



Notice of Intent to Adopt Rules

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

Revised June 2020

<u>1. General Information</u>			
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			
Amended Program Name (if applicable):			
* <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.			
<u>2. Legislative Enactment</u> For purposes of this Section 2, "new" only applies to regular non-emergency 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 non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?			
<input type="checkbox"/> No. <input type="checkbox"/> Yes. If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):			
<u>3. Rule Type and Information</u> For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.			
a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			



Additional Rule Information

Revised June 2020

Include this page only if needed.

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. Program		
Amended Program Name (if applicable):		

2. Rule Type and Information, Cont.

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

	Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
	Amended Chapter Name (if applicable):				
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
	Amended Chapter Name (if applicable):				
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
	Amended Chapter Name (if applicable):				
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
	Amended Chapter Name (if applicable):				
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
	Amended Chapter Name (if applicable):				
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
	Amended Chapter Name (if applicable):				
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
	Amended Chapter Name (if applicable):				
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
	Amended Chapter Name (if applicable):				

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/revoked 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. The Agency has completed a takings assessment as required by 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: _____

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>	

Wyoming State Board of Equalization
Statement of Principal Reasons for Amending and
Promulgating Rules, Chapters 1 through 8

The Wyoming State Board of Equalization is amending and promulgating rules for multiple reasons:

The Board is proposing to amend its seven chapters of existing rules to simplify them, to reflect the Board's new address, and to eliminate unnecessary provisions. The Board also seeks to add an 8th chapter to govern appeals from decisions of the Department of Revenue, Liquor Division to revoke or suspend a Wyoming liquor license.

Chapters One through Seven are amended to eliminate redundant and unnecessary elements and to reflect the Board's new physical address and the temporary elimination of the Board's Executive Secretary/Attorney position.

Chapter One is further amended to update public record practices to be consistent with current state law.

Chapter Two is further amended to clarify that, along with contested cases appealed from the Department of Revenue, it also governs contested cases authorized in the Wyoming Statutes and brought before the Board from any final administrative decision of the Department of Transportation or from a county assessor if the case is certified to the Board by a county board of equalization and accepted by the Board.

Chapter Three is further amended to allow any persons to file Amicus Curiae before the Board. The current rules allow only county boards of equalization to file Amicus Curiae.

Chapter Six rules are intended to establish uniform procedures for processing information disclosed in statements of consideration as set forth in W.S. 34-1-142. The Chapter Six rules are further amended to account for legislative changes enacted in 2020 in Senate File No. SF0039, Enrolled Act No. 27.

Chapter Eight is promulgated by authority of Wyoming Statutes section 12-7-201(d) to provide a process for contested case appeal proceedings before the State Board of Equalization upon the Department of Revenue, Liquor Division's revocation or suspension of a Wyoming liquor license.

CHAPTER 1

GENERAL PROCEDURES

Section 1. Authority. These rules are adopted pursuant to Wyoming Statutes 39-11-102.1 and 16-3-102.

Section 2. Board's Office.

(a) The Board's office is located in the Hathaway Building, at 2300 Capitol Avenue, Cheyenne, Wyoming. The Board's office hours are 8:00 a.m. to 5:00 p.m. on business days.

(b) All pleadings, motions or other documents shall be filed with the Board at its office, mailed to the Board at P. O. Box 448, Cheyenne, Wyoming 82003-0448, or received by facsimile, 307-777-6363. Any facsimile received after regular business hours will be treated as received during the regular business hours of the next working day.

Section 3. Sessions of the Board.

(a) The Board shall be considered in daily session, without formal adjournment from day to day, but if occasion requires, it may adjourn to a day certain, or adjourn subject to the call of the Chairman, or a majority of the Board members. The Board shall hold a regular meeting on the first working day of each week at 9:00 a.m.

(b) A majority of the Board shall constitute a quorum for the transaction of business. Formal adoption of decisions by the Board requires a quorum.

(c) The Board shall hold special sessions whenever any matter before the Board requires consideration at a particular time or place, or whenever the Board meets with others for the purpose of discussing any matter for consideration. Such sessions may be held at any place within the State.

(d) The Board shall hold annual sessions:

(i) To discuss assessment practices and valuations for assessment purposes with interested Department of Revenue officials, county officials and taxpayers;

(ii) To recommend valuation work practices and order equalized valuations as the Board may lawfully adopt;

(iii) To fix the levy after the receipt of the certificate from the State Auditor and State Treasurer showing the amount of money required to be raised for State purposes; and

(iv) To take final action on county valuations as reported to the Board by County Assessors.

Section 4. Items to be Contained in Board Minutes. All matters of importance that the Board should consider shall be brought to the Board's attention in formal session. At each formal session, the Board shall have complete minutes taken. After the Board approves the minutes, they shall be filed for permanent public record.

Section 5. Public Records Practices.

(a) The Board shall make its records available for inspection as required by W.S. 16-4-201 through -205. Members of the public, including parties to proceedings before the Board, may review documents maintained by the Board at its office unless the documents are confidential. Original or Board copies of records shall not be removed from the Board office, and review of documents may be restricted to protect the records or prevent unnecessary interference with discharge of the Board's duties.

(b) Pursuant to W.S. 16-3-103(j)(ii), the Board is to adopt the Department of Administration and Information's uniform rules pertaining to procedures, fees, costs, and charges for inspecting, copying and producing public records, to the extent the same are consistent with the requirements of the Board. The Board hereby incorporates by reference Rules, Wyo. Dep't of Administration and Information, Director's Office, Ch. 2 (September 6, 2016), entitled Uniform Procedures, Fees, Costs and Charges for Inspecting, Copying, and Producing Public Records, found at <http://rules.wyo.gov>.

(c) The Board has determined that incorporation of the full text of the rule incorporated in Subsection (b) of this section would be inefficient given the provisions of W.S. 16-3-103(j)(ii).

(d) The incorporation by reference does not include any later amendments or editions of the incorporated material after the applicable date identified in Subsection (b) of this section.

Section 6. Rule-making.

(a) Rule-making shall be conducted in a non-adversarial manner, without pleadings, sworn testimony, rules of evidence, cross-examination, or adverse parties.

(b) Only the Board shall be afforded the privilege of questioning participants during any rule-making hearing. At the start of each hearing, the Board shall announce all restrictions, including time limits on oral comments.

(c) Board decisional meetings shall be scheduled and conducted as public meetings for discussion and decision on proposed rules.

(d) If requested in writing or at a public hearing, the Board shall issue a concise statement of the principal reasons for overruling a comment or consideration. Such statement shall be issued either prior to or within 30 days after adoption of the rule.

Section 7. Petition for rule-making.

(a) Pursuant to W.S. 16-3-106, any person, including the Department of Revenue, may petition the Board for the adoption, amendment or repeal of any rule. The petition shall be filed at the office of the Board, mailed to the Board at P. O. Box 448, Cheyenne, WY 82003-0448, or received by facsimile, 307-777-6363.

The petition shall include:

- (i) The name, address, and phone number of petitioner;
 - (ii) A statement of the terms and substance of the proposed rule or a description of the subjects and issues involved;
 - (iii) If an amendment or a repeal is requested, a citation to the rule to be amended or repealed;
 - (iv) A concise reason for the adoption, amendment or repeal of the rule; and
 - (v) Identification of the statutory authority for the rule and any requested amendment or repeal, if known.
- (b) The filing of a petition shall not stay or affect any duly promulgated rule.
- (c) The Board may schedule a pre-hearing conference with the petitioner to review the petition.

Section 8. Decorum. The conduct, demeanor, and dress of parties, attorneys, and representatives at any Board proceeding shall reflect respect for the dignity and authority of the Board. All clients and witnesses shall be instructed as to appropriate demeanor and dress.

Section 9. Sanctions for Violation of Rules. The Board may impose any of the following sanctions on a party for violation of these rules or any valid order of the Board:

- (a) Striking of briefs or pleadings;
- (b) Drawing an adverse inference;
- (c) Removal of or limitation of participation of any disruptive person in any hearing;
- (d) Continuance of any hearing;
- (e) Dismissal of proceedings;
- (f) Assessment of costs; or
- (g) Any other sanction permitted by law.

CHAPTER 1

GENERAL PROCEDURES

Section 1. Authority. ~~These rules in this chapter are adopted pursuant to W.S. Wyoming Statutes 39-11-102.1 and W.S. 16-3-102.~~

Section 2. Board's Office of the Board.

(a) ~~The office of the Board's office is located at in the HerschlerHathaway Building, 122 West 25th Street at 2300 Capitol Avenue, Cheyenne, Wyoming 82002-0110. The Board's office hours of the Board are 8:00 a.m. to 5:00 p.m. on each business days. A person desiring to transact any business with the Board may appear and make application to do so any time during the office hours.~~

(b) ~~All pleadings, motions or other documents shall be filed with the Board at the its office of the Board, 122 West 25th Street, Cheyenne, Wyoming 82002-0110, or mailed to the Board Executive Secretary, at P. O. Box 448, Cheyenne, Wyoming 82003-0448, or received by facsimile, 307-777-6363, during regular business hours. Any facsimile received after regular business hours will be treated as received during the regular business hours of the next working day.~~

Section 3. Sessions of the Board.

(a) ~~The Board shall be considered in daily session, without formal adjournment from day to day, but if occasion requires, it may adjourn to a day certain, or adjourn subject to the call of the Chairman, or a majority of the Board members. A The Board shall hold a regular meeting of the Board shall be held on the first working day of each week at 9:00 a.m.~~

(b) ~~A majority of the Board shall constitute a quorum for the transaction of business. Formal adoption of decisions by the Board requires a quorum.~~

(c) ~~The Board shall hold Sspecial sessions ~~of the Board shall be held~~ whenever any matter before the Board requires consideration at a particular time or place, or whenever the Board meets with others for the purpose of discussing any matter for consideration. Such sessions may be held at any place within the State ~~other than the Board's office in Cheyenne, if the Board finds such other place is better suited.~~~~

(d) ~~The Board shall hold annual sessions Sessions shall be held annually by the Board for the following purposes:~~

(i) ~~To discuss assessment practices and valuations for assessment purposes with interested Department of Revenue officials, county officials and taxpayers.;~~

(ii) ~~To recommend valuation work practices and order equalized valuations as the Board may lawfully adopt.~~

(iii) To fix the levy after the receipt of the certificate from the State Auditor and State Treasurer showing the amount of money required to be raised for State purposes and

(iv) To take final action on county valuations as reported to the Board by County Assessors.

Section 4. Items to be Contained in Board Minutes. All matters of importance ~~which that the Board should be considered by the Board~~ shall be brought to the Board's attention in formal session. At each formal session, the Board executive secretary shall be responsible for taking full and have complete minutes taken, and shall submit the same to the members of the Board for their correction and approval. Approval shall be entered upon After the Board approves the minutes and, when approved, they shall be filed with the executive secretary for permanent public record.

Section 5. Public Records Practices.

(a) ~~All requests for public records from the Board shall be in writing and processed according to this section. The Board shall make its records available for inspection as required by W.S. 16-4-201 through -205. Members of the public, including parties to proceedings before the Board, may review documents maintained by the Board at its office unless the documents are confidential. Original or Board copies of records shall not be removed from the Board office, and review of documents may be restricted to protect the records or prevent unnecessary interference with discharge of the Board's duties.~~

(b) ~~The Board shall initially determine whether the requested public records are in the possession of the Board as official custodian. If such determination is negative, the request shall be returned to the applicant with notation of this fact and designation of the official custodian, if known. If the public records requested are in active use or in storage and therefore not available at the time an applicant asks to examine them, the Board shall so notify the applicant. Pursuant to W.S. 16-3-103(j)(ii), the Board is to adopt the Department of Administration and Information's uniform rules pertaining to procedures, fees, costs, and charges for inspecting, copying and producing public records, to the extent the same are consistent with the requirements of the Board. The Board hereby incorporates by reference Rules, Wyo. Dep't of Administration and Information, Director's Office, Ch. 2 (September 6, 2016), entitled Uniform Procedures, Fees, Costs and Charges for Inspecting, Copying, and Producing Public Records, found at <http://rules.wyo.gov>.~~

(c) ~~If the Board is the official custodian of the public record, the Board shall determine whether the requested record is protected as privileged, confidential or proprietary. If the Board determines the records are not subject to disclosure, the request shall be denied and returned to the applicant with a notation of the statutory provision which renders the record not subject to public review or disclosure. The Board has determined that incorporation of the full text of the rule incorporated in Subsection (b) of this section would be inefficient given the provisions of W.S. 16-3-103(j)(ii).~~

(d) ~~Public records for which the Board is custodian shall be open and available for public inspection between 8 a. m. and 5 p.m. each business day. Original or Board copies of records shall not be removed from the Board office area and the review thereof may be reasonably restricted to protect the records or prevent unnecessary interference with the regular discharge of the Board's duties. In the Board's discretion, public records may be released in computerized format. The Board shall recover all direct and indirect costs associated with programming, computer time, and production from the requesting entity, except for entities party to an information sharing agreement with the Board or State of Wyoming. The incorporation by reference does not include any later amendments or editions of the incorporated material after the applicable date identified in Subsection (b) of this section.~~

(e) ~~All final orders and decisions of the Board, the minutes of all its sessions, meetings and proceedings, and the Board's rules shall be kept by the executive secretary for permanent public record and shall be open for public inspection. The executive secretary may certify to the correctness of any copies of such documents.~~

~~(f) For all public records for which the Board is custodian, paper copies may be provided upon approved request and payment at the rate of \$.50 per page for the first 10 pages, and \$.15 per page for each additional page with a \$1.00 minimum charge. If certification of a document is requested, there shall be an additional charge of \$3.00 per document.~~

~~Section 6. Rules Subscription.~~

~~The Board may provide an annual (calendar year) subscription service for current and amended rules. Such service shall be provided at an annual subscription fee of \$18.00 payable before March 1st of each year. Amendments to rules shall be issued to all current subscribers on a semi-annual basis (July 1 and December 31). Subscribers who request copies of amended rules prior to the semi-annual mailing shall be provided the same upon written request and payment of the public record fee in Section 5(f).~~

Section 76. Rule-making.

(a) ~~The Board's rule-making procedure is governed by W.S. 16-3-101 through 16-3-106. As a fact-finding proceeding, r~~Rule-making shall be conducted in a non-adversarial manner, without pleadings, sworn testimony, rules of evidence, cross-examination, or adverse parties.

(b) ~~Only the Board shall be afforded the privilege of questioning participants during any required rule-making hearing. The Board may ask questions to develop a full and complete understanding of all comments. At the commencement start of each hearing, the Board shall announce all restrictions, including time limits on oral comments as deemed necessary to promote an orderly and fair hearing.~~

(c) ~~Board decisional meetings shall be scheduled and conducted as a public meetings for discussion and decision on proposed rules.~~

(d) If requested in writing or orally at a public hearing, the Board shall issue a concise statement of the principal reasons for overruling a comment or consideration. Such statement shall be issued either prior to or within 30 days after adoption of the rule.

Section 87. Petition for rule-making.

(a) Pursuant to W.S. 16-3-106, any person, including the Department of Revenue, may petition the Board for the adoption, amendment or repeal of any rule. The petition shall be filed at the office of the Board or mailed to the Board, ~~c/o Executive Secretary, at~~ P. O. Box 448, Cheyenne, WY 82003-0448, or received by facsimile, 307-777-6363, ~~during regular business hours. Any facsimile received after regular business hours will be treated as received during the regular business hours of the next working day.~~ The petition shall include:

- (i) The name, address, and phone number of petitioner;
- (ii) A statement of the terms and substance of the proposed rule or a description of the subjects and issues involved;
- (iii) If an amendment or a repeal is requested, a ~~the~~ citation to the rule to be amended or repealed;
- (iv) A ~~brief and~~ concise reason for the adoption, amendment or repeal of the rule; and
- (v) Identification of the statutory authority for the rule and any requested amendment or repeal, if known.

(b) The filing of a petition shall not stay or affect any duly promulgated rule.

(c) ~~After filing of the petition, t~~The Board may schedule a pre-hearing conference with the petitioner to review the petition.

~~(d) As soon as practicable the Board shall either deny the petition in writing (stating its reasons for denial) or initiate rule-making proceedings in accordance with W.S. 16-3-103.~~

~~(e) The action of the Board in denying a rule-making petition is final and not subject to review.~~

Section 98. Decorum. The conduct, demeanor, and dress of parties, attorneys, and representatives ~~when present during~~ at any Board proceeding shall reflect respect for the dignity and authority of the Board ~~and the proceedings shall be maintained as an objective search for the applicable facts and the correct principles of law.~~ All clients and witnesses shall be instructed as to appropriate demeanor and dress.

Section 109. Sanctions for Violation of Rules. The Board may impose any of the following sanctions ~~may be imposed~~ on a party for violation of these rules or any valid order of the Board:

- (a) Striking of briefs or pleadings;
- (b) Drawing an adverse inference;
- (c) Removal of or limitation of participation of any disruptive person in any hearing;
- (d) Continuance of any hearing;
- (e) Dismissal of proceedings;
- (f) Assessment of costs; or
- (g) Any other sanction permitted by law.

CHAPTER 2

RULES OF PRACTICE AND PROCEDURE FOR CASES BEFORE THE WYOMING STATE BOARD OF EQUALIZATION FROM THE WYOMING DEPARTMENTS OF REVENUE OR TRANSPORTATION OR CERTIFIED FROM A COUNTY ASSESSOR AND ACCEPTED BY THE BOARD

Section 1. Authority. These rules are promulgated by authority of Wyoming Statutes 16-3-102 and 39-11-102.1.

Section 2. Purpose and Application of Rules. These rules are intended to provide a uniform and understandable process for contested cases affording de novo review of administrative decisions of the Departments of Revenue or Transportation, and of a county assessor for certified cases accepted by the Board. These rules shall apply to contested cases authorized in the Wyoming Statutes and brought before the Board from any final administrative decision of the Department of Revenue, Department of Transportation, or a county assessor (for certified cases accepted by the Board).

Section 3. Incorporation by Reference.

(a) The rules listed below are incorporated by reference and can be found at: <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=48>:

(i) Rule 12(b)(6), Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017, except the Board shall not treat any proceeding as one for summary judgment;

(ii) Rule 24, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017;

(iii) Rule 45, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017;

(iv) Rule 52, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017.

(b) No later amendments to a rule listed in Subsection (a) of this section are incorporated by reference.

Section 4. Definitions. For the purposes of contested cases brought before the Board under these rules:

(a) “Board” means the Wyoming State Board of Equalization as set forth in W.S. 39-11-102.1.

(b) “Case” means a proceeding before the Board in which the legal rights, duties or privileges of a party are to be determined by the Board after an opportunity for hearing as provided by W.S. 16-3-107.

(c) “Certified Case” means a case proceeding before the Board pursuant to Section 35 of this Chapter.

(d) “Department” means the Wyoming Department of Revenue as created by W.S. 39-11-102 or the Wyoming Department of Transportation as created by W.S. 24-2-101.

(e) “Party” means the Petitioner who is seeking relief before the Board, each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, including a board of county commissioners, and the Department.

(f) “Petitioner” means any person, firm, corporation, partnership, association, government official, or governmental agency who files a case notice.

(g) “Case notice” means a notice of appeal or a filing specified in Subsection 5(a) of this chapter requesting a contested case hearing.

(h) “Legal holiday” means any day officially recognized as a legal holiday in Wyoming by designation of the legislature or appointment as a holiday by the governor.

(i) “Representative” means an individual who is authorized to act in a representative capacity on behalf of a party to a contested case.

Section 5. Commencement of Case.

(a) A petitioner shall institute a case by filing a case notice for review of any final administrative decision of the Department with the Board at its office, by mail sent to P.O. Box 448, Cheyenne, Wyoming 82003-0448 or by facsimile to 307-777- 6363. Any facsimile received after regular business hours will be treated as received during the regular business hours of the next working day.

(b) The Petitioner shall serve the case notice on the Department and other parties consistent with Section 8 of this chapter.

(c) The case notice shall contain the following information:

(i) A copy of the decision at issue;

(ii) A concise statement in ordinary language of the facts and of the errors alleged to have been committed and issues upon which the case is based;

(iii) The amount of the tax assessment or refund denial, and the amount of tax in controversy;

- (iv) The relief sought; and
- (v) Whether a hearing is desired.

(d) The Petitioner or the Petitioner's representative shall sign the case notice, which shall contain the telephone number, fax number, if available, and mailing address of the Petitioner or representative.

(e) The case notice shall be filed with the Board within 30 days of the date of the final administrative decision at issue or of the date of mailing of the final administrative decision as evidenced by postmark, whichever is later.

(f) Computation of Time - The time period for filing a case notice shall begin on the day after the date of the final administrative decision or upon the date of mailing of the final administrative decision as evidenced by a legible postmark, whichever is later. If the last day of the computed period is a Saturday, Sunday, or legal holiday, the period runs until the end of the next day that is neither a Saturday, Sunday, nor a legal holiday.

(g) Filed with the Board - The case shall be considered filed with the Board upon mailing of the case notice as evidenced by a legible postmark, upon receipt by fax as provided in Section 5(a), or upon hand delivery as evidenced by the Board's file stamp.

Section 6. Processing of Case.

(a) The Board shall dismiss the appeal if it is untimely, notify the Petitioner of any apparent errors or omissions, and request any additional information the Board wishes to obtain and is permitted by law to require, including whether the Petitioner wishes the matter to be considered as an expedited case. If the notice is timely filed the Board shall either:

- (i) Docket for commencement of formal contested case procedures in accordance with W.S. 16-3-107, et seq., and these rules; or
- (ii) Docket as an expedited case for consideration pursuant to Section 15 of this chapter.

