

STATEMENT OF SCOPE

Department of Workforce Development

Rule No.

Chapters DWD 270 and 271, Wis. Admin. Code

Relating to

Child Labor and Street Trades

Rule Type

Permanent

Detailed Description of the Objective of the Proposed Rule

Ch. DWD 270 is currently titled "child labor." As directed by 2017 Wisconsin Act 11 (Act 11), the proposed rule will repeal and recreate the title of ch. DWD 270 to "employment of minors." The proposed rule will repeal ch. DWD 271 relating to "street trades" and consolidate relevant provisions under ch. DWD 270. In addition, the proposed rule will update ch. DWD 270 to implement statutory changes under Act 11 and 2011 Wisconsin Act 32, and revise language to conform to federal regulations and state statute.

Description of Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Prior to Act 32, ch. DWD 270 contained all hours of labor and time of day restrictions related to child labor. Act 32 placed many of these restrictions into the statutes. The proposed rule will modify and replace outdated provisions related to the employment of minors.

Under s. DWD 270.05, a minor obtaining a child labor permit is required to provide a social security card or proof that the minor has voluntarily opted out of the social security system. The proposed rule will repeal this requirement to make the process of obtaining a child labor permit less of a security risk for permit offices.

Chapter DWD 271 regulates a small segment of the employment of minors relating to street trades and identifies hours of labor and time of day restrictions, identification of street trades, and requirements for obtaining and maintaining street trade permits. Chapter DWD 271 will be repealed and relevant provisions will be updated and consolidated into ch. DWD 270.

Prior to Act 11, ch. DWD 270 contained language from the statute requiring most minors to obtain work permits before beginning work with an employer. Under Act 11, minors 16 and 17 years of age are no longer required to obtain work permits.

Act 11 also replaces the term "child labor" with "employment of minors." The proposed rule's title will be changed to "employment of minors" and references to "child labor" will be removed.

The proposed rule will also modify ch. DWD 270 to remove or modify outdated references, update terminology, and make other minor revisions necessary to conform to federal regulations and state statute.

Current language identifying prohibited employment in ch. DWD 270 is out of step with federal rules. To conform to federal regulations under the Fair Labor Standards Act (FLSA) the proposed rule will:

- Expand prohibitions related to logging and sawmills to include forest fire fighting.
- Incorporate provisions of FLSA that allow minors, under specified conditions, to use power-driven equipment to process wood products.
- Clarify that the prohibition on use of Power-Driven Hoisting Equipment includes tending, riding upon, working from, repairing, servicing, or disassembling an elevator, crane, derrick, manlift, hoist, or high-lift truck. Expands the definitions of “high-lift truck” to include backhoes, front-end loaders, and similar pieces of equipment.
- Clarify that the Meat Processing prohibitions include work in poultry slaughtering establishments.
- Allow minors to operate portable countertop mixers similar to those used in private homes.
- Allow minors to operate certain pizza-dough rollers under certain conditions.
- Clarify that use of all balers and compactors is prohibited, including those not designed or used to process paper; clarifies the exemption that allows minors to load only certain scrap paper balers and paper box compactors.
- Clarify that chain saws, reciprocating saws, wood chippers, and abrasive cutting discs are prohibited to all minors.
- Codify a U.S. Department of Labor enforcement position that allows minors to work as lifeguards, swimming instructors and aides at age 15 if they possess safety certification.
- Clarify that minors aged 16 and 17 may operate skid-steers and similar lifts in agricultural employment.
- Permit minors to operate a key-cutting machine if it has a properly equipped and functioning key saw guard.

The alternative to proceeding with this rule is to do nothing, which would leave the unchanged provisions that are out-of-date in conflict with state statutes and federal regulations.

Detailed explanation of statutory authority for the rule, including the statutory citation and language

Sec. 103.66 (1) and (2), Wis. Stats., provides in part as follows:

"(1) The department may investigate, determine and fix reasonable classifications of employments, places of employment and minimum ages for hazardous employment for minors, and may issue general or special orders prohibiting the employment of minors in employments or places of employment prejudicial to the life, health, safety or welfare of minors, and may carry out the purposes of ss. 103.64 to 103.82. . . ."

(2) The department may investigate and fix reasonable classifications of employments and hours of employment for minors under 16 years of age and may issue general or special orders fixing for those minors maximum hours of employment per day and per week, maximum days of employment per week, hours at which employment may begin and end, and the duration of lunch and other rest periods as are necessary to protect the life, health, safety, and welfare of those minors. . . ."

Estimate of amount of time that state employees will spend developing the rule, and other resources necessary to develop the rule

The total amount of staff time is estimated to be 150 hours.

List with description of all entities that may be affected by the proposed rule

The proposed rule would affect employers or organizations that employ minors, school districts, parents, and volunteer child labor work permit offices.

Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule

The Fair Labor Standards Act establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State and local governments. The provisions under FLSA are designed to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions detrimental to their health or well-being. 29 C.F.R. 570 regulates the child labor provisions under FLSA. The proposed rule will modify and update ch. DWD 270 to conform to standards specified by FLSA and 29 C.F.R. 570.

Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses)

The proposed rule will make regulatory compliance easier. The rule will not have a significant economic impact on a substantial number of small businesses.

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