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29 CFR Ch. V (7-1-05 Edition)

(2) That each employer of one or more Indian homeworkers engaged in making hand-fashioned jewelry on these Indian reservations shall file copies of the piece rates in duplicate with the regional office of the Wage and Hour Division for the region in which the employer's place of business is located on April 1, August 1, and December 1 of each year, and

(3) That each employer of one or more Indian homeworkers engaged in making hand-fashioned jewelry on these Indian reservations shall keep, maintain, and have available for inspection by the Administrator or the Administrator's authorized representative at any time, records and reports showing with respect to each of the homeworkers engaged in making hand-fashioned jewelry on these Indian reservations, the following information:

- (i) Name of the homeworker.
- (ii) Address of the homeworker.
- (iii) Date of birth of the homeworker, if under 19 years of age.
- (iv) Description of work performed.
- (v) Amount of cash wage payments made to the homeworker for each pay period.
- (vi) Date of such payment.
- (vii) Schedule of piece rates paid.

These records shall be kept by each employer for each of the employer's homeworkers engaged in making hand-fashioned jewelry on Indian reservations, as provided in this section, in lieu of the records required under §§ 516.2 and 516.31 of this chapter: *Provided, however,* That nothing in this section shall relieve an employer from maintaining all other records required by part 516 of this chapter.

[24 FR 729, Feb. 3, 1959, as amended at 43 FR 28470, June 30, 1978]

Subpart B—Homeworker Employer Certificates

SOURCE: 53 FR 45722, Nov. 10, 1988, unless otherwise noted.

§ 530.101 General.

(a) Except as provided in subpart C, a certificate may be issued to an employer authorizing the employment of homeworkers in

(1) The knitted outerwear, gloves and mittens, and embroideries industries as defined in paragraphs (g), (h), and (k), respectively, at § 530.1, effective January 9, 1989;

(2) In the button and buckle and handkerchief manufacturing industries as defined in paragraphs (i) and (j), respectively, of § 530.1, effective July 9, 1989; and

(3) In the jewelry industry as defined in paragraph (f) of § 530.1, effective July 9, 1989, but only where the employer's homeworkers are engaged exclusively in the stringing of beads and other jewelry and the carding and packaging of jewelry. The terms "carding and packaging of jewelry" include the attaching of jewelry to cards, boxing and wrapping, and the use of common household glues available to the general public, but do not include potentially hazardous operations such as the use of industrial glues, epoxies, soldering irons, or heating elements.

(b) This certificate may be issued irrespective of whether individual homeworkers meet the conditions set forth in paragraph (a) of § 530.4 of Subpart A. Unless suspended or revoked, such certificates are valid for two-year periods. Applications for renewals must be submitted no later than thirty (30) days prior to the expiration date of the current certificate. Except as provided in subpart A, in the absence of a certificate, the employment of homeworkers in these industries is prohibited, and an employer violating this prohibition is subject to all the sanctions provided in the Fair Labor Standards Act and in this part, including an injunction restraining the employment of homeworkers.

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

§ 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,

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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, Employment Standards Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

§ 530.103 Employer assurances.

In order to be granted a certificate authorizing the employment of industrial homeworkers, the employer must provide written assurances concerning the employment of homeworkers subject to section 11(d) of the Fair Labor Standards Act to the effect that:

(a) All homeworkers shall be paid in accordance with the monetary provisions of the Act.

(b) All homeworkers shall be employed in compliance with the child labor provisions contained in section 12 of the Act and regulations and orders issued pursuant to section 12. All homeworkers will be instructed not to permit minors to work in violation of such provisions.

(c) Records of hours worked and wages paid shall be maintained in accordance with section 11 of the Act and part 516 of this chapter.

(d) All homeworkers shall complete homeworke handbook in accordance with § 516.31 of part 516.

(e) All homeworkers will be instructed to accurately record all hours worked, piece work information, and business-related expenses in the handbooks.

(f) All records shall be made available for inspection and transcription by the Administrator or a duly authorized and designated representative, or transcription by the employer upon written request.

(g) Piece rates paid to homeworkers shall be established using stop watch

time studies or other work measurement methods.

(h) All homeworkers shall be encouraged to cooperate with the Department in any investigation that may be made.

(i) With respect to jewelry manufacturing, no operations other than the stringing of beads and other jewelry and the carding and packaging of jewelry will be performed by homeworkers.

§ 530.104 Bonding or security payments.

(a) Where in the Administrator's judgment there is not sufficient reason to believe that the Act will be complied with or that money will be available if violations of the Act occur, the Administrator may condition issuance or renewal of a certificate to an employer upon the furnishing of a bond with a surety or sureties satisfactory to the Administrator.

(b) The Administrator shall condition issuance or reinstatement of a certificate to any employer whose application for a certificate had previously been denied, or whose certificate had been revoked, upon the furnishing of a bond.

(c) Any bond required by the Administrator under paragraph (a) or (b) of this section shall be in an amount determined by the Administrator, up to \$2500 for each homeworke to be employed by such employer under the certificate. In lieu of a bond, the employer may furnish a cash payment of equal amount, to be held in a special deposit account by the Administrator for the period during which the certificate is in effect. Such bond, or cash payment, shall be subject to payment or forfeiture, in whole or in part, upon a final determination that the employer has failed to pay minimum wages or overtime compensation to homeworkers in accordance with the Act. Any sums thus paid or forfeited to the Administrator shall be disbursed to affected homeworkers in accordance with section 16(c) of the Act.

(d) At the Administrator's discretion, the obligation of a bond may be relieved, and any cash payment held as