection applicable to migrant and seasonal agricultural workers whom they recruit, solicit, hire, employ, furnish or transport or, in the case of migrant agricultural workers, to whom they provide housing.

2. The Immigration and Nationality Act (INA) requires that employers wishing to use nonimmigrant workers for temporary agricultural employment apply with the Employment and Training Administration for a labor certificate showing that there are not sufficient workers in the U.S. able, willing, qualified and available to do the work and that employment of such nonimmigrant workers will not adversely affect the wages and working conditions of workers in the U.S.

3. INA as Amended by the Immigration Reform and Control Act requires all employers of special and replenishment agricultural workers (SAWs and RAWs) to provide certain information on the use of such workers to the federal government.

4. The Fair Labor Standards Act (FLSA) contains special child labor regulations applicable to agricultural employment. The regulations

administered and enforced by the DOL agencies apply only to those establishments with employees (e.g., they do not apply to family-run and family-operated farms that do not hire outside workers).

Additionally, in some cases there are minimum employment standards which must be met before an establishment is covered by a regulation (e.g., OSHA's field sanitation standard is not enforced at establishments that employ fewer than 11 workers in the field).

Mining Safety and Health

The goal of the Federal Mine Safety and Health Act of 1977 is to improve working conditions in the nation's mines. Its provisions cover all miners and other persons employed to work on mine property, and it is administered by the Labor Department's Mine Safety and Health Administration (MSHA). This law strengthened an earlier coal mining law and brought metal and nonmetal (non-coal) miners under the same general protections as those afforded coal miners.

Under the Act, the operators of mines, with the assistance of their employees, have the primary responsibility for ensuring the health and safety of the miners. MSHA is responsible for fully inspecting every underground mine at least four times a year and every surface mine at least twice a year to ensure that these responsibilities are met.

This law also established mandatory miners' training requirements and strengthened health protection measures and gassy mine safety programs. It also included tougher civil dollar penalties for safety or health violations by mine operators. The Act also provided for closure of mines in cases of imminent danger to workers or failure to correct violations within the time allowed, and it called for greater involvement of miners and their representatives in processes affecting workers' health than previously had been possible.

Each mine must be legally registered with MSHA. Many mine operators are required to submit plans to MSHA for approval before beginning operations. Such plans must be followed during mining. Required plans cover operational aspects such as ventilation, roof control, and miner training. Mine operators are required to report each individual mine accident or injury to MSHA.

MSHA's Coal Mine Safety and Health Division enforces law and regulations at more than 4,600 underground and surface coal mines. MSHA's Metal and Nonmetal Mine Safety and Health Division enforces federal requirements, conducts training, and assists the mining industry in reducing deaths, serious injuries and illnesses at more

than 11,000 non-coal mines (including open pit mines, stone quarries, and sand and gravel operations).

Health and safety regulations cover numerous hazards, including those associated with the following:

exposure to respirable dust, airborne contaminants and noise
design, operation and maintenance requirements for mechanical equipment, including mobile equipment roof falls, and rib and face rolls flammable, explosive and noxious gases, dust and smoke electrical circuits and equipment fires storage, transportation, and use of explosives hoisting access and egress

Contact your local MSHA office for more detail (see page 74).

Construction

Several DOL agencies are involved in administering programs solely related to the construction industry.

1. Safety and Health:

OSHA has separate occupational safety and health standards which apply only to the construction industry.
See Section 4, page 22, for more detail.

2. Wage and Fringe Benefits: The Davis-Bacon Act and related Acts require most contractors and subcontractors on federally assisted contracts in excess of $2,000 to pay the prevailing wage rates and fringe benefits as determined by the Secretary of Labor. Contact your local ESA Wage and Hour Division Office for more detail (see page 54).

3. Non-discrimination:

OFCCP has special regulations on non-discrimination and affirmative action which apply only to the construction industry.

Contact your local ESA/OFCCP office for more detail (see page 57).

4. Anti-Kickback:

The "Anti-Kickback" section of the Copeland Act applies to all contractors and subcontractors performing on any federally funded or assisted contract for the construction, prosecution, completion or repair of any public building or public work -- except contracts for which the only federal assistance is a loan guarantee. This provision precludes a contractor or subcontractor from inducing an employee -- in any manner -- to give up any part of his/her

compensation to which he/she is entitled under his/her contract of employment.

Contact your local ESA Wage and Hour Division office for more detail (see page 54).

Transportation

Many laws with labor provisions in them that affect the transportation industry are administered by agencies outside of the Department. For example, the Railway Labor Act is administered primarily by the Department of Transportation and the Railway Retirement Board. Special DOL programs for this industry are:

1. Safety and Health:

Special longshoring and maritime industry standards issued and enforced by OSHA.

See Section 4, page 22, for more detail.

2. Longshoring and Harbor Work:

Workers' compensation coverage provided under the Longshore and Harbor Workers' Compensation Act, which is administered by ESA. Employers must meet the coverage, funding, and other requirements needed to provide these benefits.

Contact your local ESA/OWCP office for more detail (see page 77).

1. MINIMUM WAGE AND OVERTIME PAY

Fair Labor Standards Act of 1938, as Amended (Title 29, U.S. Code, Sections 201 et seq.; 29 CFR 510-800).

Who is Covered

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, record-keeping and child labor standards that affect more than 80 million full- and part-time workers in the private sector and in federal, state and local governments.

The Act applies to enterprises that have employees who are engaged in interstate commerce, producing goods for interstate commerce, or handling, selling or working on goods or materials that have been moved in or produced for interstate commerce. For most firms, an annual dollar volume of business test of not less than $500,000 applies. The following are covered by the Act regardless of their dollar volume of business: hospitals, institutions primarily

engaged in the care of the sick, aged, mentally ill or disabled who reside on the premises; schools for children who are mentally or physically disabled or gifted; preschools, elementary and secondary schools and institutions of higher education; and federal, state and local government agencies.

Employees of firms that do not meet the $500,000 annual dollar volume test may be individually covered in any workweek in which they are individually engaged in interstate commerce, the production of goods for interstate commerce, or an activity which is closely related and directly essential to the production of such goods. Domestic service workers, such as day workers, housekeepers, chauffeurs, cooks or full-time babysitters, are also covered if they receive at least $50 in cash wages in a calendar quarter from their employers or work a total of more than 8 hours a week for one or more employers.

An enterprise that was covered by the Act on March 31, 1990, and that ceased to be covered because of the increase in the annual dollar volume test to $500,000, as required under the 1989 amendments to the Act, must continue to pay its employees not less than $3.35 an hour (the statutory minimum wage prior to 4/1/90) and continues to be subject to the overtime pay, child labor and record-keeping requirements of the Act.

Some employees are excluded from the Act's minimum wage and/or overtime pay provisions under specific exemptions provided in the law. Because these exemptions are generally narrowly defined, employers should carefully check the exact terms and conditions for each by contacting the Wage and Hour Division of the Employment Standards Administration (ESA) at the offices referenced below.

The following are examples of employees exempt from both the minimum wage and overtime pay requirements:

Executive, administrative and professional employees (including teachers and academic administrative personnel in elementary and secondary schools and also including certain skilled computer professionals as provided in P.L. 101-583, November 15, 1990) and outside sales persons

Employees of seasonal amusement or recreational establishments

Employees of certain small newspapers and switchboard operators of small telephone companies

Seamen employed on foreign vessels

Employees engaged in fishing operations

Farm workers employed on small farms (i.e., those that used no more than 500 "man-days" of farm labor in any calendar quarter of the preceding calendar year)

Casual babysitters and persons employed as companions to the elderly or infirm

The following are examples of employees exempt from the Act's overtime pay requirements only:

Certain commissioned employees of retail or service establishments
Auto, truck, trailer, farm implement, boat or aircraft salesworkers, or parts-clerks and mechanics servicing autos, trucks or farm implements, and who are employed by non-manufacturing establishments primarily engaged in selling these items to ultimate purchasers

Railroad and air carrier employees, taxi drivers, certain employees of motor carriers, seamen on American vessels and local delivery employees paid on approved trip rate plans

Announcers, news editors and chief engineers of certain non-metropolitan broadcasting stations

Domestic service workers who reside in their employer's residence

Employees of motion picture theaters

Farmworkers

Certain employees may be partially exempted from the Act's overtime pay requirements. These include:

Employees engaged in certain operations on agricultural commodities and employees of certain bulk petroleum distributors
Employees of hospitals and residential care establishments which have agreements with the employees to work a 14-day work period in lieu of a 7-day workweek if the employees are paid overtime premium pay within the requirements of the Act for all hours worked over 8 in a day or 80 in the 14-day work period, whichever is the greater number of overtime hours

Employees who lack a high school diploma or who have not completed the eighth grade may be required by their employer to spend up to 10 hours in a workweek in remedial reading or training in other basic skills that is not job-specific, as long as they are paid their normal wages for the hours spent in training. Such employees need not be paid overtime premium pay for their training hours.

Basic Provisions/Requirements

The Act requires employers of covered employees who are not otherwise exempt to pay these employees a minimum wage of not less than $4.25 an hour. The increases in the minimum wage mandated by the 1989 amendments to the Act will be phased in on an industry-by-industry basis in Puerto Rico. All Puerto Rican industries must reach the mainland minimum wage by April 1, 1996. Employers may pay employees on a piece-rate basis, as long as they receive at least the equivalent of the required minimum hourly wage rate. Employers of tipped employees, i.e., employees who customarily and regularly receive more than $30 a month in tips, may consider the tips of these employees as part of their wages. This tip credit may not, however, exceed 50 percent of the required minimum wage.

Employers may pay a training wage, under certain conditions, of at least 85 percent of the minimum wage (but not less than $3.35 an hour) for up to 90 days to employees under age 20, except for migrant or seasonal agricultural workers and H-2A nonimmigrant agricultural workers performing work of a temporary or seasonal nature. An employee who has been paid at the training wage for 90 days can be employed for 90 additional days at the training wage by a different employer if that employer provides on-the-job training in accordance with rules of the Department of Labor. Employers may not displace employees (or reduce their wages or benefits) in order to hire employees at the training wage. These training wage provisions expire on March 31, 1993.

The Act also permits the employment of the following individuals at wage rates below the statutory minimum wage under certificates issued by the Department:

Student learners

Full-time students in retail or service establishments, agriculture, or institutions of higher education

Individuals whose earning or productive capacity is impaired by a physical or mental disability, including those related to age or injury, for the work to be performed

While not placing a limit on the total hours which may be worked, the Act requires that covered employees, unless otherwise exempt, be paid not less than one and one-half times their regular rates of pay for all hours worked in excess of 40 in a workweek. Employers are required to keep records on wages, hours and other items as set out in the Department of Labor's regulations. Most of

this information is of the type generally maintained by employers in ordinary business practice.

