

## Chapter DOC 313

### PRISON INDUSTRIES

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**Note:** Chapter HSS 313 was renumbered chapter DOC 313 and revised under s. 13.93 (2m) (b) 1., 2., 6. and 7., Stats., Register, April, 1990 No. 412.

**Note:** Chapter DOC 313 as it existed on March 31, 1994 was repealed and a new chapter DOC 313 was created Register March 31, 1994 No. 459, effective April 1, 1994.

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**DOC 313.01 Purpose.** The purposes of prison industries are to provide meaningful employment opportunities, to assist inmates in reintegration into their communities, and to maintain self-supporting industries through the sale of products and services. The goals of prison industries include all of the following:

- (1) Provide inmates with work skills, habits, and training necessary to compete in the job market, thereby increasing the potential for a successful return to society.
- (2) Maintain self-sufficiency of the program to the degree possible while maintaining inmate wages based on productivity.
- (3) Utilize production methods and business practices consistent with those used by private industry.
- (4) Develop, produce, and market products and services of benefit to customers at a competitive price.
- (5) Provide products and services that do not unfairly compete with Wisconsin-based manufacturers and service providers.

**History:** CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.02 Authority.** This chapter is created under the authority of s. 227.11 (2) (a), Stats., and implements ss. 302.09, 303.01, 303.03, and 303.06, Stats.

**History:** CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.03 Definitions.** The definitions in ss. DOC 303.02 and 310.03 apply to this chapter. In addition, in this chapter:

- (1) “Base wage” means the official hourly rate for a position. The base wage does not include differential, holiday, incentive, or bonus pay.
- (2) “Department” means the department of corrections.
- (3) “Industries director” means the director appointed by the secretary under s. 303.01 (9), Stats., or the industries director designee.
- (4) “Industries supervisor” means the industries employee assigned to supervise inmate employees.
- (5) “Inmate employee” means an inmate who works for and is compensated by the prison industries program. An inmate employee is not an employee of the state.
- (6) “Involuntary unassigned” means inmates who are eligible, available, and waiting for placement in approved work or program assignments where such work or program assignments exist, but are not currently available.
- (7) “Prison industry” or “industry” means an industry established under s. 303.01, Stats., for inmate employees to manufacture products or components or provide services.

(8) “Private sector prison industry enhancement certification programs or “PSPIEC” means prison industries programs certified by the federal private sector prison industry enhancement certification program.

**History:** CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18; correction in (8) made under s. 35.17, Stats., Register February 2018 No. 746.

#### **DOC 313.04 Establishment of a prison industry.**

(1) The department may establish prison industries with the approval of the prison industries board and after a hearing before the joint committee on finance.

(2) The department may locate, move, or expand prison industries to one or more prisons or other locations owned by the department.

(3) Prison industries may acquire new or additional customers subject to s. 303.01 (1) (b) and (d), Stats.

(4) The department shall notify the joint committee on finance under s. 303.01 (1) (c), Stats., if there is an increase in the number of inmate employees in a prison industry by 200 or more full time equivalent positions in a biennium.

**History:** CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.05 Documentation.** The industries director shall document prison industry operations, including job positions, titles and descriptions, qualifications, compensation, probationary term, work hours, work rules, and policies. Inmate access to these documents shall be established in industry policy.

**History:** CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.06 Application and approval.** (1) An inmate may apply for a position in a prison industry that is available at the institution in which the inmate resides. The application may include an inmate’s preference for a position.

(2) The industries supervisor or designee shall do all of the following:

(a) Interview inmate applicants for specific positions under the industries supervisor’s supervision.

(b) Consider the following criteria in the selection of an inmate employee:

1. Education requirements.
2. Attitude and willingness to learn.
3. Experience and training.
4. Physical or mental ability to perform the essential functions of the position, with or without reasonable accommodations.
5. Past employment record with prison industries or other institution work experience.
6. Documented security concerns, including assaultive history
7. Sentence structure.

(c) Select a qualified inmate applicant consistent with established requirements.

