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**RULE PROPOSALS**

**LABOR AND WORKFORCE DEVELOPMENT  
DIVISION OF EMPLOYER ACCOUNTS**

*39 N.J.R. 16(a)*

**Proposed Amendment: N.J.A.C. 12:16-13.7**

**Contributions, Records and Reports**

**Wage Reporting**

Authorized By: David J. Socolow, Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 43:21-1* et seq., specifically 43:21-7g.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2007-7.

A **public hearing** on the proposed amendments will be held on the following date at the following location:

Thursday, January 25, 2007  
10:00 A.M. to 12:00 Noon  
New Jersey Department of Labor and Workforce Development  
John Fitch Plaza  
13th Floor Auditorium  
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by March 3, 2007 to:

David Fish, Regulatory Officer  
Office of Legal and Regulatory Services  
Department of Labor and Workforce Development  
P.O. Box 110, 13th Floor  
Trenton, New Jersey 08625-0110  
Fax: (609) 292-8246

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The agency proposal follows:

**Summary**

The Department is proposing amendments to *N.J.A.C. 12:16-13.7*, which would (1) delete obsolete provisions, (2) update terminology, and (3), beginning in 2008, apply the electronic filing requirement for wage reports to employers with in excess of four employees in any calendar quarter and to third-party payroll processors if the aggregate number of all employees for all clients processed and reported by the payroll processor exceeds four in any calendar quarter.

Specifically, the Department is proposing that existing paragraphs (e)1 through 3 be deleted, since the requirements contained therein apply to wage reports submitted between 1994 and 2000. *N.J.S.A. 43:21-14(b)* states that, ". . . except in the event of fraud, no employer shall be liable for contributions or penalties unless contribution reports have been filed or assessments have been made . . . **before four years have elapsed** from the last day of the calendar quarter with respect to which any contributions become payable . . ." (emphasis added). More than four years have elapsed since December 31, 2000. Therefore, the inclusion of paragraphs (e)1 through 3 within the Administrative Code is no longer necessary.

In addition, the Department is proposing that throughout *N.J.A.C. 12:16-13.7*, the term "magnetic media" be replaced with the term "electronic transmission." The Division of Revenue, within the Department of the Treasury, which receives and processes wage reports, no longer accepts reports submitted in the form of magnetic media (on computer tapes). Rather, for all non-paper filings they rely solely on electronic transmission (through email and the internet). This shift from magnetic media to electronic transmission reflects developments in computer technology. These technological developments essentially render the use of magnetic media obsolete for the purpose of wage reporting.

Similarly, the Department is proposing that throughout *N.J.A.C. 12:16-13.7*, where employers and third-party payroll processors are required to file wage reports electronically, they also be required to file amendments to those wage reports electronically. This amendment to *N.J.A.C. 12:16-13.7* reflects improvements in technology which allow the Division of Revenue to process amendments to wage reports electronically. Until recently, the Division of Revenue was only able to process such amendments to wage reports by paper submission.

The Department is proposing that, where, for the purpose of imposing electronic filing requirements in wage reporting, existing *N.J.A.C. 12:16-13.7* links the submission of wage reports (Form WR-30) to the filing of contribution reports (Form NJ-927) and the payment of contribution liability, all references to the filing of contribution reports and the payment of contribution liability be deleted. The Department has determined that there is no need within the context of this particular requirement (electronic filing of wage reports) to interject the concepts of contribution report filing or payment of contribution liability.

Finally, the Department is continuing with the next step in its ongoing phase-in of employers and third-party payroll processors for the purpose of requiring electronic filing of wage reports. Specifically, existing *N.J.A.C. 12:16-13.7* progressively decreases over a period of years the employee threshold for imposition of the electronic wage report filing requirement: 1995/1996 -- employers with in excess of 250 employees and third-party payroll processors reporting wages for in excess of 100 employees must file electronically; 2001 -- employers with in excess of 50 employees and third-party payroll processors reporting wages for in excess of 50 employees must file electronically; 2006 -- employers with in excess of 10 employees and third-party payroll processors reporting wages for in excess of 10 employees must file electronically. The Department is proposing that beginning in 2008, employers with in excess of four employees and third-party payroll processors reporting wages for in excess of four employees be required to file wage reports electronically. The Department believes that setting the new threshold at five or more employees for all calendar quarters subsequent to the quarter ending December 31, 2007 is appropriate in light of the increasing availability to small employers and third-party payroll processors of affordable computer resources and believes that it is consistent with the pace at which the Department has heretofore phased-in the electronic wage reporting requirement.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to *N.J.A.C. 1:30-3.3(a)5*.

