

## STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

Under W.S. 16-4-204(e), the Department of Administration and Information was required to adopt uniform rules for the use of state agencies establishing procedures, fees, costs, and charges for inspection, copies, and production of public records. Under W.S. 16-3-103(j)(ii), each state agency is required to adopt as much of the uniform rules as is consistent with the specific and distinct requirements of the agency and state or federal law governing or applicable to the agency. Chapter 1 of the Board of Land Commissioners rules is being amended to incorporate the uniform rules in their entirety. Chapter 17 is being amended to remove non-conforming language that stated the Board would set the public records fee annually by resolution.

Additionally, W.S. 16-3-102(d), requires the Office of Administrative Hearings to adopt uniform rules for contested case proceedings. The uniform rules set forth the nature and requirements of all formal and informal procedures available in connection with contested cases. Under W.S. 16-3-103(j)(ii), each state agency is required to adopt as much of the uniform rules as is consistent with the specific and distinct requirements of the agency and state or federal law governing or applicable to the agency. Chapter 1 of the Board's rules is being amended to incorporate the uniform rules in their entirety.

In addition, Chapter 1 is being amended to add the definition of "Office" and make the definitions applicable to all chapters to reduce redundancy in later chapters, including Chapter 17. Finally, the schedule for regular Board meetings are being modified from monthly to February, April, June, August, October and December to conform to the current practice of only meeting every other month.

**~~RULES AND REGULATIONS~~**  
**~~BOARD OF LAND COMMISSIONERS~~**

**Chapter 1**

**Rules of Practice and Procedure Before the Board**

**Section 1. Authority.**

These rules are promulgated under the authority granted by Wyoming Statute (W.S.) 36-2-104 and 16-3-103(j)(i) and (ii).

**Section 2. Definitions.**

(a) As used in all this chapters:

(i) “Board” means the Board of Land Commissioners.

(ii) “Board matter” means a document presenting a proposed agency action to the Board.

(iii) “Director” means the Director of the Office of State Lands and Investments.

(iv) “Appellant” means any applicant who is appealing a decision of the Director.

(v) “Office” means the Office of State Lands and Investments.

~~(v) —“Presiding Officer” means a member of the Board or the administrative hearing officer designated to preside over a contested case.~~

(vi) “State lands” means all lands, including the surface and subsurface estates, under the jurisdiction of the Board of Land Commissioners.

**Section 3. Meetings.**

(a) The Board shall meet regularly on the first Thursday of each February, April, June, August, October, and December~~month~~. A regular meeting may be postponed or cancelled by the Governor.

(b) Special meetings may be called by the Governor upon proper notice to the Director and the other members of the Board and compliance with W.S. 16-4-404.

**Section 4. Agenda.**

(a) The Director shall prepare the agenda for meetings of the Board, compile all board matters and other information to be presented to the Board, and deliver the agenda, board matters, and other information to each member of the Board at least five (5) days prior to the meeting.

(b) The chairman may modify the sequence of the agenda at the meeting.

#### **Section 5. Board Matters.**

(a) The Director shall prepare a board matter, containing sufficient information to aid the Board's decision, for each agency action to be considered by the Board.

(b) Any member of the Board may direct the Director to prepare and present a board matter to the Board for its consideration.

(c) All board matters requesting action by the Board shall contain a recommendation from the Director for Board action.

(d) Any person may request the Director to place an issue on the agenda for consideration by the Board by supplying the Director with all relevant information at least ten (10) days before the meeting. In the event the Director denies placement of an issue on the Board agenda, copy of any written request shall be provided to the Board members at the time of the Director's decision.

(e) All board matters and other information not stamped "confidential" shall be made available for public inspection at the time they are distributed to the Board members.

#### **Section 6. Appearances Before the Board.**

(a) Pursuant to W.S. 16-3-107-(k), any interested person may appear before the Board on a matter being considered by the Board.

(b) To preserve the orderly conduct of public business, the chairman may limit the time and nature of the appearance.

#### **Section 7. Conflicting Application Appeals.**

(a) A contested case, as defined by W.S. 16-3-101-(b)(ii), shall be held upon the appeal of a decision of the Director in a case of conflicting applications to purchase, lease, enter, or otherwise acquire title to, interest in, benefits from, or use of the lands under the jurisdiction of the Board, as provided by W.S. 36-3-102-(a).

(b) Any applicant affected by the Director's decision in a case of conflicting applications may appeal the Director's decision to the Board by filing, with the Office of State Lands and Investments, a notice of appeal setting forth:

- (i) The name and address of the appellant and the name and address of the appellant's attorney, if any,
- (ii) The decision of the Director being appealed,
- (iii) The name and address of each applicant adversely claiming or affected,
- (iv) The legal description of the land involved; and
- (v) A statement in ordinary, concise language of the facts on which the appeal is based, including references to any statutes or rules allegedly violated by the Director's decision.

