



Notice of Intent to Adopt Rules

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

Revised November 2016

<u>1. General Information</u>		
a. Agency/Board Name* Wyoming Water Development Commission		
b. Agency/Board Address 6920 Yellowtail Road	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Harry LaBonde	f. Agency Liaison Telephone Number 307-777-7626	
g. Agency Liaison Email Address harry.labonde@wyo.gov		
h. Date of Public Notice April 13, 2017	i. Comment Period End Date May 30, 2017	
j. Public Comment URL or Email Address: http://wwdc.state.wy.us/public_comment/rules_comment.html		
k. Program General Agency, Board, or Commission Rules		
* <input type="checkbox"/> 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.		
<u>2. Legislative Enactment</u>		
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?		
<input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes. Please provide the Enrolled Act Numbers and Years Enacted:		
<u>3. Rule Type and Information</u>		
a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter. <i>Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.</i>		
Chapter Number: 7	Chapter Name: Wyoming Water Development Program	<input checked="" type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: 1	Chapter Name: General Provisions	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: 2	Chapter Name: Meetings	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: 3	Chapter Name: Administration	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: 4	Chapter Name: Public Hearings	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: 5	Chapter Name: Public Records Requests	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: 6	Chapter Name: Ground Water Exploration Grants	<input 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
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:

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: http://wwdc.state.wy.us/public_comment/rules_comment.html

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: http://wwdc.state.wy.us/public_comment/rules_comment.html

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:	
Indicate one (1):	<input type="checkbox"/> The proposed rules meet, but do not exceed, minimum federal requirements. <input type="checkbox"/> 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:	<input type="checkbox"/> To the Agency at the physical and/or email address listed in Section 1 above. <input type="checkbox"/> 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: http://wwdc.state.wy.us/public_comment/rules_comment.html

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):

Chapter 5

(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>	Harry C. LaBonde Jr.
<i>Title of Authorized Individual</i>	Director of the Wyoming Water Development Office
<i>Date of Authorization</i>	April 6, 2017



WYOMING WATER DEVELOPMENT OFFICE

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Matthew H. Mead
Governor

Commissioners

Nick Bettas	Sheridan Little
Karen Budd-Falen	Jeanette Sekan
David Evans	Larry Suchor
Clinton Glick	Rodney Wagner
Kellen Lancaster	Todd Werbelow

Harry C. LaBonde, Jr., P.E.
Director

Date: March 29, 2017

To: Interested Parties

From: Harry LaBonde, Director of the Wyoming Water Development Office (WWDO)

Subject: Statement of Principal Reasons for Proposed Revisions to the Wyoming Water Development Commission Rules and Regulations

Pursuant to Wyo. Stat. § 41-2-118(a)(vii), the Wyoming Water Development Commission (WWDC) must adopt rules and regulations to implement the Water Development Program. The program provides funding to eligible sponsors for the planning, design, and construction of water infrastructure projects for the optimal development of the State's water resources.

On January 6, 2016, the Management Audit Committee of the Wyoming Legislature published findings of its review of the Water Development Program. The Committee made nine recommendations including Recommendation 4.1 which states:

“The Commission should conduct a thorough review of its responsibilities, required actions, and processes related to W.S. 41-2-106 through 41-2-108 as well as W.S. 41-2-107 through 41-2-118 and establish clear and consistent procedures in Program rules for project sponsors.”

In response to this recommendation, both a dedicated subcommittee and the entire WWDC performed a thorough review of WWDC responsibilities. On October 24, 2016, the WWDC proposed the following revisions to WWDC rules and directed the WWDO to proceed with rule making. Principally, the revisions consist of a new Chapter VII, detailing the process for accepting, reviewing, and evaluating funding applications for the Wyoming Water Development Program. In particular, this chapter:

- defines eligible applicants as organized public entities with limited exceptions;
- permits the WWDC to require reimbursement from applicants for Level II feasibility studies under the Dams and Reservoirs Program or Level I reconnaissance studies;
- creates new project application deadlines;
- delineates the required application submittals and fees; and
- details the WWDC's process for prioritization, review, and evaluation of applications.