Performance of certain types of work in an employee's home is prohibited under the Act unless the employer has obtained prior certification from the Department of Labor. Restrictions apply in the manufacture of knitted outerwear, gloves and mittens, buttons and buckles, handkerchiefs, embroideries and jewelry (where safety and health hazards are not involved). Employers wishing to employ homeworkers in these industries are required to, among other things, provide written assurances to the Department that they will comply with the Act's monetary and other requirements. The manufacture of women's apparel (and jewelry under hazardous conditions) is generally prohibited, except under special certificates that allow homework in these industries when the homeworker is unable to adjust to factory work because of age or physical or mental disability, or is caring for an invalid in the home.

Special provisions apply to state and local government employment. It is a violation of the Act to fire or in any other manner discriminate against an employee for filing a complaint or for participating in a legal proceeding under the Act. The Act also prohibits the shipment of goods in interstate commerce which were produced in violation of the minimum wage, overtime pay, child labor, or special minimum wage provisions.

Assistance Available

More detailed information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained by contacting the offices listed beginning on page 53 in the appendix.

Penalties

Enforcement of the Act is carried out by Wage and Hour Division compliance officers stationed throughout the country. A variety of remedies are available to the Department to enforce compliance with the Act's requirements. When compliance officers encounter violations, they recommend changes in employment practices in order to bring the employer into compliance. Willful violations may be prosecuted criminally and the violators fined up to $10,000. A second conviction may result in imprisonment. Employers who willfully and repeatedly violate the minimum wage or overtime pay requirements are subject to civil money penalties of up to $1,000 per violation. Employers are subject to a civil money penalty of up to $10,000 for each employee employed in violation of the child labor provisions. When a civil money penalty is assessed, employers

have the right, within 15 days of receipt of the notice of such penalty, to file an exception to the determination. When an exception is filed, it is referred to an administrative law judge for a hearing and determination as to the appropriateness of the penalty. If an exception is not filed, the penalty becomes final.

The Secretary of Labor may also bring suit for back pay and an equal amount in liquidated damages and obtain injunctions to restrain persons from violating the Act. Employees may also bring suit, where the Department has not done so, for back pay and liquidated damages, as well as attorney's fees and court costs.

Relation to State, Local and Other Federal Laws

State laws also apply to employment subject to this Act. When both this Act and a state law apply, the law setting the higher standards must be observed.

2. CHILD LABOR (Nonagriculture)

Fair Labor Standards Act of 1938, as Amended (Title 29, U.S. Code, Section 201 et seq.; 29 CFR 570-580).

Who is Covered

The child labor provisions of the Fair Labor Standards Act (the Act) are designed to protect the educational opportunities of youths and prohibit their employment in jobs and under conditions detrimental to their health and well-being.

In nonagriculture, the child labor provisions apply to enterprises that have employees who are engaged in interstate commerce, producing goods for interstate commerce, or handling, selling or working on goods or materials that have been moved in or produced for interstate commerce. For most firms, an annual dollar volume of business test of not less than $500,000 applies. The following are covered by the Act regardless of their dollar volume of business: hospitals; institutions primarily engaged in the care of the sick, aged, mentally ill or disabled who reside on the premises; schools for children who are mentally or physically disabled or gifted; preschools, elementary and secondary schools and institutions of higher education; and federal, state and local government agencies. Employees of firms that do not meet the $500,000 annual dollar volume test may be individually covered in any workweek in which they are individually engaged in interstate commerce, the production of goods for interstate commerce or an activity which is closely related and directly essential to the production of such goods. Domestic service workers, such as day workers, housekeepers,

chauffeurs, cooks or full-time babysitters, are also covered if they receive at least $50 in cash wages in a calendar quarter from their employers or work a total of more than 8 hours a week for one or more employers.

An enterprise that was covered by the Act on March 31, 1990, and ceased to be covered because of the increase in the annual dollar volume test to $500,000 as required under the 1989 amendments to the Act, remains subject to the Act's child labor provisions.
Sixteen is the minimum age for most nonfarm work. However, youths may, at any age: deliver newspapers; perform in radio, television, movies, or theatrical productions; work for their parents in their solely owned nonfarm businesses (except in mining, manufacturing, or in any other occupation declared hazardous by the Secretary of Labor); or gather evergreens and make evergreen wreaths.

Basic Provisions/Requirements

The Act's child labor provisions include restrictions on the hours of work and occupations for youths under age 16. These provisions set forth 17 hazardous occupations orders for jobs declared by the Secretary of Labor to be too dangerous for minors under age 18 to perform. The Act prohibits the shipment of goods in interstate commerce which were produced in violation of the child labor provisions. It is also a violation of the Act to fire or in any other manner discriminate against an employee for filing a complaint or for participating in a legal proceeding under the Act.
The permissible jobs and hours of work, by age, in nonfarm work are as follows:

Youths 18 years or older may perform any job for unlimited hours
Youths age 16 and 17 may perform any job not declared hazardous by the Secretary of Labor, for unlimited hours
Youths age 14 and 15 may work outside school hours in various nonmanufacturing, nonmining, nonhazardous jobs under the following conditions: no more than 3 hours on a school day, 18 hours in a school week, 8 hours on a nonschool day, or 40 hours in a nonschool week. In addition, they may not begin work before 7 a.m. nor work after 7 p.m., except from June 1 through Labor Day, when evening hours are extended until 9 p.m. Youths aged 14 and 15 who are enrolled in an approved Work Experience and Career Exploration Program (WECEP) may be employed for up to 23 hours in school weeks and 3 hours on school days (including during school hours).
Detailed information on the occupations determined to be hazardous by the Secretary is available by contacting the Wage and Hour Division at the offices listed below.

Department of Labor regulations require employers to keep records of the date of birth of employees under age 19, including daily

starting and quitting times, daily and weekly hours worked, and the employee's occupation.

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

Assistance Available

More detailed information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained by contacting the offices listed beginning on page 53 in the appendix.

Penalties

Employers are subject to a civil money penalty of up to $10,000 for each employee employed in violation of the child labor provisions. When a civil money penalty is assessed, employers have the right, within 15 days of receipt of the notice of such penalty, to file an exception to the determination. When an exception is filed, it is referred to an administrative law judge for a hearing and determination as to the appropriateness of the penalty. Either party may appeal the decision of the administrative law judge to the Secretary of Labor. If an exception is not timely filed, the penalty becomes final. The Act also provides, in the case of a conviction for a willful violation, for a fine of up to $10,000; or, for a second offense committed after the conviction of such person for a similar offense, for a fine of not more than $10,000 and imprisonment for up to six months, or both. The Secretary of Labor may also bring suit to obtain injunctions to restrain persons from violating the Act.

Relation to State, Local and Other Federal Laws
Many states have child labor laws. When both this Act and a state law apply, the law setting the higher standards must be observed.

3. EMPLOYMENT ELIGIBILITY OF ALIEN WORKERS

Immigration and Nationality Act (INA) (8 U.S. Code, Section 1186).

Who is Covered

The Immigration and Nationality Act (INA) employment eligibility verification and related nondiscrimination provisions apply to all employers.

Basic Provisions/Requirements

Under the INA, employers may legally hire workers only if they are citizens of the U.S. or aliens authorized to work in the United States. For some aliens (students, nurses, "specialty occupations," fashion models) employers must comply with attestation procedures through the Department of Labor. The INA requires that employers verify the employment eligibility of all individuals hired after November 6, 1986. To do so, employers must require applicants to show proof of their employment eligibility, by requiring completion of the I-9 form. Employers must keep I-9s on file for at least 3 years (or one year after employment ends, whichever is greater). The INA also protects U.S. citizens, and aliens authorized to accept employment in the U.S., from discrimination in hiring or discharge on the basis of national origin and citizenship status.

Assistance Available

More detailed information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained by contacting the offices listed beginning on page 53 in the appendix.

Penalties

Employers who fail to complete and/or retain the I-9 forms are subject to civil fines of up to $1,000 per applicant. Enforcement of the INA requirements on employment eligibility verification comes under the jurisdiction of the Immigration and Naturalization Service (INS). The Justice Department is responsible for enforcing the anti-discrimination provisions. In conjunction with their ongoing enforcement efforts, the Employment Standards Administration's Wage and Hour Division and Office of Federal Contract Compliance Programs conduct inspections of the I-9 forms. Their findings are reported to the INS and to the Department of Justice where there is apparent disparate treatment in the verification process.

Relation to State, Local and Other Federal Laws
Not Applicable.

4. OCCUPATIONAL SAFETY AND HEALTH

The Occupational Safety and Health Act of 1970 (OSH Act), 29 U.S.C. 651 et seq.; Title 29 Code of Federal Regulations, Parts 1900 to end.

Who is Covered

In general, coverage of the Act extends to all employers and their employees in the 50 states, the District of Columbia, Puerto Rico, and all other territories under federal government jurisdiction. Coverage is provided either directly by the Federal Occupational Safety and Health Administration (OSHA) or through an OSHA-approved state job safety and health program.

As defined by the Act, an employer is any "person engaged in a business affecting commerce who has employees, but does not include the United States or any state or political subdivision of a State." Therefore, the Act applies to employers and employees in such varied fields as manufacturing, construction, longshoring, agriculture, law and medicine, charity and disaster relief, organized labor and private education. Such coverage includes religious groups to the extent that they employ workers for secular purposes.

The following are not covered by the Act:
Self-employed persons

Farms at which only immediate members of the farmer's family are employed

Working conditions regulated by other federal agencies under other federal statutes. This category includes most employment in mining, nuclear energy and nuclear weapons manufacture, and many segments of the transportation industries.

When another federal agency is authorized to regulate safety and health working conditions in a particular industry, if it does not do so in specific areas, then OSHA requirements apply.

As OSHA develops effective safety and health regulations of its own, safety and health regulations originally issued under the following laws administered by the Department of Labor are superseded: the Walsh-Healey Act, the Service Contract Act, the Contract Work Hours and Safety Standards Act, the Arts and Humanities Act, and the Longshore and Harbor Workers' Compensation Act.

