

July 19, 2002

Dear \_\_\_\_\_ :

Every year, millions of teens work in part-time or summer jobs. Early work experiences can be rewarding for young workers – providing great opportunities for teens to learn important work skills. However, each year, approximately 70 young workers are killed on the job and 77,000 are treated for injuries in hospital emergency rooms, according to U.S. Department of Labor estimates.

Because even one youth injury is one too many, the Department of Labor has been taking unprecedented measures to ensure that youth have safe and appropriate work experiences. Enforcing the child labor provisions of the Fair Labor Standards Act (FLSA) is a top priority of the Department's Wage and Hour Division (WHD):

- In 2001, Wage and Hour investigator time spent on child labor issues reached a five-year high.
- Assessment of civil money penalties for child labor violations increased by 7% last year.
- The Department recently launched its new **YouthRules!** initiative to increase public awareness of Federal and State rules concerning young workers. The new **YouthRules!** web page at [www.youthrules.dol.gov](http://www.youthrules.dol.gov) is designed to educate teens, parents, educators and employers about the hours youth can work, the jobs youth can do and how to prevent workplace injuries.

The Department has reviewed the enclosed report, "National Institute for Occupational Safety and Health (NIOSH) Recommendations to the U.S. Department of Labor for Changes to Hazardous Orders." The Department's Hazardous Occupations Orders (HOs) limit youth employment in occupations determined to be particularly hazardous to youth. The Report contains much information on the extent of youth workplace fatalities and injuries, an important foundation for consideration of regulatory action, research, preventative efforts and compliance assistance. We appreciate the hard work NIOSH has put into this project, and welcome the data compiled.

The Wage and Hour Division is already working to implement some of the changes to the Hazardous Orders recommended by the Report. For example, as NIOSH recommended, WHD will update the ban found in HO 1 against minors working with explosives materials. As the Report recommended, WHD is working to publish a final rule amending HO 2 to implement the Teen Drive for Employment Act (P.L. 105-334). In addition, WHD is working to publish amendments to HO 12, implementing the Compactors and Balers Safety Standards Modernization Act (P.L. 104-174). WHD also has proposed revisions to HO 16, regarding work on roofs, as recommended by NIOSH.

However, the Department cautions the reader about reaching conclusions based solely on the information in the NIOSH Report. In the Report, NIOSH itself recognized the limitations of its methodology and included appropriate caveats about limitations in available data and gaps in research. The Report examined injury and fatality data, from 1998 or earlier, for all workers, and recommended prohibiting employment for youths in most jobs with an associated fatality rate of 10 per 100,000 workers. As stated in the Executive Summary:

Recommendations are driven by information on high-risk activities for all workers, not just patterns of fatalities and serious injuries among young workers. The general rationale for recommending an HO is that the associated fatality rate be at least 10 per 100,000 workers, or twice the fatality rate for all U.S. workers. The number and severity of nonfatal injuries are also considered, as well as research on health effects of workplace exposures. (Report at xi.)

This methodology resulted in proposals for 17 new HOs and 37 modifications to existing HOs. Significant further study is needed to prioritize these 54 proposed regulatory changes.

In addition, NIOSH was tasked with examining issues within the framework of the current HOs only. Thus, the Report did not consider the extent to which fatalities occur despite existing HOs, OSHA Standards or State laws prohibiting the activity. If fatalities result from activities already illegal, such as working with fireworks or a wood chipper, the best strategy for preventing future injuries may be to increase compliance with existing laws through public awareness programs like the Department's new *YouthRules!* initiative and increased enforcement activity. The Report also did not consider potential approaches for decreasing workplace injuries that do not require a complete ban on employment, such as safety training, use of effective personal protective equipment and strict adherence to recognized safe working practices. Early safety training teaches youth valuable lessons about working safely, and facilitates development of life-long safe work habits.

The Department has concerns regarding several of the recommendations, and thus needs to refine the analysis further. For example, the Report recommended removal of existing prohibitions on use of equipment such as meat slicers because "although data show high numbers of injuries associated with power-driven slicers, the injuries appear to be relatively minor." (Report at 42.) According to the Report, there were 7,280 injuries associated with food slicers in 1997 resulting in a median of four days away from work. (Report at 47.) The Report recommended removal of existing prohibitions on use of bakery machines because the injuries

were of “moderate severity.” (Report at 48.) In 1997, there were 712 injuries involving bakery machines resulting in a median of 11 days away from work. (Report at 49.) However, as NIOSH itself recognized elsewhere in the Report, “the absence or small numbers of injuries and illnesses does not mean the HOs are no longer needed, and may in fact testify to their effectiveness.” (Report at 15.)

Finally, although NIOSH recommended adding an apprenticeship exemption for operating meat-processing machines in retail establishments, the Report also recommended abolishing existing exceptions for training and apprenticeship programs in roofing and excavation. Such programs often provide young people with training that will allow them to work safely in various trades. Employers, associations and unions across the country provide apprenticeship and training programs with significant health and safety components, which have allowed youth to learn important work skills in a safe environment. Careful study is necessary before eliminating apprenticeship exceptions.

Since the enactment of the FLSA in the 1930s, national child labor policy has balanced the potential benefits of transitional, staged employment opportunities for youth with the necessary protections for their education, health and safety. Under the FLSA, young workers aged 14 and 15 are restricted in the hours they can work and the kinds of work they can perform. When a teen turns 16, the hours restrictions are lifted, and the opportunities for employment in different occupations are significantly broadened. Between 16 and 18, minors can work in any job they choose, except in occupations found to be “particularly hazardous.” At 18, all age-based restrictions are lifted. In effect, the law and the existing regulations provide “training wheels” for the gradual introduction of minors into the workplace, including youth under 18 who may well be independent of their parents’ financial support. This incremental lifting of restrictions is designed to protect young workers by training and preparing them for safe employment as adults.

During the coming months, the Department will continue to analyze the NIOSH report, and attempt to prioritize the recommendations for possible regulatory action consistent with the established national policy of balancing the benefits of employment opportunities for youth with the necessary and most effective safety protections. The Department looks forward to continued consultation with NIOSH and discussion with stakeholders on these important issues.

Sincerely,

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Tammy D. McCutchen  
Administrator