

29 C.F.R. § 1620.18

Jobs performed under similar working conditions.

(a) *In general.* In order for the equal pay standard to apply, the jobs are required to be performed under similar working conditions. It should be noted that the EPA adopts the flexible standard of similarity as a basis for testing this requirement. In determining whether the requirement is met, a practical judgment is required in light of whether the differences in working conditions are the kind customarily taken into consideration in setting wage levels. The mere fact that jobs are in different departments of an establishment will not necessarily mean that the jobs are performed under dissimilar working conditions. This may or may not be the case. The term “similar working conditions” encompasses two subfactors: “surroundings” and “hazards.” “Surroundings” measure the elements, such as toxic chemicals or fumes, regularly encountered by a worker, their intensity and their frequency. “Hazards” take into account the physical hazards regularly encountered, their frequency and the severity of injury they can cause. The phrase “working conditions” does not encompass shift differentials.

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