Basic Provisions/Requirements

The Act assigns to OSHA two principal functions: setting standards and conducting workplace inspections to assure employers are complying with the standards and providing a safe and healthful workplace. OSHA standards may require conditions, or the adoption or use of one or more practices, means, methods or processes

reasonably necessary and appropriate to protect workers on the job. It is the responsibility of employers to become familiar with standards applicable to their establishments, to eliminate hazardous conditions to the extent possible, and to comply with the standards. Compliance may include assuring that employees have and use personal protective equipment when required for safety or health. Employees must comply with all rules and regulations that are applicable to their own actions and conduct.

Where OSHA has not promulgated a specific standard, employers are responsible for complying with the OSH Act's "general duty" clause. The general duty clause of the Act [Section 5(a)(1)] states that each employer "shall furnish . . . a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

States with OSHA-approved job safety and health programs must set standards that are at least as effective as the equivalent federal standard. Many state-plan states adopt standards identical to the federal ones.

Federal OSHA Standards

These fall into four major categories: general industry (29 CFR 1910), construction (29 CFR 1926), maritime - shipyards, marine terminals, longshoring - (29 CFR 1915-19), and agriculture (29 CFR 1928).

Each of these four categories of standards imposes requirements that are, in some cases, identical for each category of employers; in others, they are either absent or vary somewhat.

Among the standards that impose similar requirements on all industry sectors are those for access to medical and exposure records, personal protective equipment, and hazard communication. Access to Medical and Exposure Records: This standard requires that employers grant employees access to any of their medical records maintained by the employer and to any records the employer maintains on the employees' exposure to toxic substances.

Personal Protective Equipment: This standard, included separately in the standards for each industry segment (except agriculture) requires that employers provide employees, at no cost to employees, with personal protective equipment designed to protect them against certain hazards. This can range from protective helmets in construction and cargo handling work to prevent head injuries, to eye protection, hearing protection, hard-toed shoes, special goggles (for welders, for example) and gauntlets for iron workers.

Hazard Communication: This standard requires that manufacturers and importers of hazardous materials conduct a hazard evaluation of the products they manufacture or import. If the product is found to be hazardous under the terms of the standard, containers of the material must be appropriately labeled and the first shipment of the material to a new customer must be accompanied by a material safety data sheet (MSDS). Receiving employers must train their employees, using the MSDSs they receive, to recognize and avoid the hazards the materials present.

In general, however, all employers should be aware that any hazard not covered by an industry-specific standard may be covered by a general industry standard or by the general duty clause. This coverage becomes important in the enforcement aspects of OSHA's work.

Other types of requirements are imposed by regulation rather than by a standard. OSHA regulations cover such items as record-keeping, reporting and posting.

Record-keeping: Every employer covered by OSHA who has more than 10 employees must maintain OSHA-specified records of job-related injuries and illnesses. There are two such records, the OSHA Form 200 and the OSHA Form 101.

The OSHA Form 200 is an injury/illness log, with a separate line entry for each recordable injury or illness (essentially those work-related deaths, injuries and illnesses other than minor injuries that require only first aid treatment and that do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job). A summary section of the OSHA Form 200, which includes the total of the previous year's injury and illness experience, must be posted in the workplace for the entire month of February each year.

The OSHA Form 101 is an individual incident report that provides added detail about each individual recordable injury or illness. A suitable insurance or worker compensation form that provides the same details may be substituted for the OSHA Form 101.

Unless an employer has been selected in a particular year to be part of a national survey of workplace injuries and illnesses conducted by the Department of Labor's Bureau of Labor Statistics (BLS), employers with ten or fewer employees or employers in traditionally low-hazard industries are exempt from maintaining these records; all employers selected for the BLS survey must maintain the records. Employers so selected will be notified before the end of the year to begin keeping records during the coming year, and technical assistance on completing these forms is

available from the state offices which select these employers for the survey.

Industries designated as traditionally low hazard include: automobile dealers; apparel and accessory stores; furniture and home furnishing stores; eating and drinking places; finance, insurance, and real estate industries; and service industries, such as personal and business services, legal, educational, social and cultural services and membership organizations.

Reporting: In addition to selected employers each year being required to report their injury and illness experience, each employer, regardless of number of employees or industry category, must report to the nearest OSHA office within 48 hours any accident that results in one or more fatalities or hospitalization of five or more employees. Such accidents are often investigated by OSHA to determine whether violations of standards contributed to the event.

Workplace Inspections

To enforce its standards, OSHA is authorized under the Act to conduct workplace inspections. Every establishment covered by the Act is subject to inspection by OSHA compliance safety and health officers (CSHOs), who are chosen for their knowledge and experience in the occupational safety and health field. CSHOs are thoroughly trained in OSHA standards and in the recognition of safety and health hazards. Similarly, states with their own occupational safety and health programs conduct inspections using qualified state CSHOs.

Employee Rights

Employees are granted several important rights by the Act. Among them are the right to: complain to OSHA about safety and health conditions in their workplace and have their identity kept confidential from the employer, contest the time period OSHA allows for correcting standards violations, and participate in OSHA workplace inspections.

Anti-Discrimination Provisions

Private sector employees who exercise their rights under OSHA can be protected against employer reprisal. Employees must notify OSHA within 30 days of the time they learned of the alleged discriminatory action. This notification is followed by an OSHA investigation. If OSHA agrees that discrimination has occurred, the employer will be asked to restore any lost benefits to the affected employee. If necessary, OSHA can take the employer to court. In such cases, the worker pays no legal fees.

Assistance Available

Copies of Standards

The Federal Register is one of the best sources of information on standards, since all OSHA standards are published there when adopted, as are all amendments, corrections, insertions or deletions. The Federal Register, published five days a week, is available in many public libraries. Annual subscriptions are available from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402. For the current price, contact GPO at (202) 783-3238.

Each year the Office of the Federal Register publishes all current regulations and standards in the Code of Federal Regulations (CFR), available at many public libraries and from GPO. OSHA's regulations and standards are collected in several volumes in Title 29 CFR, Parts 1900-1999.

Since states with OSHA-approved job safety and health programs adopt and enforce their own standards under state law, copies of these standards can be obtained from the individual states. Addresses and phone numbers are found beginning on page 60 in the appendix.

Training and Education

OSHA's field offices (more than 70) are full-service centers offering a variety of informational services such as publications, technical advice, audio-visual aids on workplace hazards, and lecturers for speaking engagements.

The OSHA Training Institute in Des Plaines, IL, provides basic and advanced training and education in safety and health for federal and state CSHOs; state consultants; other federal agency personnel; and private sector employers, employees and their representatives. Institute courses cover topics such as electrical hazards, machine guarding, ventilation and ergonomics. The Institute facility includes classrooms, laboratories, a library and an audio-visual unit. The laboratories contain various demonstrations and equipment, such as power presses, woodworking and welding shops, a complete industrial ventilation unit, and a noise demonstration laboratory. Sixty-three courses are available for students from the private sector dealing with subjects such as safety and health in the construction industry and methods of voluntary compliance with OSHA standards.

OSHA also provides funds to nonprofit organizations to conduct workplace training and education in subjects where OSHA believes

there is a current lack of workplace training. OSHA identifies areas of unmet needs for safety and health education in the workplace annually and invites grant applications to address these needs. The Training Institute is OSHA's point of contact for learning about the many valuable training products and materials developed under such grants.

Organizations awarded grants use funds to develop training and educational programs, reach out to workers and employers for whom their program is appropriate, and provide these programs to employers and employees.

Grants are awarded annually, with a one-year renewal possible. Grant recipients are expected to contribute 20 percent of the total grant cost.

While OSHA does not provide grant materials directly, it will provide addresses and phone numbers of contact persons from whom the public can order such materials for its use. Contact the OSHA Training Institute at (708) 297-4810.

Consultation Assistance

Consultation assistance is available to employers who want help in establishing and maintaining a safe and healthful workplace. Largely funded by OSHA, the service is provided at no cost to the employer.

No penalties are proposed or citations issued for hazards identified by the consultant.

The service is provided to the employer with the assurance that his or her name and firm and any information about the workplace will not be routinely reported to OSHA inspection staff.

Besides helping employers identify and correct specific hazards, consultation can include assistance in developing and implementing effective workplace safety and health programs with emphasis on the prevention of worker injuries and illnesses. Limited assistance such as training and education services, is also provided away from the worksite.

Primarily targeted for smaller employers with more hazardous operations, the consultation service is delivered by state government agencies or universities employing professional safety consultants and health consultants. When delivered at the worksite, consultation assistance includes an opening conference with the employer to explain the ground rules for consultation, a walk through the workplace to identify any specific hazards and to

examine those aspects of the employer's safety and health program which relate to the scope of the visit, and a closing conference followed by a written report to the employer of the consultant's findings and recommendations.

This process begins with the employer's request for consultation and the commitment to correct any serious job safety and health hazards identified by the consultant. Possible violations of OSHA standards will not be reported to OSHA enforcement staff unless the employer fails or refuses to eliminate or control worker exposure to any identified serious hazard or imminent danger situation. In such unusual circumstances, OSHA may investigate and begin enforcement action.

Employers who receive a comprehensive consultation visit, correct all identified hazards, and demonstrate that an effective safety and health program is in operation may be exempted from OSHA general schedule enforcement inspections (not complaint or accident investigations) for a period of one year. Comprehensive consultation assistance includes an appraisal of all work practices; mechanical, physical, and environmental hazards in the workplace; and, all aspects of the employer's present job safety and health program.

Additional information concerning consultation assistance, including a directory of OSHA-funded consultation projects, can be obtained by requesting OSHA publication No. 3047, Consultation Services for the Employer.

Voluntary Protection Programs

The Voluntary Protection Programs (VPPs) represent one part of OSHA's effort to extend worker protection beyond the minimum required by OSHA standards. These programs, along with others such as expanded on-site consultation services and full-service area offices, are cooperative approaches which, when coupled with an effective enforcement program, expand worker protection to help meet the goals of the Occupational Safety and Health Act of 1970.

The VPPs are designed to:

Recognize outstanding achievement of those who have successfully incorporated comprehensive safety and health programs into their total management system

Motivate others to achieve excellent safety and health results in the same outstanding way

Establish a relationship between employers, employees, and OSHA

that is based on cooperation rather than coercion
OSHA reviews an employer's VPP application and conducts an on-site review to verify that the safety and health program described is in operation at the site. Evaluations are conducted on a regular basis, annually for Merit and Demonstration programs, and triennially for Star. All participants must send their injury information annually to their OSHA regional office. Sites participating in the VPP are not scheduled for programmed inspections; however, any employee complaints, serious accidents or significant chemical releases that may occur are handled according to routine enforcement procedures.

