

## Other Relevant Federal Regulations

### INTRODUCTION

Modern farms and ranches have grown increasingly larger and more complex. When the HOOAs were implemented, most farms and ranches were relatively small, operated primarily with family labor, and were exempt from most federal workplace safety and health regulations. Even with the passage of the Occupational Safety and Health Act (OSHA) in 1970, few farms met the basic conditions necessary for them to be required to comply with the OSHA standards, such as having 11 or more employees or maintaining migrant or seasonal labor housing facilities.

Currently, thousands of farms across the U.S. have met the threshold for moving from the exempt category to being required to comply with OSHA standards, except in cases where agricultural production sites or specific activities have been specifically exempt, such as regulations related to grain handling.

Included in this appendix are documents that summarize the current OSHA standards that apply to agricultural production sites which have more than 10 employees (including younger workers) and/or maintain migrant or seasonal labor housing. In addition, information on complying with the Fair Labor Standards Act as it related to the employment of youth is included.

Another relevant change that has occurred in agricultural production has been the diversification of farms and ranches to include non-agricultural production activities that may not be exempt from compliance with the current OSHA standards and/or the Fair Labor Standards Act, including the HOOAs exemptions for youth. For example, a large grain farm may include a side-line business, such as operating a commercial grain elevator, seed sales, commercial trucking, or custom pesticide application operation. These businesses are not considered agricultural and therefore not covered by the HOOAs exemption rules.

A youth with an HOOA certificate of training may be able to operate a tractor for tillage purposes on the farm portion of the business, but may not be allowed to operate the same tractor to move grain out of flat storage facilities in the commercial grain storage facility operated by the farm. Another example relates to a youth, age 16, who is able to be employed on a farm to operate a chain saw or enter a grain bin, but these same tasks in a secondary business, operated by the farm owner, would be prohibited until the youth reaches the age of 18. In other words, the same employer, same youth, at the same location may have to operate by two sets of rules.

Also included in this appendix is a document that summarizes the Fair Labor Standards Act (FLSA) for the employment of youth under the age of 18. As the instructor you should become familiar with the differences between the application of the FLSA to agricultural production sites and other non-exempt workplaces. You might wish to provide copies of the attached documents to potential employers or to parents so that they are aware of the differences. Unlike most agricultural workplaces, many non-agricultural workplaces that employ younger workers are regularly inspected and the FLSA regulations intensively enforced.

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# Fair Labor Standards Act (FLSA)

## INTRODUCTION

Every employer who hires youth should be aware of the provisions of the FLSA. Ignorance of these provisions for the protection of young workers cannot be used as an excuse in the event of a citation for failure to comply. Being able to correctly answer the following questions will help in reducing the likelihood of being found in violation of the FLSA and more importantly will hopefully reduce the risk of a youth-related injury in the workplace.

### **1. What is the Fair Labor Standards Act (FLSA)?**

The federal FLSA establishes minimum wage, overtime pay, record keeping, and child labor standards affecting certain full-time and part-time workers in the private sector in federal, state, and local governments. It is administered by the U.S. Department of Labor.

### **2. What are the age and hour restrictions under FLSA?**

Youth under 16 years of age may only perform office or sales work in most industries. The federal rules also limit the number of hours and times of day that such youth may be employed. Youth age 16 and 17 may work in many industries such as on construction sites, but there are several tasks on jobs that are too hazardous for them to perform. There are no federal laws that restrict the number of work hours per day or per week. However, several states do restrict the number of hours and times of day that this age group may be employed. So be sure to check with your State Department of Labor.

### **3. What jobs are prohibited for youth under the age of 18?**

Under the FLSA, seventeen jobs are declared hazardous and are prohibited for youth under 18. These are:

- Mixing, handling or transporting explosives
- Driving a motor vehicle
- Operating power-driven woodworking machines (including drills and nail guns)
- Operating forklifts, cranes, hoists or elevators
- Operating power-driven metal forming, punching, and shearing machines
- Operating power-driven circular saws, band saws, and guillotine shears
- Wrecking, demolition, and ship breaking operations
- Roofing operations
- Excavation operations

### **4. Are there exemptions to the FLSA?**

If certain conditions are met, 16- and 17-year-old apprentices and student learners may be allowed to perform some of the above prohibited jobs. Youth enrolled in such programs should be trained in occupational safety and health. You may wish to consider recruiting these young workers--you'll be providing them with work experience and may be rewarded with a safety-conscious employee.

Some other young workers are not fully covered by FLSA.

For example, youth of any age are generally allowed to work for businesses entirely owned by their parents, except no one under 18 may be employed in the prohibited jobs that are partially listed above.

