



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* Wyoming Department of Workforce Services		
b. Agency/Board Address P.O. Box 2760	c. City Casper	d. Zip Code 82602
e. Name of Agency Liaison Michaela Harkins		f. Agency Liaison Telephone Number 307-235-3267
g. Agency Liaison Email Address michaela.harkins@wyo.gov		
h. Date of Public Notice March 26, 2018		i. Comment Period End Date May 10, 2018
j. Public Comment URL or Email Address: michaela.harkins@wyo.gov		
k. Program Unemployment Insurance Commission		
* <input type="checkbox"/> 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 checked="" type="checkbox"/> Amended	<input type="checkbox"/> Repealed
2	General Provisions		<input checked="" type="checkbox"/>	
6	Computing Time Limits and Determining When Documents are Filed or Payments Made		<input checked="" type="checkbox"/>	
19	Waiving Interest on Contributions		<input checked="" type="checkbox"/>	
20	Claims for Benefits		<input checked="" type="checkbox"/>	
21	Mass Separations		<input checked="" type="checkbox"/>	
24	Registration for Work, Able Available and Actively Seeking Work		<input checked="" type="checkbox"/>	
27	Penalty on Fraud Overpayments		<input checked="" type="checkbox"/>	
30	Hearing on Employer Liability		<input checked="" type="checkbox"/>	
33	Rehearings		<input checked="" type="checkbox"/>	

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: May 17, 2018	Time: 1:00 P.M.	City: Casper	Location: 100 West Midwest 3rd Floor Commission Conference Room
-----------------------	--------------------	-----------------	--------------------------------------------------------------------------

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/pealed to comply with federal law or regulatory requirements. ☒ No. ☐ Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:

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.

Printed Name of Authorized Individual	Elizabeth A. Nelson
Title of Authorized Individual	Commission Chairman
Date of Authorization	March 1, 2018

Unemployment Insurance Commission

Principal Statement of Reasons

Chapter 2: General Provisions

The Unemployment Insurance Commission proposes changing Chapter 2 to update the rules to be consistent with the new WYUI benefits system that is scheduled to go live on June 27, 2018. This new system for paying unemployment insurance benefits, and appropriately charging employers, will allow claimants and/or employers to make changes to their contact or pay type information via the new online system. A system similar to the WYUI system has been successfully implemented in other states such as Missouri and Mississippi. The Commission also proposes adding the definition of “commuter” worker to the rules. This definition is consistent with agreements entered into with other states under the auspices of the United States Department of Labor’s “Interstate Agreement.”

Chapter 6: Computing Time Limits and Determining When Documents are Filed or Payments Made

The Unemployment Insurance Commission proposes changing Chapter 6 to update the rules so they are consistent with the WYUI operating system to make online filing more available and convenient.

Chapter 19: Waiving Interest on Contributions

The Unemployment Insurance Commission proposes changing Chapter 19 to allow the Division the ability to handle a larger amount of interest waivers, bringing the amount from \$250 or less up to \$1,000 or less.

Chapter 20: Claims for Benefits

The Unemployment Insurance Commission proposes changing Chapter 20 to update the rules so they are consistent with the new WYUI operating system. WYUI allows claimants to file every week, while the current system only allows for filing every two weeks. This change makes the Unemployment program more responsive to the needs of unemployed workers.

Chapter 21: Mass Separations

The Unemployment Insurance Commission proposes changing Chapter 21 to keep the rules consistent with the WYUI operating system, and many other states, which define mass separations as 20 or more workers, not 25 or more.

Chapter 24: Registration for Work, Able Available and Actively Seeking Work

The Unemployment Insurance Commission proposes changing Chapter 24 to update the rules so they are consistent with the new WYUI operating system and more adaptable to the changing needs in Wyoming's workforce. The Commission also proposes adding "commuter" work search requirements to the rules in this chapter.

Chapter 27: Penalty on Fraud Overpayments

The Unemployment Insurance Commission proposes changing the language in Chapter 27 on overpayment fraud penalties to make the language cleaner and easier to understand. This change will also be consistent with the new WYUI operating system.

Chapter 30: Hearing on Employer Liability

The Unemployment Insurance Commission proposes changing Chapter 30 to update the rule to be consistent with the new WYUI operating system in regards to being able to request a hearing on the online site rather than filing solely by a paper method.

Chapter 33: Rehearings

The Unemployment Insurance Commission proposes changing Chapter 33 to update the rule to be consistent with the new WYUI operating system in regards to being able to request a rehearing on the online site rather than filing solely by a paper method.

CHAPTER 2

GENERAL PROVISIONS

Section 1. Definitions. Unless the context otherwise requires, terms used in the Wyoming Employment Security Law, these rules, interpretations, forms, or other official pronouncements issued by the department or commission shall have the following meanings:

(a) “Address of record” means the address given when the claimant files a new or additional claim or clearly and unequivocally provides the Division with a change in writing, a change using the internet website approved by the Division, a change using the personal identification number (PIN), or a change obtained on the record in an appeals examiner’s hearing. The employer’s address of record shall be the address given when the employer registers as an employer with the Division or clearly and unequivocally provides the Division with a change in writing or a change using the internet website approved by the Division. This does not prohibit the Division from sending correspondence or notices to another address for the claimant or employer if it has reason to believe the claimant or employer may have moved without notifying the Division, but it does not impose a duty on the Division to do so.

(b) “Backpay” is the payment of wages or compensation for lost wages to an employee or ex-employee for a period of time during which the employer improperly prevented the individual from performing services. Backpay is considered wages for purposes of W.S. 27-3-102(a)(xviii).

(c) “Calendar quarter” means a period of three consecutive months ending on March 31, June 30, September 30, or December 31.