### **Social Impact**

The proposed amendments would have a positive social impact in that electronic filing is the most accurate method of wage reporting, ensuring the fewest mistakes in the transfer of pertinent information from employers and third-party payroll processors to the State. Along with improved accuracy in the reporting of wage information comes improved accuracy in both the payment of unemployment benefits to workers and the charging of employers' experience rating accounts. When employer accounts are charged correctly and benefits are paid correctly, workers, employers and taxpayers benefit.

**Economic Impact**

An employer with between five and 10 employees or a third-party payroll processor reporting for between five and 10 employees, which employer or third-party payroll processor does not already possess a computer with access to the internet, could be negatively impacted by the proposed amendments in that in order to file wage reports under the proposed amendments, that employer or third-party payroll processor would be required, beginning in 2008, to either (1) purchase a computer and pay a service provider for internet access or (2) obtain internet access through some other means (for example, use of a computer at a local library or at a Business Resource Center housed within a Department of Labor and Workforce Development One-Stop Career Center).

All employers, third-party payroll processors and workers, including the employers and third-party payroll processors mentioned above, would benefit economically from the proposed amendments in terms of the aforementioned improvement in accuracy for purposes of calculating benefits and contribution amounts. As indicated above, along with improved accuracy in the reporting of wage information comes improved accuracy in both the payment of unemployment benefits to workers and the charging of employers' experience rating accounts. Moreover, both the State and the taxpayers would benefit economically from the proposed amendments in that they would result in a decrease in the amount of paper reports submitted and, therefore, a decrease in the workload associated with processing wage reports.

**Federal Standards Statement**

The proposed amendments do not exceed standards or requirements imposed by Federal law or regulation. Specifically, the proposed amendments are consistent with the Federal Unemployment Tax Act, 26 U.S.C. § § 3301 et seq., and the regulations promulgated in accordance therewith, 20 CFR § § 601 et seq. Consequently, no Federal standards analysis is required.

**Jobs Impact**

The proposed amendments would have no impact on either the generation or loss of jobs.

**Agriculture Industry Impact**

The proposed amendments would have no impact on the agriculture industry.

**Regulatory Flexibility Analysis**

The proposed amendments would require that a certain segment of the employer and the third-party payroll processor population, which had been previously unaffected by the electronic wage report filing requirement (that is, those employers with between five and 10 employees and those third-party payroll processors reporting for between five and 10 employees), must file wage reports electronically (as opposed to paper filing) for all calendar quarters subsequent to the quarter ending December 31, 2007. This would be a reporting, recordkeeping and compliance requirement and would affect small businesses as that term is defined in the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq. The Department believes that this next step in the phase-in of electronic filing of wage reports will ultimately benefit all participants in the unemployment insurance system, including employers and third-party payroll processors affected by the proposed amendments. The Department has sought to minimize the impact on small businesses by applying the new requirement only to employers with in excess of four employees and third-party payroll processors reporting wages for in excess of four employees, rather than applying it to all employers and all third-party payroll processors. Moreover, proposed *N.J.A.C. 12:16-13.7(e)7* (existing *N.J.A.C. 12:16-13.7(e)8*) provides that an employer or third-party payroll processor may request a waiver from the Department of the requirements set forth within *N.J.A.C. 12:16-13.7(e)* and that such waivers shall be granted by the Department upon a showing of "good cause," as that term is defined in *N.J.A.C. 12:19-1.2*. The remaining proposed amendments impose no reporting, recordkeeping or compliance requirements on small businesses. The possible costs associated with the proposed amendments are addressed earlier within the Economic Impact above. The Department does not anticipate that professional services will be required in order to comply with the proposed amendments.

**Smart Growth Impact**

The proposed amendments would not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

**Full text** of proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

12:16-13.7 Wage reporting

(a)-(d) (No change.)

