STATE OF WYOMING

RULES FOR CONTESTED CASE PRACTICE AND PROCEDURE BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS (OAH RULES)

Chapters 0 (App. B), 1 & 7 – Effective October 17, 2014
Chapters 0 (App. A), 2, 5 & 6 – Effective July 20, 2017
Chapters 3 & 4 – Repealed

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Appendix B

SUBPOENA

To: Name_____
Address_____
City, State, Zip_____

YOU ARE HEREBY REQUIRED to appear as a witness at a hearing before the Office of Administrative Hearings for the _____ to be held at _____ o'clock ___.m., on the _____ day of _____, 20___ at the _____.

THIS YOU ARE NOT TO OMIT UNDER PENALTY OF LAW.

In accordance with Rule 45 of the Wyoming Rules of Civil Procedure (LexisNexis 2013), be advised:

. . . .

(c) *Protection of persons subject to subpoenas.* –

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises – or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel outside that person's

county of residence or employment or a county where that person regularly transacts business in person except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) *Duties in responding to subpoena.* –

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information or material subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) *Contempt.* –

Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when

a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

DONE this _____ day of _____, 20___.

_____

Appendix A

STATUTORY AND REGULATORY REFERENCES

Wyoming Statutes

§ 16-3-107. Contested cases; general procedure.

. . . .

(g) In all contested cases the taking of depositions and discovery shall be available to the parties in accordance with the provisions of Rules 26, 28 through 37 (excepting Rule 37(b)(1) and 37(b)(2)(D) therefrom) of the Wyoming Rules of Civil Procedure in effect on the date of the enactment of this act and any subsequent rule amendments thereto. All references therein to the "court" shall be deemed to refer to the appropriate "agency"; all references to the use of the subpoena power shall be references to subsection (c) of this section; all references to "trial" shall be deemed references to "hearing"; all references to "plaintiff" shall be deemed references to "a party". If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the agency in which the action is pending, the refusal to obey the agency order shall be enforced in the same manner as is provided in subsection (c) of this section.

. . . .

(o) The record in a contested case must include:

(i) All formal or informal notices, pleadings, motions and intermediate rulings;

(ii) Evidence 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 opinion, findings, decision or order of the agency and any report by the officer presiding at the hearing.

. . . .

(p) In all contested cases the proceeding including all testimony shall be reported verbatim stenographically or by any other appropriate means determined by the agency or the officer presiding at the hearing.

§ 16-3-113. License hearings.

. . . .

(c) No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. A cancellation of a driver's license pursuant to W.S. 31-7-121(c) [repealed] shall not be valid until the department of transportation gives notice by mail to the licensee of the facts which warrant the intended action and provides the licensee with an opportunity to provide additional evidence or information with respect to the condition at issue within fifteen (15) days of the mailing of the notice. These proceedings shall be promptly instituted and determined.

Wyoming Rules of Civil Procedure

Rule 12. When and how presented; motion for judgment on the pleadings; consolidating motions; waiving defenses; pretrial hearing.

. . . .

(b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion: . . . (6) failure to state a claim upon which relief can be granted[.]

A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

Rule 24. Intervention.

(a) Intervention of Right. On timely motion, the court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

(b) Permissive Intervention.

(1) In General. On timely motion, the court may permit anyone to intervene who:

(A) is given a conditional right to intervene by statute; or

(B) has a claim or defense that shares with the main action a common question of law or fact.

(2) By a Government Officer or Agency. On timely motion, the court may permit a federal or state governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute or executive order administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute or executive order.

(3) Delay or Prejudice. In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

(c) Notice and Pleading Required. A motion to intervene must be served on the parties as provided in Rule 5. The motion must state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought.

Rule 25. Substitution of parties.

(a) Death.

(1) Substitution if the Claim Is Not Extinguished. If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

(2) Continuation Among the Remaining Parties. After a party's death, if the right sought to be enforced survives only to or against the remaining parties, the action does not abate, but proceeds in favor of or against the remaining parties. The death should be noted on the record.

(3) Service. A motion to substitute, together with a notice of hearing, must be served on the parties as provided in Rule 5 and on nonparties as provided in Rule 4. A statement noting death must be served in the same manner. Service may be made in any judicial district.

(b) Incompetency. If a party becomes incompetent, the court may, on motion, permit the action to be continued by or against the party's representative. The motion must be served as provided in Rule 25(a)(3).

(c) Transfer of Interest. If an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party. The motion must be served as provided in Rule 25(a)(3).

(d) Public Officers; Death or Separation from Office.

