

BEFORE THE COMMISSIONER
OF THE
BUREAU OF LABOR AND INDUSTRIES

839-020-0004

Definitions

As used in ORS 653.010 to 653.261 and these rules, unless the context requires otherwise:

- (1) "Administrator" means the Administrator of the Wage and Hour Division.
- (2) "Adult" means an individual of 18 years of age or more.
- (3) "Adult foster home" means any family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage.
- (4) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry and any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. "Agricultural employment" is employment in "Agriculture" as herein defined.
- (5) "Bureau" means Bureau of Labor and Industries.
- (6) "Casual basis" as used in ORS 653.020(2) and these rules means employment which is irregular and intermittent and which is not performed by an individual whose vocation is providing domestic services.
- (7) "Child care service person" means an individual who performs child care services in the home of the individual or the child and who during any part of a 24 hour period provides custodial care and protection to infants or children.
- (8) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.
- (9) "Commission" means the Wage and Hour Commission.
- (10) "Commissions" or "pay on a commission basis" means payment based on a percentage of total sales, or of sales in excess of a specified amount, or on a fixed allowance per unit agreed upon as a measure of accomplishment or on some other formula and may be the sole source of compensation or payment in addition to other compensation.
- (11) "Companionship services", as used in ORS 653.020(14) and in these rules, means those services which provide fellowship, care and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Such services may include household work related to the care of the elderly or infirm person such as meal preparation, bed making, washing of clothes and other similar services. They may also include the performance of general household work: provided, however, that such work is incidental, i.e., does not exceed 20 percent of the total weekly hours worked. Individuals employed in domestic service employment in or about a family home to provide companionship services are not required to be employed by the individual for whom they provide such services. The term "companionship services" does not include services relating to the care and protection of the elderly or infirm which require and are performed by trained personnel, such as a registered or practical nurse. While such trained personnel do not qualify as companions, this fact does not

remove them from the category of covered domestic service employees when employed in or about a family home.

(12) "Division" means the Wage and Hour Division of the Bureau of Labor and Industries.

(13) "Domestic service" means services of a household nature performed by an employee in or about a family home (permanent or temporary) of the person by whom the employee is employed. The term includes, but is not limited to, employees such as cooks, waiters, butlers, valets, maids, housekeepers, governesses, nurses, janitors, gardeners, and companions to the elderly and infirm.

(14) "Domicile" means the permanent residence of a person or the place to which that person intends to return even though that person may actually reside elsewhere.

(15) "Employed on a seasonal basis at", as used in ORS 653.020(10) and in these rules, means employment that occurs during the time the organized camp provides services to campers at the camp site where campers are located. The term includes employment at the camp site in duties preparatory to the opening or closing of the camp site. The term includes employment during the camping season only and does not include full time, year around employment.

(16) "Employer" has the same meaning as that in ORS 653.010(3).

(17) "Fair market value" means an amount not to exceed the retail price customarily paid by the general public for the same or similar meals, lodging or other facilities or services provided to the employee by the employer. In determining the fair market value of meals, lodging and other facilities and services, the bureau will be guided by these rules and by Title 29, CFR Part 531 -- Wage Payments under the Fair Labor Standards Act of 1938, where applicable.

(18) "Family home", as used in ORS 653.020(2) and this section, means a residence, the purpose of which is to provide an abode for the owner or renter of the residence and family members of the owner or renter. For example, a boarding house or an adult foster care home are not family homes for purposes of ORS 653.020(2) and these rules. However, when casual domestic service work is performed in structures where the owner or renter resides and operates a business, such work may qualify as exempt under ORS 653.020(2) depending upon all the facts of the particular arrangement.

(19) "Homeworker" means any employee suffered or permitted to produce goods or services for an employer in or about a home, apartment or room in a residence in which that employee or other employees of an employer resides, regardless of the source of the materials used by the homeworker in such production.

(20) "Hours worked" means all hours for which an employee is employed by and required to give to the employer and includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place and all time the employee is suffered or permitted to work. "Hours worked" includes "work time" as defined in ORS 653.010(11).

(21) "Immediate family" means grandfather, grandmother, father, mother, son, daughter, sister, brother, uncle or aunt.

