

Department of Labor, Wage and Hour Division
Proposed Rules, 29 CFR Part 570
Federal Register, April 17, 2007
RIN 1215 AB44, www.regulations.gov

Comments from Members of the
National Young Worker Health and Safety Network
7/16/07

Introduction

The U.S. Department of Labor (DOL) published a Notice of Proposed Rulemaking (NPRM) in the *Federal Register* on April 17, 2007 (volume 72, pages 19337-19273), in which it proposes numerous revisions to its child labor regulations in 29 C.F.R. Part 570.

These are the comments of the Young Worker Health and Safety Network, an informal network of public health professionals, advocates, educators, and government agency staff, coordinated by volunteers as a subcommittee of the Occupational Health and Safety section of the American Public Health Association (APHA.) Although the opinions shared here cannot be presented as the definitive position of the entire informal network, they do reflect a consensus position of over individuals from a variety of disciplines, who have been working to promote the health and safety of young workers for many years and who are knowledgeable in the field. The group included individuals from academia, public health, labor law enforcement, health and safety consultation and/or enforcement, labor organizations, and educators. A partial list of individuals who participated in this process is attached.

All members of the Network were invited to join in this discussion, as well as others with specific experience or expertise, such as educators involved in vocational education or apprenticeship programs, and labor law enforcement officers. Discussion took place via email and conference calls.

We have tried to use the following principals to guide our positions:

- The regulations should protect youth from significant hazards.
- Where possible, the regulations should be kept clear and consistent, limiting the number of exceptions or exemptions, thus fostering better compliance and more effective enforcement.
- The regulations should allow youth to do a broad variety of different types of potentially rewarding work.

We have also attached two appendices. **Attachment A** is a summary chart of the Network positions, which are described in more detail in this narrative document. **Attachment B** is the partial list of work settings not currently considered “retail” by DOL’s Division of Wage and Hour, and which could therefore be potential sectors newly opened up to 14- and 15-year-olds under the changes proposed by DOL under item B.1. See page 4 for more detail.

A. Occupations prohibited for minors 14 -and 15-years olds part 570.33 (see 72 Fed. Reg. 19364-19366)

1. Prohibited Machinery

DOL proposes to clarify the existing rule that 14- and 15-year-olds cannot operate or tend any power-driven machinery other than office machines. The Network **AGREES**.

The Network understands the terms in part 570.33(e) prohibiting “food grinders, food choppers, food cutters, and food mixers” to include bladed blenders used to chop food items such as cookies or candy with ice cream to make ice cream deserts. In addition, **the Network recommends explicitly excluding espresso machines in the list of kitchen devices that 14- and 15-year-olds are authorized to use**, listed in part 570.34 (i) (FR pg 19365). These machines create steam, and the potential for serious burns, that clearly exceeds the temperature limits established for prohibiting use of other equipment such as anything related to hot oil that exceeds a temperature of 100 degrees F. [anyone have anecdotal data on burns with espresso machines?]

2. Loading of Personal Hand Tools Onto Motor Vehicles and Riding on Motor Vehicles

DOL proposes to make several changes in existing regulations in order to incorporate “interpretations” that it has adopted over the years, and to incorporate an “enforcement position.”

DOL is proposing to prohibit 14- and 15-year-olds from riding outside of motor vehicles (such as in the bed of a pickup truck), but not to prohibit such youth from riding passively as passengers in the passenger compartment of the motor vehicle. In addition, DOL’s long-standing interpretation requires that a significant reason for the minors being passengers in the vehicle is not for the purpose of performing work in connection with the transporting – or assisting in the transporting – of other persons or property. Additionally, each minor must have his or her own seat in the passenger compartment and each seat must be equipped with a seat belt or similar restraining device, and the employer must instruct the minors that such belts or other devices must be used. The YWH&S Network **AGREES and further recommends that the DOL amend part 570.34(o) to require the employer “ensure” that such belts or other devices are used, and that the driver of the vehicle has a valid driver’s license.**

Additionally, DOL proposes to add to the regulations an “enforcement position” that permits 14- and 15-year-old children to load and unload light tools and equipment from vehicles in specified circumstances (570.34 (k)).