(b) The Board shall establish a separate file for each docketed case in which shall be placed all papers, pleadings, documents, transcripts, evidence and exhibits pertaining thereto, and all items shall have noted thereon the docket number assigned.

Section 7. Record.

(a) Within 60 days after a case notice is filed, the Department shall transmit to the Board a certified copy of the complete record of the final administrative decision from which the appeal is taken, including a general index identifying the documents and instruments in the

record with reasonable definiteness. The Department shall also serve a copy of the general index on all parties to the appeal; or

(b) The Board may direct the Department to segregate and retain the complete record of the final administrative decision. The Department shall prepare and file with the Board a general index, certified as true and accurate, identifying the documents and instruments in the record with reasonable definiteness, and also serve a copy of the general index on all parties to the appeal. If the record is not filed with the Board, the Department shall make the record available to the Board and all parties during regular business hours for inspection and copying. Upon order of the Board the Department shall file a certified copy of the complete record with the Board.

Section 8. Service of Case Notice and Other Pleadings. Petitioner shall mail or personally deliver to the Director of the Department a case notice and any other pleadings that Petitioner filed with the Board. The Department shall serve any pleadings it filed on Petitioner by mail and on any other party. If any party is represented, the Department shall serve its pleadings by mail on the representative.

Section 9. Designation of Presiding Officer. The Board may designate as presiding officer one or more member(s) of the Board, the Executive Secretary of the Board, the Staff Attorney of the Board, or a licensed attorney employed by or on contract with the State of Wyoming who is knowledgeable of and qualified in the particular areas of taxation that are the subject of the appeal. The presiding officer shall act impartially and have the authority provided by W. S. 16-3-112(b).

Section 10. Preliminary Statement. The Board may order each party to file with the Board and serve upon the other parties a preliminary statement or joint preliminary statement. The parties shall be afforded at least 30 days for the preparation and filing of any statement. Following receipt of the preliminary statement, the proceeding may be converted to an expedited case pursuant to Section 15 of this chapter. Unless otherwise ordered, the statement shall set forth:

- (a) A brief summary of the contentions of the party;
- (b) Significant uncontroverted facts (these may be established by admissions or by stipulation);
- (c) Contested issues of fact remaining for decision;
- (d) Contested issues of law to be determined at the hearing. The parties may include memorandums of law on significant legal issues;
- (e) The name, address, and a brief description of the testimony of each witness the party intends to present at the hearing;

- (f) A list and copies of all exhibits to be introduced (this does not foreclose the introduction of other exhibits that become available or are discovered later);
- (g) Any request to convert the case to an expedited case pursuant to Section 15 of this chapter;
- (h) An estimate of the time required for the hearing;
- (j) An assessment of the probability of settlement; and
- (k) Any other information directed by the Board.

Section 11. Prehearing Conference.

(a) The Board or the presiding officer may order a prehearing conference. If so ordered, each party may be required to file a prehearing statement or a joint prehearing statement no later than five days before the conference. The statement shall contain such items, information, and directions as deemed necessary to conduct a useful conference. The prehearing conference shall be an informal proceeding conducted expeditiously by the presiding officer, Executive Secretary to the Board, or one or more member(s) of the Board, and may be held by conference call or similar technology. The results of the conference may be made the subject of an order which shall be provided to all parties to the appeal. At or following the conference, the case may be designated an expedited case for proceedings pursuant to Section 15 of this chapter. A Petitioner relieved, under Subsection (b) of this section, of the duty to provide a prehearing submission must nonetheless attend any prehearing conference ordered by the Board.

(b) Upon request to the Board, or upon the Board's own motion, a Petitioner shall be relieved of the duty to provide prehearing submissions if:

- (i) The total amount in controversy is \$2,000 or less; and
- (ii) The Petitioner is not represented by counsel; and
- (iii) The individual who signed Petitioner's Notice of Appeal will be Petitioner's only witness; and
- (iv) The Petitioner will introduce no documentary evidence at the hearing other than those documents contained in the Record certified by the Department and filed with the Board pursuant to Chapter 2, Section 7(a) of these Rules.

Section 12. Motions.

(a) An application to the Board for an order shall be by motion which, unless made during a hearing, shall be in writing, filed with the Board, and served on all parties and shall state

with particularity the grounds and the relief or order sought. The Board will not entertain any motion pertaining to dismissal, default, or compliance with discovery procedures unless the moving party or its representative has tried in good faith to resolve the issue with the non-moving party or its representative before filing the motion. The motion shall set forth all good faith efforts undertaken to resolve the issue, and the Board will not consider the motion until this information is provided. The motion shall advise the parties that they may file a written response stating their objections to the motion with the Board and serve a copy on all parties within 15 days of service of the motion. No motions shall be filed within 20 days of a hearing.

(b) For good cause, the Board may act on its own motion by providing notice of its intent to act and the reasons therefore to all parties. The notice of intent shall advise the parties they may file written objections within 15 days of service of the notice.

Section 13. Joinder of Persons.

(a) Any party may move for the joinder of persons to a case when necessary to accord complete relief to the parties. A motion for joinder shall be filed with the Board within the time limits of these rules, and served by certified mail on the proposed parties. The motion shall set forth the names and addresses of the proposed parties, state why the proposed parties are necessary for just adjudication, and notify the proposed parties as well as all other parties that a response to the motion may be filed with the Board within 15 days of service of the motion.

(b) Upon motion, the Board may order joinder if complete relief to the parties cannot otherwise be provided. The order shall be served by certified mail on the joined party. The Board, in its discretion, may proceed with a hearing without requiring joinder if its jurisdiction over the proposed parties can be acquired only by their consent or voluntary appearance; however, any order rendered therein does not affect the rights or liabilities of absent persons.

Section 14. Intervention.

(a) As authorized by the Wyoming Administrative Procedure Act, any person or agency may be admitted as a party to a proceeding before the Board if entitled as of right to do so. Upon timely application, any applicant, may be permitted to intervene in a case: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the matter or transaction which is the subject of the case and is so situated that the disposition of the case may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Any applicant desiring to intervene shall file an application to intervene with the Board and serve a copy on all parties in the case. The application shall state the grounds therefore, set forth the position for which intervention is sought, and advise the parties that they may file with the Board and serve on all parties and the applicant a written response within 15 days of service of the application. No application to intervene shall be filed within 20 days of a hearing.

Section 15. Expedited Contested Case.

- (a) A contested case may be expedited if:
 - (i) there are no disputed issues of material fact; or
 - (ii) The parties agree to an expedited proceeding, provided the Board retains the authority to convert the proceeding to a regular contested case if essential facts must be determined in order to permit adequate presentation and disposition of the case.
- (b) Any party shall have 15 days from the date of the Board order scheduling a matter as an expedited case to request reconsideration.
- (c) An expedited contested case shall consist of review of any written argument and evidence. The Board may permit limited oral argument after submission of all written material upon written request of a party or on the Board's own motion.

Section 16. Notice of Hearing. The Board shall by notice set a date, time, and place for the hearing of the case. The notice shall also set forth the nature of the hearing. Unless the Board finds an emergency exists or it is necessary and proper for the matter to be heard sooner, the notice shall be delivered by mail or personally to all parties at least 30 days before the date set for hearing.

Section 17. Hearing and Representation.

- (a) At the date, time, and place of the hearing, the Board or presiding officer shall hear all matters presented. For expedited cases, the hearing shall be limited to oral argument. The Board or presiding officer may limit time for the conduct of a hearing.
- (b) Any party may represent himself or herself at such a hearing, or may be represented by a person designated by the party. The Department may be represented by any of its employees or by its attorney.
- (c) It shall be the responsibility of every party to be familiar with and comply with the Board's Rules. The Board's Rules are available at the Board's office and on the Board's web site at <http://taxappeals.state.wy.us>.
- (d) The hearing is open to the public, except for such portions closed by the Board pursuant to any statute expressly authorizing closure. If a hearing is conducted by telephone and not closed, public attendance is satisfied by allowing members of the public, at reasonable times, to hear or inspect the Board record.

Section 18. Order of Procedure at Hearing.

- (a) For purposes of this section, the functions of the Chairman of the Board and the Board may be exercised by a presiding officer appointed pursuant to Section 9 of this chapter.

Where oral arguments are ordered, the time for the presentation of the oral arguments may be limited. As nearly as possible, where evidence is presented, hearings shall be conducted in accordance with the following order of procedure:

(i) The Chairman shall conduct the hearing, shall announce that the hearing is convened and shall indicate the docket number and title of the appeal to be heard. The Chairman shall then read or summarize the case notice and shall note for the record all subpoenas issued and all appearances of record;

(ii) The Chairman shall then take up any motions or preliminary matters to be heard;

(iii) Opening statements will be heard at the discretion of the Board;

(iv) Unless otherwise directed by the Chairman, the Petitioner shall present his or her evidence after which the Department shall present its evidence. Evidentiary issues shall be governed by W.S. 16-3-108. All testimony shall be under oath or affirmation. Any part of the evidence may be received in written form if doing so will facilitate the hearing without substantial prejudice to the interests of any party. Parties shall disclose to the opposing party within a reasonable time before the hearing any intention to introduce and rely upon written evidence. Documentary evidence may be received in the form of a copy or excerpt. Upon request, parties shall be given an opportunity to compare the copy with the original if available. The Board may ask questions of any party or witness;

(v) Closing statements, including summaries of the evidence and legal arguments, may be made at the conclusion of the presentation of evidence by the parties.

(b) The Board may order the parties to submit supplemental briefs or proposed findings of fact and conclusions of law.

(c) After all proceedings have been concluded, the Board shall dismiss and excuse all parties and declare the hearing closed. The Board shall advise the parties that its final decision shall be announced following consideration of all matters presented at the hearing.

Section 19. Briefs. Any party may submit a written brief to the Board before or during the hearing. A party desiring to submit a brief after the hearing may move the Board for leave to do so. If the Board grants that motion, it shall set a date by which such brief is due. The brief may set forth the factual and legal position of the party submitting it. An original and four copies of any brief and proposed findings shall be filed with the Board and a copy thereof served on every other party to the case.

Section 20. Burden of Going Forward; Burden of Persuasion. Except as specifically provided by law or in this section, the Petitioner shall have the burden of going forward and the ultimate burden of persuasion, which burden shall be met by a preponderance of the evidence. If Petitioner provides sufficient evidence to show the Department determination is incorrect, the burden shifts to the Department to defend its action. For all cases involving a claim for

exemption, the Petitioner shall clearly establish the facts supporting an exemption. In issues of whether there is a taxable event under Wyoming law, the Petitioner shall have the burden of going forward and the Department shall have the ultimate burden of persuasion.

Section 21. Default Order.

(a) If a party fails to attend or participate in a prehearing conference, hearing, or other stage of a contested case proceeding, or otherwise fails to comply with any valid order of the Board, the Board may serve upon all parties a written notice of intent to issue a default order, including a statement of the grounds.

(b) Within 15 days after service of notice under Subsection (a) of this section, the party against whom it is issued may file a written objection requesting the default order not be entered and stating the grounds therefore. During that 15-day period, the Board may adjourn the proceedings or conduct the proceeding without the participation of the party against whom the notice of intent to enter a default order has been issued, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(c) The Board shall make a determination with regard to the default order promptly after expiration of the time prescribed in Subsection (b) of this section.

(d) Upon issuance of a default order, the Board shall conduct, without the participation of the defaulted party, any further proceedings necessary to complete the contested case and determine all issues in the proceeding, including those affecting the defaulted party.

Section 22. Record of Proceedings.

(a) The hearing proceedings, including all testimony, shall be reported verbatim stenographically or by any other means determined by the Board. A copy of such proceedings will be furnished to any party upon written request to the Board and the payment of a reasonable fee.

(b) Parties desiring to have the hearing transcribed by a certified court reporter must make the necessary arrangements and bear the cost thereof. The original transcript of the hearing shall be filed with the Board.

Section 23. Filing of Exhibits. All exhibits submitted in a contested case shall be filed with the Board at 2300 Capitol Avenue, Cheyenne, Wyoming, or mailed to P.O. Box 448, Cheyenne, Wyoming 82003-0448.

Section 24. Inspection of File. Each party, or his authorized representative, shall be permitted to inspect and copy, at their own expense at the offices of the Board, all documents regarding the case contained in the Board files permitted by law to be inspected and copied.

Section 25. Depositions and Discovery; Limitations.

(a) In all cases coming before the Board, the taking of depositions and discovery shall be available to the parties in accordance with the provisions of W.S. 16-3-107(g) and the applicable Wyoming Rules of Civil Procedure. The Board may issue discovery and protective orders in accordance with the Wyoming Rules of Civil Procedure. Time limits for the completion of all discovery may be established as part of any prehearing order. Unless otherwise ordered or stipulated, no party may serve on any other party more than 30 interrogatories in the aggregate. Each subpart shall be counted as a separate interrogatory. Interrogatories shall be arranged so that after each question there shall be left a blank space reasonably calculated to allow the answering party to answer. For consolidated cases involving multiple parties, the Board may impose further limits on the number of allowed interrogatories. Unless otherwise ordered, discovery documents shall not be filed with the Board except in support of a motion to compel or as evidence.

(b) Board orders may be enforced pursuant to W.S. 16-3-107(c).

Section 26. Subpoenas.

(a) The Board may issue subpoenas for appearance and to produce books, papers, documents, or exhibits, upon written request of any party, or on the Board's own motion, pursuant to W.S. 16-3-107(c).

(b) Subpoenas may be enforced pursuant to W.S. 16-3-107(c).

Section 27. Documentary Evidence.

(a) Documentary evidence or exhibits shall be marked for identification as directed by the Board.

(b) Documentary evidence claimed to be confidential by any party shall be marked "CONFIDENTIAL" by any party desiring to use the documentary evidence, segregated from the other documentary evidence, and submitted in such a manner that the confidential nature of the documentary evidence is protected. The party submitting documentary evidence claimed to be confidential shall submit an index generally identifying the documents and stating the basis for the claim of confidentiality.

Section 28. Continuances. A party may move for a continuance of a case at least 20 days before the hearing date. The motion must show good cause for the continuance. The Board will not entertain a motion for a continuance unless the movant has tried in good faith to confer with the non-moving party or its representative to learn whether the non-moving party opposes the motion. The motion shall set forth all good faith efforts to confer. If the movant succeeded in contacting the non-moving party or its representative, the motion shall state whether the non-moving party opposes the motion. Motions for continuance filed fewer than 20 days before the hearing will be granted only in case of an emergency, which the Board will determine.

Section 29. Extension of Time. Unless otherwise provided by statute, the time for doing any act prescribed or allowed by these rules may be extended by order of the Board upon written motion filed prior to the expiration of the applicable time period. The motion must show good cause for such extension and that the need therefor is not caused by the party's neglect or lack of diligence. The Board will not entertain a motion for an extension unless the movant has tried in good faith to confer with the non-moving party or its representative to learn whether the non-moving party opposes the motion. The motion shall set forth all good faith efforts to confer. If the movant succeeded in contacting the non-moving party or its representative, the motion shall state whether the non-moving party opposes the motion.

Section 30. Dismissal with Prejudice Due to Settlement. Any pending case may be resolved by settlement. Upon filing of a stipulated motion to dismiss with prejudice signed by all parties to the case, the Board shall dismiss the case with prejudice.

Section 31. Telephone Conferences. At the discretion of the Board or presiding officer, conference calls or similar technology may be used to conduct any proceeding subject to such terms and conditions as the Board may order.

Section 32. Post-hearing Supplementation. After a hearing and before the Board issues its decision, any party may file a motion for post-hearing supplementation of the record to submit additional, newly discovered evidence on material issues. If such motion is granted, all other parties are entitled to at least one response to the new evidence as may be ordered by the Board, with the record to be closed on a date set by the Board order allowing supplementation of the record. All evidence submitted contrary to Board order shall be returned.

Section 33. Decision of the Board.

(a) The Board shall issue a written decision and order containing findings of fact and conclusions of law. The findings of fact shall be derived from the evidence, matters officially noticed, and matters within the Board's knowledge as acquired through performing its functions and duties. Such findings shall be based on the kind of evidence which reasonably prudent persons are accustomed to rely in the conduct of their serious affairs, even if such evidence would be inadmissible in a civil trial. The Board may use its experience, technical competence, and specialized knowledge in evaluating the evidence. The written decision shall be filed with the Board and will, without further action, become the decision and order as a result of the hearing. Upon filing, the Board shall mail a copy to each party.

(b) Any party may petition the Board, within 10 days of the date of a decision and order, for reconsideration of the decision and order by filing a motion with the Board and serving that motion on all other parties or their representatives. The Board shall issue a written order denying the motion, granting the motion and dissolving or modifying the decision and order, or granting the motion and setting the matter for further proceedings. A motion for reconsideration does not affect the finality of the decision and order and is not a prerequisite for judicial review. The Board may grant a motion for reconsideration on any of the following grounds:

(i) Irregularity in the proceedings;

- (ii) Fraud, misrepresentation, or other misconduct of a party;
 - (iii) Error in the valuation, assessment or other calculation within the order;
 - (iv) Newly discovered evidence that could not, with reasonable diligence, have been discovered and produced at the hearing; or
 - (v) An error of law contained within the decision.
- (c) The Board may correct clerical mistakes in decisions and orders or other parts of the record at any time on its own initiative, or on the motion of any party. During the pendency of a judicial appeal, clerical mistakes may be corrected with leave of the court.

Section 35. Certification to the State Board of a Case Originally Brought Before A County Board of Equalization. If a county board of equalization concludes that a case before it concerning locally-assessed property may be appropriate for consideration by the Board, it may request, in writing, stating the reasons therefore. The Board shall expeditiously decide whether certification is appropriate. If certification is granted, the case shall be docketed by the Board and considered pursuant to this chapter. If certification is not granted, the matter shall remain with the county board of equalization for disposition.

Section 36. Recusal. Any member of the Board may, at any time while a case is pending and without stating a reason, recuse himself or herself from consideration of the case by filing a notice of recusal with the Board for service on all parties and filing in the case record. From and after the date of the notice of recusal, the member shall not participate in any Board decisions or orders with regard to the case.

CHAPTER 2

RULES OF PRACTICE AND PROCEDURE FOR CASES BEFORE THE WYOMING STATE BOARD OF EQUALIZATION FROM THE WYOMING DEPARTMENTS OF REVENUE OR TRANSPORTATION OR CERTIFIED FROM A COUNTY ASSESSOR AND ACCEPTED BY THE BOARD

Section 1. Authority. These rules ~~of practice and procedure~~ are promulgated by authority of ~~W.S. Wyoming Statutes~~ 16-3-102 and ~~W.S.~~ 39-11-102.1.

Section 2. Purpose and Application of Rules. These rules are intended to provide a uniform and understandable process for contested cases affording de novo review of administrative decisions of the Departments of Revenue or Transportation, and of a county assessor for certified cases accepted by the Board. These rules shall apply to contested cases authorized in the Wyoming Statutes and brought before the Board from any final administrative decision of the Department of Revenue, Department of Transportation, or a county assessor (for certified cases accepted by the Board).

Section 3. ~~Application of Rules.~~ Incorporation by Reference.

~~These rules shall apply to contested cases authorized in Title 39 of the Wyoming Statutes and brought before the Board from any final administrative decision of the Department of Revenue or a county assessor for certified cases accepted by the Board.~~

(a) The rules listed below are incorporated by reference and can be found at: <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=48>;

(i) Rule 12(b)(6), Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017, except the Board shall not treat any proceeding as one for summary judgment;

(ii) Rule 24, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017;

(iii) Rule 45, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017;

(iv) Rule 52, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017.

(b) No later amendments to a rule listed in Subsection (a) of this section are incorporated by reference.

Section 4. Definitions. For the purposes of contested cases brought before the Board under these rules, ~~the following definitions shall apply:~~

(a) “Board” means the Wyoming State Board of Equalization as set forth in W.S. 39-11-102.1.

(b) “Case” means a proceeding before the Board in which the legal rights, duties or privileges of a party are to be determined by the Board after an opportunity for hearing as provided by W.S. 16-3-107.

(c) “Certified Case” means a case proceeding before the Board pursuant to Section ~~356~~ of this Chapter.

(d) “Department” means the Wyoming Department of Revenue as created by W.S. 39-11-102 or the Wyoming Department of Transportation as created by W.S. 24-2-101.

(e) “Party” means the Petitioner who is seeking relief before the Board, each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, including a board of county commissioners, and the Department.

(f) “Petitioner” means ~~Any~~ any person, firm, corporation, partnership, association, government official, or board of county commissioners governmental agency who files a case notice.

(g) “Case notice” means a notice of appeal or a filing specified in Subsection 5(a) of this chapter requesting a contested case hearing.

(h) “Legal holiday” means any day officially recognized as a legal holiday in Wyoming by designation of the legislature or appointment as a holiday by the governor.

(i) “Representative” means an individual who is authorized to act in a representative capacity on behalf of a party to a contested case.

Section 5. Commencement of Case.

(a) A petitioner ~~Cases shall be instituted a case by any Petitioner~~ filing a case notice for review of any final administrative decision of the Department with the Board ~~e/o Executive Secretary at the its office of the Board or~~ by mail sent to P.O. Box 448, Cheyenne, Wyoming 82003-0448 or ~~received by facsimile to 307-777- 6363~~ during regular business hours. Any facsimile received after regular business hours will be treated as received during the regular business hours of the next working day.