**History:** CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.07 Probationary period.** (1) Inmates hired by prison industries shall serve a probationary period during which the inmate's employment may be terminated under s. DOC 313.11 (1) (a) or (b).

(2) Inmate employees shall not receive incentive pay during their original probationary period.

(3) The duration of the probationary period for any position shall be established by prison industries management so as to provide adequate time for the average inmate employee to learn the duties of the position.

(4) The industries supervisor may extend the probationary period for an additional 30 days if the inmate employee has not demonstrated satisfactory performance but can reasonably be expected to attain satisfactory performance.

History: CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.08 Performance evaluation.** (1) The industries supervisor shall evaluate each inmate employee's performance as often as required to ensure the inmate employee is meeting performance and productivity expectations. The evaluation shall be written and include the specific skills and expectations of the position.

(2) An evaluation shall be completed upon completion of probation, at regular intervals, prior to any pay rate change and upon termination.

(3) The criteria to be used in evaluating inmate employees shall include all of the following:

- (a) Quality of performance of assigned duties.
- (b) Productivity level.
- (c) Initiative.
- (d) Attitude.
- (e) Contributions beyond usual job duties.
- (f) Improvement in the criteria listed in this subsection.

(4) The industries supervisor or designee shall meet with the inmate employee as part of the evaluation process to discuss the inmate employee's performance.

(5) If an inmate employee's evaluation indicates performance below expectations, the industries supervisor shall meet with the inmate employee to address the performance problem.

(6) Copies of the inmate employee evaluation shall be distributed to the inmate employee, the industries supervisor, and the social services file.

History: CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.09 Work rules.** The industries director has the authority to establish work rules applicable to inmate employees.

History: CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.10 Discipline.** Chapter DOC 303 applies to all inmate employees. Prison industries staff shall report rule violations in accordance with ch. DOC 303.

History: CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.11 Termination and removal.** (1) Inmate employees may be terminated or removed from prison industries work for any of the following reasons:

(a) *Voluntary.* An inmate employee may voluntarily remove himself or herself from employment with prison industries at any time, with approval of the industries supervisor.

(b) *During the probationary period.* An industries supervisor may terminate an inmate employee's employment during probation because of performance, conduct, or for any other reason deemed appropriate by the industries supervisor.

(c) *Discipline violation.* An industries supervisor may terminate an inmate's employment for violations under s. DOC 313.09 and ch. DOC 303.

(d) *Inadequate performance.* An inmate employee may be terminated for inadequate performance as determined by an evaluation made under s. DOC 313.08.

(e) *Layoff.* An inmate employee may be removed due to a reduction in work force in accordance with s. DOC 313.16.

(f) *Unable to work.* An inmate employee who is determined to be unable to work due to a health condition by a department health care professional may be removed from employment if the health condition exceeds 30 days.

(g) *Transfer or release.* An industries supervisor shall remove an inmate employee from employment upon transfer to another institution or release to the community.

(h) *Security and safety.* The industries director may terminate an inmate employee who is perceived to be a threat to security or safety.

(i) *Exceeds period of work assignment.* Industries supervisor may terminate an inmate employee after meeting work assignment time periods established by the industries director.

(2) An industries supervisor shall document all of the following information when an inmate employee is terminated or removed:

- (a) Name of inmate employee.
- (b) Date of termination or removal.
- (c) Shop name.
- (d) Supervisor's name.
- (e) Reason for termination or removal.

History: CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.12 Compensation.** (1) Except as provided in subs. (4) to (7), inmate employees shall be paid for actual hours worked.

(2) Each inmate employee shall be paid a base wage established by the industries director. Pay adjustments based on prison industries written policy may be added to the original base wage.

(3) Overtime pay at the rate of one and one-half times the base wage shall be given to inmate employees for hours worked in excess of 40 hours per week.

(4) Inmate employees shall be paid at the institution rate for involuntary unassigned for the regular scheduled hours if there is a temporary layoff under s. DOC 313.16.

