

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<b>1. Type of Estimate and Analysis</b> <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	<b>2. Date</b> January 25, 2022
<b>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)</b> DWD 102 – Contribution Rates DWD 103 – Excluded Employments DWD 111 – Quarterly Wage Reporting Procedures DWD 132 – Determining Eligibility for Benefits DWD 147 – Seasonal Agricultural Employers DWD 149 – Disclosure of Unemployment Insurance Records DWD 150 – Miscellaneous	
<b>4. Subject</b> Converting Standard Industrial Classification (SIC) code references to the North American Industry Classification System (NAICS) codes and making minor and technical updates	
<b>5. Fund Sources Affected</b> <input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	<b>6. Chapter 20, Stats. Appropriations Affected</b> 20.445 (1) (n)
<b>7. Fiscal Effect of Implementing the Rule</b> <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
<b>8. The Rule Will Impact the Following (Check All That Apply)</b> <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>	
<b>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).</b> \$0	
<b>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>11. Policy Problem Addressed by the Rule</b> The Wisconsin unemployment insurance program is administered under chs. DWD 100-150. The rule replaces current references to Standard Industrial Classification (SIC) codes in chs. DWD 102 and 147 with North American Industry Classifications System (NAICS) codes. NAICS codes were first adopted in 1997 to replace the SIC code system. SIC codes have not been updated since 1987 and do not reflect modern changes in the economy.  Under s. 108.18 (2), Stats., an employer's initial contribution rate to the unemployment trust fund is based on certain factors, including whether the employer is "engaged in the construction of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing, or similar construction projects." See s. 108.18 (2) (c), Stats. Chapter DWD 102 requires the Department to determine whether an employer is engaged in those projects based, in part, on whether the employer's primary business activity is specified in groups assigned in the SIC manual.  In addition, certain employment may be excluded from unemployment insurance coverage, including certain service for a seasonal employer, which is an employer the Department designates as satisfying specified criteria, including being classified by the Department as primarily engaged in the following activities: agricultural production, agricultural services, forestry, or commercial fishing, hunting or trapping. Sections 108.02 (15) (k) 19. and 108.066 (3) (a) 2., Stats. Chapter DWD 147 requires the Department to determine whether an employer is primarily engaged in those activities based on specified groups assigned in the SIC manual.	

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The rule replaces the above references to SIC codes with NAICS codes to bring the rules up to date with current federal terminology and modern designation codes.

The rule also makes the following minor and technical changes:

- Amends s. DWD 103.01 (2) so that the rule aligns with ch. 108, Stats.
- Repeals s. DWD 111.05, related to filing certain employer reports, because it is obsolete.
- Amends s. DWD 132.04 (1) to correct cross-references to ch. 108, Stats.
- Amends s. DWD 149.001 (2) (c) 1. to correct a reference to the Labor and Industry Review Commission to be consistent with the definition of “commission” in s. DWD 100.02 (9).
- Repeals and recreates the title for ch. DWD 150 from “Miscellaneous” to “Forms” to reflect the purpose of that chapter.

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12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

The Department held a preliminary hearing on the scope statement, but no comments were submitted. The scope statement was posted for 14 days for public comment on economic impact and no comments were received. The Department consulted with the Unemployment Insurance Advisory Council about the rule content.

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13. Identify the Local Governmental Units that Participated in the Development of this EIA.

None

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14. Summary of Rule’s Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State’s Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule is not expected to have an economic impact to any business or small business.

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15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The Department proposes to replace the references to SIC codes with NAICS codes in chs. DWD 102 and 147, bringing the rules up-to-date with federal terminology and modern designation codes. SIC codes have not been updated since 1987 and are not being modernized to reflect changes in the economy. The Department also proposes to make additional minor and technical changes to the rules to ensure conformity with federal requirements, consistency with state statutes, correct typographical errors, and correct cross-references.

The policy alternative is to do nothing. If the Department does not promulgate the proposed rule, existing references to SIC in chapters DWD 102 and 147 will not align with modern industry designation codes. If the Department does not make the minor and technical corrections that it may identify, the administrative rules may not align with state and federal law.

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16. Long Range Implications of Implementing the Rule

This rule will ensure that the Department uses current federal terminology when it administers the unemployment insurance program.

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17. Compare With Approaches Being Used by Federal Government

The federal government adopted NAICS codes in 1997 to replace the SIC code system and updates the NAICS codes every five years. SIC codes have not been updated since 1987 and do not reflect modern changes in the economy.

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Minnesota uses NAICS codes to determine construction industry employers (Minn. Stat. Ann. § 268.051 (5) (b)). Illinois uses SIC codes to determine tax rates (820 Ill. Comp. Stat. Ann. 405/1500 (B)). It appears that Michigan and Iowa do not reference SIC codes or NAICS codes for unemployment employer determinations or tax rates.

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19. Contact Name

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20. Contact Phone Number

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**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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