

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to child labor

The Labor Commissioner hereby amends Chapter 32, “Child Labor,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 92.21 as enacted by 2023 Iowa Acts, Senate File 542.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 542.

Purpose and Summary

This rulemaking amends Chapter 32 to conform the rules with 2023 Iowa Acts, Senate File 542, which was effective July 1, 2023, and codified in Iowa Code chapter 92, and with 2023 Iowa Acts, Senate File 514, which was effective July 1, 2023.

These amendments:

1. Eliminate rules related to work permits.
2. Change work hours allowed.
3. Eliminate rules related to hazardous activities such as motor vehicle driver and helper, industrial laundering, loading balers, working in explosives plants, working in freezers, and preparing meats for sale.
4. Add allowed tasks, including activities that previously did not exist (using hazardous chemicals, loading balers, and selling fireworks) for 15-year-olds.
5. Add a safety provision for new allowed tasks, including conditions for using hazardous chemicals and conditions for doing industrial laundering.
6. Add definitions and waiver procedures for new allowed work for 15-year-olds.
7. Amend the rules to forbid activities rather than occupations.
8. Replace references to the Division of Labor and its Commissioner with references to the Department of Inspections, Appeals, and Licensing and its Director.
9. Eliminate categories that no longer exist, such as street trades.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 13, 2023, as **ARC 7142C**. The Iowa Federation of Labor, AFL-CIO, objected to the extent that any of the proposed changes are in conflict with federal law. Changes from the Notice have been made to remove references to 2023 Iowa Acts, Senate File 542, since that legislation has been codified in the 2024 Iowa Code.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 17, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 13, 2024.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** definition of “Director” in rule **875—32.1(92)**:

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

ITEM 2. Amend rule **875—32.1(92)**, definitions of “Filing date” and “Occupation or business operated by the child’s parents,” as follows:

“*Filing date*” means the date a document is postmarked by the U.S. Postal Service, if the document is filed by mailing and the U.S. postmark is legible. For a document filed via facsimile transmission, “filing date” means the date the document is transmitted. For any other document, “filing date” means the date the document is received by the ~~labor commissioner~~ director.

~~“*Occupation or business operated*”~~ *Operated by the child’s parents*,” as used in Iowa Code section ~~92.17(4)~~ 92.17(3), means a business operated by the child’s parent ~~where the parent or licensed foster parent who has control of the day-to-day operation of the business and is on the premises during the hours of the child’s employment.~~

ITEM 3. Rescind the definitions of “Migrant labor permit,” “Other work,” “Part-time,” “Street trade,” “Street trades permit” and “Work permit” in rule **875—32.1(92)**.

ITEM 4. Amend rule **875—32.1(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 92 ~~as amended by 2019 Iowa Acts, Senate File 337.~~

ITEM 5. Rescind and reserve rule **875—32.2(92)**.

ITEM 6. Adopt the following **new** rule 875—32.5(92):

875—32.5(92) Terms. The terms used in Iowa Code section 92.5 are defined and applied as specified in this rule.

32.5(1) *Cleaning products that require personal protective equipment.* Prior to allowing a 14- or 15-year-old to use cleaning products that require personal protective equipment, the employer shall submit to the director the following:

- a. The safety data sheets of all such chemicals the minor will use.
- b. What personal protective equipment the minor will be using with each chemical that requires it.
- c. Proof of training the minor on the use of the required personal protective equipment.

32.5(2) *Definitions.*

“Car cleaning, washing, and polishing” as used in Iowa Code section 92.5(9) does not include using chemicals that recommend personal protective equipment.

“Laundering” as used in Iowa Code section 92.5(12) includes laundering with residential-style machines and includes laundromats. It includes industrial laundering on the following conditions:

1. A parent or guardian gives written permission for the minor to do industrial laundering, to be kept on file by the employer.
2. The minor is not exposed to any chemicals that recommend personal protective equipment.
3. The employer shall provide nonslip shoes.
4. The employer shall provide training on bloodborne pathogens.
5. The minor shall lift loads of no more than 30 pounds.

“Light tools” as used in Iowa Code section 92.5(11) includes the listed tools that are up to 30 pounds. This rule is intended to implement Iowa Code section 92.5.

ITEM 7. Adopt the following new rule 875—32.6(92):

875—32.6(92) Terms. The terms used in Iowa Code section 92.6A are defined and applied as specified in this rule.