(c) Appeals of the Director's decision must be filed within ~~(thirty)~~ (30) days after the date of the notice from the Director apprising the applicants of the decision. An applicant who fails to appeal within ~~(thirty)~~ (30) days shall be deemed to have waived any right to a contested case hearing.

(d) The appellant shall serve a copy of the notice of appeal on all other conflicting applicants at the time the notice of appeal is filed.

~~(e) The Director shall immediately notify all parties of the date, time, and place the hearing is to be held.~~

### **Section 8. Lease Cancellation Proceedings.**

(a) A contested case, as defined by W.S. 16-3-101-(b)(ii), shall be held, if requested by the lessee, before the Board cancels any lease.

(b) A lease cancellation proceeding shall be commenced when the Director files a "request for cancellation" in the record. A request for cancellation shall:

- (i) Identify the lease requested to be cancelled; and
- (ii) Allege in ordinary, concise language, the facts and the law which form the grounds for the cancellation.

(c) Service. The Director shall serve a copy of the request for cancellation upon the lessee at least thirty (30) days before the Board acts on the request.

(d) Request for Hearing. The lessee shall have twenty (20) days from the date of service of the request for cancellation to request a hearing. The request shall be in writing to the Director. If no hearing is requested within the allowed time, the lessee shall be deemed to have waived the opportunity for a hearing and the Board shall proceed to consider the request for cancellation.

(e) Response.

(i) The lessee shall file a response to the request for cancellation by attaching the response to the request for hearing.

(ii) If the lessee fails to file a response with the request for hearing, the allegations contained in the request for cancellation shall be deemed true.

## **Section 9. General Procedures for Contested Cases.**

The following procedures apply to proceedings under Section 7 and 8 of these rules.

(a) **Role of the Director.** In any contested case, the Director shall serve as the clerk of the Board, docketing the case and maintaining the record of all notices, motions, transcripts, and orders filed in the case. The Director shall defend his or her decisions in all contested cases.

(b) **Disposition by Agreement.** Any contested case may be finally disposed of by stipulation, consent order, or default of a party when approved by the Board. Any such disposition shall be made by order of the Board.

(c) The Director may forward any contested case to the Office of Administrative Hearings.

(d) Contested cases shall be conducted pursuant to the Office of Administrative Hearing's uniform rules pertaining to contested case proceedings.

~~(e) Discovery.~~

~~(i) The availability, extent, and enforceability of discovery to any party will be determined by W.S. 16-3-107.~~

~~(ii) The party for whom any depositions are taken will ensure that the original transcripts are entered into the record.~~

~~(iii) Interrogatories, answers to interrogatories, requests for admissions, and responses to admission requests will be entered into the record by the party originating such discovery, or any other types of formal discovery.~~

~~(d) Subpoenas.~~

~~(i) The presiding officer, upon the application of any party, or upon the officer's own motion, shall issue subpoenas requiring the appearance of witnesses for the purpose of taking evidence, production of books, papers, or other documents relevant or material to the inquiry, or to appear at the hearing.~~

~~(ii) Items sought shall be set forth with particularity.~~

~~(iii) All subpoenas shall be served by personal delivery or by certified mail to the party served.~~

~~(iv) Cost of the subpoenas shall be paid by the party requesting the service.~~

~~(e) Motions. The presiding officer may, upon reasonable notice to all parties, hear orally, or otherwise, any motion filed in connection with contested cases under these rules.~~

~~(f) Court Reporters. Any party appearing at a hearing may provide a court reporter at that party's expense to record the hearing.~~

~~(g) Order of Procedure at Hearing. As nearly as possible, hearings shall be conducted in the following order of procedure:~~

~~(i) The presiding officer shall announce that the hearing is open and call by docket number and title the case to be heard.~~

~~(ii) All witnesses who are present to give testimony at the hearing will rise, identify themselves, indicate on whose behalf testimony will be given, and be sworn in by the presiding officer.~~

~~(iii) The parties will each be allowed an opening statement to briefly explain their position and outline the evidence they propose to offer together with purpose thereof.~~

~~(iv) The evidence will be heard. The Director shall present his case first. Witnesses may be cross-examined by the opposing party or the party's attorney.~~

~~(v) The presiding officer may allow evidence to be offered in any order.~~

~~(vi) The presiding officer may allow closing arguments to be oral or written.~~

~~(vii) The presiding officer may recess the hearing as required.~~

~~(viii) After all interested parties have been offered the opportunity to be heard, the presiding officer shall declare the evidence closed and excuse all witnesses. The evidence may be reopened at a later date, for good cause shown, by order of the presiding officer upon motion of a party or the presiding officer's own motion. The evidence may also be reopened by a majority vote of the Board.~~

