Rules Clearinghouse No. _____

Proposed Hearing Draft Rule
December 12, 2013

PROPOSED ORDER OF THE WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
AMENDING, CREATING, AND ADOPTING RULES

1 The Wisconsin department of workforce development proposes the following order ***to repeal***
2 DWD 111.07 and 132.03; ***to amend*** DWD 113.01 (1) (intro.) and 115.07 (2) (a); and ***to create***
3 DWD 113.01 (1) (c), 113.025, 114, and 140.22 relating to quarterly wage reporting, settlement
4 of disputes and compromise of liabilities, license revocation and financial record matching,
5 business transfers, determining eligibility of benefits, unemployment insurance appeals and
6 affecting small business.

Analysis Prepared by the Department of Workforce Development

Statutes Interpreted

Statutes Interpreted: Ch. 108, Stats.

Statutory Authority

Statutory Authority: ss. 108.14 (2) and (26), 108.22 (1) (cm), and 108.227 (1m), Stats.

Explanation of Statutory Authority

The Department of Workforce Development (DWD) has specific and general authority to establish rules interpreting and clarifying provisions of ch. 108, Stats., unemployment insurance (UI) and reserves. Under s. 108.14 (2), Stats., DWD may adopt and enforce all rules necessary or suitable to carry out ch. 108, Stats. 2013 Wisconsin Act 20 (Act 20) and 2013 Wisconsin Act 36 (Act 36) granted additional statutory authority for the promulgation of rules including:

- Section 108.14 (26), Stats., instructs DWD to prescribe by rule a standard affidavit form that may be used by parties involved in UI administrative appeals.

- Section 108.22 (1) (cm), Stats., allows DWD to waive or decrease the interest charged to employers due to delinquent payment of UI taxes in limited circumstances as prescribed by administrative rule.

- Section 108.227 (1m), Stats., instructs DWD to promulgate rules regarding certification of a person delinquent for UI contributions whose license or credential is to be denied, not renewed, discontinued, suspended or revoked.

Related Statutes or Rules

Chapter 108, Stats., governs the state's unemployment insurance system and the related rules are chs. DWD 100, 111, 113, 115, 132, and 140.

Plain Language Analysis

DWD is proposing to amend chs. DWD 111, 113, 115, 132, and 140 and create ch. DWD 114. Amendments to these chapters, and the creation of ch. DWD 114 are necessary to align DWD's administrative rules to the changes under ch. 108, Stats., enacted under Act 20 and Act 36.

DWD is proposing amendments to the following:

Quarterly Wage Reporting

- Under ch. 108, Stats., employers are required to file a quarterly wage report with DWD. If an employer files a late quarterly wage report, s. DWD 111.07 details the process used in assessing a penalty against the employer and the amount of the penalty. The provisions with respect to the amount and process of assessing a penalty against the employer who files a tardy quarterly wage report are now set forth in s. 108.22, Stats., as a result of Act 36. Section DWD 111.07 should be repealed.

Settlement of Disputes and Compromise of Liabilities

- Chapter DWD 113 establishes standards for the settlement of disputes between the department and parties to determinations, decisions or actions and the compromises of liabilities for contributions, reimbursements in lieu of contribution, interest penalties and costs assessed under ch. 108, Stats. Act 36 permits DWD to waive or decrease the interest charged to an employer in limited circumstances as prescribed by administrative rule.

Business Transfers

- Successorship occurs when all or a portion of the former owner's UI account is transferred to the new owner due to a transfer of all, or a portion of the business. There are both mandatory and optional provisions for successorship. Act 36 provides that DWD may accept an optional successorship application that is filed late as a result of excusable neglect. DWD shall not accept a late application for successorship more than 90 days after the due date, regardless of whether there is excusable neglect for the application being late. The amendments to ch. DWD 115, which regulates business transfers, make the rule consistent with the provisions of Act 36.

Determining Eligibility for Benefits

- The law provides that under certain circumstances, employees may be eligible for benefits even though they voluntarily quit their job. One circumstance involves an employee who terminates part-time employment because loss of the employee's full-time employment makes it economically unfeasible for the employee to continue the part-time employment. Act 20 repealed this exception. Section DWD 132.02 clarified the provisions of s. 108.04 (7) (k), Stats., and should be repealed.

