



National Children's Center

for Rural and Agricultural Health and Safety

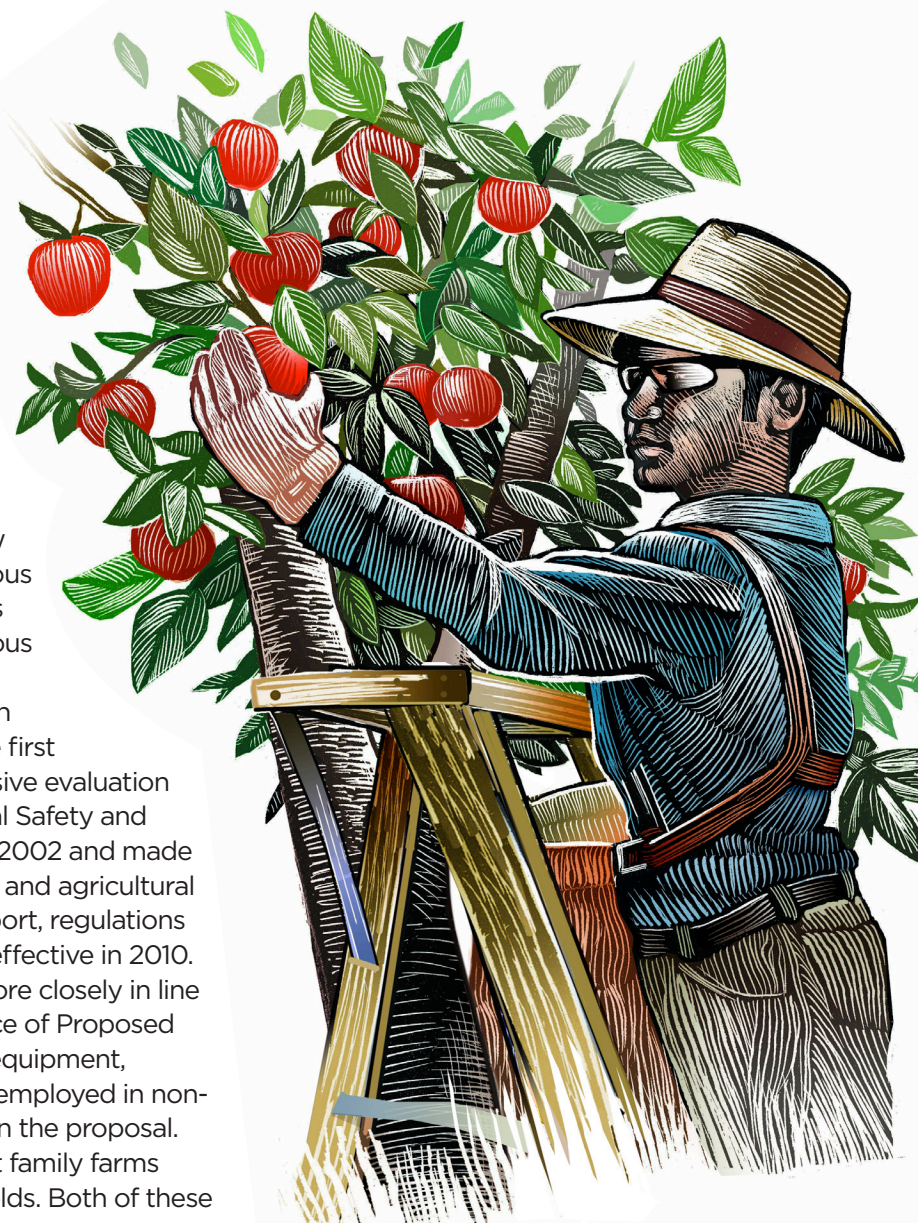
Agricultural Child Labor Hazardous Occupations Orders **Comparison of present rules with 2011 proposed revisions**

By Mary E. Miller, R.N., M.N.

A century ago, child labor in the U.S. was an accepted practice across all industries. The Fair Labor Standards Act (FLSA) of 1938 took children under 16 out of most workplaces for their own safety and over time has restricted the most hazardous work activities for 16- and 17-year-olds. Agriculture has been the lone exception. Originally, most farms were small family operations and child labor was considered necessary. The 21st century agricultural work environment is much different. Farms are larger and more specialized, with new technologies, processes, machinery and equipment.

Now the U.S. Department of Labor is proposing new rules regarding the Agricultural Child Labor Hazardous Occupations Orders (Ag H.O.). The agricultural H.O.s describe work activities that are particularly hazardous to young workers under age 16, such as operating machinery and working in and around silos and grain handling facilities. The proposed changes will be the first update since 1970. They are based on a comprehensive evaluation conducted by the National Institute for Occupational Safety and Health (NIOSH), which reported on its evaluation in 2002 and made recommendations concerning both non-agricultural and agricultural hazardous occupations orders. As a result of the report, regulations for non-agricultural HOs were revised and became effective in 2010. Recommendations to bring the agricultural H.O.s more closely in line with non-agriculture are included in the recent Notice of Proposed Rulemaking. For example, the use of power-driven equipment, which has been prohibited for 14- and 15-year-olds employed in non-agricultural industries for over 50 years, is included in the proposal.

