



**Certification Page  
Regular and Emergency Rules**  
Revised May 2014

**Emergency Rules** (After completing all of Sections 1 and 2, proceed to Section 5 below)

**Regular Rules**

<b>1. General Information</b>		
a. Agency/Board Name <b>Wyoming Department of Transportation</b>		
b. Agency/Board Address <b>5300 Bishop Boulevard</b>	c. City <b>Cheyenne</b>	d. Zip Code <b>82009-3340</b>
e. Name of Contact Person <b>Matthew White</b>	f. Contact Telephone Number <b>307.777.4161</b>	
g. Contact Email Address <b>matthew.white@wyo.gov</b>	h. Adoption Date <b>September 17, 2015</b>	
i. Program <b>General Section</b>		
<b>2. Rule Type and Information:</b> For each chapter listed, indicate if the rule is New, Amended, or Repealed.		
If "New," provide the Enrolled Act numbers and years enacted: <b>SEA 0047 (2014)</b>		
c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed <i>(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)</i>		
Chapter Number: <b>Chapter 3</b>	Chapter Name: <b>Appeals and Hearings</b>	<input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
d. <input checked="" type="checkbox"/> The Statement of Reasons is attached to this certification.		
e. If applicable, describe the <b>emergency</b> which requires promulgation of these rules without providing notice or an opportunity for a public hearing:		

**3. State Government Notice of Intended Rulemaking**

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the **Secretary of State**: July 23, 2015

b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Legislative Service Office**: July 23, 2015

c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Attorney General**: July 23, 2015

**4. Public Notice of Intended Rulemaking**

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.  Yes  No  N/A

b. A public hearing was held on the proposed rules.  Yes  No

If "Yes:"	Date:	Time:	City:	Location:

**5. Final Filing of Rules**

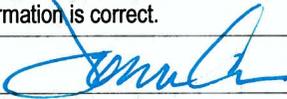
a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**: September 21, 2015

b. Date on which final rules were sent to the **Legislative Service Office**: September 21, 2015

c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State**: September 21, 2015

**6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual <i>(Blue ink as per Rules on Rules, Section 7)</i>	
Printed Name of Signatory	John F. Cox
Signatory Title	Director
Date of Signature	September 21, 2015

**7. Governor's Certification**

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

**Attorney General:** 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

**LSO:** 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules (PDFs) emailed to [Criss.Carlson@wyoleg.gov](mailto:Criss.Carlson@wyoleg.gov): clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

**SOS:** 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

**WYOMING DEPARTMENT OF TRANSPORTATION**

**STATEMENT OF REASONS**

**GENERAL SECTION**

**CHAPTER 3, APPEALS AND HEARINGS**

Chapter 3, Appeals and Hearings, is a revised rule and regulation of the Wyoming Department of Transportation. This rule and regulation is promulgated by authority of W.S. 16-3-102(a) and W.S. 24-2-105 to establish a system by which interested persons may appeal the decisions of the Wyoming Department of Transportation (WYDOT) and to provide standards of conduct for all contested case hearings, except as otherwise provided by law.

This revised rule and regulation applies legislative changes concerning contested cases from the 2014 Wyoming Legislature found in Senate Enrolled Act 47. This act requires each state agency to adopt as much of the uniform rules governing contested cases promulgated by the Office of Administrative Hearings as is consistent with the specific and distinct requirements of the agency and state or federal law governing or applicable to the agency. The proposed changes to the revised rule incorporate by reference Chapter 2, Uniform Rules for Contested Case Practice and Procedure, as adopted by the Office of Administrative Hearings effective on October 17, 2014. Much of the existing chapter 3 text is proposed for removal as it will be superseded by the uniform rule.

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Wyoming Department of Transportation  
**Appeals and Hearings**

**CHAPTER 3**

Section 1. **Authority.**

These rules are promulgated, authorized, and required by W. S. 16-3-102(a) and W.S. 24-2-105.

Section 2. **Purpose.**

The purpose of this chapter is to establish a system by which interested persons may appeal the decisions of the Wyoming Department of Transportation (WYDOT) and to provide standards of conduct for all contested case hearings, except as otherwise provided by law.