The Network **AGREES** with this proposal **with additional requirements:**

- a). Written permission from parent or legal guardian is required to permit employer to transport 14- and 15-year olds and a copy of written permission must be maintained by the employer;
- b). A minor cannot be abandoned at worksite without adult supervision.

3. Work in Meat Coolers and Freezers

DOL proposes to incorporate into a new 29 C.F.R. 570.33(i) a position it states that it has taken since 1981, under which 14- and 15-year-old counter workers in quick service establishments and cashiers in grocery stores can “occasionally” enter freezers “only momentarily” to retrieve items. DOL’s longstanding position applies only to 14 and 15-year-olds in retail, food, and gasoline service establishments, since they are now forbidden to work elsewhere.

The YWH&S Network **DISAGREES with this proposal, but makes an additional recommendation:**

- DOL should specify in 570.33 (i) that the regulation prohibits 14- and 15-year-olds to any freezer or cooler regardless of product, including but not limited to meat, seafood, poultry or other produce.

4. Youth Peddling

The YWH&S Network **applauds and supports the USDOL’s addition of Youth Peddling to the list of Prohibited Occupations for 14- and 15-year-olds.** To assure clarity of this prohibition, the Network provides the following additional recommendations:

- Add at the end of the first sentence of 570.33(j), “or in front or around the outside of retail establishments”. Many youth peddle wares outside grocery stores, large chain or box stores, etc. This would clarify that prohibition.
- The term “eleemosynary” should be replaced with plain English words, such as “non-profit, religious or charitable organizations,” to assure understanding by all parties.

The Network assumes that although it is not expressly addressed, DOL includes “sign waving” as part of this prohibition, including holding or carrying of any type, posing or acting as a sign **not directly in front of a retail establishment, or where no direct supervision exists.** To assure that youth are not subject to dangerous circumstances and are properly supervised, the Network recommends that DOL include clarifying language that any sign holding or waving is only permitted directly in front of the retail establishment where the youth is employed, and within the purview of direct supervision. This means that youth may not be permitted to work along busy intersections, right of way, public roads, and/or areas where there is street traffic. Youth should also be prohibited from working along grassy areas or median areas next to public streets or traffic. An investigator in the state of Alaska received a complaint from the Department of Transportation due to the safety concerns of youth walking in the median strip (see attached photo). Selling products in front of a retail establishment where the youth is not employed would still be prohibited as Youth Peddling.

In addition, the Network believes this prohibition against youth peddling, or at least restrictions regarding peddling, should extend to 16- and 17-year-olds. **The YWH&S Network recommends that DOL create a new HO to address this.** In particular, a distinction should be made between long-distance traveling youth peddling crews (those

that go from one state to another) vs. local crews (the teens all go to a specified office and then are taken to suburbs in the immediate area.) The dangers of peddling have been documented by cases such as the Wisconsin van rollover resulting in several fatalities. The Network recommends that DOL commence with a gathering of case data in order to quantify the need for extension of this coverage for future proposed regulations.

5. Poultry Catching and Cooping

DOL proposes to amend the regulations to state explicitly that 14- and 15-year-olds cannot catch or coop poultry for preparation for transport or for market.

The Network **AGREES**.

B. Occupations Permitted for Minors 14 -and 15-years olds part 570.34 (see 72 Fed. Reg. 19365-19366)

1. Expand the Scope of Work for 14- and 15-year-olds

DOL proposes major changes that would expand the kinds of jobs, as well as the kinds of industries, in which 14- and 15-year-olds could work. DOL's existing regulations permit 14- and 15-year-olds to work only in "retail, food service, and gasoline service establishments"; and within these three kinds of establishments, 14- and 15-year-olds can do only limited jobs as specified in the regulations. However, the scope of the work locations covered under the definition of "retail" by DOL is extremely broad and does not comport with the usual settings based on SIC or NAICS classifications. Hence this has lead to different interpretations of the regulations, including by enforcement agencies.

