

**DEPARTMENT OF LABOR****Office of the Secretary****29 CFR Parts 1, 3, 4, 5, and 6****Wage and Hour Division**

**29 CFR Parts 500, 505, 516, 519, 520, 525, 530, 547, 549, 553, 570, 575, 578, 580, 801, and 825**

**RIN 1235-AA17**

**Updating Regulations Issued Under the Fair Labor Standards Act, Service Contract Act, Davis-Bacon and Related Acts, Contract Work Hours and Safety Standards Act, the Family and Medical Leave Act, Employee Polygraph Protection Act, and the Migrant and Seasonal Agricultural Worker Protection Act**

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Final rule; technical corrections.

**SUMMARY:** In this final rule, the Department of Labor (DOL or Department) revises regulations issued pursuant to the Fair Labor Standards Act of 1938 (FLSA), the Davis-Bacon and Related Acts (DBRA), the Service Contract Act (SCA), Contract Work Hours and Safety Standards Act (CWHSSA), Family and Medical Leave Act (FMLA), Employee Polygraph Protection Act (EPPA), and the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) that include reference to the “Employment Standards Administration” at the DOL. The Employment Standards Administration was eliminated as part of agency reorganization in 2009 and its authorities and responsibilities were devolved into its constituent components, including the Wage and Hour Division (WHD). This action deletes reference to the Employment Standards Administration in the regulations administered by WHD. Additionally, this action updates Office of Management and Budget (OMB) control numbers associated with information collections in the appropriate regulations. WHD was assigned new control numbers by OMB and this action updates those references in the regulations to the current corresponding OMB control number. Further, this action updates cross-references that were not revised in the FMLA Final Rule published February 25, 2015.

**DATES:** Effective January 9, 2017.

**FOR FURTHER INFORMATION CONTACT:** Robert Waterman, Compliance

Specialist, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210, telephone: (202) 693-0406 (this is not a toll-free number) or email: [WHDPRAComments@dol.gov](mailto:WHDPRAComments@dol.gov).

**SUPPLEMENTARY INFORMATION:** The Department is eliminating references to the Employment Standards Administration at the DOL. The Employment Standards Administration is a former branch of the DOL and was eliminated in an agency reorganization in 2009. In addition, the Department is updating references to OMB information collection control numbers. OMB has assigned different information collection control numbers to WHD information collections and the Department is updating these references in the appropriate regulations so the reader can find the information collection corresponding to a specific regulation.

The Department is also correcting cross-references to the FMLA’s definitions section in two sections of its FMLA regulations, § 825.104(b) and § 825.209(a). A recent rulemaking moved the definitions section of the FMLA regulations from § 825.800 to § 825.102 but did not update the cross-references to the definitions section in § 825.104(b) and § 825.209(a). Additionally, the Department is updating the reference in 29 CFR 3.3 to the Web site location where the public may access the WH-347 form. As part of the agency reorganization of the Web site, the location of the form has changed. Finally, the Department is replacing the term firefighter with the term employee engaged in fire protection activities in two sections of its regulations, 29 CFR 553.221 and 553.231, to conform to an amendment to the FLSA. In December 1999, Congress amended the FLSA to add a definition of employee engaged in fire protection activities. The Department published an FLSA Final Rule on April 5, 2011 (76 FR 18832) that incorporated the new definition into the regulations and made several conforming revisions in part 553, subpart C, but did not conform the language of these provisions.

**Administrative Procedure Act**

Section 553(b)(3) of the Administrative Procedure Act (APA) provides that an agency is not required to publish a notice of proposed rulemaking in the **Federal Register** and solicit public comments when the agency has good cause to find that doing so would be “impracticable,

unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3). The Department finds that good cause exists to dispense with the notice and public comment procedures for this technical correction to its regulations, as it concludes that such procedures are unnecessary. This rule merely memorializes the delegation of administrative authority within the Department; updates references to OMB control numbers and WHD’s Web site which are now out of date; corrects cross-references to another section of the Department’s regulations; and conforms the terminology in the Department’s regulations to an amendment to the definitions section of the FLSA. This rule does not impose any new regulatory obligations or information collection requirements on employers or affect the rights of workers. Therefore, the Department is issuing this technical correction as a final rule.

Section 553(d) of the APA also provides that substantive rules should take effect not less than 30 days after the date they are published in the **Federal Register** unless “otherwise provided by the agency for good cause found[.]” 5 U.S.C. 553(d)(3). Since this rule is a technical correction that does not change the substance of the Department’s regulations, the Department finds that it is unnecessary to delay the effective date of the rule. Accordingly, the Department finds that it has good cause exists to make this technical correction effective on the date of publication.

**Summary of Changes to the Regulations**

In 29 CFR 1.2, 1.5, 4.1a, 4.3, 4.5, 4.6, 4.10, 4.11, 4.12, 4.101, 4.191, 5.2, 5.12, 5.13, 6.2, 500.7, 500.20, 500.41, 500.56, 500.215, 505.2, 520.300, 525.22, 530.1, 530.101, 530.102, 530.403, 570.1, 575.2, 575.3, 578.2, 580.1, 801.2, 801.7, and 825.401, the Department has removed the reference to the Employment Standards Administration and replaced it with the Wage and Hour Division where appropriate. In 29 CFR 519.11, the Department has removed the reference to the Assistant Secretary for Employment Standards. The Employment Standards Administration is a former branch of the DOL and was eliminated in an agency reorganization in 2009. *See* Secretary’s Order No. 09–2009 (Nov. 6, 2009), 74 FR 58836 (Nov. 13, 2009). In 29 CFR 5.5, the Department has removed the reference to the Employment Standards Administration and made two additional technical corrections: Correcting an error made in the instructions to the Final Rule issued under the DBRA in 2000 (65 FR 69674)

that resulted in the retention of an editorial note referencing a 1993 suspension of paragraph (a)(1)(ii) that should have been removed at that time; and incorporating the undesignated language that follows paragraph (a)(1)(i) into that paragraph.

In 29 CFR 3.3, the Department has updated the referenced Web site location where the public may access the WH-347 form. As part of the agency reorganization of the Web site, the location of the form has changed.