(d) “Calendar week” means the calendar week of seven consecutive calendar days, beginning 12:01 a.m. Sunday, and ending 12:00 midnight the following Saturday.

(e) “Claims”

(i) “Additional claim” means a notice of new unemployment filed at the beginning of a second or subsequent series of claims within a benefit year or within a period of eligibility when a break of one week or more occurs in the claim series with intervening employment.

(ii) “Continued claim” means a request for unemployment compensation for a week of unemployment, during a benefit year. The Sunday of the week claimed shall be considered the effective date of the continued claim.

(iii) “Initial claim” means both new and additional claims.

(iv) “New claim” means the first claim filed to request a determination of entitlement to and eligibility for compensation. This results in a Division generated document of an appealable monetary determination provided to the claimant.

(f) “Claimant” means an individual who files any claim for unemployment insurance benefits.

(g) “Claim center” means the central location where all initial unemployment claims and continued claims are processed, by telephone, Internet, mail, or fax.

(h) “Commuter” means a person who travels regularly across a State line from home to work.

(i) “Deputy” means any person so designated by the appropriate Division administrator who is employed by the State as a permanent or probationary appointee pursuant to the Personnel Rules of the Executive Branch of Wyoming State Government.

(j) “Division” means the principal operating unit or units, within Wyoming state government, that administer(s) the Unemployment Compensation Program.

(k) “Documented,” as used in W.S. 27-3-311(a)(i)(C), means verifiable third-party evidence provided by the claimant that (s)he is a victim of domestic violence. Such evidence could include court documents (such as order of protection, restraining orders, stalking orders), hospital or medical records, police reports, or domestic violence center reports.

(l) “Earnings,” for the purposes of W.S. 27-3-303(c), means payment from an employee-employer relationship for services performed regardless of when actually paid. Services under this paragraph must be performed in an employer-employee relationship but are not required to qualify as employment under W.S. 27-3-104 through 27-3-108.

(m) “Employment center” means locations where claimants may register for work, receive other employment services and receive information on filing for unemployment compensation.

(n) “Full-time work,” means thirty-five or more hours worked in a particular week.

(o) “Immediate family,” as used in W.S. 27-3-507, means a person who is related and is a spouse, parent, stepparent, parent-in-law, child, stepchild, child-in-law, sibling, half-sibling, step-sibling, sibling-in-law, grandparent, or grandchild.

(p) “Job attached” means a claimant meets the requirements of W.S. 27-3-306(a)(i)(A) and (B) for not being registered for work and actively seeking work.

(q) “Liable state” means any state against which an individual files, through another state, a claim for benefits.

(r) “Most recent work” means:

(i) In the case of an employee who was employed in only one job and in a bona fide employer-employee relationship, those services performed closest and prior to the filing date of the initial claim for which the individual performed three or more consecutive weeks of full-time work or earned gross wages equaling or exceeding two times the current maximum weekly benefit amount. For the purpose of this definition, all base period and subsequent wages earned from an employer shall be used to calculate gross wages regardless of interruption in the claimant’s work for that employer.

(ii) In the case of an employee who was employed in two or more bona fide jobs at the same time in any part of the eight (8) weeks preceding the effective date of a new or additional claim, the work from which the separation caused the individual to be unemployed as defined in W.S. 27-3-102(a)(xv).

(s) “Net earnings,” for the purposes of W.S. 27-3-313(a)(iv), means all income generated from services performed in self-employment in a week minus all expenses incurred in self-employment for that week.

(t) “Normal course of business,” as used in W.S. 27-3-102(a)(xxi), includes any service related to the employer’s principal business and any ancillary business(es) and facility(ies) including maintenance of building(s), grounds and equipment used by the employer.

(u) “Offset” means the withholding of the overpaid amount against benefits which would otherwise be payable for a compensable week of employment.

(v) “Overpayment” means an improper payment of benefits, from a state or federal unemployment compensation fund, that has been determined recoverable under the requesting state’s law, and includes amounts deducted pursuant to law, such as child support and federal taxes.

(w) “Participating state” means a state which has subscribed to the Interstate Reciprocal Overpayment Recovery Arrangement.

(x) “Paying state” means the state under whose law a claim for unemployment benefits has been established on the basis of combining wages and unemployment covered in more than one state.

(y) “Pay period” means that period of time during which the wages due on any pay day were earned.

(z) “Pay period week” means that period of time during which wages due on any weekly pay period were earned.

(aa) “Quarterly contribution reports and quarterly reports,” for the purposes of Wyoming Employment Security Law, mean quarterly contribution summary reports and employee wage listing reports on forms provided by the Division or filed electronically in a format approved by the Division.

(bb) “Recovering state” means the state that has received a request for assistance from the “requesting state.”

(cc) “Repeated documented failure,” as employed by W.S. 27-3-102(a)(xxiii), in defining a pattern of failing, means:

(i) In the case of an employer who has been sent 50 or more requests for separation information in the preceding 12 months, repeated documented failure means more than ten occurrences of the employer, or its agent, failing to respond or responding inadequately, within the preceding twelve 12 months.

(ii) In the case of an employer who has been sent fewer than fifty 50 requests for separation information in the preceding twelve 12 months, repeated documented failure means more than six occurrences of the employer, or its agent, failing to respond or responding inadequately, within the preceding 12 months.

(dd) “Requesting state” means the state that has issued a final determination of overpayment and is requesting another state to assist it in recovering the outstanding balance from the overpaid individual.

(ee) “Salaried examiner” shall mean an examiner, appeals examiner, hearing officer or other qualified person who is employed by the State as a permanent or probationary appointee pursuant to the Personnel Rules of the Executive Branch of Wyoming State Government.

(ff) “Transferring state” means a state in which a combined wage claimant had covered employment and wages in the base period of a paying state, and which transfers such

employment and wages to the paying state for its use in determining the benefit rights of such claimant under its law.