(5) When an inmate employee is injured in the performance of job duties and is unable to work, the inmate shall continue to receive the same base wage until the inmate employee returns to work or is terminated or removed under s. DOC 313.11.

(6) An inmate employee shall be paid at the inmate employee's current base wage for all hours absent from work when removed pending investigation or placement into TLU status unless terminated or removed under s. DOC 313.11.

(7) Inmate employees may be paid piece-rate wages.

History: CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18; corrections in (5), (6) made under s. 13.92 (4) (b) 7., Stats., Register February 2018, No. 746.

**DOC 313.13 Work day.** (1) The industries director shall establish the regular work day for full-time, part-time, and temporary positions.

(2) An inmate employee may not be absent from the worksite during work hours unless the industries supervisor approves the absence. The industries supervisor may approve absences for necessary programming that cannot be scheduled during non-work hours.

History: CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.14 Inmate employee labor unions.** Inmate employee labor unions are prohibited.

History: CR 16–055: cr., Register February 2018, No. 746, eff. 3–1–18.

**DOC 313.15 Equal opportunity.** (1) Prison industries shall promote equal employment opportunity through programs and practices.

(2) Prison industries shall strive to achieve an inmate work force that reflects the racial composition of the population of the employing institution.

(3) Prison industries shall gather and monitor racial information from its employing units on a quarterly basis and direct action as necessary.

(4) Prison industries shall strive to provide parity in employment opportunities for male and female inmates.

**History:** CR 16-055: cr., Register February 2018, No. 746, eff. 3-1-18.

**DOC 313.16 Shutdown and layoff.** (1) The industries director has the authority to lay off inmate employees when necessary due to business conditions.

(2) If a layoff is for a period of ten consecutive working days or fewer, the affected inmate employee shall receive the institution involuntary unassigned pay for the regular scheduled hours during the layoff period.

(3) If an inmate employee on layoff has not been reemployed after ten consecutive working days, the inmate employee may be removed from employment.

(4) If the inmate employee is removed from employment under sub. (3) and called back to the same position within 60 calendar days following removal, the inmate employee shall return at the former base wage.

**History:** CR 16-055: cr., Register February 2018, No. 746, eff. 3-1-18.

**DOC 313.17 Private sector prison industry enhancement certification programs.** Prison industries programs certified by the federal private sector prison industry enhancement certification program (PSPIEC) under 18 USC

17.61 (c) and operating under the authority of s. 303.06 (2), Stats., are not subject to s. DOC 313.07 but are subject to all of the following:

(1) Each inmate employee working in a PSPIEC program shall be paid a wage comparable to that paid in the private sector for work of a similar nature in the locality in which the prison industry is located or, as a minimum, the federal minimum wage.

(2) Overtime hours shall be compensated for in accordance with the Fair Labor Standards Act, 29 USC 201.

(3) An inmate employee injured in the performance of job duties shall receive injury compensation pay in an amount equal to the amount the inmate employee would have received had the inmate employee worked during the inmate's recuperation.

(4) The regular work schedule for PSPIEC programs shall be as close to 40 hours per week as possible based on institution schedules and prison industries workload.

(5) An inmate employee who has been laid off and is called back to the same position within 60 calendar days shall return at the inmate employee's former wage rate. If the inmate employee is called back to a different position, the inmate employee shall receive an appropriate wage for the duties being performed.

**History:** CR 16-055: cr., Register February 2018, No. 746, eff. 3-1-18; correction in (intro.) made under s. 35.17, Stats., Register February 2018 No. 746.

**DOC 313.18 Correctional farms.** Employment provisions of this chapter apply to inmate employees who work on correctional farms or at correctional farm dairy processing plants that are owned or operated by the department, except that inmate employees who work in agricultural positions on correctional farms are exempt from overtime provisions under s. DOC 313.12 (3) but are eligible to receive pay adjustments under s. DOC 313.12 (2).

**History:** CR 16-055: cr., Register February 2018, No. 746, eff. 3-1-18.