

ALERTS AND UPDATES

U.S. Department of Labor Issues New Regulations on Nonagricultural Child Labor

June 3, 2010

On May 20, 2010, the U.S. Department of Labor's Wage and Hour Division (DOL) published a [final rule](#) in the *Federal Register*, updating its long-standing regulations designed to protect working children from hazards in the workplace. The new regulations, which will go into effect on July 19, 2010, are designed to better reflect the modern work environment. They are intended to enhance the safety of workers ages 14 through 17 and provide this age group with additional opportunities to develop skills and join the workforce. Since the new regulations are too varied and detailed to summarize in this *Alert*, we will now provide an overview of their scope.

1. Expansion of Work Opportunities for Minors Ages 14 and 15

- **New Permitted Industries for Employment.** The Fair Labor Standards Act (FLSA) prohibits children under the age of 16 from performing any work, unless permitted by the U.S. Secretary of Labor (via order or regulation), upon a finding that the work does not interfere with the children's schooling or health. The old regulations authorized the performance of certain activities in retail, food-service and gasoline-service establishments. The new regulations expand this list to include such industries and functions as advertising, banking, computer programming, drawing, teaching and, for those who are at least age 15, lifeguarding at swimming pools and amusement parks under certain circumstances.
- **Work-Study Program.** The old regulations, which remain unchanged, permitted school students ages 14 and 15 to work while enrolled in school as long as they met certain conditions (e.g., no more than three hours of work per day or 18 hours per week when school is in session). These old regulations permitted certain variances from those conditions for students enrolled in work-study programs supervised and administered by a school (Work Experience and Career Exploration Programs), designed to help dropout-prone youth become reoriented and motivated toward education and to prepare for the world of work. The new regulations add a new work-study program designed to accommodate the needs of students enrolled in a college-preparatory curriculum, as a means to use work experiences (and the wages such experiences generate) for students to realize their academic potential and acquire a college education.

2. Occupations Prohibited for Minors Ages 14 and 15.

While the new regulations expanded the work opportunities for 14- and 15-year-old workers, these regulations also added to the list of work prohibited for these workers. For example, the regulations now prohibit door-to-door sales by workers under age 16, including the actual consummation of a sale, along with activities normally associated with these sales, such as loading and unloading vans and the stocking of sales kits. However, this restriction does not apply to activities by unpaid volunteers for charitable purposes. (In adopting this regulation, the DOL has clarified that this prohibition does not apply to sales in an employer's exterior facilities, such as a retail store's garden center or parking lot.)

3. Hazardous Work for Workers Under Age 18.

The old regulations prohibited workers under age 18 from performing certain work deemed to be particularly hazardous. The new regulations expand or clarify the extent of the limitations in such industries as construction, poultry slaughtering and forest firefighting.

These new regulations addressed only nonagricultural employment. According to the DOL, it next intends to focus on updating its child-labor regulations for agricultural employment.

For Further Information

If you have any questions about the information addressed in this *Alert*, please contact any of the [attorneys](#) in our [Employment, Labor, Benefits and Immigration Practice Group](#) or the attorney in the firm with whom you are regularly in contact.