

INITIAL CIVIL MONEY PENALTY ASSESSMENT AMOUNTS BY VIOLATION (NON-AGRICULTURE)

Revised February 2017



Child Labor Violations— Non-Agriculture Under Age for Legal Employment	Initial Assessment Amounts on or before August 1, 2016	Initial Assessment Amounts after August 1, 2016, but on or before January 13, 2017	Initial Assessment Amounts after January 13, 2017**
<p><u>1a. Under the Legal Age for Employment—NonAg—Under 12 Years of Age:</u> Applicable only to nonagricultural employment. This violation occurs when a nonexempt minor* <u>under the age of 12</u> performs covered nonagricultural employment. This violation is charged only once per minor and is in addition to any other violation(s) that might also have occurred (Reg. 3 hours or occupations standards, HOs, etc.). This amount shall not be reduced by the small business reduction.</p>	<p>\$8,000</p>	<p>\$8,786</p>	<p>\$8,930</p>
<p><u>1b. Under the Legal Age for Employment—NonAg—12 or 13 Years of Age:</u> Applicable only to nonagricultural employment. This violation occurs when a nonexempt minor* <u>12 or 13 years of age</u> performs covered nonagricultural employment. This violation is charged only once per minor and is in addition to any other violation(s) that might also have occurred (Reg. 3 hours or occupations standards, HOs, etc.). This amount shall not be reduced by the small business reduction.</p>	<p>\$6,000</p>	<p>\$6,589</p>	<p>\$6,697</p>
Child Labor Violations— Non-Agriculture Remaining Violations	Initial Assessment Amounts on or before August 1, 2016	Initial Assessment Amounts after August 1, 2016, but on or before January 13, 2017	Initial Assessment Amounts After January 13, 2017**
<p><u>1c. Reg. 3 Hours Standards—Under 14 Years of Age:</u> Applicable only to nonagricultural employment and includes the employment of youths <u>under 14 years of age</u> who work during school hours, work too early in the morning or too late at night, and/or work too many hours on a day or in a week as prohibited by 29 CFR 570.35. Only one hours standards violation is charged per minor, regardless of the number or types of hours violations actually disclosed. If hours standards violations also occurred when the minor was 14 or 15 years of age, the violation is recorded only in this category. Reg 3 hours standards violations are charged for each minor only once, reflecting the minor’s youngest age when that violation occurred.</p>	<p>\$775</p>	<p>\$851</p>	<p>\$865</p>

Child Labor Violations— Non-Agriculture Remaining Violations	Initial Assessment Amounts on or before August 1, 2016	Initial Assessment Amounts after August 1, 2016, but on or before January 13, 2017	Initial Assessment Amounts After January 13, 2017**
<p>1d. Reg. 3 Occupations Standards—Under 14 Years of Age: Applicable only to nonagricultural employment and includes the employment of youths <u>under 14 years of age</u> who are employed in any of the prohibited occupations listed in 29 CFR § 570.33 or perform any of the prohibited occupations/tasks listed in 29 CFR § 570.34 (except HOs which have their own violation categories). Multiple violations may be charged for the same minor if that minor was employed in violation of different Reg. 3 occupations standards, such as <i>employed in construction, employed as a helper on a motor vehicle, employed to operate a golf cart, etc.</i> Identical Reg. 3 occupation violations for the same minor are recorded only once—either in this category or in Category 3. (<i>Reg. 3 Occupations Standards—14 and 15 Years of Age</i>). The violation is charged reflecting the minor’s youngest age when that violation occurred.</p>	\$900	\$988	\$1,004
<p>2. Reg. 3 Hours Standards—14 and 15 Years of Age: Applicable only to nonagricultural employment and includes the employment of youths <u>14 and 15 years of age</u> who work during school hours, work too early in the morning or too late at night, and/or work too many hours on a day or in a week as prohibited by 29 CFR 570.35. Only one hours standards violation is charged per minor, regardless of the number or types of hours violations actually disclosed. If hours standards violations also occurred when the minor was under 14 years of age, record the violation only in category 1c. (<i>Reg. 3 Hours Standards—Under 14 Years of Age</i>). Reg 3 hours standards violations are charged for each minor only once, reflecting the minor’s youngest age when that violation occurred.</p>	\$575	\$631	\$641
<p>3. Reg. 3 Occupations Standards—14 and 15 Years of Age: Applicable only to nonagricultural employment and includes the employment of youths <u>14 and 15 years of age</u> who are employed in any of the prohibited occupations listed in 29 CFR § 570.33 or perform any of the prohibited occupations/tasks listed in 29 CFR § 570.34 (except HOs which have their own violation categories). Multiple violations may be charged for the same minor if that minor was employed in violation of different occupations standards while he or she was under 14 years of age; but do not record the same violations for this minor in this category and in Category 1d. (<i>Reg. 3 Occupations Standards—Under 14 Years of Age</i>).</p>	\$850	\$933	\$948