Even if FLSA doesn't apply, if you employ workers under 18 years old, be sure that:

- Tasks are appropriate for a worker's age

- Young workers are properly trained
- Young workers are supervised
- You know what tasks are prohibited for youth

#### ***5. Are there state child labor laws that I need to be concerned about?***

Although some states solely rely on the federal FLSA laws, most states have their own child labor laws. For instance, states may have different minimum ages for employment, different hours of work restrictions, additional occupations identified as hazardous, and work permit requirements. If the employment falls under federal FLSA jurisdiction, then both federal and state laws apply – and the most restrictive law (whether it is the state or the federal) is followed. State laws can only be more restrictive than federal laws, not less.

#### ***6. What are my responsibilities as an employer with respect to the employment of youth?***

As an employer you are responsible to establish a safe and healthy environment for all workers, including young and inexperienced workers. This is first accomplished by making safety and health a management priority.

In addition you must:

- Provide a workplace that protects workers from injuries, illnesses and fatalities
- Know the law about working limits for teens, including the number of hours they can work and the kinds of jobs that can be performed.
- Emphasize the importance of safety
- Make sure that young workers are trained properly.
- Teach workers to recognize hazards and use safe work practices.

#### ***7. Do my young employees have a responsibility to ensure a safe and health workplace?***

Yes, an employee also has responsibilities to ensure that the workplace is safe and healthy. They cannot rely upon the employer to monitor their every decision and/or action. Employers need to communicate that all workers are responsible to:

- Trust your instincts about dangerous situations
- Follow all safety rules
- Wear proper safety equipment
- Ask questions about potentially dangerous situations or equipment
- Tell your supervisor or parent if you suspect unsafe conditions
- Be aware of your work environment
- Work safely
- Stay sober and drug-free
- Know your workplace rights

#### ***8. Where do I obtain more information concerning child labor laws and steps for improving the safety and health of my workplace for younger employees?***

Information about federal child labor laws, apprentice and student learner program, and links to state child labor laws may be obtained from the federal Department of Labor (DOL) website at [www.youthrules.dol.gov](http://www.youthrules.dol.gov) (click on the employers link) or from DOL's Wage and Hour Division toll-free help line at 1-866-4US-WAGE (1-866-487-9243). TTY callers may call toll-free 1-877-889-5627. For state-specific youth employment information, contact your State Department of Labor.

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## OSHA Standards Requirements

### For Roll-Over Protective Structures (ROPS) for Tractors Used in Agricultural Operations and Training Requirements

U.S. Department of Labor  
Occupational Safety and Health Administration

#### **GENERAL REQUIREMENTS**

**ROPS:** On each tractor operated by an employee, the employer must provide a ROPS if the tractor was manufactured after October 25, 1976.

**SEATBELTS:** Where a ROPS is required a seatbelt also will be required. The employer must also be sure employees use the seatbelt.

**LABELING:** Each ROPS shall have a label attached permanently which states the following:

1. the manufacturer's or fabricator's name and address;
2. ROPS model number, if any;
3. tractor make and model, or series numbers for which ROPS is designed; and
4. that the ROPS was tested in accordance with OSHA rules.

**EXEMPTION:** While tractors, otherwise required to have ROPS, are used in the following locations, the ROPS may be removed:

1. orchards, vineyards, or hop yards where the vertical clearance is insufficient for normal operations of tractors with ROPS, and other operations incidental to such use;
2. inside farm buildings or greenhouses where the vertical clearance is insufficient for normal operation of tractors with ROPS, and other regulations incidental to such use; and
3. while using mounted equipment that is incompatible with ROPS.

#### **TRAINING**

**OPERATING INSTRUCTIONS:** At the time of initial assignment, and at least annually thereafter, the employer must inform employees of the following guidelines and any other tractor safety practices dictated by the work environment:

- Securely fasten seatbelts if the tractor has a ROPS.
- Where possible, avoid operating the tractor near ditches, embankments, and holes.
- Reduce speed when turning, crossing slopes, and on rough, slippery, or muddy surfaces.
- Stay off slopes too steep for safe operation.
- Watch for dangers or obstacles, especially at row ends, on roads, and around trees.
- Do not permit others to ride.
- Operate the tractor smoothly during turns, starts, or stops.
- Hitch equipment only to the drawbar and hitch point recommended by the tractor manufacturer.
- When the tractor is stopped, set brakes securely, and use the park lock if available.

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***OPERATING INSTRUCTIONS—Farm field equipment, farmstead equipment, and cotton gins.***

At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe operation and servicing of all covered equipment with which he is or will be involved, including at least the following safe operating practices:

- Keep all guards in place when the machine is in operation.
- Permit no riders on farm field equipment other than persons required for instruction or assistance in machine operation.
- Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unclogging the equipment, except where the machine must be running to be properly serviced or maintained, in which case the employer shall instruct employees as to all steps and procedures which are necessary to safely service or maintain the equipment.
- Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine.
- Lock out electrical power before performing maintenance or service on farmstead equipment.

NOTE: This summary of the OSHA Standard on Roll-Over Protective Structures (ROPS) for tractors used in agricultural operations is provided for the information of farm and ranch employers and employees. The complete standard is available from the nearest OSHA Regional or Area Office.