

Regulatory Analysis

TEXT BOXES WILL EXPAND AS YOU TYPE

Agency Name Iowa Workforce Development Rule # 871-21.1, 871-22.17, 871-24.29, and 871-25.6

Iowa Code Section Authorizing Rule 96.11

State or Federal Law(s) Implemented by the Rule Appendix E of Employment and Training Handbook 407, 4th Edition, Tax Performance Systems

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

Date/Time: 1/16/2024 10:00

Location: Iowa Workforce Development, 1000 E. Grand Ave., Des Moines, IA 50319

Any interested person may submit written comments concerning this regulatory analysis. Written comments in response to this regulatory analysis must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Contact Name

Jeffrey Koncsol

Address

1000 E. Grand Ave., Des Moines, IA 50319

Email and/or phone number

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Purpose and summary of proposed rule:

This rule implements a portion of recent amendments to Appendix E of Employment and Training Handbook 407, 4th Edition, Tax Performance Systems, concerning state employer unemployment insurance audit functions, which directs states to rename “field audits” as “employer audits” to align more closely with current employer audit practices, which may involve both in-person field audits and remote audits.

Analysis of Impact of Proposed Rule

1. Persons affected by the proposed rule

- Classes of persons that will bear the costs of the proposed rule:

IWD may need to update training and audit materials to reflect this change.

- Classes of persons that will benefit from the proposed rule:

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Both IWD and employers, as the revised term will more appropriately describe the audit process. This could potentially decrease confusion and ensure that the audit meets the expectations of the employer.

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2. Impact of the proposed rule, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred

- Quantitative description of impact:

The revised description of audits more closely aligns with current practice, thereby better managing employer expectations.

- Qualitative description of impact:

3. Costs to the state

- Implementation and enforcement costs borne by the agency or any other agency:

IWD will need to update audit materials to reflect this change but the costs to do so will be minimal.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues as the processes currently exist.

4. Comparison of the costs and benefits of the proposed rule to the costs and benefits of inaction

Failure to update the rule will result in IWD being out of compliance with United States Department of Labor (USDOL) guidelines.

5. Determination if less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule

None. This change is required by USDOL.

6. Alternative methods considered by the agency

- Description of any alternative methods that were seriously considered by the agency:

There was no alternative seriously considered as this terminology is required to remain in compliance with USDOL.

- Reasons why they were rejected in favor of the proposed rule:

Any other option would not comply with UDOL requirements.

Small Business Impact

If the rule will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rule on small business:

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- Establish less stringent compliance or reporting requirements in the rule for small business.
- Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
- Consolidate or simplify the rule's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rule for small business.
- Exempt small business from any or all requirements of the rule.

If legal and feasible, how does the rule use a method discussed above to reduce the substantial impact on small business?

This change will ensure that small business owners better understand that the audit will not include an in-person portion.

Text of Proposed Rule:

ITEM 1. Amend subrule 21.1(2) "d" as follows:

d. The bureau also assigns all ~~field~~ employer audit work. Information is entered into the automated system which generates materials to be utilized by the ~~field~~ employer audit staff in conducting an employer inquiry and audit.

ITEM 2. Amend title of rule 22.17(96) as follows:

871—22.17(96) Procedures of ~~field~~ employer auditors.

ITEM 3. Amend subrule 22.17(1) as follows:

22.17(1) ~~Field~~ Employer auditors are to provide a cost-effective method of promoting employers' understanding of employer rights and responsibilities under Iowa unemployment insurance laws.

ITEM 4. Amend subrule 22.17(2) as follows:

22.17(2) The department, through duly appointed ~~field~~ employer auditors, may examine an employer's records at any time, subject to the limitations of 871—22.1(96), to determine compliance with Iowa Code chapter 96.

ITEM 5. Amend subrule 22.17(4) as follows:

22.17(4) The department, through duly appointed ~~field~~ employer auditors, may perform a systematic audit of an employer's records as authorized by Iowa Code section 96.11, subsection 7, and as mandated by the United States Department of Labor. In addition to the provisions of subrules 22.17(1) to 22.17(3), the following provisions apply to systematic audits:

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ITEM 6. Amend subrule 22.17(6) as follows:

22.17(6) When a temporary writ of injunction has been filed by the department, pursuant to Iowa Code section 96.16, against an employer because of the employer's failure or refusal to file a required report or to pay assessed contributions, penalty, and interest, an employer ~~field~~ auditor shall have the right to inspect the enjoined business premises during reasonable hours and interview any interested parties having knowledge of or being involved with the enjoined employer to ensure that such enjoined employer and all of the employer's agents, servants, employees, and assigns are observing the conditions of the temporary writ of injunction.

ITEM 7. Amend subrule 24.29(3) as follows:

24.29(3) Verification of going out of business. When the unemployment insurance representative is informed by the individual or has knowledge of an employer going out of business at a factory, establishment, or other premises, the unemployment insurance representative completes a Form 60-0240, Verification of Business Closing, and refers Form 60-0240 to the ~~field~~ employer audit section for assignment to an employer ~~field~~ auditor who verifies the business closing. A Form 62-2056, Review of Business Status for Closing Credits, is completed for each succeeding claimant who requests to be included in a redetermination for business closing credits. This form is added to the Form 60-0240 already in the department file for the appropriate pending investigation. Upon return of the Form 60-0240 from the ~~field~~ employer audit section, an unemployment insurance representative will issue the appropriate decisions to all claimants who requested that their unemployment insurance claim be redetermined as a business closing based on the results of the investigation.

ITEM 8. Amend subrule 25.6(5) as follows:

25.6(5) The investigation and recovery unit may seek the assistance and expertise of the ~~field~~ employer auditors.