“Light assembly work” means assembling with nonpower hand tools and does not include welding.

“Properly licensed” means a minor who holds a current license from the National Pool and Waterpark Lifeguard Training program in one of the following programs:

1. National Pool and Waterpark Pool Lifeguard.
2. National Pool and Waterpark Lifeguard Training.
3. National Pool and Waterpark Deep Water Lifeguard.

If there is a question whether a specific training course meets the requirements of these rules, information about the course should be submitted to the director for evaluation.

32.6(1) Waiver of weight limitation. An employer may submit an application for waiver to allow a 15-year-old person to load, unload, or lift up to 50 pounds for work allowed under Iowa Code section 92.6A(1). The application shall include information required by the director in an application form. The application shall be signed by the employer, the minor employee, and a parent or guardian. The application shall include documentation from a physician or physician’s assistant that the minor is physically capable of this work activity.

32.6(2) Waiver to unload lawn machines. An employer may submit an application for waiver to allow a 15-year-old person to unload lawn machines under Iowa Code section 92.6A(3). The application shall include information required by the director in an application form. The application shall be signed by the employer, the minor, and a parent or guardian. The application shall include documentation from a physician or physician’s assistant that the minor is physically capable of this work activity.

This rule is intended to implement Iowa Code section 92.6A.

ITEM 8. Amend subrule 32.8(1) as follows:

32.8(1) “~~O~~ccupations Work activities in or about plants or establishments manufacturing or storing explosives or articles containing explosive components” means:

a. All ~~o~~ccupations activities in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in subrule paragraph “b.”) manufacturing or storing explosives or articles containing explosive components except where the ~~o~~ccupation is activities are performed in a “nonexplosive area.”

b. The following ~~o~~ccupations activities in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small-arms ammunition:

(1) All ~~o~~ccupations activities involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other ~~o~~ccupations activities requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(2) All ~~occupations~~ activities involved in the manufacturing, transporting, or handling of primers and all other ~~occupations~~ activities requiring the performance of any duties in the same building in which primers are manufactured.

(3) All ~~occupations~~ activities involved in the priming of cartridges and all other ~~occupations~~ activities requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(4) All ~~occupations~~ activities involved in the plate loading of cartridges and in the operation of automatic loading machines.

(5) All ~~occupations~~ activities involved in the loading, inspecting, packing, shipping and storage of blasting caps.

c. No change.

Nothing in this subrule shall be construed to prohibit light assembly work that is away from machines, and nothing in this subrule shall be construed to prohibit selling or assisting in the sale of consumer fireworks in accordance with Iowa Code section 10A.519.

ITEM 9. Rescind subrule **32.8(2)**.

ITEM 10. Renumber subrules **32.8(3)** to **32.8(21)** as **32.8(2)** to **32.8(20)**.

ITEM 11. Amend renumbered subrule 32.8(2) as follows:

32.8(2) "~~Occupations involved in logging occupations and occupations in Logging and the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill~~" means all ~~occupations~~ related activities with the following exceptions:

a. Exceptions applying to logging:

(1) to (3) No change.

(4) Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging ~~occupations~~ activities prohibited by this subrule.

(5) No change.

b. Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill:

(1) to (9) No change.

(10) Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury. The exceptions in paragraph "b," subparagraphs (1) to (10), do not apply to a portable sawmill the lumberyard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained and work which entails entering the sawmill building.

Definitions.

"~~All occupations in logging~~ Logging" means all work performed in connection with the felling of timbers; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting and unloading of these products in connection with logging; the constructing, repairing and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timber-stand improvement, or in emergency firefighting.

"~~All occupations activities in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill~~" means all work performed in or about any mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock; storing, drying, and shipping lumber, laths, shingles, cooperage stock, or other products of the mills and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock

mill. The term shall not include work performed in the planing-mill department or other remanufacturing departments of any sawmill, or in any planing mill or remanufacturing plant not a part of a sawmill.

This subrule is intended to implement Iowa Code section ~~92.8(3)~~ 92.8(2).