Child Labor Violations— Non- Agriculture Remaining Violations	Initial Assessment Amounts on or before August 1, 2016	Initial Assessment Amounts after August 1, 2016, but on or before January 13, 2017	Initial Assessment Amounts After January 13, 2017**
<p>4. HO—NonAg—Under 16 Years of Age: Applicable only to nonagricultural employment and includes the employment of youths <u>under 16 years of age</u> who perform any activity, or are employed in any industry, prohibited by Subpart E of Regulations, 29 CFR Part 570. Multiple violations may be charged regarding the employment of an individual minor who is less than 16 years of age when his or her employment involved the operation of multiple pieces of equipment prohibited by a single HO or when the minor was employed in violation of more than one HO. A separate violation category is provided for HO violations that occurred <u>exclusively</u> when the minor was 16 or 17 years of age. This category (4.) is used to record those HO violations that occurred when the minor was under 16, even if those violations continued past his or her 16th birthday. Each type of violation is charged for each minor only once, reflecting the minor’s youngest age when that violation occurred.</p>	\$1,950	\$2,141	\$2,176
<p>5. HO—NonAg—16 and 17 Years of Age: Applicable only to nonagricultural employment and includes the employment of <u>16- and 17-year-olds</u> who perform any activity, or are employed in any industry, prohibited by Subpart E of Regulations, 29 CFR Part 570. Multiple violations may be charged regarding the employment of an individual minor when his or her employment involved the operation of multiple pieces of equipment prohibited by a single HO or when the minor was employed in violation of more than one HO. A separate violation category is used to record those HO violation(s) that occurred when the minor was under 16 years of age (<i>see</i> above). Each type of violation is charged for each minor only once, reflecting the minor’s youngest age when that violation occurred.</p>	\$1,550	\$1,702	\$1,730
<p>6. CL Recordkeeping—Failure to Have Birthdate on File: Applicable to both agricultural and nonagricultural employment. This civil money penalty is assessed on a “per investigation” basis rather than a “per minor/violation” basis. This assessment is not subject to the \$12,278 limitation applicable to the violative employment of any particular minor. Note: there is no requirement that an employer obtain an age certificate. This violation specifically relates to the employer’s failure to have a birthdate on file.</p>	\$350	\$384	\$390

Child Labor Violations— Non-Agriculture Remaining Violations	Initial Assessment Amounts on or before August 1, 2016	Initial Assessment Amounts after August 1, 2016, but on or before January 13, 2017	Initial Assessment Amounts After January 13, 2017**
7. Shipment of Hot Goods under FLSA Section 12(a): Applicable to both agricultural and nonagricultural and NonAg employment. This civil money penalty is assessed on a “per investigation” basis rather than a “per minor/violation” basis. This assessment is not subject to \$12,278 limitation applicable to the violative employment of any particular minor. The lower figure will be assessed in all cases <i>except</i> when the hot goods were shipped after the Wage and Hour Division investigation began <u>and</u> an aggravating factor of “2” is being used as a multiplier to compute the CMP.	\$775 or \$1,550	\$851 or \$1,702	\$865 or \$1,730

*For purposes of this document, a *nonexempt minor* is one who is not exempt from the child labor provisions of the FLSA because of such reasons as the parental exemption. It has no bearing on whether the youth is subject to the minimum wage or overtime provisions of the FLSA.

**Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (IAA), the FLSA’s maximum statutory child labor CMP levels have been and annually will be adjusted for inflation (see Pub. L. 114-74, sec. 701). The IAA requires agencies to adjust CMP levels for inflation through an initial adjustment by August 1, 2016, followed by annual adjustments every January thereafter. In accordance with the IAA, on July 1, 2016, the Department of Labor published an Interim Final Rule making the initial adjustments of all CMPs, including child labor CMPs, with the adjustments effective August 1, 2016. Those adjusted child labor CMP levels apply to all penalties assessed after the effective date, August 1, 2016, for associated violations that occurred after November 2, 2015 (the date that the IAA was signed into law). Also in accordance with the IAA, in January 2017, the Department of Labor adjusted CMP levels for inflation for 2017, including child labor CMPs, with the adjustments effective January 13, 2017. Accordingly, for penalties assessed after January 13, 2017, whose associated violations occurred after November 2, 2015, the higher penalty amounts will apply.

The Wage and Hour Division has also administratively adjusted its initial, baseline child labor CMP assessment amounts, which are set forth in this chart. The Wage and Hour Division will annually adjust these initial child labor CMP assessment amounts in proportion to the annual adjustment to the maximum child labor CMP levels. For more information about the IAA and to view current maximum child labor CMP levels, please visit <https://www.dol.gov/whd/flsa/>.

When determining the amount of an initial civil money penalty for a violation involving a single minor, the Wage and Hour Division will generally consider the “date of violation” to be the day that minor’s violative employment began. Because the normal Wage and Hour Division period of investigation is two years, it is quite possible that during an investigation, differing civil money penalties will be assessed for the same child labor violation because each minor’s violative employment may have begun on different dates.

For example, the Wage and Hour Division administratively increased initial child labor civil money penalty amounts on August 1, 2016. The initial assessment amount for a violation of the hours standards of Child Labor Regulation No. 3 regarding the employment of a 14- or 15-year-old (Subpart C of 29 CFR 570) increased from \$575 to \$631. The Wage and Hour Division would compute an initial civil money penalty assessment amount of \$575 for any minor whose employment was in violation of the hours standards on or

prior to November 2, 2015—even if the minor’s employment continued to be in violation of the hours standards after that date and regardless of the date of the CMP assessment. Likewise, the Wage and Hour Division would compute an initial civil money penalty assessment amount of \$631 for a CMP assessment made after August 1, 2016 but before January 14, 2017, for a 14- or 15-year-old minor whose violative employment of the hours standards began on or after November 3, 2015.