(gg) “Wages payable” include wages earned and paid as well as wages earned and unpaid, for services in employment. Wages payable for employment during any “calendar quarter” or “quarter” shall be deemed to consist of wages payable for employment occurring in all pay periods ending during that quarter, except as provided by Chapter 9, Section 2 of these rules.

CHAPTER 6

COMPUTING TIME LIMITS AND DETERMINING WHEN DOCUMENTS ARE FILED OR PAYMENTS MADE

Section 1. Applicability. When the Wyoming Employment Security Law provides a deadline for filing appeals, paying contributions, making reports, or for any other purpose, the following rules apply:

(a) In Person. When a person makes a payment or files an appeal, report, or other document in person with a representative of the Division that payment or filing is deemed to occur the day the person physically delivers the document or payment into the hands of the Division representative authorized to receive it.

(b) By Mail. When a person makes a payment or files an appeal, report or other document with the Division by mail, that payment is deemed to be made or document is deemed to have been filed as of the postmark date on the envelope by which the payment or document is mailed. If the envelope containing the document or payment is no longer available or if the postmark is not legible, the document shall be presumed filed or payment made according to the following:

(i) If it was mailed in Wyoming, there shall be a rebuttable presumption that it was mailed three working days prior to the date it was stamped received by the Division.

(ii) If it was mailed outside of Wyoming, there shall be a rebuttable presumption that it was mailed five working days prior to the date it was stamped received by the Division.

(c) By Fax. When a person files a protest, appeal, report or other document with the Division by fax, a rebuttable presumption shall exist that the document was filed as of the date it is stamped received by the Division. The fax must contain sufficient information to identify the party providing the information and the purpose for which it is intended. The party sending the fax assumes the risk of transmission errors or illegibility.

(d) By Internet Transmission. When a person files a claim, protest, appeal, report or other document using the internet website approved by the Division, documentation is deemed to have been filed on the date the Division's website application records the completed transmission.

(e) Hearing. Upon timely request or appeal, the person filing or paying in an apparently untimely manner shall be given a hearing on the question of the timeliness of his filing or paying.

(f) By Phone. When a person files a claim by phone with a representative of this Division, that claim is deemed to have been filed on the date the phone call occurred.

Section 2. Deadline on Saturday, Sunday, or Legal Holiday. When a deadline for making a payment of filing an appeal, report, or other document with the Division falls on Saturday, Sunday, or legal holiday, the deadline is extended to the next working day. However, such days shall otherwise be counted in computing time limits.

CHAPTER 19

WAIVING INTEREST ON CONTRIBUTIONS

Section 1. By Whom. Requests to waive interest due on contributions shall be ruled on by the appropriate division administrator, or a duly authorized designee, if the amount of interest in question is \$1,000.00 or less. If the amount of interest due on contributions is \$1,000.01 or more, a request for waiving the interest shall be ruled on by the commission.

CHAPTER 20

CLAIMS FOR BENEFITS

Section 1. Filing a New or Additional Claim for Benefits. Any individual claiming benefits for unemployment under the Wyoming Employment Security Law shall proceed as follows:

(a) An individual may file an initial claim for unemployment benefits by telephone to the division's claim center or by Internet using the division's approved web site claim application. The effective date of an initial claim shall be the Sunday of the calendar week in which the individual first completed an Internet claim, or completed a telephone claim through the claim center for the purpose of initiating an initial unemployment insurance claim, unless the claimant requests that the claim be effective the following Sunday or unless the claimant has excessive earnings during that week and is separated from employment. The effective date of the claim may be changed by the division for good cause.

(b) An individual may file an initial claim in person or by mail. The effective date of an initial claim shall be the Sunday of the calendar week in which the individual reported in person to an employment center or another location approved by the division, to file the claim, or mail his request for benefit claim forms to the division's claim center; provided that the individual mails the completed forms not later than the seventh day following the date on which the requested forms were mailed to him. If the individual fails to mail the claim as provided above, the individual's claim for benefits shall be effective as of the Sunday of the calendar week in which the completed forms are mailed. The effective date of the claim may be changed by the division for good cause.

(c) In order to meet the requirement of W.S. 27-3-401(a), a claimant shall provide all information required to establish or process a claim, including the claimant's social security number and information to establish the claimant's identity. If the claimant fails, without good cause, to provide information required under this section, the claimant shall not be eligible for benefits until the week in which the requested information is provided.

Section 2. Filing Continued Claims for Benefits

(a) In order to maintain continuing eligibility for benefits with respect to any weeks of unemployment during any continuous period of unemployment, a claimant shall continue to file claims in the manner and on the dates as directed by the division. No continued claim shall be complete until the claimant furnishes to the division, by mail, fax, or in person at a local employment center, a signed claim for benefits on a form approved by the division or files the claim by telephone to the division's voice response system or by Internet using the division's

approved web site for continued claim. A continued claim must be filed no later than Saturday, two weeks following the ending date covered by the claim. Failure to file continued claims within the time prescribed may be excused if good cause for the delay is established to the satisfaction of the division. On a continued claim the claimant shall set forth the following:

- (i) That he continues his claim for benefits.
- (ii) That during the period for which benefits are claimed he performed no work and earned no wages, except as reported thereon.
- (iii) That he was able to work, available for work, and actively seeking work, except as reported thereon.
- (iv) Such other information as is required by the form or telephone voice response system, or the division's approved web site for continued claims.

(b) Where a continuous period of unemployment is terminated or interrupted by re-employment or any other event which prevents continuing eligibility for benefits, a claimant, in order to receive benefits for any week of unemployment for which he was in all respects eligible before such termination or interruption, may file for benefits for such weeks. The claim must be filed with the division by mail, fax, in person at a local employment center, by telephone to the division's voice response system, or by Internet using the division's approved web site for continued claims within fourteen (14) days after the end of the week for which benefits are claimed. Failure to file within the time prescribed may be excused if good cause for such delay is established to the satisfaction of the division.