NOTE: The updated rules would continue to exempt family farms and do not provide protections for 16- and 17-year-olds. Both of these changes would require an act of Congress.



Tables on the following pages highlight current and proposed agricultural H.O.s. A full paper examining the changes – including historical background and additional recommendations not covered in the current proposal – will be published as part of a dedicated issue of the Journal of Agromedicine. “The 2012 Blueprint for Protecting Children in Agriculture,” Volume 17, Issue 2, is scheduled for publication April 2012.

Agricultural Child Labor Hazardous Occupations Orders

Agricultural Hazardous Occupations (Ag H.O.s) For Youth Under Age 16 1970 - present	Agricultural Hazardous Occupations (Ag H.O.s) For Youth Under Age 16 2011 - [Proposed]
<p>Ag H.O. 1</p> <ul style="list-style-type: none"> Operating a tractor of over 20 power take-off (PTO) Horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor (student-learner exemption allowed). 	<p>Retain and Expand Ag H.O. 1</p> <ul style="list-style-type: none"> Remove the 20 PTO Horsepower threshold criteria. Small garden-tractors would be covered under this Ag H.O. Continue to allow for a student-learner exemption and require that tractors operated by 14- and 15-year-old student-learners be equipped with approved roll-over protective structures (ROPS) and seat belts, and that the use of seat belts be mandated. <ul style="list-style-type: none"> Certificate training options would be eliminated. Move the prohibition regarding youth riding on tractors as passengers from Ag H.O. 7 to this Ag H.O. *Include provisions similar to those proposed in HO 19 (non-Ag) prohibiting the use of electronic devices, including communication devices, while operating tractors. *Require that student-learners operating tractors have a valid state driver's license to operate tractors and other farm machinery on public roads.
<p>Ag H.O. 2</p> <ul style="list-style-type: none"> Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines: corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, mobile pea viner, feed grinder, crop dryer, forage blower, auger conveyor, the unloading mechanism of a non-gravity-type self-unloading wagon or trailer, power post-hole digger, power post driver, or non-walking type rotary tiller (student-learner exemption allowed). 	<p>Combine Ag H.O. 2 and 3 [Ag H.O. 2]</p> <ul style="list-style-type: none"> *Expand prohibitions from lists of specific machines to all power-driven equipment. [Use of power-driven equipment has been prohibited in non-agricultural industries.] *Prohibit minors from riding as passengers on all farm machines when being moved on public roads. Youth would be permitted to ride as passengers inside cars, trucks, and buses if certain requirements are met, including mandatory use of seat belts. Revise and strengthen the exemption for student-learners and limit the types of equipment that student-learners may operate. *Require that a student-learner operating equipment on a public road hold a valid driver's license for such operations (see Ag H.O. 1 above). *Student-learners riding as passengers must have an "approved seat" with a seat belt; seat belt use is required. *Include "distracted driving" provisions prohibited use of electronic communication devices while operating equipment [as in proposed Ag H.O. 1 and non-agricultural HO 19].
<p>Ag H.O. 3</p> <ul style="list-style-type: none"> Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines: trencher or earthmoving equipment, fork lift, potato combine, or power-driven circular, band, or chain saw (student-learner exemption allowed). 	<p>New Ag H.O. 3</p> <ul style="list-style-type: none"> *Prohibit employment in occupations involving the operation of non-power driven hoisting apparatus and conveyers. <ul style="list-style-type: none"> A student-learner exemption would not be permitted.