(b) The Petitioner shall serve the case notice ~~shall be served~~ on the Department and other parties consistent with Section 8 of this ~~C~~chapter.

(c) The case notice shall contain the following information:

(i) A copy of the decision at issue;

- (ii) A concise statement in ordinary ~~and concise~~ language of the facts and of the errors alleged to have been committed and issues upon which the case is based;
- (iii) The amount of the tax assessment or refund denial, and the amount of tax in controversy;
- (iv) The relief sought; and
- (v) Whether ~~or not~~ a hearing is desired.

(d) The Petitioner or the Petitioner’s representative shall sign the case notice, which shall be signed by the Petitioner or his representative or attorney and shall contain the telephone number, fax number, if available, and mailing address of the Petitioner and his or representative or attorney.

(e) The case notice shall be filed with the Board within ~~thirty~~30 days of the date of the final administrative decision at issue or of the date of mailing of the final administrative decision as evidenced by postmark, whichever is later.

(f) “Computation of Time” - ~~In computing t~~The time period for filing a case notice ~~the period~~ shall begin on the day after the date of the final administrative decision or upon the date of mailing of the final administrative decision as evidenced by a legible postmark, whichever is later. If and shall conclude on the last day of such the computed period, unless such day is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which that is neither a Saturday, Sunday, nor a legal holiday.

(g) Filed with the Board - The case shall be considered filed with the Board upon mailing of the case notice as evidenced by a legible postmark, ~~or~~upon receipt by fax as provided in Section 5(a), or upon hand delivery as evidenced by the Board’s file stamp. ~~Any case notice not timely filed shall be dismissed.~~

Section 6. Processing of Case.

(a) ~~The Executive Secretary Board shall examine the case notice, request the Board to dismiss the appeal if it is untimely, notify the Petitioner of any apparent errors or omissions, and request any additional information the Board wishes to obtain and is permitted by law to require, including whether the Petitioner wishes the matter to be considered as an expedited case. If the notice is timely filed the executive secretary Board shall either:~~

- (i) Docket for commencement of formal contested case procedures in accordance with W.S. 16-3-107, et seq., and these rules; or
- (ii) Docket as an expedited case for consideration pursuant to Section 15 of this chapter.

(b) The Board shall establish a separate file for each docketed case in which shall be placed all papers, pleadings, documents, transcripts, evidence and exhibits pertaining thereto, and all items shall have noted thereon the docket number assigned.

Section 7. Record.

(a) Within 60 days after a case notice is filed, the Department shall transmit to the ~~State Board~~ a certified copy of the complete record of the final administrative decision from which the appeal is taken, including a general index identifying the documents and instruments in the record with reasonable definiteness. ~~Contemporaneous with filing the record, the~~ Department shall also serve a copy of the general index on all parties to the appeal; or

(b) ~~At the option of the Board, the~~ The Board may direct the Department ~~may be directed~~ to segregate and retain the complete record of the final administrative decision. The Department shall prepare and file with the Board a general index, certified as true and accurate, identifying the documents and instruments in the record with reasonable definiteness, and also ~~serve a~~ copy of the general index ~~shall be served~~ on all parties to the appeal. If ~~the event~~ the record is not filed with the Board, the Department shall make the record available to the Board and all parties during regular business hours for inspection and copying. Upon order of the Board the Department shall file a certified copy of the complete record with the Board.

Section 8. Service of Case Notice and Other Pleadings. A Petitioner shall mail or personally deliver to the Director of the Department a case notice and any other pleadings that Petitioner filed with the Board by Petitioner or any other party shall be sent by mail or personally delivered to the Director of the Department. The Department shall serve ~~Any pleadings it filed by the Department shall be served on~~ Petitioner by mail ~~addressed to Petitioner's last known address, and on any other party at the address indicated on his pleadings.~~ Any pleadings it filed by the Department shall be served on Petitioner by mail ~~addressed to Petitioner's last known address, and on any other party at the address indicated on his pleadings.~~ If any party is represented by counsel or other designated person, the Department shall serve any its pleadings by the Department shall be served by mail on the counsel or representative at their indicated address.

Section 9. Designation of Presiding Officer. The Board may designate as presiding officer ~~by assigning an appeal to one (1) or more member(s) of the Board, the Executive Secretary of the Board, the Staff Attorney of the Board, or a licensed attorney employed by or on contract with the State of Wyoming who is knowledgeable of and qualified in the particular areas of taxation which that are the subject of the appeal. The functions of the presiding officer shall be act conducted in an impartially manner. Presiding officers shall and have the full authority provided by W. S. 16-3-112(b).~~

Section 10. Preliminary Statement. The Board may order ~~Each party may be ordered~~ to file with the Board and serve upon the other parties a preliminary statement or joint preliminary statement. The parties shall be afforded at least ~~thirty (30)~~ days for the preparation and filing of any statement. Following receipt of the preliminary statement, the proceeding may be converted to an expedited case pursuant to Section 15 of this chapter. Unless otherwise ordered, the statement shall set forth:

- (a) A brief summary of the contentions of the party;
- (b) Significant uncontroverted facts ~~about which there is no genuine issue~~ (these may be established by admissions or by stipulation);
- (c) Contested issues of fact remaining for decision;
- (d) Contested issues of law to be determined at the hearing. The parties may include memorandums of law on significant legal issues ~~the parties wish to call to the attention of the Board.~~
- (e) The names, addresses, and a brief description of the testimony of each witness the party intends to present at the hearing;
- (f) A list and copies of all exhibits to be introduced (this does not foreclose the introduction of other exhibits ~~which~~ that become available or are discovered later);
- (g) Any request to convert the case to an expedited case pursuant to Section 15 of this chapter;
- (h) An eEstimated of the time required for the hearing;
- (j) An assessment of the probability of settlement; and
- (k) Any oOther matters information directed by the Board.

Section 11. Prehearing Conference.

- (a) The Board or the presiding officer may order a prehearing conference. If so ordered, each party may be required to file a prehearing statement or a joint prehearing statement no later than five ~~(5)~~ days before the conference. The statement shall contain such items, information, and directions as deemed necessary to conduct a useful conference. The prehearing conference shall be an informal proceeding conducted expeditiously by the presiding officer, Executive Secretary to the Board, or one ~~(1)~~ or more member(s) of the Board, and may be held by ~~telephone~~ conference call or similar technology. The results of the conference may be made the subject of an order which shall be provided to all parties to the appeal. At or following the conference, the case may be designated an expedited case for proceedings pursuant to Section 15 of this chapter. A Petitioner relieved, under Subsection (b) of this section, of the duty to provide a prehearing submission must nonetheless attend any prehearing conference ordered by the Board.
- (b) Upon request to the Board, or upon the Board's own motion, a Petitioner shall be relieved of the duty to provide prehearing submissions if:
 - (i) The total amount of ~~taxes, interest, and penalty~~ in controversy is ~~two thousand dollars (\$2,000)~~ or less; and

(ii) The Petitioner is not represented by counsel; and

(iii) The individual who signed Petitioner's Notice of Appeal will be Petitioner's only witness; and

(iv) The Petitioner will introduce no documentary evidence at the hearing other than those documents contained in the Record certified by the Department and filed with the Board pursuant to Chapter 2, Section 7(a) of these Rules.

~~A Petitioner who makes no prehearing submission under this Rule 11(b) must otherwise attend any prehearing conference ordered by the Board.~~

Section 12. Motions.

(a) An application to the Board for an order shall be by motion which, unless made during a hearing, shall be in writing, ~~filed with the Board, and served on all parties~~ and shall state with particularity the grounds and the relief or order sought. The Board will not entertain any motion pertaining to dismissal, default, or compliance with discovery procedures unless ~~counsel for the moving party or the moving party if pro se,~~ its representative has tried ~~conferred orally, in person or by telephone, and has made reasonable good faith efforts to discuss the content and purpose of the motion resolve the issue with opposing counsel, or the non-moving party if pro se,~~ prior or its representative before ~~to~~ filing the motion. ~~Counsel for the moving party, or the moving party if pro se,~~ The motion shall set forth ~~in writing~~ all good faith efforts undertaken to ~~discuss~~ resolve the issue ~~motion~~, and the Board will not consider the motion until this information is provided. ~~Written motions shall be filed with the Board and served on all parties.~~ The motion shall advise the parties that ~~should they wish to contest the motion they must~~ may file a written response stating their objections to the motion with the Board and serve a copy on all parties within ~~fifteen (15)~~ days of service of the motion. ~~The response shall set forth the party's objections to the motion.~~ No motions shall be filed within ~~twenty (20)~~ days of a hearing.

(b) For good cause, the Board may ~~take action~~ act on its own motion by providing notice of its intent to ~~take the action~~ act and the reasons therefore to all parties. The notice of intent shall advise the parties they may file written objections within ~~fifteen (15)~~ days of service of the notice.

Section 13. Joinder of Persons.

(a) Any party may move for the joinder of persons to a case when necessary to accord complete relief to the parties. A motion for joinder shall be filed with the Board within the time limits of these rules, and served by certified mail on the proposed parties. The motion shall set forth the names and addresses of the proposed parties, state why the proposed parties are necessary for just adjudication, and notify the proposed parties as well as all other parties that a response to the motion ~~must~~ shall may be filed with the Board within ~~fifteen (15)~~ days of service of the motion.

(b) Upon motion, the Board may order joinder if complete relief to the parties cannot otherwise be provided. The order shall be served by certified mail on the joined party. The Board, in its discretion, may proceed with a hearing without requiring joinder if its jurisdiction over the proposed parties can be acquired only by their consent or voluntary appearance; however, any order rendered therein does not affect the rights or liabilities of absent persons.

Section 14. Intervention.

(a) As authorized by the Wyoming Administrative Procedure Act, any person or agency may be admitted as a party to a proceeding before the Board if entitled as of right to do so. Upon timely application, any applicant, may be permitted to intervene in a case: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the matter or transaction which is the subject of the case and is so situated that the disposition of the case may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Any applicant desiring to intervene shall file an application to intervene with the Board and serve a copy on all parties in the case. The application shall state the grounds therefore, set forth the position for which intervention is sought, and advise the parties that ~~should they wish to contest the application they must~~ may file with the Board and serve on all parties and the applicant a written response within ~~fifteen (15)~~ ten (10) days of service of the application. No application to intervene shall be filed within ~~twenty (20)~~ ten (10) days of a hearing.

Section 15. Expedited Contested Case.

(a) A contested case may be expedited if ~~the case is:~~

(i) ~~A matter in which~~ there are no disputed issues of material fact; or

(ii) ~~A matter in which~~ The parties agree to an expedited proceeding, provided the Board retains the authority to convert at any time the proceeding to a regular contested case when it appears if essential facts must be determined in order to permit adequate presentation and disposition of the case.

(b) Any party shall have ~~fifteen (15)~~ ten (10) days from the date of the Board order scheduling a matter as an expedited case to request reconsideration.

(c) An expedited contested case shall consist of review of any written argument and evidence. The Board may permit limited oral argument to the Board after submission of all written material shall be permitted upon written request of a party or on the Board's own motion.

Section 16. Notice of Hearing. The Board shall by notice set a date, time, and place for the hearing of the case. The notice shall also set forth the ~~date, time, place and nature~~ of the hearing. Unless the Board finds an emergency exists or it is necessary and proper for the matter to be heard sooner, the notice shall be delivered by mail or personally to all parties at least ~~thirty (30)~~ ten (10) days before the date set for hearing.

Section 17. Hearing and Representation.

(a) At the date, time, and place of the hearing, the Board or presiding officer shall hear all matters presented. For expedited cases, the hearing shall be limited to oral argument. The Board or presiding officer ~~has full authority to~~ may limit time for the conduct of a hearing.

(b) Any party may represent himself or herself at such a hearing, or may be represented by a person designated by the party. The Department may be represented by any of its employees or by its attorney.

(c) It shall be the responsibility of every party to be familiar with and comply with the Board's Rules. The Board's Rules are available at the ~~office of the Board's office~~ and on the Board's web site at <http://taxappeals.state.wy.us>.

(d) The hearing is open to ~~attendance by~~ the public, except for such portions closed by the Board pursuant to any statute expressly authorizing closure. ~~To the extent~~ If a hearing is conducted by telephone and not closed, public attendance is satisfied by ~~allowing~~ members of the public, at reasonable times, to hear or inspect the Board record.

Section 18. Order of Procedure at Hearing.

(a) For purposes of this section, the functions of the Chairman of the Board and the Board may be exercised by a presiding officer appointed pursuant to Section 9 of this ~~Chapter~~. Where oral arguments are ordered, the time for the presentation of the oral arguments may be limited. As nearly as possible, where evidence is presented, hearings shall be conducted in accordance with the following order of procedure:

(i) ~~The Chairman of the Board~~ shall conduct the hearing, shall announce that the hearing is convened and shall indicate the docket number and title of the appeal to be heard. The Chairman shall then read or summarize the case notice and shall note for the record all subpoenas issued and all appearances of record;

(ii) ~~The Chairman of the Board~~ shall then take up any motions or preliminary matters to be heard;

(iii) Opening statements will be heard at the discretion of the Board;

(iv) Unless otherwise directed by the Chairman ~~or hearing officer~~, the Petitioner, ~~or his designated agent, or his attorney, then~~ shall present his or her evidence after which the ~~Director of the Department, or his designee or attorney,~~ shall present his-its evidence. Evidentiary issues shall be governed by W.S. 16-3-108. All testimony shall be under oath or affirmation. Any part of the evidence may be received in written form if doing so will facilitate the hearing without substantial prejudice to the interests of any party. Parties shall ~~make every effort to~~ disclose to the opposing party within a reasonable time before the hearing any intention to introduce and rely upon written evidence. Documentary evidence may be received in the form

of a copy or excerpt. Upon request, parties shall be given an opportunity to compare the copy with the original if available. The ~~members of the Board~~ may ask questions of any party or ~~any witness for the purpose of clarifying their understanding of the case;~~

(v) Closing statements, including summaries of the evidence and legal arguments, may be made at the conclusion of the presentation of evidence by the parties. ~~These statements may include summaries of the evidence and legal arguments.~~

(b) The Board may order the parties to submit supplemental briefs or proposed findings of fact and conclusions of law ~~at a time and in a format specified by the Board.~~

(c) After all proceedings have been concluded, the Board shall dismiss and excuse all parties and declare the hearing closed. ~~The Board may announce a tentative decision prior to taking the case under advisement.~~ The Board shall advise the parties that ~~the~~ its final decision of ~~the Board~~ shall be announced ~~within due and proper time~~ following consideration of all matters presented at the hearing. ~~The Board may request parties to submit supplemental briefs after the hearing is closed and during consideration of the case.~~

Section 19. Briefs. Any party ~~desiring to~~ may submit a written brief to the Board ~~may do so, at his option,~~ before or during the hearing. ~~If the A party desires to submit a brief after the hearing may move a written motion shall be filed with the Board for leave to do so. If approved,~~ the Board grants that motion, it shall set a date by which such brief is due. The brief may set forth the factual and legal position of the party submitting it. An original and four copies of any brief and proposed findings shall be filed with the Board and a copy thereof served on every other party to the case.

Section 20. Burden of Going Forward; Burden of Persuasion. Except as specifically provided by law or in this section, the Petitioner shall have the burden of going forward and the ultimate burden of persuasion, which burden shall be met by a preponderance of the evidence. If Petitioner provides sufficient evidence to ~~suggest~~ show the Department determination is incorrect, the burden shifts to the Department to defend its action. For all cases involving a claim for exemption, the Petitioner shall clearly establish the facts supporting an exemption. In ~~proceedings involving the question~~ issues of whether ~~or not~~ there is a taxable event under Wyoming law, the Petitioner shall have the burden of going forward and the Department shall have the ultimate burden of persuasion.

Section 21. Default Order.

(a) If a party fails to attend or participate in a prehearing conference, hearing, or other stage of a contested case proceeding, or otherwise fails to comply with any valid order of the Board, the Board may serve upon all parties a written notice of intent to issue a ~~proposed~~ default order, including a statement of the grounds.

(b) Within ~~fifteen~~ (15) days after service of a ~~proposed default order~~ notice under Subsection (a) of this section, the party against whom it is ~~to be~~ issued may file a written objection requesting the ~~proposed~~ default order not be entered and stating the grounds therefore.

~~During the time within which a party may file a written objection under this subsection that 15-day period,~~ the Board may adjourn the proceedings or conduct the proceeding without the participation of the party against whom the notice of intent to enter a ~~proposed~~ default order has been issued, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(c) The Board shall make a determination with regard to the default order promptly after expiration of the time ~~within which the party may file a written objection under~~ prescribed in sSubsection (b) of this section.

(d) Upon issuance of a default order, the Board shall conduct, without the participation of the defaulted party ~~in default~~, any further proceedings necessary to complete the contested case and determine all issues in the proceeding, including those affecting the defaulted party.

Section 22. Record of Proceedings.

(a) The hearing proceedings, including all testimony, shall be reported verbatim stenographically or by any other ~~appropriate~~ means determined by the Board. A copy of such proceedings will be furnished to any party upon written request to the Board and the payment of a reasonable fee.

(b) ~~If one or more p~~Parties desiring to have the hearing transcribed by a certified court reporter, ~~they~~ must make the necessary arrangements and bear the cost thereof. The original transcript of the hearing shall be filed with the Board.

Section 23. Filing of Exhibits. All exhibits submitted in a contested case shall be filed with the Board at ~~122 West 25th Street~~2300 Capitol Avenue, Cheyenne, Wyoming ~~82002-0110~~, or mailed to ~~the Executive Secretary~~, P.O. Box 448, Cheyenne, Wyoming 82003-0448.

Section 24. Inspection of File. Each party, or his authorized representative, shall be permitted to inspect and copy, at their own expense at the offices of the Board, all documents regarding the case contained in the Board files permitted by law to be inspected and copied.

~~Section 25. Routine Discovery Exchange.~~

~~_____ (a) _____ It is the policy of the Board that discovery shall be open, full and as complete as possible. As ordered by the Board, all parties are required to submit to opposing parties "routine" discovery as follows:~~

~~_____ (i) _____ Petitioner shall submit routine discovery to opposing parties no later than 90 days after entry of an order by the Board, or no later than 20 days after a party is joined;~~

~~_____ (ii) _____ The Department shall submit routine discovery to Petitioner within 90 days after entry of an order by the Board;~~

~~_____ (iii) Any party joined or permitted to intervene shall submit routine discovery to Petitioner and the Department within 60 days after service of the order of joinder and entry of an order by the Board;~~

~~_____ (iv) The obligation to exchange “routine” discovery is continuing, and all parties shall immediately submit routine discovery to the opposing party when obtained.~~

~~_____ (b) “Routine” discovery is defined as:~~

~~_____ (i) The name and, if known, the address and telephone number of each individual likely to have discoverable information relating to facts alleged to be in dispute, identification of the subjects of the information, together with a summary of their expected testimony;~~

~~_____ (ii) A copy of all documents, data compilations and tangible items in possession, custody or control of the party which are relevant to or likely to bear significantly upon disputed facts. In cases where it is impractical due to the volume or nature of the documentation to produce such copies, parties shall provide a complete description of the documentation by category and location.~~

~~_____ (c) A party shall make initial disclosures based on the information then reasonably available to it, and is not excused from making its disclosures because it has not fully completed its investigation of the case, or because it challenges the sufficiency of another party’s disclosures, or because another party has not made its disclosures.~~

Section 265. Depositions and Discovery; Limitations.

(a) In all cases coming before the Board, the taking of depositions and discovery shall be available to the parties in accordance with the provisions of W.S. 16-3-107(g) and the applicable Wyoming Rules of Civil Procedure. The Board may issue discovery and protective orders in accordance with the Wyoming Rules of Civil Procedure. Time limits for the completion of all discovery may be established as part of any prehearing order. Unless otherwise ordered or stipulated, no party may serve on any other party more than ~~thirty~~ (30) interrogatories in the aggregate. Each subpart shall be counted as a separate interrogatory. Interrogatories shall be arranged so that after each question there shall be left a blank space reasonably calculated to allow the answering party to answer. For consolidated cases involving multiple parties, the Board may impose further limits on the number of allowed interrogatories. Unless otherwise ordered, discovery documents shall not be filed with the Board except in support of a motion to compel or as evidence.

(b) Board orders may be enforced pursuant to W.S. 16-3-107(c).

Section 276. Subpoenas.

(a) ~~The Board may issue subpoenas for appearance and to produce books, papers, documents, or exhibits may be issued by the Board, upon written request of any party, or on the Board's own motion, pursuant to W.S. 16-3-107(c).~~

(b) Subpoenas may be enforced pursuant to W.S. 16-3-107(c).

Section 287. Documentary Evidence.

(a) Documentary evidence or exhibits shall be marked for identification as directed by the Board.

(b) Documentary evidence claimed to be confidential by any party shall be marked "CONFIDENTIAL" by any party desiring to use the documentary evidence, segregated from the other documentary evidence, and submitted in such a manner that the confidential nature of the documentary evidence is protected. The party submitting documentary evidence claimed to be confidential shall submit an index generally identifying the documents and stating the basis for the claim of confidentiality.