An employer may make application for any VPP at the nearest OSHA regional office. Once OSHA is satisfied that, on paper, the employer qualifies for the program, an onsite review will be scheduled. The review team presents its findings in a written report for the company's review prior to submission to the Assistant Secretary of Labor, who heads OSHA. If approved, the employer receives a letter from the Assistant Secretary informing the site of its participation in the VPP. A certificate of approval and flag are presented at a ceremony held at or near the approved worksite. Star sites receiving reapproval after each triennial evaluation receive plaques at similar ceremonies.

The VPPs described are available in states under federal jurisdiction. Some states with their own safety and health programs have similar programs. Interested companies in these states should contact the appropriate state agency for more information (see list beginning on page 59).

Information Sources

Information about state programs, VPP, consultation programs, and inspections can be obtained from the nearest OSHA field office, or from one of the 10 regional OSHA offices listed, beginning on page 63 in the appendix. The listing indicates the states and territories under the jurisdiction of each regional office. Area offices under regional office jurisdiction are listed in local phone directories under U.S. Government listings for the U.S Department of Labor.

Other Sources

A single free copy of an OSHA catalog, OSHA 2019, "OSHA Publications and Audiovisual Programs," may be obtained by mailing a self-addressed mailing label to the OSHA Publications Office, Room N3101, US Department of Labor, Washington, DC 20210; telephone (202) 219-9667. Descriptions of and ordering information for all OSHA publications and audiovisual programs are contained in this

catalog.

Questions about OSHA programs, the status of ongoing standards-setting activities, and general inquiries about OSHA may be addressed to the OSHA Office of Information & Consumer Affairs, Room N3637, U.S. Department of Labor, Washington, DC 20210; telephone (202) 219-8151.

Those who are interested in following OSHA activities more closely may be interested in subscribing to OSHA's official magazine, Job Safety & Health Quarterly. Subscription orders may be placed with the Superintendent of Documents, Government Printing Office, Washington, DC 20402; telephone (202) 783-3238. Orders by phone may be charged to VISA or MASTERCARD. Written orders should be accompanied by a check or money order made payable to "Superintendent of Documents" in the amount of $5.50 (international orders add 25%).

Penalties

These are the types of violations that may be cited and the penalties that may be proposed:

Other-Than-Serious Violation: A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. A proposed penalty of up to $7,000 for each violation is discretionary. A penalty for an other-than-serious violation may be adjusted downward by as much as 95 percent, depending on the employer's good faith (demonstrated efforts to comply with the Act), history of previous violations, and size of business. When the adjusted penalty amounts to less than $50, no penalty is proposed.

Serious Violation: A violation where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard. A mandatory penalty of up to $7,000 for each violation is proposed.

A penalty for a serious violation may be adjusted downward, based on the employer's good faith, history of previous violations, the gravity of the alleged violation, and size of business.
Willful Violation: A violation that the employer intentionally and knowingly commits. The employer either knows that what he or she is doing constitutes a violation, or is aware that a hazardous condition existed and has made no reasonable effort to eliminate it.

The Act provides that an employer who willfully violates the Act may be assessed a civil penalty of not more than $70,000 but not

less than $5,000 for each violation. A proposed penalty for a willful violation may be adjusted downward, depending on the size of the business and its history of previous violations. Usually no credit is given for good faith.

If an employer is convicted of a willful violation of a standard that has resulted in the death of an employee, the offense is punishable by a court-imposed fine or by imprisonment for up to six months, or both. A fine of up to $250,000 for an individual, or $500,000 for a corporation [authorized under the Comprehensive Crime Control Act of 1984 (1984 CCA), not the OSH Act], may be imposed for a criminal conviction.

Repeated Violation: A violation of any standard, regulation, rule or order where, upon reinspection, a substantially similar violation is found. Repeated violations can bring a fine of up to $70,000 for each such violation. To be the basis of a repeat citation, the original citation must be final; a citation under contest may not serve as the basis for a subsequent repeat citation.

Failure to Correct Prior Violation: Failure to correct a prior violation may bring a civil penalty of up to $7,000 for each day the violation continues beyond the prescribed abatement date. Additional violations for which citations and proposed penalties may be issued are as follows:

Falsifying records, reports or applications upon conviction can bring a fine of $10,000 or up to six months in jail, or both
Violations of posting requirements can bring a civil penalty of up to $7,000

Assaulting a compliance officer, or otherwise resisting, opposing, intimidating, or interfering with a compliance officer in the performance of his or her duties is a criminal offense, subject to a fine of not more than $250,000 for an individual and $500,000 for a corporation (1984 CCA) and imprisonment for not more than three years

Citation and penalty procedures may differ somewhat in states with their own occupational safety and health programs.

Appeals Process

Appeals by Employees: If an inspection was initiated due to an employee complaint, the employee or authorized employee representative may request an informal review of any decision not to issue a citation.

Employees may not contest citations, amendments to citations, penalties or lack of penalties. They may contest the time in the citation for abatement of a hazardous condition. They also may contest an employer's Petition for Modification of Abatement (PMA) which requests an extension of the abatement period. Employees must contest the PMA within 10 working days of its posting or within 10 working days after an authorized employee representative has received a copy.

Within 15 working days of the employer's receipt of the citation, the employee may submit a written objection to OSHA. The OSHA area director forwards the objection to the Occupational Safety and Health Review Commission, which operates independently of OSHA. Employees may request an informal conference with OSHA to discuss any issues raised by an inspection, citation, notice of proposed penalty or employer's notice of intention to contest.

Appeals by Employers: When issued a citation or notice of a proposed penalty, an employer may request an informal meeting with OSHA's area director to discuss the case. Employee representatives may be invited to attend the meeting. The area director is authorized to enter into settlement agreements that revise citations and penalties to avoid prolonged legal disputes.

Petition for Modification of Abatement (PMA): Upon receiving a citation, the employer must correct the cited hazard by the prescribed date unless he or she contests the citation or abatement date. If factors beyond the employer's reasonable control prevent the completion of corrections by that date, the employer who has made a good faith effort to comply may file a PMA for an extended date.

The written petition should specify all steps taken to achieve compliance, the additional time needed to achieve complete compliance, the reasons this additional time is needed, and all temporary steps being taken to safeguard employees against the cited hazard during the intervening period. It should also indicate that a copy of the PMA was posted in a conspicuous place at or near each place where a violation occurred, and that the employee representative (if there is one) received a copy of the petition.
Notice of Contest: If the employer decides to contest either the citation, the time set for abatement, or the proposed penalty, he or she has 15 working days from the time the citation and proposed penalty are received in which to notify the OSHA area director in writing. An orally expressed disagreement will not suffice. This written notification is called a "Notice of Contest."

There is no specific format for the Notice of Contest; however, it must clearly identify the employer's basis for contesting the

citation, notice of proposed penalty, abatement period, or notification of failure to correct violations.

A copy of the Notice of Contest must be given to the employees' authorized representative. If any affected employees are not represented by a recognized bargaining agent, a copy of the notice must be posted in a prominent location in the workplace, or else served personally upon each unrepresented employee.

Appeal Review Procedure

If the written Notice of Contest has been filed within the required 15 working days, the OSHA area director forwards the case to the Occupational Safety and Health Review Commission (OSHRC). The Commission is an independent agency not associated with OSHA or the Department of Labor. The Commission assigns the case to an administrative law judge.

The judge may disallow the contest if it is found to be legally invalid, or a hearing may be scheduled for a public place near the employer's workplace. The employer and the employees have the right to participate in the hearing; the OSHRC does not require that they be represented by attorneys.

Once the administrative law judge has ruled, any party to the case may request a further review by OSHRC. Any of the three OSHRC commissioners also may, at his or her own motion, bring a case before the Commission for review. Commission rulings may be appealed to the appropriate U.S. Court of Appeals.

Appeals In State-Plan States

States with their own occupational safety and health programs have a state system for review and appeal of citations, penalties, and abatement periods. The procedures are generally similar to Federal OSHA's, but cases are heard by a state review board or equivalent authority.

Relation to State, Local and Other Federal Laws

As discussed above in the section titled "Who is Covered," Federal OSHA has jurisdiction over workplace safety and health issues in all states that do not operate their own OSHA-approved programs. In fact, any occupational safety and health issues regulated by a state that does not have an OSHA-approved program are preempted by OSHA jurisdiction.

The agency also covers all working conditions that are not covered by safety and health regulations of some other federal agency under

other legislation. Industries where such regulations frequently apply include most transportation industries (rail, air and highway safety are under the Department of Transportation), nuclear industries (covered either by the Department of Energy or the Nuclear Regulatory commission) and mining (covered by the Department of Labor's Mine Safety and Health Administration, and discussed elsewhere in this publication). OSHA also has the authority to monitor the safety and health of federal employees.

5. EMPLOYEE BENEFIT PLANS

Employee Retirement Income Security Act (ERISA), 29 USC §1001 et seq., 29 CFR §2509 et seq.

Who is Covered

The provisions of Title I of ERISA are intended to require compliance from most private sector employee benefit plans. Employee benefit plans are voluntarily established and maintained by an employer, an employee organization, or jointly by one or more such employers and the employee organization. Employee benefit plans which are pension plans are established and maintained to provide retirement income or to defer income to termination of covered employment or beyond. Employee benefit plans which are welfare plans are established and maintained to provide, through insurance or otherwise, health benefits, disability benefits, death benefits, prepaid legal services, vacation benefits, day care centers, scholarship funds, apprenticeship and training benefits, or other similar benefits.

In general, ERISA does not cover plans established or maintained by governmental entities or churches for their employees, or plans which are maintained solely to comply with applicable workers compensation, unemployment or disability laws. ERISA also does not cover plans maintained outside the United States primarily for the benefit of nonresident aliens or unfunded excess benefit plans.

Basic Provisions/Requirements

ERISA sets uniform minimum standards to assure the equitable character of employee benefit plans and their financial soundness to provide workers with benefits promised by their employers. In addition, employers have an obligation to provide promised benefits

and satisfy ERISA's requirements on managing and administering private pension and welfare plans. The Department's Pension and Welfare Benefits Administration (PWBA), together with the Internal Revenue Service (IRS), carries out its statutory and regulatory

authority to assure that workers receive the promised benefits. The Department has principal jurisdiction over Title I of ERISA, which requires persons and entities who manage and control plan funds to:
Carry out their duties in a prudent manner and refrain from conflict-of-interest transactions expressly prohibited by law, for the exclusive benefit of participants and beneficiaries
Comply with limitations on certain plans' investments in employer securities and properties

Fund benefits in accordance with the law and plan rules
Report and disclose information on the operations and financial condition of plans to the government and participants
Provide documents required in the conduct of investigations to assure compliance with the law

The IRS administers Title II of ERISA, which includes vesting participation, discrimination and funding standards.