In addition, the WWDC proposes the following additional changes to Chapters I through VI to simplify, clarify, and reduce the length of these chapters:

- incorporating by reference the Department of Administration and Information's uniform rules for public records requests as required by Wyo. Stat. Ann. § 16-3-103(j).
- adding definitions of terms used in WWDC rules;
- explicitly permitting the WWDC to conduct a meeting via electronic means;
- removing unnecessary language concerning the statutory basis for WWDC to promulgate rules, the election of officers, the location of public meetings, the requirements for a quorum, and the ground water exploration grant program;
- specifying that the WWDC may authorize the WWDO to sign contracts;
- identifying the presiding officer at public hearings; and
- explicitly requiring the WWDC to review and take action on ground water exploration grant applications.

CHAPTER 1

GENERAL PROVISIONS

Section 1. Authority. The promulgation of these rules is authorized by Wyo. Stat. Ann. §§ 41-2-118 and 41-2-119.

Section 2. Officers. Officers of the Commission shall include a Chair, Vice-chair and a Secretary, who shall be elected annually from among the membership of the Commission.

Section 3. Definitions. The following definitions shall apply to these rules:

(a) “Commission” means the Wyoming Water Development Commission.

(b) “Chair” means the duly elected chair of the Wyoming Water Development Commission.

(c) “Director” means the director of the Wyoming Water Development Office.

(d) “Office” means the Wyoming Water Development Office.

(e) “Program” means the Wyoming Water Development Program.

(f) “Secretary” means the duly elected secretary of the Wyoming Water Development Commission.

(g) “Sponsor” means an organized public entity consisting of the project beneficiaries, including but not limited to: legal subdivisions of the State of Wyoming, irrigation districts, drainage districts, conservation districts, water conservancy districts, public irrigation and power districts, watershed improvement districts, improvement and service districts, water districts, water and sewer districts, joint powers boards, any public corporation legally organized for the purposes of the conservation, distribution or utilization of water or soil, the joint business council of the Eastern Shoshone and Northern Arapaho Indian tribes, the business council of the Eastern Shoshone Indian tribe and the business council of the Northern Arapaho Indian tribe.

CHAPTER 2

MEETINGS

Section 1. Meetings. Meetings shall be called by the Chair, after consultation and coordination with the Director and other members of the Commission, or by a majority of members of the Commission, or at the direction of the Governor. Meetings may be conducted through electronic means.

Section 2. Majority for Approval of Actions. A majority vote of the members of the Commission present at the meeting shall be required for approval of any actions of the Commission.

Section 3. Rules of Order. Any matter of procedure or conduct not specifically provided for by state law or by rules and regulations of the Commission shall be governed by Robert's Rules of Order Revised, Latest Edition.

CHAPTER 3

ADMINISTRATION

Section 1. Director. The Director serves at the pleasure of the Governor, is the chief executive officer to the Commission, administers the organization and operation of the Office staff, and carries out the program of the Commission in its policies and at its meetings.

Section 2. Signing of Contracts. All contracts, agreements, memorandums of understanding, or other documents of the Commission shall be signed by the Chair and attested by the Secretary when authorized by the Commission, except that the Vice-Chair shall sign if the Chair is not available and an Acting Secretary may sign if the Secretary is not available. The Director, or his designee, may sign contracts if so authorized by the Commission.

CHAPTER 4

PUBLIC HEARINGS

Section 1. Holding of Hearings. Public hearings shall be held by the Commission, for any of the purposes provided in Wyo. Stat. Ann. §§ 41-2-114 (b)(iii) and 41-2-115(a). Nothing contained in these rules shall be construed as prohibiting the Commission or the Director from holding informational meetings, public workshops, or additional public hearings as authorized by statute, upon notice to the Commission.