Unemployment Insurance Appeals

- Act 36 instructs the department to create a standard affidavit form that may be used by both claimants and employers during UI administrative appeals. Procedures regarding appeals are contained in ch. DWD 140 and DWD will prescribe the standard affidavit form within this chapter.

DWD is proposing the creation of the following:

License Revocation and Financial Record Matching

- Act 36 requires various state agencies and boards (licensing departments) that issue various licenses and other credentials (licenses) to revoke a license or deny an application for a license if DWD certifies that the license holder or applicant owes DWD delinquent UI taxes. The creation of ch. DWD 114 provides procedures for persons whose license or credential is to be denied, not renewed, discontinued, suspended or revoked based on being certified delinquent in paying UI contributions. Act 36 requires DWD to promulgate rules for the process to deny or revoke a license based on delinquent UI taxes.

- Act 36 authorized DWD to operate a financial record matching program. The creation of ch. DWD 114 creates proposed rules that are consistent with the requirements used by other state agencies operating a similar financial record matching program.

Summary of, and comparison with, existing or proposed federal statutes and regulations

Unemployment insurance was initiated on a national basis in the United States as Title III and Title IX of the Social Security Act of 1935 and is a Federal-State coordinated program. Each state administers its own program within national guidelines promulgated under federal law. As a condition of a state receiving its unemployment compensation administrative grant, 42 USC 503 (a) provides that the Secretary of the Department of Labor must find that the law of the state includes certain requirements. With respect to these rules, 42 USC 503 (a) (3) provides that state laws grant an opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment insurance are denied.

Comparison with rules in adjacent states

Waiving or Decreasing Interest Charged to Employers Delinquent in Paying UI Tax

Illinois	The Director of Employment Security is authorized to waive the payment of all or part of any interest and penalty upon proper application and showing of good cause. (Sections 1401 and 1402) Good cause has been defined by Department rule to consist of any or all of the following: (a) Where the delay was caused by the death or serious illness of the employer or a member of his immediate family, or by the death, or serious illness of the person in the employer's organization responsible for the preparation and filing of the report or for making the payment. (b) Where the delay was caused by the destruction of the employer's business records by fire or other casualty without fault. (c) Where the Department, in its written communication or through a specifically identified employee in oral communication directed to a specific employer account, affirmatively misled the employer as to its duties and obligations such that the charging of interest to the employer would violate the principle of equitable estoppel. (d) For the purposes of waiver of interest only: Where the employer relied to its detriment on a certificate issued by the Director pursuant to Section 2600 of the Act and the Director agrees, at a later date, that the certificate was issued in error, such waiver shall be granted from the date the erroneous certificate was issued to a date 30 days after notice that the original certificate was in error. Interest can also be waived according to Department rule whenever the employer can demonstrate extreme financial hardship and files with the Director a repayment agreement. However, the waiver in this instance only applies to additional interest that would have accrued during the period of the repayment agreement. (56 Ill. Adm. Code Section 2765.65) The Director will waive interest for a nonprofit organization or for a local governmental entity, if: (a) The organization or entity had never filed any of the reports or forms required of it under the Act; and

	(b) It had not been determined to be the "chargeable employer" as result of the filing of an unemployment insurance claim; and (c) Its chief operating officer files an affidavit with the Director in which he states that, upon learning of the organization or entity's liability under the Act, he took immediate action to bring the organization or entity into compliance. (56 Ill. Adm. Code 2765.70)
Indiana	Indiana's Unemployment Insurance employer handbook states that "Delinquent employers should either pay the amount due, or contact the Indiana Department of Workforce Development as soon as possible to discuss payment options. Payment agreements are available to any employer that needs to arrange for payment over-time that has not previously defaulted on a payment agreement." There is no discussion of waiving or decreasing the interest owed by employers who are delinquent in paying unemployment insurance taxes.
Iowa	Chapter 96 of the Iowa Code does not include provisions for the waiver or forgiveness of interest charged to an employer who is delinquent in paying unemployment insurance taxes.
Michigan	Section 15 (b) of the Michigan Employment Security Act requires the Unemployment Insurance Agency to bill an employer for delinquent unemployment insurance taxes and to charge interest. The law does not include provisions to enable the agency to waive or decrease this interest once it is charged.
Minnesota	Minnesota statutes at 268.067 states: (a) The commissioner of employment and economic development may compromise in whole or in part any action, determination, or decision that affects only an employer and not an applicant. This paragraph applies if it is determined by a court of law, or a confession of judgment, that an applicant, while employed, wrongfully took from the employer $500 or more in money or property. (b) The commissioner may at any time compromise any unemployment insurance tax or reimbursement due from an employer under this chapter or Minnesota's Special Assessment for Interest owed to the federal government. (c) Any compromise involving an amount over $10,000 must be authorized by an attorney licensed to practice law in Minnesota who is an employee of the department designated by the commissioner for that purpose. (d) Any compromise must be in the best interest of the state of Minnesota.