Section 3. Continuing of Claims When Claimant Moves to Another Locality. An individual moving to another locality after filing an initial claim for benefits may be permitted to continue his claim for unemployment by reporting to a local office in his new community, to an itinerant representative, by mail, or by telephone to the claim center or as directed by the division.

Section 4. Withdrawal of Initial Claim. Initial claims may be withdrawn:

(a) By the claimant, only on written request, if that request is filed within seven (7) days after the mailing of the first notice that the claimant is monetarily eligible, except as provided under the Interstate Agreement for Monetary Eligibility.

(b) By the division:

(i) If the claimant is not unemployed during the first week after the effective date of the initial claim; or

(ii) If, as of the effective date of the claim, the claimant has not met the requirements of W.S. 27-3-306(d), or W.S. 27-3-311(a) and (f) after disqualification under that section.

Section 5. Continued Eligibility of Benefits. In order to maintain continuing eligibility for benefits with respect to any weeks of unemployment during any continuous period of unemployment the claimant shall report in the manner and on the dates and times as directed by the division for the Eligibility Review Program, Benefit Accuracy Measurement review, Profiling interviews or other interviews requested by the division. Failure to report at the scheduled time may be excused if good cause for such delay is established to the satisfaction of the division.

Section 6. Requested Information. When a claimant fails to provide requested information that is necessary for making a determination he may not be eligible for benefits until the week in which the requested information is provided. The claimant may be considered eligible for all affected weeks if he provides the information in the protest period pursuant to W.S. 27-3-402(e).

Section 7. Benefit Payment.

(a) All benefits shall be paid through the authorized method(s) selected by the division.

(b) When confirmation of an electronic payment is received by the division, benefits are considered to have been paid to the claimant.

(c) When the division pays electronically, the claimant's personal information shall remain confidential according to applicable statutes and commission rules.

Section 8. Personal Identification Number (PIN)

(a) A person identification number (PIN) is a confidential number or other electronic method of verification that is required to perform any transaction(s) with the division by electronic or telephonic means. A PIN has the same force and effect as a manual signature.

(b) If a claimant knowingly allows another person to use the PIN, the claimant is responsible for the information provided to the division.

CHAPTER 21

MASS SEPARATIONS

Section 1. Definition of Mass Separation and Notice.

(a) The term “Mass Separation” means a separations (permanently or for an indefinite period of time or for an expected duration of seven or more days), at or about the same time and for the same reason, of 20 or more workers employed in a single establishment.

(b) An employer shall file with the division in writing or by using the internet website approved by the Division, a mass separation notice which must include the layoff date and the period and amount of termination, severance, sick, or earned vacation payments, where applicable, for each employee. Such notice should be filed as soon as the employer has reason to believe a mass separation will take place, but shall be filed not later than five calendar days after such separation.

Section 2. Labor Dispute. Upon request by the division, such employer shall furnish to the division the names of the workers ordinarily attached to the department or establishment where unemployment is caused by a strike, lockout, or other labor dispute.

CHAPTER 24

REGISTRATION FOR WORK, ABLE, AVAILABLE AND ACTIVELY SEEKING WORK

Section 1. In General. Any individual who files for Wyoming unemployment insurance benefits shall register for work with a state employment agency serving their local labor market and keep that account active for the duration of the unemployment insurance claim. The claimant must register for work within 14 days from the day a claim is filed. Claimants who qualify under the conditions contained in Sections 2, 3, and 4 of this Chapter must register for work within seven (7) days of the expiration of that qualifying condition.

(a) For individuals living in Wyoming, “register for work” is defined as using the internet website approved by the Division to:

(i) create a new or updated resume; and

(ii) complete at least one activity on the individual’s state employment agency account every 90 days to keep the account active for the duration of the unemployment insurance claim.

(b) For individuals living outside of Wyoming, “register for work” is defined as:

(i) follow the registration requirements of the state the individual lives in; and

(ii) supply proof of the registration to the Wyoming Division of Unemployment Insurance; or

(iii) supply proof of why the individual is exempt from registering to the Wyoming Division of Unemployment Insurance.

(c) For individuals whom the Wyoming Division of Unemployment Insurance determines to be a commuter, “register for work” is defined as:

(i) register for work in the state in which the individual is seeking employment; or

(ii) refer to Section 1(a) if the individual is registering for work in Wyoming;
or

(iii) refer to Section 1(b) if the individual is registering for work outside of Wyoming.

Section 2. Union Membership. During the first twelve weeks of unemployment following the effective date of a claimant's new or additional claim for benefits, an individual is considered to have met the requirements of W.S. 27-3-306(a)(i) if he is a member of a labor union with dues paid in full and is registered for work with his union local. After this twelve-week period, the individual must register for work as provided in Section 1, supra.

Section 3. Job Attached. As used in W.S. 27-3-306(a)(i), within twelve weeks means within twelve weeks of the effective date of the new or additional claim for benefits. If the claimant normally worked less than thirty-five hours per week while earning qualifying wage credits, the claimant shall be considered returning to full-time work if returning to the same number of hours normally worked for the employer during the base period. The division shall notify the employer the claimant has stated he is job attached. The claimant is not job attached if the employer notifies the division, in writing, within fifteen (15) days of the mailing of the division's notice, that the claimant will not be recalled within twelve (12) weeks. Claimants who are deemed not to be job attached, under this section, have seven (7) days from the date of notice to register for and actively seek work.

Section 4. Approved Training. An individual enrolled in approved training under W.S. 27-3-307 is considered registered for work. Upon completion of the training, the individual must register for work as provided in Section 1, supra.