Agricultural Hazardous Occupations (Ag H.O.s) For Youth Under Age 16 1970 - present	Agricultural Hazardous Occupations (Ag H.O.s) For Youth Under Age 16 2011 - [Proposed]
<p>Ag H.O. 4</p> <ul style="list-style-type: none"> Working on a farm in a yard, pen, or stall occupied by a bull, boar, stud horse maintained for breeding purposes, sow with suckling pigs, or cow with newborn calf (with umbilical cord present) (student-learner exemption allowed). 	<p>Retain and Expand Ag H.O. 4</p> <ul style="list-style-type: none"> *Expand the current Ag H.O. to prohibit Certain Occupations Involving Working With or Around Animals. It would prohibit the following: <ul style="list-style-type: none"> working on a farm in a yard, pen, or stall occupied by an intact (not castrated) male equine, porcine, bovine, or bison older than six months, a sow with suckling pigs, or cow with new born calf (with umbilical cord present); engaging or assisting in animal husbandry practices that inflict pain upon the animal and/or are likely to result in unpredictable animal behavior such as, but not limited to, branding, breeding, dehorning, vaccinating, castrating, and treating sick or injured animals; handling animals with known dangerous behaviors; poultry catching or cooping in preparation for slaughter or market; and herding animals in confined spaces such as feed lots or corrals, or on horseback, or using motorized vehicles such as trucks or all terrain vehicles.
<p>Ag H.O. 5</p> <ul style="list-style-type: none"> Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches (student-learner exemption allowed). 	<p>Retain and Revise Ag H.O. 5</p> <ul style="list-style-type: none"> Update: remove the 6 inch diameter threshold and specifically prohibit the removal of stumps by other than manual means. <p>* New Ag H.O. 6</p> <ul style="list-style-type: none"> Prevent employment in construction, communications, wrecking, demolition, and excavation. This new Ag H.O. brings many of the protections and prohibitions already applicable to the employment of 14- and 15-year-olds in non-agriculture to the employment of hired farm workers of the same age. These proposals address the need to bring parity between the agricultural and non-agricultural child labor provisions.
<p>Ag H.O. 6</p> <ul style="list-style-type: none"> Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet (student-learner exemption allowed). 	<p>Revise and Renumber as Ag H.O. 7</p> <ul style="list-style-type: none"> Occupations involving work on roofs, scaffolds, and at elevations greater than 6 feet. Expand to include work on elevated farm structures including silos, grain bins, windmills, and towers; and vehicles, machines, and implements. Reduces the maximum height at which youth under age 16 may work at elevation from 20 feet to 6 feet, including work on ladders.
<p>Ag H.O. 7</p> <ul style="list-style-type: none"> Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper. 	<p>Expand and Renumber Ag H.O. 7 [Incorporate into Ag H.O. 1 & 2]</p> <ul style="list-style-type: none"> Prohibit driving of all motor vehicles and off-road vehicles. Expand this Ag H.O. to prohibit work as an outside helper on motor vehicles. Retain provision prohibiting riding on a tractor as a passenger or helper, but move it to Ag H.O. 1.
<p>Ag H.O. 8</p> <ul style="list-style-type: none"> Working inside a fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere; an upright silo within two weeks after silage has been added or when a top unloading device is in operating position; a manure pit; or a horizontal silo while operating a tractor for packing purposes. 	<p>Expand and Split as Ag H.O.s 8 & 9</p> <ul style="list-style-type: none"> Prohibit all work inside a fruit, forage, or grain storage (such as a silo or bin). <p>Ag H.O. 9</p> <ul style="list-style-type: none"> Prohibit work inside a manure pit.

Agricultural Hazardous Occupations (Ag H.O.s) For Youth Under Age 16 1970 - present	Agricultural Hazardous Occupations (Ag H.O.s) For Youth Under Age 16 2011 - [Proposed]
Ag H.O. 9 <ul style="list-style-type: none"> Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label. 	Revise and Renumber Ag H.O. 9 as Ag H.O. 10 <ul style="list-style-type: none"> Revise to be consistent with the EPA Worker Protection Standard for pesticides and re-designate it as Ag H.O. 10. Ban all work that falls within the EPA classification of pesticide handler. NIOSH recommends WHD draft the regulation so that it will not have to be "updated" whenever EPA revises the standard. Use definition of pesticides contained in FIFRA.
Ag H.O. 10 <ul style="list-style-type: none"> Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord 	Retain Ag H.O. 10 and Renumber as Ag H.O. 11
Ag H.O. 11 <ul style="list-style-type: none"> Transporting, transferring, or applying anhydrous ammonia 	Retain Ag H.O. 11 and Renumber as Ag H.O. 12
	*New Ag H.O. 13 <ul style="list-style-type: none"> Prohibit the employment of young hired farm workers in occupations involving the production and curing of tobacco in order to prevent them suffering from green tobacco sickness (GTS). Includes, but not limited to, planting, cultivating, topping, harvesting, baling, burning, and curing of tobacco.
Non-Agricultural Hazardous Orders Additions	
	New Non-Ag HO 18 <ul style="list-style-type: none"> Occupations in farm-product raw materials wholesale trade industries <ul style="list-style-type: none"> Includes, but not limited to: most occupations performed at country grain elevators, grain elevators, grain bins, silos, feed lots, feed yards, stockyards, livestock exchanges, and livestock auctions.
	New Non-Ag HO 19 <ul style="list-style-type: none"> The use of electronic devices, including communication devices, while operating power-driven equipment, including motor vehicles.

*Denotes proposed revisions not based on a NIOSH recommendation.

Current Child Labor Requirements under the Fair Labor Standards Act (FLSA):

- Agricultural: <http://www.dol.gov/whd/regs/compliance/childlabor102.htm>
- Non-Agricultural: <http://www.dol.gov/whd/regs/compliance/childlabor101.htm>

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