Section 2. Membership Present at Hearings. Any Commissioner present at a hearing shall serve as the presiding officer at such hearing. The Director, or his designee, shall serve as the presiding officer if no Commissioners are present. The Director, or his designee, shall attend each hearing.

CHAPTER 5

PUBLIC RECORDS REQUESTS

Section 1. Incorporation by Reference. The Commission hereby incorporates by reference: Chapter 2 of the Department of Administration and Information Rule and Regulations: Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records. This incorporation by reference does not include any later amendments or editions of the incorporated rule beyond September 6, 2016. The Commission has determined that incorporation of the full text in these rules would be cumbersome and inefficient given the length and nature of the rules. The incorporated rule is maintained at 6920 Yellowtail Road, Cheyenne, WY 82009 and is available for public inspection and copying in accordance with this rule at the same location. The incorporated materials is available on the Commission's website: <http://wwdc.state.wy.us/>.

CHAPTER 6

GROUND WATER EXPLORATION GRANTS

Section 1. Applicability. These rules and regulations shall govern application procedures for the groundwater grant program as established by Wyo. Stat. Ann. § 41-2-119.

Section 2. Application Procedures. Applications for funds available through this program shall be prepared and submitted to the Director which shall be forwarded to the Commission.

Section 3. Application Format.

(a) Part 1 – Statement of Problem. Applicant must demonstrate to the satisfaction of the Commission that additional sources of water are needed.

(b) Part 2 – Project Plan. Applicant must prepare and submit a specific and detailed plan of how funds will be spent if awarded. The plan shall include, but is not limited to:

(i) A detailed advance hydro-geologic feasibility study of the area where exploration is anticipated. If such a study is not available, then the costs of obtaining such a study must be included in the project budget.

(ii) A description of the intended exploration project.

(iii) A line item budget.

(iv) Required permits from State and/or Federal agencies to complete exploration.

(v) A statement of intent that the project work shall:

(A) Be supervised by a professional geologist (P.G.) licensed in the State of Wyoming.

(B) Conform to the “State Water Well Minimum Construction Standards of the Wyoming State Engineer’s Office” and the Water Quality Rules and Regulations of the Wyoming Department of Environmental Quality.

Section 4. State Engineer Review. The Commission shall submit the application to the State Engineer for review and request that the State Engineer provide an opinion regarding associated water rights issues.

Section 5. Acceptance of Application. Upon completion of the opinion by the State Engineer described in Section 4, the Commission shall review the application and take action thereon.

CHAPTER 7

WYOMING WATER DEVELOPMENT PROGRAM

Section 1. Purpose. The purpose of Chapter VII is to implement the Wyoming Water Development Program. The Program provides funding to Sponsors for the planning, design, and construction of water infrastructure projects necessary for the optimal development of the State's water resources.

Section 2. Eligible Applicants. Eligible applicants shall meet the definition of a Sponsor as defined in these rules, with the exception of Level I Reconnaissance studies and Level II Feasibility studies for Dams & Reservoirs. For Level I Reconnaissance studies and Level II Feasibility studies for Dams & Reservoirs, the Commission may consider applications from applicants that do not meet the definition of a Sponsor at the time of application, but who intend to qualify as a Sponsor by the completion of the Level I Reconnaissance study and/or Level II Feasibility study for Dams & Reservoirs. Exceptions to this section shall be approved by the Commission on a case by case basis based upon the completed application and the review and recommendation by the Office. The Commission may require reimbursement from these applicants for Level I Reconnaissance studies and/or Level II Feasibility studies for Dams & Reservoirs under Wyo. Stat. Ann. §41-2-112.

Section 3. Application Procedures. The Commission shall consider Program applications using the following process:

(a) **Deadlines.** Applicants shall submit completed new project applications to the Office no later than August 15th of each year. For projects previously accepted into the Program, applicants shall submit completed applications to move a project to the next level of the Program to the Office no later than October 1st of each year.

