



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised November 2016

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison	f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address		
h. Date of Public Notice	i. Comment Period End Date	
j. Public Comment URL or Email Address:		
k. Program		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not 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:	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 Repealed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 Repealed
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 Repealed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 Repealed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 Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):

The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

Not Applicable.

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

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.

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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