ITEM 12. Amend renumbered subrule 32.8(3), introductory paragraph, as follows:

32.8(3) "~~Occupations involved in the operation~~ Operation of power-driven woodworking machines" means operating power-driven woodworking machines including supervision or controlling the operation of the machines, feeding material into the machines, and helping the operator to feed material into the machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding. Also included are ~~occupations~~ activities of setting up, adjusting, repairing, oiling or cleaning power-driven woodworking machines and the operations of off-bearing from circular saws and from guillotine-action veneer clippers.

ITEM 13. Amend renumbered subrule **32.8(3)**, implementation sentence, as follows:

This subrule is intended to implement Iowa Code section ~~92.8(4)~~ 92.8(3).

ITEM 14. Amend renumbered subrule 32.8(4), introductory paragraph, as follows:

32.8(4) "~~Occupations~~ Work activities involving exposure to radioactive substances and to ionizing radiations" means ~~occupation~~ activity in any workroom in which radium is stored or used in the manufacture of self-luminous compound; self-luminous compound is made, processed or packaged; self-luminous compound is stored, used or worked upon; incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged; and other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational exposure by the National Committee on Radiation Protection, as set forth in the 40-hour week column of Table One of the National Bureau of Standards Handbook No. 69 entitled "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," June 5, 1959.

ITEM 15. Amend renumbered subrule **32.8(4)**, implementation sentence, as follows:

This subrule is intended to implement Iowa Code section ~~92.8(5)~~ 92.8(4).

ITEM 16. Amend renumbered subrule 32.8(5) as follows:

32.8(5) "~~Occupations involved in the operation~~ Operation of elevators and other power-driven hoisting apparatus" means:

a. Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one-ton capacity.

b. Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

c. Work of assisting in the operation of a crane, derrick or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like ~~occupations~~ activities.

d. Exception. Iowa Code section ~~92.8(6)~~ 92.8(5) shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over-travel by the car.

e. Definitions.

"Automatic elevator" means any passenger elevator, a freight elevator or a combination passenger-freight elevator, the operation of which is controlled by push buttons in a manner that the

starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

“*Automatic signal operation elevator*” means an elevator which is started in response to the operation of a switch (such as a lever or push button) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

“*Crane*” means any power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot pouring, jib, locomotive, motor truck, overhead traveling, pillar jib, pintle, portal, semigantry, semiportal, storage bridge, tower, walking jib, and wall cranes.

“*Derrick*” means any power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

“*Elevator*” means any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators, (including portable elevators or tiering machines), but shall not include dumbwaiters.

“*High-lift truck*” means any power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include high-lift trucks known as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of, but not the tiering of, material.

“*Hoist*” means any power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term includes all types of hoists, such as base-mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

“*Manlift*” means any device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; the belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

This subrule is intended to implement Iowa Code section ~~92.8(6)~~ 92.8(5).

ITEM 17. Amend renumbered subrule 32.8(6), introductory paragraph, as follows:

32.8(6) “~~*Occupations involved in the operation*~~ *Operation of power-driven metal forming, punching and shearing machines*” means ~~occupations of~~ being the operator of or helper on the following power-driven metal forming, punching, and shearing machines.

ITEM 18. Amend renumbered subrule **32.8(6)**, implementation sentence, as follows:

This subrule is intended to implement Iowa Code section ~~92.8(7)~~ 92.8(6).

ITEM 19. Amend renumbered subrule 32.8(7) as follows:

32.8(7) “~~*Occupations in connection with mining*~~ *Mining*” means all work performed underground in mines and quarries; underground working, open-pit, or surface part of any coal-mining plant that contribute to the extraction, grading, cleaning, or other handling of coal; on the surface at underground mines and underground quarries; in or about open-cut mines, open quarries, clay pits, and sand and gravel operations; at or about placer mining operations; at or about dredging operations for clay, sand or gravel; at or about bore-hole mining operations; in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and at or about any other crushing, grinding, screening, sizing, washing or cleaning operations performed upon the extracted minerals except where the operations are performed as a part of a manufacturing process.

The term “~~occupations in connection with~~ mining” shall not include:

a. to h. No change.

Nothing in this subrule shall be construed to permit any employment of minors in any other ~~occupation activity~~ otherwise prohibited by Iowa Code chapter 92.

This subrule is intended to implement Iowa Code section ~~92.8(8)~~ 92.8(7).