Section 298. Continuances. ~~A party desiring may move for a continuance of a case set for hearing shall file a motion for continuance with the Board at least twenty (20) days before the hearing date. The motion must show that good cause exists for the continuance. The Board will not entertain a motion for a continuance unless the movant has tried in good faith to confer with the non-moving party or its representative to learn whether the non-moving party opposes the motion. The motion shall set forth all good faith efforts to confer. If the movant succeeded in contacting the non-moving party or its representative, the motion shall state whether the non-moving party opposes the motion. Motions for continuance filed less fewer than twenty (20) days before the hearing will be granted only in case of an emergency, which the Board will determine.~~

Section 3029. Extension of Time. Unless otherwise provided by statute, the time for doing any act prescribed or allowed by these rules may be extended by order of the Board upon written motion filed prior to the expiration of the applicable time period. The motion must show good cause for such extension and that the need therefor is not caused by the party's neglect or lack of diligence. The Board will not entertain a motion for an extension unless the movant has tried in good faith to confer with the non-moving party or its representative to learn whether the non-moving party opposes the motion. The motion shall set forth all good faith efforts to confer. If the movant succeeded in contacting the non-moving party or its representative, the motion shall state whether the non-moving party opposes the motion.

Section 310. Dismissal with Prejudice Due to Settlement. ~~Resolution of a~~Any pending case may be ~~made resolved by agreed~~ settlement. Upon filing of a stipulated motion to dismiss with prejudice signed by all parties to the case, the Board shall dismiss the case with prejudice.

Section 321. Telephone Conferences. At the discretion of the Board or presiding officer, ~~telephone-conference calls~~ or similar technology may be used to conduct any proceeding subject to such terms and conditions as the Board may order.

Section 332. Post-hearing Supplementation. After a hearing and before ~~the~~ a Board ~~issues its decision has been issued~~, any party may file a motion for post-hearing supplementation of the record to submit additional, newly discovered evidence on material issues. If such motion is granted, all other parties are entitled to at least one response to the new evidence as may be ordered by the Board, with the record to be closed on a date set by the Board order allowing supplementation of the record. All evidence submitted contrary to Board order shall be returned.

Section 343. Decision of the Board.

(a) The Board shall ~~make and enter~~ issue a written decision and order containing findings of fact and conclusions of law. The findings of fact shall be derived from the evidence ~~of record in a proceeding~~, matters officially noticed ~~in that proceeding~~, and matters within the Board's knowledge as acquired through performing its functions and duties. Such findings shall be based on the kind of evidence which reasonably prudent persons are accustomed to rely in the conduct of their serious affairs, even if such evidence would be inadmissible in a civil trial. The Board's may use its experience, technical competence, and specialized knowledge ~~may be utilized~~ in evaluating the evidence. The written decision shall be filed with the Board and will, without further action, become the decision and order as a result of the hearing. Upon filing, the Board shall mail a copy to ~~the~~ each party~~ies~~.

(b) Any party may petition the Board, within ~~ten~~ (10) days of the date of a decision and order, for reconsideration of the decision and order by filing a motion with the Board and serving that motion on all other parties or their representatives. The Board shall issue a written order denying the motion, granting the motion and dissolving or modifying the decision and order, or granting the motion and setting the matter for further proceedings. A motion for reconsideration does not affect the finality of the decision and order and is not a prerequisite for judicial review. ~~A~~ The Board may grant a motion for reconsideration ~~may be granted by the Board~~ on any of the following grounds:

- (i) Irregularity in the proceedings;
- (ii) Fraud, misrepresentation, or other misconduct of ~~an~~ a adverse party;
- (iii) Error in the valuation, assessment or other calculation within the order;
- (iv) Newly discovered evidence, ~~material as to the party applying, which the party that~~ could not, with reasonable diligence, have been discovered and produced at the hearing; or
- (v) An error of law contained within the decision.

(c) ~~€~~The Board may correct clerical mistakes in decisions and orders or other parts of the record ~~may be corrected by the Board~~ at any time on its own initiative, or on the motion of any party. During the pendency of a judicial appeal, clerical mistakes may be corrected with leave of the court.

Section 35. Appeals to District Court.

~~— Any party aggrieved or adversely affected by a final decision of the Board in a case is entitled to judicial review in the appropriate district court pursuant to W.S. 16-3-114 and W.S. 39-11-109(b)(ii), 39-13-109(b)(iv), 39-14-109(b)(v), 39-14-209(b)(ii), 39-14-309(b)(v), 39-14-409(b)(v), 39-14-509(b)(v), 39-14-609(b)(v), 39-14-709(b)(v) and 39-19-109(b).~~

Section 346. Certification to the State Board of a Case Originally Brought Before A County Board of Equalization. If a county board of equalization concludes that a case before it concerning locally-assessed property may be appropriate for consideration by the Board, it may request, in writing, stating the reasons therefore, ~~certification to the Board~~. The Board shall expeditiously decide whether certification is appropriate. If certification is granted, the case shall be docketed by the Board and considered pursuant to this chapter. If certification is not granted, the matter shall remain with the county board of equalization for disposition.

Section 375. Recusal. Any member of the Board may, at any time while a case is pending and without stating a reason, recuse himself or herself from consideration of the case by filing a notice of recusal with the ~~executive secretary~~ Board for service on all parties and filing in the case record. From and after the date of the notice of recusal, the member shall not participate in any Board decisions or orders with regard to the case.

CHAPTER 3

RULES OF PRACTICE AND PROCEDURE FOR APPEALS BEFORE THE STATE BOARD OF EQUALIZATION FROM A COUNTY BOARD OF EQUALIZATION

Section 1. Authority. These rules are promulgated under the authority of Wyoming Statutes 16-3-102 and 39-11-102.1.

Section 2. Commencement of Appeal.

(a) A taxpayer or a county assessor may appeal any final decision or order of a county board of equalization to the State Board of Equalization. Appeals shall be taken by filing a notice of appeal with the State Board of Equalization at the Board's office, 2300 Capitol Ave., Cheyenne, Wyoming, by mail to P.O. Box 448, Cheyenne, Wyoming 82003-0048, or by facsimile, 307-777-6363 within 30 days from the entry of a decision of a county board of equalization or from the date of mailing of the decision as evidenced by a legible postmark, whichever is later. The notice shall be considered filed with the Board on mailing as evidenced by a legible postmark, or upon receipt by fax. Any facsimile received after regular business hours will be treated as received during the regular business hours of the next working day.

(b) The notice of appeal shall contain the following information:

(i) A copy of the decision appealed from;

(ii) A concise statement in ordinary language of the facts and of the errors alleged to have been committed and issues upon which the appeal is based;

(iii) The amount of the tax assessment or refund denial, and the amount of tax in controversy; and

(iv) The relief sought;

(v) The notice of appeal shall be signed by the Petitioner or his representative and shall contain the mailing address, telephone number, and fax number if available, of the Petitioner or the Petitioner's representative.

(c) If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 15 days of the date on which the first notice of appeal was filed, or within the time otherwise prescribed herein, whichever period last expires. The notice of appeal shall be served on all parties consistent with Section 3 of this chapter.

(d) **Computation of Time** - The time period for filing a notice of appeal shall begin on the day after the date of the county board decision or upon the date of mailing of the decision as evidenced by a legible postmark, whichever is later. If the last day of the computed period is a

Saturday, Sunday, or legal holiday, the period runs until the end of the next day that is neither a Saturday, Sunday nor a legal holiday.

Section 3. Service. Any notice of appeal or motion to appear amicus curiae filed with the Board shall contemporaneously be served by the Petitioner or movant upon all parties entering an appearance at the county board of equalization hearing, the county assessor, and local county board of equalization by depositing true and correct copies thereof in the United States mail, postage prepaid, properly addressed.

Section 4. Designation of Parties. In all appeals governed by this chapter, the parties shall be the taxpayer, or taxpayers, and the county assessor. Any party filing a notice of appeal shall be known as Petitioner. Any party making a response to a notice of appeal shall be designated as Respondent. The county board of equalization shall not be considered a party to an appeal.

Section 5. Motions.

(a) In general - An application to the Board for an order shall be by written motion, and shall state with particularity the grounds and the relief or order sought. Motions shall be filed with the Board and served on all parties. The motion shall advise the parties that they may file a written response with the Board, with copies served on all parties, within 15 days of service of the motion. The response shall set forth the party's objections to the motion. No motions shall be filed within 20 days of any hearing.

(b) Amicus Curiae

(i) Any interested person may move the Board for leave to appear amicus curiae within 30 days from the filing of the notice of appeal, and contemporaneously serve a copy of the motion pursuant to Section 3 of this chapter. The motion shall specify in ordinary and concise language:

- (A) the movant's interest in the issues raised in the case;
- (B) the reasons an amicus brief is appropriate and desirable;
- (C) the view of the movant with respect to whether any party is not represented completely or is not represented at all;
- (D) the interest of the amicus in some other case, if any, which may be affected by the decision in the case before the Board; and
- (E) any unique information or perspective the amicus has that can be of assistance to the Board beyond that which the parties can provide.

(ii) The motion shall advise the parties that any objections to the motion may be filed with the Board within 15 days of service of the motion.

(iii) The Board shall allow the amicus curiae to participate in oral argument only with consent of the party supported, and only for extraordinary reasons, with the time used to be charged against the party supported.

(iv) Pursuant to Subsection (c) of this section, the Board, upon its own motion, may request any county board of equalization, any party to the county board hearing, or any interested person or entity to appear as amicus curiae.

(e) For good cause, the Board may take action on its own motion by providing notice of its intent to take the action and the reasons therefore to all parties. The notice of intent shall advise the parties they may file written objections within 15 days of service of the notice.

Section 6. Docketing of Appeal. When the Board receives a notice of appeal, it shall assign a docket number to it and enter the appeal with the date of filing on the docket. The Board shall establish a separate file for each docketed appeal in which shall be placed all papers, pleadings, transcripts, evidence, and exhibits pertaining thereto and all items shall have noted thereon the docket number assigned.

Section 7. Record of Appeal.

(a) Within 60 days after a notice of appeal is filed, the county board record, including a general index identifying the documents and instruments in the record with reasonable definiteness shall be certified to the Board by the county clerk as clerk of the county board of equalization. The record shall include:

- (i) All formal or informal notices, pleadings, motions, and intermediate rulings;
- (ii) Evidence and exhibits received or considered including matters officially noticed;
- (iii) Questions and offers of proof, objections and rulings thereon;
- (iv) Any proposed findings and exceptions thereto;
- (v) Any opinions, findings, decisions or orders of the county board of equalization and any report by the officer presiding at the hearing; and
- (vi) All testimony reported verbatim steno-graphically or by any other appropriate means determined by the county board of equalization or the officer presiding at the hearing. Oral proceedings or any part thereof shall be transcribed on request of any party upon that party's payment of the cost thereof.

(b) Contemporaneous with filing the record, the county clerk shall serve a copy of the general index on all parties to the appeal.

- (c) By written stipulation of all parties to an appeal, the record may be shortened.

Section 8. Presentation of Additional Evidence. Not later than 20 days before the date set for oral argument, or 20 days before the date set for filing the brief or written statement of a petitioner, any party may apply to the Board for leave to present additional evidence. If it is shown to the satisfaction of the Board that the additional evidence is relevant to a material issue and is not repetitious of evidence or testimony taken before the county board of equalization, and there was good reason for failure to present it in the proceedings before the county board of equalization, the Board shall order the additional evidence be taken before the county board upon conditions determined by the Board. The county board of equalization may adhere to or modify its findings and decision after receiving such additional evidence, and shall supplement the record to reflect the proceedings conducted and the decision made. The Board may take supplemental evidence in cases involving fraud or misconduct affecting the decision.

Section 9. Extent of Review. The Board's review shall be confined to the record as supplemented pursuant to Section 8 of this chapter, oral argument, and such briefs as may be filed. The Board's review shall be limited to a determination of whether the county board action is:

- (a) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
- (b) In excess of statutory jurisdiction, authority or limitations or lacking statutory right;
- (c) Without observance of procedure required by law; or
- (d) Unsupported by substantial evidence.

Section 10. Designation of Presiding Officers. The Board may designate a presiding officer who is knowledgeable of and qualified in the particular areas of taxation which are the subject of the appeal. The presiding officer shall act impartially. Presiding officers shall have the authority provided by W.S. 16-3-112(b).

Section 11. Notice of Oral Argument. The Board shall send a notice setting an appeal for oral argument by regular mail to each party and intervenor at least 30 days before the date set for oral argument unless the parties otherwise consent or the Board finds an emergency exists or it is necessary and proper that the matter be heard sooner.

Section 12. Oral Argument and Representation.

- (a) At the date, time and place set for oral argument, Petitioner shall be entitled to be heard first. Respondent may then be heard. Petitioner may then conclude. Each Petitioner shall be heard in the order notice of appeal was filed if there is more than one Petitioner. Each party

may not exceed 30 minutes in argument unless otherwise ordered by the Board. If more time is desired, the request must be made at or before the time for filing the party's brief.

(b) A party may self-represent or may be represented by a person designated by the party. It shall be the responsibility of every party to be familiar with and comply with the Board's Rules. The Board's Rules are available at the office of the Board and on the Board's web site at <http://taxappeals.state.wy.us>.

Section 13. Telephone Conferences. At the discretion of the Board or presiding officer, telephone conference calls or similar technology may be used to conduct any proceeding subject to such terms and conditions as the Board may order.

Section 14. Briefs. Any party may submit a written brief to the Board upon approval by the Board. An original and four copies of any brief shall be filed with the Board and a copy thereof served on every other party to the appeal. The Board may order the parties to file written briefs.

Section 15. Consideration on Brief.

(a) A party need not personally appear at the oral argument and may, upon written notice to the Board, rely solely upon the information provided in the case notice and written briefs.

(b) The Board may order consideration of the matter on the record and written briefs. If such order is issued, the parties have 10 days from the date of the order to request oral argument or the same shall be deemed waived. The briefing order shall allow 30 days for the filing and service of the initial brief, 30 days for the filing and service of the response brief and 15 days for filing and service a reply brief. An original and four copies of any brief shall be filed with the Board and a copy thereof served on every other party to the appeal. Upon expiration of the time for filing reply briefs, the matter shall be deemed closed and will be taken under advisement for issuance of a written decision.

Section 16. Continuances. A party may file with the Board, at least seven days before the oral argument or the date its brief is due, a motion for a continuance. The motion must show good cause for a continuance. The Board will not entertain a motion for a continuance unless the movant has tried in good faith to confer with the non-moving party or its representative to learn whether the non-moving party opposes the motion. The motion shall set forth all good faith efforts to confer. If the movant succeeded in contacting the non-moving party or its representative, the motion shall state whether the non-moving party opposes the motion. Motions for continuance filed fewer than seven days before the oral argument or brief due date will be granted only in the case of an emergency, such determination to be in the discretion of the Board.

Section 17. Extensions of Time. Except as described in Section 16 of this chapter, the time for doing any act prescribed or allowed by this chapter or order of the Board may be extended by order of the Board upon written motion filed prior to the expiration of the applicable period of time. The motion must show good cause for such extension of time and that the need

therefore is not caused by the party's neglect or lack of diligence. The Board will not entertain a motion for an extension unless the movant has tried in good faith to confer with the non-moving party or its representative to learn whether the non-moving party opposes the motion. The motion shall set forth all good faith efforts to confer. If the movant succeeded in contacting the non-moving party or its representative, the motion shall state whether the non-moving party opposes the motion.

Section 18. Dismissal with Prejudice Due to Settlement. A pending appeal may be resolved by settlement. Upon filing of a stipulated motion to dismiss with prejudice signed by all parties to the appeal, the Board shall dismiss the appeal with prejudice.

Section 19. Decision of Board.

(a) Following oral argument or submission on brief, the Board shall issue a written decision. The decision shall be filed with the Board and will, without further action, become the final decision and order of the Board. Upon filing, the Board shall send a copy by mail to all parties and the county board of equalization.

(b) Within 10 days after the Board issues a decision, any party may petition the Board for reconsideration of the decision by filing a written motion with the Board. The Board shall issue a written order denying the motion, granting the motion and dissolving or modifying the decision, or granting the motion and setting the matter for further proceedings. A motion for reconsideration does not affect the finality of the decision and is not a prerequisite for judicial review. The Board may grant a motion for reconsideration on any of the following grounds:

- (i) Irregularity in the proceedings;
- (ii) Fraud, misrepresentation, or other misconduct of a party;
- (iii) Error in the valuation, assessment or other calculation within the order;
- (iv) Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the county board hearing; or
- (v) An error of law contained within the decision.

(c) The Board may correct clerical mistakes in decisions and orders or other parts of the record at any time on its own initiative or on the motion of any party. During the pendency of a judicial appeal, clerical mistakes may be corrected with leave of the court.

Section 20. Recusal. Any member of the Board may, at any time while an appeal is pending and without stating a reason, recuse himself or herself from consideration of the appeal by filing a notice of recusal with the Board for service on all parties and filing in the appeal record. From and after the date of the notice of recusal, the member shall not participate in any Board decisions or orders with regard to the appeal.

CHAPTER 3

RULES OF PRACTICE AND PROCEDURE FOR APPEALS BEFORE THE STATE BOARD OF EQUALIZATION FROM A COUNTY BOARD OF EQUALIZATION

Section 1. Authority. These rules ~~of practice and procedure~~ are promulgated by the ~~State Board of Equalization~~ under the authority of ~~W.S. Wyoming Statutes~~ 16-3-102 and ~~W.S.~~ 39-11-102.1.

Section 2. Commencement of Appeal.

(a) A taxpayer or a county assessor may appeal any final decision or order of a county board of equalization to the State Board of Equalization. Appeals shall be taken by filing a notice of appeal with the State Board of Equalization at the ~~office of the Board's office, 122 West 25th Street~~ 2300 Capitol Ave., Cheyenne, Wyoming, ~~or by mail c/o Executive Secretary, to P.O. Box 448, Cheyenne, Wyoming 82003-0048, or received by facsimile, 307-777-6363, during regular business hours~~ within ~~thirty (30)~~ thirty (30) days from the entry of a decision of a county board of equalization or ~~upon~~ from the date of mailing of the decision as evidenced by a legible postmark, whichever is later. The notice shall be considered filed with the Board on mailing as evidenced by a legible postmark, or upon receipt by fax. Any facsimile received after regular business hours will be treated as received during the regular business hours of the next working day.

(b) The notice of appeal shall contain the following information:

- (i) A copy of the decision appealed from;
- (ii) A concise statement in ordinary ~~and concise~~ language of the facts and of the errors alleged to have been committed and issues upon which the appeal is based;
- (iii) The amount of the tax assessment or refund denial, and the amount of tax in controversy; and
- (iv) The relief sought;
- (v) The notice of appeal shall be signed by the Petitioner or his representative ~~or attorney~~ and shall contain the mailing address, telephone number, and fax number if available, of the Petitioner ~~and his~~ or the Petitioner's representative ~~or attorney~~.

(c) If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within ~~fifteen (15)~~ fifteen (15) days of the date on which the first notice of appeal was filed, or within the time otherwise prescribed herein, whichever period last expires. The notice of appeal shall be served on all parties consistent with Section 3 of this ~~C~~chapter.

(d) “Computation of Time” - ~~In computing~~ The time period for filing a notice of appeal, ~~the period~~ shall begin on the day after the date of the county board decision or upon the date of mailing of the decision as evidenced by a legible postmark, whichever is later. ~~If, and shall conclude on~~ the last day of ~~such the~~ computed period, ~~unless such day~~ is a Saturday, Sunday, or legal holiday, ~~in which event~~ the period runs until the end of the next day ~~which that~~ is neither a Saturday, Sunday nor a legal holiday.

Section 3. Service. Any notice of appeal or motion to appear amicus curiae filed with the Board shall contemporaneously be served by the Petitioner or movant upon all parties entering an appearance at the county board of equalization hearing, the county assessor, and local county board of equalization by depositing a true and correct ~~copies~~ thereof in the United States mail, postage prepaid, properly addressed ~~to the appropriate mailing addresses.~~

Section 4. Designation of Parties. In all appeals governed by this chapter, the parties shall be the taxpayer, or taxpayers, and the county assessor. Any party filing a notice of appeal shall be known as Petitioner. Any party making a response to a notice of appeal shall be designated as Respondent. The county board of equalization shall not be considered a party to an appeal.

Section 5. Motions.

(a) “In general” - An application to the Board for an order shall be by written motion, and shall state with particularity the grounds and the relief or order sought. Motions shall be filed with the Board and served on all parties. The motion shall advise the parties that ~~should they~~ may file ~~wish to contest the motion~~ a written response ~~shall be filed~~ with the Board, with copies served on all parties, within ~~fifteen~~ (15) days of service of the motion. The response shall set forth the party’s objections to the motion. No motions shall be filed within ~~twenty~~ (20) days of any hearing.

(b) “Amicus Curiae”—

(i) ~~Any county board of equalization, or any interested person may file a motion with~~ move the Board for leave to appear amicus curiae within ~~thirty~~ (30) days from the filing of the notice of appeal, and contemporaneously serve a copy of the motion pursuant to Section 3 of this chapter. The motion shall specify in ordinary and concise language:

(~~1~~A) the movant’s interest in the issues raised in the case;

(~~2~~B) the reasons an amicus brief is appropriate and desirable;

(~~3~~C) the view of the movant with respect to whether any party is not represented completely or is not represented at all;

(~~4~~D) the interest of the amicus in some other case, if any, which may be affected by the decision in the case before the Board; and

(5E) any unique information or perspective the amicus has that can be of assistance to the Board beyond that which the parties can provide.