In 29 CFR 3.4, 5.15, 505.5, 520.403, 520.405, 520.501, 520.502, 525.16, 530.3, 530.4, 547.1, 549.1, 570.6, 570.36, 570.37 and 801.30, the Department has updated the OMB control number where the public may access the relevant information collection approved by OMB under the Paperwork Reduction Act. In 29 CFR 4.6, 5.5 and 516.0, the Department has provided updated information collection requests tables showing the current OMB control numbers associated with the referenced recordkeeping requirements. OMB changed the agency information collection control numbers. The correction will allow the public to access the currently approved information collection.

In 29 CFR 553.221 and 553.231, the Department has replaced references to firefighters with references to employees engaged in fire protection activities to conform to a recent amendment to the FLSA. In December 1999, Congress amended the FLSA to add a definition of employee engaged in fire protection activities. See Public Law 106–151, Sec. 1, 113 Stat 1731 (Dec. 9, 1999). The Department published an FLSA Final Rule on April 5, 2011 (76 FR 18832) that incorporated the new definition into the regulations and made several conforming revisions in part 553, subpart C, but did not conform the language of these provisions.

In 29 CFR 825.104 and 825.209, the Department has corrected cross-references to the definitions section of the FMLA regulations. On February 6, 2013, the Department published a final rule under the FMLA. In that rule, the Department moved the FMLA definitions section from the end of the regulations in § 825.800 to the front of the regulations in § 825.102. However, the Department did not update the cross-references to the definitions section in §§ 825.104 and 825.109. The Department is making this correction so the reader may easily locate the definitions section of the regulations currently located in § 825.102.

### **Executive Orders 12866 and 13563; Small Business Regulatory Enforcement Fairness Act; Regulatory Flexibility**

This rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulations. The agency has determined that this rule is not a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, there is no requirement for an assessment of potential costs and benefits under section 6(a)(3) of that order.

This action is not classified as a “rule” under Chapter 8 of the Small Business Regulatory Enforcement Fairness Act of 1996, because it is pertaining to agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. See 5 U.S.C. 804(3)(C).

Because no notice of proposed rulemaking is required for this rule under section 553(b) of the Administrative Procedure Act (APA), the requirements of the Regulatory Flexibility Act (5 U.S.C. 601) pertaining to regulatory flexibility do not apply to this rule. See 5 U.S.C. 601(2).

### **Paperwork Reduction Act**

This final rule is not subject to section 350(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since it does not contain any new collection of information requirements. The final rule does, however, update the information collection control numbers assigned by OMB to allow the reader to locate the collections where referenced in the regulations. The information collections referenced herein are not subject to OMB review as they do not amend information collection requirements.

### **Unfunded Mandates Reform Act**

This Final Rule has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA). 2 U.S.C. 1501 *et seq.* For the purposes of the UMRA, this rule does not impose any Federal mandate that may result in increased expenditures by State, local or Tribal governments, or increased expenditures by the private sector, of more than \$100 million in any year.

### **Executive Order 13132 (Federalism)**

The Department has reviewed this rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999). This rule does not have federalism implications as outlined in E.O. 13132. The rule does not have substantial direct effects on the States, on the

relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

### **Executive Order 13175, Indian Tribal Governments**

The Department has reviewed this rule under the terms of Executive Order 13175 (65 FR 67249, November 6, 2000) and determined it did not have “tribal implications.” The rule does not have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” As a result, no Tribal summary impact statement has been prepared.

### **Effects on Families**

The Department certifies that this rule will not adversely affect the well-being of families, as discussed under section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277).

### **Executive Order 13045, Protection of Children**

The Department has reviewed this rule under the terms of Executive Order 13045 (62 FR 19885, April 21, 1997, as amended by 68 FR 19931, April 18, 2003) and determined this action is not subject to E.O. 13045 because it is not economically significant as defined in E.O. 12866 and it does not impact the environmental health or safety risks of children.

### **Environmental Impact Assessment**

The Department has reviewed this rule in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council of Environmental Quality, 40 CFR 1500.1 *et seq.*, and the Departmental NEPA procedures, 29 CFR part 11, and determined that this rule will not have a significant impact on the quality of the human environment. There is, therefore, no corresponding environmental assessment or an environmental impact statement.

### **Executive Order 13211, Energy Supply**

The Department has determined that this rule is not subject to Executive Order 13211 (66 FR 28355, May 18, 2001). It will not have a significant adverse effect on the supply, distribution, or use of energy.

**Executive Order 12630, Constitutionally Protected Property Rights**

The Department has determined that this rule is not subject to Executive Order 12630 (53 FR 8859, March 15, 1988) because it does not involve implementation of a policy “that has taking implications” or that could impose limitations on private property use.

**Executive Order 12988, Civil Justice Reform Analysis**

The Department drafted and reviewed this Final Rule in accordance with Executive Order 12988 (61 FR 4729, February 5, 1996) and determined that the rule will not unduly burden the Federal court system. The rule was: (1) Reviewed to eliminate drafting errors and ambiguities; (2) written to minimize litigation; and (3) written to provide a clear legal standard for affected conduct and to promote burden reduction.

**List of Subjects***29 CFR Part 1*

Administrative practice and procedure, Construction industry, Government contracts, Minimum wages.

*29 CFR Part 3*

Community facilities, Construction industry, Federal buildings and facilities, Government contracts, Grant programs, Loan programs, Minimum wages, Reporting and recordkeeping requirements.

*29 CFR Part 4*

Administrative practice and procedure, Employee benefit plans, Government contracts, Law enforcement, Minimum wages, Occupational safety and health, Reporting and recordkeeping requirements.

*29 CFR Part 5*

Administrative practice and procedure, Construction industry, Employee benefit plans, Government contracts, Law enforcement, Minimum wages, Reporting and recordkeeping requirements.

*29 CFR Part 6*

Administrative practice and procedure, Construction industry, Employee benefit plans, Government contracts, Minimum wages, Occupational safety and health.

*29 CFR Part 500*

Administrative practice and procedure, Aliens, Housing, Insurance, Intergovernmental relations, Investigations, Migrant labor, Motor

vehicle safety, Occupational safety and health, Reporting and recordkeeping requirements, Wages.