The YWH&S Network commends DOL for attempting to bring clarity to this issue, as it is currently being enforced in many different ways around the country. However, we are concerned about the expansion to work locations that have hazards that are not yet prohibited under any other section of Regulation 3. This sweeping change could have unintended consequences and place younger teens in jeopardy. Further evaluation is needed to assess the need for additional specific industry settings or job activities to be included in the list of prohibitions. Using a partial list provided to us by the DOL, we undertook an assessment of the worksites NOT currently considered "retail" and therefore prohibited at this time, to determine areas of concern with regard to this change (See Appendix B). We attempted to identify those worksites already excluded due to an existing or proposed HO or portion of Regulation 3, but were uncertain about job sectors on the list. We invite USDOL to verify those areas where we may have made an incorrect evaluation.

At issue is our primary concern that 14- and 15-year-old minors, and 16- and 17-year-olds for that matter, can perform clean-up work that includes the potential for exposure to hazardous and toxic chemicals, and to blood borne pathogens. In the absence of any prohibitions against exposure to chemicals or to blood borne pathogens, this expansion could be very problematic, particularly in medical and dental offices, hospitals and nursing homes. Janitorial services would also be allowed under this change, allowing extended exposure to hazardous cleaning chemicals. A number of states already prohibit

exposure to hazardous and toxic chemicals and blood borne pathogens. Examples of these can be found in **Attachment C**.

The Network recommends that the USDOL incorporate into the list of prohibited work activities exposure to hazardous chemicals, toxic substances, and blood borne pathogens, which would then apply regardless of setting. In addition, since the industry classification of “retail” by USDOL’s Wage and Hour Division does not comport with any classification system currently in use, the Network recommends that DOL chose to utilize either the Standard Industrial Classification (SIC) codes or the North American Industrial Classification System (NAICS) codes to identify prohibited work locations in order to be consistent with industry classifications used by others, particularly for injury surveillance.

2. **Work of a Mental or Artistically Creative Nature**

DOL proposes to permit 14- and 15-year-olds to perform work of a mental or artistically creative nature, defined as follows:

Mental: Permitted work of a mental nature would be limited to work that is similar to that performed in an office setting and not involving the use of any power-driven equipment other than office machines.

Artistic: Permitted work of an artistically creative nature would be limited to work in a recognized field of artistic or creative endeavor. Examples provided include: print and runway model, musical director at a church or school.

The Network **AGREES with this proposal, with the additional recommendations:**

- a) Replace the word “mentally” with the word “intellectually” to say “work of an intellectually or artistically creative nature”;
- b). For work of an artistic nature, certain locations should specifically be excluded, such as tattoo and body piercing establishments, due to exposure to blood borne pathogens;
- c). Tasks within this artistic work that would expose 14- and 15-year olds to carcinogenic, toxic or hazardous substances, or to high heat, must be prohibited. For example, 14- and 15-year olds would be permitted to work on a pottery wheel, but would be prohibited from applying certain glazes and would be prohibited from any work on or around the high heats of a pottery kiln. Another example would be that 14- and 15-year-olds would be permitted to sculpt, but would be prohibited from welding and soldering or any functions that expose them to heat, or to height or other existing restrictions.

In addition, **the Network recommends that DOL explicitly state that work of an intellectually or artistically creative nature can only take place in settings (locations) and involve content that is age-appropriate and not detrimental to the morals of youth.** Moreover, DOL should consider, given the often exploitative and explicit nature of some arts, requiring pre-approval of proposed employment for artistically creative work.

The Network believes that some artistically creative work may push the envelope on exploitative labor and/or prove detrimental to the morals of youth. This has happened under the entertainment exemption, and it stands to reason that it could happen under smaller scale, similar work.

The Network concurs with DOL that:

- The employment would be permitted in any industry other than those prohibited by Regulation 3.
- The employment would be subject to all the applicable hours and times standards established in 570.35.
- The employment would be subject to occupation standards contained in 570.33.