(b) New project applications shall include:

(i) A description of the project;

(ii) A description of any existing water systems;

(iii) A list of the applicant's past projects funded by the Commission;

(iv) Proposed project start date; if project is not "shovel ready," include additional steps that need to be taken before project can start and proposed time table

(v) Financial capabilities of the Sponsor or Applicant, including the annual budget for operation, maintenance, and replacement of the water supply system; the existing balance in any emergency funds and sinking funds for the water supply system; water rates, tap fees, and other revenue sources; and the amount of funding

obtained from other revenues for operation, maintenance and replacement of the water supply system; and

(vi) A certified original of a resolution in support of the project passed by the governing body of the Sponsor, or for applicants who do not meet the definition of a Sponsor at the time of application shall provide evidence of support for the applications by providing letters or petitions from interested water users.

(c) Applications for Projects previously accepted into the Program shall include:

(i) A description of the project;

(ii) A description of any existing water systems;

(iii) A list of the applicant's past projects funded by the Commission;

(iv) Financial capabilities of the Sponsor or Applicant, including the annual budget for operation, maintenance, and replacement of the water supply system; the existing balance in any emergency funds and sinking funds for the water supply system; water rates, tap fees, and other revenue sources; and the amount of funding obtained from other revenues for operation, maintenance and replacement of the water supply system; and

(v) Proposed project start date; if project is not "shovel ready," include additional steps that need to be taken before project can start and proposed time table

(d) In addition to the requirements outlined above, applications for Level III construction projects shall include the following information:

(i) A comprehensive financing plan for the project which includes a listing of all funding sources anticipated to be used by the applicant and a schedule showing when such funding sources shall become available;

(ii) A certified original of a resolution in support of the project passed by the governing body of the Sponsor;

Section 4. Application Fees. An initial application fee of one thousand dollars (\$1000.00) shall be submitted with each new project application. If the Commission denies the application, seventy-five percent (75%) of the fee shall be refunded to the Sponsor. For ongoing projects which have already been accepted into the Program, no additional fee is required upon the filing of subsequent applications to move a project to the next level in the schedule described in Wyo. Stat. Ann. § 41-2-114.

Section 5. General Program Priorities.

- (a) Emphasizing multi-purpose water projects for maximum benefit and cost allocation;
- (b) Maximizing the use of all existing information, data, reports and other materials in the execution of studies;
- (c) Developing unappropriated water;
- (d) Developing new storage capacity;
- (e) Developing hydroelectric power; and
- (f) Utilizing water not currently being beneficially used in Wyoming.

Section 6. Evaluation. The Commission shall evaluate applications by considering the following:

- (a) Whether the Sponsor submitted a complete application;
- (b) Information submitted in the project application;
- (c) Whether the Sponsor is current on all repayment obligations to the State;
- (d) General program priorities; and
- (e) Whether the Sponsor completed the most recent Commission public water system survey or irrigation system survey.
- (f) For construction projects, the Commission shall consider the following additional factors:
 - (i) Whether the Sponsor completed the necessary level of planning studies to adequately define the project scope, assess feasibility, evaluate alternatives, and determine probable costs;
 - (ii) Whether the Sponsor presented an adequate financial plan to fund the project;
 - (iii) Whether the Sponsor is prepared to establish an adequate operations and maintenance account;
 - (iv) Whether the Sponsor is ready to proceed with construction, implementation, and operations; and
 - (v) Whether the Sponsor is prepared to operate and maintain the project.

(g) For rehabilitation projects, the Commission shall also consider the Sponsor's

past efforts in adequately maintaining the project and whether the Sponsor has an existing maintenance account.

Section 7. Commission Recommendations. Upon receipt of an application, the Director and the Office shall review each application and develop preliminary recommendations to be considered by the Commission. Incomplete applications shall not be submitted to the Commission for consideration. Prior to selecting projects for inclusion in the Program and making recommendations to the Legislature, the Commission shall allow for comments from the Sponsor, and receive the preliminary recommendations of the Director. After considering each application, the Commission shall vote on whether to include a project in the Program and either adopt, amend, or reject the Director's preliminary recommendations. Recommendations to the Legislature shall be made by placing Commission approved projects into one of the two draft Omnibus Water Bills (planning or construction). Projects shall not be considered a part of the Program until authorized and funded by the Legislature and Governor.