*29 CFR Part 505*

Arts and crafts, Grant programs—education, Minimum wages, National Foundation on Arts and Humanities, Occupational safety and health, Reporting and recordkeeping requirements.

*29 CFR Part 516*

Minimum wages, Reporting and recordkeeping requirements, Wages.

*29 CFR Part 519*

Agriculture, Colleges and universities, Minimum wages, Students, Reporting and recordkeeping requirements.

*29 CFR Part 520*

Manpower training programs, Minimum wages, Reporting and recordkeeping requirements, Students.

*29 CFR Part 525*

Administrative practice and procedure, Individuals with disabilities, Minimum wages, Reporting and recordkeeping requirements, Vocational rehabilitation.

*29 CFR Part 530*

Administrative practice and procedure, Clothing, Homeworkers, Indian—arts and crafts, Penalties, Reporting and recordkeeping requirements, Surety bonds, Watches and jewelry.

*29 CFR Part 547*

Employee benefit plans, Reporting and recordkeeping requirements.

*29 CFR Part 549*

Employee benefit plans, Reporting and recordkeeping requirements, Trusts and trustees.

*29 CFR Part 553*

Firefighters, Government employees, Intergovernmental relations, Law enforcement officers, Prisons, Reporting and recordkeeping requirements, Volunteers, Wages.

*29 CFR Part 570*

Administrative practice and procedure, Agriculture, Child labor, Intergovernmental relations, Occupational safety and health, Reporting and recordkeeping requirements.

*29 CFR Part 575*

Agriculture, Child labor, Reporting and recordkeeping requirements.

*29 CFR Part 578*

Penalties, Wages.

*29 CFR Part 580*

Administrative practice and procedure, Child labor, Penalties, Wages.

*29 CFR Part 801*

Administrative practice and procedure, Employment, Lie detector tests, Penalties, Reporting and recordkeeping requirements.

*29 CFR Part 825*

Administrative practice and procedure, Airmen, Employee benefit plans, Health insurance, Health, Labor management relations, Maternal and child health, Penalties, Reporting and recordkeeping requirements, Teachers.

Dated: December 20, 2016.

**David Weil,**

*Wage and Hour Administrator.*

■ For the reasons set forth above, the Department of Labor amends title 29, parts 1, 3, 4, 5, 6, 500, 505, 516, 519, 520, 525, 530, 547, 549, 553, 570, 575, 578, 580, 801, and 825 of the Code of Federal Regulations as follows:

**PART 1—PROCEDURES FOR PRE-DETERMINATION OF WAGE RATES**

■ 1. The authority citation for part 1 continues to read as follows:

**Authority:** 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 40 U.S.C. 3141 *et seq.*; 40 U.S.C. 3145; 40 U.S.C. 3148; and the laws listed in appendix A of this part.

■ 2. In § 1.2, revise paragraph (c) to read as follows:

**§ 1.2 Definitions.<sup>1</sup>**

\* \* \* \* \*

(c) The term *Administrator* shall mean the Administrator of the Wage and Hour Division, U.S. Department of Labor, or authorized representative.

\* \* \* \* \*

■ 3. In § 1.5, revise paragraph (b)(1) to read as follows:

**§ 1.5 Procedure for requesting wage determinations.**

\* \* \* \* \*

(b)(1) If a general wage determination is not available, the Federal agency shall request a wage determination under the Davis-Bacon Act or any of its related prevailing wage statutes by submitting Form SF-308 to the Department of Labor at this address: U.S. Department of Labor, Wage and Hour Division,

<sup>1</sup> These definitions are not intended to restrict the meaning of the terms as used in the applicable statutes.

Branch of Government Construction Contract Wage Determination, Washington, DC 20210. In preparing Form SF-308, the agency shall check only those classifications that will be needed in the performance of the work. Inserting a note such as "entire schedule" or "all applicable classifications" is not sufficient. Additional classifications needed that are not on the form may be typed in the blank spaces or on a separate list and attached to the form.

\* \* \* \* \*

### **PART 3—CONTRACTORS AND SUBCONTRACTORS ON PUBLIC BUILDING OR PUBLIC WORK FINANCED IN WHOLE OR IN PART BY LOANS OR GRANTS FROM THE UNITED STATES**

■ 4. The authority citation for part 3 is revised to read as follows:

**Authority:** R.S. 161, sec. 2, 48 Stat. 848; Reorg. Plan No. 14 of 1950, 64 Stat. 1267; 5 U.S.C. 301; 40 U.S.C. 3145; Secretary's Order 01-2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014).

■ 5. In § 3.3, revise paragraph (b) to read as follows:

#### **§ 3.3 Weekly statement with respect to payment of wages.**

\* \* \* \* \*

(b) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by this part 3 and part 5 of this title during the preceding weekly payroll period. This statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages, and shall be on the back of Form WH 347, "Payroll (For Contractors Optional Use)" or on any form with identical wording. Copies of WH 347 may be obtained from the Government contracting or sponsoring agency or from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/index.htm> or its successor site.

\* \* \* \* \*

■ 6. In § 3.4, revise the parenthetical at the end of section to read as follows:

#### **§ 3.4 Submission of weekly statements and the preservation and inspection of weekly payroll records.**

\* \* \* \* \*

(Reporting and recordkeeping requirements in paragraph (b) have been approved by the Office of Management and Budget under control number 1235-0008).

### **PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS**

■ 7. The authority citation for part 4 is revised to read as follows:

**Authority:** 41 U.S.C. 351 *et seq.*; 41 U.S.C. 38 and 39; 5 U.S.C. 301; Pub. L. 104-188, 2105(b); Pub. L. 110-28, 121 Stat. 112; Secretary's Order 01-2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014).

■ 8. In § 4.1a, revise paragraphs (b) and (c) to read as follows:

#### **§ 4.1a Definitions and use of terms.**

\* \* \* \* \*

(b) *Secretary* includes the Secretary of Labor or their authorized representative.

(c) *Wage and Hour Division* means the organizational unit of the Department of Labor to which is assigned the performance of functions of the Secretary under the Service Contract Act of 1965, as amended.