(ii) The motion shall advise the parties that any objections to the motion ~~shall~~ may be filed with the Board within ~~fifteen~~ (15) days of service of the motion.

(iii) ~~P~~The Board shall allow participation in oral arguments by the amicus curiae to participate in oral argument shall be granted only with Board permission and consent of the party supported, and only for extraordinary reasons, with the time used to be charged against the party whose contentions amicus curiae supported.

(iv) Pursuant to Subsection (c) of this section, ~~t~~The Board, upon its own motion, may request any county board of equalization, any party to the county board hearing, or any interested person or entity to appear as amicus curiae pursuant to subsection (c) of this section.

~~(c) “Board Action on Own Motion”~~—For good cause, the Board may take action on its own motion by providing notice of its intent to take the action and the reasons therefore to all parties. The notice of intent shall advise the parties they may file written objections within ~~fifteen~~ (15) days of service of the notice.

Section 6. Docketing of Appeal. When the Board receives a notice of appeal, ~~it has been received, the Board~~ shall assign a docket number thereto to it and enter the appeal with the date of filing on the docket. The Board shall establish a separate file for each docketed appeal in which shall be placed all papers, pleadings, transcripts, evidence, and exhibits pertaining thereto and all items shall have noted thereon the docket number assigned.

Section 7. Record of Appeal.

(a) Within 60 days after a notice of appeal is filed, the county board record, including a general index identifying the documents and instruments in the record with reasonable definiteness shall be certified to the Board by the county clerk as clerk of the county board of equalization. The record shall include:

- (i) All formal or informal notices, pleadings, motions, and intermediate rulings;
- (ii) Evidence and exhibits received or considered including matters officially noticed;
- (iii) Questions and offers of proof, objections and rulings thereon;
- (iv) Any proposed findings and exceptions thereto;
- (v) Any opinions, findings, decisions or orders of the county board of equalization and any report by the officer presiding at the hearing; and

(vi) All testimony reported verbatim steno-graphically or by any other appropriate means determined by the county board of equalization or the officer presiding at the hearing. Oral proceedings or any part thereof shall be transcribed on request of any party upon that party's payment of the cost thereof.

(b) Contemporaneous with filing the record, the county clerk shall serve a copy of the general index on all parties to the appeal.

(c) By written stipulation of all parties to an appeal, the record may be shortened.

Section 8. Presentation of Additional Evidence. Not later than ~~twenty (20)~~ days before the date set for oral argument, or ~~twenty (20)~~ days before the date set for filing the brief or written statement of a petitioner, any party application may be made apply to the Board for leave to present additional evidence. If it is shown to the satisfaction of the Board that the additional evidence is relevant to a material issue ~~before the Board,~~ and is not repetitious of evidence or testimony taken before the county board of equalization, and there was good reason for failure to present it in the proceedings before the county board of equalization, the Board shall order the additional evidence be taken before the county board upon conditions determined by the Board. The county board of equalization may adhere to or modify its findings and decision after receiving such additional evidence, and shall supplement the record to reflect the proceedings ~~had conducted~~ and the decision made. The Board may take Supplemental evidence may be taken by the Board in cases involving fraud or ~~involving misconduct of some person engaged in the administration of the law~~ affecting the decision.

Section 9. Extent of Review. The ~~review by the Board's~~ review shall be confined to the record as supplemented pursuant to Section 8 of this chapter, oral argument, and such briefs as may be filed. The Board's review shall be limited to a determination of whether the county board action is:

- (a) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
- (b) In excess of statutory jurisdiction, authority or limitations or lacking statutory right;
- (c) Without observance of procedure required by law; or
- (d) Unsupported by substantial evidence.

Section 10. Designation of Presiding Officers. The Board may designate a presiding officer ~~by assigning an appeal to one (1) or more member(s) of the Board, the Executive Secretary of the Board, the Staff Attorney of the Board or a licensed attorney employed by or on contract with the State of Wyoming~~ who is knowledgeable of and qualified in the particular areas of taxation which are the subject of the appeal. ~~The functions of the presiding officer shall be~~

~~conducted in an act impartially manner.~~ Presiding officers shall have the full authority provided by W.S. 16-3-112(b).

Section 11. Notice of Oral Argument. ~~The Board shall send a~~ notice setting an appeal for oral argument ~~shall be sent by the Board~~ by regular mail to each party and intervenor at least ~~thirty (30)~~ days before the date set for oral argument unless the parties otherwise consent or the Board finds an emergency exists or it is necessary and proper that ~~such the~~ matter be heard sooner.

Section 12. Oral Argument and Representation.

(a) At the date, time and place set for oral argument, Petitioner shall be entitled to be heard first. Respondent may then be heard. Petitioner may then conclude. Each Petitioner shall be heard in the order notice of appeal was filed if there is more than one Petitioner. Each party may not exceed 30 minutes in argument unless otherwise ordered by the Board. If more time is desired, the request must be made at or before the time for filing the party's brief. ~~The Board may make such order as it deems proper. Participation in oral arguments by the amicus curiae shall be granted only with Board permission and consent of the party supported, and only for extraordinary reasons with the time used to be charged against the party whose contentions amicus curiae supports.~~

(b) A party may self-represent himself or may be represented by a person designated by ~~him~~ the party. It shall be the responsibility of every party to be familiar with and comply with the Board's Rules. The Board's Rules are available at the office of the Board and on the Board's web site at <http://taxappeals.state.wy.us>.

Section 13. Telephone Conferences. At the discretion of the Board or presiding officer, telephone conference calls or similar technology may be used to conduct any proceeding subject to such terms and conditions as the Board may order.

Section 14. Briefs. Any party ~~who desires to~~ may submit a written brief to the Board ~~may do so,~~ upon approval by the Board. An original and four copies of any brief shall be filed with the Board and a copy thereof served on every other party to the appeal. The Board may order the parties to file written briefs.

Section 15. Consideration on Brief.

(a) ~~Any party who so desires~~ need not personally appear at the oral argument and may, upon written notice to the Board, rely solely upon the information provided in the ~~parties case notice of appeal,~~ and written briefs ~~as submitted.~~

(b) The Board may order consideration of the matter on the record and written briefs. If such order is issued, the parties have ~~ten (10)~~ days from the date of the order to request oral argument or the same shall be deemed waived. The briefing order shall allow ~~thirty (30)~~ days for the filing and service of the initial brief, ~~thirty (30)~~ days for the filing and service of the response brief and ~~fifteen (15)~~ days for filing and service a reply brief. An original and four copies of any

brief shall be filed with the Board and a copy thereof served on every other party to the appeal. Upon expiration of the time for filing reply briefs, the matter shall be deemed closed and will be taken under advisement for ~~rendition~~issuance of a written decision.

Section 16. Continuances. A party ~~desiring continuance shall~~may file with the Board, at least seven ~~(7)~~ days before the oral argument or the date its brief is due, a motion for a continuance. The motion must show ~~that good cause exists for a~~ continuation. The Board will not entertain a motion for a continuance unless the movant has tried in good faith to confer with the non-moving party or its representative to learn whether the non-moving party opposes the motion. The motion shall set forth all good faith efforts to confer. If the movant succeeded in contacting the non-moving party or its representative, the motion shall state whether the non-moving party opposes the motion. Motions for continuance filed ~~less~~ fewer than seven ~~(7)~~ days before the oral argument or brief due date will be granted only in the case of an emergency, such determination to be in the ~~sole and absolute~~ discretion of the Board.

Section 17. Extensions of Time. ~~Except as described in Section 16 of this chapter,~~ the time for doing any act prescribed or allowed by this chapter or order of the Board may be extended by order of the Board upon written motion filed prior to the expiration of the applicable period of time. The motion must show good cause for such extension of time and that the need therefore is not caused by the party's neglect or lack of diligence. The Board will not entertain a motion for an extension unless the movant has tried in good faith to confer with the non-moving party or its representative to learn whether the non-moving party opposes the motion. The motion shall set forth all good faith efforts to confer. If the movant succeeded in contacting the non-moving party or its representative, the motion shall state whether the non-moving party opposes the motion.

Section 18. Dismissal with Prejudice Due to Settlement. ~~Resolution of any~~ A pending appeal may be ~~made resolved by agreed~~ settlement. Upon filing of a stipulated motion to dismiss with prejudice signed by all parties to the appeal, the Board shall dismiss the appeal with prejudice.

Section 19. Decision of Board.

(a) Following oral argument or submission on brief, the Board shall ~~make and enter~~ issue a written decision. The decision shall be filed with the Board and will, without further action, become the final decision and order of the Board. Upon filing, the Board shall send a copy by mail to all parties and the county board of equalization.

(b) Within 10 days after the Board issues a decision, Any party may petition the Board, ~~within ten (10) days of the date of a decision and order,~~ for reconsideration of the decision ~~and order~~ by filing a written motion with the Board. The Board shall issue a written order denying the motion, granting the motion and dissolving or modifying the decision ~~and order~~, or granting the motion and setting the matter for further proceedings. A motion for reconsideration does not affect the finality of the decision and order and is not a prerequisite for judicial review. The Board may grant a motion for reconsideration ~~may be granted by the Board~~ on any of the following grounds:

- (i) Irregularity in the proceedings;
- (ii) Fraud, misrepresentation, or other misconduct of an ~~adverse~~ party;
- (iii) Error in the valuation, assessment or other calculation within the order;
- (iv) Newly discovered material evidence, ~~material as to the party applying,~~ ~~which the party that~~ could not, with reasonable diligence, have been discovered and produced at the county board hearing; or
- (v) An error of law contained within the decision.

(c) The Board may correct ~~C~~ clerical mistakes in decisions and orders or other parts of the record ~~may be corrected by the Board~~ at any time on its own initiative or on the motion of any party. During the pendency of a judicial appeal, clerical mistakes may be corrected with leave of the court.

Section 20. Recusal. Any member of the Board may, at any time while an appeal is pending and without stating a reason, recuse himself or herself from consideration of the appeal by filing a notice of recusal with the ~~Executive Secretary~~ Board for service on all parties and filing in the appeal record. From and after the date of the notice of recusal, the member shall not participate in any Board decisions or orders with regard to the appeal.

CHAPTER 4

BOARD EXAMINATION PROCEDURES

Section 1. Authority. These rules are promulgated by authority of Wyoming Statutes 16-3-102, 18-3-204(a)(ix), and 39- 11-102.1.

Section 2. Purpose. These rules are intended to provide process and standards for the Board to carefully examine into allegations of improper, fraudulent, or unequally assessed properties, or allegations of evasion or violation of the tax laws.

Section 3. Allegations and Board Examination.

(a) The Board may institute an examination upon written allegation meeting the requirements of Subsection (c) of this section that property subject to taxation has not been assessed or has been fraudulently, improperly or unequally assessed, or the law in any manner has been evaded or violated. Except for allegations based in fraud, any request for relief shall be filed with the Board within five years from the date the taxes were paid or should have been paid.

(b) The Board may summarily dismiss such examination if:

(i) The allegation is subject to a legal limitation which precludes Board examination;

(ii) The allegation is not within the Board's jurisdiction;

(iii) In the discretion of the Board, the matter involves an isolated, trivial, or minimal issue or problem which may be remedied through conference and conciliation;

(iv) In the discretion of the Board, the matter involves a final action or inaction of another agency which is properly reviewed by district court or in another proceeding before the Board;

(v) There is no adequate proceeding available to the Board provided by law which will remedy the allegations;

(vi) The allegation fails to meet the requirements of Subsection (c) of this section;

(vii) There is or was available an adequate remedy provided by law which will remedy the allegation; or

(viii) Other good cause as determined by the Board.

(c) The written allegation shall set forth with particularity:

(i) That the applicant filing the allegation is an individual, a business entity registered to do business in the State of Wyoming, a political subdivision of the State of Wyoming, a public officer of the State of Wyoming, or a public officer of a political subdivision of the State of Wyoming.

(ii) The address and phone number of the applicant or the agent of the business entity;

(iii) A verified statement indicating:

(A) The actions to be remedied;

(B) That this is a matter within the jurisdiction of the Board;

(C) That there are no adequate proceedings provided by law which will remedy the allegation;

(D) That the allegation does not arise from an action or inaction of another agency which is properly reviewed by a district court or brought before the Board by another action;

(E) That the applicant filing the allegation has direct knowledge of the action or inaction for which relief may be granted or is directly affected financially by the action or inaction;

(F) The identity of the person or agency or governmental entity performing or failing to perform the alleged action;

(G) The date the taxes were paid or should have been paid; and

(H) The relief desired.

(iv) The applicant filing the written allegation with the Board shall simultaneously serve a copy of the allegation on the party subject of the allegation, including but not limited to the Department of Revenue, county elected officials and/or affected taxpayers.

(d) A written allegation shall be considered filed with the Board upon mailing of the allegation notice as evidenced by a legible postmark, or upon receipt by fax or upon hand delivery as evidenced by the Board's file stamp. Any fax received after regular business hours will be treated as received during the regular business hours of the next working day.

(e) The procedures available to the Board include but are not limited to:

(i) An in-camera investigation by the Board;

- (ii) Open questioning by the Board;
- (iii) An independent investigation by an agent of the Board;
- (iv) A contested case proceeding pursuant to Chapter 2 wherein the applicant making the allegation shall bear the burden of proof of the allegations by a preponderance of the evidence; or
- (v) Other procedures deemed appropriate by the Board.

CHAPTER 4

BOARD EXAMINATION PROCEDURES

Section 1. Authority. These rules are promulgated by authority of ~~W.S.~~ Wyoming Statutes 16-3-102, ~~W.S.~~ 18-3-204(a)(ix), and ~~W.S.~~ 39- 11-102.1.

Section 2. Purpose. These rules are intended to provide process and standards for the Board to carefully examine into allegations of improper, fraudulent, or unequally assessed properties, or allegations of evasion or violation of the tax laws.

Section 3. Allegations and Board Examination.

(a) The Board may institute an examination upon written allegation meeting the requirements of Subsection (c) of this ~~S~~section that property subject to taxation has not been assessed or has been fraudulently, improperly or unequally assessed, or the law in any manner has been evaded or violated. Except for allegations based in fraud, any request for relief shall be filed with the Board within five ~~(5)~~ years from the date the taxes were paid or should have been paid.

(b) ~~The Board may summarily dismiss Ssuch examination if may be subject to summary dismissal upon evidence or argument or Board motion indicating:~~

(i) The allegation is subject to a legal limitation which precludes Board examination;

(ii) The allegation is not within the Board's jurisdiction ~~of the Board~~;

(iii) In the discretion of the Board, the matter involves an isolated, trivial, or minimal issue or problem which may be remedied through conference and conciliation;

(iv) In the discretion of the Board, the matter involves a final action or inaction of another agency which is properly reviewed by district court or in another proceeding before the Board ~~including but not limited to an appeal from a County Board or a Department of Revenue final administrative decision~~;

(v) There is no adequate proceeding available to the Board provided by law which will remedy the allegations;

(vi) The allegation fails to meet the requirements of Subsection (c) of this section;

(vii) There is or was available an adequate remedy provided by law which will remedy the allegation; or

(viii) ~~Except for allegations based in fraud, the request for relief is filed more than five (5) years after the date the taxes were paid or should have been paid; or~~

~~_____ (viii) Other good cause as determined by the Board.~~

(c) The written allegation shall set forth with particularity ~~the following:~~

(i) That ~~the~~ applicant filing the allegation ~~shall be~~ is an individual, ~~or a~~ business entity registered to do business in the State of Wyoming, ~~or a~~ political subdivision of the State of Wyoming, ~~or a~~ public officer of the State of Wyoming, or a public officer of a political subdivision of the State of Wyoming.

(ii) The address and phone number of the applicant or the agent of the business entity;

(iii) A verified statement indicating:

(A) The actions to be remedied;

(B) That this is a matter within the jurisdiction of the Board;

(C) That there are no adequate proceedings provided by law which will remedy the allegation;

(D) ~~This is not~~ That the allegation does not arise from an action or inaction of another agency which is properly reviewed by a district court or brought before the Board by another action including but not limited to an appeal from a county board of equalization or from the Department of Revenue's final action;

(E) That ~~the~~ applicant filing the allegation has direct knowledge of the action or inaction for which relief may be granted or ~~the person~~ is directly affected financially by the action or inaction;

(F) ~~Identifying~~ The identity of the person or agency or governmental entity performing or failing to perform the alleged action;

(G) The date the taxes were paid or should have been paid; and

(H) The relief desired.

(iv) The applicant filing the written allegation with the Board shall simultaneously serve a copy of the allegation on the party subject of the allegation, including but not limited to the Department of Revenue, county elected officials and/or affected taxpayers.

(d) “Filed with the Board” A written allegation shall be considered filed with the Board upon mailing of the allegation notice as evidenced by a legible postmark, or upon receipt

by fax or upon hand delivery as evidenced by the Board's file stamp. Any fax received after regular business hours will be treated as received during the regular business hours of the next working day.

(e) The procedures available to the ~~State Board~~ may include but are not limited to the following:

- (i) An in-camera investigation by the Board;
- (ii) Open questioning by the Board;
- (iii) An iIndependent investigation by an agent of the Board;
- (iv) A contested case proceeding pursuant to Chapter 2 wherein the applicant making the allegation shall bear the burden of proof of the allegations by a preponderance of the evidence; or
- (v) Other procedures deemed appropriate by the Board.

CHAPTER 5
EQUALIZATION STANDARDS AND PROCEDURES
(LOCAL ASSESSMENTS)

Section 1. Authority. These rules are promulgated under the authority of Wyoming Statutes 16-3-102 and 39-11-102.1.

Section 2. Purpose. These rules are intended to establish the criteria by which the Board will annually determine whether each county is in compliance with the fair market value standard and, if noncompliance is found, establish procedures for equalizing property values or otherwise reducing the inequitable assessment bias.

Section 3. Definitions.

(a) As used in this chapter:

(i) “Abstract” means the abstract of the assessment roll as provided by W.S. 39-11- 102.1(c)(ii).

(ii) “CAMA” means a computer assisted mass appraisal system authorized by the Department and used by county assessors.

(iii) “Class of property” means residential improved, commercial improved, residential vacant, or commercial vacant.

(iv) “Coefficient of dispersion” (COD) means the average deviation of a group of numbers from the median expressed as a percentage of the median.

(v) “Equalization order” means an order of the Board issued pursuant to W.S. 39-11- 102.1 directing a county board of equalization to implement a program to bring a county into compliance with the standards contained in Section 6 of this chapter.

(vi) “Level of appraisal” means the overall ratio of appraised values to market values. In the case of non-normal distribution, level of appraisal shall be indicated by the median. In the case of normal distribution, level of appraisal shall be indicated by the mean.

(vii) “Mean” is the result of adding all the values of a variable and dividing by the number of values.

(viii) “Median” means the midpoint or middle value when a set of values is ranked in order of magnitude; if the number of values is even, the midpoint or average of the two middle values.

(ix) “Mill levy report” means the report prescribed by W.S. 39-11-102.1.

(x) “Price-related differential” (PRD) is the mean divided by the weighted mean. A PRD above 1.03 tends to indicate assessment regressivity. A PRD below .98 tends to indicate assessment progressivity.

(xi) “Reappraisal” means the mass appraisal of one or more classes of property, or a portion thereof, within a jurisdiction completed prior to submission of the next abstract.

(xii) “Department” means the Wyoming Department of Revenue.

(xiii) “Progressivity” means over-valuing high end properties relative to low end properties.

(xiv) “Regressivity” means under-valuing high end properties relative to low end properties.

(xv) “Fair market value standard” shall have the definition provided at W.S. 39-11-101(a)(vi).

Section 4. Abstract Review.

(a) The county assessors shall annually transmit all abstracts and related documents no later than June 1 by mail, e-mail, or fax to the Board.

(b) The Board, upon receipt, shall date stamp and log the abstracts and related documents and provide a copy to the Department. The Board shall place each of the original abstracts in an annual county abstract file created for each county.

(c) If the abstract contains all information necessary and is properly signed and dated, the Board will send an acknowledgment letter to the county assessor and copy to the Department. If the abstract is not in correct form, the Board will notify the county assessor of the Board’s objection to the form of the abstract and suspend the review process for that county.

(d) The Board will review all abstracts for errors within one week of receipt of the abstract. The Board will address any identified errors when it reviews the abstract and statistical analysis of the abstract with the county assessor and the Department.

(e) The Board will:

(i) within two weeks of the receiving sales and account data from the county, perform statistical analysis of the abstract for each county in accordance with Board Rules;

(ii) determine if the abstract and statistical analysis of the abstract, and any other documents to be considered at the time of the review, are complete.

(f) The Board anticipates that the Department will timely provide it necessary information concerning state assessed property for each county. However, the completion of the

review process for locally assessed property will not be delayed if the state assessed property information is provided later than June 1.

(g) After the Board determines that the abstract and statistical analysis of the abstract are complete, it will transmit a copy of the statistical analysis of the abstract and any pertinent supporting information, such as detailed property data, to the county assessor and the Department.

(h) The Board will meet with the county assessor and the Department to review the abstract, statistical analysis of the abstract, and any pertinent supporting information. The review meeting will take place no fewer than five working days after transmittal of the statistical analysis of the abstract to the county assessor, unless the county assessor agrees to a shorter time. The Board will notify the county assessor and the Department of the date and time of the meeting for review of the abstract.

(i) At the meeting, the Department may present any recommendations with respect to compliance with the standards of Section 6 of this chapter. The county assessor may attend either in person or by phone. The meeting will be audio recorded, and the Board will keep minutes of the informal conference and any Board action.