ITEM 20. Amend renumbered subrule 32.8(8) as follows:

32.8(8) “~~Occupations~~ Work activities in or about slaughtering and meat packing establishments and rendering plants” means:

a. All ~~occupations~~ activities on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, hand truckers and similar ~~occupations~~ activities which require entering workrooms or workplaces infrequently and for short periods of time.

b. All ~~occupations~~ activities involved in the recovery of lard and oils, except packaging and shipping of the products and the operation of lard-roll machines.

c. All ~~occupations~~ activities involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

d. All ~~occupations~~ activities involved in the operation or feeding of the following power-driven meat processing machines, including ~~the occupations of setting up~~ setting up, adjusting, repairing, oiling, or cleaning the machines regardless of the product being processed by these machines (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese, etc.):

1. Meat patty forming machines, meat and bone cutting saws, knives (except bacon-slicing machines), head splitters, and guillotine cutters;
2. Snout pullers and jaw pullers;
3. Skinning machines;
4. Horizontal rotary washing machines;
5. Casing-cleaning machines such as crushing, stripping, and finishing machines;
6. Grinding, mixing, chopping, and hashing machines; and
7. Presses (except belly-rolling machines).

e. All boning ~~occupations~~ activities.

f. All ~~occupations~~ activities involving the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

g. All ~~occupations~~ activities involving hand-lifting or hand-carrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

Definitions.

“*Boning occupation*” means the removal of bones from meat cuts. It does not include cutting, scraping or trimming meat from cuts containing bones.

“*Curing cellar*” means the workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include the workroom or workplace where meats are smoked.

“*Hide cellar*” means the workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

“*Killing floor*” means the workroom or workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.

“*Rendering plants*” means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients and similar products.

“*Slaughtering and meat packing establishments*” means places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses, poultry, rabbits or small game are killed, processed or butchered and establishments which manufacture or process meat products or sausage casings from these animals.

This subrule is intended to implement Iowa Code section ~~92.8(9)~~ 92.8(8).

ITEM 21. Amend renumbered subrule 32.8(9) as follows:

32.8(9) ~~“Occupations involved in the operation~~ Operation of certain power-driven bakery machines” means ~~the occupations of~~ operating, assisting to operate or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machines; or cake cutting band saw and ~~the occupations of~~ setting up or adjusting a cookie or cracker machine. However, this definition does not apply to the operation of pizza dough rollers that are a type of dough sheeter that have been constructed with safeguards contained in the basic design so as to prevent fingers, hands, or clothing from being caught in the in-running point of the rollers, that have gears that are completely enclosed, and that have microswitches that disengage the machinery if the backs or sides of the rollers are removed, only when all the safeguards detailed in Iowa Code section ~~92.8(10)~~ 92.8(9) are present on the machinery, are operational, and have not been overridden.

This subrule is intended to implement Iowa Code section ~~92.8(10)~~ 92.8(9).

ITEM 22. Amend renumbered subrule 32.8(10) as follows:

32.8(10) ~~“Occupations involved in the operations~~ Operation of paper-products machines” means operating or assisting to operate any of the following power-driven paper-products machines and includes:

a. Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single- or double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

b. Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

c. ~~The occupations~~ activities of setting up, adjusting, repairing, oiling, or cleaning the machines in paragraphs “a” and “b” of this subrule including those which do not involve hand feeding.

d. Loading material into paper/cardboard balers except when the machine is powered off and the key is stored in a separate area from the machine.

Definitions.

“Operating or assisting to operate” means all work which involves starting or stopping a machine covered by this subrule, placing materials into or removing them from the machine, or any other work directly involved in operating the machine except loading material into balers when the machine is powered off and the key is stored in a separate area from the machine.

“Paper-products machine” means power-driven machines used in:

1. The remanufacture or conversion of paper or pulp into a finished product, including the preparation of materials for recycling.

2. The preparation of materials for disposal. The term applies to the machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishments.

This subrule is intended to implement Iowa Code section ~~92.8(11)~~ 92.8(10).

ITEM 23. Amend renumbered subrule 32.8(11) as follows:

32.8(11) ~~“Occupations involved in the manufacture of~~ Manufacturing brick, tile and related products” means the manufacture of brick, tile and related products and includes the manufacture of clay construction products and of silica refractory products and includes:

a. All work in or about establishments in which clay construction products are manufactured, except work in storage and shippings; work in offices, laboratories, and storerooms; and work in the drying departments of plants manufacturing sewer pipe.

b. All work in or about establishments in which silica brick or other silica refractories are manufactured, except work in offices.

c. Nothing in this subrule shall be construed to permit any employment of minors in any other ~~occupation~~ activities otherwise prohibited by Iowa Code chapter 92.

