



Notice of Intent to Adopt Rules

Revised October 2014

1. General Information		
a. Agency/Board Name Wyoming Department of Workforce Services		
b. Agency/Board Address 100 W. Midwest Ave.	c. City Casper	d. Zip Code 82601
e. Name of Contact Person Michaela Harkins	f. Contact Telephone Number 307-235-3267	
g. Contact Email Address micheala.harkins@wyo.gov		
h. Date of Public Notice December 28, 2015	i. Comment Period Ends February 19, 2016	
j. Program Unemployment Compensation Program		
2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.		
a. If "New," provide the Enrolled Act numbers and years enacted: HEA0058 (2015)		
b. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed <i>Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.</i>		
Chapter Number: Chapter 30	Chapter Name: Hearing on Employer Liability	<input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: Chapter 33	Chapter Name: Rehearings	<input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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c. <input checked="" type="checkbox"/> The Statement of Reasons is attached to this Notice and, in compliance with <i>Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council</i> , 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.		
Complete all that apply: <input type="checkbox"/> The following chapters <u>do not</u> differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j): _____ (Provide chapter numbers) <input type="checkbox"/> These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Reasons). _____ (Provide chapter numbers) <input checked="" type="checkbox"/> N/A These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).		
d. <input checked="" type="checkbox"/> N/A <input type="checkbox"/> In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Section 5 of the Rules on Rules).		
e. A copy of the proposed rules* may be obtained: <input checked="" type="checkbox"/> By contacting the Agency at the physical and/or email address listed in Section 1 above. <input type="checkbox"/> At the following URL: _____		
* If Item "d" above is not checked, the proposed rules shall be in strike and underscore format.		

3. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. Yes No

If "Yes:"	Date: February 19, 2016	Time: 1 P.M.	City: Casper, Wyoming	Location: 100 W. Midwest Ave.
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b. What is the manner in which interested persons may present their views on the rulemaking action?
 By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.
 At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:
 To the Agency at the physical and/or email address listed in Section 1 above.
 At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Contact Person listed in Section 1 above.

4. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. Yes No

If "Yes:"	Applicable Federal Law or Regulation Citation:
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Indicate one (1):
 The proposed rules meet, but do not exceed, minimum federal requirements.
 The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:
 To the Agency at the physical and/or email address listed in Section 1 above.
 At the following URL: _____

5. State Statutory Requirements

a. Indicate one (1):
 The proposed rule change *MEETS* minimum substantive statutory requirements.
 The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):
 The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:
 By contacting the Agency at the physical and/or email address listed in Section 1 above.
 At the following URL: _____
 Not Applicable.

6. Authorization

a. I certify that the foregoing information is correct.

Printed Name of Authorized Individual	Elizabeth A. Nelson
Title of Authorized Individual	Unemployment Insurance Commission Chairperson
Date of Authorization	12/22/15

Distribution List:

- Attorney General and LSO: Hard copy of Notice of Intent; Statement of Reasons; clean copy of the rules; and strike-through and underline version of rules (if applicable). Electronic copies (PDFs) of all items noted (in addition to hard copies) may be emailed to LSO at Criss.Carson@wyoleg.gov.
- Secretary of State: Electronic version of Notice of Intent sent to Rules@wyo.gov.

Unemployment Insurance Commission
Principal Statement of Reasons

Chapter 30, Hearing On Employer Liability

The Unemployment Insurance Commission proposes changing Chapter 30 of its rules in order to maintain consistency with HEA0058, adopted in 2015, allowing claimants and employers 28 days in which to appeal deputy determinations, hearing officer decisions and appeals of benefit charges to employer accounts. The statutes amended by HEA0058 are Wyoming Statutes §§ 27-3-402, 404 and 506. Before amendment, these statutes only allowed a 15 day appeal period. The proposed amendment to Chapter 30 would extend current 15 day period in which an employer may request a hearing on a determination of liability for contributions, subjectivity to Wyoming Statute § 27-3-516, or liability resulting from an audit to 28 days to remain uniform with the statutory appeal periods.

Chapter 33, Rehearings

The Unemployment Insurance Commission proposes changing Chapter 33 of its rules in order to maintain consistency with HEA0058, adopted in 2015, allowing claimants and employers 28 days in which to appeal deputy determinations, hearing officer decisions and appeals of benefit charges to employer accounts. The statutes amended are Wyoming Statutes §§ 27-3-402, 404 and 506. Before amendment, these statutes only allowed a 15 day appeal period. The proposed amendment to Chapter 33 would extend current 15 day period in which a party may file a written application for a rehearing or to reopen a case to 28 days to remain uniform with the statutory appeal periods.