Finally, it is the Network's understanding that this employment would not be exempt from either minimum wage or overtime wages.

3. Car Washing

The Network **AGREES** with the DOL proposal to strengthen the existing restrictions to require that such work can be done only by hand, thus making clear that 14- and 15-year-old children cannot use automatic car washers, power-driven buffers, and similar equipment.

4. The Employment of 15-Year-Olds (But Not 14-Year-Olds) as Lifeguards

DOL proposes to permit 15-year-olds to work as lifeguards. DOL reveals that since 2000, pursuant to an "enforcement policy," it has been permitting this practice, even though it is inconsistent with existing regulations, which do not permit any child under age 16 to work as a lifeguard.

The proposed regulation would permit 15-year-olds to work at traditional swimming pools and certain areas of amusement water parks (but not at rivers, streams, lakes, reservoirs, wharfs, piers, canals, or ocean-side beaches), provided that they have been trained and certified in aquatics and water safety by the Red Cross or similarly recognized certifying organization. These youth would be forbidden from operating or tending "power-driven equipment including the elevated areas of power-driven water slides." Nor could these 15-year-olds enter or work in any mechanical rooms or chemical storage areas, including any area where the filtration and chlorinating systems are housed.

The Network does **NOT AGREE** with this proposal for the following reasons:

- a). There is no data provided by DOL to justify the addition of this previously prohibited activity to the list allowable jobs. In fact, life guarding, even at poolside, is a job that entails responsibility for others' lives. According to the US Lifeguarding Association:

“As an occupation, lifeguarding is primarily focused on ensuring public safety and preventing the death of human beings. Interventions which lifeguards are expected to make, especially those that involve rescue, people missing in the water, or resuscitation, create maximum stress on the responsible lifeguards. This stress can markedly amplify the existing danger to the lifeguard, particularly as adrenaline impacts response. Rarely is any emergency a “textbook” case, so improvisation under stress is commonly required.

For example, regardless of existing policies or procedures to the contrary, a relatively small lifeguard may feel compelled to attempt to remove a very large victim from the water without assistance of others due to the grave consequences of failure to do so and may be injured, perhaps seriously, in the process. Additionally, the stress of response alone can cause a degree of urgency that causes an accident...

Psychological impact and injury is also a continual reality in public safety employment. On occasion, injury and death occur in areas under the supervision of lifeguards. Whenever serious injury or death might have been prevented occur on the watch of a public safety worker, psychological impacts can be profound. Adult public safety workers occasionally leave the workforce due to the stresses resulting from guilt and related issues. Youth employees may be even less able to deal with these types of circumstances.”

Work as a lifeguard may also entail exposure to combative individuals, bloodborne pathogens, and chemicals.

For these reasons, the US Lifeguarding Association and other organizations like the YMCA do not certify lifeguards until age 16. Thus DOL’s argument that this proposal ties DOL enforcement practices to “standards” in the industry is not accurate.

- b). Whenever possible, it is important to keep the regulations as consistent and simple as possible; there does not seem to be any justification for adding a new and unique age cut-off for this one particular job, when all other regulations group 15-year-olds with 14-year-olds.

5. The Employment of Certain Youth by Places of Business Where Machinery Is Used to Process Wood Products

As in 570.54(2)(c)(i) for 16- and 17-year-olds, this revision under part 570.34(m)(1)(i) for 14- and 15-year-olds incorporates the requirements of the law passed by Congress known as the “Amish amendment”. As a point of clarification, this exemption will only apply to youth released from compulsory education and only in fixed worksites, not at off-site work locations, such as on a construction site or other location remote to the regular facility (FR pg 19365 & 19369).

While the Network did not support this change in the law, we do strongly support and applaud DOL for adding other safety requirements beyond the statute: 1) requiring that

youth use PPE, 2) requiring that the youth workers must be protected from flying objects with OSHA-required barriers, and 3) requiring close, constant, uninterrupted supervision.

The Network also strongly recommends that a requirement of both parts 570.34(m)(1)(i) and 570.54(2)(c)(i) include a requirement that youth must receive safety training or certification for the specific activities allowed under this change.