Revoke or Deny an Application for Licenses Based on Delinquent UI Contributions

Illinois	Illinois' unemployment insurance administrative code does not authorize the Illinois unemployment insurance agency to revoke or deny an application for an employer's license based on delinquent UI contributions.
Indiana	Indiana's unemployment insurance law does not authorize the Indiana unemployment insurance agency to revoke or deny an application for an employer's license based on delinquent UI contributions.
Iowa	Iowa's unemployment insurance law does not authorize the Iowa unemployment insurance agency to revoke or deny an application for an employer's license based on delinquent UI contributions.
Michigan	Michigan's unemployment insurance law does not authorize the Michigan unemployment insurance agency to revoke or deny an application for an employer's license based on delinquent UI contributions.
Minnesota	The state of Minnesota or a political subdivision may not issue, transfer, or renew, and must revoke a license for the conduct of any profession, trade, or business, if the commissioner notifies the licensing authority that the licensee, applicant, or employer owes unemployment insurance contributions of $500 or more. A licensing authority that has received a notice may issue, transfer, renew, or not revoke the license only if the licensing authority has received a copy of the debt clearance certificate. (M.S.A. § 268.0625 (Subdivision 1))

Creation of Standard Affidavit for UI Administrative Appeal Hearings

Illinois	Illinois does not direct its unemployment insurance agency to create a standard affidavit for unemployment insurance administrative appeal hearings. A review of Illinois' unemployment insurance agencies document entitled Preparing for your Appeal Hearing only references affidavits by stating "Any document submitted in evidence must be supported by testimony from a person at the hearing who has direct knowledge of the document's contents. For example, third party affidavits or test results without someone who can testify as to their meaning or validity cannot overcome direct testimony from the opposing party. Likewise, business records must be supported by testimony during the hearing."

Indiana	Indiana does not provide parties with a standard affidavit to be used in UI appeals heard before administrative law judges. Indiana Code 22-4-17-6 (a) provides "Sec. 6. (a) The manner in which disputed claims shall be presented and the conduct of hearings and appeals, including the conduct of administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process, shall be in accordance with rules adopted by the department for determining the rights of the parties, whether or not the rules conform to common law or statutory rules of evidence and other technical rules of procedure." Indiana Code 22-4-17-7 provides "Sec. 7. In the discharge of the duties imposed by this article, any member of the board, the department, the review board, or an administrative law judge, or any duly authorized representative of any of them, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue and serve subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the disputed claim or the administration of this article."
Iowa	Iowa does not use a standard affidavit for UI appeals.
Michigan	Michigan does not utilize a standard affidavit for UI appeals. Referees conducting hearing shall accept competent, relevant, and material evidence.
Minnesota	268.105 (b) of the Minnesota statutes provides that affidavits may be used in unemployment insurance appeals as competent evidence of the facts contained in it, but does not provide that the Minnesota unemployment insurance agency shall create a standard affidavit to be used in the hearings.

Summary of factual data and analytical methodologies

This rule does not depend on any complex analysis of data. Instead, the changes to the rules are required by recent legislative enactments and represent common sense amendments that will assist employers in their dealings with the UI system.

Analysis and supporting document used to determine effect on small business or in preparation of an economic impact analysis

This rule will have a positive impact on employers by allowing DWD flexibility with problems encountered by employers within the UI system due to inadvertent mistakes.

Effect on small business

The rule modifications impacting small businesses will ease program requirements and likely reduce costs for small businesses. The small businesses that may be affected by this rule include the following:

- **Small Businesses that are Delinquent in Paying UI Taxes:**

  1. DWD charges interest if an employer is delinquent in paying UI taxes. In limited circumstances, Act 36 grants DWD the authority to waive or decrease the interest charged to employers who are late in paying their UI taxes, but provides that DWD shall prescribe rules to exercise this authority. Thus, the rules will specify when all businesses, including small businesses, may be eligible for a waiver or reduction in interest charged to them as a result of their being delinquent in paying UI taxes.