\* \* \* \* \*

■ 9. In § 4.3, revise paragraph (e) to read as follows:

#### **§ 4.3 Wage determinations.**

\* \* \* \* \*

(e) Wage determinations will be available for public inspection during business hours at the Wage and Hour Division, U.S. Department of Labor, Washington, DC, and copies will be made available upon request at Regional Offices of the Wage and Hour Division. In addition, most prevailing wage determinations are available online from WDOL. Archived versions of SCA wage determinations that are no longer current may be accessed in the "Archived SCA WD" database of WDOL for information purposes only. Contracting officers should not use an archived wage determination in a contract action without prior approval of the Department of Labor.

■ 10. In § 4.5, revise paragraph (a)(1) to read as follows:

#### **§ 4.5 Contract specifications of determined minimum wages and fringe benefits.**

(a) \* \* \*

(1) Any wage determination from the Wage and Hour Division, Department of Labor, responsive to the contracting agency's submission of an e98 or obtained through WDOL under § 4.4; or

■ 11. In § 4.6, revise paragraphs (b)(2)(ii) and (b)(3), the first sentence in paragraph (g)(1), and the table in paragraph (r) to read as follows:

#### **§ 4.6 Labor standards clauses for Federal service contracts exceeding \$2,500.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) Such conforming procedure shall be initiated by the contractor prior to the performance of contract work by such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, U.S. Department of Labor, for review. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the contracting officer within 30 days of receipt that additional time is necessary.

\* \* \* \* \*

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division of the Department of Labor as provided in such Act.

\* \* \* \* \*

(g)(1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs (g)(1)(i) through (vi) of this section for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor: \* \* \*

\* \* \* \* \*

(r) \* \* \*

Paragraph	OMB Control No.
(b)(2)(i)–(iv) .....	1235–0007
(e) .....	1235–0007
(g)(1)(i)–(iv) .....	1235–0007
	1235–0018
(g)(1)(v)–(vi) .....	1235–0007
(l)(1), (2) .....	1235–0007
(q)(3) .....	1235–0007

■ 12. In § 4.10, revise paragraph (b)(1)(i) introductory text to read as follows:

**§ 4.10 Substantial variance proceedings under section 4(c) of the Act.**

\* \* \* \* \*

(b) \* \* \*

(1)(i) A request for a hearing under this section may be made by the contracting agency or other person affected or interested, including contractors or prospective contractors and associations of contractors, representatives of employees, and other interested Governmental agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, and shall include the following:

\* \* \* \* \*

■ 13. In § 4.11, revise the second sentence of paragraph (b)(1) introductory text to read as follows:

**§ 4.11 Arm's length proceedings.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \* Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. \* \* \*

\* \* \* \* \*

■ 14. In § 4.12, revise paragraph (c)(1) to read as follows:

**§ 4.12 Substantial interest proceedings.**

\* \* \* \* \*

(c)(1) A request for a determination under this section may be made by any interested party, including contractors or prospective contractors, and associations of contractors, representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210.

\* \* \* \* \*

■ 15. In § 4.101, revise paragraph (g) to read as follows:

**§ 4.101 Official rulings and interpretations in this subpart.**

\* \* \* \* \*

(g) It should not be assumed that the lack of discussion of a particular subject

in this subpart indicates the adoption of any particular position by the Department of Labor with respect to such matter or to constitute an interpretation, practice, or enforcement policy. If doubt arises or a question exists, inquiries with respect to matters other than safety and health standards should be directed to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, or any regional office of the Wage and Hour Division. Safety and health inquiries should be addressed to the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210, or to any OSHA regional office. A full description of the facts and any relevant documents should be submitted if an official ruling is desired.

■ 16. In § 4.191, revise paragraph (d) to read as follows:

**§ 4.191 Complaints and compliance assistance.**

\* \* \* \* \*

(d) In the event that an Assistant Regional Administrator for the Wage and Hour Division, is notified of a breach or violation which also involves safety and health standards, the Regional Administrator of the Wage and Hour Division shall notify the appropriate Regional Administrator of the Occupational Safety and Health Administration who shall with respect to the safety and health violations take action commensurate with his responsibilities pertaining to safety and health standards.

\* \* \* \* \*

**PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

■ 17. The authority citation for part 5 continues to read as follows:

**Authority:** 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 40 U.S.C. 3141 *et seq.*; 40 U.S.C. 3145; 40 U.S.C. 3148; 40 U.S.C. 3701 *et seq.*; and the laws listed in 5.1(a) of this part; Secretary's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701, 129 Stat 584.

■ 18. In § 5.2, revise paragraph (b) to read as follows:

**§ 5.2 Definitions.**

\* \* \* \* \*

(b) The term *Administrator* means the Administrator of the Wage and Hour Division, U.S. Department of Labor, or authorized representative.

\* \* \* \* \*

■ 19. In § 5.5, lift the suspension and revise paragraphs (a)(1)(i) and (a)(1)(ii)(B) to read as follows:

**§ 5.5 Contract provisions and related matters.**

(a) \* \* \*

(1) \* \* \*

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under

paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) \* \* \*

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

\* \* \* \* \*

■ 20. In § 5.5, revise the table following paragraph (c) to read as follows:

\* \* \* \* \*

(c) \* \* \*

Paragraph	OMB Control No.
(a)(1)(ii)(B) .....	1235-0023
(a)(1)(ii)(C) .....	1235-0023
(a)(1)(iv) .....	1235-0023
(a)(3)(i) .....	1235-0023
(a)(3)(ii)(A) .....	1235-0023
(c) .....	1235-0008
	1235-0023

■ 21. In § 5.12, revise paragraphs (c) and (d)(3)(i) to read as follows:

#### § 5.12 Debarment proceedings.

\* \* \* \* \*

(c) Any person or firm debarred under paragraph (a)(1) of this section may in writing request removal from the debarment list after six months from the date of publication by the Comptroller General of such person or firm's name on the ineligible list. Such a request should be directed to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, and shall contain a full explanation of the reasons why such person or firm should be removed from the ineligible list. In cases where the contractor or subcontractor failed to make full restitution to all underpaid employees, a request for removal will not be considered until such underpayments are made. In all other cases, the Administrator will examine

the facts and circumstances surrounding the violative practices which caused the debarment, and issue a decision as to whether or not such person or firm has demonstrated a current responsibility to comply with the labor standards provisions of the statutes listed in § 5.1, and therefore should be removed from the ineligible list. Among the factors to be considered in reaching such a decision are the severity of the violations, the contractor or subcontractor's attitude towards compliance, and the past compliance history of the firm. In no case will such removal be effected unless the Administrator determines after an investigation that such person or firm is in compliance with the labor standards provisions applicable to Federal contracts and Federally assisted construction work subject to any of the applicable statutes listed in § 5.1 and other labor statutes providing wage protection, such as the Service Contract Act, the Walsh-Healey Public Contracts Act, and the Fair Labor Standards Act. If the request for removal is denied, the person or firm may petition for review by the Administrative Review Board pursuant to 29 CFR part 7.

