STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA-2050 (C04/2012) DIVISION OF EXECUTIVE BUDGET AND FINANCE 101 EAST WILSON STREET, 10TH FLOOR P.O. BOX 7864 MADISON, WI 53707-7864 FAX: (608) 267-0372

EXISTING ADMINISTRATIVE RULESFiscal Estimate & Economic Impact Analysis

Type of Estimate and Analysis Repeal		
2. Administrative Rule Chapter, Title and Number		
DWD 293 Payment and Performance Assurance Requirements		
3. Date Rule promulgated and/or revised; Date of most recent Evaluat	ion	
Most recent revision - February 1, 2011		
4. Plain Language Analysis of the Rule, its Impact on the Policy Proble Economic Conditions or Other Factors Since Promulgation that alte	em that Justified its Creation and Changes in Technology, rthe need for or effectiveness of the Rule.	
DWD is required to adjust the minimum contract prices that det		
requirements that apply to contracts with state and local govern		
materials for a public improvement or public work on a biennial adjustment is required if the adjustment is lower than 5%. The		
construction cost index as published by the Engineering news-r		
The proposed rule adjusts the contract price thresholds to reflect		
2009 to December 2011 and a 5.4% increase in construction costs from December 2011 to December 2013. There is no adjustment in 2016 because increases in construction costs from December 2013 to December 2015 were less than 5%.		
adjustment in 2010 because increases in construction costs from	1 December 2013 to December 2013 were less than 370.	
In addition, the proposed rule will create s. DWD 293.03 relating	ng to indexing future contract thresholds. On each	
January 1 in an even calendared year, DWD will calculate the p		
for December of the preceding year, and the construction cost in		
and adjust those amounts by that percentage difference. Any capublished, and become effective upon publication, in the Wisco		
5. Describe the Rule's Enforcement Provisions and Mechanisms	disili Adililiistiative Register.	
	nents that DWD biennially, adjust contract thresholds to	
The rule does not have enforcement provisions. It sets requirements that DWD biennially adjust contract thresholds to which payment and performance assurance requirements would apply.		
6. Repealing or Modifying the Rule Will Impact the Following		
(Check All That Apply)	☐ Public Utility Rate Payers	
☐ State's Economy ☐ Local Government Units	☐ Small Businesses	
7. Summary of the Impacts, including Compliance Costs, identifying an	ny Unnecessary Burdens the Rule places on the ability of Small	
Business to conduct their Affairs.		
The proposed rule will have a positive impact on small business	ses. Many construction companies are small businesses	
and by raising the thresholds in line with increases in construction costs, the proposed rule helps businesses by		
preventing the bond requirement from applying to small project		
8. List of Small Businesses, Organizations and Members of the Public Summary of their Comments.	that commented on the Rule and its Enforcement and a	
The Country & Eidelity Association of America Westington D	C. This arganization chicate to the amount of the	
The Surety & Fidelity Association of America, Washington DC. This organization objects to the amount of the increases in the bonding thresholds as determined by the statutory formula, stating that these would be some of the		
mercases in the contains thresholds as determined by the statute	1, 1011110m, stuffing that these would be sollie of the	

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highest thresholds in the nation. Moreover, small businesses depend upon this assurance of payment even on smaller contracts. "By increasing the threshold, there will be a larger number of projects where payment protection is not available to subcontractors." Additionally, SFAA opposes the proposal that future increases be published rather than

going through full formal rulemaking procedures.

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work."

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 9. Did the Agency consider any of the following Rule Modifications repeal? 	rting	
10. Fund Sources Affected ☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S	11. Chapter 20, Stats. Appropriations Affected None	
12. Fiscal Effect of Repealing or Modifying the Rule ☑ No Fiscal Effect ☐ Increase Existing Revenues ☐ Indeterminate ☐ Decrease Existing Revenues	☐ Increase Costs ☐ Could Absorb Within Agency's Budget ☐ Decrease Cost	
13. Summaryof Costs and Benefits of Repealing or Modifying the Rule Many construction companies are small businesses and the adjustment of the thresholds for application of the payment and performance bond requirements prevent these provisions from affecting small public works projects over time solely due to the effects of inflation.		
14. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to ☐ Yes ☑ No	o form)	
15. Long Range Implications of Repealing or Modifying the Rule None		
16. Compare With Approaches Being Used by Federal Governmen The Miller Act (40 USC 3131 – 3134) applies to contracts a public building or public work of the Federal Government. V contracts exceeding \$100,000 in cost, the Federal Acquisition contracts that exceed \$150,000.00.	warded for the construction, alteration, or repair of any While the Act provides that these bonds must be posted on	
17. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota) Iowa: Contracts for the construction of a public improvement shall, when the contract price equals or exceeds \$25,000, be accompanied by a bond, with a surety, conditioned for the faithful performance of the contract, and for the fulfillment of other requirements as provided by law.		
Illinois: Any contractor entering into a contract for public work of any kind costing over \$50,000 with any state officials, boards, commissions or agents, or any political subdivisions, is required to supply and deliver a bond to the state or political subdivision, with good and sufficient sureties.		
Michigan: Before any contract exceeding \$50,000 is awarded for the construction, alteration, or repair of any public building or public work or improvement, the proposed contractor is required to furnish a performance bond and a payment bond which will become binding upon the award of the contract to the principal contractor.		
Minnesota: Public entities entering into contracts greater than \$100,000 must obtain a performance bond and a payment bond from the contractor. This requirement, with a few exceptions, applies to contracts for "the doing of any public		

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