

BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON

In the Matter of Request for)	ORDER GRANTING WAIVER
Waiver from ORS 652.020(1) by)	UNDER SPECIFIED
)	CONDITIONS
)	
)	

THE REQUEST:

has made application to the Commissioner of the Bureau of Labor and Industries for a waiver from the provisions of ORS 652.020(1) for its manufacturing plant. The application requested the Commissioner to exercise his authority pursuant to ORS 652.360 and approve a special contract or other arrangement between and its employees. The provisions of this specific contract or other arrangement would provide that employees of , who are employed in the would not be paid time and one-half regular wages for hours worked over 10 in a day.

JURISDICTION:

is a manufacturing establishment within the meaning of ORS 652.020(1). employs employees in the establishment, which are not otherwise exempt under the provisions of ORS 652.020(1), 652.020(3) and ORS 652.030. The Commissioner may (pursuant to ORS 652.360) approve a special contract or other arrangement between the employer and one or more of its employees which would exempt the employer from the requirement that the employer pay its employees time and one-half their regular wage for hours worked over 10 in a day, when the Commissioner finds that such contract or arrangement will not prejudicially affect the interest of the public or of the employees involved.

DETERMINATION:

Based on the information contained in the request, subsequent information supplied by , and the independent investigation of the Bureau of Labor and Industries through the Wage and Hour Division, it is hereby determined that the granting of a waiver from the overtime pay requirements of ORS 652.020(1) will not prejudicially affect the interests of the public or the employees involved so long as the following conditions are continuously met:

- 1) The terms of the contract or arrangement are in writing (attached);
- 2) The terms of the contract or arrangement provide:
 - a) That employees employed in manufacturing as defined in OAR 839-001-0145 and who are regularly scheduled to work multiple consecutive 12-hour shifts will not be paid time

and one-half their regular rate of pay for the hours they work over 10 in a day. However, any time worked over 12 hours in a day and 40 hours in a week will be paid for at no less than time and one-half their regular rate of pay;

- b) That employees will be scheduled for, and required to take, during any one 12-hour shift, no less than three (3) ten minute breaks as close to the middle of each four (4) hour period as practical, considering production and other factors and a provision that each employee will be allowed no less than 30 minutes to eat as near the middle of the 12-hour period as practical, considering production and other factors.
 - c) That employees who are not regularly scheduled to work multiple consecutive 12-hour shifts and temporary employees employed in manufacturing will be paid time and one-half their regular rate of pay for the hours they work over 10 in a day.
- 3) Affected employees must be given a copy of the terms of the contract or arrangement;
- 4) may not require or allow employees not otherwise exempt from ORS 652.020 to work past 13 hours in a day in violation of ORS 652.020;
- 5) shall make reasonable accommodations for employees who are unable to work the 12-hour shift for reasons of health, or physical disability;
- 6) The Commissioner's concern regarding the health and welfare of employees is continuous and, therefore, the Bureau of Labor and Industries will monitor the circumstances brought about by the contract or other arrangement through the following means: will submit to the Bureau on an annual basis, the annual review date being , information calculated to measure whether the interests of the public and the employees involved are prejudicially affected. Such information includes, but is not limited to:
- a) Completed accident logs;
 - b) Copies of all exit interviews of employees;
 - c) Minutes of safety committee meetings; and
 - d) Other information as requested.

ORDER:

Now, therefore, under authority granted in ORS 652.360, it is hereby ordered that is granted a waiver from complying with the provisions of ORS 652.020 regarding the payment of time and one-half the regular wage for hours worked over 10 in a day by its permanent employees employed in the afore-mentioned departments provided that each and every condition outlined in the Determination is continuously met.

This Order shall become null and void if, after first giving _____ not less than 30 days' notice in writing, the Commissioner determines any of the conditions set forth in the Determination are not continuously met. The Commissioner may nullify this Order for any other bona fide reason after first giving _____ no less than 30 days' notice in writing and stating each and every reason for the intended nullification.

EFFECTIVE DATE:

This Order is effective 12:01 a.m., _____, and shall expire at 12:00 midnight on _____.
_____ may reapply for a new waiver no later than 60 days prior to the expiration date of this Order.

DATED this _____ day of _____, 20_____.

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries

By: _____
GERHARD TAEUBEL, Administrator
Wage and Hour Division
Bureau of Labor and Industries

NOTICE: Any changes in the terms and conditions of this Order must be immediately reported to:

Administrator
Wage and Hour Division
Bureau of Labor and Industries
800 N. E. Oregon St., Suite 1045
Portland, OR 97232