(1) An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name, but any misnomer not affecting the parties' substantial rights must be disregarded.

(2) A public officer who sues or is sued in an official capacity may be described as a party by the officer's official title rather than by name; but the court may require the officer's name to be added.

(e) Substitution at any stage. Substitution of parties under the provisions of this rule may be made, either before or after judgment, by the court then having jurisdiction.

Rule 45. Subpoena.

(a) In General.

(1) Form and Contents.

(A) Requirements—In General. Every subpoena must:

(i) state the court from which it issued;

(ii) state the title of the action and its civil action number;

(iii) command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce and permit inspection, copying, testing, or sampling of designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(iv) set out the text of Rule 45 (c), (d) and (e).

(v) A command to produce evidence or to permit inspection, copying, testing, or sampling may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(2) A subpoena must issue as follows:

(A) Command to Attend Trial. For attendance at a trial or hearing, from the court for the district in which the action is pending;

(B) Command to Attend a Deposition. For attendance at a deposition, from the court in which the action is pending, stating the method for recording the testimony; and

(C) Command to Produce. For production, inspection, copying, testing, or sampling, if separate from a subpoena commanding a person's attendance, from the court for the district where the production or inspection is to be made.

(3) Issued by Whom. The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the court may also issue and sign a subpoena on behalf of

(A) a court in which the attorney is authorized to practice; or

(B) a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court in which the attorney is authorized to practice.

(4) Notice to Other Parties Before Service. If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served, a notice must be served on each party.

(b) Service; place of attendance; notice before service.

(1) By Whom and How; Fees. A subpoena may be served by the sheriff, by a deputy sheriff, or by any other person who is not a party and is not a minor, at any place within the State of Wyoming. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law. The party subpoenaing any witness residing in a county other than that in which the action is pending shall pay to such witness, after the hearing or trial, the statutory per diem allowance for state employees for each day or part thereof necessarily spent by such witness in traveling to and from the court and in attendance at the hearing or trial.

(2) Proof of Service. Proving service, when necessary, requires filing with the clerk of the court by which the subpoena is issued, a statement of the date and manner of service and of the names of the persons served. The statement must be certified by the person who made the service.

(3) Place of Compliance for Trial. A subpoena for trial or hearing may require the person subpoenaed to appear at the trial or hearing irrespective of the person's place of residence, place of employment, or where such person regularly transacts business in person.

(4) Place of Compliance for Deposition. A person commanded by subpoena to appear at a deposition may be required to attend only in the county wherein that person resides or is employed or regularly transacts business in person, or at such other convenient place as is fixed by an order of court. A nonresident of the state may be required to attend only in the county wherein that nonresident is served with a subpoena or at such other convenient place as is fixed by an order of court.

(c) Protecting a Person Subject to Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance not Required. A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of

production or inspection unless also commanded to appear for deposition, hearing or trial.

(B) Objections. Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises - or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel outside that person's county of residence or employment or a county where that person regularly transacts business in person except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel to attend trial;.

The court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) Producing Documents or Electronically Stored Information.

(A) Documents. A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) Form of Electronically Stored Information if Not Specified. If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) Electronically Stored Information Produced in Only One Form. A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Making a Claim. When information or material subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) Information Produced. If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(c) Contempt. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by subparagraph (c)(3)(A)(ii).

Rule 56. Summary judgment.

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(b) Time to File a Motion. Unless a different time is set by court order otherwise, a party may file a motion for summary judgment at any time.

(c) Procedures.

(1) Supporting Factual Positions. A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) Objection That a Fact Is Not Supported by Admissible Evidence. A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) Materials Not Cited. The court need consider only the cited materials, but it may consider other materials in the record.

(4) Affidavits or Declarations. An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) When Facts are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(e) Failing to Properly Support or Address a Fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it; or

(4) issue any other appropriate order.

(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or
(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) Failing to Grant All the Requested Relief. If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact—including an item of damages or other relief—that is not genuinely in dispute and treating the fact as established in the case.

(h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court—after notice and a reasonable time to respond—may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

Rule 56.1. Summary judgment – required statement of material facts.

(a) Upon any motion for summary judgment pursuant to Rule 56 of the Rules of Civil Procedure, in addition to the materials supporting the motion, there shall be annexed to the motion a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried.

(b) In addition to the materials opposing a motion for summary judgment, there shall be annexed a separate, short and concise statement of material facts as to which it is contended that there exists a genuine issue to be tried.

(c) Such statements shall include pinpoint citations to the specific portions of the record and materials relied upon in support of the parties' position.

