

# **federal register**

**TUESDAY, JUNE 29, 1976**



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**PART III:**

## **DEPARTMENT OF LABOR**

**Wage and Hour Division**



### **CHILD LABOR**

**Employment of Minors Under Certain  
Ages, Records, Certificates of Age**

## Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION,  
DEPARTMENT OF LABORPART 570—CHILD LABOR REGULATIONS,  
ORDERS AND STATEMENTS OF INTER-  
PRETATIONPART 579—CHILD LABOR VIOLATIONS—  
CIVIL MONEY PENALTIESEmployment of Minors Under Certain Ages,  
Records, Certificates of Age

The Fair Labor Standards Amendments of 1974 (Pub. L. 93-259, 88 Stat. 55) amend section 12 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1067, 29 U.S.C. 212) to authorize the Secretary of Labor, in his discretion, to issue regulations requiring employers to obtain proof of age from young employees. To implement this amendment, notice of a proposal to make certain changes in the recordkeeping requirements of 29 CFR Part 516 and to amend 29 CFR Part 570 by revising Subparts A and B and providing in Subpart B new requirements with respect to proof of age of young workers was published in the FEDERAL REGISTER (39 FR 36940) on October 15, 1974. A period of 30 days was provided for comment by interested parties, such comments to be received on or before November 14, 1974. This period was extended to December 14, 1974 (39 FR 40590).

The proposal submitted for public consideration suggested changes in the recordkeeping requirements of Part 516 which would have required employers to maintain supporting records of proof of age with respect to employees under 19 years of age. It also included suggested changes in Subparts A and B of Part 570 with respect to definition of terms, minimum age standards for employment, and certificates of age, including designation for an indefinite period of time of those States in which State age, employment and working certificates or permits would be accepted under section 3(1) of the Act. It also included new provisions requiring employers to obtain and preserve evidence of proof of age from employees under specific ages.

After careful consideration of the comments received, the majority of which recommended against the adoption of the proposed proof of age requirements, and after reconsideration of the need for these requirements, I find that they are not necessary at this time in order to carry out the objectives of the child labor provisions of the Act. Therefore, the proposed proof of age requirements have been deleted from Subpart B of Part 570 and from Part 516. Subsequent experience may, of course, result in the reconsideration of this decision.

The other proposed changes in Subparts A and B of Part 570 with respect to certificates of age, as summarized in the second paragraph of this preamble, are adopted.

Paragraphs (3) and (4) of § 579.3(a), Part 579, Title 29 of the Code of Federal Regulations, provide that failure of an employer to obtain and preserve evidence

of proof of age would constitute a violation of the child labor provisions of the Act subject to a civil money penalty. When Part 579 was published on June 18, 1975 (40 FR 25792) the effective date of these two paragraphs was delayed so as to be concurrent with the effective date of the proof of age regulations. Therefore, deletion of the proposed proof of age provisions necessitates the deletion of §§ 579.3(a) (3) and 579.3(a) (4).

These regulations as revised shall be effective on June 29, 1976.

Title 29, Code of Federal Regulations, Part 570 is amended by revising the table of contents and Subparts A and B and Part 579 is amended by revoking and reserving paragraphs (a) (3) and (4) of § 579.3 as set forth below.

1. The table of contents is amended and Subparts A and B of Part 570 are revised to read as follows:

Subpart A—General	
Sec.	Definitions.
570.1	Minimum age standards.
570.2	
Subpart B—Certificates of Age	
570.5	Authorized certificates and their effect.
570.6	Contents and disposition of certificate.
570.7	Documentary evidence required for issuance of certificate.
570.8	Federal certificates of age.
570.9	States in which State certificates are accepted.
570.10	Designation of the State of Alaska and the Territory of Guam.
570.11	Continued acceptability of certificates.
570.12	Revoked certificates.
PROVISIONS OF OTHER LAWS	
570.25	Effect on other laws.
PROVISION FOR REVISION	
570.27	Revision of this subpart.

## Subpart A—General

AUTHORITY: The provisions of this Subpart A issued under Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

## § 570.1 Definitions.

As used in this part:

(a) "Act" means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219).