  2. Act 36 requires various state agencies and boards (licensing departments) that issue various licenses and other credentials (licenses) to revoke a license or deny an application for a license if DWD certifies the license holder or applicant owes UI contributions. Act 36 provides that this collection tool may be used to collect UI contributions when the employer has exhausted all legal rights to challenge the employer's liability. Act 36 also requires DWD to promulgate rules with respect to the process DWD will follow when it uses this collection tool.

- **Small Businesses involved in UI Administrative Appeals:**

Act 36 directs DWD to prescribe by rule a standard affidavit form that may be used by parties, including small businesses, to UI administrative appeals. Employers and claimants will have discretion in whether or not to use these forms when involved in a UI administrative appeal. The standard affidavit form may be used by small business owners to reduce staff time and other resources associated with UI appeals.

Agency contact person

Questions and comments related to this rule may be directed to:

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Place where comments are to be submitted and deadline for submission

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The department will hold a public hearing on January 21, 2014, in Madison. Hearing comments will be accepted until January 31, 2014.

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1 **SECTION 1.** DWD 111.07 is repealed.

2 **SECTION 2.** DWD 113.01 (1) (intro.) is amended to read:

3 DWD 113.01 (1) ~~As required under s. 108.10 (8), Stats., this~~ This chapter establishes

4 standards for the following circumstances:

5 **SECTION 3.** DWD 113.01 (1) (c) is created to read:

6 DWD 113.01 (1) (c) In limited circumstances, waiving or decreasing the interest charged

7 under s. 108.22 (1) (a) or 108.17 (2c) (c), Stats.

8 **SECTION 4.** DWD 113.025 is created to read:

9 **DWD 113.025 Waiver of interest.** (1) Except as provided in s. DWD 113.02 or 113.03,

10 in its discretion the department may only grant a waiver or decrease in interest owed by an

11 employer if the employer satisfies all of the following conditions:

12 (a) The employer pays the full payment of any taxes and assessment due within 30 days

13 following resolution of all issues. Until the employer pays all of the correct amount of taxes due,

14 the department shall not waive or decrease any of the interest owed by the employer.

15 (b) The employer files any wage or tax report due within 30 days following resolution of

16 all issues. Until the employer files all of the wage or tax reports that are due, the department

17 shall not waive or decrease any of the interest owed by the employer.

(c) The employer has no other outstanding reports, contributions, interest, penalty or other fees due.

(d) The employer is a newly subject employer or has a history of timely filing required reports, including wage and tax reports, and of making payments in a timely manner.

(e) The employer or a business for which the employer is a successor of, pursuant to the requirements of s. 108.16 (8), Stats., has never previously received a waiver or decrease in interest charged under s. 108.22 (1) (a) or 108.17 (2c) (c), Stats.

(f) There has not been a hearing on the tax liability associated with the interest.

(2) If all of the conditions of sub. (1) are satisfied, the department may waive or decrease the interest charged under s. 108.22 (1) (a) or 108.17 (2c) (c), Stats., if the interest charged resulted from any of the following circumstances:

(a) The employer failed to pay taxes or underpaid taxes by the required due date established by the department as a result of excusable neglect.

Note: An erroneous contention regarding the unemployment law or misunderstanding of the obligations under the law shall not constitute excusable neglect. The following are examples of excusable neglect if the interest resulted from:

- Embezzlement by an accountant or an employee who is not related to the employer such that the embezzlement caused the interest to be due.
- Inaccurate written communication by the Wisconsin Division of Unemployment Insurance to the employer that affirmatively misled the employer as to its duties and obligations such that the inaccurate written communication caused the interest to be due.

(b) An inadvertent mathematical miscalculation by the employer of the amount of tax due resulting in a de minimis underpayment of taxes.