Reporting and Disclosure

Part 1 of Title I requires the administrator of an employee benefit plan to furnish participants and beneficiaries with a summary plan description (SPD), describing in understandable terms, their rights, benefits and responsibilities under the plan. Plan administrators are also required to furnish participants with a summary of any material changes to the plan or changes to the information contained in the summary plan description. Generally, copies of these documents must be filed with the Department.
In addition, the administrator must file an annual report (Form 5500 Series) each year containing financial and other information concerning the operation of the plan. Plans with 100 or more participants must file the Form 5500. Plans with fewer than 100 participants file the Form 5500-C at least every third year and may file a Form 5500-R, an abbreviated report, in the two intervening years. The forms are filed with the Internal Revenue Service, which furnishes the information to the Department of Labor. Welfare benefit plans with fewer than 100 participants that are fully insured or unfunded (i.e., benefits are provided exclusively through insurance contracts where the premiums are paid directly from the general assets of the employer or the benefits are paid from the general assets of the employer) are not required to file an annual report under regulations issued by the Department. Plan administrators must furnish participants and beneficiaries with a summary of the information in the annual report.

The Department's regulations governing reporting and disclosure requirements are set forth at 29 CFR §2520.101-1 et seq.

Fiduciary Standards

Part 4 sets forth standards and rules governing the conduct of plan fiduciaries. In general, persons who exercise discretionary authority or control regarding management of a plan or disposition of its assets are "fiduciaries" for purposes of Title I of ERISA. Fiduciaries are required, among other things, to discharge their duties solely in the interest of plan participants and beneficiaries and for the exclusive purpose of providing benefits and defraying reasonable expenses of administering the plan. In discharging their duties, fiduciaries must act prudently and in accordance with documents governing the plan, to the extent such documents are consistent with ERISA. Certain transactions between an employee benefit plan and "parties in interest," which include the employer and others who may be in a position to exercise improper influence over the plan, are prohibited by ERISA. Most of these transactions are also prohibited by the Internal Revenue Code ("Code"). The Code imposes an excise tax on "disqualified persons" -- whose definition generally parallels that of parties in interest -- who participate in such transactions.

Exemptions

Both ERISA and the Code contain various statutory exemptions from the prohibited transaction rules and give the Departments of Labor and Treasury, respectively, authority to grant administrative exemptions and establish exemption procedures. Reorganization Plan No. 4 of 1978 transferred the authority of the Treasury Department over prohibited transaction exemptions, with certain exceptions, to the Labor Department.

The statutory exemptions generally include loans to participants, the provision of services necessary for operation of a plan for reasonable compensation, loans to employee stock ownership plans, and investment with certain financial institutions regulated by other State or Federal agencies. (See ERISA section 408 for the conditions of the exemptions.) Administrative exemptions may be granted by the Department on a class or individual basis for a wide variety of proposed transactions with a plan. Applications for individual exemptions must include, among other information:

Percentage of assets involved in the exemption transaction

The names of persons with investment discretion

Extent of plan assets already invested in loans to, property leased by, and securities issued by parties in interest involved in the transaction

Copies of all contracts, agreements, instruments and relevant

portions of plan documents and trust agreements bearing on the exemption transaction

Information regarding plan participation in pooled funds when the exemption transaction involves such funds

Declaration, under penalty of perjury by the applicant, attesting to the truth of representations made in such exemption submissions
Statement of consent by third-party experts acknowledging that their statement is being submitted to the Department as part of an exemption application

The Department's exemption procedures are set forth at 29 CFR §2570.30 through 2570.51.

Enforcement

ERISA imposes substantial law enforcement responsibilities on the Department. Part 5 of ERISA Title I gives the Department authority to bring a civil action to correct violations of the law, gives investigative authority to determine whether any person has violated Title I, and imposes criminal penalties on any person who willfully violates any provision of Part 1 of Title V.

Continuation Health Coverage

Continuation health care provisions were enacted as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). These provisions cover group health plans of employers with 20 or more employees on a typical working day in the previous calendar year. COBRA gives participants and beneficiaries an election to maintain at their own expense coverage under their health plan at a cost that is comparable to what it would be if they were still members of the employer's group. Employers and plan administrators have an obligation to determine specific rights of beneficiaries with respect to election, notification and type of coverage options. (See 29 USC §§1161 through 1168). Plans must give covered individuals an initial general notice informing them of their rights under COBRA and describing the law. Plan administrators are required to provide specific notices when certain events occur. In most instances of employee death, termination, reduced hours of employment, entitlement to Medicare, or bankruptcy, it becomes the employer's responsibility to provide a specific notice to the plan administrator.

The Department has limited regulatory and interpretative jurisdiction over COBRA provisions. Its responsibility includes the COBRA notification and disclosure provisions.

Jurisdiction of the Internal Revenue Service

The IRS has regulatory and interpretative responsibility for all provisions of COBRA not under DOL's jurisdiction. (See IRS proposed regulations in the Federal Register of June 14, 1987 (52 FR 22716).) In addition, ERISA provisions relating to participation, vesting, funding and benefit accrual, contained in parts 2 and 3 of Title I, are generally administered and interpreted by the Internal Revenue Service.

Assistance Available

PWBA has numerous general publications designed to assist employers and employees in understanding their obligations and rights under ERISA. Publications -- a listing of PWBA booklets and pamphlets -- is available by writing to: Publications Desk, PWBA, Division of Public Affairs, Room N-5511, 200 Constitution Ave., NW, Washington, DC 20210.

In addition, employee benefit plan documents and other materials are available from the PWBA Public Disclosure Room. This facility may be used to view and to obtain copies of materials on file. Materials include: summary plan descriptions, Form 5500 Series reports, Master Trust reports, 103-12 Investment Entity Reports, Common or Collective Trust or Pooled Separate Account direct filings, Apprentice and Other Training Plans notices, "Top Hat" plan statements, advisory opinions, announcements and transcripts of public hearings and proceedings.

The PWBA Public Disclosure Room is open to the public Monday through Friday, from 8:30 a.m. to 4:30 p.m. Copies of materials are available at a cost of 15 cents per page by ordering in person or writing to: PWBA Public Disclosure Room, U.S. Department of Labor, Room N-5507, 200 Constitution Ave., NW, Washington, DC 20210. Given the complexity of ERISA requirements, employers may seek the assistance of an attorney, CPA firm, investment or brokerage firm, and other employee benefit consultants in complying with the law.

Penalties

PWBA has authority to assess civil penalties for reporting violations and prohibited transactions involving a plan under ERISA Section 502(c). A penalty of up to $1,000 per day may be assessed against plan administrators who fail to or refuse to comply with annual reporting requirements. Section 502(i) gives the agency authority to assess civil penalties against parties in interest who engage in prohibited transactions with welfare and nonqualified pension plans. The penalty can range from five percent to 100 percent of the amount involved in a transaction. A parallel

provision of the Code directly imposes an excise tax against disqualified persons, including employee benefit plan sponsors and service providers, who engage in prohibited transactions with tax-qualified pension and profit sharing plans. Finally, the Department is required under Section 502(l) to assess mandatory civil penalties equal to 20 percent of any amount recovered with respect to fiduciary breaches resulting from either a settlement agreement with the Department or a court order as the result of a lawsuit by the Department.

Relation to State, Local and Other Federal Laws

Part 5 of Title I provides that the provisions of ERISA Titles I and IV supersede state and local laws which "relate to" an employee benefit plan. ERISA, however, saves certain state and local laws from ERISA preemption, including certain exceptions for state insurance regulation of multiple employer welfare arrangements (MEWAs). MEWAs generally constitute employee welfare benefit plans or other arrangements providing welfare benefits to employees of more than one employer, not pursuant to a collective bargaining agreement.

In addition, ERISA's general prohibitions against assignment or alienation of pension benefits does not apply to qualified domestic relations orders. These orders must be made pursuant to state domestic relations law and award all or part of a participant's benefit in the form of child support, alimony, or marital property rights to an alternative payee (spouse, former spouse, child or other dependent). Plan administrators must comply with the terms of such orders.

6. WHISTLEBLOWER PROTECTION

Employee Protection (Whistleblower) Provisions -- Clean Air Act (Title 42 U.S. Code, Section 7622); Comprehensive Environmental Response, Compensation and Liability Act (Title 42 U.S. Code, Section 9610); Energy Reorganization Act of 1974 (Title 42 U.S. Code, Section 5851); Safe Drinking Water Act (Title 42 U.S. Code, Section 300j-9(i)); Solid Waste Disposal Act (Title 42 U.S. Code, Section 6971); Toxic Substances Control Act (Title 15 U.S. Code, Section 2622); Federal Water Pollution Control Act (Title 33 U.S. Code, Section 1367); 29 CFR 24).

Who is covered

These environmental Acts provide protection from discharge or other discriminatory actions by employers in retaliation for employees' good faith complaints about safety and health hazards in the

workplace. The Acts cover all private sector employers.

Basic Provisions/Requirements

The employee protection provisions of these Acts prohibit employers from discharging or otherwise discriminating against employees in retaliation for their disclosure of safety and health hazards to the employer or to the appropriate federal agency. They also protect employee participation in formal government proceedings in connection with safety and health hazards. The Acts specifically exclude from protection the disclosure of hazards deliberately caused by an employee. Additionally, the statutes do not protect "frivolous" complaints. Employees have the right under the Acts to refuse to work in hazardous or unsafe situations.

Employees who believe they have been discriminated against in violation of these protective provisions may file a complaint, within 30 days of the alleged violation, with the Employment Standards Administration's Wage and Hour Division.

Assistance Available
More detailed information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained by contacting the offices listed beginning on page 53 in the appendix.

Penalties

Upon receipt of a complaint, the Wage and Hour Division conducts an investigation to determine whether a violation has occurred. When a violation has occurred, the employer is notified of the violation determination and efforts are made to conciliate the situation. The employer may appeal a violation determination to an administrative law judge, if done within 5 calendar days of the notification of the determination. The administrative law judge's decision is referred to the Secretary of Labor for a final order. The Secretary may affirm or set aside the administrative law judge's decision. Where the Secretary concludes that a violation has occurred, his/her final order may instruct the employer to take affirmative action to abate the violation and provide for appropriate relief, which may include restoration of back pay, employment status and benefits. The Secretary may also order the employer to provide compensatory damages to the employee. If dissatisfied with the Secretary's decision, the employer may appeal in federal court. Final determinations on violations are enforceable through the courts. The employee is entitled to similar appeal rights under the Acts.