(d) \* \* \*

(3)(i) A request for a determination of interest (or substantial interest, as appropriate), may be made by any interested party, including contractors or prospective contractors and associations of contractor's representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210.

\* \* \* \* \*

■ 22. Revise § 5.13 to read as follows:

#### § 5.13 Rulings and interpretations.

All questions relating to the application and interpretation of wage determinations (including the classifications therein) issued pursuant to part 1 of this subtitle, of the rules contained in this part and in parts 1 and 3, and of the labor standards provisions of any of the statutes listed in § 5.1 shall be referred to the Administrator for appropriate ruling or interpretation. The rulings and interpretations shall be authoritative and those under the Davis-Bacon Act may be relied upon as provided for in section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259). Requests for such rulings and interpretations should be addressed to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210.

■ 23. In § 5.15, revise the parenthetical at the end of the section to read as follows:

#### § 5.15 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

\* \* \* \* \*

(Reporting and recordkeeping requirements in paragraph (d)(2) have been approved by the Office of Management and Budget under control numbers 1235-0023 and 1235-0018. Reporting and recordkeeping requirements in paragraph (d)(3)(ii) have been approved by the Office of Management and Budget under control number 1235-0018).

### PART 6—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS ENFORCING LABOR STANDARDS IN FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION CONTRACTS AND FEDERAL SERVICE CONTRACTS

■ 24. The authority citation for part 6 continues to read as follows:

**Authority:** Secs. 4 and 5, 79 Stat. 1034, 1035 as amended by 86 Stat. 789, 790, 41 U.S.C. 353 and 354; 5 U.S.C. 301; Reorg. Plan No. 14 of 1950, 64 Stat. 1267, 5 U.S.C. Appendix; 46 Stat. 1494, as amended by 49 Stat. 1011, 78 Stat. 238, 40 U.S.C. 276a-276a-7; 76 Stat. 357-359, 40 U.S.C. 327-332; 48 Stat. 948, as amended by 63 Stat. 108, 72 Stat. 967, 40 U.S.C. 276c.

■ 25. In § 6.2, revise paragraph (a) to read as follows:

#### § 6.2 Definitions.

(a) *Administrator* means the Administrator of the Wage and Hour Division, U.S. Department of Labor, or authorized representative.

\* \* \* \* \*

### PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

■ 26. The authority citation for part 500 continues to read as follows:

**Authority:** Pub. L. 97-470, 96 Stat. 2583 (29 U.S.C. 1801-1872); Secretary's Order No. 01-2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 Note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114-74, 129 Stat. 584.

■ 27. In § 500.7, revise paragraph (c) to read as follows:

#### § 500.7 Investigation authority of the Secretary.

\* \* \* \* \*

(c) Any person may report a violation of the Act or these regulations to the Secretary by advising any local office of the Employment Service of the various States, or any office of the Wage and Hour Division, U.S. Department of Labor, or any other authorized

representative of the Administrator. The office or person receiving such a report shall refer it to the appropriate office of the Wage and Hour Division, for the region or area in which the reported violation is alleged to have occurred.

\* \* \* \* \*

■ 28. In § 500.20, revise paragraph (a) to read as follows:

**§ 500.20 Definitions.**

\* \* \* \* \*

(a) *Administrator* means the Administrator of the Wage and Hour Division, United States Department of Labor, and such authorized representatives as may be designated by the Administrator to perform any of the functions of the Administrator under this part.

\* \* \* \* \*

■ 29. In § 500.41, revise paragraph (b) to read as follows:

**§ 500.41 Farm labor contractor is responsible for actions of his farm labor contractor employee.**

\* \* \* \* \*

(b) Farm Labor Contractor Employee Certificate of Registration is valid only during the period in which the holder is an employee of the registered farm labor contractor named on the Farm Labor Contractor Employee Certificate. If prior to the expiration of the Employee Certificate, the holder through a change in employment, should become an employee of a different registered farm labor contractor, a replacements Employee Certificate which names the new employer may be obtained by submitting to the regional office that issued the original employee certificate or to any regional office of the Wage and Hour Division, a written statement that includes the date of the change in employment status and the name, the permanent place of residence and certificate registration number of the new employer. Any such change should be reported immediately.

■ 30. Revise § 500.56 to read as follows:

**§ 500.56 Replacement of Certificate of Registration or Farm Labor Contractor Employee Certificate.**

If a Certificate of Registration or a Farm Labor Contractor Employee Certificate is lost or destroyed, a duplicate certificate may be obtained by the submission to the regional office that issued it or to any regional office of the Wage and Hour Division, of a written statement explaining its loss or destruction, indicating where the original application was filed and requesting that a duplicate be issued.

■ 31. In § 500.215, revise paragraph (b) to read as follows:

**§ 500.215 Change of address.**

\* \* \* \* \*

(b) The notification required in paragraph (a) of this section shall be in writing, by certified mail and addressed to the Administrator, Wage and Hour Division, 200 Constitution Avenue NW, Washington, DC 20210.