(22) "Minimum wage" means the rate of pay prescribed in ORS 653.025 and 653.030.

(23) "Minor" means an individual of 17 years of age or less.

(24) "Organized camp" has the same meaning as that in ORS 653.010(6).

(25) "Primary duty" means, as a general rule, the major part, or over 50 percent, of an employee's time. However, a determination of whether an employee has management as the employee's primary duty must be based on all the facts of a particular case. Time alone is not the sole test and in situations where the employee does not spend over 50 percent of the employee's time in

managerial duties, the employee might have management as a primary duty if other pertinent factors support such a conclusion. Factors to be considered include, but are not limited to, the relative importance of the managerial duties as compared with other duties, the frequency with which the employee exercises discretionary powers, the relative freedom from supervision and the relationship between the salary paid the employee and wages paid other employees for the kind of non-exempt work performed by the supervisor.

(26) "Primary school" means a learning institution containing any combination of grades Kindergarten - 8 or age level equivalent.

(27) "Reside" means a personal presence at some place of abode with no present intention of definite and early removal and with the intent to remain for an undetermined period, but not necessarily combined with the intent to stay permanently.

(28) "Resident manager" means an employee of an adult foster home who is domiciled at the home and who is directly responsible for the care of residents in the home on a day to day basis.

(29) "Salary" means a predetermined amount constituting all or part of the employee's compensation paid for each pay period of one week or longer (but not to exceed one month) and in no instance will be any amount less than required to be paid pursuant to ORS 653.025.

(30) "Salary basis" means a salary as defined in section (29) of this rule, which is not subject to deduction because of lack of work for part of a work week, however, deductions for absences of one day or more may be made if the employee is absent for other reasons. Deductions may not be made for absences of less than one day, except as permitted for employers covered by the federal Family and Medical Leave Act of 1993, Public Law 103-3, for part-day absences due to leave pursuant to that law. Employees who are not paid for workweeks in which they performed no work are considered to be on a salary basis provided they are paid on a salary basis in workweeks when work is performed.

(a) Payment of additional compensation is not inconsistent with the salary basis of payment.

(b) Compensation paid in the form of fees is not inconsistent with the salary basis of payment, provided the fees paid in each pay period are not less than the amount required to be paid pursuant to ORS 653.025 and meet the requirements for fee payments under Title 29, Code of Federal Regulations, Part 541.605 and related regulations as amended April 23, 2004.

(31) "Secondary school" means a learning institution containing any combination of grades 9 - 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

(32) "Violation" means a transgression of any statute or rule, or any part thereof and includes both acts and omissions.

(33) "Willfully" means knowingly. An action is done knowingly when it is undertaken with actual knowledge of a thing to be done or omitted or action undertaken by a person who should have known the thing to be done or omitted. A person "should have known the thing to be done or omitted" if the person has knowledge of facts or circumstances which, with reasonably diligent inquiry, would place the person on notice of the thing to be done or omitted to be done. A person acts willfully if the person has the means to inform himself or herself but elects not to do so. For purposes of these rules, the employer is presumed to know the requirements of ORS 653.010 to 653.261 and these rules.