(j) Upon completion of the review the Board may: (1) acknowledge the abstract without correction; (2) acknowledge the abstract subject to corrections to be made by the assessor within a prescribed time; (3) decline to acknowledge the abstract. By letter to the county assessor no later than July 10, the Board will authorize the county to proceed with its mill levy process if the abstract has been acknowledged and any required corrections are made, submitted and approved.

(k) If the Board determines that any of its standards are not being met, the Board may request further investigation by the county assessor, the Department, and Board staff to determine what, if any, changes in the county assessor's work practices are warranted. The Board will assure that proposed work practices are documented and will assure that the county assessor and the Department are advised of the proposed work practices.

(l) In appropriate cases, the Board will proceed with remedial measures pursuant to Section 7 of this chapter

Section 5. Statistical Studies.

(a) To determine compliance with the standards stated in Section 6 of this chapter, the Board shall annually conduct studies of appraised values and sales prices based on information contained in the CAMA system for vacant and improved residential and commercial properties.

(b) The Board may provide for the details of such statistical studies by adopting internal guidelines from time to time. Current copies of any such guidelines shall be made available to the public by request directed to the Board.

Section 6. Appraisal Standards and Compliance.

(a) The following are the standards used by the Board to determine if a county is in compliance with the fair market value standard. If a county is in compliance with the fair market value standard, no equalization order will be considered.

(i) Level of Appraisal. The level of appraisal for residential and commercial, improved and vacant, shall be between .95 and 1.05. To determine compliance with this standard, a 95% confidence interval will be computed around the county's level of appraisal and the confidence interval must include one or more points in the range of .95 to 1.05.

(ii) Appraisal Uniformity.

(A) The COD for improved residential properties shall be 15 or less;

(B) The COD for improved commercial properties shall be 20 or less;

(C) The COD for vacant residential land shall be 20 or less;

(D) The COD for vacant commercial land shall be 20 or less;

(E) The PRD shall be between .98 and 1.03 for residential and commercial properties. If a county does not meet the PRD standard, the Board may trim outliers;

(F) The aggregate change in market value of sold properties shall vary no more than 5% from the aggregate change in market value of unsold properties within a class.

Section 7. Procedures for Implementing Action Taken By Board.

(a) The Board shall make its initial decision on action to be taken through analysis of the statistical studies. Upon completion of its analysis:

(i) If the Board determines a county is not in compliance with the overall level of appraisal as stated in Section 6(a)(i) of this chapter:

(A) the Board shall informally notify and provide all documentation and test results to the county assessor of its initial findings and preliminary intended equalization action and confer with the county assessor to explain the reasons for the indicated action, affording the county assessor the opportunity to review, respond and explain any misunderstandings or errors in the statistical studies.

(B) if the Board determines current year equalization action is still necessary following discussion as provided in paragraph (a)(i)(A) of this section, it will provide not less than 20 days' notice of the proposed action to the county board of equalization and county assessor of the county in which the property is situated. If requested, the Board shall

provide an opportunity for a hearing to the county board of equalization and county assessor of the affected county. The hearing, without contested case procedures, shall be held in the affected county and provide an opportunity for comment and presentation of information. If, after the hearing, the Board determines equalization is still necessary, it will issue an equalization order and work with the county board of equalization and county assessor to determine the best method by which to effect the equalization action.

(ii) If the Board determines a county is not in compliance with appraisal uniformity as stated in Section 6(a)(ii) of this chapter:

(A) the Board shall informally notify the county assessor of its initial findings and meet with the county assessor to explain the reasons for the indicated action, affording the county assessor or designee the opportunity to review, respond and explain any misunderstandings or errors in the statistical studies.

(B) if the Board determines a county is out of compliance and reappraisal is more appropriate to correct assessment bias, the Board may order reappraisal to bring the county into compliance. The reappraisal shall be completed prior to submission of the next abstract.

(C) if the Board determines any inequities can be remedied during the next year through changed work practices, the Board will communicate its recommendation to the Department pursuant to W.S. 39-11-102.1. If the Board has recommended work practice changes and the same noncompliance issue is present in the next appraisal cycle, the Board may issue an equalization order to correct these noncompliance issues.

Section 8. Mill levy reports.

(a) The Board anticipates that pursuant to W.S. 39-11-102.1(e), 39-13-104(j), 21-13-303 and 9-4-302 the State Treasurer and Auditor will provide the Board with advice concerning State Wide Mill Levies on or before July 15. The Board will certify to the county boards of equalization the amount of levy for state purposes on or before the first Monday in August.

(b) Before August 1, the Board will provide county assessors with forms on which to report mill levies.

(c) On or before August 10 each county assessor shall transmit to the Board the mill levy report for his or her county by mail, e-mail, or fax.

(d) Upon receipt of the mill levy report from the county assessor, the Board shall date stamp and log the mill levy reports and amendments and provide a copy to the Department. The original will be placed in the annual county abstract file created for each county.

(e) Within three days of the receipt of the mill levy report, the Board will evaluate the reports for errors and compare the values to those reported and accepted in the abstracts. The

Board anticipates that the Department will promptly evaluate the mill levy reports to determine if the mills set are within legal limits, including pertinent boundaries of tax districts.

(f) If the mill levy report is not in compliance with pertinent statutes and free from error, the Board will contact the county assessor to resolve any apparent discrepancy.

(g) Upon resolution of any apparent errors, the Board will meet to certify the mill levy for each county. The Board will notify each county assessor by letter when the Board has certified the county report.

(h) The Board may provide for the details of preparation and review of mill levy reports by adopting internal guidelines from time to time. Current copies of any such guidelines shall be made available to the public by request directed to the Board.

Section 9. Construction and limitation.

(a) The provisions of this chapter, which is intended to further a just and equal distribution of the burden of taxation, shall be liberally, rather than strictly construed.

(b) Nothing in this chapter creates or modifies private rights or procedures available to the public unless expressly stated or otherwise provided for by law.

CHAPTER 5

EQUALIZATION STANDARDS AND PROCEDURES (LOCAL ASSESSMENTS)

Section 1. Authority. These rules are promulgated by ~~the State Board of Equalization (Board)~~ under the authority of ~~W.S. Wyoming Statutes~~ 16-3-102 and ~~W.S.~~ 39-11-102.1.

Section 2. Purpose. These rules are intended to establish the criteria by which the Board will annually determine whether each county is in compliance with the fair market value standard and, if noncompliance is found, establish procedures for equalizing property values or otherwise reducing the inequitable assessment bias.

Section 3. Definitions.

(a) As used in this chapter, ~~the following definitions apply:~~

(i) “Abstract” means the abstract of the assessment roll as provided by W.S. 39-11- 102.1(c)(ii).

(ii) “CAMA” means a computer assisted mass appraisal system authorized by the Department of Revenue and ~~utilized~~ used by county assessors.

(iii) “Class of property” means residential improved, commercial improved, residential vacant, ~~and~~ or commercial vacant.

(iv) “Coefficient of dispersion” (COD) means the average deviation of a group of numbers from the median expressed as a percentage of the median.

(v) “Equalization order” means an order of the Board issued pursuant to W.S. 39-11- 102.1 directing a county board of equalization to implement a program to bring a county into compliance with the standards contained in Section 6 of this chapter.

(vi) “Level of appraisal” means the overall ratio of appraised values to market values. In the case of non-normal distribution, level of appraisal shall be indicated by the median. In the case of normal distribution, level of appraisal shall be indicated by the mean.

(vii) “Mean” is the result of adding all the values of a variable and dividing by the number of values.

(viii) “Median” means the midpoint or middle value when a set of values is ranked in order of magnitude; if the number of values is even, the midpoint or average of the two middle values.

(ix) “Mill levy report” means the report prescribed by W.S. 39-11-102.1.

(x) “Price-related differential” (PRD) is the mean divided by the weighted mean. A PRD above 1.03 tends to indicate assessment regressivity. A PRD below .98 tends to indicate assessment progressivity.

(xi) “Reappraisal” means the mass appraisal of one or more classes of property, or a portion thereof, within a jurisdiction completed prior to submission of the next abstract.

~~(xii) “Representative sample” for a subgroup means a sample which, at a minimum, shall be a sample of sufficient numbers of sales to represent .5% of the total number of properties in that class of properties.~~

(xiii) “Department” means the Wyoming Department of Revenue.

(xiv) “Progressivity” means over-valuing high end properties with higher values. Relative to low end properties.

(xv) “Regressivity” means under-valuing high end properties relative to low end properties.

(xvi) “Fair market value standard” shall have the definition provided at W.S. 39-11-101(a)(vi).

Section 4. Abstract Review.

(a) The county assessors shall annually transmit all abstracts and related documents no later than June 1st by mail, e-mail, or fax to the ~~Executive Assistant of the Board.~~

(b) ~~The Executive Assistant Board, upon receipt, shall date stamp and log the abstracts and related documents. The Executive Assistant shall provide for internal distribution of the abstract, and provide a copy to the Department of Revenue. The Executive Assistant Board shall place each of the original abstracts in an annual county abstract file created for each county.~~

(c) ~~The Board’s Principal Statistician will promptly review. If the abstract to insure it contains all information necessary and is properly signed and dated. If the abstract is in the correct form, the Board will instruct the Board’s Executive Secretary to send an acknowledgment letter to the county assessor and copy to the Department of Revenue. If the abstract is not in correct form, the Chairman of the Board will notify the county assessor of the Board’s objection to the form of the abstract and suspend the review process for that county.~~

(d) ~~The Principal Statistician, or another person authorized by the Board will review all abstracts for mathematical errors within one week of receipt of the abstract. The Board will address Any identified mathematical errors will be identified and addressed by the Board at the time when it reviews the abstract and statistical analysis of the abstract with the county assessor and the Department of Revenue.~~

(e) ~~The Principal Statistician will download county information within two days of receipt of an abstract in correct form, and advise the Board whether the download can be successfully completed. Within one day of completion of the download, the Executive Secretary will notify the county assessor that the download has been completed.~~

(ef) ~~The Principal Statistician Board~~ will:

(i) within two weeks of the ~~download~~ receiving sales and account data from the county, perform statistical analysis of the abstract for each county in accordance with Board Rules;

(ii) ~~provide the statistical analysis of the abstract and any pertinent supporting information to the Board so the Board can determine if the abstract and statistical analysis of the abstract, and any other documents to be considered at the time of the review, are complete.~~

(fg) The Board anticipates that the Department of Revenue will timely provide the ~~Principal Statistician~~ it necessary information concerning state assessed property for each county ~~in a timely fashion~~. However, the completion of the review process for locally assessed property will not be delayed if the state assessed property information is provided later than June 1st.

(gh) After the Board determines that the abstract and statistical analysis of the abstract are complete, ~~the Executive Secretary~~ it will transmit a copy of the statistical analysis of the abstract and any pertinent supporting information, such as detailed property data, to the county assessor and the Department of Revenue.

(hi) The Board will ~~set a time for an informal conference to review~~, meet with the county assessor and the Department of Revenue, to review the abstract, statistical analysis of the abstract, and any pertinent supporting information. The review meeting will take place no fewer than five working days after transmittal of the statistical analysis of the abstract to the county assessor, unless the county assessor agrees to a shorter time. ~~The Executive Secretary Board~~ will notify the county assessor and the Department of Revenue of the date and time of the meeting for review of the abstract.

(ij) At the ~~informal conference~~ meeting, the Department of Revenue may present any recommendations with respect to compliance with the standards of Section 6 of ~~these Rules~~ this chapter. The county assessor may attend either in person or by phone. The ~~informal conference meeting~~ will be tape audio recorded, and the ~~Executive Secretary Board~~ will keep minutes of the informal conference and any Board action.

(jk) Upon completion of the review the Board may: (1) acknowledge the abstract without correction; (2) acknowledge the abstract subject to corrections to be made by the assessor within a prescribed time; (3) decline to acknowledge the abstract. By letter to the county assessor no later than July 10th, the Board will authorize the county to proceed with its mill levy process if the abstract has been acknowledged and any required corrections are made, submitted and approved.

(k) If the Board determines that any of ~~the Board's Rules~~ its standards are not being met, the Board may request further investigation by the county assessor, the Department of ~~Revenue~~, and Board staff to determine what, if any, changes in the county assessor's work practices are warranted. The Board will assure that proposed work practices are documented and will assure that the county assessor and the Department of ~~Revenue~~ are advised of the proposed work practices.

(l) In appropriate cases, the Board will proceed with remedial measures pursuant to Section 7 of ~~these Rules~~ this chapter.

Section 5. Statistical Studies.

(a) To determine compliance with the standards stated in Section 6 of ~~these Rules~~ this chapter, the Board shall annually conduct studies of appraised values and sales prices based on information contained in the CAMA system for vacant and improved residential and commercial properties.

(b) The Board may provide for the details of such statistical studies by adopting internal guidelines from time to time. Current copies of any such guidelines shall be made available to the public by request directed to the Board's ~~Executive Secretary~~.

Section 6. Appraisal Standards and Compliance.

(a) The following are the standards used by the Board to determine if a county is in compliance with the fair market value standard. If a county is in compliance with the fair market value standard, no equalization order will be considered.

(i) Level of Appraisal. The level of appraisal for residential and commercial, improved and vacant, shall be between .95 and 1.05. To determine compliance with this standard, a 95% confidence interval will be computed around the county's level of appraisal and the confidence interval must include one or more points in the range of .95 to 1.05.

(ii) Appraisal Uniformity.

(A) The ~~coefficient of dispersion (COD)~~ for improved residential properties shall be 15 or less;

(B) The COD for improved commercial properties shall be 20 or less;

(C) The COD for vacant residential land shall be 20 or less;

(D) The COD for vacant commercial land shall be 20 or less;

(E) The ~~price related differential (PRD)~~ shall be between .98 and 1.03 for residential and commercial properties. ~~After testing the PRD, if~~ if a county does not meet the

PRD standard, the Board ~~shall~~ may trim ~~five percent (5%), two and one half percent (2.5%) from each end, to allow for outliers;~~

(F) The aggregate change in market value of sold properties shall vary no more than 5% from the aggregate change in market value of unsold properties within a class.

Section 7. Procedures for Implementing Action Taken By Board.

(a) The Board shall make its initial decision on action to be taken through analysis of the statistical studies. Upon completion of its analysis:

(i) If the Board determines a county is not in compliance with the overall level of appraisal as stated in Section 6(a)(i) of this chapter:

(A) the Board shall informally notify and provide all documentation and test results to the county assessor of its initial findings and preliminary intended equalization action and confer with the county assessor to explain the reasons for the indicated action, affording the county assessor the opportunity to review, respond and explain any misunderstandings or ~~indicated~~ errors in the statistical studies.

(B) if the Board determines current year equalization action is still necessary following discussion as provided in paragraph (a)(i)(A) of this section, it will provide not less than ~~twenty~~ (20) days' notice of the proposed action to the county board of equalization and county assessor of the county in which the property is situated. If requested, the Board shall provide an opportunity for a hearing to the county board of equalization and county assessor of the affected county. The hearing, without contested case procedures, shall be held in the affected county and provide an opportunity for comment and presentation of information. If, after the hearing, the Board determines equalization is still necessary, it will issue an equalization order and work with the county board of equalization and county assessor to determine the best method by which to effect the equalization action.

(ii) If the Board determines a county is not in compliance with appraisal uniformity as stated in Section 6(a)(ii) of this chapter:

(A) the Board shall informally notify the county assessor of its initial findings and meet with the county assessor to explain the reasons for the indicated action, affording the county assessor or designee the opportunity to review, respond and explain any misunderstandings or ~~indicated~~ errors in the statistical studies.

(B) if the Board determines a county is out of compliance and reappraisal is more appropriate to correct assessment bias, the Board may order reappraisal to bring the county into compliance. The reappraisal shall be completed prior to submission of the next abstract.

(C) if the Board determines any inequities can be remedied during the next year through changed work practices, the Board will communicate its recommendation to

the Department of Revenue pursuant to W.S. 39-11-102.1. If the Board has recommended work practice changes and the same noncompliance issue is present in the next appraisal cycle, the Board may issue an equalization order to correct these ~~uniformity noncompliance~~ issues.

Section 8. Mill levy reports.

(a) The Board anticipates that pursuant to W.S. 39-11-102.1(e), ~~W.S. 39-13-104(j), W.S. 21-13-303 and W.S. 9-4-302~~ the State Treasurer and Auditor will provide the Board with advice concerning State Wide Mill Levies on or before July 15~~th~~. The Board will certify to the county boards of equalization the amount of levy for state purposes on or before the first Monday in August.

(b) Before August 1~~st~~, ~~t~~~~The Executive Secretary and the Principal Statistician~~ Board will provide county assessors with forms on which to report mill levies.

(c) On or before August 10~~th~~ each county assessor shall transmit to the ~~Executive Assistant of the~~ Board the mill levy report for his or her county by mail, e-mail, or fax.

(d) Upon receipt of the mill levy report from the county assessor, the ~~Executive Assistant~~ Board shall date stamp and log the mill levy reports and amendments. ~~The Executive Assistant shall provide for internal distribution of the mill levy report, and provide a copy to the Department of Revenue.~~ The original will be placed in the annual county abstract file created for each county.

(e) Within three days of the receipt of the mill levy report, the ~~Principal Statistician~~ Board will evaluate the reports for ~~math~~ errors and compare the values to those reported and accepted in the abstracts. The Board anticipates that the Department of Revenue will promptly evaluate the mill levy reports to determine if the mills set are within legal limits, including pertinent boundaries of tax districts.

(f) If the mill levy report is not in compliance with pertinent statutes and free from error, the Board will contact the county assessor to resolve any apparent discrepancy.

(g) Upon resolution of any apparent errors, the Board will meet to certify the mill levy for each county. The Board will notify each county assessor by letter when the Board has certified the county report.

(h) The Board may provide for the details of preparation and review of mill levy reports by adopting internal guidelines from time to time. Current copies of any such guidelines shall be made available to the public by request directed to the Board's ~~Executive Secretary~~.

Section 9. Construction and limitation.

(a) The provisions of this chapter, which is intended to further a just and equal distribution of the burden of taxation, shall be liberally, rather than strictly construed.

(b) Nothing in this chapter creates or modifies private rights or procedures available to the public unless expressly stated or otherwise provided for by law.

Chapter 6

STATEMENTS OF CONSIDERATION

Section 1. Authority. These rules are promulgated under authority of Wyoming Statutes 16-3-103, 39-11-102.1 and 34-1-142.

Section 2. Purpose. These rules are intended to implement W.S. 34-1-142, and establish uniform procedures for processing information disclosed in a statement of consideration (SOC).

Section 3. Definitions.

(a) As used in this chapter:

(i) “Like use” means property of the same type, i.e. single family residence, condominium, townhouse, duplex, triplex, or outbuilding.

(ii) “Geographic area” may include any area requested by the property owner or his agent within the boundaries of the county in which the subject property is located.

(iii) “Available to the county assessor” means those SOC’s that the assessor is required to retain pursuant to Section 3(b) of this chapter.

(iv) “Review” means visually inspect any requested SOC in the office of the county assessor or at a reasonable location selected by the county assessor. Actual copies of any SOC would be available through the discovery process in a contested case hearing before a County Board of Equalization subject to a non-disclosure agreement notifying the taxpayer of the confidentiality requirements and possible penalties for disclosure.

(v) “Department” means the Wyoming Department of Revenue.

Section 4. Approved Form; Retention.

(a) The SOC form approved by the Wyoming State Board of Equalization (Board), or a computer-generated emulation in the same format containing the same information, is adopted as the prescribed form to implement W.S. 34-1-142, and is incorporated herein by reference.

(b) Assessors shall retain copies of the SOC’s, excluding those for which exemptions were granted, for three years. SOC’s for which exemptions were granted may be destroyed at any time pursuant to assessor office policy.

Section 5. County Assessor Responsibilities-Verification.

(a) Each county assessor shall:

(i) Review and confirm, as necessary, all data on each SOC. The information on the SOC shall be confirmed or verified by contacting buyers, sellers or others if:

(A) There is reason to believe the data on the SOC is not complete or accurate;

(B) The property sold is of a less common type;

(C) The sale price is significantly higher or lower than the assessor's current valuation;

(D) The sale is part of a sample of single-family sales that are routinely confirmed by audit or exception; or

(E) Other considerations make the sale significant for analysis.

(ii) If appropriate, adjust sales information for financing, personal property, time of sale, and corrections obtained through verification. Assessors shall not adjust sales price for real estate commissions, closing costs, title insurance or property taxes, unless the buyer agrees to pay all the commission or all the taxes, in which case the amounts of the payments shall be added to the sales price.

(iii) Complete the information within the box on the SOC entitled "FOR USE BY COUNTY ASSESSOR ONLY." Sales that are determined to be invalid shall be identified by circling the appropriate CAMA invalidation code.

(b) The assessor shall preserve all documentation supporting invalidation of the SOC.

Section 6. County Assessor Responsibilities - Data Input.

(a) Every sale that is not exempt shall be entered into CAMA.

(b) The source of the verification of the sales information on the SOC shall be identified at a minimum in CAMA as:

(i) Confirmed with the buyer;

(ii) Confirmed with the seller;

(iii) Confirmed with the agent; or

(iv) Information on the SOC was deemed accurate and was not confirmed.

(c) All sales shall be identified as valid or invalid.