GENERAL PROVISIONS

Chapter 1

Section 1. Authority. These rules are promulgated by authority of Wyoming Statute §§ 16-3-102 and 9-2-2203.

Section 2. Construction. These rules are to be liberally construed to assure the unbiased, fair, expeditious, and impartial conduct of contested case proceedings before the Office of Administrative Hearings or any Board, Agency, or Commission that uses these Rules. Any procedural rule may be relaxed or modified by the presiding hearing examiner only in the interest of fairness or justice. In the absence of rule, the presiding hearing examiner may proceed in any manner consistent with the intent of these rules.

Section 3. Severability. If any portion of these rules is found to be invalid or unenforceable, the remainder shall remain in effect.

CONTESTED CASE PROCEEDINGS

Chapter 2

Section 1. **Authority and Scope.** These rules are promulgated by authority of Wyoming Statute § 16-3-102(d). These rules shall govern all contested case proceedings before all agencies to the extent they are adopted, and shall be relied upon by hearing officers, adjudicative agencies, and parties in all contested cases before any agency. Agencies may develop forms not inconsistent with these rules.

Section 2. **Incorporation by Reference.**

(a) The code, standard, rule, or regulation below is incorporated by reference and can be found at:

http://www.courts.state.wy.us/Supreme/CourtRule?CourtRuleCategoryID=15

(i) Rule 12(b)(6), Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017;

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

(v) Rule 56, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017;

(vi) Rule 56.1, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017;

(b) No later amendments to a code, standard, rule, or regulation listed in subsection (a) of this Section are incorporated by reference.

(c) The text of each of the incorporated rules listed in subsection (a) of this Section is set forth in their entirety in Appendix A.

Section 3. **Definitions.** The following definitions shall apply to this Chapter:

(a) "Adjudicative agency" means an agency authorized to conduct and preside over its own contested cases.

(b) "Agency" means any authority, bureau, board, commission, department, division of the state, or other entities that are statutorily authorized to refer cases to the Office.

(c) "Attorney" means an attorney licensed to practice law in the State of Wyoming or, an attorney who is licensed to practice law in another state and who is associated with an attorney licensed to practice law in the State of Wyoming.

(d) "Contested case" means a proceeding in which legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(e) "Hearing officer" means a hearing examiner from the Office, a presiding officer of any agency, an attorney who has been retained by an agency to preside over a contested case, an officer of any agency who has been designated to preside over a contested case, or any other person who is statutorily authorized to preside over a contested case.

(f) "Hearing panel" means those members of an agency or adjudicative agency who are designated and authorized to make a final decision in a contested case.

(g) "Office" means the Office of Administrative Hearings.

(h) "Referring agency" means any agency which has referred a contested case for hearing before the Office or before another hearing officer.

(i) "Representative" means an individual other than an attorney who is authorized to function in a representative capacity on behalf of a party to a contested case.

(j) "Wyoming Administrative Procedure Act" means Wyoming Statute §§ 16-3-101 through -115.

Section 4. **Informal Proceedings and Alternative Dispute Resolution.**

(a) Nothing in these rules shall be construed so as to prevent any agency from establishing informal procedures for resolving a contested case or from establishing procedures which are intended to occur prior to an agency's referral for or the initiation of a contested case.

(b) Parties to a contested case are encouraged to resolve the contested case through settlement, informal conference, mediation, arbitration, or other means throughout the duration of a contested case. If the parties choose to engage in mediation, they shall request mediation at least 30 days prior to hearing.

(c) With the consent of all parties, the hearing officer may assign a contested case to another hearing officer on limited assignment for the purpose of nonbinding alternative dispute resolution methods, including settlement conference and mediation. Such settlement conference or mediation shall be conducted in accordance with the procedures prescribed by the hearing officer conducting the settlement conference or mediation.

Section 5. **Commencement of Contested Case Proceedings.**

(a) A contested case shall be commenced by filing a timely request for a hearing of any agency action or inaction, or the filing of an application, petition, complaint or other document which, as a matter of law, entitles the petitioner, applicant, complainant, or respondent an opportunity to be heard.

(b) At the commencement of every contested case, an agency or hearing officer shall issue a notice of hearing including a statement of:

(i) the time, place and nature of the hearing;

(ii) the legal authority and jurisdiction under which the hearing is to be held;

(iii) the particular sections of the statutes and rules involved; and

(iv) a short and plain statement of the matters asserted. If the agency or hearing officer is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved and, thereafter, upon application, a more definite and detailed statement shall be furnished.