\* \* \* \* \*

**PART 505—LABOR STANDARDS ON PROJECTS OR PRODUCTIONS ASSISTED BY GRANTS FROM THE NATIONAL ENDOWMENT FOR THE ARTS AND HUMANITIES**

■ 32. The authority citation for part 505 is revised to read as follows:

**Authority:** Sec. 5(j), Pub. L. 89–209, 79 Stat. 848 (20 U.S.C. 954(i)); sec. 7(g), Pub. L. 94–462, 90 Stat. 1971, as amended by sec. 107(4), Pub. L. 99–194, 99 Stat. 1337 (20 U.S.C. 956(g)); Secretary's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); Secretary's Order 01–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012).

■ 33. In § 505.2, revise paragraph (c) to read as follows:

**§ 505.2 Definitions.**

\* \* \* \* \*

(c) The term *Administrator* means the Administrator of the Wage and Hour Division, U.S. Department of Labor, or authorized representative, to whom is assigned the performance of functions of the Secretary pertaining to wages under the National Foundation on the Arts and the Humanities Act of 1965, as amended.

\* \* \* \* \*

■ 34. In § 505.5, revise the parenthetical at the end of the section to read as follows:

**§ 505.5 Adequate assurances.**

\* \* \* \* \*

(The requirements in paragraph (b) were approved by the Office of Management and Budget under control number 1235–0018).

**PART 516—RECORDS TO BE KEPT BY EMPLOYERS**

■ 35. The authority citation for part 516 continues to read as follows:

**Authority:** Sec. 11, 52 Stat. 1066, as amended, 29 U.S.C. 211. Section 516.28 also issued under Pub. L. 104–188, 2105(b); Pub. L. 110–28, 121 Stat. 112. Section 516.33 also issued under 52 Stat. 1060, as amended; 29 U.S.C. 201 *et seq.* Section 516.34 also issued under Sec. 7, 103 Stat. 944, 29 U.S.C. 207(q).

■ 36. Revise § 516.0 to read as follows:

Subpart or section where information collection requirement is located	Currently assigned OMB Control No.
Subpart A .....	1235–0018

Subpart or section where information collection requirement is located	Currently assigned OMB Control No.
Subpart B ..... 516.31 also discussed in .....	1235–0018 1235–0001

**PART 519—EMPLOYMENT OF FULL-TIME STUDENTS AT SUBMINIMUM WAGES**

■ 37. The authority citation for part 519 continues to read as follows:

**Authority:** Secs. 11 and 14, 52 Stat. 1068; sec. 11, 75 Stat. 74; secs. 501 and 602, 80 Stat. 843, 844 (29 U.S.C. 211, 214).

■ 38. In § 519.11, revise the first sentence of paragraph (a) to read as follows:

**§ 519.11 Applicability of the regulations in this subpart.**

(a) *Statutory provisions.* Under section 14 of the Fair Labor Standards Act of 1938, as amended, and the authority and responsibility delegated to him/her by the Secretary of Labor (36 FR 8755), the Administrator of the Wage and Hour Division is authorized and directed, to the extent necessary in order to prevent curtailment of employment opportunities for employment, to provide by regulation or order for the employment, under certificates, of full-time students in institutions of higher education. \* \* \*

**PART 520—EMPLOYMENT UNDER SPECIAL CERTIFICATE OF MESSENGERS, LEARNERS, (INCLUDING STUDENT-LEARNERS), AND APPRENTICES**

■ 39. The authority citation for part 520 continues to read as follows:

**Authority:** Sec. 14, 52 Stat. 1062, 1064 (29 U.S.C. 214); secs. 2–12, 60 Stat. 237–244; (5 U.S.C. 1001–1011); 52 Stat. 1068, as amended, 29 U.S.C. 214.

■ 40. Amend § 520.300 by revising the definitions of “Administrator” and “Wage and Hour Division” to read as follows:

**§ 520.300 Definitions.**

*Administrator* means the Administrator of the Wage and Hour Division, United States Department of Labor, or his/her authorized representative.

\* \* \* \* \*

*Wage and Hour Division* means the Wage and Hour Division, United States Department of Labor.

■ 41. In § 520.403, revise the parenthetical at end of section to read as follows:



**§ 520.403 What information is required when applying for authority to pay less than the minimum wage?**

\* \* \* \* \*

(The information collection requirements contained in paragraphs (a), (b), and (c) were approved by the Office of Management and Budget under control number 1235–0001).

■ 42. In § 520.405, revise the parenthetical at the end of section to read as follows:

**§ 520.405 Must I notify my employees that I am applying for a certificate to employ messengers and/or learners at subminimum wages?**

\* \* \* \* \*

(The information collection requirements contained herein were approved by the Office of Management and Budget under control number 1235–0001).

■ 43. In § 520.501, revise the parenthetical at end of section to read as follows:

**§ 520.501 How do I obtain authority to employ student-learners at subminimum wages?**

\* \* \* \* \*

(The information collection requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 1235–0001).

■ 44. In § 520.502, revise parenthetical at end of section to read as follows:

**§ 520.502 What information must an application to employ student-learners at subminimum wages contain?**

\* \* \* \* \*

(The information collection requirements in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and (i) were approved by the Office of Management and Budget under control number 1235–0001).

**PART 525—EMPLOYMENT OF WORKERS WITH DISABILITIES UNDER SPECIAL CERTIFICATES**

■ 45. The authority citation for part 525 continues to read as follows:

**Authority:** 52 Stat. 1060, as amended (29 U.S.C. 201–219); Pub. L. 99–486, 100 Stat. 1229 (29 U.S.C. 214).

■ 46. In § 525.16, revise the parenthetical at the end of section to read as follows:

**§ 525.16 Records to be kept by employers.**

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1235–0001).

■ 47. In § 525.22, revise paragraph (a) to read as follows:

**§ 525.22 Employee's right to petition.**

(a) Any employee receiving a special minimum wage at a rate specified pursuant to subsection 14(c) of FLSA or the parent or guardian of such an

employee may petition the Secretary to obtain a review of such special minimum wage rate. No particular form of petition is required, except that a petition must be signed by the individual, or the parent or guardian of the individual, and should contain the name and address of the employee and the name and address of the employee's employer. A petition may be filed in person or by mail with the Administrator of the Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue NW., Washington, DC 20210. The petitioner may be represented by counsel in any stage of such proceedings. Upon receipt, the petition shall be forwarded immediately to the Chief Administrative Law Judge.