(d) Invalid sales shall be identified by the most appropriate “reason to exclude” as follows:

(i) The sale involves additional parcels, trades or common property, including:

(A) Additional parcels (where two or more parcels are sold and the value of the individual parcels cannot be ascertained);

(B) Trades (where the value of the traded properties cannot be ascertained); or

(C) Incomplete or unbuilt common property, if the sale suggests the price is influenced by promises to complete common elements at some later date.

(ii) The sale was not exposed to the open market, or the marketing time for the property could not be considered normal.

(iii) The physical characteristics of the property have changed or are incorrect:

(A) The physical characteristics (which influence value) changed after the sale; or

(B) The property characteristics (which influence value) do not match the characteristics of the property on January 1 of the assessment year.

(iv) A sale between related individuals or corporate affiliates.

(v) A liquidation or forced sale including:

(A) Sales involving courts, government agencies and public utilities, if such sales suggest an element of compulsion or a desire to convey surplus property;

(B) Sales in which a financial institution as a lienholder is the buyer, unless invalidating such sales results in an inadequate sample, or if such sales constitute a major portion of the market (as in depressed areas). If such sales are used, adjustments shall be considered for any differences in price from conventionally financed sales;

(C) Sales settling an estate, if the sales suggest an element of compulsion (such as satisfying the decedent’s debts);

(D) Forced sales, including those resulting from a judicial order where the seller is usually a sheriff, receiver or other court officer; or

(E) Transfers between former spouses as part of a divorce proceeding.

(vi) The sale involved abnormal financing, land contracts, or was a sale of convenience, of doubtful title, or of partial interests, such as:

(A) Sales involving abnormal financing (such as terms which are not normal in the market and cannot be adjusted to reflect current market);

(B) Sales involving land contracts, unless sufficient information is available for reasonable adjustments for time and financing;

(C) Sales of convenience, which may be intended to correct defects in a title or serve some similar purpose;

(D) Sales of doubtful title; or

(E) Sales involving partial interests, unless it may be reasonably assumed from several concurrent sales that the sum of the partial interests fairly indicates the sale price of the total property.

(vii) The sale involved excessive personal property, or any other situation that makes the sale not an “arm’s-length” transaction, and for which supporting documentation is developed. Other situations may include:

(A) When objective circumstances suggest either the buyer or seller or both were not well informed;

(B) When data for the sale is incomplete and unverifiable; or

(C) For sales involving charitable, religious or educational institutions, if such sales suggest an element of philanthropy or restrictive covenants.

(viii) The sale involved agricultural property valued on productivity.

(ix) The sale was not an “arm’s-length” transaction. An explanation shall be made in the sales notes.

Section 7. Statement Processing. The Board may ask the Department to assist the Board in confirming a sample of sales within each county to ensure sales processing, validation, and adjustment procedures are understood and followed uniformly.

Section 8. Exemption Requests. Any person requesting an exemption pursuant to W.S. 34-1-142(c)(viii) shall submit to the Board and Department, in writing, sufficient details concerning the transaction to enable the Board to determine whether sales-related information would be useful or relevant in determining sales-price ratios. A joint written Board and Department decision on the exemption request shall be issued and distributed to each county clerk and county assessor. The decision will also be posted on the Board website. The decision shall constitute final agency action subject to review by the appropriate district court.

Section 9. Disclosure of Statements. Any person, or his agent, who, within the period set forth by W.S. 39-13-109(b)(i), either has an initial meeting with the county assessor's office or contests his property tax assessment, is entitled to review the SOC's for properties of like use and geographic area available to the county assessor in determining the value of the property at issue as provided under W.S. 39-13-109(b)(i).

Chapter 6

STATEMENTS OF CONSIDERATION

Section 1. Authority. These rules are promulgated under authority of ~~W.S.~~ Wyoming Statutes 16-3-103, ~~W.S.~~ 39-11-102.1 and ~~W.S.~~ 34-1-142.

Section 2. Purpose. These rules are intended to implement W.S. 34-1-142, and establish uniform procedures for processing information disclosed in a statement of consideration (~~“statement~~ SOC”).

Section 3. Definitions.

(a) As used in this chapter:

(i) “Like use” means property of the same type, i.e. single family residence, condominium, townhouse, duplex, triplex, or outbuilding.

(ii) “Geographic area” may include any area requested by the property owner or his agent within the boundaries of the county in which the subject property is located.

(iii) “Available to the county assessor” means those SOC’s that the assessor is required to retain pursuant to Section 3(b) of this chapter.

(iv) “Review” means visually inspect any requested SOC in the office of the county assessor or at a reasonable location selected by the county assessor. Actual copies of any SOC would be available through the discovery process in a contested case hearing before a County Board of Equalization subject to a non-disclosure agreement notifying the taxpayer of the confidentiality requirements and possible penalties for disclosure.

(v) “Department” means the Wyoming Department of Revenue.

Section 34. Approved Form; Retention.

(a) The ~~statement of consideration~~ SOC form approved by the Wyoming State Board of Equalization (~~“Board”~~), or a computer-generated emulation in the same format containing the same information, is ~~hereby~~ adopted as the prescribed form to implement W.S. 34-1-142, and is incorporated herein by reference.

(b) Assessors shall retain copies of the ~~statements~~ SOC’s, excluding those for which exemptions were granted, for three years. ~~Statements~~ SOC’s for which exemptions were granted may be destroyed at any time pursuant to assessor office policy.

Section 45. County Assessor Responsibilities-Verification.

(a) ~~The office of e~~Each county assessor shall:

(i) Review and confirm, as necessary, all data on each ~~statement~~ SOC. The information on the ~~statement-SOC~~ shall be confirmed or verified by contacting buyers, sellers or others if:

(A) There is reason to believe the data on the SOC ~~statement~~ is not complete or accurate;

(B) The ~~sale represents~~ property sold is of a less common type ~~of~~ property;

(C) The sale price is significantly higher or lower than the assessor's current ~~assessor estimate of fair market value~~ valuation;

(D) The sale is part of a sample of single-family sales ~~which~~ that are routinely confirmed by audit or exception; or

(E) Other considerations ~~are present which~~ make the sale significant for analysis.

(ii) If appropriate, adjust sales information for financing, personal property, time of sale, and corrections obtained through verification. ~~No adjustment to~~ Assessors shall not adjust sales price ~~shall be made~~ for real estate commissions, closing costs, title insurance or property taxes, unless the buyer agrees to pay all the commission or all the taxes, in which case the amounts of the payments shall be added to the sales price.

(iii) Complete the information within the box on the SOC ~~statement~~ entitled "FOR USE BY COUNTY ASSESSOR ONLY." Sales ~~which~~ that are determined to be invalid shall be identified by circling the appropriate CAMA invalidation code. _____ (A)

_____ "1" for sales ~~involving additional parcels, trades or common~~ property;

_____ (B) _____ "2" for sales ~~which were not exposed to the open market, or the marketing time for the property could not be considered normal~~;

_____ (C) _____ "3" for sales in which the physical characteristics of the property have ~~changed or are incorrect~~;

_____ (D) _____ "4" for sales ~~between relatives or corporate affiliates~~;

_____ (E) _____ "5" for liquidations or forced sales;

_____ (F) _____ "6" for sales ~~involving abnormal financing, land contracts, sales of convenience, sales of doubtful title or partial interests~~;

~~_____ (G) “7” for sales involving excessive personal property, or any other situation which makes the sale not an “arm's length” transaction, and for which supporting documentation is developed;~~

~~_____ (H) “8” for sales involving sales of agricultural property valued on productivity;~~

~~_____ (I) “9” for sales involving a situation which makes the sale not an “arm's length” transaction.~~

(b) The assessor shall preserve all documentation supporting ~~the reason for~~ invalidation of the ~~statement~~SOC.

Section 56. County Assessor Responsibilities - Data Input.

(a) Every sale ~~which~~that is not exempt shall be entered into CAMA.

(b) The source of the verification of the sales information on the SOC ~~statement~~ shall be identified at a minimum in CAMA as follows:

(i) Confirmed with the buyer;

(ii) Confirmed with the seller;

(iii) Confirmed with the agent; or

(iv) Information on the SOC ~~statement~~ was deemed accurate and was not confirmed ~~through the buyer, seller or agent~~.

(c) All sales shall be identified as valid or invalid.

(d) Invalid sales shall be identified by the most appropriate “reason to exclude” as follows:

(i) The sale involves additional parcels, trades or common property, including:

(A) Additional parcels (where two or more parcels are sold and the value of the individual parcels cannot be ascertained);

(B) Trades (where the value of the traded properties cannot be ascertained); or

(C) Incomplete or unbuilt common property, if the sale suggests the price is influenced by promises to complete common elements at some later date.

(ii) The sale was not exposed to the open market, or the marketing time for the property could not be considered normal.

(iii) The physical characteristics of the property have changed or are incorrect:

(A) The physical characteristics (which influence value) changed after the sale; or

(B) The property characteristics (which influence value) do not match the characteristics of the property on January 1st of the assessment year.

(iv) A sale between related individuals or corporate affiliates.

(v) A liquidation or forced sale including:

(A) Sales involving courts, government agencies and public utilities, if such sales suggest an element of compulsion or a desire to convey surplus property;

(B) Sales in which a financial institution as a lienholder is the buyer, unless invalidating such sales results in an inadequate sample, or if such sales constitute a major portion of the market (as in depressed areas). If such sales are used, adjustments shall be considered for any differences in price from conventionally financed sales;

(C) Sales settling an estate, if ~~such the~~ sales suggest an element of compulsion (such as satisfying the decedent's debts ~~or the wishes of an heir~~);

(D) Forced sales, including those resulting from a judicial order where the seller is usually a sheriff, receiver or other court officer; or

(E) Transfers between former spouses as part of a divorce proceeding.

(vi) The sale involved abnormal financing, land contracts, or was a sale of convenience, of doubtful title, or of partial interests, such as:

(A) Sales ~~which involve~~ involving abnormal financing (such as terms which are not normal in the market and cannot be adjusted to reflect current market);

(B) Sales ~~which involve~~ involving land contracts, unless sufficient information is available for reasonable adjustments for time and financing;

(C) Sales of convenience, which may be intended to correct defects in a title or serve some similar purpose;

(D) Sales of doubtful title; or

(E) Sales involving partial interests, unless it may be reasonably assumed from several concurrent sales that the sum of the partial interests fairly indicates the sale price of the total property.

(vii) The sale involved excessive personal property, or any other situation ~~which~~ that makes the sale not an “arm’s-length” transaction, and for which supporting documentation is developed. Other situations may include:

(A) When objective circumstances suggest either the buyer or seller or both were not well informed;

(B) When data for the sale is incomplete and unverifiable; or

(C) For sales involving charitable, religious or educational institutions, if such sales suggest an element of philanthropy or restrictive covenants.

(viii) The sale involved agricultural property valued on productivity.

(ix) The sale ~~involved a situation which makes the sale~~ was not an “arm’s-length” transaction. An explanation shall be made in the sales notes.

Section 67. Statement Processing. The Board may ~~request~~ ask the Department to assist the Board in confirming a sample of sales within each county to ensure sales processing, validation, and adjustment procedures are understood and followed uniformly.

Section 87. Exemption Requests. Any person requesting an exemption pursuant to W.S. 34-1-142(c)(viii) shall submit to the Board and Department ~~of Revenue~~, in writing, sufficient details concerning the transaction to enable the Board to determine whether sales-related information would be useful or relevant in determining sales-price ratios. A joint written Board and Department decision on the exemption request shall be issued and distributed to each county clerk and county assessor. The decision will also be posted on the Board website. The decision shall constitute final agency action subject to review by the appropriate district court.

Section 89. Disclosure of Statements.

(a) — Any person, or his agent, who, within the ~~30-day time~~ period set forth by W.S. 39-13-109(b)(i), either has an initial meeting with the county assessor’s office or contests his property tax assessment, is entitled to review the SOC’s statements of consideration for properties of like use and geographic area available to the county assessor in determining the value of the property at issue as provided under W.S. 39-13-109(b)(i).

(b) — As used in this section:

~~(i) — “Like use” means property of the same type, i.e. single family residence, condominium, townhouse, duplex, triplex, or outbuilding.~~

~~_____ (ii) “Geographic area” may include any area requested by the property owner or his agent within the boundaries of the county in which the subject property is located.~~

~~_____ (iii) “Available to the county assessor” means those statements which the assessor is required to retain pursuant to Section 3(b) of this Chapter.~~

~~_____ (iv) “Review” means visually inspect any requested statement in the office of the county assessor or at a reasonable location selected by the county assessor. Actual copies of any statement would be available through the discovery process in a contested case hearing before a County Board of Equalization subject to a non-disclosure agreement notifying the taxpayer of the confidentiality requirements and possible penalties for disclosure.~~

CHAPTER 7

UNIFORM COUNTY BOARD OF EQUALIZATION PRACTICE AND PROCEDURE RULES

Section 1. Authority. These Rules are promulgated by authority of Wyoming Statutes 39-13-102, 39-13-109(b)(i), and 16-3-101 et seq.

Section 2. Application of Rules. These rules apply to all appeals brought before a county board concerning those matters administered by the assessor under Title 39 of the Wyoming Statutes. Specifically, these rules shall apply to appeals authorized in W.S. 39-13-109(b).

Section 3. Construction. These rules are to be construed to assure the fair and expeditious conduct of proceedings before a county board. If any portion of these Rules is found to be invalid or unenforceable, the remainder shall remain in effect.

Section 4. Definitions. For the purpose of this chapter:

(a) “Appeal” means a proceeding before a county board in which the legal rights, duties, or privileges of a party are to be determined after an opportunity for a hearing. An appeal is a contested case as that term is defined in W.S. 16-3-101(b)(ii).

(b) “Assessor” means the county assessor as set forth in W.S. 18-3-204.

(c) “County board” means the county board of equalization as set forth in W.S. 18-3-504 and 39-13-102(c).

(d) “Clerk” means the county clerk who is the clerk to a county board as set forth in W.S. 18-3-402 and 39-13-102(c).

(e) “Hearing officer” means the presiding officer in a contested case designated by the county board, pursuant to W.S. 16-3-112, to conduct the hearing before the county board.

(f) “Petitioner” means any person, firm, corporation, partnership, association or governmental entity who files an appeal seeking relief from any final administrative decision of an assessor.

Section 5. General Course of Contested Case. Unless otherwise provided by law, the course of proceedings is governed by W.S. 16-3-107 through -112, and these rules.

Section 6. Commencement of Appeal.

(a) Any petitioner wishing to contest his or her property assessment shall file with the assessor a written statement specifying the reasons why the assessment is incorrect. The statement shall include:

- (i) The name, mailing address and phone number of the petitioner;
- (ii) The legal description, if real property, and location of the property;
- (iii) A concise statement of the facts, issues and objections which the petitioner considers relevant to the assessment of the property;
- (iv) A reference to applicable statutes, rules, orders or any other authority;
- (v) A concise statement of the relief desired; and
- (vi) A copy of the assessment schedule.

(b) The statement shall be signed by the petitioner and filed within 30 days after the assessment schedule was sent pursuant to W.S. 39-13-103(b)(vii). If the 30th day is not a business day, the statement shall be filed by the first business day thereafter. The statement may be filed by regular mail, hand delivery, or electronic means. Electronic filings received after normal business hours will be considered filed on the next business day. The petitioner shall send a signed or otherwise duly executed original of any electronically filed statement to the assessor by regular mail or hand delivery the next business day after the electronic transmission.

(c) Upon receipt of a statement, the assessor shall stamp the date of receipt on the statement and provide a copy of the statement to the clerk.

(d) The county board shall dismiss any statement not timely filed, unless it determines that good cause exists to toll or extend the filing deadline.

(e) The county board may dismiss any statement otherwise not filed in substantial compliance with these rules.

(f) The assessor may provide a statement that conforms to the requirements of this section for use by petitioners.

Section 7. Notice of Hearing.

(a) The clerk shall set all timely filed appeals for hearing and provide written notice to the petitioner and assessor.

(b) The notice shall set forth the date, time, place, and nature of the hearing and shall advise the parties of the requirement to exchange information prior to the hearing.

Section 8. Production of Documents and Discovery.

(a) At least 30 days before the scheduled hearing, the petitioner and assessor, or their respective attorney or agent, shall disclose witnesses and exchange information, evidence, and documents relevant to the appeal, including sales information from relevant statements of consideration, if requested. The assessor shall specifically identify the sales information used to determine the market value of the property under appeal.

(b) Failure to disclose witnesses or to exchange information, evidence or documents may result in exclusion of the undisclosed testimony, evidence or documents at the hearing at the discretion of the county board or hearing officer.

(c) Upon request, a county board may allow discovery to all parties in accordance with W.S. 16-3-107(g).

Section 9. Motions.

(a) An application for a county board order shall be by motion, which unless made during a hearing, shall be in writing and shall state with particularity the grounds and the relief or order sought. The movant shall file the original motion with the county board and serve a copy of the motion on the other parties.

(b) Any written motion shall advise the other parties that they may file a written response to the motion setting forth objections to the motion within 15 days of service of the motion, and that a copy of the response shall be served on the other parties.

(c) No motions, unless otherwise provided by these rules, shall be filed within 20 days of a hearing.

(d) The moving party or any party affected by the motion may request a hearing on a motion. Absent a request for a hearing, the county board may hold a hearing on any motion or decide the motion without a hearing. A motion not determined at or prior to the hearing shall be deemed denied.

Section 10. Continuances and Extensions of Time.

(a) Motions requesting continuances or extensions of time are not favored. Continuances or extensions of time may be granted sparingly upon a showing of good cause or when necessary to assure fairness or otherwise avoid manifest injustice. Cases will not be continued upon stipulation of the parties.

(b) Unless time does not permit, motions for continuances of any hearing shall be in writing, shall state the reasons therefore, and shall be filed with the county board and served on all parties.

(c) Motions for extension of time for the doing of any act prescribed or allowed by these rules or by order of the county board shall be filed and served on all parties prior to the expiration of the applicable time period.

Section 11. Subpoenas. The county board shall issue subpoenas for appearance and to produce books, papers, documents, or exhibits upon written request of any party. Those subpoenas may be enforced pursuant to W.S. 16-3-107(c).

Section 12. Representation.

(a) A petitioner may be self-represented or represented by a representative designated by the petitioner.

(b) An assessor may be self-represented, may be represented by an attorney, or may be represented by an employee or designee who is a state certified property tax appraiser.

(c) The county board may be advised by the county attorney or another attorney hired by the county board.

(d) The county attorney may advise the county board or represent the assessor, but not both.

Section 13. Telephone or Video Conferences. At the discretion of the hearing officer or the county board, telephone or video conferences or similar technology may be used to conduct any proceeding.

Section 14. Presumption, Burden of Going Forward and Burden of Persuasion.

(a) There is a presumption that the assessor's property valuation is valid, accurate, and correct.

(b) Petitioner shall have the burden of going forward. Petitioner may present any credible evidence to rebut the presumption in favor of the assessor's valuation.

(c) If petitioner provides credible evidence that the assessor's valuation is incorrect or unlawful, the burden shifts to the assessor to defend the valuation. The ultimate burden of persuasion rests with the petitioner, which burden shall be met by a preponderance of the evidence.

(d) Where the issue is the exemption of publicly owned property, the assessor has the ultimate burden of persuasion to establish taxability.

Section 16. Conduct of the Hearing. As nearly as possible, hearings shall be conducted in the following order:

(a) The hearing officer, who shall conduct the hearing, shall convene the hearing and identify the appeal to be heard. The hearing officer shall note all appearances for the record.

(b) The hearing officer shall then take up any motions or preliminary matters to be heard and shall mark and admit all evidence, unless there is an objection to the admission of any evidence.

(c) Opening statements will be heard at the discretion of the county board or hearing officer.

(d) The petitioner, or petitioner's representative, then presents the petitioner's evidence after which the assessor or the assessor's representative shall present evidence. Evidence may be presented through witnesses, oral statements or documentary evidence. All witnesses shall be sworn prior to testifying. Each party shall have the opportunity to cross-examine witnesses on any matter relevant to the issues, even though the matter was not covered in direct examination. Any objection to testimony or evidentiary offers should be directed to the hearing officer and the basis of the objection stated. The hearing officer shall rule on all objections. The members of the county board or hearing officer may ask questions of any party or any witness for the purpose of clarifying their understanding of the case. If the case involves the tax exemption of publicly owned property the assessor shall be the party to initially present evidence.

(e) After presentation of all evidence, both parties may present closing arguments, including summaries of the evidence and legal arguments.

(f) After all proceedings have been concluded, the county board or hearing officer shall excuse all witnesses and declare the hearing closed. The county board shall take the appeal under advisement. The county board may request the parties file briefs or proposed findings of fact and conclusions of law.

(g) The hearing officer may reasonably limit the time for the conduct of the hearing.

Section 16. Evidence. All evidence that is not irrelevant, immaterial or unduly repetitious shall be admitted at the hearing. The county board will observe the rules of privilege recognized by law. W.S. 16-3-108 generally sets forth the rules of evidence that the county board shall follow.

Section 17. Record of Proceedings.

(a) All hearings shall be recorded electronically or by a court reporter or a qualified stenographer or transcriptionist.

(b) The record shall include all pleadings, notices, motions, rulings, documentary evidence, proposed findings, objections thereto, ruling on objections, and the final order. Unless the county board chooses to use a court reporter or a qualified stenographer or transcriptionist, any party desiring the hearing to be transcribed must make the necessary arrangements and bear the cost thereof.