(e) The following pertains to [magnetic media] **electronic** reporting:

[1. For all calendar quarters subsequent to the quarter ending December 31, 1994 all employers who would report in excess of 250 employees on Form WR-30, "Employer Report of Wages Paid," in any calendar quarter shall file such a report via magnetic media in a form and manner specified by the Division of Revenue, within the Department of the Treasury.

2. For all calendar quarters subsequent to the quarter ending December 31, 1995 all employers who would report in excess of 100 employees on Form WR-30, "Employer Report of Wages Paid," in any calendar quarter shall file such report via magnetic media in a form and manner specified by the Division of Revenue, within the Department of the Treasury.

3. For all calendar quarters subsequent to the quarter ending December 31, 1994, all third-party payroll processors who on a quarterly basis generate and file Form WR-30 "Employer Report of Wages Paid," and Form NJ-927 "Employer's Quarterly report," together with payment of contributions liability shall file the WR-30 reports for all such clients via magnetic media in a form and manner specified by the Division of Revenue, within the Department of the Treasury, if the aggregate number of employees for all clients processed and so reported by the third-party exceeds 100 in any calendar quarter.]

[4.] **1.** For all calendar quarters subsequent to the quarter ending December 31, 2000, all employers who would report in excess of 50 employees on Form WR-30, "Employer Report of Wages Paid," in any calendar quarter shall file such reports via [magnetic media] **electronic transmission** in a form and manner specified by the Division of Revenue, within the Department of the Treasury.

[5.] **2.** For all calendar quarters subsequent to the quarter ending December 31, 2000, all third-party payroll processors, who on a quarterly basis generate and file Form WR-30, "Employer Report of Wages Paid," [and Form NJ-927, "Employer's Quarterly Report," together with payment of contributions liability] shall file [the WR-30] **such** reports for all such clients via [magnetic media] **electronic transmission** in a form and manner specified by the Division of Revenue, within the Department of the Treasury, if the aggregate number of all employees for all clients processed and so reported by the third-party exceeds 50 in any calendar quarter.

[6.] **3.** For all calendar quarters subsequent to the quarter ending December 31, 2005, all employers who would report in excess of 10 employees on Form WR-30, "Employer Report of Wages Paid," in any calendar quarter shall file such reports **and any amendments to such reports** via electronic [means] **transmission** in a form and manner specified by the Division of Revenue, within the Department of the Treasury.

[7.] **4.** For all calendar quarters subsequent to the quarter ending December 31, 2005, all third-party payroll processors who on a quarterly basis generate and file Form WR-30, "Employer Report of Wages Paid," [and Form NJ-927, "Employer's Quarterly Report," together with payment of contributions liability] shall file [the WR-30] **such** reports **and any amendments to such reports** for all clients via electronic [means] **transmission** in a form and manner specified by the Division of Revenue, within the Department of the Treasury, if the aggregate number of all employees for all clients processed and so reported by the third party exceeds 10 in any calendar quarter.

**5. For all calendar quarters subsequent to the quarter ending December 31, 2007, all employers who would report in excess of four employees on Form WR-30, "Employer Report of Wages Paid," in any calendar quarter shall file such reports and any amendments to such reports via electronic transmission in a form and manner specified by the Division of Revenue, within the Department of the Treasury.**

**6. For all calendar quarters subsequent to the quarter ending December 31, 2007, all third-party payroll processors who on a quarterly basis generate and file Form WR-30, "Employer Report of Wages Paid," shall file such reports and any amendments to such reports for all clients via electronic transmission in a form and manner specified by the Division of Revenue, within the Department of the Treasury, if the aggregate number of all employees for all clients processed and so reported by the third-party exceeds four in any calendar quarter.**

[8.] **7.** Employers or third-party payroll processors may have the requirements in (e)1 through [7] **6** above waived or extended for good cause as defined in *N.J.A.C. 12:19-1.2* upon written application for a waiver or extension to the Commissioner or his or her designee.

[9.] **8.** (No change in text.)

[10.] **9.** The filing of form WR-30 via electronic [means] **transmission** includes [, but is not limited to, magnetic media or] Internet methods.

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