Section 6. **Referral to Office.**

(a) Upon referral to the Office to conduct a contested case, the referring agency shall transmit to the Office copies of appropriate agency documents reflecting the disputed agency action or inaction and the basis thereof, including any written challenge(s) initiating the contested case and a reference to applicable law.

(b) The referring agency shall submit a transmittal sheet, on a form provided by the Office, sufficiently identifying the contested case, including:

(i) the name of the referring agency;

(ii) the names of the known parties and their attorneys or representatives;

(iii) a concise statement of the nature of the contested case;

(iv) notification of any time limits for the setting of a hearing or entry of a decision, location requirements, and anticipated special features or unique requirements; and

(v) certification by an authorized officer of the referring agency that all parties have been properly served with a true and complete copy of the transmittal form.

Section 7. **Referral to Hearing Officer Other Than the Office.** When an agency refers a contested case to a hearing officer other than the Office or when an adjudicative agency retains

a contested case, the agency shall comply with any referral requirements of that hearing officer or adjudicative agency.

Section 8. **Designation and Authority of Hearing Officer; Recusal.**

(a) Any agency may refer, assign, or designate a hearing officer to preside over any contested case, unless otherwise provided by law. When appropriate under applicable law or at the referring agency's request, the hearing officer may provide either a recommended or final decision.

(b) Upon referral for contested case by a referring agency that will not be present for the hearing, a hearing officer shall conduct a contested case and may enter proposed findings of fact and conclusions of law or may provide a complete record of the contested case to the referring agency for entry of a final decision.

(c) At any time while a contested case is pending, a hearing officer or hearing panel member may withdraw from a contested case by filing written notice of recusal. From and after the date the written notice of recusal is entered, the recused hearing officer or hearing panel member shall not participate in the contested case.

(d) Upon motion of any party, recusal of a hearing officer or hearing panel member shall be for cause. Whenever the grounds for such motion become known, any party may move for a recusal of a hearing officer or hearing panel member on the ground that the hearing officer or hearing panel member:

(i) has been engaged as counsel in the action prior to being appointed as hearing officer or hearing panel member;

(ii) has an interest in the outcome of the action;

(iii) is related by consanguinity to a party;

(iv) is a material witness in the action;

(v) is biased or prejudiced against the party or the party's attorney or representative; or

(vi) any other grounds provided by law.

(e) A motion for recusal shall be supported by an affidavit or affidavits of any person or persons, stating sufficient facts to show the existence of grounds for the motion. Prior to a hearing on the motion, any party may file counter-affidavits. The motion shall be heard by the hearing officer or, at the discretion of the hearing officer, by another hearing officer. If the motion is granted, the hearing officer shall immediately designate another hearing officer to preside over the contested case or shall excuse the hearing panel member(s).

(f) A hearing officer shall not be subject to a voir dire examination by any party.

(g) Subject to limitations imposed by the hearing officer, any party may be permitted to conduct a voir dire examination of a hearing panel.

Section 9. **Appearances and Withdrawals.**

(a) A party, whether it be an individual, corporation, partnership, governmental organization, or other entity may appear through an attorney or representative. An individual may represent himself/herself. An individual or entity seeking to intervene in a contested case under Rule 24 of the Wyoming Rules of Civil Procedure, which is set forth in its entirety in Appendix A, may appear through an attorney or representative prior to a ruling on the motion to intervene.

(b) Prior to withdrawing from a contested case, an attorney shall file a motion to withdraw. The motion for an attorney's withdrawal shall include a statement indicating the manner in which notification was given to the client and setting forth the client's last known address and telephone number. The hearing officer shall not grant the motion to withdraw unless the attorney has made reasonable efforts to give actual notice to the client that:

(i) the attorney wishes to withdraw;

(ii) the client has the burden of keeping the hearing officer informed of the address where notices, pleadings, or other papers may be served;

(iii) the client has the obligation to prepare, or to hire another attorney or representative to prepare, for the contested case and the dates of proceedings;

(iv) the client may suffer an adverse determination in the contested case if the client fails or refuses to meet these burdens;

(v) the pleadings and papers in the case shall be served upon the client at the client's last known address; and

(vi) the client has the right to object within 15 days of the date of notice.

(c) Prior to withdrawing from a contested case, a representative shall provide written notice of withdrawal to the hearing officer and the agency.

Section 10. **Ex Parte Communications.** Except as authorized by law, a party or a party's attorney or representative shall not communicate with the hearing officer or hearing panel member in connection with any issue of fact or law concerning any pending contested case, except upon notice and opportunity for all parties to participate. Should ex parte communication occur, the hearing officer or hearing panel member shall advise all parties of the communication as soon as possible thereafter and, if requested, shall allow any party an opportunity to respond prior to ruling on the issue.