\* \* \* \* \*

**PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES**

■ 48. The authority citation for part 530 continues to read as follows:

**Authority:** Sec. 11, 52 Stat. 1066 (29 U.S.C. 211) as amended by sec. 9, 63 Stat. 910 (29 U.S.C. 211(d)); Secretary's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701, 129 Stat 584.

■ 49. In § 530.1, revise paragraph (b) to read as follows:

**§ 530.1 Definitions.**

\* \* \* \* \*

(b) *Administrator* as used in this part means the Administrator of the Wage and Hour Division, U.S. Department of Labor, or an authorized representative of the Administrator.

\* \* \* \* \*

■ 50. In § 530.3, revise the parenthetical at end of section to read as follows:

**§ 530.3 Application forms for individual homemaker certificates.**

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1235–0001).

■ 51. In § 530.4, revise parenthetical at end of section to read as follows:

**§ 530.4 Terms and conditions for the issuance of individual homemaker certificates.**

\* \* \* \* \*

(Information collection requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 1235–0001).

■ 52. In § 530.101, revise paragraph (c) to read as follows:

**§ 530.101 General.**

\* \* \* \* \*

(c) Certificates authorizing such employment may be issued on the following terms and conditions upon written application to the Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

■ 53. Revise § 530.102 to read as follows:

**§ 530.102 Requests for employer certificates.**

The initial request for certification or renewal application shall be signed by the employer and shall contain the name of the firm, its mailing address, the physical location of the firm's principal place of business and a description of the business operations and items produced. In addition, the initial or renewal application shall contain the names, addresses, and languages (if other than English) spoken by the homeworkers that are currently employed (if any) or expected to be employed. The employer shall also provide the Administrator, within thirty (30) days, a notice of each change of address of the principal place of business. The notification shall be in writing and addressed to the Administrator, Wage and Hour Division, 200 Constitution Avenue NW., Washington, DC 20210.

■ 54. In § 530.403, revise paragraph (a) to read as follows:

**§ 530.403 Request for hearing.**

(a) Except in the case of an emergency revocation under § 530.411 of this subpart, a request for an administrative hearing on a determination referred to in § 530.402 of this subpart shall be made in writing to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, and must be received no later than thirty (30) days after issuance of the notice referred to in § 530.402 of this subpart.

\* \* \* \* \*

**PART 547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"**

■ 55. The authority citation for part 547 continues to read as follows:

**Authority:** Sec. 7, 52 Stat. 1063, as amended; 29 U.S.C. 207.

■ 56. In § 547.1, revise parenthetical at end of section to read as follows:

**§ 547.1 Essential requirements for qualifications.**

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1235–0013).



## PART 549—REQUIREMENTS OF A “BONA FIDE PROFIT SHARING PLAN OR TRUST”

■ 57. The authority citation for part 549 continues to read as follows:

**Authority:** Sec. 7, 52 Stat. 1063, as amended; 29 U.S.C. 207.

■ 58. In § 549.1, revise the parenthetical at the end of the section to read as follows:

### § 549.1 Essential requirements for qualifications.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1235–0013).

## PART 553—APPLICATION OF THE FAIR LABOR STANDARDS ACT TO EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

■ 59. The authority citation for part 553 continues to read as follows:

**Authority:** Secs. 1–19, 52 Stat. 1060, as amended (29 U.S.C. 201–219); Pub. L. 99–150, 99 Stat. 787 (29 U.S.C. 203, 207, 211). Pub. L. 106–151, 113 Stat. 1731 (29 U.S.C. 203(y)).

■ 60. In § 553.221, revise paragraph (a) to read as follows:

### § 553.221 Compensable hours of work.

(a) The general rules on compensable hours of work are set forth in 29 CFR part 785 which is applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (§ 553.222) apply to both law enforcement and employees in fire protection activities for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of employees in fire protection activities (§ 553.223). Part 785 does not discuss the special provisions that apply to State and local government workers with respect to the treatment of substitution, special details for a separate and independent employer, early relief, and work performed on an occasional or sporadic and part-time basis, all of which are covered in this subpart.

\* \* \* \* \*

■ 61. In § 553.231, revise paragraph (b) to read as follows:

### § 553.231 Compensatory time off.

\* \* \* \* \*

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if an employee engaged in fire protection activities' work period is 28 consecutive days, and he or she works 80 hours in each of the

first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same employee in fire protection activities had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

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

### Subpart A—General

■ 62. The authority citation for subpart A continues to read as follows:

**Authority:** Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

■ 63. In § 570.1, revise paragraph (g) to read as follows:

### § 570.1 Definitions.

\* \* \* \* \*

(g) *Wage and Hour Division* means the Wage and Hour Division, United States Department of Labor.

\* \* \* \* \*

■ 64. The authority citation for subpart B continues to read as follows:

### Subpart B—Certificates of Age

**Authority:** 29 U.S.C. 203(l), 211, 212.

■ 65. In § 570.6, revise the parenthetical at the end of the section to read as follows:

### § 570.6 Contents and disposition of certificates of age.

\* \* \* \* \*

(The information collection requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 1235–0018.)

■ 66. The authority citation for subpart C continues to read as follows:

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

**Authority:** 29 U.S.C. 203(l), 212, 213(c).

■ 67. In § 570.36, revise the parenthetical at the end of the section to read as follows:

### § 570.36 Work experience and career exploration program.

\* \* \* \* \*

(The information collection requirements contained in paragraphs (b)(3)(vi) and (4) were approved by the Office of Management and Budget under control number 1235–0018.)

■ 68. In § 570.37, revise the parenthetical at the end of section to read as follows:

### § 570.37 Work-study program.

\* \* \* \* \*

(The information collection requirements contained in § 570.37 were approved by the Office of Management and Budget under control number 1235–0018.)

## PART 575—WAIVER OF CHILD LABOR PROVISIONS FOR AGRICULTURAL EMPLOYMENT OF 10 AND 11 YEAR OLD MINORS IN HAND HARVESTING OF SHORT SEASON CROPS

■ 69. The authority citation for part 575 is revised to read as follows:

**Authority:** Secs. 11, 12, 13, 18, 52 Stat. 1067, 1069, as amended; 29 U.S.C. 211, 212, 213, 218; Secretary's Order 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014).