SECTION 5. Ch. DWD 114 is created to read:

LICENSE REVOCATION AND FINANCIAL RECORD MATCHING PROGRAM

1 **DWD 114.01 Definitions.** (1) Except as provided in sub. (2) and unless the context
2 clearly indicates a different meaning, the definitions in ch. DWD 100 apply to this chapter.
3 (2) Notwithstanding ch. DWD 100 and unless the context clearly indicates a different
4 meaning, in this chapter:
5 (a) "Certificate of nondelinquency" has the meaning given in s. 108.227 (1) (g), Stats.
6 (b) "Contribution" has the meaning given in s. 108.227 (1) (a), Stats.
7 (c) "Debtor" means an employer as defined in s. 108.02 (13), Stats., or any individual
8 who is found personally liable under s. 108.22 (2) and (9), Stats.
9 (d) "Delinquent" means a debtor who is liable for any contributions or payments which
10 remain unpaid after the applicable due date.
11 (e) "Liable for delinquent contributions" has the meaning given in s. 108.227 (1) (d),
12 Stats.
13 (f) "Licensing department" has the meaning given in s. 108.227 (1) (f), Stats.
14 (g) "License holder" means an employer as defined in s. 108.02 (13), Stats., or any
15 individual who is found personally liable under s. 108.22 (2) and (9), Stats., and possesses or
16 applies for a license as defined in s. 108.227 (1) (e), Stats.
17 (h) "License revocation" means suspension, nonrenewal, revocation or the withdrawal of
18 any or all license privileges, including the privilege to apply for, purchase, or exercise the
19 benefits conferred by any license by a license holder.
20 (i) "Memorandum of understanding" means an agreement in compliance with s. 108.227
21 (4), Stats., between the department and a licensing department.

1 **DWD 114.10 Purpose.** This chapter specifies all of the following:

2 (1) Procedures to be used before taking action under ss. 108.227 (3) (b), 102.17 (1) (ct),
3 103.275 (2) (bt), 103.34 (10) (d), 103.91 (4)(d), 103.92 (8), 104.07(7), or 105.13 (4), Stats., with
4 respect to a person whose license or credential is to be denied, not renewed, discontinued,
5 suspended, or revoked based on delinquent unemployment insurance tax contributions.

6 (2) Procedures under which the department shall enter into agreements with financial
7 institutions doing business in this state to operate the financial record matching program under s
8 108.223.

9 **DWD 114.20 Certification of delinquency.** After the department has issued an initial
10 determination as specified under s. 108.10, Stats., finding a debtor delinquent in making
11 contributions as specified under s. 108.227 (1) (d), Stats., and after all potential appeals by the
12 license holder are exhausted the department may:

13 (1) Issue and provide notice of a warrant as specified under s. 108.22 (2) and (3), Stats.

14 (2) Issue and provide by personally serving or mailing by certified mail to the debtor's
15 last known address, a certified notice of liability that includes all of the following information:

16 (a) The mailing date of the notice.

17 (b) The payment amount demanded.

18 (c) That the department may issue a certificate of delinquency to a licensing department
19 that may result in the license or credential being denied, not renewed, discontinued, suspended or
20 revoked.

21 (d) That the debtor has 10 calendar days from the date of mailing of the notice to submit
22 the full payment identified under par. (b). or to enter into an installment payment plan schedule
23 that is established by the department under s. DWD 114.30.

(3) At the request of a licensing department, which has a memorandum of understanding as required in s. 108.227 (4), Stats., with the department, issue a certificate of delinquency to the licensing department after subs. (1) and (2) have been complied with and the debtor has failed to pay the full payment demanded or entered into and complied with an installment payment plan.

(4) Upon request of any license holder or applicant who has paid the full amount demanded, has entered into and complied with an installment payment plan, or is otherwise not liable for delinquent contributions, the department shall issue a certificate of nondelinquency to the debtor and any licensing department that received a certificate of delinquency.

DWD 114.30 Installment payment plans. (1) Any license holder who is unable to pay the full amount of the delinquent unemployment insurance contributions, costs, penalties and interest may negotiate with the department to pay such contributions, costs, penalties and interest in installments through a payment plan. The license holder shall provide a statement of the reasons such contributions, costs, penalties and interest cannot be paid in full and shall set forth the plan of installment payments proposed by the license holder. Upon approval of such plan by the department and the timely payment of installments set forth in the plan, collection proceedings with respect to such contributions, costs, penalties and interest shall be withheld. If the license holder fails to make any installment payment as scheduled, the department may cancel the installment payment plan and proceed to collect the unpaid portion of such contributions, costs, penalties and interest in the manner provided by law and may reissue a certificate of delinquency without further notice. The department may require license holders who make installment payments under this paragraph to do so by electronic funds transfer.

