Wisconsin Department of Workforce Development

Initial Regulatory Flexibility Analysis

Rule Subject:	**Quarterly Wage Reporting, Settlement of Disputes and Compromise of Liabilities, License Revocation and Financial Record Matching, Business Transfers, Determining Eligibility of Benefits and Unemployment Insurance Appeals**
Adm. Code Reference:	**DWD 111, 113, 114, 115, 132, and 140**
Rules Clearinghouse #:	**Not yet assigned**

Rule Summary

The Department of Workforce Development (DWD) is proposing changes to the unemployment insurance (UI) administrative rules that are required by or necessary as a result of the passage of 2013 Wisconsin Act 20 (Act 20) and 2013 Wisconsin Act 36 (Act 36). These Acts granted DWD additional statutory authorization for the promulgation of rules. 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 Section DWD 111.07 should be repealed.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 DWD 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, except if the optional successorship application is submitted more than 90 days after the due date. 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 that was contained in s. 108.04 (7) (k), Stats. Section DWD 132.02 clarified the provisions of s. 108.04 (7) (k), Stats., and should be repealed.

Unemployment Insurance Appeals

- Act 36 instructs DWD 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 rules with respect to the use of 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. Act 36 requires DWD to promulgate rules for the process to deny or revoke a license based on delinquent UI taxes. The creation of ch. DWD 114 provides procedural protections for individuals 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 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.

Small Business Affected

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 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 instructs DWD to prescribe by rule a standard affidavit form that may be used by both claimants and employers, including small businesses, during 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.

Reporting, Bookkeeping and other Procedures

The amendments to the rules do not require businesses, including small businesses, to perform additional reporting, bookkeeping or other procedures.

Professional Skills Required

The amendments to the rules do not require businesses, including small businesses, to acquire additional professional skills to comply with the amendments.

Accommodation for Small Business

The rule amendments do not make special exceptions for small businesses due to the fact the changes to the UI program will positively impact businesses of all sizes.

The proposed rule amendments and creation of ch. DWD 114 include provisions that will benefit large and small businesses alike. For example, this rule amendment will:

- Create standards for DWD to waive or decrease interest charged to an employer that is late in paying UI taxes.
- Provide procedural protections for employers who are subject to a denial or revocation of various licenses based on delinquent UI contributions.
- Create a standard affidavit form for use in UI administrative appeal hearings, which is designed to ease the administrative burdens encountered by employers involved in a UI appeal.

Conclusion

These amendments to the rules will benefit Wisconsin businesses, including many small businesses. These amendments will have no adverse impact on affected businesses and, as a result, the amendments are not subject to the small business delayed effective date under s. 227.22 (2) (e), Stats.

Dated this 12th day of December, 2013.

STATE OF WISCONSIN
DEPARTMENT OF WORKFORCE
DEVELOPMENT

By _____ for
Robert Rodriguez, Administrator
Division of Unemployment Insurance