

STATEMENT OF SCOPE
Department of Workforce Development

Rule No.

DWD 270 and 271

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, the proposed rule will repeal and recreate the title of ch. DWD 270 as "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 2017 Wisconsin Act 11 (Act 11), 2017 Wisconsin Act 153 (Act 153), 2011 Wisconsin Act 32 (Act 32), and revise language to conform to state statutes. The department will review federal regulations to identify conflicts and may revise some provisions to conform to federal regulations.

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

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 and provide an alternative method of establishing age under DWD 270.07 because the department has implemented an online permitting system and submitting proof of a social security online could create an unnecessary security risk.

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 Chapter DWD 271 will be repealed, and relevant provisions will be updated and consolidated into ch.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

The proposed rule will update the student learner exemptions.

The proposed rule will modify ch. DWD 270 to remove or modify outdated references, update terminology, and make other minor revisions necessary to conform to state statutes. DWD 270 will remove language that duplicates statutory language but does not provide further interpretation of the statute.

Some of the current language in ch. DWD 270 is outdated and not in conformity with the federal Fair Labor Standards Act (FLSA) provisions related to child labor. The proposed rule may update those provisions, including the prohibitions of employment and places of employment of minors that are prejudicial to the life, health, safety, or welfare of minors.

The alternative to proceeding with this rule is to do nothing, which would retain provisions that are out-of-date and in conflict with state statutes and federal regulations.

Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Section 103.66(1) and (2) provide, in part, as follows:

"Powers and duties of the department relating to employment of minors. (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."

Sections 103.22 provides as follows:

"General standards and powers of the department. The general standards for the employment of minors set forth in s. 103.65 apply to the employment of minors in street trades, and in relation to that employment the department has the powers and duties specified in s. 103.66. Except as the department exercises those powers, the employment of minors in street trades shall be in accordance with ss. 103.23 to 103.31."

Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The estimated time is 100 hours.

List with Description of All Entities that May Be Affected by the Proposed Rule

The proposed permanent rule would affect employers or organizations that employ minors, school districts, parents, and guardians, 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

FLSA 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 CFR part 570 regulates the child labor provisions under FLSA. The proposed rule may modify and update ch. DWD 270 consistent with standards contained in FLSA and 29 CFR part 570.

Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant 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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