Section 5. Students. When a claimant is attending school or participating in other types of course work during his normal working hours and is not enrolled in Approved Training, he is not available for work unless:

(a) He has earned base period wages while attending school and is seeking work and attending school on a similar basis; or

(b) He attends no more than eight (8) class time hours per week and verifies in writing he will drop the class(es) or change the class hours if the class schedule conflicts with an offer of suitable work; or

(c) He participates in no more than eight (8) hours in other types of course work, including but not limited to Internet and self-study courses, during his normal working hours.

Section 6. Work Search. To be eligible for benefits for any week, a claimant must contact two (2) or more employers per week. A claimant filing for benefits will actively seek full-time employment. The claimant may seek part-time employment if the majority of his base period wages were earned on the basis of part-time work, or he has a documented bona fide medical reason preventing him from working full-time. If the claimant does not provide work

search information to the division upon request, the division may presume he did not actively seek work.

Section 7. Apprenticeship Training. If a claimant applies for apprenticeship training, notice will be mailed to the most recent employer. The most recent employer is presumed to have approved the training, unless the employer notifies the division, in writing, within fifteen (15) days of the mailing of the division's notice that the employer does not approve the training.

CHAPTER 27

PENALTY ON FRAUD OVERPAYMENTS

Section 1. In General. In order to meet the requirements of W.S. 27-3-409(d), a five percent (5%) penalty is first assessed from the date of the Overpayment Notice. On the last day of the month of every six (6) month period following the first penalty, an additional five percent (5%) shall be assessed on any remaining unpaid balance. The remaining unpaid balance only includes the unpaid balance of the overpayment.

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 or by using the internet website approved by the Division 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.

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 or use the internet website approved by the Division 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 2

GENERAL PROVISIONS

Section 1. Definitions. Unless the context otherwise requires, terms used in the Wyoming Employment Security Law, these rules, interpretations, forms, or other official pronouncements issued by the department or commission shall have the following meanings:

(a) “Address of record” means the address given when the claimant files a new or additional claim or clearly and unequivocally provides the Division with a change in writing, a change using the internet website approved by the Division, a change using the personal identification number (PIN), or a change obtained on the record in an appeals examiner’s hearing. The employer’s address of record shall be the address given when the employer registers as an employer with the Division or clearly and unequivocally provides the Division with a change in writing or a change using the internet website approved by the Division. This does not prohibit the Division from sending correspondence or notices to another address for the claimant or employer if it has reason to believe the claimant or employer may have moved without notifying the Division, but it does not impose a duty on the Division to do so.

(b) “Backpay” is the payment of wages or compensation for lost wages to an employee or ex-employee for a period of time during which the employer improperly prevented the individual from performing services. Backpay is considered wages for purposes of W.S. 27-3-102(a)(xviii).

(c) “Calendar quarter” means a period of three consecutive months ending on March 31, June 30, September 30, or December 31.

(d) “Calendar week” means the calendar week of seven consecutive calendar days, beginning 12:01 a.m. Sunday, and ending 12:00 midnight the following Saturday.

(e) “Claims”

(i) “Additional claim” means a notice of new unemployment filed at the beginning of a second or subsequent series of claims within a benefit year or within a period of eligibility when a break of one week or more occurs in the claim series with intervening employment.

(ii) “Continued claim” means a request for unemployment compensation for a week of unemployment, during a benefit year. The Sunday of the week claimed shall be considered the effective date of the continued claim.

(iii) “Initial claim” means both new and additional claims.

(iv) “New claim” means the first claim filed to request a determination of entitlement to and eligibility for compensation. This results in a Division generated document of an appealable monetary determination provided to the claimant.

(f) “Claimant” means an individual who files any claim for unemployment insurance benefits.

(g) “Claim center” means the central location where all initial unemployment claims and continued claims are processed, by telephone, Internet, mail, or fax.

(h) “Commuter” means a person who travels regularly across a State line from home to work.

~~(h)~~(i) “Deputy” means any person so designated by the appropriate Division administrator who is employed by the State as a permanent or probationary appointee pursuant to the Personnel Rules of the Executive Branch of Wyoming State Government.

~~(h)~~(j) “Division” means the principal operating unit or units, within Wyoming state government, that administer(s) the Unemployment Compensation Program.

~~(j)~~(k) “Documented,” as used in W.S. 27-3-311(a)(i)(C), means verifiable third-party evidence provided by the claimant that (s)he is a victim of domestic violence. Such evidence could include court documents (such as order of protection, restraining orders, stalking orders), hospital or medical records, police reports, or domestic violence center reports.

~~(k)~~(l) “Earnings,” for the purposes of W.S. 27-3-303(c), means payment from an employee-employer relationship for services performed regardless of when actually paid. Services under this paragraph must be performed in an employer-employee relationship but are not required to qualify as employment under W.S. 27-3-104 through 27-3-108.

~~(l)~~(m) “Employment center” means locations where claimants may register for work, receive other employment services and receive information on filing for unemployment compensation.

~~(m)~~(n) “Full-time work,” means thirty-five or more hours worked in a particular week.

~~(n)~~(o) “Immediate family,” as used in W.S. 27-3-507, means a person who is related and is a spouse, parent, stepparent, parent-in-law, child, stepchild, child-in-law, sibling, half-sibling, step-sibling, sibling-in-law, grandparent, or grandchild.

~~(p)~~(p) “Job attached” means a claimant meets the requirements of W.S. 27-3-306(a)(i)(A) and (B) for not being registered for work and actively seeking work.

~~(p)~~(q) “Liable state” means any state against which an individual files, through another state, a claim for benefits.