Section 8. Operating Criteria. Nothing in these rules shall preclude the Commission from establishing additional criteria for the evaluation and administration of projects pursuant to Wyo. Stat. Ann. § 41-2-121.

CHAPTER 1

GENERAL PROVISIONS

~~**Section 1. Wyoming Water Development Commission.** The Wyoming Water Development Commission was established by Section 41-2-117, W. S. 1977, as amended, and has the powers and duties established in other related legislation.~~

Section 2 1. Authority. These Rules are promulgated as authorized by the Wyoming Administrative Procedure Act, W. S. 16-3-101 to 16-3-115 and the provisions of law creating the Wyoming Water Development Commission, specifically, W.S. 41-2-118(a)(viii) and 41-2-119(a) and (b)(iv), which mandates the adoption of rules and regulations to implement the provisions of W.S. 41-1-106 through 41-1-108, 41-2-107 through 41-2-119 or other provisions of law subsequently enacted. The promulgation of these rules is authorized by Wyo. Stat. Ann. §§ 41-2-118 and 41-2-119.

Section 3 2. Officers. Officers of the Commission shall include a ~~chair~~ Chair, ~~vice Vice-chair~~ Vice-chair and a ~~secretary~~ Secretary, who shall be elected annually from among the membership of the Commission ~~at the first meeting and after the qualification of any newly appointed members.~~

Section 4 3. Definitions. The following definitions shall ~~prevail in~~ apply to these rules:

(a) “Commission” means the Wyoming Water Development Commission.

(b) “Chair” means the duly elected chair of the Wyoming Water Development Commission.

(c) “Director” means the director of the Wyoming Water Development Office.

(d) “Office” means the Wyoming Water Development Office.

(e) “Program” means the Wyoming Water Development Program.

(f) “Secretary” means the duly elected secretary of the Wyoming Water Development Commission.

(g) “Sponsor” means an organized public entity consisting of the project beneficiaries, including but not limited to: legal subdivisions of the State of Wyoming, irrigation districts, drainage districts, conservation districts, water conservancy districts, public irrigation and power districts, watershed improvement districts, improvement and service districts, water districts, water and sewer districts, joint powers boards, any public corporation legally organized for the purposes of the conservation, distribution or

utilization of water or soil, the joint business council of the Eastern Shoshone and Northern Arapaho Indian tribes, the business council of the Eastern Shoshone Indian tribe and the business council of the Northern Arapaho Indian tribe.

CHAPTER 2

MEETINGS

Section 1. Meetings. ~~The Commission shall, as provided by law, hold at least one meeting each quarter, which meetings shall~~ Meetings shall be called by the Chair, after consultation and coordination with the Director and other members of the Commission, ~~or. Special meetings may be called by the Chair, by a majority of members of the Commission, or at the direction of the Governor. All meetings shall be called and conducted in compliance with the Public Meetings Act (W.S. 16 4 401 through 16 4 408, as amended. Meetings may be conducted through electronic means.~~

Section 2. — Place of Meetings. ~~Unless otherwise designated in the call of a meeting, each meeting shall be held in Cheyenne, Wyoming.~~

Section 3. — Quorum and Manner of Acting. ~~Six members of the Commission shall constitute a quorum for transaction of business at any meeting of the Commission.~~

Section 42. Majority for Approval of Actions. A majority vote of the members of the Commission present at the meeting shall be required for approval of any actions of the Commission.

Section 53. Rules of Order. Any matter of procedure or conduct not specifically provided for by state law or by rules and regulations of the Commission shall be governed by Robert's Rules of Order Revised, Latest Edition.