Section 11. **Filing and Service of Papers.**

(a) In all contested cases, the parties shall file all original documents, pleadings, and motions with the referring agency or adjudicative agency, as applicable, with true and correct copies of the particular document, pleading, or motion properly served on all other parties and the hearing officer, accompanied by a certificate of service. The referring agency or adjudicative agency shall maintain the complete original file, and all parties and the hearing officer shall be provided copies of all contested case documents, pleadings, and motions contained therein.

(b) Filing and service under this rule shall be made either by hand delivery or by U.S. mail transmittal to the last known address. If the referring agency or adjudicative agency permits filing and service by any electronic method, filing and service may be accomplished accordingly. Parties wishing to file by means other than those described in this Section shall obtain preapproval from the hearing officer.

Section 12. **Computation of Time.**

(a) In computing any period of time prescribed or allowed by these rules, by order or by any applicable statutes or regulations, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made agency offices inaccessible, in which event the period runs until the end of the following day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule, "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the governor.

(b) Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party, and the notice or paper is served upon the party by mail or by delivery to the agency for service, three days shall be added to the prescribed period.

Section 13. **Motions and Motion Practice.**

(a) Unless these rules or an order of the hearing officer establish time limitations other than those contained herein, all motions except motions for enlargement of time and motions made during hearing, shall be served at least 10 days before the hearing on the motion. A party affected by the motion may serve a response, together with affidavits, if any, at least three days prior to the hearing on the motion or within 20 days after service of the motion, whichever is earlier. Unless the hearing officer permits service at some other time, the moving party may serve a reply, if any, at least one day prior to the hearing on the motion or within 15

days after service of the response, whichever is earlier. Unless the hearing officer otherwise orders, any party may serve supplemental memoranda or rebuttal affidavits at least one day prior to the hearing on the motion.

(b) A request for hearing may be served by the moving party or any party affected by the motion within 20 days after service of the motion. The hearing officer may determine such motion without a hearing.

Section 14. **Setting Hearings, Other Proceedings, and Location of Hearings.**

(a) The hearing officer or adjudicative agency, as applicable, shall assign a docket number to each contested case. All papers, pleadings, motions, and orders filed thereafter shall contain:

(i) a conspicuous reference to the assigned docket number;

(ii) a caption setting forth the title of the contested case and a brief designation describing the document filed; and

(iii) the name, address, telephone number, and signature of the person who prepared the document.

(b) The hearing officer shall set the course of proceedings, which may include, but is not limited to, scheduling informal conferences, confidentiality issues, summary disposition deadlines, motion practice, settlement conferences, and the evidentiary hearing.

(c) Prehearing conferences may be held at the discretion of the hearing officer. Any party may request a prehearing conference to address issues such as discovery, motion deadlines, scheduling orders, or status conferences.

(d) At the hearing officer's discretion, and unless otherwise provided by the referring agency, telephone or videoconference calls may be used to conduct any proceeding. At the discretion of the hearing officer, parties or their witnesses may be allowed to participate in any hearing by telephone or videoconference.

(e) The hearing officer shall determine the location for proceedings.

Section 15. **Consolidation.** A party may seek consolidation of two or more contested cases by filing a motion to consolidate in each case sought to be consolidated. If consolidation is ordered, and unless otherwise ordered by the hearing officer, all subsequent filings shall be in the case first filed, and all previous filings related to the consolidated cases shall be placed together under that case number. Consolidation may be ordered on a hearing officer's own motion.

Section 16. **Continuances, Extensions of Time, and Duty to Confer.**

(a) A motion for a continuance of any scheduled hearing shall be in writing, state the reasons for the motion, and be filed and served on all parties and the hearing officer. A request for a continuance filed less than five days before a scheduled hearing shall be granted only upon a showing of good cause.

(b) A motion for an extension of time for performing any act prescribed or allowed by these rules or by order of the hearing officer shall be filed and served on all parties and the hearing officer prior to the expiration of the applicable time period. A motion for extension of time shall be granted only upon a showing of good cause.

(c) A moving party shall make reasonable efforts to contact all parties, representatives, and attorneys before filing a motion for continuance or extension of time. A motion for continuance or extension of time shall include a statement concerning efforts made to confer with the other party(s) and position(s) on the motion.

(d) Continuances relating to mediation shall be made no later than 30 days prior to the date of the hearing, as referenced in Section 4(b) of this Chapter.