Definitions.

“*Clay construction products*” means brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and drain tile. It does not include nonstructural-bearing clay products such as ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor nonclay construction products such as sand-lime brick, glass brick, or nonclay refractories.

“*Silica brick or other silica refractories*” means refractory products produced from raw materials containing free silica as its main constituent.

This subrule is intended to implement Iowa Code section ~~92.8(12)~~ 92.8(11).

ITEM 24. Amend renumbered subrule 32.8(12) as follows:

32.8(12) “~~Occupations involved in the operation~~ Operation of circular saws, band saws, and guillotine shears” means:

a. ~~Occupations of operator~~ Operator of or helper on power-driven fixed or portable circular saws, band saws, and guillotine shears except machines equipped with full automatic feed and ejection.

b. ~~The occupations of setting up~~ Setting up, adjusting, repairing, oiling, or cleaning circular saws, band saws, or guillotine shears.

Definitions.

“*Band saw*” means a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

“*Circular saw*” means a machine equipped with an endless steel disc and having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

“*Guillotine shear*” means a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

“*Helper*” means a person who assists in the operation of a machine covered by this subrule by helping place materials into or remove them from the machine.

“*Machines equipped with full automatic feed and ejection*” means machines covered by this subrule which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any body part in the point-of-operation area.

“*Operator*” means a person who operates a machine covered by this subrule by performing functions such as starting or stopping the machine, placing materials into or removing them from the machine, or any other function directly involved in the operation of the machine.

This subrule is intended to implement Iowa Code section ~~92.8(13)~~ 92.8(12).

ITEM 25. Amend renumbered subrule 32.8(13) as follows:

32.8(13) “*Wrecking, demolition and shipbreaking operations*” means all work, including cleanup and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure, ship or other vessel.

This subrule is intended to implement Iowa Code section ~~92.8(14)~~ 92.8(13).

ITEM 26. Amend renumbered subrule **32.8(14)**, implementation sentence, as follows:

This subrule is intended to implement Iowa Code section ~~92.8(15)~~ 92.8(14).

ITEM 27. Amend renumbered subrule 32.8(15) as follows:

32.8(15) “*Excavation ~~occupations~~*” means all ~~occupations~~ activities involved with:

a. to c. No change.

d. Working within shafts prior to the completion of all sinking and shoring operations.

This subrule is intended to implement Iowa Code section ~~92.8(16)~~ 92.8(15).

ITEM 28. Amend renumbered subrule 32.8(20) as follows:

32.8(20) ~~Hazardous occupations~~ Work activities prohibited by the ~~labor commissioner~~ director include the following:

a. ~~Occupations~~ Activities involved in the operation of power cutters on corn detasseling machines.

b. ~~Occupations~~ Activities involved in the driving of power-driven detasseling machines unless the driver has a valid driver's license or a certificate issued by the Federal Extension Service showing that the driver has completed a 4-H farm and machinery program.

This subrule is intended to implement Iowa Code section 92.8(21).

ITEM 29. Adopt the following new rule 875—32.9(92):

875—32.9(92) Terms. The terms used in Iowa Code section 92.8A are defined and applied as specified in this rule.

“Incidental” means not a primary activity of the minor.

“Intermittent and for short periods of time” may vary depending on the degree and type of hazard. The frequency and duration of an activity shall make it clear the employee is a learner rather than a production worker. The burden is on the employer to justify more than one hour per day or 20 percent of a shift.

“Written permission” shall include a description of the activity that would otherwise be unlawful under Iowa Code section 92.8, including the expected frequency and duration of that activity.

This rule is intended to implement Iowa Code section 92.8A.

ITEM 30. Amend rule 875—32.11(92), introductory paragraph, as follows:

875—32.11(92) Civil penalty calculation. An employer who violates this chapter or Iowa Code chapter 92 is subject to a civil penalty of not more than \$10,000 per violation as set forth in this rule. ~~The labor commissioner may refer a violation to the appropriate authority for criminal prosecution in addition to assessing a civil penalty.~~

ITEM 31. Amend subrules 32.11(1) and 32.11(2) as follows:

32.11(1) Counting the number of violations.

a. Violations shall be counted as follows: each day that a child works too many hours, works at a prohibited time, or works in a prohibited occupation shall be a separate violation.