Section 3. **Contested Case Proceedings.**

(a) Any party notified by WYDOT of a decision that adversely affects that party shall be entitled to a hearing before a hearing officer designated by WYDOT if the party requests a hearing in writing within 30 days from the date the notice is received.

(b) The uniform rules for contested case practice and procedure adopted by the Office of Administrative Hearings shall govern all contested case proceedings.

Section 4. **Incorporation by Reference.**

(a) Any code, standard, rule, or regulation incorporated by reference does not include any later amendments or editions of the incorporated matter beyond the applicable data identified in subsection (b) of this section.

(b) The following code, standard, rule, or regulation is incorporated by reference: Chapter 2, Uniform Rules for Contested Case Practice and Procedure, adopted by the Office of Administrative Hearings and effective on October 17, 2014. The incorporated material may be found at the following: <http://soswy.state.wy.us/Rules/RULES/9644.pdf>.

Section 5. **Informal Hearings.**

(a) Any party entitled to a contested case hearing in a matter involving WYDOT may waive rights to a formal hearing and may request an informal hearing before the Transportation Commission of Wyoming or a Commission-appointed individual or panel. Such request shall be filed in writing with the Secretary of the Transportation Commission of Wyoming, Wyoming Department of Transportation, 5300 Bishop Boulevard, Cheyenne, Wyoming, 82009-3340.

(b) At all informal hearings, records of the proceedings shall be made to include all documentary evidence submitted by any party. WYDOT shall prepare findings of fact and

conclusions of law and submit them to the Transportation Commission of Wyoming for consideration.

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Wyoming Department of Transportation  
CHAPTER III Appeals and Hearings

APPEALS AND HEARINGS CHAPTER 3

Section 1. Authority. These rules are promulgated, authorized, and required by W. S. 16-3-102(a) and W.S. 24-2-105.

Section 2. Purpose. The purpose of this Chapter is to establish a system by which interested persons may appeal the decisions of the Wyoming Department of Transportation (WYDOT) and to provide standards of conduct for all contested case hearings ~~by and before the Commission, or Commission Authorized Panel,~~ except as otherwise provided by law.

~~Section 3. Definitions. As used in these rules and regulations:~~

~~— (a) "Commission" means the Transportation Commission of Wyoming.~~

~~— (b) "Department" means the Wyoming Department of Transportation. Department includes the Wyoming Transportation Commission.~~

~~— (c) "Person" means any individual, partnership, corporation, association, joint venture, governmental subdivision, public or private organization of any character, other than an agency.~~

~~— (d) "Director" means the Director of the Wyoming Department of Transportation.~~

~~— (e) "Secretary" means the Secretary of the Transportation Commission of Wyoming.~~

~~— (f) "Petitioner" means any person who appeals a decision of the Department as required by law.~~

~~— (g) "Presiding Officer" means a person designated pursuant to W.S. 16-3-112(a) to preside over the hearing.~~

~~— (h) "Appellate Hearing Panel" means that panel established by W.S. 37-1-107 to hear appeals from contested cases held pursuant to Title 37, Chapter 8 through 11 only.~~

~~— Section 4. Scope.~~

~~(a) This chapter shall apply to all hearings held before the Commission, Commission Authorized Panel, or Presiding Officer. It is intended that these rules shall apply whenever, by any action of the Wyoming Department of Transportation, the rights of any person will be adversely and directly affected and it is proper that such person have an opportunity to be heard thereon.~~

~~(b) These rules shall not apply to hearings and public meetings not involving contested cases, held by the Department for purposes of acquiring information, making findings and determining courses of action and procedure concerning the location of any road or proposed road, or to the advancement and improvement of the state road system, or for purposes of agency rulemaking. Nor shall these rules apply to hearings held pursuant to W.S. 9-2-2202.~~

~~Section 5. Appeals.~~

~~(a) Appeals from final orders issued as a result of a "Contested Case Hearing" as defined by W.S. 16-3-101(b)(ii) shall be in accordance with W.S. 16-3-114 and Rule 12, Wyoming Rules of Appellate Procedure.~~

~~(b) Appeals from final orders issued by the Department, as a result of hearings pursuant to W.S. 37-8-101 through 37-11-103, may be appealed to a hearing panel appointed by the Commission pursuant to the following guidelines:~~