Relation to State, Local and Other Federal Laws

The current whistleblower programs do not preempt existing state statutes and common law claims. All provisions contained in the programs are in addition to protection provided by state laws.

7. VETERANS

Veterans' Reemployment Rights Act (VRR).

Who is Covered

VRR applies to persons who are inducted into the Armed Forces, to persons who volunteer directly for active duty and to Reservists and members of the National Guard who are called to active duty either voluntarily or involuntarily. In addition, VRR covers members of the Reserves and National Guard during initial active duty training, active duty for training and inactive duty training.

Basic Provisions/Requirements

Veterans returning from active duty must meet the following five eligibility requirements to be covered by VRR:
Held an "other than temporary" (not necessarily "permanent") civilian job

Left the civilian job for the purpose of going on active duty
Did not remain on active duty longer than 4 years, unless the period beyond 4 years (up to an additional year) was "at the request and for convenience of the Federal Government"
Was discharged or released from active duty "under honorable conditions"

Applied for reemployment with the pre-service employer or successor in interest within 90 days after separation from active duty
Eligible veterans are entitled to reinstatement within a reasonable time to a position of like seniority, status and pay. In addition, the returning veterans do not step back on the seniority escalator at the point they stepped off. Rather the veterans step back on at the precise point that they would have occupied had they kept the position continuously during the military service.

VRR provides that a reservist or member of the National Guard shall upon request be granted a leave of absence by such person's employer to perform active duty training or inactive duty training and that the employee shall not be denied retention in employment or any promotion or other incident or advantage of employment because of any obligation as a member of a Reserve component of the Armed Forces. In addition, while the employer is not required to pay the Reservist or National Guard member for the hours or days

not worked because of military training obligations, it is unlawful to require the employee to use earned vacation time for military training.

A person who leaves a civilian job in order to perform active duty is not required to request a leave of absence or even to notify the employer that military service is the reason for leaving the job, although such a person is encouraged to provide the employer with as much information as possible. However, a Reservist or member of the National Guard must request a leave of absence when leaving the civilian job to perform active duty training or inactive duty training.

VRR is enforced by DOL's Veterans' Employment and Training Service (VETS).

Assistance Available

VETS has published two fact sheets covering the veteran reemployment and job rights. These are OASVET 90-09 entitled "Job Rights for Reservists and Members of the National Guard" and OAVET 90-10 entitled "Reemployment Rights for Returning Veterans." Copies of these and other VETS' publications or answers to questions on VRR may be obtained from the nearest VETS office, as listed beginning on page 67 in the appendix.

Penalties
Not Applicable.

Relation to State, Local and Other Federal Laws
The VRR does not preempt state laws providing greater or additional rights, but it does preempt state laws providing lesser rights or imposing additional eligibility criteria.

8. PLANT CLOSINGS AND MASS LAYOFFS

Worker Adjustment and Retraining Notification (WARN) Act, 29 U.S.C. 2101 et seq.; 20 CFR Part 639.

Who is Covered

In general, employers are covered by WARN if they have 100 or more employees, not counting employees who have worked less than 6 months in the last 12 months and not counting employees who work an average of less than 20 hours a week. Regular federal, state and local government entities which provide public services are not covered. Employees entitled to notice under WARN include hourly and salaried workers, as well as managerial and supervisory employees.

Basic Provisions/Requirements

WARN requires employers to provide notice 60 days in advance of covered plant closings and covered mass layoffs. This notice must be provided to affected workers or their representatives (e.g., a labor union), to the state dislocated worker unit, and to the appropriate local government.

A covered plant closing occurs when a facility or operating unit is shut down for more than 6 months, and 50 or more workers lose their jobs as a result during a 30-day period. A covered mass layoff occurs when a layoff of 6 months or longer affects 500 or more workers, or 33 percent or more of the employer's workforce when the layoffs affect between 50 and 499 workers. The number of affected workers is the total number laid off during a 30-, or in some cases 90-, day period.

WARN does not apply to the closing of temporary facilities, or the completion of an activity when the workers were hired only for the duration of that activity. WARN also provides for less than 60 days notice when the layoffs were the result of the closing a faltering company, unforeseeable business circumstances, or a natural disaster.

Assistance Available

The Department of Labor has published a pamphlet entitled "A Guide to Advance Notice of Closings and Layoffs," which describes the Worker Adjustment and Retraining Notification Act. Requests for copies of the pamphlet, or general questions on the regulations, may be addressed to:

U.S. Department of Labor
Employment and Training Administration
Office of Work-Based Learning
Room N-4469
200 Constitution Avenue, N.W. Washington, DC 20210
(202) 219-5577 (not a toll-free number)

The Department, since it does not have administrative or enforcement authority under WARN, cannot provide specific advice or guidance with respect to individual situations.

Penalties

An employer who violates the WARN provisions is liable to each employee for an amount equal to back pay and benefits for the period of the violation, up to 60 days. This may be reduced by the

period of any notice that was given, and any voluntary payments made by the employer to the employee.

An employer who fails to provide the required notice to the unit of local government is subject to a civil penalty not to exceed $500 for each day of violation. This may be avoided if the employer satisfies the liability to each employee within 3 weeks after the closing or layoff.

Enforcement of WARN requirements is through the United States district courts. Workers, or their representatives, and units of local government may bring individual or class action suits. The Court may allow reasonable attorney's fees as part of any final judgement.

Relation to State, Local and Other Federal Laws

WARN is in addition to, and does not preempt any other federal, state or local law, or any employer/employee agreement which requires other notification or benefit.

9. LIE DETECTOR TESTS

Employee Polygraph Protection Act of 1988 (29 U.S. Code, Section 2001 et seq.; 29 CFR Part 801).

Who is Covered

The Employee Polygraph Protection Act (EPPA) applies to most private employers. Federal, state and local governments are not covered by the law.

Basic Provisions/Requirements

The EPPA prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act. Employers may not use or inquire about the results of a lie detector test or discharge or discriminate against an employee, a prospective employee, or a former employee for refusal to take a test, on the basis of the results of a test, or for filing a complaint, or participating in a proceeding under the Act.

The Act permits polygraph (a type of lie detector) tests to be administered, subject to restrictions, to certain prospective employees of security service firms (armored car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers.

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in specific economic loss or injury to the employer. Where polygraph examinations are permitted, they are subject to strict standards concerning the conduct of the test, including the pretest, testing and post-testing phases. An examiner must also be licensed and bonded or have professional liability coverage. The Act strictly limits the disclosure of information obtained during a polygraph test.

Assistance Available

The Act is administered and enforced by the Employment Standards Administration's Wage and Hour Division. More detailed information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained by contacting the offices listed beginning on page 53 in the appendix.

Penalties

The Secretary of Labor can bring court action to restrain violators and assess civil money penalties up to $10,000 per violation against violators. Employers who violate the law may be liable to the employee or prospective employee for legal and equitable relief, including employment, reinstatement, promotion and payment of lost wages and benefits. Any person against whom a civil money penalty is assessed may, within 30 days of the notice of assessment, request a hearing before an administrative law judge. If dissatisfied with the administrative law judge's decision, such person may request a review of the decision by the Secretary of Labor. Final determinations on violations are enforceable through the courts.

Relation to State, Local and Other Federal Laws

The law does not preempt any provision of any state or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.

10. WAGE GARNISHMENT

Title III, Consumer Credit Protection Act (15 U.S. Code, Sections 1671 et seq; 29 CFR 870).

Who is Covered

Title III of the Consumer Credit Protection Act (CCPA) protects employees from being discharged by their employers because of garnishment for any one indebtedness and limits the amount of employees' earnings which may be garnished in any one week. Title III applies to all individuals who receive personal earnings and to their employers. Personal earnings include wages, salaries, commissions, bonuses and income from a pension or retirement program but does not ordinarily include tips.
The law applies in all 50 states, the District of Columbia, Puerto Rico and all U.S. territories and possessions.

Basic Provisions/Requirements

Wage garnishment is a legal procedure through which the earnings of an individual are required by court order to be withheld by an employer for the payment of a debt. Title III prohibits an employer from discharging an employee whose earnings have been subject to garnishment for any one debt, regardless of the number of levies made or proceedings brought to collect it. It does not, however, protect an employee from discharge if the employee's earnings have been subject to garnishment for a second or subsequent debts.

Title III also protects employees by limiting the amount of their earnings that may be garnished in any workweek or pay period to the lesser of 25 percent of disposable earnings or the amount by which disposable earnings are greater than 30 times the federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938. This limit applies regardless of the number of garnishment orders received by an employer. The federal minimum wage is $4.25 per hour.

In court orders for child support or alimony, Title III allows up to 50 percent of an employee's disposable earnings to be garnished if the employee is supporting another spouse or child, and up to 60 percent for an employee who is not. An additional 5 percent may be garnished for support payments which are more than 12 weeks in arrears.

"Disposable earnings" is the amount of employee earnings left after legally required deductions have been made for federal, state and local taxes, Social Security, unemployment insurance and state employee retirement systems. Other deductions which are not required by law, e.g., union dues, health and life insurance, and

charitable contributions, are not subtracted from gross earnings when calculating the amount of disposable earnings for garnishment purposes.

Title III specifies that garnishment restrictions do not apply to bankruptcy court orders and debts due for federal and state taxes. Nor does it affect voluntary wage assignments, i.e., situations in which workers voluntarily agree that their employers may turn over some specified amount of their earnings to a creditor or creditors.

Assistance Available

Title III is administered and enforced by the Employment Standards Administration's Wage and Hour Division. More detailed information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained by contacting the offices listed beginning on page 53 in the appendix.

Penalties

Violations of Title III may result in the reinstatement of a discharged employee, with back pay, and the correction of improper garnishment amounts. Where violations cannot be resolved through informal means, court action may be initiated to restrain and remedy violations. Employers who willfully violate the discharge provisions of the law may be prosecuted criminally and fined up to $1,000, or imprisoned for not more than one year, or both.

Relation to State, Local and Other Federal Laws

If a state wage garnishment law differs from Title III, the law resulting in the smaller garnishment, or prohibiting the discharge of any employee because his or her earnings have been subject to garnishment for more than one indebtedness must be observed.

