



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules (After completing all of Sections 1 through 3, proceed to Section 5 below)

Regular Rules

1. General Information

a. Agency/Board Name

Department of Workforce Services - OSHA Commission

b. Agency/Board Address

1510 East Pershing Blvd.

c. City

Cheyenne

d. Zip Code

82002

e. Name of Agency Liaison

Marcia J. Price

f. Agency Liaison Telephone Number

(307) 777-6746

g. Agency Liaison Email Address

marcia.price@wyo.gov

h. Adoption Date

12/20/17

i. Program

OSHA Division - Practice and Procedure

2. Legislative Enactment For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment that was previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Enrolled Act Numbers and Years Enacted:

3. Rule Type and Information

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

(Please use the Additional Rule Information form for more than 10 chapters and attach it to this certification)

Chapter Number: 11	Chapter Name: Information Dissemination	<input checked="" type="checkbox"/> New <input 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 Repealed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 Repealed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 Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were:

- approved as to form by the Registrar of Rules; and
- provided to the Legislative Service Office and Attorney General;

9/21/17

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 No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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c. If applicable, describe the **emergency** which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

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:

b. Date on which final rules were approved as to form by the Secretary of State and sent to the Legislative Service Office:

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	C. Donald Alston
Signatory Title	Co-Chair, Wyoming OSHA Commission
Date of Signature	12/20/17

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	

Principal Statement of Reasons
OSHA Chapter 11, Practice and Procedure: Information Dissemination

The Wyoming OSHA Division proposes to amend its Information Practices; Rules so that Chapter 2, Sections 1, 2 and 6 of said Chapter 2 are to be incorporated into a new Chapter 11, Information Dissemination. Sections 3, 4 and 5, of said Chapter 2 are to be deleted as they are redundant to other provisions in the current rules.

Other changes include: updating Section 1(b)(i) for statistical data from the Standard Industrial Classification Code (SIC) to the North American Industry Classification System (NAICS), so that the rules are consistent with the system used by other agencies in the Department of Workforce Services. Section 3, Procedures, Fees, Costs and Charges for Inspecting, Copying, and Producing Public Record is added to be consistent with recent statutory changes regarding the allowance of charges for public records requests and per Administration and Information, September 6, 2016. Additional changes include deleting Sections 4 and 5 from current Chapter 2, in keeping with Governor Mead's directive for reduction of Wyoming rules.



State of Wyoming Department of Workforce Services

Matthew H. Mead
Governor

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614 South Greeley Highway
Cheyenne, Wyoming 82007
307.777.8650 • Fax: 307.777.5857
www.wyomingworkforce.org



John Cox
Director
John Ysebaert
Deputy Director

November 14, 2017

Public Comments For OSHA Practice and Procedure Chapter 11 – Information Dissemination

OSHA Practice and Procedure Chapter 11 – Information Dissemination was posted on the Secretary of State's website as proposed on September 21, 2017. On October 1, 2017, a public notice was published in the Casper newspaper for statewide notice.

The 45 day public comment period for this rule expired on November 13, 2017.

No public comments were received.



We Bridge Human and Economic
Development for Wyoming's Future.



CHAPTER 11

INFORMATION DISSEMINATION

Section 1. Classification of Information

(a) Any open case may be subject to an order by the Commission to any district court for enforcement action pursuant to Wyoming Statute §27-11-106 (a). Prior to the time a case is closed, the investigatory file of that case will not be released to any person not connected with the Department and authorized by the Administrator in accordance with Wyoming Statute §16-4-203 (b)(i), which allows denial of inspection of any record that is an investigatory file compiled for any law enforcement or prosecution purpose.

(b) Once the Notice of Violation is completed and penalties are proposed, if applicable, the original Notice of Violation and Proposed Penalties shall be forwarded to the employer and handled in accordance with the procedures prescribed in Chapter 3, Practice and Procedure: Enforcement.

(i) Statistical data (e.g., number of violations noted, proposed penalty, etc.) broken out by the North American Industry Classification System (NAICS) shall be available through the Integrated Management Information System. Individuals shall not be identified in these statistics.

(c) A case is considered closed when a consent agreement signed by the Employer has been entered into the investigation file; the case has been referred to a hearing officer for contested case proceedings, all citations have been vacated, the citations have not been contested and a Final Order of the Commission or court has been rendered, or, if no citation will be issued. Following closure of the case, that portion of the file that includes trade secrets, personal identity or statements protected by informant's privilege, intra-agency notes and memorandum, personal notes and opinions of the investigating officer, and other confidential information, may not be released, in accordance with W.S. §16-4-203(b)(v) and W.S. §16-4-203(d)(v), except as provided in Section 1(d) of this Chapter.

(d) All information on individuals maintained by this Department shall remain confidential except in the following disclosures:

(i) To officers or employees who have a clearly established need for the record in order to carry out legal duties of administering or enforcing the laws of the federal government, the State of Wyoming, or any of its political subdivisions.