CHAPTER 30

HEARING ON EMPLOYER LIABILITY

Section 1. Request for Hearing.

(a) Any employer not satisfied with the determination of his liability for contributions, subjectivity to provisions of W.S. 27-3-516, or liability resulting from an audit must file, within twenty-eight (28) days after mailing, or personal delivery of the final audit determination, a request for a hearing and reconsideration of his the employer's contribution liability. Such request must be made in writing and state the grounds for the request.

(b) Such hearing shall be conducted by an appeals examiner.

(c) If an employer fails to object to a determination of liability in the manner herein provided, that determination is final.

(d) Successor. An employer not satisfied with the determination of successor under W.S. 27-3-507 must file a request for a hearing within thirty (30) days after mailing of such notice thereof. Otherwise, the decision is binding on the employer.

Section 2. Examiner's Decision. After the close of the hearing, the examiner will issue a decision with findings of fact and conclusions of law. That decision shall be mailed to the alleged employer's address of record. The division staff and the alleged employer will have twenty-eight (28) days from the day the decision is sent to the employer to file an appeal. If an appeal is not filed within that time period, the examiner's decision is final.

Section 3. Commission Decision. If an appeal of the examiner's decision is filed within the twenty-eight-day time period provided in Section 2, the commission will consider the case at one of its monthly meetings. The commission will review the record and the evidence and may affirm, reverse, or modify the examiner's decision, remand the case to the examiner, or take such other action as it deems appropriate. The commission will send a copy of its decision to the alleged employer by certified mail. A petition for judicial review then may be filed pursuant to the Wyoming Administrative Procedure Act.

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HEARING ON EMPLOYER LIABILITY

Section 1. Request for Hearing.

(a) Any employer not satisfied with the determination of his liability for contributions, subjectivity to provisions of W.S. 27-3-516, or liability resulting from an audit must file, within ~~fifteen (15)~~ twenty-eight (28) days after mailing, or personal delivery of the final audit determination, a request for a hearing and reconsideration of his the employer's contribution liability. Such request must be made in writing and state the grounds for the request.

(b) Such hearing shall be conducted by an appeals examiner.

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CHAPTER 33

REHEARINGS

Section 1. Proceedings Covered. A party to a contested case and the division staff may apply to the examiner for rehearing of a case before the appeals examiner or to the commission for rehearing of a case before the commission in accordance with the following rules.

Section 2. Appeals Examiner Hearing.

(a) A party desiring rehearing or reopening of a case before the appeals examiner must file a written application to do so with the examiner no later than twenty-eight (28) days after the mailing of the examiner decision to the party's address of record. If good cause is shown for failing to appear at the examiner hearing, the examiner may rehear or reopen the matter. The rehearing may be held solely for the purpose of taking the absent party's evidence without granting him the right to cross-examine opposing witnesses who testified at the first hearing.

(b) If the examiner denies the request to reopen or rehear, he shall issue a written decision to that effect. The aggrieved party shall have twenty-eight (28) days from the date that decision was mailed to his address of record to file an appeal to the commission pursuant to W.S. 27-3-404.

(c) The examiner may also reopen a case before him on his own motion any time before the decision becomes final under W. S. 27-3-403.

Section 3. Commission Decisions. If the division staff or another party to a case decided by the commission desires to have the commission reconsider or rehear the matter, the party must file a petition for rehearing or reconsideration within thirty days of the mailing of the commission decision to him. Said petition shall be in writing and state the grounds for reconsideration. The petition for reconsideration shall be considered first by the appropriate administrator without a hearing. If he decides that reconsideration is appropriate, he shall have the matter set for reconsideration at a commission meeting. If he decides that reconsideration is not appropriate, he shall notify the parties of that decision, and this will be the final agency decision on the matter.

CHAPTER 33

REHEARINGS

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Section 2. Appeals Examiner Hearing.

(a) A party desiring rehearing or reopening of a case before the appeals examiner must file a written application to do so with the examiner no later than ~~fifteen (15)~~ twenty-eight (28) days after the mailing of the examiner decision to the party's address of record. If good cause is shown for failing to appear at the examiner hearing, the examiner may rehear or reopen the matter. The rehearing may be held solely for the purpose of taking the absent party's evidence without granting him the right to cross-examine opposing witnesses who testified at the first hearing.

(b) If the examiner denies the request to reopen or rehear, he shall issue a written decision to that effect. The aggrieved party shall have ~~fifteen (15)~~ twenty-eight (28) days from the date that decision was mailed to his address of record to file an appeal to the commission pursuant to W.S. 27-3-404.

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