Section 17. **Discovery.**

(a) The taking of depositions and discovery shall be in accordance with Wyoming Statute § 16-3-107(g), which is set forth in its entirety in Appendix A.

(b) Unless the hearing officer or adjudicative agency orders otherwise, parties shall not file discovery requests, answers, and deposition notices with the hearing officer or adjudicative agency.

Section 18. **Subpoenas.** Attorneys may issue subpoenas according to law. Any non-attorney party may request the hearing officer to issue a subpoena to compel the attendance of a witness or for the production of documents. Requests for the issuance of a subpoena shall be accompanied by a completed subpoena, which shall conform to Rule 45 of the Wyoming Rules of Civil Procedure, which is set forth in its entirety in Appendix A. Parties may utilize the form subpoena at Appendix B to these Rules.

Section 19. **Summary Disposition.** Rules 12(b)(6), 56.1, and 56, Wyoming Rules of Civil Procedure, which are set forth in their entirety in Appendix A, apply to contested cases.

Section 20. **Prehearing Procedures.**

(a) Unless otherwise ordered by the hearing officer, each party to a contested case shall file and serve on all other parties and the hearing officer a prehearing disclosure statement setting forth:

(i) a complete list of all witnesses who will or may testify, together with information on how that witness may be contacted and a brief description of the testimony the witness is expected to give in the case. If a deposition is to be offered into evidence, the original shall be filed with the referring agency, with a copy provided to the hearing officer or adjudicative agency;

(ii) a statement of the specific claims, defenses, and issues which the party asserts are before the hearing officer for hearing;

(iii) a statement of the burden of proof to be assigned in the contested case with reference to specific regulatory, statutory, constitutional, or other authority established by relevant case law;

(iv) a statement identifying stipulated facts. If the parties are unable to stipulate to facts, the parties shall indicate what efforts have been made to stipulate to facts and the reasons facts cannot be stipulated; and

(v) a complete list and copies of all documents, statements, etc., which the party will or may introduce into evidence.

(b) Parties shall file and serve prehearing disclosure statements on or before the date established by the hearing officer.

(c) The information provided in a prehearing disclosure statement shall be binding on each party throughout the course of the contested case unless modified for good cause.

(d) Additional witnesses or exhibits may be added only if the need to do so was not reasonably foreseeable at the time of filing of the prehearing disclosure statement, it would not unfairly prejudice other parties, and good cause is shown.

(e) The hearing officer may modify the requirements of a prehearing disclosure statement.

(f) Failure to file a prehearing disclosure statement may result in the hearing officer's striking of witnesses, exhibits, claims and defenses, or dismissal of the contested case.

(g) If a prehearing order is entered, the prehearing order shall control the course of the hearing.

Section 21. **Burden of Proof.** The hearing officer shall assign the burden of proof in accordance with applicable law.

Section 22. **Evidence.**

(a) The hearing officer shall rule on the admissibility of evidence in accordance with the following:

(i) evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(ii) evidence may be offered through witness testimony or in documentary form;

(iii) testimony shall be given under oath administered by the hearing officer. Deposition testimony and other prefiled testimony may be submitted as evidence, provided the testimony is given under oath administered by an appropriate authority, and is subject to cross-examination by all parties;

(iv) the rules of privilege recognized by Wyoming law shall be given effect; and

(v) a hearing officer may take administrative notice of judicially cognizable facts, provided the parties are properly notified of any material facts noticed.

(b) Each party shall have the opportunity to cross-examine witnesses. The hearing officer may allow cross-examination on matters not covered on direct examination.

(c) The hearing officer, the hearing panel, agency staff, or other persons delegated to do so by the hearing officer or hearing panel, when applicable, may ask questions of any party or witness.

Section 23. **Contested Case Hearing Procedure.**

(a) The hearing officer shall conduct the contested case and shall have discretion to direct the order of the proceedings.

(b) Unless otherwise provided by law, and at the hearing officer's discretion, the party with the burden of proof shall be the first to present evidence. All other parties shall be allowed to cross-examine witnesses in an orderly fashion. When that party rests, other parties shall then be allowed to present their evidence. Rebuttal and surrebuttal evidence shall be allowed only at the discretion of the hearing officer.

(c) The hearing officer shall have discretion to allow opening statements and closing arguments.

Section 24. **Default.** Unless otherwise provided by law, a hearing officer may enter an order of default or an order affirming agency action for a party's failure to appear at a lawfully noticed hearing.

Section 25. **Settlements.** Parties shall promptly notify the hearing officer of all settlements, stipulations, agency orders, or any other action eliminating the need for a hearing.