(b) "Oppressive child labor" means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in § 570.2 of this subpart.

(c) "Oppressive child-labor age" means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) A "certificate of age" means a certificate as provided in § 570.5(b) (1) or (2) of this part.

(e) [Reserved.]

(f) "Secretary" or "Secretary of Labor" means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) "Wage and Hour Division" means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) "Administrator" means the Administrator of the Wage and Hour Division or his authorized representative.

(i) "State agency" means any officer, executive department, board, bureau or commission of a State or any division or unit thereof authorized to take action with respect to the application of laws relating to minors.

## § 570.2 Minimum age standards.

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see Subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being (see Subpart E of this part).

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

(b) Occupations in agriculture. The Act sets a 16-year age minimum for employment in agriculture during school hours for the school district in which the employed minor is living at the time, and also for employment in any occupation in agriculture that the Secretary of Labor finds and declares to be particularly hazardous except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person (see Subpart E-1 of this part). There is a minimum age requirement of 14 years generally for employment in agriculture outside school hours for the school district where such employee is living while so employed. However, (1) a minor 12 or 13 years of age may be so employed with written consent of his parent or person standing in place of his parent, or may work on a farm where such parent or person is also employed, and (2) a minor under 12 years of age may be employed by his parent or by a person standing in place of his parent on a farm owned or operated by such parent or

person, or may be employed with consent of such parent or person on a farm where all employees are exempt from the minimum wage provisions by virtue of section 13(a) (6) (A) of the Act.

**Subpart B—Certificates of Age**

**AUTHORITY:** The provisions of this Subpart B issued under secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

**§ 570.5 Authorized certificates and their effect.**

(a) To protect an employer from unwitting violation of the minimum age standards under the Act, section 3(1) of the Act provides that "oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child-labor age." The provisions of this subpart provide for age certificates based on the best available documentary evidence of age. Certificates issued and effective pursuant to this subpart furnish an employer with proof of the age of a minor employee upon which he may rely in determining whether the minor is at least the minimum age for the occupation in which he is to be employed.

(b) The employment of any minor shall not be deemed to constitute oppressive child labor under the Act if his employer shall have on file an unexpired certificate, issued and held in accordance with this subpart, which shall be either:

(1) A Federal certificate of age, issued by a person authorized by the Administrator of the Wage and Hour Division, showing that such minor is above the oppressive child-labor age applicable to the occupation in which he is employed, or

(2) A State certificate, which may be in the form of and known as an age, employment, or working certificate or permit, issued by or under the supervision of a State agency in a State which has been designated for this purpose by the Administrator showing that such minor is above the oppressive child-labor age applicable to the occupation in which the is employed. States so designated are listed in § 570.9(a). Any such certificate shall have the force and effect specified in § 570.9.

(c) The prospective employer of a minor, in order to protect himself from unwitting violation of the Act, should obtain a certificate (as specified in paragraphs (b) (1) and (2) of this section) for the minor if there is any reason to believe that the minor's age may be below the applicable minimum for the occupation in which he is to be employed. Such certificate should always be obtained where the minor claims to be only 1 or 2 years above the applicable minimum age for the occupation in which he is to be employed. It should also be obtained for every minor claiming to

be older than 2 years above the applicable minimum age if his physical appearance indicates that this may not be true.

**§ 570.6 Contents and disposition of certificate.**

(a) Except as provided in §§ 570.9 and 570.10, a certificate of age which shall have the effect specified in § 570.5 shall contain the following information:

- (1) Name and address of minor.
- (2) Place and date of birth of minor, together with a statement indicating the evidence on which this is based. The place of birth need not appear on the certificate if it is obtained and kept on file by the person issuing the certificate.
- (3) Sex of minor.
- (4) Signature of minor.
- (5) Name and address of minor's parent or person standing in place of parent. This information need not appear on the certificate if it is obtained and kept on file by the person issuing the certificate.
- (6) Name and address of employer, if minor is under 18.
- (7) Industry of employer, if minor is under 18.
- (8) Occupation of minor, if minor is under 18.
- (9) Signature of issuing officer.
- (10) Date and place of issuance.