~~(ix) Parties may tender briefs, or the presiding officer may call for such briefs as may be desirable.~~

~~(h) — Applicability of the Rules of Civil Procedure. The Wyoming Rules of Civil Procedure, insofar as they may be applicable and not inconsistent with these regulations or the laws of Wyoming that apply to the case, will apply to all contested cases before the Board.~~

~~(i) — Attorneys. All persons appearing before the Board or its hearing officer in a contested case hearing have the right to represent themselves or be represented by an attorney of their choice. However, no attorney will be permitted to make statements, examine, or cross-examine the witnesses on behalf of any party unless that attorney is licensed to practice law in Wyoming; or if not so licensed, is associated with an attorney qualified to practice law in Wyoming.~~

~~(ej) Findings of Fact, Conclusions of Law, Orders. At a Not later than its next regular meeting following service of the recommended decision and any written exceptions ~~the contested case hearing~~, the Board shall make and enter into the record a written order containing findings of fact and conclusions of law based upon the evidence in the record. In addition, all matters that have been officially noticed by the Board and taken into consideration as a basis for its decision will be noted in that decision. Decisions, findings of fact, conclusions of law, and orders issued by the Board will be filed with the Director and constitute the final administrative decision in the contested case. The Director shall send a copy of any order to all parties within five (5) days of receipt.~~

#### **Section 10. Incorporation by Reference.**

(a) The Board hereby incorporates by reference the following uniform rules:

(i) Chapter 2 – Uniform Rules for Contested Case Practice and Procedure adopted by the Office of Administrative Hearings and effective on October 17, 2014, found at: <https://rules.wyo.gov>.

(ii) Chapter 2 – Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records adopted by the Department of Administration and Information and effective on September 6, 2016, found at: <https://rules.wyo.gov>.

(b) For these rules incorporated by reference:

(i) The Board has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsections (a)(i) and (a)(ii) of this section; and

(iii) The incorporated rules are maintained at the Office and are available for public inspection and copying at the same location.

**~~RULES AND REGULATIONS~~**  
**~~BOARD OF LAND COMMISSIONERS~~**

**Chapter 17**

**Fees for Administrative Services and Interest Rates**

**Section 1. Authority.**

This chapter is promulgated under the authority of Wyoming Statute (W.S.) 36-2-107, 36-3-110 and 16-4-204(d).

**~~Section 2. Definitions~~**

As used in this chapter:

(a) ~~“Board” means the Board of Land Commissioners.~~

(b) ~~“Director” means the Director of the Office of State Lands and Investments.~~

(c) ~~“Office” means the Office of State Lands and Investments.~~

(d) ~~“State lands” means all lands, including the surface and subsurface estates, under the jurisdiction of the Board of Land Commissioners.~~

**Section 23. Fees.**

(a) ~~The Board will establish by annual Resolution reasonable fees and charges that may be assessed for the costs and services set forth in the Wyoming Public Records Act.~~

(~~a~~b) The Board will collect fees for administrative services occurring from activities conducted on State Lands in accordance with the following Board Rules:

- (i) Insufficient Funds Check Return Fee - \$25.00
- (ii) Name Change - \$25.00
- (iii) Notice of Security Interest - \$25.00
- (iv) Easements:
  - (A) Application Fee - \$100.00
- (v) Grazing and Agricultural Leasing:

- (A) Application Fee - \$50.00
- (B) Assignment Fee - \$40.00
- (vi) Special Use Leasing:
  - (A) Application Fee - \$250.00
  - (B) Assignment Fee - \$40.00
- (vii) Leasing of Subsurface Resources:
  - (A) Application Fee - \$50.00
  - (B) Assignment Fee - \$40.00
  - (C) Unitization Agreement Fee - \$50.00
  - (D) Communitization Agreement Fee - \$50.00
- (viii) Sale of Forest Products:
  - (A) Application Fee - \$50.00 (For all sales not initiated by the State Forester).
- (ix) Fossil Permits:
  - (A) Application Fee - \$50.00 (No Assignments Allowed)
- (x) Temporary Use Permits:
  - (A) Application Fee - \$50.00 (No Assignments Allowed)
- (xi) Surface Estate Sale Nomination:
  - (A) Application Fee - \$1000.00. If an application does not progress to Category II status, the applicant is eligible for a 75% refund. Upon Category II status, the full Application fee will be retained by the agency. This fee is applicable to land exchanges.

**Section 34. Interest Rates.**

- (a) The Board will charge interest rates on all loans in accordance with the following Board Rules:
  - (i) Chapter 2 – Sale of lands:
    - (A) 8% per annum for loans up to 75% of value.