~~(i) A panel will be appointed as needed by the Commission if requested in writing by the appealing party.~~

~~(ii) The panel will review each appeal as set forth in W.S. 16-3-114 and Rule 12, Wyoming Rules of Appellate Procedure.~~

~~(c) Appeals of agency decisions and all "Contested Case Hearings" other than as outlined above, held before agency designated Presiding Officers, shall be appealed in accordance with W.S. 16-3-114.~~

~~Section 6. Petitions.~~

~~(a) Where "Contested Case Hearings" are to be held before the Department as allowed by law, the petitioner shall prepare and file with the Secretary a petition setting out the following, using prepared forms available from the Secretary.~~

~~(i) The name and address of the person requesting a hearing.~~

~~(ii) A statement, in ordinary and concise language, of the facts on which the petition is based including, whenever applicable, particular reference to statutory sections, contract provisions and/or rules, regulations and orders involved.~~

~~(iii) The specific relief sought.~~

~~Section 7. Answers or Responsive Pleadings. Within thirty days after receipt of a petition, the Respondent shall file an answer to the petition with the Secretary. The answer shall fully and plainly inform the parties involved of the nature of the defense or reason for the decision or action upon the particular matter involved.~~

~~Section 8. Notice of Formal Hearing. Upon receiving notice of an appeal of a decision by the Department, a party shall be afforded an opportunity for hearing.~~

~~(a) The Secretary shall serve formal notice of the hearing upon all parties. The notice shall include 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 contract provisions, statutes and/or rules and regulations involved; and~~

~~(iv) A short and plain statement of the matters asserted.~~

~~(b) Filing and service under this section may be made either by hand delivery, by mail transmittal to the last known address, or by facsimile transmission. Rule 5(b), Revised Wyoming Rules of Civil Procedure, effective March 24, 1992.~~

~~Section 9. Docket. When a proceeding is instituted by the filing of a petition, the Secretary shall assign it a number and enter the proceeding with the date of its filing on a separate page of a docket provided for such purpose. The Secretary shall systematically place all papers, pleadings, documents, transcripts and evidence pertaining to the appeal in a separate file, and all such items shall have noted thereon the docket number assigned and date of filing.~~

~~Section 10. Subpoena. The Commission, Commission Authorized Panel, or Presiding Officer shall have the authority to issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or requiring the production of any books, papers, material, or other documents relevant to the inquiry.~~

~~Section 11. Default in Appearing. The petitioner may within twenty (20) days after formal notice is given, and with good cause, request an alternate time. The Commission, Commission Authorized Panel, or Presiding Officer, for good cause, shall reschedule the hearing, and provide written notice thereof to the Petitioner. Thereafter, in the event a Petitioner fails to appear at the designated time, and provided the foregoing rules as to notice have been complied with, the party shall be considered in default.~~

~~Section 12. Hearing. At the date, time and place of hearing, the Commission, Commission Authorized Panel, or the Presiding Officer, in accordance with the notice given, shall hear all matters presented. The Commission may elect a Commissioner to conduct the hearing or appoint an authorized person to act as the hearing officer. All issues set forth in the petition and/or formal notice given shall be presented by the Petitioner. Any party may be represented personally, or by counsel, provided that counsel is authorized to practice law in the State of Wyoming.~~

~~Section 13. Order of Procedure at Hearing. As nearly as may be, the hearing shall be conducted in accordance with the following order of procedure:~~

~~(a) The Commission, Commission Authorized Panel, or Presiding Officer shall state the docket number and title of the matter and case to be heard, and shall direct that the petition and formal notice be included in the record. The appearance of any Petitioner or Petitioners shall be noted. All subpoenas issued shall be noted for the record.~~

~~(b) An opening statement may be made by each party.~~

~~(c) The Petitioner shall thereupon present the Petitioner's evidence. All exhibits offered by and on behalf of the Petitioner, shall be marked by letters of the alphabet beginning with "A". Cross examination shall be permitted after testimony of each witness.~~

~~(d) Upon the conclusion of Petitioner's case, the Respondent shall thereupon present its evidence. The Respondent's evidence or exhibits shall be marked separately so as to identify the respective exhibits commencing with the number "1".~~

