




U.S. Department of Labor Employment Standards Administration

Wage and Hour Division (WHD)

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To promote and achieve compliance with labor standards to protect and enhance the welfare of the nation's workforce.

INSTRUCTIONS For FORM WH-2 (Application for Special Industrial Homeworker Certificate) and FORM WH-46 (Application for Certificate to Employ Homeworkers)

Under Section 11(d) of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 211(d), the Secretary of Labor is "authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribe in this Act...." The regulations regarding the employment of homeworkers may be found in 29 C.F.R. Part 530.

Industrial homework, as defined by the regulations, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment of goods for an employer who suffers or permits such production, regardless of the source (whether obtained from an employer or elsewhere) of the material used by the homeworker in such production. 29 C.F.R. § 516.31(a)(2). An industrial homeworker is any employee employed or suffered or permitted to perform industrial homework for an employer. 29 C.F.R. § 516.31(a)(1).

Regulations, 29 C.F.R. Part 530, require that employers obtain certificates from the U. S. Department of Labor's Wage and Hour Division authorizing the employment of homeworkers in certain restricted industries before the employment may commence. 29 C.F.R. § 530.1-.2. The seven restricted industries which are listed and defined in the regulations are:

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| Women's Apparel Industry | Jewelry Manufacturing Industry |
| Knitted Outerwear Industry | Gloves and Mittens Industry |
| Handkerchief Manufacturing Industry | Embroideries Industry |
| Button and Buckle Manufacturing Industry | |

Two different types of certificates are issued by the Wage and Hour Division - an individual industrial homeworker certificate which authorizes a specific individual to perform homework in a restricted industry because of certain circumstances impacting that employee's ability to work outside the home (i.e., use Form WH-2); and an employer homeworker certificate that authorizes an employer to employ homeworkers in a particular restricted industry, except women's apparel. No employer homeworker certificates may be issued for the women's apparel industry (i.e., use Form WH-46).

WH-2

OMB Control No.: 1215-0005 Exp. Date: 01/31/2011

Persons are not required to respond to the request for information unless it displays a currently valid OMB Control Number.

The WH-2 is the application to use when requesting permission to employ an individual industrial homeworker in one of the seven restricted industries who is unable to work in a factory setting because (a) he or she is

unable to adjust to such work because of age, or physical or mental disability; (b) he or she is unable to leave home because his or her presence is required to care for an invalid in the home, or (c) he or she will be engaged in industrial homework under the supervision of a State Vocational Rehabilitation Agency. The WH-2 includes a block in which the (potential) homeworker is to explain fully why he or she is unable to work in a factory setting. Another portion of the form requires medical confirmation of the need for the individual to work at home. Please note that the form requires the signatures of the employee, the employer, and a physician.

WH-46

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Persons are not required to respond to the request for information unless it displays a currently valid OMB Control Number.

The WH-46 is the application an employer submits when seeking to obtain authority to employ multiple industrial homeworkers in a restricted industry (other than women's apparel). The form requires the employer to list the names and addresses of the individuals to be employed as homeworkers. In addition, if the language of the homeworker is other than English, the employer must indicate the language spoken.

All homeworker certificate applications are processed at a single location. Completed applications shall be submitted to the following address:

U.S. Department of Labor
Wage and Hour Division
Attention: Homeworker Certification
230 S. Dearborn Street
Room 514
Chicago, IL 60604-1757
Telephone: (312) 596-7195

You may contact that office at 1-866-4-USWAGE (1-866-487-9243) with questions regarding the employment of homeworkers in restricted industries and the application and certification processes.

All homeworkers subject to the provisions of the FLSA must be paid in compliance with the minimum wage and overtime provisions of the Act. In addition, records must be maintained in accordance with section 11(c) of the FLSA and Regulations, 29 CFR Part 516. All homeworkers must complete a homeworker handbook in accordance with Regulations, Part 516.31 and shall be instructed to accurately record all hours worked, piece work information, and business related expenses in the handbook. Homeworker Handbooks (Form **WH-75**) are available in several different languages from the Wage and Hour Division. Homeworker Handbooks are cleared by OMB under control number 1215-0013, expiration date 10-31-2009. **Persons are not required to respond to the request for information unless it displays a currently valid OMB Control Number.**

Note: In order to view, fill out, and print PDF forms, you need Adobe® Acrobat® Reader® version 5 or later, which you may download for free at www.adobe.com/products/acrobat/readstep2.html. To save the completed forms on your workstation, you need to use the "Save..As" method to save the file. For example, move your mouse cursor over the PDF link and click on your "RIGHT" mouse button. This will cause a menu to be displayed, from which you will select the proper save option -- depending upon which browser you are using:

- For Microsoft IE users, select "Save Target As"
- For Netscape Navigator users, select "Save Link As"

Once you've selected the proper save option for your browser, and have saved the file to a location you specified, go to your program menu and start the Adobe Acrobat® Reader. Once open, locate the PDF file you saved and open it directly in Acrobat®.