CHAPTER 3

ADMINISTRATION

Section 1. Director. The Director serves at the pleasure of the Governor, is the chief executive officer to the Commission, administers the organization and operation of the ~~Wyoming Water Development~~ Office staff, and carries out the program of the Commission in its policies and at its meetings.

Section 2. Signing of Contracts. All contracts, agreements, memorandums of understanding, or other documents of the Commission shall be signed by the Chair and attested by the Secretary when authorized by the Commission, except that the Vice-Chair shall sign if the Chair is not available and an Acting Secretary may sign if the Secretary is not available. The Director, or his designee, may sign contracts if so authorized by the Commission.

CHAPTER 4

PUBLIC HEARINGS

Section 1. Holding of Hearings. Public hearings shall be held by the Commission, for any of the purposes provided in ~~W.S. Wyo.Stat. Ann. §§~~ 41-2-114 (b)(iii) and 41-2-115(a). Nothing contained in these rules shall be construed as prohibiting the Commission or the Director from holding informational ~~proceedings,~~ meetings, ~~public or workshops, or conferences~~ additional public hearings as authorized by statute, upon notice to the Commission ~~deemed to be necessary in the performance of their duties.~~

Section 2. Membership Present at Hearings. ~~Each public hearing required by the law should be attended by at least one member of the Commission, unless the Commission determines that a greater number should be present. One member of the~~ Any Commissioner present at a hearing shall serve as Commission shall be the presiding officer at such hearing. The Director, or his ~~designate,~~ designee, may shall serve as the presiding officer if ~~there are no Commissioners~~ no Commissioners are present. The Director, or his ~~designate(s)~~ designee, shall attend each hearing.

CHAPTER 5

PUBLIC RECORDS REQUESTS

~~Section 1. Right to Inspect and Copy Public Records. The public records of the Commission are open to inspection as provided by W.S. 16-4-201 through 16-4-205. Requests for access to the public records of the Commission must be made in writing to the Director by the person who has the right to inspect and copy the public records.~~

~~Section 2. Custody and Control of Public Records. All inspections, copies, printouts or photographs of the public records of the Commission shall be made while the records are in the possession, custody and control of the Director or his designee.~~

~~Section 3. Fees and Charges~~

~~(a) When practical, copies shall be made by Commission staff at the Commission's office. The following fees and charges shall apply for copies made by Commission staff at the Commission's office:~~

~~Photocopy Charges... \$0.50 per page for the first 10 pages and \$0.25 per page for each addition page. The minimum charge for photocopies is \$3.00~~

~~Employee Time.....Employee time shall be assessed at \$15.00 per hour for clerical time and \$30.00 per hour for professional time~~

~~Electronic Format.....Costs of producing a copy, costs of constructing the record, including costs of programming and computer service shall be assessed at \$40.00 per hour. If the request requires the use of other agencies' personnel, the requestor shall also pay the costs billed to the Commission from the outside agency.~~

~~(b) If it is impractical or the Commission does not have the staff or facilities available for making copies, printouts or photographs of the requested public records, the Director or his designee shall make arrangements for copies to be made by a commercial vendor. If a commercial vendor is used, the cost of providing copies as well as agency employee time shall be paid by the person desiring the copies, printouts or photographs of the records.~~

~~(c) Postage and handling, if necessary, will be assessed at the cost of the postage and mail cartons or packages.~~

Section 1. Incorporation by Reference. The Commission hereby incorporates by reference: Chapter 2 of the Department of Administration and Information Rule and Regulations: Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records. This incorporation by reference does not include any later amendments or editions of the incorporated rule beyond September

6, 2016. The Commission has determined that incorporation of the full text in these rules would be cumbersome and inefficient given the length and nature of the rules. The incorporated rule is maintained at 6920 Yellowtail Road, Cheyenne, WY 82009 and is available for public inspection and copying in accordance with this rule at the same location. The incorporated materials is available on the Commission's website: <http://wwdc.state.wy.us/>.