APPENDIX

Wage and Hour Division

National Office

Office of Program Operations
Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, Room S-3028
200 Constitution Ave., N.W.
Washington, D.C. 20210
(202) 219-8353

Division of Farm Labor, Child Labor, and Polygraph Standards
Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, Room S-3510
200 Constitution Ave., N.W.
Washington, D.C. 20210
(202) 219-4670

Division of Contract Standards Operations
Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, Room S-3018
200 Constitution Ave., N.W.
Washington, D.C. 20210
(202) 219-7541

Division of Fair Labor Standards Act Operations
Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, Room S-3516
200 Constitution Ave., N.W.
Washington, D.C. 20210
(202) 219-1407

Division of Wage Determinations
Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, Room S-3014
200 Constitution Ave., N.W.
Washington, D.C. 20210
(202) 219-7531

Regional Administrators

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, Room 750
201 Varick St.
New York, New York 10014
(212) 337-2000

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, Room 662
1375 Peachtree St., N.E.
Atlanta, Georgia 30367
(404) 347-4801

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Federal Building, S. 800
525 S. Griffin St.
Dallas, Texas 75202
(214) 767-6894

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Federal Office Building
1801 California St., S. 930
Denver, Colorado 80202-2614
(303) 391-6780

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
1111 Third Ave., S. 600
Seattle, Washington 98101
(206) 553-1914

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
One Congress St., 11th Fl.
Boston, Massachusetts 02114
(617) 565-2066

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, Room 15230
Gateway Building
3535 Market St.
Philadelphia, Pennsylvania 19104
(215) 596-1185

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, Room 820
230 South Dearborn St.
Chicago, Illinois 60604
(312) 353-7280

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Federal Office Building, Room 2000

911 Walnut St.
Kansas City, Missouri 64106
(816) 426-5381

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor, S. 930
71 Stevenson St.
San Francisco, California 94105
(415) 744-6645

Office of Federal Contract Compliance Programs

OFCCP/ESA
U.S. Department of Labor
200 Constitution Ave., N.W.
Washington, DC 20210
(202) 219-9475

OFCCP/ESA
U.S. Department of Labor
One Congress St., 11th Fl.
Boston, MA 02114
(617) 565-2055

OFCCP/ESA
U.S. Department of Labor
201 Varick St., Room 750
New York, NY 10014
(212) 337-2006

OFCCP/ESA
U.S. Department of Labor
Gateway Building, Room 15340
3535 Market St.
Philadelphia, PA 19104
(215) 596-6168

OFCCP/ESA
U.S. Department of Labor, S. 678
1375 Peachtree St., N.E.
Atlanta, GA 30367
(404) 347-3200

OFCCP/ESA
U.S. Department of Labor
New Federal Building, Room 570
230 South Dearborn St.
Chicago, IL 60604

(312) 353-0335

OFCCP/ESA
U.S. Department of Labor
Federal Building, Room 840
525 South Griffin St.
Dallas, TX 75202
(214) 767-4771

OFCCP/ESA
U.S. Department of Labor
911 Walnut St., Room 2011
Kansas City, MO 64106
(816) 426-5384

OFCCP/ESA
U.S. Department of Labor
Federal Office Building, S. 935
1801 California St.
Denver, CO 80202
(303) 844-5011

OFCCP/ESA
U.S. Department of Labor
71 Stevenson St., S. 910
San Francisco, CA 94105
(415) 744-6640

OFCCP/ESA
U.S. Department of Labor, S. 610
1111 Third Ave.
Seattle, WA 98101
(206) 553-4508

Occupational Safety and Health Administration

State Program Offices

Alaska Department of Labor
1111 West 8th St., Room 306
Juneau, AK 99802
(907) 465-2700

Industrial Comm. of Arizona
800 W. Washington
Phoenix, AZ 85007
(602) 542-5795

California Dept. of Industrial Relations

455 Golden Gate Ave., 4th Fl.
San Francisco, CA 94102
(415) 703-4590

Connecticut Dept. of Labor
200 Folly Brook Blvd.
Wethersfield, CT 06109
(203) 566-5123

Hawaii Dept. of Labor and Industrial Relations
830 Punchbowl St.
Honolulu, HI 96813
(808) 586-8844

Indiana Dept. of Labor
State Office Bldg., Room W-195
402 West Washington St.
Indianapolis, IN 46204
(317) 232-2378

Iowa Div. of Labor Services
1000 E. Grand Ave.
Des Moines, IA 50319
(515) 281-3447

Kentucky Labor Cabinet
1049 US Highway 127 South
Frankfort, KY 40601
(502) 564-3070

Maryland Div. of Labor and Industry
Dept of Licensing and Regs
501 St. Paul Pl., 2nd Fl.
Baltimore, MD 21202
(301) 333-4179

Michigan Dept. of Labor
P.O. Box 30015
Victor Office Center
201 N. Washington Square
Lansing, MI 48933
(517) 373-9600

Michigan Dept. of Public Health
P.O. Box 30195
3423 N. Logan St.
Lansing, MI 48909
(517) 335-8022

Minnesota Dept. of Labor and Industry
443 Lafayette Rd.
St. Paul, MN 55155
(612) 296-2342

Nevada Department of Industrial Relations
Division of Occupational Safety and Health
Capitol Complex
1370 S. Curry St.
Carson City, NV 89710
(702) 687-3032

New Mexico Environment Dept.
Occupational Health and Safety Bureau
P.O. Box 26110
1190 St. Francis Dr.
Santa Fe, NM 87502
(505) 827-2850

New York Dept. of Labor
State Office Building
Campus 12, Room 457
Albany, NY 12240
(518) 457-2741

North Carolina Dept. of Labor
4 W. Edenton St.
Raleigh, NC 27601
(919) 733-0360

Oregon Occupational Safety and Health Div.
Dept. of Insurance and Finance, Room 160
21 Labor and Industry Bldg.
Summer and Chemekita Sts., N.E.
Salem, OR 97310
(503) 378-3272

Puerto Rico Dept. of Labor and Human Resources
505 Munoz Rivera Ave.
Hato Rey, PR 00918
(809) 754-2119

South Carolina Dept. of Labor
P.O. Box 11329
3600 Forest Dr.
Columbia, SC 29211
(803) 734-9594

Tennessee Dept. of Labor

501 Union Bldg, 2nd Fl., S. "A"
Nashville, TN 37243
(615) 741-2582

Utah Occupational Safety and Health
160 E. 300 South
P.O. Box 5800
Salt Lake City, UT 84110
(801) 530-6900

Vermont Dept. of Labor and Industry
120 State St.
Montpelier, VT 05620
(802) 828-2288

Virgin Islands Dept. of Labor
2131 Hospital St.
Christiansted, St Croix VI 00840
(809) 773-1994

Virginia Dept. of Labor and Industry
Powers-Taylor Bldg.
13 S. 13th St.
Richmond, VA 23219
(804) 786-2376

Washington Dept. of Labor and Industries
P.O. Box 44001
Olympia, WA 98504
(206) 956-4200

Wyoming Dept. of Employment
Occupational Health and Safety Administration
Herschler Bldg, 2nd Fl. East
122 West 25th St
Cheyenne, WY 82002
(307) 777-7672

Regional OSHA Offices

Region I (CT**, MA, ME, NH, RI, VT*)
133 Portland St., 1st Fl.
Boston, MA 02114
(617) 565-7164

Region II (NJ, NY**, PR*, VI*)
201 Varick St., Room 670
New York, NY 10014
(212) 337-2378

Region III (DC, DE, MD*, PA, VA*, WV)
3535 Market St., S. 2100
Philadelphia, PA 19104
(215) 596-1201

Region IV (AL, FL, GA, KY*, MS, NC*, SC*, TN*)
1375 Peachtree St., N.E., Room 587
Atlanta, GA 30367
(404) 347-3573

Region V (IL, IN*, MI*, MN*, OH, WI)
230 S. Dearborn St., Room 3244
Chicago, IL 60604
(312) 353-2220

Region VI (AR, LA, NM*, OK, TX)
525 Griffin St, Room 602
Dallas, TX 75202
(214) 767-4731

Region VII (IA*, KS, MO, NE)
911 Walnut St., Room 406
Kansas City, MO 64106
(816) 426-5861

Region VIII (CO, MT, ND, SD, UT*, WY*)
1961 Stout St., Room 1576
Denver, CO 80294
(303) 844-3061

Region IX (American Samoa, AZ*, CA*, Guam, HI*, NV*, Pacific Trust Territories)
71 Stevenson St., 4th Flr.
San Francisco, CA 94105
(415) 744-6670

Region X (AK*, ID, OR*, WA*)
1111 Third Ave., Room 715
Seattle, WA 98101-3212
(206) 553-5930

*State operates an OSHA-approved program in both the public and private sectors.

**State operates a public employee-only program (NY & CT).

Office of Labor-Management Standards

OLMS
S. 600
1365 Peachtree St., NE
Atlanta, GA 30367
(404) 347-4237

OLMS
S. 302
121 High St.
Boston, MA 02110
(617) 565-8130

OLMS
S. 774
Federal Office Building
230 S. Dearborn St.
Chicago, IL 60604
(312) 353-7264

OLMS
S. 831
Federal Office Building
1240 East 9th St.
Cleveland, OH 44199
(216) 522-3855

OLMS
S. 300
525 Griffin Square Bldg.
Griffin and Young Streets
Dallas, TX 75202
(214) 767-6834

OLMS
S. 1606
Federal Office Building
Kansas City, MO 64106
(816) 426-2547

OLMS
S. 878
201 Varick St.
New York, NY 10014
(212) 337-2580

OLMS
S. 9452
William Green Federal Building
600 Arch St.