~~(r)~~(r) “Most recent work” means:

(i) In the case of an employee who was employed in only one job and in a bona fide employer-employee relationship, those services performed closest and prior to the filing date of the initial claim for which the individual performed three or more consecutive weeks of full-time work or earned gross wages equaling or exceeding two times the current maximum weekly benefit amount. For the purpose of this definition, all base period and subsequent wages earned from an employer shall be used to calculate gross wages regardless of interruption in the claimant’s work for that employer.

(ii) In the case of an employee who was employed in two or more bona fide jobs at the same time in any part of the eight (8) weeks preceding the effective date of a new or additional claim, the work from which the separation caused the individual to be unemployed as defined in W.S. 27-3-102(a)(xv).

~~(s)~~(s) “Net earnings,” for the purposes of W.S. 27-3-313(a)(iv), means all income generated from services performed in self-employment in a week minus all expenses incurred in self-employment for that week.

~~(t)~~(t) “Normal course of business,” as used in W.S. 27-3-102(a)(xxi), includes any service related to the employer’s principal business and any ancillary business(es) and facility(ies) including maintenance of building(s), grounds and equipment used by the employer.

~~(u)~~(u) “Offset” means the withholding of the overpaid amount against benefits which would otherwise be payable for a compensable week of employment.

~~(v)~~(v) “Overpayment” means an improper payment of benefits, from a state or federal unemployment compensation fund, that has been determined recoverable under the requesting state’s law, and includes amounts deducted pursuant to law, such as child support and federal taxes.

~~(w)~~(w) “Participating state” means a state which has subscribed to the Interstate Reciprocal Overpayment Recovery Arrangement.

~~(w)~~(x) “Paying state” means the state under whose law a claim for unemployment benefits has been established on the basis of combining wages and unemployment covered in more than one state.

~~(x)~~(y) “Pay period” means that period of time during which the wages due on any pay day were earned.

~~(y)~~(z) “Pay period week” means that period of time during which wages due on any weekly pay period were earned.

~~(z)~~(aa) _____ “Quarterly contribution reports and quarterly reports,” for the purposes of Wyoming Employment Security Law, mean quarterly contribution summary reports and employee wage listing reports on forms provided by the Division or filed electronically in a format approved by the Division.

~~(aa)~~(bb) _____ “Recovering state” means the state that has received a request for assistance from the “requesting state.”

~~(bb)~~(cc) _____ “Repeated documented failure,” as employed by W.S. 27-3-102(a)(xxiii), in defining a pattern of failing, means:

(i) In the case of an employer who has been sent 50 or more requests for separation information in the preceding 12 months, repeated documented failure means more than ten occurrences of the employer, or its agent, failing to respond or responding inadequately, within the preceding twelve 12 months.

(ii) In the case of an employer who has been sent fewer than fifty 50 requests for separation information in the preceding twelve 12 months, repeated documented failure means more than six occurrences of the employer, or its agent, failing to respond or responding inadequately, within the preceding 12 months.

~~(ee)~~(dd) _____ “Requesting state” means the state that has issued a final determination of overpayment and is requesting another state to assist it in recovering the outstanding balance from the overpaid individual.

~~(dd)~~(ee) _____ “Salaried examiner” shall mean an examiner, appeals examiner, hearing officer or other qualified person who is employed by the State as a permanent or probationary appointee pursuant to the Personnel Rules of the Executive Branch of Wyoming State Government.

~~(ee)~~(ff) _____ “Transferring state” means a state in which a combined wage claimant had covered employment and wages in the base period of a paying state, and which transfers such employment and wages to the paying state for its use in determining the benefit rights of such claimant under its law.

~~(ff)~~(gg) “Wages payable” include wages earned and paid as well as wages earned and unpaid, for services in employment. Wages payable for employment during any “calendar quarter” or “quarter” shall be deemed to consist of wages payable for employment occurring in all pay periods ending during that quarter, except as provided by Chapter 9, Section 2 of these rules.

CHAPTER 6

COMPUTING TIME LIMITS AND DETERMINING WHEN DOCUMENTS ARE FILED OR PAYMENTS MADE

Section 1. Applicability. When the Wyoming Employment Security Law provides a deadline for filing appeals, paying contributions, making reports, or for any other purpose, the following rules apply:

(a) In Person. When a person makes a payment or files an appeal, report, or other document in person with a representative of the Division that payment or filing is deemed to occur the day the person physically delivers the document or payment into the hands of the Division representative authorized to receive it.

(b) By Mail. When a person makes a payment or files an appeal, report or other document with the Division by mail, that payment is deemed to be made or document is deemed to have been filed as of the postmark date on the envelope by which the payment or document is mailed. If the envelope containing the document or payment is no longer available or if the postmark is not legible, the document shall be presumed filed or payment made according to the following:

(i) If it was mailed in Wyoming, there shall be a rebuttable presumption that it was mailed three working days prior to the date it was stamped received by the Division.

(ii) If it was mailed outside of Wyoming, there shall be a rebuttable presumption that it was mailed five working days prior to the date it was stamped received by the Division.

(c) By Fax. When a person files a protest, appeal, report or other document with the Division by fax, a rebuttable presumption shall exist that the document was filed as of the date it is stamped received by the Division. The fax must contain sufficient information to identify the party providing the information and the purpose for which it is intended. The party sending the fax assumes the risk of transmission errors or illegibility.

(d) By Internet Transmission. When a person files a claim, ~~using an~~ protest, appeal, report or other document using the internet website approved by the Division, ~~for that purpose, that claim documentation~~ is deemed to have been filed on the date the Division's website application records the completed ~~claim was transmitted by the claimant~~ transmission.

(e) Hearing. Upon timely request or appeal, the person filing or paying in an apparently untimely manner shall be given a hearing on the question of the timeliness of his filing or paying.

(f) By Phone. When a person files a claim by phone with a representative of this Division, that claim is deemed to have been filed on the date the phone call occurred.