CHAPTER 6

GROUND WATER EXPLORATION GRANTS

Section 1. Applicability. These rules and regulations ~~and amendments thereto~~ shall govern ~~applications~~ application procedures for the groundwater grant program as established by ~~W.S.~~ Wyo. Stat. Ann. § 41-2-119.

Section 2. Application Procedures. Applications for funds available through this program shall be prepared and submitted to the Director which shall be forwarded to the Commission.

Section 3. Application Format.

(a) Part 1 – Statement of Problem. Applicant must demonstrate to the satisfaction of the Commission that additional sources of water are needed.

(b) Part 2 – Project Plan. Applicant must prepare and submit a specific and detailed plan of how funds will be spent if awarded. The plan shall include, but is not limited to:

(i) A detailed advance hydro-geologic feasibility study of the area where exploration is anticipated. If such a study is not available, then the costs of obtaining such a study must be included in the project budget.

(ii) A description of the intended exploration project.

(iii) A line item budget.

(iv) Required permits from State and/or Federal agencies to complete exploration.

(v) A statement of intent that the project work ~~will be performed in a manner acceptable to the Commission, including~~ shall:

(A) ~~The engagement of~~ Be supervised by a professional geologist (P.G.) licensed in the State of Wyoming. ~~for project supervision.~~

(B) ~~Conforming~~ Conform to all exploration drilling with the “State Water Well Minimum Construction Standards of the Wyoming State Engineer’s Office”, Part III, Rules and Regulations of the State Engineer’s Office; and constructing ~~and all public water supply (PWS) facilities according to standards contained in the~~ Water Quality Rules and Regulations of the Wyoming Department of Environmental Quality, ~~Chapter 12.~~

Section 4. State Engineer Review. The Commission shall submit the application to the State Engineer for review and request that the State Engineer provide an opinion regarding associated water rights issues.

Section 5. Acceptance of Application. Upon completion of the opinion by the State Engineer described in Section 4, the Commission shall review the application and take action thereon.

CHAPTER 7

WYOMING WATER DEVELOPMENT PROGRAM

Section 1. Purpose. The purpose of Chapter VII is to implement the Wyoming Water Development Program. The Program provides funding to Sponsors for the planning, design, and construction of water infrastructure projects necessary for the optimal development of the State's water resources.

Section 2. Eligible Applicants. Eligible applicants shall meet the definition of a Sponsor as defined in these rules, with the exception of Level I Reconnaissance studies and Level II Feasibility studies for Dams & Reservoirs. For Level I Reconnaissance studies and Level II Feasibility studies for Dams & Reservoirs, the Commission may consider applications from applicants that do not meet the definition of a Sponsor at the time of application, but who intend to qualify as a Sponsor by the completion of the Level I Reconnaissance study and/or Level II Feasibility study for Dams & Reservoirs. Exceptions to this section shall be approved by the Commission on a case by case basis based upon the completed application and the review and recommendation by the Office. The Commission may require reimbursement from these applicants for Level I Reconnaissance studies and/or Level II Feasibility studies for Dams & Reservoirs under Wyo. Stat. Ann. §41-2-112.

Section 3. Application Procedures. The Commission shall consider Program applications using the following process:

(a) Deadlines. Applicants shall submit completed new project applications to the Office no later than August 15th of each year. For projects previously accepted into the Program, applicants shall submit completed applications to move a project to the next level of the Program to the Office no later than October 1st of each year.

(b) New project applications shall include:

(i) A description of the project;

(ii) A description of any existing water systems;

(iii) A list of the applicant's past projects funded by the Commission;

(iv) Proposed project start date; if project is not "shovel ready," include additional steps that need to be taken before project can start and proposed time table

(v) Financial capabilities of the Sponsor or Applicant, including the annual budget for operation, maintenance, and replacement of the water supply system; the existing balance in any emergency funds and sinking funds for the water supply system; water rates, tap fees, and other revenue sources; and the amount of funding

obtained from other revenues for operation, maintenance and replacement of the water supply system; and

(vi) A certified original of a resolution in support of the project passed by the governing body of the Sponsor, or for applicants who do not meet the definition of a Sponsor at the time of application shall provide evidence of support for the applications by providing letters or petitions from interested water users.