(ii) To another governmental agency for civil or criminal law enforcement activity, providing the regulating agency has made a prior written request to this Department specifying the particular record and the enforcement activity for which it is sought.

(iii) To other agencies or organizations with the authorization of the Administrator unless the transfer is part of the “routine use” of the record as enumerated or implied in the Department’s statutes or regulations.

(iv) To a recipient who has provided the Department with written assurance that the record will be used in a manner solely for statistical research and the record is to be transferred in a form that is not individually identifiable.

(v) To the individual to whom the record pertains or to their designated representative(s) upon written request.

(vi) To a court of competent jurisdiction upon order to this Department.

Section 2. Dissemination

(a) Information is processed by reproduction and is transferred only as accorded by Department policy. Any additional copying may be deemed a breach of confidence of the Department employee and subject them to disciplinary action.

(b) The “need to know” policy does not refer to anyone outside the Department unless stipulated on the document or unless authorized in the processing of such information.

(i) If so authorized in writing by the individual, their legal representative may have copies of pertinent information contained in the file.

(ii) If the case is contested, a Notice of Intent to Contest shall be forwarded to the Chairman of the Commission in accordance with Rules of the Department of Workforce Services, OSHA, Chapter 1 Practice and Procedure, Introduction and Chapter 6, Practice and Procedure: Informal Conferences, Hearings and Contested Cases.

(c) Information collected on an individual for a specific purpose may be used only for that purpose unless approval is given by the individual.

(i) In the event of litigation, the court may subpoena the file.

(d) In the event copies are forwarded to other than the individual, a document indicating to whom the copies were sent shall be maintained in the file.

(i) Copies of the Notice of Violation pertaining to a complaint must be sent to the employee or employee representative if the inspection was generated by a formal employee complaint and the issues of the complaint were found to be violations.

(ii) The original Notice of Violation must be posted at the site of violation in accordance with Rules of the Department of Workforce Services, OSHA Chapter 4, Practice and Procedure: Recording, Reporting and Posting Requirements, for the purpose of employee notification. The Proposed Penalty, if applicable, need not be posted.

(iii) The copy of the Notice of Violation maintained on file will be used as a source of statistical data. Such data shall be accessible to the U.S. Department of Labor. Individuals shall not be identified on these reports.

(e) The Department shall respond to requests for access to a record within a reasonable time period, not to exceed thirty (30) calendar days, specifying whether access will be granted and the time, place, and circumstances of access; or, if access cannot be accomplished and the reason why. The person requesting access may be accompanied by another person of their choosing or may be represented by another person with the requestor's written authorization. Access will be provided at the requestor's expense and at the cost provided in Section 3 of these rules.

(f) The Department shall allow an individual to physically handle all of the contents of a file that pertains to them, subject to the supervision of a Department employee and in a manner consistent with these rules. The individual shall not have access to information that would reveal the identity of any informant concerning the investigation or any inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency.

(g) Individuals have the right to receive copies of such records at their own expense at the rate set by the Department to cover the cost of copying and compiling the requested information. All requests are subject to a minimum of one (1) hour for research. See Section 3 of these rules.

(h) The Department may request appropriate identification of the inquirer to be presented at the time of access.

Section 3. Procedures, Fees, Costs and Charges for Inspecting, Copying, and Producing Public Records

(a) Authority. The Department of Workforce Services, OSHA Division is required under W.S. §16-3-103(j)(ii) to adopt the Department of Administration and Information's uniform rules pertaining to procedures, fees, costs, and charges for inspecting, copying, and producing public records.

(b) Adoption of Uniform Rules. The Department of Workforce Services, OSHA Division hereby incorporates by reference the following uniform rules:

(i) Chapter 2 – Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records adopted by the Department of Administration and Information are effective on September 6, 2016, found at: <https://rules.wyo.gov>. See Current Rules, Administration & Information, Dept., Director's Office, Chapter 2. This incorporated rule may also be requested from the Wyoming Secretary of State Office (Administrative Services

Division) in writing at 2020 Carey Avenue, Suite 600, Cheyenne, WY 82002-0020; by email at: rules@wyo.gov; by telephone at: (307) 777-5348; or by fax at: (307) 777-5339.

(ii) For these rules incorporated by reference:

(A) The Department of Workforce Services, OSHA Division has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the rules;

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

(C) The incorporated rules are maintained at the Department of Workforce Services, OSHA Division's office (1510 East Pershing Boulevard, Cheyenne, WY 82002) and are available for public inspection and copying at the same location.

(c) The provisions of this section notwithstanding, the Division shall, upon request, provide one photocopy of the official workers' compensation file, free of charge, to both the employee and the employer, if there is a contested case.

Section 4. Administrator

(a) Whenever there is doubt as to whether information should be transferred, opened or disseminated in any way, only the Administrator has the authority of decision.

(b) Any questions regarding the legality of any department function will be referred to the Administrator for course of action.

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