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Labor Department Abandons Updated Child Labor Laws for the Agricultural Industry

By **Sara K. Hollan**

When you think of summer jobs for youth in rural communities, several things may come to mind. You probably imagine a young woman rounding up cattle to send to auction. It is also likely that you imagine a young man baling hay, helping to sort cattle at a feedlot, or driving a tractor and planting crops. Many young men and women living in rural areas do not have the opportunity to work in fast food restaurants, at movie theaters, or retail stores because they are miles and miles away from their homes. They work on farms and ranches, earning money and learning life lessons. Last week, the Department of Labor announced that it was abandoning proposed regulations that would have limited, or eliminated, several of these opportunities.

In August 2011, the U.S. Department of Labor announced that it would revise child labor regulations to strengthen safety requirements for young workers employed in agriculture and related fields. The current agricultural hazardous occupations orders under the Fair Labor Standards Act that acted to bar young workers from specific tasks had not been updated since their promulgation in 1970.

As announced, the proposal sought to:

- "Strengthen current child labor regulations prohibiting agricultural work with animals and in pesticide handling, timber operations, manure pits and storage bins"
- "Prohibit farmworkers under age 16 from participating in the cultivation, harvesting and curing of tobacco"
- "Prohibit youth in both agricultural and nonagricultural employment from using electronic, including communication, devices while operating power-driven equipment"
- "Create a new nonagricultural hazardous occupations order that would prevent children under 18 from being employed in the storing, marketing and transporting of farm product raw materials"
- Prohibit employment at "country grain elevators, grain bins, silos, feedlots, stockyards, livestock exchanges and livestock auctions"
- "Prohibit farmworkers under 16 from operating almost all power-driven equipment"

In a press release dated April 26, 2012, the Department announced the withdrawal of the proposed regulations—an action taken in response to the public outcry over the proposal.

The Department stated:

The Obama administration is firmly committed to promoting family farmers and respecting the rural way

of life, especially the role that parents and other family members play in passing those traditions down through the generations. The Obama administration is also deeply committed to listening and responding to what Americans across the country have to say about proposed rules and regulations.

As a result, the Department of Labor is announcing today the withdrawal of the proposed rule dealing with children under the age of 16 who work in agricultural vocations.

The decision to withdraw this rule—including provisions to define the "parental exemption"—was made in response to thousands of comments expressing concerns about the effect of the proposed rules on small-family owned farms. To be clear, this regulation will not be pursued for the duration of the Obama administration.

Instead, the Departments of Labor and Agriculture will work with rural stakeholders—such as the American Farm Bureau Federation, the National Farmers Union, the Future Farmers of America, and the 4-H—to develop an educational program to reduce accidents to young workers and promote safer agricultural working practices.

Predictably, those in the agricultural industry welcomed the announcement. Child labor groups, however, are disappointed with the Obama administration's decision to abandon the proposed regulations. Although debates will continue, we now know that the current rules will remain in place through "the duration of the Obama administration."

If you have any questions regarding this e-Alert, please contact **Sara K. Hollan** at 214.953.5915 or shollan@jw.com.

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