~~(e) Witnesses may be questioned by the Commission, Commission Authorized Panel, or Presiding Officer at any time.~~

~~(f) At the conclusion of the Respondent's case, the Petitioner may present rebuttal evidence or exhibits. Subsequent testimony may be received from the parties at the discretion of the Commission, Commission Authorized Panel, or Presiding Officer.~~

~~(g) Closing statements may be presented at the conclusion of the presentation of evidence. Rebuttal statements may be made by the parties to the proceeding, at the discretion of the Commission, Commission Authorized Panel, or Presiding Officer. The time for any oral argument may be limited.~~

~~(h) After all proceedings have been concluded, all witnesses shall be dismissed and excused and the hearing declared closed.~~

~~(i) Any party may tender written briefs. The Commission, Commission Authorized Panel, or Presiding Officer shall take the case under advisement and shall declare unto the parties that the decision of the Commission shall be announced within the due and proper time following consideration of all the matters presented at the hearing pursuant to the Wyoming Administrative Procedures Act.~~

~~Section 14. Witnesses at Hearing to be Sworn. All testimony shall be taken under oath.~~

~~Section 15. Rules of Civil Procedure. The Wyoming Rules of Civil Procedure shall apply to the conduct of all proceedings conducted pursuant to this chapter, except as~~

otherwise provided by the Wyoming Administrative Procedure Act, W.S. 16-3-101 to 16-3-115.

~~Section 16. Attorneys. The filing of an answer or other appearance by an attorney constitutes his or her appearance for the party for whom the pleading is filed. The Commission, Commission Authorized Panel, or Presiding Officer shall be notified in writing of any withdrawal from any hearing. This rule shall not be construed to prohibit any person from representing himself or herself in any hearing.~~

~~Section 17. Role of the Attorney General. In all matters before the Commission or Commission Authorized Panel, the Attorney General or a representative of his staff, may be requested to be present throughout the hearing to assist and advise the Commission or Commission Authorized Panel.~~

~~Section 18. Taking of Testimony Reporter. Hearings shall be recorded by a court reporter, tape recorder, or other recording device. Any party desiring a copy of the transcript shall make such arrangements at said parties expense.~~

~~Section 19. Decision, Findings of Fact and Conclusions of Law.~~

~~(a) A party may, following the full and complete contested case hearing, file Findings of Fact and Conclusions of Law with the Commission, Commission Authorized Panel, or Presiding Officer. If such Findings of Fact and Conclusions of Law are presented the Commission, Commission Authorized Panel or Presiding Officer may consider them in arriving at Findings of Fact and Conclusion of Law supporting the recommended written decision and order.~~

~~(b) The Commission shall file with the Secretary, findings of fact and conclusions of law. The findings of fact, conclusions of law and order shall, without further action, become the decision and order of the Commission. A copy shall be sent by registered mail to each party or their attorneys of record.~~

Section 3. Contested Case Proceedings.

(a) Any party notified by WYDOT of a decision that adversely affects that party shall be entitled to a hearing before a hearing officer designated by WYDOT if the party requests a hearing in writing within 30 days from the date the notice is received.

(b) The uniform rules for contested case practice and procedure adopted by the Office of Administrative Hearings shall govern all contested case proceedings.

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Section 20 5. Informal Hearings.

(a) Any party entitled to a contested case hearing in a matter involving ~~the WYDOT Department~~ may waive rights to a formal hearing and may request an informal hearing before the Transportation Commission of Wyoming or Commission appointed individual or panel ~~Presiding Officer~~. Such request ~~must~~ shall be filed in writing with the Secretary of the Transportation Commission of Wyoming, Wyoming Department of Transportation, 5300 Bishop Boulevard, Cheyenne, Wyoming, 82009-3340. ~~All parties must waive formal hearing rights. If any party objects to an informal hearing, a formal hearing shall be held.~~

(b) At all informal hearings, records of the proceedings shall be made to include all documentary evidence submitted by any party. WYDOT shall prepare findings of fact and conclusions of law will be prepared by the Department for submission and submit them to the Transportation Commission of Wyoming for consideration.