

PUBLIC NOTICE OF PROPOSED CHANGES TO THE RULES, REGULATIONS AND FEE SCHEDULE OF THE WYOMING WORKERS' COMPENSATION DIVISION

PUBLIC NOTICE IS HEREBY GIVEN that the Wyoming Workers' Compensation Division is proposing changes that will affect the Division's rules, regulations and fee schedule. These proposals include modifications to the *Wyoming Workers' Compensation Rules, Regulations and Fee Schedules*. The Workers' Compensation Division last updated Chapter 2 – Employer Coverage, Compliance and Discount Programs on 12/11/18.

The Division proposes the following changes in Chapter 2:

Section 1(a) – General – added “Wyoming Workers' Compensation” and deleted “defined in” in the first sentence; deleted “that employer” in the last sentence, a non-resident employer is defined in W.S. 27-14-102(a)(xiii).

Section 1(b) – Requirement added that non resident employers who cover their out of state employees under a workers' compensation policy from another state provided a list of those employees so covered. This requirement is necessary for the orderly evaluation and processing of claims by employees of non resident employers who have employees in Wyoming who are covered under out of state coverage and local employees covered under the Wyoming Workers' Compensation Act.

Section 3(c) – Experience Rating - changed “out-of-state” to “non-resident” employer.

Section 3(f)(i) – Experience Rating – deleted the last sentence which stated, “The Division will apply a plus or minus cap of 15% (percent) to the employer's EMR beginning with rate year 2017 and to apply to rate year 2018, excluding Group I.”

Section 3 (g)(iii) – Experience Rating – added “minimum” to “...exceeding the annual minimum claims cost amount”. This was added for consistency in this section.

Section 3(h) – Experience Rating - corrected the right side box of the EMR formula from Measurement of Frequency to Measurement of Severity. This was a typo that needed to be corrected.

Section 3(j)(v) – changed “Deputy Administrator” to “Program Manager” to be consistent with the department's current usage to describe administrative supervisory positions.

Section 6(c)(ii) – Proceedings for Forfeiture of Non-Resident Employer's Surety Bond – deleted “Acquired real property as a non-resident with an unencumbered value greater than or equal to the security amount W.S. §27-1-106(e)(iii); or” This is necessary because this statutory provision is stated out of context in the present rule. The statutory

provision is only applicable to employers who have already obtained a security bond, but the placement of it in the present rules allows the obtaining of property in lieu of posting a security bond. The proposed changes in paragraph 6(d) specify the circumstances under which real property can be pledged in lieu of filing a security bond.

Section 6(d)(iv) – Real Property – added “Real property may be pledged in lieu of a bond if the non-resident employer delivers the following documentation on real property located in Wyoming to the Division” and, the following”.

Section 6(d)(iv) (A),(B) and (C) were added to clarify what is required to use real property in lieu of a security bond.

(A) An appraisal on the subject property conducted by a licensed Wyoming appraiser that is ninety (90) days old or less which shows the value of the subject property is greater than the amount of the required bond. The proposed rule provides a practical structure for the department to accept real property as collateral in lieu of a bond;

(B) A title policy or other certification issued by a Wyoming title company showing that the subject property is owned by employer and is free from any other liens or encumbrances; and

(C) A recordable instrument, signed by a duly authorized representative of the employer noting the Department’s lien interest in the subject property.

Section 6(f) – Penalties – Added – “The penalties for willful failure of any covered non-resident employer to give bond or other security are contained in W. S. § 27-14-307”.

Section 6(f)(i), (ii) and (iii) – specific penalties were deleted as they are in the statute.

Section 10(f)(i)(B), (ii)(B), (iii)(B), (iv)(B) – Health and Safety Consultation Employer Discount Program –made “abate” plural to “abates” – this was updated for consistency.

Section 10(f)(i), (ii), (iii) – deleted “The survey, Safety & Health Program Assessment Form shall be conducted by Wyoming OSHA Consultation or Compliance Assistance, a State Mine Inspector, Workers’ Compensation Safety Specialist or a qualified third-party health and safety professional approved by the Department” as it was duplicative.

Section 10 (g)(iii) – Health and Safety Consultation Employer Discount Program – updated “submit” to submits”

Minor formatting has been updated also.

Written comments should be submitted to the following address by **October 5, 2020**.

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A public comment period will end at close of business on **October 5, 2020**.

Copies may be obtained by submitting a written request to the Division, with pre-payment by personal check or money order for the total number of copies requested; the fee for each copy is \$4.00. The proposed rules may be downloaded, free of charge, from the Department of Workforce Services (DWS) at:

<http://www.wyomingworkforce.org/news/publicnotices/>