839-020-0050

Meal and Rest Periods

- (1) The purpose of this rule is to prescribe minimum meal periods and rest periods for the preservation of the health of employees.
- (2)(a) Except as otherwise provided in this rule, every employer shall provide to each employee, for each work period of not less than six or more than eight hours, a meal period of not less than 30 continuous minutes during which the employee is relieved of all duties.
- (b) Except as otherwise provided in this rule, if an employee is not relieved of all duties for 30 continuous minutes during the meal period, the employer must pay the employee for the entire 30-minute meal period.
- (c) An employer is not required to provide a meal period to an employee for a work period of less than six hours. When an employee's work period is more than eight hours, the employer shall provide the employee the number of meal periods listed in Appendix A of this rule.
- (d) Timing of the meal period: If the work period is seven hours or less, the meal period is to be taken between the second and fifth hour worked. If the work period is more than seven hours, the meal period is to be taken between the third and sixth hour worked.
- (3) If an employer does not provide a meal period to an employee under section (2) of this rule, the employer has the burden to show that:
 - (a) To do so would impose an undue hardship on the operation of the employer's business as provided in section (4), and that the employer has complied with section (5) of this rule;
 - (b) Industry practice or custom has established a paid meal period of less than 30 minutes (but no less than 20 minutes) during which employees are relieved of all duty; or
 - (c) The failure to provide a meal period was caused by unforeseeable equipment failures, acts of nature or other exceptional and unanticipated circumstances that only rarely and temporarily preclude the provision of a meal period required under section (2) of this rule. If an employee is not relieved of all duties for 30 continuous minutes during the meal period, the employer must pay the employee for the entire 30-minute meal period.
- (4) As used in section (3)(a) of this rule, "undue hardship" means significant difficulty or expense when considered in relation to the size, financial resources, nature or structure of the employer's business. For the purpose of determining whether providing a meal period requires significant difficulty or expense, the following factors may be considered:
 - (a) The employer's cost of complying with the requirement to provide a meal period under section (2) of this rule.
 - (b) The overall financial resources of the employer.
 - (c) The number of persons employed at the particular worksite and their qualifications to relieve the employee; the total number of persons employed by the employer; and the number, type and geographic separateness of the employer's worksites.
 - (d) The effect of providing the meal period required under section (2) of this rule on worksite operations involving: the startup or shutdown of machinery in continuous-operation industrial processes; intermittent and unpredictable workflow not in the control of the employer or employee; the perishable nature of materials used on the job; and the safety and health of other employees, patients, clients or the public.
- (5) When an employer does not provide a meal period to an employee under section (2) of this rule, and is able to make the required showing under section (3)(a) of this rule:
 - (a) The employer shall instead provide the employee adequate paid periods in which to rest, consume a meal, and use the restroom; and
 - (b) The employer shall first provide to each employee a notice provided by the commissioner of the Bureau of Labor and Industries regarding rest and meal periods in the language used by the

employer to communicate with the employee. The employer shall retain and keep available to the commissioner a copy of the notice for the duration of the employee's employment and for no less than six months after the termination date of the employee. Notices that comply with this subsection are available upon request from the bureau. This subsection takes effect on March 16, 2009.

(6)(a) Except as provided in subsection (b) of this section, every employer shall provide to each employee, for each segment of four hours or major part thereof worked in a work period, a rest period of not less than ten continuous minutes during which the employee is relieved of all duties, without deduction from the employee's pay.

(A) As the nature of the work allows, the employer shall provide the rest period approximately in the middle of each segment of four hours or major part thereof worked in a work period. When the employee's work period is more than eight hours, the employer shall provide the employee the number of rest periods listed in Appendix A of this rule.

(B) The employer shall provide rest periods in addition to and taken separately from the time provided for a meal period. An employer may not require or allow an employee to add the rest period to a meal period or deduct the rest period from the beginning or end of the employee's work period to reduce the overall length of the work period.

(C) An employer has the burden to show that the employer provided the rest periods required under this section.

(b) An employer is not required to provide a rest period to an employee when all of the following conditions are met:

(A) The employee is 18 years of age or older;

(B) The employee works less than five hours in any period of 16 continuous hours;

(C) The employee is working alone;

(D) The employee is employed in a retail or service establishment, i.e., a place where goods and services are sold to the general public, not for resale; and

(E) The employee is allowed to leave the employee's assigned station when the employee must use the restroom facilities.

(7) The provisions of this rule regarding meal periods and rest periods may be modified by the terms of a collective bargaining agreement if the provisions of the collective bargaining agreement entered into by the employees specifically prescribe rules concerning meal periods and rest periods.

(8)(a) Pursuant to the provisions of ORS 653.261(5), if an employer agrees, an employee may waive a meal period if all of the following conditions are met:

(A) The employee is employed to serve food or beverages, receives tips, and reports the tips to the employee's employer;

(B) The employee is at least 18 years of age;

(C) The employee voluntarily requests to waive the employee's meal periods no less than seven calendar days after beginning employment;

(D) The employee's request to waive the employee's meal periods is in writing in the language used by the employer to communicate with the employee, on a form provided by the commissioner, and is signed and dated by both the employee and employer;

(E) The employer retains and keeps available to the commissioner a copy of the employee's request to waive the employee's meal period during the duration of the employee's employment and for no less than six months after the termination date of the employee;

