



State of Wisconsin
Department of Workforce Development
Unemployment Insurance Division

NOTICE OF PUBLIC HEARING

Unemployment Insurance Rules for Quarterly Wage Reporting Requirements

Chapter DWD 111

NOTICE IS HEREBY GIVEN that pursuant to ss. 108.14 (2), 108.205, 108.22, and s. 227.11 (2) (a), Stats., the Department of Workforce Development proposes to hold a public hearing to consider rules relating to unemployment insurance rules for quarterly wage reporting requirements.

Hearing Information

JULY 21, 2010
Wednesday
1:30 p.m.

MADISON
G.E.F. 1 Building, H306
201 E. Washington Avenue

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

Visitors to the GEF 1 building are requested to enter through the left East Washington Avenue door and register with the customer service desk. The entrance is accessible via a ramp from the corner of Webster Street and East Washington Avenue. If you have special needs or circumstances regarding communication or accessibility at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Section 108.14 (2), 108.205, 108.22, and 227.11, Stats.

Statutes interpreted: Section 108.205 and 108.22, Stats.

Related statute or rule: 42 U.S.C. s. 1320b-7 (a) (3), ch. DWD 110.

Explanation of agency authority. Chapter 108, Stats., requires employers to file with the department a quarterly report showing the name, social security number, and wages paid to

each employee who is employed by the employer during the quarter. The quarterly reports are due no later than the last day of the month following the completion of each quarter. The department may prescribe the manner and form for filing quarterly wage reports electronically. Sections 108.14 (2) and 227.11 (2), Stats., authorize the department to adopt and enforce all rules the department finds necessary to carry out the requirements of Chapter 108, Stats.

Plain language analysis. Wisconsin Act 59 in 2007 amended several provisions of ch. 108, Stats., related to how employers file reports with the department, the timeliness for filing reports, and the penalties for failing to do so. The proposed rule corresponds with the statutory changes in 2007 Wis. Act 59, eliminates provisions that duplicate statutory provisions, and eliminates obsolete provisions.

As amended by 2007 Wis. Act 59, Chapter 108 requires employer agents and employers of 25 or more employees to file quarterly wage reports electronically. Section 108.205, Stats. Quarterly wage reports must be filed by the last day of the month following the completion of the calendar quarter and may be assessed a penalty of \$50 for each delinquent quarterly report. Sections 108.205 (1) and 108.22 (1) (a), Stats. In addition, an employer that fails to file the report in the required format may be assessed a penalty of \$20 for each employee whose information is not reported in the correct format. Section 108.22 (1) (ac), Stats.

The proposed rule updates the requirements for filing quarterly wage reports to include electronically filed reports, and identifies the website where electronic reports may be filed. The proposed rule eliminates the need for employers to notify the department whether they provide access to a health insurance plan; this provision is obsolete. The rule currently provides that the time to file a report is extended if it is mailed as long as the report is postmarked by the due date or 3 days past the due date. However, pursuant to the statutes as amended by 2007 Wis. Act 59, quarterly wage reports are due the last date of the month following a quarter. This obsolete provision is removed from the rule. The proposed rule eliminates the obsolete provisions related to employers filing wage record data on combined quarterly contribution report forms. The proposed rule eliminates the obsolete penalties for delinquent wage reports. Finally, the department reviewed the rule to eliminate provisions that were repetitive or duplicated statutory provisions, and to edit for grammatical purposes.

Summary of, and comparison with, existing or proposed federal regulations. Since 1988, federal law has required all States to have in effect, as a condition for compliance with federally aided assistance programs, a requirement that employers make quarterly reports of wages to the state.

Comparison with rules in adjacent states. Illinois requires that employers file wage reports either electronically or by paper on a printed packet together with the contribution report. The reports must be filed on or before the due date, the last day of the calendar month next following the calendar quarter. 56 Ill. Adm. Code s. 2760.120, .125 & .140. Iowa requires that wage reports and contributions are due the last day of the month following the end of the calendar quarter. Contributions that are mailed must be postmarked by the due date. 871 Iowa Admin. Code s. 23.8 (96). Michigan statutes require each employer to file a quarterly wage report on forms and at a time as the commission prescribes, but does not have rules interpreting

the statute. Mich. Comp. Law s. 421.13. Minnesota statutes require that employers file wage reports electronically and the state calculates the amount of contributions due for the employer. The contributions must be received by the department on or before the last day of the month following the end of the calendar quarter. Minn. Stat. s. 268.051.

Summary of factual data and analytical methodologies. The department sought to conform the rule language to the changes made to the statutory provisions in 2007 Wis. Act 59. In addition, the department reviewed the rule language carefully to eliminate provisions that are unnecessarily duplicative of statutory provisions to avoid the potential problem posed by statutory changes and outdated rule language.

Analysis used to determine effect on small businesses. The proposed rule incorporates the changes to chapter 108, Stats., contained in 2007 Wis. Act 59, and will not have an additional effect on small business.

Effect on small business. The proposed rule incorporates the changes to chapter 108, Stats., contained in 2007 Wis. Act 59, and will not have an additional effect on small business.

Agency contact person. Tracey Schwalbe, UI Research Attorney, (608) 266-9641, tracey.schwalbe@wisconsin.gov.

Place where comments are to be submitted and deadline for submission. An electronic copy of the proposed rules is available at <http://adminrules.wisconsin.gov>. This site allows you to view documents associated with this rule's promulgation, register to receive email notification whenever the Department posts new information about this rulemaking order, and submit comments and view comments by others during the public comment period. You may receive a paper copy of the rule or fiscal estimate by contacting: Tracey Schwalbe, Research Attorney, Unemployment Insurance Bureau of Legal Affairs, Department of Workforce Development, P.O. Box 8942, Madison, WI 53708,

Written comments on the proposed rules received at the above address, email, or through the <http://adminrules.wisconsin.gov> web site no later than July 21, 2010, will be given the same consideration as testimony presented at the hearing.

/s/
Secretary or designee

Date