C. Clarifying Existing Enforcement Positions Regarding Periods and Conditions of Employment part 570.35 (see 72 Fed. Reg. 19366-19367)

DOL proposes to amend 570.35 to reflect that school would not be considered to be in session for a 14- or 15-year-old who (i) has graduated from high school; or (ii) has been excused from compulsory school attendance by the state or other jurisdiction once he or she has completed the eighth grade and his or her employment complies with all of the requirements of the state school attendance law; or (iii) has a child to support and appropriate state officials have waived school attendance requirements; or (iv) is subject to a court order prohibiting him or her from attending school; or (v) has been permanently expelled from the local public school that he or she would normally attend.

The Network **AGREES** with this proposal.

In addition, in order to foster better understanding of, and compliance with hours and time-of-day limitations, DOL proposes to explicitly incorporate into the regulations certain long-standing Departmental enforcement positions and interpretations. DOL is not proposing to change any of the hours and time-of-day limitations that govern the employment of 14- and 15-year-olds

The Network **CONCURS** with DOL's clarification that:

- the 3-hour limit of work time for school days applies to Fridays.
- the term "week" in the hours restrictions means a standard calendar week, beginning at 12:01 a.m. on Sunday and concluding at 12 midnight on Saturday.

The Network **CONCURS** with DOL's proposal to add to the regulations DOL's longstanding enforcement position that the determination of when school is in session will be based on the normal school hours of the public school system in the child's district of residence. Private schools and parents who home-school their children may object to this proposal if their daily schedules are different from those of the local public school, but the Network believes that any such objections are outweighed by the enforcement benefits of having one standard in each school district. To have multiple school schedules creates an unworkable and needlessly complex enforcement standard.

Although the following are not expressly addressed in the NPRM, the **Network makes the following recommendations regarding the employment of 14- and 15-year-old minors:**

SCHOOL IN SESSION – The current standard is Tuesday after Labor Day through May 31 of the following year. However, an increasing number of school districts have year round schedules, and many districts have schedules that differ significantly from this timeframe. The

Networks recommends that DOL consider defining “school in session” to be based on the public school calendar for where the youth worker resides. In regard to private schools and home schools, “school in session” would likewise be based on the public school calendar where the youth worker resides.

SCHOOL NOT IN SESSION – The current standard is June 1 through Labor Day. As stated above, the Network recommends that “school not in session” should be based on the public school calendar for where the youth worker resides. In regard to private schools and home schools, school not in session would likewise be based on the public school calendar where the youth worker resides.

Additionally, the Network believes that DOL should clearly state that school is considered in session during any week in which school attendance is required for one or more days.

D. Work-Study Programs 570.35b (see 72 Fed. Reg. 19348-19350 and 19367-19368)

The existing regulations (29 C.F.R. 570.35a) permit the establishments of work experience and career exploration programs (known as “WECEP”). These programs permit 14- and 15-year-olds to work longer hours than other 14- and 15-year-old children in two respects:

1. They can work during school hours, whereas other children cannot work at all during school hours, although WECEP students still cannot work more than 3 hours on a school day.
2. The maximum amount of time they can work during a school week is 23 hours, whereas the limit for other children is 18 hours

The work-study program described in the proposed changes allows youth to work during school hours up to 8 hours a day as defined by a specific schedule. This applies to non-public schools that apply and are approved by DOL; restrictions on total hours per week and start and stop times remain the same. Students in work-study programs would be considered employees of the school and not the “host employer” where they are placed for work activities. It is not clear these students will receive a wage or if their earnings will contribute toward their tuition reduction. It is not clear if the host employer would also be held to the same restrictions and requirements as any other employer that hires minors. All prohibitions listed in part 570 Subpart C or E should apply in all cases. Also, it would seem that these students may be replacing another regular paid employee.