(b) (1) A certificate of age for a minor under 18 years of age shall be sent by a person authorized to issue such certificates to the prospective employer of the minor, who shall keep such certificate on file at the place of the minor's employment and who on the termination of the employment of the minor shall return the certificate to the person issuing it, except that a certificate issued for employment in agriculture may be given to the minor. A certificate returned to the issuing officer may be accepted as proof of age for the issuance of any subsequent certificate of age for that minor, without presentation of further proof of age, unless it is found that the proof of age originally submitted was in error.

(2) Whenever a certificate of age is issued for a minor 18 or 19 years of age it may be given to the minor by the person issuing the certificate. Every minor 18 or 19 years of age shall, upon entering employment, deliver his certificate of age to his employer for filing and upon the termination of the employment, the employer shall return the certificate to the minor.

**§ 570.7 Documentary evidence required for issuance of certificate.**

(a) Except as otherwise provided in §§ 570.9 and 570.10, a certificate of age which shall have the effect specified in § 570.5 shall be issued only upon application of the minor desiring employment or of the prospective employer to the person authorized to issue such certificate and only after acceptable documentary evidence of age has been received, examined, and approved. Such evidence shall consist of one of the following to be required in the order of preference herein designated:

(1) A birth certificate or attested transcript thereof or a signed statement of the recorded date and place of birth, issued by a registrar of vital statistics or other officer charged with the duty of recording births.

(2) A record of baptism or attested transcript thereof showing the date and place of birth and date and place of baptism of the minor, or a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or other documentary evidence satisfactory to the Administrator, such as a passport showing the age of the minor, or a certificate of arrival in the United States issued by the United States immigration office and showing the age of the minor, or a life-insurance policy: *Provided*, That such other documentary evidence has been in existence at least 1 year prior to the time it is offered as evidence: *And provided further*, That a school record of age or an affidavit of a parent or a person standing in place of a parent, or other written statement of age shall not be accepted except as specified in paragraph (a) (3) of this section;

(3) The school record or the school-census record of the age of the minor, together with the sworn statement of a parent or person standing in place of a parent as to the age of the minor and also a certificate signed by a physician specifying what in his opinion is the physical age of the minor. Such certificate shall show the height and weight of the minor and other facts concerning his physical development which were revealed by such examination and upon which the opinion of the physician as to the physical age of the minor is based. If the school or school-census record of age is not obtainable, the sworn statement of the parent or person standing in place of a parent as to the date of birth of the minor, together with a physician's certificate of age as hereinbefore specified, may be accepted as evidence of age.

(b) The officer issuing a certificate of age for a minor shall require the evidence of age specified in paragraph (a) (1) of this section in preference to that specified in paragraphs (a) (2) and (3) of this section, and shall not accept the evidence of age permitted by either subsequent paragraph unless he shall receive and file evidence that reasonable efforts have been made to obtain the preferred evidence required by the preceding paragraph or paragraphs before accepting any subsequently named evidence: *Provided*, That to avoid undue delay in the issuance of certificates, evidence specified in paragraph (a) (2) of this section may be accepted, or if such evidence is not available, evidence specified in paragraph (a) (3) of this section may be accepted if a verification of birth has been requested but has not been received from the appropriate bureau of vital statistics.

**§ 570.8 Federal certificates of age.**

A Federal certificate of age which shall have the effect specified in § 570.5 shall be issued by a person authorized by the

Administrator of the Wage and Hour Division and shall be issued in accordance with the provisions of §§ 570.6 and 570.7.