- (F) The employee is provided with a reasonable opportunity to consume food during any work period of six hours or more while continuing to work;
- (G) The employee is paid for any and all meal periods during which the employee is not completely relieved of all duties;
- (H) The employee is not required to work longer than eight hours without receiving a 30-minute meal period during which the employee is relieved of all duties;
- (I) The employer makes and keeps available to the commissioner accurate records of hours worked by each employee that clearly indicate whether or not the employee has received meal periods; and
- (J) The employer posts a notice provided by the commissioner regarding rest and meal periods in a conspicuous and accessible place where all employees can view it.
 - (b) Either the employer or employee may revoke the agreement for the employee to waive the employee's meal periods by providing at least seven (7) calendar days written notice to the other.
 - (c) Notwithstanding subsection (b) of this section, an employee who has requested to waive meal periods under this section may request to take a meal period without revoking the agreement to waive such periods. The request to take a meal period must be submitted in writing to the employer no less than 24 hours prior to the meal period requested.
 - (d) An employer may not coerce an employee into waiving a meal period.
 - (e) An employer will be considered to have coerced an employee into waiving the employee's meal period under the following circumstances:
 - (A) The employer requests or requires an employee to sign a request to waive meal periods;
 - (B) An employee is required to waive meal periods as a condition of employment at the time of hire or at any time while employed;
 - (C) The employer requests or requires any person, including another employee, to request or require an employee to waive meal periods; or
 - (D) The employee signs a form requesting to waive meal periods prior to being employed for seven calendar days.
 - (f) Employee waiver forms and notices regarding rest and meal periods that comply with this section are available upon request from the bureau.
- (9) Minors under 18 years of age are not subject to this rule. Rest and meal period requirements for minors under 18 years of age are provided in OAR 839-021-0072.
- (10) As used in this rule:
 - (a) "Work period" means the period between the time the employee begins work and the time the employee ends work.
 - (b) "Work period" includes a rest period as provided in section (6) of this rule, and any period of one hour or less (not designated as a meal period) during which the employee is relieved of all duties.
 - (c) "Work period" does not include a meal period unless the meal period is paid work time as provided in section (2) or (5) of this rule.

839-020-0125

Overtime Exemptions Pertaining to Employers Regulated Under the Federal Fair Labor Standards Act

(1) This rule applies to employers and employees subject to OAR 839-020-0030, Overtime Generally, by virtue of the repeal of ORS 653.020(7) by Section 2, Chapter 446, 1989 Oregon Laws.

(2) No employer shall be deemed to have violated OAR 839-020-0030 under the following circumstances:

(a) By employing any employee for a workweek in excess of that specified in OAR 839-020-0030 without paying the compensation for overtime employment prescribed therein; provided that, such employee received compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which the employee is employed; and, provided further that such employee is so employed as follows:

(A) In pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than 1,040 hours during any period of 26 consecutive weeks; or

(B) In pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board which provides that during a specified period of 52 consecutive weeks the employees shall be employed not more than 2,240 hours and shall be guaranteed not less than 1,840 hours (or not less than 46 weeks at the normal number of hours worked per week, but not less than 30 hours per week) and not more than 2,080 hours of employment for which the employee shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum workweek applicable to such employee under OAR 839-020-0030 or 2,080 hours in such period at rates not less than one and one-half times the regular rate at which the employee is employed. (Reference: Sec. 7(b)(1) and Sec. 7(b)(2), FLSA)

(b) By an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products, if:

(A) The annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes; and

(B) More than 75 per centum of such enterprise's annual dollar volume of sales is made within the state in which such enterprise is located; and

(C) Not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; and

(D) Such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to the employee under ORS 653.025. (Reference: Sec. 7(b)(3), FLSA)

(c) By employing any employee for a workweek in excess of the maximum workweek applicable to such employee under OAR 839-020-0030 if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement specifies a regular rate of pay of not less than the minimum hourly rate provided in ORS 653.025 and compensation at not less than 1-1/2 times such rate for all hours worked in excess of such maximum workweek, and a weekly guarantee of pay for not more than 60 hours based on the rates so specified. (Reference: Sec. 7(f), FLSA);

