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## Report From Agency

**DATE:** January 27, 2023

**TO:** Michael J. Queensland  
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Room B20 Southeast, State Capitol  
PO Box 7882  
Madison, WI 53707-7882

Edward A. Blazel  
Assembly Chief Clerk  
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**FROM:** Amy Pechacek, Secretary-designee  
Department of Workforce Development

**SUBJECT:** Notice and Report for Final Draft Form of Proposed Rule  
Clearinghouse Rule 22-072 – ch. DWD 80

Pursuant to s. 227.19 (2), Stats., the Department of Workforce Development (Department) is submitting for legislative review the attached proposed rule in final draft form for Clearinghouse Rule 22-072, which revises ch. DWD 80. The governor approved this proposed rule on January 19, 2023. The analysis required under s. 227.14 (2), Stats., is included in the proposed rule. Also attached is the Fiscal Estimate & Economic Impact Analysis and the Rules Clearinghouse report and comments.

### *Basis and Purpose*

2021 Wisconsin Act 232 established new requirements for computing the weekly wage for part-time employees for purposes of worker's compensation benefit eligibility. The act went into effect on April 10, 2022, and applies to injuries occurring on and after that date. The Department's worker's compensation rules in ch. DWD 80 must be revised to implement the new requirements. The Department previously promulgated an emergency rule (EmR2212) to implement the act's new requirements and is proposing this permanent rule with the same purpose. The permanent rule is identical to the emergency rule, except for the Department's corrections of typographical errors and a cross reference and except for minor technical revisions recommended by the Rules Clearinghouse.

## ***Public Hearings***

On May 20, 2022, the Department held a preliminary public hearing on the scope statement for this proposed rule, SS 042-22. On December 1, 2022, the Department held a combined public hearing on EmR2212 and this proposed rule. No comments were received at the preliminary public hearing on the scope statement or the public hearing on the rules.

## ***Changes to the Analysis or Fiscal Estimate***

The Department revised the analysis to indicate the deadline for comments and to reflect modifications the Department made to the rule in response to the Rules Clearinghouse. The Department made no other changes to the analysis or fiscal estimate.

## ***Responses to Rules Clearinghouse***

The Rules Clearinghouse made recommendations related to Statutory Authority and Form, Style and Placement in the Administrative Code. The Department revised the proposed rule as recommended by the Rules Clearinghouse.

## ***Final Regulatory Flexibility Analysis and Response to SBRRB***

The proposed rule does not have an effect on small businesses, as defined in s. 227.114 (1), Stats. Therefore, the Department did not submit the proposed rule to the Small Business Regulatory Review Board (SBRRB) and a final regulatory analysis is not required.