



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised November 2016

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison		f. Agency Liaison Telephone Number
g. Agency Liaison Email Address		
h. Date of Public Notice		i. Comment Period End Date
j. Public Comment URL or Email Address:		
k. Program		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

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:

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:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input 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 Repealed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 Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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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 Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

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: _____

6. 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.

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 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.

If applicable: 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 (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

**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 is proposing a change in Chapter 3, Section 6, due to a 2017 Wyoming statute change, § 27-14-207(h)(j), SEA 54. This change is to add Section 6 regarding out-of-state employers who fail to request their insurance company submit their experience modification rating to the Division.

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

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 W.S. § 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 Statute 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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