(c) Applications for Projects previously accepted into the Program shall include:

(i) A description of the project;

(ii) A description of any existing water systems;

(iii) A list of the applicant's past projects funded by the Commission;

(iv) Financial capabilities of the Sponsor or Applicant, including the annual budget for operation, maintenance, and replacement of the water supply system; the existing balance in any emergency funds and sinking funds for the water supply system; water rates, tap fees, and other revenue sources; and the amount of funding obtained from other revenues for operation, maintenance and replacement of the water supply system; and

(v) Proposed project start date; if project is not "shovel ready," include additional steps that need to be taken before project can start and proposed time table

(d) In addition to the requirements outlined above, applications for Level III construction projects shall include the following information:

(i) A comprehensive financing plan for the project which includes a listing of all funding sources anticipated to be used by the applicant and a schedule showing when such funding sources shall become available;

(ii) A certified original of a resolution in support of the project passed by the governing body of the Sponsor;

Section 4. Application Fees. An initial application fee of one thousand dollars (\$1000.00) shall be submitted with each new project application. If the Commission denies the application, seventy-five percent (75%) of the fee shall be refunded to the Sponsor. For ongoing projects which have already been accepted into the Program, no additional fee is required upon the filing of subsequent applications to move a project to the next level in the schedule described in Wyo. Stat. Ann. § 41-2-114.

Section 5. General Program Priorities.

(a) Emphasizing multi-purpose water projects for maximum benefit and cost allocation;

(b) Maximizing the use of all existing information, data, reports and other materials in the execution of studies;

(c) Developing unappropriated water;

(d) Developing new storage capacity;

(e) Developing hydroelectric power; and

(f) Utilizing water not currently being beneficially used in Wyoming.

Section 6. Evaluation. The Commission shall evaluate applications by considering the following:

(a) Whether the Sponsor submitted a complete application;

(b) Information submitted in the project application;

(c) Whether the Sponsor is current on all repayment obligations to the State;

(d) General program priorities; and

(e) Whether the Sponsor completed the most recent Commission public water system survey or irrigation system survey.

(f) For construction projects, the Commission shall consider the following additional factors:

(i) Whether the Sponsor completed the necessary level of planning studies to adequately define the project scope, assess feasibility, evaluate alternatives, and determine probable costs;

(ii) Whether the Sponsor presented an adequate financial plan to fund the project;

(iii) Whether the Sponsor is prepared to establish an adequate operations and maintenance account;

(iv) Whether the Sponsor is ready to proceed with construction, implementation, and operations; and

(v) Whether the Sponsor is prepared to operate and maintain the project.

(g) For rehabilitation projects, the Commission shall also consider the Sponsor's

past efforts in adequately maintaining the project and whether the Sponsor has an existing maintenance account.

Section 7. Commission Recommendations. Upon receipt of an application, the Director and the Office shall review each application and develop preliminary recommendations to be considered by the Commission. Incomplete applications shall not be submitted to the Commission for consideration. Prior to selecting projects for inclusion in the Program and making recommendations to the Legislature, the Commission shall allow for comments from the Sponsor, and receive the preliminary recommendations of the Director. After considering each application, the Commission shall vote on whether to include a project in the Program and either adopt, amend, or reject the Director's preliminary recommendations. Recommendations to the Legislature shall be made by placing Commission approved projects into one of the two draft Omnibus Water Bills (planning or construction). Projects shall not be considered a part of the Program until authorized and funded by the Legislature and Governor.

Section 8. Operating Criteria. Nothing in these rules shall preclude the Commission from establishing additional criteria for the evaluation and administration of projects pursuant to Wyo. Stat. Ann. § 41-2-121.