When the contested case has settled, the referring agency may enter an order, on its own motion, dismissing the case.

Section 26. **Expedited Hearing.**

(a) At the hearing officer's or hearing panel's discretion, a contested case may be heard as an expedited hearing upon the motion of any party. Expedited hearings may include summary suspensions under Wyoming Statute § 16-3-113(c), which is set forth in its entirety in Appendix A, and other emergency proceedings authorized by law.

(b) An expedited hearing shall be decided on written arguments, evidence, and stipulations submitted by the parties. A hearing officer or hearing panel may permit oral arguments upon the request of any party.

(c) The hearing officer or hearing panel may require an evidentiary hearing in any case in which it appears that facts material to a decision in the case cannot be properly determined by an expedited hearing.

Section 27. **Recommended Decision.** In those contested cases where the hearing officer makes a recommended decision, the hearing officer shall file the recommended decision with the referring agency and serve copies of the recommended decision on all parties to the contested case. Unless otherwise ordered, parties shall have ten days to file written exceptions to the hearing officer's recommended decision. Written exceptions shall be filed with the referring agency and served on all parties.

Section 28. **Final Decision.**

(a) A final decision entered by a hearing officer or adjudicative agency shall be in writing, filed with the referring agency, and served upon all parties to the contested case. A final decision entered by the referring agency or adjudicative agency shall be served upon all parties and the hearing officer.

(b) A final decision shall include findings of fact and conclusions of law, separately stated. When the hearing officer allows the parties to submit a proposed final order, the parties shall forward the original to the agency and serve copies of the proposed order on all other parties and the hearing officer.

(c) A hearing officer or adjudicative agency may at any time prior to judicial review, correct clerical errors in final decisions or other parts of the record. A party may move that clerical errors or other parts of the record be corrected. During the pendency of judicial review, such errors may be corrected only with leave of the court having jurisdiction.

Section 29. **Record of Proceeding.** The referring agency or adjudicative agency shall make appropriate arrangements to assure that a record of the proceeding is kept pursuant to

Wyoming Statute § 16-3-107(o) and (p), which are set forth in their entirety in Appendix A. Copies of the transcript taken at any hearing may be obtained by any party, interested person, or entity from the court reporter taking the testimony at such fee as the reporter my charge.

SPECIAL RULES RELATING TO WORKERS' COMPENSATION

Chapter 5

Section 1. **General Construction.** These special rules relating to workers' compensation contested case proceedings before the Office are intended to supplement the foregoing provisions of Chapter 2. To the extent that any difference exists, the special rule takes precedence over any foregoing provision.

Section 2. **Filing and Service of Papers.** In all workers' compensation contested cases, the parties shall file all original documents, pleadings, and motions with the Workers' Compensation Division, with true and complete copies of the particular document, pleading, or motion properly served on all other parties or their attorneys, and this Office. Wyo. Stat. Ann. §§ 27-14-601(n) and 27-14-602.

Section 3. **Appointed Attorney.**

(a) The hearing examiner may appoint an attorney to represent an employee or claimant.

(b) Upon entry of a final order, an appointed attorney may request payment of reasonable fees and costs. All requests for fees and costs shall be verified and shall detail time spent and work performed. Permitted fees include:

(i) attorney's fees billed at an hourly rate of one hundred fifty dollars ($150.00);

(ii) paralegal and legal assistant fees billed at an hourly rate of forty dollars ($40.00). Reimbursable paralegal and legal assistant fees are those tasks requiring legal skill and knowledge. Clerical and secretarial tasks are not reimbursable and shall not be billed at a paralegal or legal assistant rate;

(iii) costs: appointed attorneys may request reimbursement of actual expenses reasonably incurred, with respective invoices/bills attached (e.g. expert witness fees, costs to obtain pertinent medical records, reasonable and customary postage costs, and subpoena costs). Copying costs shall be paid at no more than fifteen cents (15¢) per copy. If reasonably incurred, attorney's travel time shall be paid at one-half the hourly rate for attorney's fees; and

(iv) prevailing employer's attorney fees and costs billed at the rates established in this section in any contested case where the issue is the compensability of an injury.

(c) All requests for fees and costs shall be submitted to the Office within ninety (90) days of the final order. Any request for fees and costs not timely submitted shall be denied unless good cause is shown. Requests for fees and expenses of appointed attorneys shall include the attorney's certification that the fee statement is true and correct. The request shall additionally indicate the source (i.e., from the workers' compensation account, from amounts

awarded to the employee or claimant, or from the employer) from which the fees and expenses are proposed to be paid. Requests shall be properly served on all parties.