■ 70. In § 575.2, revise the definition of “Administrator” to read as follows:

### § 575.2 Definitions.

\* \* \* \* \*

*Administrator* means the Administrator of the Wage and Hour Division, U.S. Department of Labor, and includes an authorized representative designated by the Administrator to perform any of the functions of the Administrator under this part.

\* \* \* \* \*

■ 71. In § 575.3, revise paragraph (a) to read as follows:

### § 575.3 Application for waiver.

(a) An application for a waiver shall be filed with the Administrator of the Wage and Hour Division, United States Department of Labor, Washington, DC 20210. To permit adequate time for processing, it is recommended that such applications be filed 6 weeks prior to the period the waiver is to be in effect.

\* \* \* \* \*

## PART 578—MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES

■ 72. The authority citation for part 578 continues to read as follows:

**Authority:** Sec. 9, Pub. L. 101–157, 103 Stat. 938, sec. 3103, Pub. L. 101–508, 104 Stat. 1388–29 (29 U.S.C. 216(e)), Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note), as amended by Pub. L. 104–134, section 31001(s), 110 Stat. 1321–358, 1321–373, and Pub. L. 114–74, 129 Stat. 584.

■ 73. In § 578.2, revise paragraph (b) to read as follows:

### § 578.2 Definitions.

\* \* \* \* \*

(b) *Administrator* means the Administrator of the Wage and Hour

Division, U.S. Department of Labor, and includes any official of the Wage and Hour Division who is authorized by the Administrator to perform any of the functions of the Administrator under this part.

\* \* \* \* \*

#### **PART 580—CIVIL MONEY PENALTIES—PROCEDURES FOR ASSESSING AND CONTESTING PENALTIES**

■ 74. The authority citation for part 580 is revised to read as follows:

**Authority:** 29 U.S.C. 9a, 203, 209, 211, 212, 213(c), 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App; secs. 25, 29, 88 Stat. 72, 76; Secretary's Order 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 5 U.S.C. 500, 503, 551, 559; 103 Stat. 938.

■ 75. In § 580.1, revise the definition of “Administrator” to read as follows:

##### **§ 580.1 Definitions.**

\* \* \* \* \*

*Administrator* means the Administrator of the Wage and Hour Division, U.S. Department of Labor, and includes any official of the Wage and Hour Division authorized by the Administrator to perform any of the functions of the Administrator under this part and parts 578 and 579 of this chapter.

\* \* \* \* \*

#### **PART 801—APPLICATION OF THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988**

■ 76. The authority citation for part 801 continues to read as follows:

**Authority:** Pub. L. 100–347, 102 Stat. 646, 29 U.S.C. 2001–2009; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701, 129 Stat. 584.

■ 77. In § 801.2:

- a. Remove paragraph (h);
- b. Redesignate paragraphs (i) and (j) as paragraphs (h) and (i), respectively; and
- c. Revise newly redesignated paragraph (h).

The revision reads as follows:

##### **§ 801.2 Definitions.**

\* \* \* \* \*

(h) *Wage and Hour Division* means the organizational unit of the Department of Labor to which is assigned primary responsibility for enforcement and administration of the Act.

\* \* \* \* \*

■ 78. In § 801.7, revise paragraph (d) to read as follows:

##### **§ 801.7 Authority of the Secretary.**

\* \* \* \* \*

(d) Any person may report a violation of the Act or these regulations to the Secretary by advising any local office of the Wage and Hour Division, U.S. Department of Labor, or any authorized representative of the Administrator. The office or person receiving such a report shall refer it to the appropriate office of the Wage and Hour Division for the region or area in which the reported violation is alleged to have occurred.

\* \* \* \* \*

■ 79. In § 801.30, revise the parenthetical at the end of section to read as follows:

##### **§ 801.30 Records to be preserved for 3 years.**

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1235–0005.)

#### **PART 825—THE FAMILY AND MEDICAL LEAVE ACT OF 1993**

■ 80. The authority citation for part 825 continues to read as follows:

**Authority:** 29 U.S.C. 2654; 28 U.S.C. 2461 Note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114–74 at § 701.

■ 81. In § 825.104, revise paragraph (b) to read as follows:

##### **§ 825.104 Covered employer.**

\* \* \* \* \*

(b) The terms commerce and industry affecting commerce are defined in accordance with section 501(1) and (3) of the Labor Management Relations Act of 1947 (LMRA) (29 U.S.C. 142(1) and (3)), as set forth in the definitions at § 825.102 of this part. For purposes of the FMLA, employers who meet the 50-employee coverage test are deemed to be engaged in commerce or in an industry or activity affecting commerce.

\* \* \* \* \*

■ 82. In § 825.209, revise paragraph (a) to read as follows:

##### **§ 825.209 Maintenance of employee benefits.**

(a) During any FMLA leave, an employer must maintain the employee's coverage under any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employers covered by FMLA, including public agencies, are subject to the Act's requirements to maintain health coverage. The definition of group health plan is set forth in § 825.102. For purposes of FMLA, the term group health plan shall not include an

insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) No contributions are made by the employer;

(2) Participation in the program is completely voluntary for employees;

(3) The sole functions of the employer with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) The employer receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) The premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

\* \* \* \* \*

■ 83. In § 825.401, revise paragraph (a) to read as follows:

##### **§ 825.401 Filing a complaint with the Federal Government.**

(a) A complaint may be filed in person, by mail or by telephone, with the Wage and Hour Division, U.S. Department of Labor. A complaint may be filed at any local office of the Wage and Hour Division; the address and telephone number of local offices may be found in telephone directories or on the Department's Web site.

\* \* \* \* \*

[FR Doc. 2016–31293 Filed 1–6–17; 8:45 am]

**BILLING CODE 4510–27–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Parts 22 and 124**

[FRL–9956–53–OARM]

#### **Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation/Termination or Suspension of Permits; Procedures for Decisionmaking**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the Environmental Protection Agency's (“EPA”) Consolidated Rules of Practice governing the administrative assessment