~~a.—Each item of inaccurate information on each Iowa Child Labor Application/Work Permit shall be a separate violation.~~

~~b.—Each day that a child works without a permit, works too many hours, works at a prohibited time, or works in a prohibited occupation shall be a separate violation.~~

~~c.—If an employer completes the Iowa Child Labor Application/Work Permit but fails to file it by the deadline, each day that the minor works after the deadline shall be a separate violation.~~

b. The director may waive or reduce the penalty if this method of counting the violations would result in a penalty that is disproportionate to the harm done to the minor(s), the size of the employer, or both.

32.11(2) Determining whether a violation is a repeat violation. The higher penalty amounts outlined in subrules ~~32.11(3) through 32.11(4) and 32.11(5)~~ for repeat instances may be assessed by the ~~labor commissioner~~ director if citations regarding the earlier instance or instances are final action and occurred less than five years before.

ITEM 32. Rescind and reserve subrule **32.11(3)**.

ITEM 33. Amend subrule 32.11(6) as follows:

32.11(6) Penalty reduction factors. Except for violations related to the death of a child while working, the ~~labor commissioner~~ director shall reduce the penalty calculated pursuant to subrules 32.11(1) ~~through, 32.11(2), 32.11(4) and 32.11(5)~~ by the appropriate penalty reduction percentages set forth in this subrule. However, if the ~~labor commissioner~~ director requests information relevant to the penalty assessment and the employer does not provide responsive information, the ~~labor commissioner~~ director shall not reduce the penalty.

a. *Penalty reduction for size of business.* The ~~labor commissioner~~ director shall reduce a penalty by 25 percent if the employer has 25 or fewer employees. The ~~labor commissioner~~ director shall reduce

the penalty amount by 15 percent if the employer has 26 to 100 employees. The ~~labor commissioner~~ director shall reduce the penalty amount by 5 percent if the employer has 101 to 250 employees.

b. Penalty reduction for good faith. The ~~labor commissioner~~ director may reduce a penalty by 15 percent based upon evidence that the employer made a good faith attempt to comply with the requirements. If at any time the ~~labor commissioner~~ director warned an employer in writing about a prohibited practice and a civil penalty is being assessed against the same employer for repeating the practice, the ~~labor commissioner~~ director shall not reduce the penalty based on good faith.

c. Penalty reduction for history. The ~~labor commissioner~~ director shall reduce a penalty by 10 percent if the ~~labor commissioner~~ director has not assessed a civil penalty under this chapter within the past five years. If the ~~labor commissioner~~ director has assessed a civil penalty under this chapter in the past five years but the civil penalty has not reached judicial or administrative finality, the civil penalty shall be reduced by 10 percent.

ITEM 34. Amend rule 875—32.12(92) as follows:

875—32.12(92) Civil penalty procedures.

32.12(1) Notice of civil penalty. The ~~commissioner~~ director shall serve a notice of proposed civil penalty by certified mail or in a manner consistent with service of original notice under the Iowa Rules of Civil Procedure. There shall be a 15-day grace period before issuing the notice. The notice shall include the following:

- a.* A statement that the notice proposes a civil penalty assessment for violation of child labor laws.
- b.* Descriptions of the alleged violations including the provisions allegedly violated, the number of violations, and the proposed penalties.
- c.* A statement that the employer has the right to request a hearing by filing a notice of contest with the ~~labor commissioner~~ director within 15 working days from the receipt of the notice of proposed civil penalty and that if a notice of contest is not timely filed, the proposed civil penalty will become final agency action.
- d.* A reference to the applicable procedural provisions.

32.12(2) Notice of contest. The civil penalty proposed by the ~~labor commissioner~~ director shall become final agency action if the employer does not timely file a notice of contest. The filing date for a timely notice of contest shall be within 15 working days of the date the notice of proposed civil penalty was received by the employer. The notice of contest shall include the name, address, and telephone number of the employer's representative. If a notice of contest is filed by fax, the original shall be mailed to the ~~labor commissioner~~ director.

32.12(3) No change.

This rule is intended to implement Iowa Code section 92.22.

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