(d) No fee shall be awarded in any case in which the hearing examiner determines the claim to be frivolous or without legal or factual justification.

Section 4. **Record of Proceedings.** The presiding hearing officer shall assure that a record of the proceeding is kept pursuant to Wyoming Statute § 16-3-107(p). The cost of reporting the contested case evidentiary hearing shall be paid in accordance with Wyoming Statute § 27-14-602(c).

Section 5. **Referral to the Medical Commission.**

(a) Upon agreement of all the parties to a case, the hearing examiner may refer a medically contested case to the Medical Commission for hearing and final decision of all issues in the case.

(b) Upon agreement of all the parties to a case, the hearing examiner may refer a case to the Medical Commission for advice on specified medical issues. The hearing examiner will make the final decision on all issues in the case, and referrals for advice will be made only after the evidence in the case is closed. The parties shall have an opportunity to file written exceptions to the advice received from the Medical Commission and any exceptions, along with the advice received, shall become part of the record in the case.

Section 6. **Hearing Deadline.** In all workers' compensation cases, the contested case hearing shall be conducted, and the official record closed, no more than eleven (11) months after the first order setting hearing is issued. The hearing examiner shall issue final findings of fact, conclusions of law, and order no more than thirty (30) days after the record is closed.

SPECIAL RULES RELATING TO DRIVERS' LICENSES

Chapter 6

Section 1. **General Construction.** These special rules relating to drivers' license contested case proceedings before the Office are intended to supplement the foregoing provisions of Chapter 2. To the extent that any difference exists, the special rule takes precedence over any foregoing provision.

Section 2. **Evidence.**

(a) In addition to other evidence properly received in all drivers' license contested cases, the presiding hearing examiner shall admit into evidence the Wyoming Department of Transportation's certified record prepared in accordance with Wyoming Statute § 31-7-120.

(b) For any contested case hearing concerning Implied Consent - Administrative Per Se suspension (Wyo. Stat. Ann. §§ 31-6-101 through -108), or Commercial Driver's License Implied Consent disqualification - blood alcohol concentration of four one-hundredths of one percent (0.04%) or more (Wyo. Stat. Ann. §31-7-307), the Wyoming Department of Transportation's certified record shall consist of:

(i) The peace officer's signed statement of probable cause;

(ii) The notice of suspension or disqualification;

(iii) A copy of the temporary license, if issued;

(iv) Documentation that chemical testing was conducted in compliance with the Wyoming Department of Health Chemical Testing Program including, but not limited to, the operational checklist for chemical breath tests, or other documentation sufficient to establish the result of chemical testing for blood or urine tests; and

(v) All other evidence which is material to the matter.

(c) For those contested case hearings referenced in subsection (b) above, when the Wyoming Department of Transportation presents evidence establishing that the chemical testing was conducted using methods approved under Wyoming Statute § 31-6-105, it shall be presumed that the test result is accurate. This presumption may be rebutted by evidence establishing that the specific test result is inaccurate as a result of equipment malfunction or improper administration.

Section 3. **Hearing Deadline.** In all drivers' license cases, the contested case hearing shall be conducted, and the official record closed, no more than ninety (90) days after the matter is referred to the Office. The hearing examiner shall issue a final order no more than thirty (30) days after the record is closed.

SPECIAL RULES RELATING TO SETTLEMENT OR ALTERNATIVE DISPUTE RESOLUTION SERVICES

Chapter 7

Section 1. **Referrals to the Office of Administrative Hearings.** Any state agency may request the Office provide hearing services consisting of nonbinding settlement conferences or other alternative dispute resolution. Any such request shall be in writing and properly served by the agency on all parties to the particular matter, shall define the scope of the requested hearing services, and shall indicate that all parties agree to the limited assignment. Wyo. Stat. Ann. §§ 9-2-2202(b) and 16-3-112(b).

Section 2. **Conduct of Settlement Conferences.** Settlement conferences or other alternative dispute resolution conducted before the Office shall be in accordance with any appropriate procedures prescribed by the hearing examiner designated by the Office.

Section 3. **Reporting Results of Settlement Conferences.** No later than fifteen (15) days after the conclusion of settlement or other alternative dispute resolution proceedings before the Office, the hearing examiner shall notify the agency, in writing, and with proper notice to all parties, whether settlement appears to have resulted. The hearing examiner shall not disclose the terms of any settlement, but shall instead rely upon the parties properly submitting settlement documents to the other parties.