



State of Wisconsin
Department of Workforce Development
Unemployment Insurance Division

NOTICE OF PUBLIC HEARING

Unemployment Insurance Rules for Coverage and Related Reports

Chapter DWD 110

NOTICE IS HEREBY GIVEN that pursuant to ss. 108.14 (2), 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 coverage and related reports.

Hearing Information

JULY 21, 2010
Wednesday
1:00 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), 108.22, and 227.11, Stats.

Statutes interpreted: Section 108.17, 108.21, and 108.22, Stats.

Related statute or rule: Chapter DWD 111.

Explanation of agency authority. Chapter 108, Stats., requires employers to maintain work records and to submit records to the department for inspection, and to submit other reports as required by the department to determine an employer's status and contribution liability.

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 Chapter 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. Section 108.17 (2) (b) was amended in 2007 Wis. Act 59 to provide that employers may be excused from filing contribution reports if they file their wage reports electronically. Section 108.17 (7), Stats., was amended in 2007 Wis. Act 59 to provide that some employers must remit contributions or other payments due electronically. The proposed rule takes into account the statutory changes to allow filing of reports and payments electronically. 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. Pursuant to the statutes as amended by 2007 Wis. Act 59, contribution reports and payments are due the last date of the month following a quarter; this obsolete provision is removed from the rule. The reference to due dates falling on holidays or weekends is repealed because it duplicates s. 108.22(1)(b), Stats.; however, legal holidays are clarified to also include any date the Unemployment Division is closed due to furlough, or due to inclement weather or other acts of nature. The rule currently refers to a \$10,500 taxable wage base for computing the defined taxable payroll. The proposed rule refers to the taxable wage base as provided in ch. 108, Stats., rather than naming the amount because the amount is scheduled to change over time. 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. There are no federal requirements governing how states receive contribution reports.

Comparison with rules in adjacent states. Illinois rules require that an employer must pay contributions due by check accompanied by a transmittal form. Employers with 250 or more employees must file quarterly reports electronically. Contributions are due on or before the last day of the month following the end of the quarter. Where the payment is made by mail, the reports are considered timely if the postmark bears a date within the prescribed time limit. Late payments are assessed interest at the rate of 2% per month. 56 Ill. Adm. Code ss. 2760.135-.60. 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. Penalties may be applied to reports that are not received by the due date and interest of 1% per month is charged on overdue contributions. 871 Iowa Admin. Code s. 23.8 (96). Michigan requires that employer contributions are due quarterly; employers must submit contribution reports on form provided by the agency or electronically. Payments are due on or before the 25th day of the month next following the last day of the calendar quarter. Contributions paid after the 25th but before the first day of the next calendar month do not accrue interest. Mich. Admin. Code s. 421.121. 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