(c) Minutes of any meeting in which the county board considers an appeal shall be taken and filed with the clerk.

Section 18. Briefs. Any party may submit a written brief to the county board either before or during the hearing. Any party desiring to submit a brief after the hearing shall make a request to the county board or hearing officer. If approved, a briefing schedule will be set. The briefs may set forth the factual and legal position of the submitting party.

Section 19. Failure to Appear at Hearing. The county board may dismiss an appeal if the petitioner willfully neglects or refuses to attend a hearing and be examined or answer any material question upon the county board's request.

Section 20. County Board Decision.

(a) After the hearing, the county board shall issue a written decision containing findings of facts and conclusions of law separately stated. The decision shall either affirm the assessor's valuation or reverse the valuation and remand to the assessor with instructions. The decision will be recorded into the county board minutes and filed with the clerk, and shall contain a notice advising the parties of their right to appeal from an adverse decision.

(b) The county board shall issue a written decision in each case no later than the first day of October.

(c) The clerk shall provide each party with a copy of the county board's written decision, and execute a certificate showing the method of delivery and date.

Section 21. Statements of Consideration Confidential.

(a) A petitioner who timely contests his property tax assessment or valuation as provided by law and these rules is entitled to review statements of consideration and all other information used by the assessor in determining the property value.

(b) Statements of consideration are not public records and shall be held confidential by the clerk, assessor, county board, state board, the Wyoming Department of Revenue, and when disclosed pursuant to W.S. 34-1-142(g) and 39-13-109(b)(ii), any person wishing to review or contest his property tax assessment or valuation and the county board. The assessor may require a petitioner to sign an agreement to protect the confidentiality of the statements of consideration prior to their disclosure.

(c) Statements of consideration provided for review under this Section shall not be subject to discovery in any other county or state proceeding unless otherwise provided by law.

(d) The hearing shall be closed while statements of consideration will be disclosed. Only the petitioner, petitioner's agent and petitioner's legal counsel, the assessor and the assessor's employees or designee and the assessor's legal counsel, the members of the county board, the hearing officer, county board counsel, the clerk and the court reporter, qualified

stenographer or transcriptionist may remain for the closed portion of the hearing. The hearing officer shall regulate the course and conduct of the hearing to ensure that the parties shall disclose statements of consideration, and examine witnesses relative to those statements, only while the hearing is closed.

Section 22. Ex Parte Communications.

(a) No party or anyone on a party's behalf shall communicate with a county board member, a staff member of the county board, or any presiding officer designated by the county board on any material fact at issue in the appeal after its commencement and before its final disposition, except to the extent authorized by law, and unless the opposing party is present.

(b) If an ex parte communication occurs, the persons who were party to the communication shall:

(i) Immediately draft a written document or summary setting forth the contents and circumstances of the communication;

(ii) Mail or hand deliver the document to all parties to the proceeding and all other officials involved in the decision process; and

(iii) State that the matter covered in the communication will be considered at the next scheduled hearing related to the appeal, or as otherwise scheduled with notice to all parties.

Section 23. Recusal. Any member of the county board may, at any time while a case is pending and without stating a reason, recuse himself or herself from consideration of the case by filing a notice of recusal with the clerk for service on all parties and filing in the case record. From and after the date of the notice of recusal, the member shall not participate in any county board decisions or orders with regard to the case.

Section 24. Appeal to State Board of Equalization. A petitioner or assessor may appeal a final adverse written decision or order of a county board to the Wyoming State Board of Equalization (state board) as provided in Chapter 3 of the State Board's rules.

CHAPTER 7

UNIFORM COUNTY BOARD OF EQUALIZATION PRACTICE AND PROCEDURE RULES

Section 1. Authority. These ~~Uniform County Board of Equalization Practice and Procedure Rules~~ are promulgated by authority of ~~W.S. Wyoming Statutes 39-13-102, and 39-13-109(b)(i), and the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq.~~

Section 2. Application of Rules. These rules apply to all appeals brought before a county board concerning those matters administered by the assessor under Title 39 of the Wyoming Statutes, ~~Taxation and Revenue~~. Specifically, these rules shall apply to appeals authorized in W.S. 39-13-109(b) ~~and brought before a county board from any final assessment decision of the assessor.~~

Section 3. Construction. These rules are to be construed to assure the ~~unbiased, fair and expeditious, and impartial~~ conduct of proceedings before a county board. If any portion of these Rules is found to be invalid or unenforceable, the remainder shall remain in ~~full force and effect.~~

Section 4. Definitions. For the purpose of ~~appeals brought before a county board under these rules, the following definitions apply~~ this chapter:

(a) “Appeal” means a proceeding before a county board in which the legal rights, duties, or privileges of a party are to be determined ~~by a county board~~ after an opportunity for a hearing. An appeal is a contested case as that term is defined in W.S. ~~Section 16-3-101(b)(ii).~~

(b) “Assessor” means the county assessor as set forth in W.S. 18-3-204.

(c) “County board” means the county board of equalization as set forth in W.S. 18-3-504 and 39-13-102(c).

(d) “Clerk” means the county clerk who is the clerk to a county board as set forth in W.S. 18-3-402 and 39-13-102(c).

(e) “Hearing officer” means the presiding officer in a contested case designated by the county board, pursuant to W.S. 16-3-112, to conduct the hearing before the county board.

(f) “Petitioner” means any person, firm, corporation, partnership, association or governmental entity who files an appeal seeking relief from any final administrative decision of an assessor.

Section 5. General Course of Contested Case. Unless otherwise provided by law, the course of proceedings is governed by ~~the contested case provisions of the Wyoming Administrative Procedure Act, W.S. 16-3-107 through -112, and these rules.~~

~~Section 6. — Meetings of the County Board. The county board shall meet no earlier than the fourth Tuesday in April to consider current year assessments in accordance with W.S. 39-13-102(e).~~

Section 76. Commencement of Appeal.

(a) Any petitioner wishing to contest ~~their~~ his or her property assessment shall file with the assessor a written statement specifying the reasons why the assessment is incorrect. The statement shall include:

- (i) The name, mailing address and phone number of the petitioner;
- (ii) The legal description, if real property, and location of the property;
- (iii) A concise statement of the facts, issues and objections which the petitioner considers relevant to the assessment of the property;
- (iv) A reference to applicable statutes, rules, orders or any other authority;
- (v) A concise statement of the relief desired; and
- (vi) A copy of the assessment schedule.

(b) The statement shall be signed by the petitioner and filed ~~with the assessor not later than the close of business on the thirtieth (within 30th) days~~ after the date the assessment schedule was properly sent pursuant to W.S. 39-13-103(b)(vii). If the ~~thirtieth 30th~~ day falls on is not a weekend business day or holiday, the statement shall be filed ~~not later than the close of business on~~ by the first business day thereafter. The statement may be filed by regular mail, hand delivery, or electronic means. ~~Filings made by e~~ Electronic filings means shall be received electronically by the assessor no later than after normal the close of business hours will be considered filed on the next business ~~thirtieth day after the date the assessment schedule was properly sent.~~ The petitioner shall send a signed or otherwise duly executed original of any electronically filed statement filed by electronic means to the assessor by regular mail or hand delivery the next business day after the electronic transmission.

(c) Upon receipt of a statement, the assessor shall stamp the date of receipt on the statement and provide a copy of the statement to the clerk.

(d) The county board shall dismiss any statement not timely filed, unless it determines that good cause exists to toll or extend the filing deadline.

(e) The county board may dismiss any statement otherwise not filed in substantial compliance with these rules.

(f) The assessor may provide a statement that conforms to the requirements of this section for use by petitioners.

Section 87. Notice of Hearing.

(a) The clerk shall set all timely filed appeals for hearing and provide written notice to the petitioner and assessor.

(b) The notice shall set forth the date, time, place, and nature of the hearing and shall advise the parties of the requirement to exchange information prior to the hearing.

Section 98. Production of Documents and Discovery.

(a) ~~No later than thirty~~ (At least 30) days ~~prior to before~~ the scheduled hearing, the petitioner and assessor, or their respective attorney or agent, shall disclose witnesses and exchange information, evidence, and documents relevant to the appeal, including sales information from relevant statements of consideration, if requested. The assessor shall specifically identify the sales information used to determine the market value of the property under appeal.

(b) Failure to disclose witnesses or to exchange information, evidence or documents may result in exclusion of the undisclosed testimony, evidence or documents at the hearing at the discretion of the county board or hearing officer.

(c) Upon request, a county board may allow discovery to all parties in accordance with ~~the provisions of~~ W.S. 16-3-107(g).

Section 109. Motions.

(a) An application for a county board order shall be by motion, which unless made during a hearing, shall be in writing and shall state with particularity the grounds and the relief or order sought. The movant shall file the original motion ~~shall be filed~~ with the county board and serve a copy of the motion ~~shall be served~~ on the other parties.

(b) Any written motion shall advise the other parties that they may file a written response to the motion setting forth the party's objections to the motion. ~~Any response shall be filed with the county board~~ within ~~fifteen~~ (15) days of service of the motion, and that a copy of the response shall be served on the other parties.

(c) No motions, unless otherwise provided by these rules, shall be filed within ~~twenty~~ (20) days of a hearing.

(d) The moving party or any party affected by the motion may request a hearing on a motion. Absent a request for a hearing, the county board may hold a hearing on any motion or decide the motion without a hearing. A motion not determined at or prior to the hearing shall be deemed denied.

Section 110. Continuances and Extensions of Time.

(a) Motions requesting continuances or extensions of time are not favored. Continuances or extensions of time may be granted sparingly upon a showing of good cause or when necessary to assure fairness or otherwise avoid manifest injustice. Cases will not be continued upon stipulation of the parties.

(b) Unless time does not permit, motions for continuances of any hearing shall be in writing, shall state the reasons therefore, and shall be filed with the county board and served on all parties.

(c) Motions for extension of time for the doing of any act prescribed or allowed by these rules or by order of the county board shall be filed and served on all parties prior to the expiration of the applicable time period.

Section 121. Subpoenas. The county board shall issue subpoenas for appearance and to produce books, papers, documents, or exhibits ~~shall be issued by the county board, upon written request of any party. Those subpoenas, and~~ may be enforced pursuant to W.S. 16-3-107(c).

Section 132. Representation.

(a) A petitioner may be self-represented, ~~may be or~~ represented by a ~~person~~ representative designated by the petitioner, ~~or may be represented by an attorney duly authorized to practice law in the State of Wyoming or associated with one or more attorneys authorized to practice law in the State of Wyoming.~~

(b) An assessor may be self-represented, may be represented by an attorney, or may be represented by an employee or designee who is a state certified property tax appraiser.

(c) The county board may be ~~represented~~ advised by the county attorney or another attorney hired by the county board.

(d) The county attorney may ~~represent~~ advise the county board or represent the assessor, but not both.

Section 143. Telephone or Video Conferences. At the discretion of the hearing officer or the county board, telephone or video conferences or similar technology may be used to conduct any proceeding.

Section 154. Presumption, Burden of Going Forward and Burden of Persuasion.

(a) There is a presumption that the assessor's property valuation is valid, accurate, and correct.

(b) Petitioner shall have the burden of going forward. Petitioner may present any credible evidence, ~~including expert opinion testimony,~~ to rebut the presumption in favor of a the assessor's valuation asserted by the assessor.

(c) If petitioner provides credible evidence that the assessor's ~~determination-valuation~~ is incorrect or unlawful, the burden shifts to the assessor to defend the valuation. The ultimate burden of persuasion rests with the petitioner, which burden shall be met by a preponderance of the evidence.

(d) Where the issue is the exemption of publicly owned property, the assessor has the ultimate burden of persuasion to establish taxability.

Section 16. Conduct of the Hearing. As nearly as possible, hearings shall be conducted in the following order:

(a) The hearing officer, who shall conduct the hearing, shall convene the hearing and identify the appeal to be heard. The hearing officer shall note all appearances for the record.

(b) The hearing officer shall then take up any motions or preliminary matters to be heard and shall mark and admit all evidence, unless there is an objection to the admission of any evidence.

(c) Opening statements will be heard at the discretion of the county board or hearing officer.

(d) The petitioner, or petitioner's ~~designated agent or attorney representative~~, then presents ~~his-the petitioner's~~ evidence after which the assessor or ~~his-the assessor's~~ representative shall present evidence. Evidence may be presented through witnesses, oral statements or documentary evidence. All witnesses shall be sworn prior to testifying. Each party shall have the opportunity to cross-examine witnesses on any matter relevant to the issues, even though the matter was not covered in direct examination. Any objection to testimony or evidentiary offers should be directed to the hearing officer and the basis of the objection stated. The hearing officer shall rule on all ~~such~~ objections. The members of the county board or hearing officer may ask questions of any party or any witness for the purpose of clarifying their understanding of the case. If the case involves the tax exemption of publicly owned property the assessor shall be the party to initially present evidence.

(e) ~~Closing arguments may be made at the conclusion of the presentation of the evidence by both parties. These statements may include~~ After presentation of all evidence, both parties may present closing arguments, including summaries of the evidence and legal arguments.

(f) After all proceedings have been concluded, the county board or hearing officer shall ~~dismiss and~~ excuse all witnesses and declare the hearing closed. The county board shall take the appeal under advisement. The county board may request the parties file briefs or proposed findings of fact and conclusions of law.

(g) The hearing officer ~~shall have authority~~ may to reasonably limit the time for the conduct of the hearing.

Section 176. Evidence. All evidence, ~~including expert opinion testimony, which that~~ is not irrelevant, immaterial or unduly repetitious shall be admitted at the hearing. The county board will ~~give effect to~~ observe the rules of privilege recognized by law. W.S. 16-3-108 generally sets forth the rules of evidence ~~which that shall be followed by the county board shall~~ follow.

Section 187. Record of Proceedings.

(a) All hearings shall be recorded electronically or by a court reporter or a qualified stenographer or transcriptionist.

(b) The record shall include all pleadings, notices, motions, rulings, documentary evidence, proposed findings, objections thereto, ruling on objections, and the final order. Unless the county board chooses to use a court reporter or a qualified stenographer or transcriptionist, any party desiring the hearing to be transcribed must make the necessary arrangements and bear the cost thereof.

(c) Minutes of any meeting ~~where in which the county board considers an appeal is considered by the county board~~ shall be taken and filed with the clerk.

Section 198. Briefs. Any party ~~who desires to~~ may submit a written brief to the county board ~~may do so~~ either before or during the hearing. Any party desiring to submit a brief after the hearing shall make a request to the county board or hearing officer. If approved, a briefing schedule will be set. The briefs may set forth the factual and legal position of the submitting party.

Section 2019. Failure to Appear at Hearing. ~~The county board may dismiss an appeal may be dismissed by the county board if any person~~ the petitioner willfully neglects or refuses to attend a ~~meeting of the county board~~ hearing and be examined or answer any material question upon the county board's request.

Section 240. County Board Decision.

(a) ~~After the hearing, the county board shall, following a hearing, make and enter~~ issue a written decision containing findings of facts and conclusions of law separately stated. The decision shall either affirm the assessor's valuation or reverse the valuation and remand to the assessor with instructions. ~~The written decision will be recorded into the county board minutes and filed with the clerk, and, The written decision shall contain a notice advising the parties of their right to appeal from an adverse decision.~~

(b) The county board's shall issue a written decision in each case ~~shall be issued~~ no later than the first day of October.

(c) The clerk shall provide each party with a copy of the county board's written decision, and execute a certificate showing the method of delivery and date.

Section 221. Statements of Consideration Confidential.

(a) A petitioner who timely contests his property tax assessment or valuation ~~in a timely manner~~ as provided by law and these rules is entitled to review statements of consideration and all other information used by the assessor in determining the property value.

(b) Statements of consideration are not public records and shall be held confidential by the clerk, assessor, county board, state board, the Wyoming Department of Revenue, and when disclosed pursuant to W.S. 34-1-142(g) and 39-13-109(b)(ii), any person wishing to review or contest his property tax assessment or valuation and the county board. The assessor may require a petitioner to sign an agreement to protect the confidentiality of the statements of consideration prior to their disclosure.

(c) Statements of consideration provided for review under this Section shall not be subject to discovery in any other county or state proceeding unless otherwise provided by law.

(d) The hearing shall be closed ~~if while~~ statements of consideration ~~are~~ will be disclosed ~~by the assessor, petitioner, or the county board during the hearing~~. Only the petitioner, ~~his petitioner's~~ agent and petitioner's legal counsel, the assessor and the assessor's employees or designee and the assessor's legal counsel, the members of the county board, the hearing officer, county board counsel, the clerk and the court reporter, qualified stenographer or transcriptionist may remain for the closed portion of the hearing. The hearing officer shall regulate the course and conduct of the hearing to ensure that the parties shall ~~only~~ disclose statements of consideration, and examine witnesses relative to those statements, only while ~~during the time~~ the hearing is ~~declared~~ closed.

Section 232. Ex Parte Communications.

(a) No party or anyone on a party's behalf shall communicate with a county board member, a staff member of the county board, or any presiding officer designated by the county board on any material fact at issue in the appeal after its commencement and ~~until~~ before its final disposition, except to the extent authorized by law, and unless the opposing party is present.

(b) If an ex parte communication is ~~unavoidable~~ occurs, the persons ~~identified above~~ who were party to the communication shall:

(i) Immediately draft a written document or summary setting forth the contents and circumstances of the communication;

(ii) Mail or hand deliver the document to all parties to the proceeding and all other officials involved in the decision process; and

(iii) ~~Indicate~~ State that the matter covered in the communication will be considered at the next scheduled hearing related to the appeal, or as otherwise scheduled with notice to all parties.

Section 243. Recusal. ~~On the motion of a party or the motion of a~~Any member of the county board ~~may, made~~ at any time while a case is pending ~~and without stating a reason, recuse himself or herself~~ a member may be recused from consideration of the case by filing a notice of recusal with the clerk for service on all parties and filing in the case record. ~~The decision of whether or not to recuse oneself shall be made by the member.~~ No statement of the reason for the recusal is required. ~~A~~From and after ~~the date of~~ the notice of recusal, the member shall not participate in any county board decisions or orders with regard to the case.

Section 254. Appeal to State Board of Equalization. (a)—A petitioner or assessor may appeal a final adverse written decision or order of a county board to the Wyoming State Board of Equalization (state board) as provided in Chapter 3 of the State Board's rules.~~by filing a notice of appeal pursuant to the rules of the state board within thirty (30) days from the entry of the county board decision.~~

—(b)—~~If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fifteen (15) days of the date on which the first notice of appeal was filed, or within the time otherwise prescribed herein, whichever period last expires.~~

—(c)—~~The notice of appeal shall be considered filed with the state board on mailing as evidenced by a postmark, or upon receipt by fax or other electronic transmission approved by the state board.~~

—(d)—~~A copy of the notice of appeal shall be served on the county board and the other parties.~~

Chapter 8

RULES OF PRACTICE AND PROCEDURE FOR APPEALS FROM THE DEPARTMENT OF REVENUE, LIQUOR DIVISION'S REVOCATION OR SUSPENSION OF A LIQUOR LICENSE

Section 1. Authority and Scope. These rules are promulgated by authority of Wyoming Statutes 12-7-201(d). These rules provide a process for contested case appeal proceedings before the State Board of Equalization upon Department of Revenue (Department), Liquor Division's (Division) revocation or suspension of a Wyoming liquor license.

Section 2. Incorporation by Reference.

(a) The rules below are incorporated by reference and can be found at:

<http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=48>

(i) Rule 12(b)(6), Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017, except the Board shall not treat any proceeding as one for summary judgment;

(ii) Rule 24, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017;

(iii) Rule 45, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017; and

(iv) Rule 52, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017.

(b) No later amendments to a rule listed in subsection (a) of this Section are incorporated by reference.

(c) Contested case proceedings shall be conducted in accordance with Chapter 2 of the State Board's Rules, §§ 5, 7 through 14, 17, 19 through 25, 28 through 33, and 36.

Section 3. Liquor Licensee Appeals following the Division's Suspension or Revocation.

(a) In accordance with W.S. 12-7-201(d), licensees subject to the Division's revocation or suspension of a liquor license may file an appeal with the Board not more than 30 days following the date on which the license is to be suspended or revoked as stated in the final notice of suspension or revocation. The Board shall docket appeals and schedule contested case proceedings as soon as feasible.

(b) The Board shall review the Division's suspension or revocation for compliance with statutory and regulatory law, and the Board shall either affirm or reverse the Division's action.

(c) When reviewing a departmental order or decision immediately suspending a license while an appeal is pending, the Board shall examine whether good cause supports the Division's conclusion that the licensee should not operate pending the appeal. The Board, upon the licensee's written request, shall hold a separate, immediate hearing to address the limited question of whether the suspension should go into effect while the appeal is pending. In determining whether the Division has demonstrated that the licensee should not be permitted to operate during the appeal to the Board, the Board will consider whether:

(i) The licensee has continuously and intentionally violated Wyoming's laws following clear and repeated notice from the Department (Division), and is likely to continue disobeying statutory or regulatory requirements pending the appeal;

(ii) The licensee is likely to engage in activities or conduct harmful to the public's general welfare;

(iii) The Department (Division) or other governmental bodies are unlikely to recover additional financial obligations of the licensee to the State or local licensing authority accruing after notice of the suspension and during an appeal;

(iv) The licensee's interests in operating, pending an appeal, are outweighed by the Division's interests in immediately suspending the license.

(d) The Division shall bear the burden of establishing the licensee should be required to cease operations pending an appeal.

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