



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules (After completing all of Sections 1 through 3, proceed to Section 5 below)

Regular Rules

1. General Information

a. Agency/Board Name Department of Workforce Services			
b. Agency/Board Address 1510 East Pershing Blvd.		c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Marcia J. Price		f. Agency Liaison Telephone Number (307) 777-6746	
g. Agency Liaison Email Address marcia.price@wyo.gov		h. Adoption Date 7/11/17	
i. Program Workers' Compensation Division			

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Enrolled Act Numbers and Years Enacted: **SEA 54 2017**

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.

(Please use the Additional Rule Information form for more than 10 chapters and attach it to this certification)

Chapter Number:	Chapter Name:	New	Amended	Repealed
3	Failure of Employer to Comply	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **5/12/17**

- approved as to form by the Registrar of Rules; and
- provided to the Legislative Service Office and Attorney General:

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

c. If applicable, describe the **emergency** which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

5. Final Filing of Rules

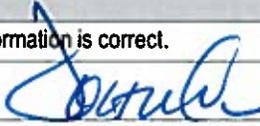
a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature:

b. Date on which final rules were approved as to form by the Secretary of State and sent to the Legislative Service Office:

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	John Cox
Signatory Title	Director, Department of Workforce Services (DWS)
Date of Signature	7-10-17

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

**Principal Statement of Reason – WC Chapter 3 – Failure of Employer to Comply,
Section 6 – Out of State Employer – Experience Modification Rating**

The Workers' Compensation Division proposes to add a new section to Chapter 3, in order to comply with a 2017 Wyoming statute change, § 27-14-207(h)(j), SEA 54. The new Section 6 of Chapter 3 penalizes out-of-state employers who fail to submit their experience modification rating to the Division.

This rule change also corresponds with WC Chapter 2 changes on determining an out-of-state employer's experience modification rate.



Matthew H. Mead
Governor

State of Wyoming Department of Workforce Services

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John Cox
Director
John Ysebaert
Deputy Director

July 5, 2017

Public Comments For WC Chapter 3 – Failure of Employer to Comply

On May 21, 2017, a public notice was published in the Casper newspaper for statewide notice. The 45 day public comment period for this rule expired on June 30, 2017.

No public comments were received.



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Development for Wyoming's Future.



CHAPTER 3
FAILURE OF EMPLOYER TO COMPLY

Section 1. Delinquency – Case Liability.

(a) Employers will be charged for all injury case costs if the employers' account is in non-compliance in the following circumstances:

(i) **Delinquent During the Reporting Period the Injury Occurred.** Employers whose accounts are in a delinquent status for the reporting period during which an injury occurred will be charged case costs for the life of any such injury.

(ii) **Injured Worker not Reported.** Employers who omit the name of any injured worker on the Division's report form corresponding to the month of injury and fail to pay premium on that injured worker's earnings will be charged case costs for the life of any such injury.

(iii) **No Account on Date of Injury.** Employers who fail to establish an account, or fail to reactivate an inactive account on any date of injury will be charged case costs for the life of any such injury.

(b) Employers shall be deemed delinquent if premiums remain unpaid more than 30 days following the due date.

Section 2. Civil Liability.

(a) When a payroll report or payment of premium is past due, pursuant to Wyoming Statutes § 27-14-202(a), the Division shall send to the employer a notice that the report and/or premium is past due and that the employer's account will become delinquent if the required report and payment are not postmarked within 30 days of the date due. When an employer's account becomes delinquent, the Division shall send to the employer a notice of delinquency.

(b) For purposes of all penalties and rights of action under the Act, an employer shall be considered delinquent if a payroll report or any payment required by the Act is not postmarked within 30 days of the due date.

(c) **Applying Payments.** When an employer makes a payment to the Division, the Division shall apply it to the oldest premium or interest owed by the employer unless the employer has specified in writing that the payment should be applied to a particular portion of the employer's debt. However, bankruptcy laws or reorganization plans take priority over the employer's written specification.

Section 3. Cancellation of Optional Coverage. Coverage for an employer with optional coverage will be terminated if the account remains delinquent 30 days following notification by certified mail to the employer that the employer has been delinquent in reporting of payment of premium for one calendar quarter. The employer remains liable for the unpaid

premium and case cost reimbursement, as applicable, through the date of termination. Following termination under this section, the employer shall not be eligible for reinstatement of optional coverage for a period of six months.

Section 4. Notice to Administrator. Employees of the Division who identify a possible violation by any party shall immediately notify the Administrator of the Workers' Compensation Division in writing.

Section 5. Waiver and Settlement - Tax. Upon good and sufficient cause, the Administrator of the Workers' Compensation Division may waive, compromise or otherwise settle any amount owed to the Division by an employer.

Section 6. Out of State Employers – Experience Modification Rating. If an employer who meets the criteria under Wyoming Statutes § 27-14-207(h) refuses or fails to provide the Division with the experience history from their insurance company, that employer will be assigned the maximum experience modification rating (EMR) of 1.85.

~~Rules, Regulations and Fee Schedules of the Wyoming Workers' Compensation Division~~

~~CHAPTER 3 – FAILURE OF EMPLOYER TO COMPLY~~

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