Section 2. Deadline on Saturday, Sunday, or Legal Holiday. When a deadline for making a payment of filing an appeal, report, or other document with the Division falls on Saturday, Sunday, or legal holiday, the deadline is extended to the next working day. However, such days shall otherwise be counted in computing time limits.

CHAPTER 19

WAIVING INTEREST ON CONTRIBUTIONS

Section 1. By Whom. Requests to waive interest due on contributions shall be ruled on by the appropriate division administrator, or a duly authorized designee, if the amount of interest in question is ~~\$250.00~~ \$1,000.00 or less. If the amount of interest due on contributions is ~~\$250.01~~ \$1,000.01 or more, a request for waiving the interest shall be ruled on by the commission.

CHAPTER 20

CLAIMS FOR BENEFITS

Section 1. Filing a New or Additional Claim for Benefits. Any individual claiming benefits for unemployment under the Wyoming Employment Security Law shall proceed as follows:

(a) An individual may file an initial claim for unemployment benefits by telephone to the division's claim center or by Internet using the division's approved web site claim application. The effective date of an initial claim shall be the Sunday of the calendar week in which the individual first completed an Internet claim, or completed a telephone claim through the claim center for the purpose of initiating an initial unemployment insurance claim, unless the claimant requests that the claim be effective the following Sunday or unless the claimant has excessive earnings during that week and is separated from employment. The effective date of the claim may be changed by the division for good cause.

(b) An individual may file an initial claim in person or by mail. The effective date of an initial claim shall be the Sunday of the calendar week in which the individual reported in person to an employment center or another location approved by the division, to file the claim, or mail his request for benefit claim forms to the division's claim center; provided that the individual mails the completed forms not later than the seventh day following the date on which the requested forms were mailed to him. If the individual fails to mail the claim as provided above, the individual's claim for benefits shall be effective as of the Sunday of the calendar week in which the completed forms are mailed. The effective date of the claim may be changed by the division for good cause.

(c) In order to meet the requirement of W.S. 27-3-401(a), a claimant shall provide all information required to establish or process a claim, including the claimant's social security number and information to establish the claimant's identity. If the claimant fails, without good cause, to provide information required under this section, the claimant shall not be eligible for benefits until the week in which the requested information is provided.

Section 2. Filing Continued Claims for Benefits

(a) In order to maintain continuing eligibility for benefits with respect to any weeks of unemployment during any continuous period of unemployment, a claimant shall continue to file claims in the manner and on the dates as directed by the division. No continued claim shall be complete until the claimant furnishes to the division, by mail, fax, or in person at a local employment center, a signed claim for benefits on a form approved by the division or files the claim by telephone to the division's voice response system or by Internet using the division's

approved web site for continued claim. A continued claim must be filed no later than ~~Friday~~ Saturday, two weeks following the ending date covered by the claim. Failure to file continued claims within the time prescribed may be excused if good cause for the delay is established to the satisfaction of the division. On a continued claim the claimant shall set forth the following:

- (i) That he continues his claim for benefits.
- (ii) That during the period for which benefits are claimed he performed no work and earned no wages, except as reported thereon.
- (iii) That he was able to work, available for work, and actively seeking work, except as reported thereon.
- (iv) Such other information as is required by the form or telephone voice response system, or the division's approved web site for continued claims.

(b) Where a continuous period of unemployment is terminated or interrupted by re-employment or any other event which prevents continuing eligibility for benefits, a claimant, in order to receive benefits for any week of unemployment for which he was in all respects eligible before such termination or interruption, may file for benefits for such weeks. The claim must be filed with the division by mail, fax, in person at a local employment center, by telephone to the division's voice response system, or by Internet using the division's approved web site for continued claims within fourteen (14) days after the end of the week for which benefits are claimed. Failure to file within the time prescribed may be excused if good cause for such delay is established to the satisfaction of the division.

Section 3. Continuing of Claims When Claimant Moves to Another Locality. An individual moving to another locality after filing an initial claim for benefits may be permitted to continue his claim for unemployment by reporting to a local office in his new community, to an itinerant representative, by mail, or by telephone to the claim center or as directed by the division.

Section 4. Withdrawal of Initial Claim. Initial claims may be withdrawn:

(a) By the claimant, only on written request, if that request is filed within seven (7) days after the mailing of the first notice that the claimant is monetarily eligible, except as provided under the Interstate Agreement for Monetary Eligibility.

(b) By the division:

(i) If the claimant is not unemployed during the first week after the effective date of the initial claim; or

(ii) If, as of the effective date of the claim, the claimant has not met the requirements of W.S. 27-3-306(d), or W.S. 27-3-311(a) and (f) after disqualification under that section.

Section 5. Continued Eligibility of Benefits. In order to maintain continuing eligibility for benefits with respect to any weeks of unemployment during any continuous period of unemployment the claimant shall report in the manner and on the dates and times as directed by the division for the Eligibility Review Program, Benefit Accuracy Measurement review, Profiling interviews or other interviews requested by the division. Failure to report at the scheduled time may be excused if good cause for such delay is established to the satisfaction of the division.

Section 6. Requested Information. When a claimant fails to provide requested information that is necessary for making a determination he may not be eligible for benefits until the week in which the requested information is provided. The claimant may be considered eligible for all affected weeks if he provides the information in the protest period pursuant to W.S. 27-3-402(e).

Section 7. Benefit Payment.

(a) All benefits shall be paid through the authorized method(s) selected by the division.

(b) When confirmation of an electronic payment is received by the division, benefits are considered to have been paid to the claimant.

(c) When the division pays electronically, the claimant's personal information shall remain confidential according to applicable statutes and commission rules.