Philadelphia, PA 19106
(215) 597-4960

OLMS
S. 725
71 Stevenson St.
San Francisco, CA 94105
(415) 744-6669

OLMS
S. 558
Ridell Building
1730 K St., N.W.
Washington, DC 20006
(202) 254-6510

Veterans Employment and Training Service

MONTGOMERY, ALABAMA 36130
649 Monroe St.
(205) 223-7677

JUNEAU, ALASKA 99802
1111 West 8th St.
(907) 465-2723

PHOENIX, ARIZONA 85005
1300 West Washington
(602) 261-4961

LITTLE ROCK, ARKANSAS 72201
Employment Security Bldg.
State Capitol Mall, Rm. G-12
(501) 682-3786

SACRAMENTO, CALIFORNIA 94280
P. O. Box 942880
800 Capitol Mall, Room W1142
(916) 654-8178

SAN FRANCISCO, CALIFORNIA 94105
71 Stevenson St., S. 705
(415) 744-6677

DENVER, COLORADO 80203
600 Grant St., S. 900
(303) 866-1114

WETHERSFIELD, CONNECTICUT 06109

CT Department of Labor Building
200 Folly Brook Boulevard
(203) 566-3326

NEWARK, DELAWARE 19702
Stockton Building, Room 104
100 Chapman Rd.
(302) 368-6898

WASHINGTON, D.C. 20001
500 C St., N.W., Room 108
(202) 727-3342

TALLAHASSEE, FLORIDA 32399
S. 102, Atkins Building
1320 Executive Center Dr.
(904) 488-2967

ATLANTA, GEORGIA 30303
Sussex Place, S. 504
148 International Blvd, N.E.
(404) 656-3127

HONOLULU, HAWAII 96813
830 Punchbowl St.
Room 232A
(808) 541-1780

BOISE, IDAHO 83735
317 Main St., Room 303
(208) 334-6164 or 6163

CHICAGO, ILLINOIS 60605
401 South State St., 2 North
(312) 793-3433

INDIANAPOLIS, INDIANA 46204
10 North Senate Ave., Room 203
(317) 232-6804

DES MOINES, IOWA 50319
1000 East Grand Ave.
(515) 281-5106

TOPEKA, KANSAS 66612
1309 Topeka Boulevard
(913) 296-5032

FRANKFORT, KENTUCKY 40621

c/o Department for Employment Services
275 East Main St.
(502) 564-7062

BATON ROUGE, LOUISIANA 70804
Louisiana DOL
Employment Security Bldg.
Room 174, 1001 N. 23rd St.
(504) 342-5691

LEWISTON, MAINE 04243
522 Lisbon St.
(207) 783-5352

BALTIMORE, MARYLAND 21201
1100 North Eutaw St.
Room 205
(410) 333-5194

BOSTON, MASSACHUSETTS 02203
Room 506, JFK Federal Building
(617) 565-2081

DETROIT, MICHIGAN 48202
7310 Woodward Ave.
S. 407
(313) 876-5613, 5614, or 5615

ST. PAUL, MINNESOTA 55101
390 North Robert, 1st Fl.
(612) 296-3665

JACKSON, MISSISSIPPI 39215
1520 West Capitol St.
(601) 961-7588
JEFFERSON CITY, MISSOURI 65104
421 East Dunklin St.
(314) 751-9231

HELENA, MONTANA 59624
515 North Sanders
(406) 449-5431

LINCOLN, NEBRASKA 68509
550 South 16th St.
(402) 437-5289

CARSON CITY, NEVADA 89710
500 East Third St.

(702) 885-4632

CONCORD, NEW HAMPSHIRE 03301
55 Pleasant St., Room 325
(603) 225-1424 or 235-1425

TRENTON, NEW JERSEY 08609
28 Yard Ave., Room 200
(609) 292-2930

ALBUQUERQUE, NEW MEXICO 87108
1st National Bank Building, East
5301 Central, N.E., Room 1214
(505) 841-4592

ALBANY, NEW YORK 12240
Harriman State Campus
Building 12, Room 518
(518) 457-7465

RALEIGH, NORTH CAROLINA 27605
700 Wade Ave.
(919) 733-7402

BISMARCK, NORTH DAKOTA 58501
1000 Divide Ave.
(701) 224-2865

CLEVELAND, OHIO 44115
2728 Euclid Ave., 2nd Fl.
(216) 622-3084

COLUMBUS, OHIO 43216
OBES Building
145 South Front St.
(614) 466-2768

OKLAHOMA CITY, OKLAHOMA 73105
Will Rogers Memorial Office Building, Room 301
(405) 557-7189

SALEM, OREGON 97311
312 Employment Division Building
875 Union St., N.E.
(503) 378-3338

HARRISBURG, PENNSYLVANIA 17121
Labor and Industry Building
Room 625

Seventh and Forster Streets
(717) 787-5834

HATO REY, PUERTO RICO 00918
Puerto Rico Department of Labor and Human Resources Building
505 Munoz Rivera Ave.
15th Fl.
(809) 754-5391

PROVIDENCE, RHODE ISLAND 02903
507 Federal Building and Courthouse
(401) 528-5134

COLUMBIA, SOUTH CAROLINA 29201
914 Richland St., S. 101
(803) 253-7649

ABERDEEN, SOUTH DAKOTA 57402
420 South Roosevelt
P. O. Box 4730
(605) 226-7289

NASHVILLE, TENNESSEE 37201
301 James Robertson Parkway
Room 317
(615) 741-2135

AUSTIN, TEXAS 78701
TEC Building, Room 516-B
Trinity and 12th St.
(512) 463-2207

SALT LAKE CITY, UTAH 84111
140 E. 300 South
(801) 524-5703 or 524-5704

MONTPELIER, VERMONT 05602
Post Office Building
87 State St., Room 303
(802) 828-4441 or 828-4437

RICHMOND, VIRGINIA 23219
701 East Franklin St., S. 1409
(804) 786-7269

LACEY, WASHINGTON 98503
605 Woodview Dr., S.E.
(206) 438-4600

CHARLESTON, WEST VIRGINIA 25305
112 California Ave., Room 212
Capitol Complex
(304) 348-4001 or 347-5290

MADISON, WISCONSIN 53701
GEF I, 201 E. Washington Ave.
Room 250
(608) 266-3110

CASPER, WYOMING 82602
100 West Midwest Ave.
(307) 235-3281 or 235-3282

Mine Safety and Health Administration

Coal Mining

MSHA District 1 Office
Penn Place
20 N. Pennsylvania Ave.
Wilkes-Barre, PA 18701.
(717) 826-6321

MSHA District 2 Office
R.R. 1, Box 736
Hunker, PA 15639
(412) 925-5150

MSHA District 5 Office
P.O. Box 560
Norton, VA 24273
(703) 679-0230

MSHA District 8 Office
501 Busseron St.
Vincennes, IN 47591
(812) 882-7617

MSHA District 3 Office
5012 Mountaineer Mall
Morgantown, WV 26505
(304) 291-4277

MSHA District 4 Office
100 Bluestone Rd.
Mt. Hope, WV 25880
(304) 877-3900

MSHA District 6 Office
219 Ratliff Creek Rd.
Pikeville, KY 41501
(606) 432-0943

MSHA District 7 Office
HC 66, Box 1762
Barbourville, KY 40906
(606) 546-5123

MSHA District 10 Office
100 YMCA Dr.
Madisonville, KY 42431
(502) 821-4180

MSHA District 9 Office
P.O. Box 25367
Denver, CO 80225
(303) 231-5468

Metal and Nonmetal Mining

MSHA Northeastern District Office
230 Executive Dr.
Mars, PA 16046
(412) 772-2333

MSHA Southeastern District Office
35 Gemini Circle, S. 212
Birmingham, AL 35209
(205) 290-7294

MSHA North Central District Office
515 W. First St.
No. 228
Duluth, MN 55802
(218) 720-5448

MSHA South Central District Office
1100 Commerce St., Room 4650
Dallas, TX 75242
(214) 767-8401

MSHA Rocky Mountain District Office
P.O. Box 25367
Denver, CO 80225
(303) 231-5465

MSHA Western District Office

3333 Vaca Valley Parkway, S. 600
Vacaville, CA 95688
(707) 447-9844

Longshore and Harbor Workers

OWCP/DLHWC
U.S. Department of Labor, ESA
Room C-4315
200 Constitution Ave., N.W.
Washington, D.C. 20210
(202) 219-8572

District NO. 1 (MA, ME, NH, VT, RI, and CT)

OWCP/DLHWC
U.S. Department of Labor, ESA
One Congress St., 11th Fl.
Boston, MA 02114
(617) 565-2103

District NO. 2 (NY, NJ, and Puerto Rico)

OWCP/DLHWC
U.S. Department of Labor, ESA
P.O. Box 249
201 Varick St., Room 750
New York, NY 10014
(212) 337-2033

District NO. 3 (PA, DE, and WV)

OWCP,DLHWC
U.S. Department of Labor, ESA
P.O. Box 7336
Gateway Building, Room 13180
3535 Market St.
Philadelphia, PA 19104
(215) 596-5570

District NO. 7 (LA and AR)

OWCP/DLHWC
U.S. Department of Labor, ESA
Room 13032
701 Loyola Ave.
New Orleans, LA 70113
(504) 589-3664

District NO. 8 (TX, OK, and NM)

OWCP/DLHWC
U.S. Department of Labor, ESA
One South Green Building, Room 105
12600 N. Featherwood Dr.
Houston, TX 77034
(713) 481-9750

District No. 10 (IL, IN, IA, KS, MI, MN, MO, NE, OH, and WI)

OWCP/DLHWC
U.S. Department of Labor, ESA
Room 800
230 South Dearborn St.
Chicago, IL 60604
(312) 353-8883

District NO. 18 (That part of the State of California south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino)

OWCP/DLHWC
U.S. Department of Labor, ESA
S. 720
401 E. Ocean Boulevard
Long Beach, CA 90802
(213) 514-6226

District NO. 40 (Processes cases under the District of Columbia Workmen's Compensation Act of 1928)

Labor Standards
D.C. Department of Employment Services
1200 Upshur St., N.W.
Washington, DC 20011
(202) 576-6265

District NO. 4 (MD and DC)

OWCP/DLHWC
U.S. Department of Labor, ESA
Federal Building, Room 1026
31 Hopkins Plaza
Baltimore, MD 21201
(410) 962-3677

District NO. 5 (VA)
OWCP/DLHWC

U.S. Department of Labor, ESA
Federal Building, Room 212
200 Granby Mall
Norfolk, VA 23510
(804) 441-3071

District NO. 6 (FL, NC, KY, TN, SC, GA, AL, and MS)

OWCP/DLHWC
U.S. Department of Labor, ESA
Edward Ball Building, Fl. 10
214 Hogan St.
Jacksonville, FL 32202
(904) 791-2881

District No. 13 (AZ NV, and that part of the State of California north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino)

OWCP/DLHWC
U.S. Department of Labor, ESA
P.O. Box 3770
71 Stevenson St., Room 210
San Francisco, CA 94119
(415) 744-6869

District NO. 14 (AK, CO, ID, MT, ND, SD, OR, UT, WA, and WY)

OWCP/DLHWC
U.S. Department of Labor, ESA
1111 3rd. Ave., S. 620
Seattle, WA 98101
(206) 442-4471

Dallas Office

OWCP
U.S. Department of Labor, ESA
Griffin Square Building, Room 407
525 Griffin Square
Dallas, TX 75202
(214) 767-4712

District NO. 15 (Hawaii)

OWCP/DLHWC
U.S. Department of Labor, ESA
P.O. Box 50209, Room 5108
300 Ala Moana Boulevard

Honolulu, HI 96850
(808) 551-1983

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