- (d) By employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified in OAR 839-020-0030, if the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable under ORS 653.025 and if more than half of the employee's compensation for a representative period (not less than one month) represents commissions on goods or services. In determining the proportion of compensation representing commission, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw of guarantee. (Reference: Sec. 7(i), FLSA);
- (e) When an employer engaged in the operation of a hospital or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises enters into an agreement or understanding arrived at between the employer and employee before performance of the work, that provides for a work period of 14 consecutive days in lieu of the workweek of seven consecutive days for purposes of overtime computation and provides further that for the employee's employment in excess of eight hours in any workday and in excess of 80 hours in such 14-day period, the employee receives compensation at a rate not less than one and one-half times the regular rate at which the employee is employed. (Reference: Sec. 7(j), FLSA);
- (f) By employing an employee of a not for profit amusement or recreational establishment in excess of the applicable work week specified in OAR 839-020-0030 if the establishment does not operate for more than seven months in any calendar year, or if, the establishment's average receipts for any six months of such year were not more than 33-1/3 per centum of its average receipts for the other six months of such year. (Reference: Section 13(a)(3), FLSA);
- (g) By employing an employee in excess of the applicable workweek specified in OAR 839-020-0030 when the employee is employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacean, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee. (Reference: Sec. 13(a)(5), FLSA)
- (h) By employing an employee who is compensated at a rate of not less than the equivalent of \$27.63 per hour for each hour worked and who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker, whose primary duty consists of the following:
- (A) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;
 - (B) The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
 - (C) The design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or
 - (D) A combination of duties described in paragraphs (A), (B), and (C) of this paragraph the performance of which requires the same level of skills. (Reference: Sec. 13 (a) (17), FLSA)
- (3) The provisions of OAR 839-020-0030 do not apply when the provisions of Section 13(b), of the Fair Labor Standards Act apply to employees as follows:

- (a) Any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of Section 204 of the Motor Carrier Act, 1935; or
- (b) Any employee of an employer engaged in the operation of a common carrier by rail and subject to the provisions of Part I of the Interstate Commerce Act; or
- (c) Any employee of a carrier by air subject to the provisions of Title II of the Railway Labor Act; or
- (d) Any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or
- (e) Any employee employed as a seaman; or
- (f) Any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located in a city or town of 100,000 population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of 100,000, or is located in a city of 25,000 population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or
- (g) Any sales person, parts person or mechanic primarily engaged in selling or servicing automobiles, trucks, or farm implements, if the employee is employed by a non-manufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers; or
- (h) Any sales person primarily engaged in selling trailers, boats, or aircraft if the salesperson is employed by a non-manufacturing establishment primarily engaged in the business of selling trailers, boats or aircraft to ultimate purchasers; or
- (i) Any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Commissioner shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under OAR 839-020-0030; or
- (j) Any employee employed in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or
- (k) Any employee with respect to the employee's employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on the farmer's own account or in conjunction with other farmers, if such employee is primarily employed during the employee's workweek in agriculture by such farmer, and if such employee is paid for the operations at a wage rate not less than that prescribed by ORS 653.025; or
- (l) Any employee employed within the area of production (as defined by the Commissioner) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operation; or
- (m) Any employee engaged in the transportation and preparation for transportation of fruits and vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the State of Oregon, or any employee engaged in transportation,

whether or not performed by the farmer, between the farm and any point within the State of Oregon of persons employed or to be employed in the harvesting of fruits or vegetables; or
(n) Any employee who is employed in domestic service in a household and who resides in such household; or

(o) Any employee employed by an establishment which is a motion picture theater; or

(p) Any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by the employee's employer in such forestry or lumbering operations does not exceed eight; or

(q) Any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee is an employee of a private entity engaged in providing services or facilities in a national park or national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture, and receives compensation for employment in excess of 56 hours in any workweek at a rate not less than one and one-half times the regular rate at which the employee is employed. (Reference: Sec. 13(b), (1), (2), (3), (5), (6), (9), (10), (11), (12), (13), (14), (16), (21), (27), (28), and (29), FLSA)

(4) The provisions of OAR 839-020-0030 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer or to any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths). (Reference: Sec. 13(d), FLSA)

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