The Network **DISAGREES** with this proposal. Section 570.35a already includes provisions that allow the Administrator of the Wage and Hour Division discretion to grant requests for special variances from the occupation standards regarding prohibited work; this should be extended to allow the Administrator to grant variances regarding hours’ restrictions as well. Criteria should be established, made public and met by any program for which the Administrator wishes to grant a variance, but not limited to the very specific conditions in the proposed regulation, designed to fit one specific program.

This proposal unfairly benefits one single program, successful as it may be, and makes the regulations unnecessarily complex. The bar should be set high for programs to receive a variance from these protective regulations.

F. Occupations Involved in the Operation of Power-Driven Wood Working Machines 570.55 (see 72 Fed. Reg. 19351-52 and 15369) - HO 5

HO 5 (29 C.F.R. 570.55) currently forbids 16- and 17-year-olds from working with power-driven fixed or portable machines that cut, shape, or otherwise transform wood or veneer, but not other materials such as metal or plastic.

The Network **AGREES** with DOL's recommendation to expand HO 5 to include machines that process trees, logs and lumber.

The Network urges DOL to further expand HO 5 to cover all power-driven machines that cut, shape, etc. all materials, including metal, plastic, or any materials. The same hazards are present no matter what material is being processed. This also simplifies both education and enforcement efforts, building on the concept that youth under 18 are not allowed to work with most types of power-driven machinery and equipment.

However, the Network recommends that the DOL allow 16- and 17-year-olds to use small hand-held battery operated drills no larger than as a 3/8" drill (the largest size drill bit that the chuck will hold.) Also, use of small hand-held sanders should be allowed but limited to oscillating or vibrating type sanders. Those that should continue to be prohibited include but are not limited to those with a sanding disk or grinding mechanism. Many youth are able to find work in small remodeling and construction work activities that require these common household tools. This change would expand the quality work activities available to 16- and 17-year-olds.

G. Occupations Involved in the Operation of Power-Driven Hoisting Apparatus 570.58 (see 72 Fed. Reg. 19352-53 and 19369-19370)- HO 7

HO 7 (29 C.F.R. 570.58) currently forbids 16- and 17-year-olds from (a) *operating* various power-driven hoisting machines, such as cranes, derricks, hoists, and forklifts, (b) *riding on* a manlift or freight elevator (except a freight elevator operated by an assigned operator), and (c) *assisting* in the operation of a crane, derrick, or other specified equipment.

The Network **AGREES** with DOL's recommendation to maintain and expand HO 7 to include "the work of tending, riding upon, working from, servicing, repairing or disassembling" the named equipment; eliminating the exemption that allows youth to operate small hoists (not exceeding one ton); expanding the definition of manlift to include scissor lifts, boom-type mobile elevating work platforms, work-assist vehicles, cherry pickers, basket hoists and bucket trucks; clarifying that high-lift truck includes skid loaders and Bobcat loaders.

The Network urges DOL to further explicitly add "back hoes" and "front-end loaders" to the list of prohibited machines.

We also urge you to expand HO 7 to prohibit 16- and 17-year-olds from working with hydraulic grease racks. Since there are no student-learner exemptions to HO 7, we further recommend that for hydraulic grease racks only, automotive repair students in cooperative education placements with appropriate supervision and training would be able to work around these racks - but should **NOT** be allowed to operate them. We recognize that the Division is seeking input on both grease racks and on student learner exemptions and will comment further on this in a later submission.

H. Occupations in the Operation of Power-Driven Meat-Processing Machines and Occupations involved in Slaughtering, meat and poultry processing or rendering. 570.61 (see 72 Fed. Reg. 19370) – HO 10

The YWH&S Network strongly **AGREES** with the DOL, that existing HO 10 (Power-driven Meat Processing Machines) should **NOT** be relaxed and should be expanded to prohibit employment of 16- and 17-year-olds in all meat products manufacturing industries including processing of poultry and of sausage and other meat products. **We reiterate our 2003 recommendation to extend this HO to also include “the use of powered machinery” in seafood processing and packaging.** Notably the rates of non-fatal injury and illness resulting in days away from work in seafood processing and packaging exceeded those for processing of animal products in 2003, 2004 and 2005. The rates of injury in seafood processing were high across a variety of injury types. The Network is not recommending 16- and 17-year-olds be prohibited from all work in seafood processing, but rather job activities that involve the use of powered equipment, such as powered cutting equipment.