(2) A delinquent license holder may enter into an installment payment plan that will allow the delinquent license holder to make full payment of all delinquencies within 2 years. At

its discretion, the department may extend or reduce the timeframe of the installment payment plan. The department shall consider the ability of the debtor to pay.

Note: An example in which the department may extend the timeframe of the installment payment plan may include the inability of the license holder to pay taking into account the license holder's income and assets.

An example in which the department may reduce the timeframe of the installment payment plan may include that the department ascertains the license holder has income or liquid assets sufficient to enable the license holder to pay the remainder of the tax including costs, penalties and interest.

(3) A license holder in an active installment payment plan shall pay current and subsequent quarterly contributions in full and on the date specified by the department.

DWD 114.40 Other enforcement actions not prohibited. Certifying a license holder liable for delinquent contributions does not limit the department from taking other actions required or permitted by law to collect contributions from the license holder.

DWD 114.50 Financial record matching program. A financial institution doing business in this state shall enter into an agreement with the department to participate in the exchange of data on a quarterly basis. To the extent feasible, the information required under this agreement shall be submitted by electronic means as prescribed by the department. The financial institution shall sign the agreement and return the agreement to the department within 20 business days of receipt of the agreement. The department shall review the agreement and, if all conditions have been met, shall sign the agreement and provide the financial institution with a copy of the signed agreement. Any changes to the conditions of the agreement shall be submitted by the financial institution or the department at least 60 days prior to the effective date of the change.

SECTION 6. DWD 115.07 (2) (a) is amended to read:

DWD 115.07 (2) (a) The department shall consider as timely under sub. (1) (d) any written application from the transferee or its representative which is received by the department on or before: July 31 of the year in which the transfer date is January 1 to March 31; October 31 of the year in which the transfer date is April 1 to June 30; January 31 of the year following the year in which the transfer date is July 1 to September 30; and April 30 of the year following the year in which the transfer date is October 1 to December 31, unless par. (b) applies. The department shall accept a late application received no more than 90 days after its due date if the transferee satisfies the department that the application was late as a result of excusable neglect.

SECTION 7. DWD 132.03 is repealed.

SECTION 8. DWD 140.22 is created to read:

DWD 140.22 Standard Affidavit Form. (1) IN GENERAL. (a) An affiant is a person who swears to an affidavit.

(b) An affidavit is a written statement sworn under oath before a notary public or other person authorized by law.

(c) An affidavit must be based upon personal knowledge or upon information and belief.

(d) Personal knowledge is the recognition of facts through firsthand observation or experience.

(e) Information and belief is not based on firsthand observation or experience but is based on secondhand information that is sworn as true.

(f) The department's standard affidavit form for appeals under ss. 108.09 and 108.10, Stats., is available at the department's website or by requesting a copy from the hearing office.

Note: The standard affidavit form can be found at the department's website: https://www.dwd.wisconsin.gov

1 (2) AFFIDAVIT REQUIREMENTS. (a) An affidavit must contain all of the following
2 information:
3 1. The name and address of the affiant.
4 2. The signature or mark of the affiant.
5 3. The date the statement was sworn.
6 4. The signature or mark of the notary public or other person authorized by law.
7 5. The county and state where the statement was sworn.
8 (b) An affidavit based upon information and belief must state the source of the
9 information and the grounds for the belief.
10 (3) PROCEDURE. (a) A party may submit an affidavit as a potential exhibit by
11 simultaneously delivering those documents to the hearing office and copies to the other party.
12 The administrative law judge conducting the hearing may refuse to consider an affidavit not
13 received by the hearing office or the other party at least 3 days prior to the hearing.
14 (b) At the hearing, the administrative law judge may accept the affidavit as evidence as
15 provided under s. DWD 140.16.
16 **SECTION 9. INITIAL APPLICABILITY.** The amendments to ch. DWD 113 and creation of
17 ch. DWD 114 first apply to any delinquencies existing on or after the effective date of this rule.
18 **SECTION 10. EFFECTIVE DATE** This rule shall take effect on the first day of the month
19 following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2)
20 (intro.), Stats.

Dated this _____day of _____, 2014.

WISCONSIN DEPARTMENT OF
WORKFORCE DEVELOPMENT

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Reginald J. Newson, Secretary