**§ 570.9 States in which State certificates are accepted.**

(a) The States in which age, employment, or working certificates or permits have been found by the Administrator to be issued by or under the supervision of a State agency substantially in accordance with the provisions of §§ 570.6 and 570.7 and which are designated as States in which certificates so issued shall have the force and effect specified in § 570.5, except as individual certificates may be revoked in accordance with § 570.11 of this subpart, are:

Alabama.	Montana.
Arkansas.	Nebraska.
California.	Nevada.
Colorado.	New Hampshire.
Connecticut.	New Jersey.
Delaware.	New Mexico.
District of Columbia.	New York.
Florida.	North Carolina.
Georgia.	North Dakota.
Hawaii.	Ohio.
Illinois.	Oklahoma.
Indiana.	Oregon.
Iowa.	Pennsylvania.
Kentucky.	Puerto Rico.
Louisiana.	Rhode Island.
Maine.	South Dakota.
Maryland.	Tennessee.
Massachusetts.	Vermont.
Michigan.	Virginia.
Minnesota.	West Virginia.
Missouri.	Wisconsin.
	Wyoming.

(b) State certificates requiring conditions or restrictions additional to those required by this subpart shall not be deemed to be inconsistent herewith.

(c) The designation of a State under this section shall have force and effect indefinitely unless withdrawal of such designation is deemed desirable for the effective administration of the Act. No withdrawal of the designation of a State under this section shall make any certificate invalid if it was issued by or under the supervision of a State agency as herein provided prior to such withdrawal.

**§ 570.10 Designation of the State of Alaska and the Territory of Guam.**

The State of Alaska and the Territory of Guam are designated as States in which any of the following documents

shall have the same effect as Federal certificates of age as specified in § 570.5:

(a) A birth certificate or attested transcript thereof, or a signed statement of the recorded date and place of birth issued by a registrar of vital statistics or other officer charged with the duty of recording births, or

(b) A record of baptism or attested transcript thereof showing the date of birth of the minor, or

(c) With respect to the State of Alaska, a statement on the census records of the Bureau of Indian Affairs and signed by an administrative representative thereof showing the name, date of birth, and place of birth of the minor.

**§ 570.11 Continued acceptability of certificates.**

(a) Whenever a person duly authorized to make investigations under this Act shall obtain substantial evidence that the age of the minor as given on a certificate held by an employer subject to this Act is incorrect, he shall inform the employer and the minor of such evidence and of his intention to request through the appropriate channels that action be taken to establish the correct age of the minor and to determine the continued acceptability of the certificate as proof of age under the Act. The said authorized person shall request in writing through the appropriate channels that action be taken on the acceptability of the certificate as proof of age under the Fair Labor Standards Act and shall state the evidence of age of the minor which he has obtained and the reasons for such request. A copy of this request shall be sent to the Administrator of the Wage and Hour Division for further handling through the State agency responsible for the issuance of certificates, except that in those States where Federal certificates of age are issued, action necessary to establish the correct age of the minor and to revoke the certificate if it is found that the minor is under age shall be taken by the Administrator of the Wage and Hour Division or his designated representative.

(b) The Administrator shall have final authority in those States in which State certificates are accepted as proof of age under the Act for determining the con-

tinued acceptability of the certificate, and shall have final authority for such determination in those States in which Federal certificates of age are issued. When such determination has been made in any case, notice thereof shall be given to the employer and the minor. In those cases involving the continued acceptability of State certificates, the appropriate State agency and the official who issued the certificate shall also be notified.

**§ 570.12 Revoked certificates.**

A certificate which has been revoked as proof of age under the Act shall be of no force and effect under the Act after notice of such revocation.

**PROVISIONS OF OTHER LAWS**

**§ 570.25 Effect on other laws.**

No provision of this subpart shall under any circumstances justify or be construed to permit noncompliance with the provisions of any other Federal law or of any State law or municipal ordinance establishing higher standards than those established under this subpart.

**PROVISION FOR REVISION**

**§ 570.27 Revision of this Subpart.**

Any person wishing a revision of any of the provisions of this subpart may submit in writing to the Secretary of Labor a petition setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Secretary believes that reasonable cause for amendment of the regulation is set forth, he shall make other provision for affording interested parties an opportunity to present their views, both in support of and in opposition to the proposed changes.

**§ 579.3 [Amended.]**

2. Section 579.3 of Part 579 is amended by deleting paragraphs (a) (3) and (a) (4) thereof, which shall be marked "Reserved."

Signed at Washington, D.C., this 21st day of June 1976.

WARREN D. LANDIS,  
Acting Administrator,  
Wage and Hour Division.

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