We also **CONCUR** with proposed language clarifying that the prohibition against 16- and 17-year-olds cleaning power driven meat processing machines extends to include washing parts and attachments for these machines.

We disagree with the Division of Wage and Hour’s rejection of the NIOSH Report recommendation to limit student-learner exemptions for HO 10 to employment in retail, wholesale and service industries, although we recognize that the Division is seeking input on the issue of student-learner exemptions in general in the Advanced Notice of Proposed Rule making and will comment further in a later submission.

I. Occupations Involved in the Operation of Bakery Machines. 570.62 (see 72 Fed. Reg. 19370 – 19371)- HO 11

HO 11 currently prohibits the employment of 16- and 17-year-olds in the occupations involved in the operation of power-driving bakery machines. Prohibited activities include operating, assisting to operate, setting up, adjusting, repairing, oiling or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding or molding machine, dough brake; dough sheeter, combination bread slicing and wrapping machine, cake cutting band saw or cracker machine. The prohibitions do not differentiate between portable and non-portable equipment and models designed for use in the home versus those solely designed for industrial applications.

The Network **AGREES** with the DOL's proposal to include an exemption to HO 11 allowing 16- and 17 year olds to operate – including setting-up, adjusting, repairing, oiling and cleaning - lightweight small capacity counter-top power driven food mixers that are comparable to those models intended for household use.

The Network **DISAGREES** with DOL's proposal to incorporate its longstanding enforcement position allowing 16- and 17- year-olds to operate but not set up, repair, oil or clean, pizza-dough rollers that 1) are constructed with safeguards contained in the basic design 2) have gears that are completely enclosed and 3) have micro- switches that disengage the machinery if the backs or sides of the rollers are removed. Absent any concrete information on injury data, and on the specific size, make, or models under consideration as possible examples, we disagree with this proposal at this time. If the regulations include exemptions that are very detailed, it becomes difficult to communicate the rules to both youth and employers in a way that is simple and clear.

The Network also endorses the position in the NIOSH Report to establish more intensive surveillance of pertinent injuries when relaxing hazardous orders - in this case, surveillance of all serious youth injuries and deaths resulting from the operation of powered bakery machines, if DOL proceeds with this proposal. If USDOL does not have the authority to require injury reporting this under these regulations, it should engage NIOSH to conduct prospective surveillance of these injuries using existing data sources and to prepare a report. Information on how the relaxation of the HO regarding loading paper balers and compactors was handled in this regard would be helpful.

J. Power-Driven Paper-Products Machine Operations Including Scrap Paper Balers and Paper Box Compactors 570.63 (see 72 Fed. Reg. 19371) – HO 12

HO 12 currently prohibits minors under 18 years of age from working in occupations involving the operation of paper products machines. However, as a result of the Compactor and Baler Act 16- and 17- year-olds are permitted to *load* paper balers and paper box compactors that conform to specific construction and operational standards; this change was incorporated in to the regulations in 2004. The Network opposed the 2004 amendments to the regulations allowing teens to load these machines. We recognize, however, that this is now law.

The current regulations do not encompass balers and compactors that process materials other than paper products. DOL is proposing to expand HO 12 to cover compactors and balers designed to process materials other than paper. In addition, 16- and 17- year- olds would be prohibited from loading, unloading, operating or assisting with these machines in any way.

The Network strongly **AGREES** with this proposed change.

K. Occupations Involved in the Operation of Power-Driven Circular Saws, Bandsaws, and Guillotine Shears 570.65 (see 72 Fed. Reg. 19371 – 19372) – HO 14

This revision would expand the machines prohibited under this HO to include operating or helping to operate fixed or portable power-driven chain saws, wood chippers, reciprocating saws; and setting up, oiling and cleaning these machines.

The Network strongly **AGREES** with this change.