Section 8. Personal Identification Number (PIN)

(a) A person identification number (PIN) is a confidential number or other electronic method of verification that is required to perform any transaction(s) with the division by electronic or telephonic means. A PIN has the same force and effect as a manual signature.

(b) If a claimant knowingly allows another person to use the PIN, the claimant is responsible for the information provided to the division.

CHAPTER 21

MASS SEPARATIONS

Section 1. Definition of Mass Separation and Notice.

(a) The term “Mass Separation” means a separations (permanently or for an indefinite period of time or for an expected duration of seven or more days), at or about the same time and for the same reason, of ~~25~~ 20 or more workers employed in a single establishment.

(b) An employer shall file with the division in writing or by using the internet website approved by the Division, a mass separation notice which must include the layoff date and the period and amount of termination, severance, sick, or earned vacation payments, where applicable, for each employee. Such notice should be filed as soon as the employer has reason to believe a mass separation will take place, but shall be filed not later than five calendar days after such separation.

Section 2. Labor Dispute. Upon request by the division, such employer shall furnish to the division the names of the workers ordinarily attached to the department or establishment where unemployment is caused by a strike, lockout, or other labor dispute.

CHAPTER 24

REGISTRATION FOR WORK, ABLE, AVAILABLE AND ACTIVELY SEEKING WORK

Section 1. In General. Any individual who files for Wyoming unemployment insurance benefits shall register for work with a state employment agency serving their local labor market and keep that account active for the duration of the unemployment insurance claim. The claimant must register for work within 14 days from the day a claim is filed. Claimants who qualify under the conditions contained in Sections 2, 3, and 4 of this Chapter must register for work within seven (7) days of the expiration of that qualifying condition.

(a) For individuals living in Wyoming, “register for work” is defined as using the internet website approved by the Division to:

- (i) create a new or updated resume; and
- ~~(ii) create a new job alert on Virtual Recruiter; and~~
- ~~(iii)~~(ii) complete at least one ~~of the following activities~~ activity on the individual’s state employment agency account every 90 days to keep the account active for the duration of the unemployment insurance claim.

~~(A) search and/or apply for job openings; or~~

~~(B) access labor market information.~~

(b) For individuals living outside of Wyoming, “register for work” is defined as:

- (i) follow the registration requirements of the state the individual lives in; and
- (ii) supply proof of the registration to the Wyoming Division of Unemployment Insurance; or
- (iii) supply proof of why the individual is exempt from registering to the Wyoming Division of Unemployment Insurance.

(c) For individuals who the Wyoming Division of Unemployment Insurance determines to be a commuter, “register for work” is defined as:

- (i) register for work in the state in which the individual is seeking employment; or

or (ii) refer to Section 1(a) if the individual is registering for work in Wyoming;

(iii) refer to Section 1(b) if the individual is registering for work outside of Wyoming.

Section 2. Union Membership. During the first twelve weeks of unemployment following the effective date of a claimant's new or additional claim for benefits, an individual is considered to have met the requirements of W.S. 27-3-306(a)(i) if he is a member of a labor union with dues paid in full and is registered for work with his union local. After this twelve-week period, the individual must register for work as provided in Section 1, supra.

Section 3. Job Attached. As used in W.S. 27-3-306(a)(i), within twelve weeks means within twelve weeks of the effective date of the new or additional claim for benefits. If the claimant normally worked less than thirty-five hours per week while earning qualifying wage credits, the claimant shall be considered returning to full-time work if returning to the same number of hours normally worked for the employer during the base period. The division shall notify the employer the claimant has stated he is job attached. The claimant is not job attached if the employer notifies the division, in writing, within fifteen (15) days of the mailing of the division's notice, that the claimant will not be recalled within twelve (12) weeks. Claimants who are deemed not to be job attached, under this section, have seven (7) days from the date of notice to register for and actively seek work.

Section 4. Approved Training. An individual enrolled in approved training under W.S. 27-3-307 is considered registered for work. Upon completion of the training, the individual must register for work as provided in Section 1, supra.

Section 5. Students. When a claimant is attending school or participating in other types of course work during his normal working hours and is not enrolled in Approved Training, he is not available for work unless:

(a) He has earned base period wages while attending school and is seeking work and attending school on a similar basis; or

(b) He attends no more than eight (8) class time hours per week and verifies in writing he will drop the class(es) or change the class hours if the class schedule conflicts with an offer of suitable work; or

(c) He participates in no more than eight (8) hours in other types of course work, including but not limited to Internet and self-study courses, during his normal working hours.

Section 6. Work Search. To be eligible for benefits for any week, a claimant must contact two (2) or more employers per week. A claimant filing for benefits will actively seek full-time employment. The claimant may seek part-time employment if the majority of his base period wages were earned on the basis of part-time work, or he has a documented bona fide medical reason preventing him from working full-time. If the claimant does not provide work search information to the division upon request, the division may presume he did not actively seek work.

Section 7. Apprenticeship Training. If a claimant applies for apprenticeship training, notice will be mailed to the most recent employer. The most recent employer is presumed to have approved the training, unless the employer notifies the division, in writing, within fifteen (15) days of the mailing of the division's notice that the employer does not approve the training.

CHAPTER 27

PENALTY ON FRAUD OVERPAYMENTS

Section 1. In General. In order to meet the requirements of W.S. 27-3-409(d), a five percent (5%) penalty is first assessed from the date of the Overpayment Notice. On the last day of the month of every six (6) month period following the first penalty, an additional five percent (5%) shall be assessed on any remaining unpaid balance. ~~The remaining unpaid balance includes the unpaid balance of the overpayment plus the remaining unpaid balance of prior penalty assessments.~~ The remaining unpaid balance only includes the unpaid balance of the overpayment.

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 or by using the internet website approved by the Division 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.

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~~ or use the internet website approved by the Division 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.