



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* Water Development Commission		
b. Agency/Board Address 6920 Yellowtail Road	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Harry LaBonde or Katie Talbott	f. Agency Liaison Telephone Number 307-777-7626	
g. Agency Liaison Email Address harry.labonde@wyo.gov OR katie.talbott@wyo.gov		
h. Date of Public Notice March 26, 2017	i. Comment Period End Date May 15, 2018	
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.		

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: **HEA 0025 2017**

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 checked="" type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
8	Delegation of Duties	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 Repealed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 Repealed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 Repealed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 Repealed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:

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:
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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: 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):

(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>	Katie Talbott
<i>Title of Authorized Individual</i>	Outreach Coordinator, Water Development Office
<i>Date of Authorization</i>	March 21, 2018



WYOMING WATER DEVELOPMENT OFFICE

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Cheyenne, WY 82002

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wwdc.state.wy.us

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Governor

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Nick Bettas	Kellen K. Lancaster
Karen Budd-Falen	Sheridan Little
David Evans	Jeanette Sekan
Gerald E. Geis	Larry Suchor
Clinton W. Glick	Rodney Wagner

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

Date: March 15, 2018

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) has the authority and obligation to 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 the following:

“Recommendation 4.6: The Legislature could consider more explicit and/or different specifications in statute, to reflect the desired governance and oversight relationship between the Commission and Office for the Program and other water development responsibilities.”

“Recommendation 4.7: The Commission could consider a set of internal policies to clarify the specific duties and responsibilities of the Commission, commissioners, and Office in relation to one another for the administration of the Program, as provided for in statute.”

In response to these recommendations, the Legislature passed 2017 HEA 0025, which provides the WWDC the authority to delegate administrative duties to the WWDO through rule and regulation. On January 11, 2018, the WWDC considered a proposed new Chapter 8 concerning the delegation of administrative duties and directed the WWDO to proceed with rulemaking. The new chapter delineates the specific duties to be delegated to the WWDO, including, but not limited to, the administration of:

- Reconnaissance and feasibility studies;
- Construction projects;
- WWDC-controlled facilities;
- The ground water grants program;
- The small water project program; and
- Reservoir operation and maintenance accounts.

CHAPTER 8 DELEGATION OF DUTIES

Section 1. Applicability. These rules and regulations shall establish the specific administrative duties delegated by the Commission to the Office as authorized by Wyo. Stat. Ann. § 41-2-118 (a)(xvi).

Section 2. Purpose. In order for the Commission to facilitate the effective operation of the Program it is necessary to delegate certain administrative duties to the Office.

Section 3. Delegation of Duties. The Commission delegates the following administrative duties to the Office and the Office shall provide periodic progress reports to the Commission:

(a) Consult with and receive the views of persons, local groups, and organizations representing water users, special interests, industries and the public interest, and acquire data and information relating to water, water use, water conservation, and water quality from agencies, departments and other sources in the formulation of water resource plans to be adopted by the Commission;

(b) Coordinate water resource plans with other governmental agencies and departments;

(c) Administer federal or other sources of funding for water and land resource planning;

(d) Develop and provide recommendations to the Commission pertaining to the planning, selection, financing, identification of costs and benefits, construction, acquisition and operation of projects and facilities;

(e) Administer and provide the primary point of contact for all Level I reconnaissance studies and Level II feasibility studies;

(f) Administer and provide the primary point of contact for all Level III construction grants and loans;

(g) Plan, advertise and conduct public hearings, public meetings, public workshops to consult and receive views of interested persons for studies and projects authorized by the Commission;

(h) Operate and maintain facilities under the control of the Commission;

(i) Receive contributions from any legal subdivision of the state, tribal business council of the Eastern Shoshone or Northern Arapaho Indian tribes, private corporation or person

for the operation, management and maintenance of any project or any interest in any facility or function of a project;

(j) Receive and acquire data relating to water, water use and water quality from any source as it relates to a project or study;

(k) Review and acquire additional information and provide recommendations to the Commission regarding all applications for funding;

(l) Report Commission findings and recommendations in the form of the Omnibus Water Bill – Planning and Omnibus Water Bill – Construction to the Governor and Legislature;

(m) Develop, produce and distribute an annual report on the Program's activities, expenses, Commission-approved recommendations and other items to the Governor, Legislature, Joint Agriculture, State and Public Lands and Water Resources Interim Committee, and Joint Appropriations Committee;

(n) Deposit all funding application fees into water development account I;

(o) When assigned by the Commission, represent or advocate the State's interests in negotiations and construction of water projects;

(p) Administer contracts and agreements with the United States of America or its duly authorized representative agencies;

(q) Administer grants for the exploration for and feasibility studies of use of underground water;

(r) In the Level I planning process, notify landowners whose lands may be flooded or otherwise physically affected by a proposed water development project;

(s) In the Level II planning process, consult with and provide copies of studies to landowners whose lands may be flooded or otherwise physically affected by a proposed water development project;

(t) In proceeding with Level III construction projects and upon direction by the Commission, negotiate in good faith with affected landowners and follow the requirements of the Wyoming Eminent Domain Act;

(u) File applications in the name of the State of Wyoming for permits to appropriate water for instream flows in those segments of streams recommended by the Game and Fish Commission;

(v) Administer instream flow feasibility studies and report findings to the Game and Fish Commission and Legislature;

(w) On behalf of the Commission, request a call for stream regulation to protect the priority of an instream flow water right;

(x) Administer Level III construction projects including, but not limited to, the performance of the following duties:

- (i) Establish repayment schedules for project loans;
- (ii) Receive sponsor loan payments for project loans;
- (iii) Review and approve appropriate funding levels for sinking funds for repair and maintenance of projects;
- (iv) Review and approve construction budgets, construction plans and specifications;
- (v) Review necessary permits required to construct projects;
- (vi) Review and approve sponsor contracts for design and construction phase services;
- (vii) Review, approve and process sponsor requests for payment of grant and loan funds; and
- (viii) Serve as the Commission's representative on projects;

(y) Administer the small water project program including, but not limited to, the performance of the following duties:

- (i) Review project applications and provide funding recommendations to the Commission;
- (ii) Review and approve construction budgets, plans and specifications;
- (iii) Monitor sponsor compliance with project agreements; and
- (iv) Review, approve and process sponsor requests for payment of grant funds;

(z) Administer reservoir operation and maintenance accounts, deposit all revenue derived from the lease or sale of water from these reservoirs into the appropriate accounts, and pay required loan, operation, maintenance, replacement and other contract obligations from these accounts;

(aa) Annually report to the Joint Agriculture, State and Public Lands and Water Resources Interim Committee and Joint Appropriations Committee any reservoir operation and maintenance account funds determined by the Commission to be in excess of the amount needed

to meet the obligations of the accounts and, if approved by the Legislature, deposit excess funds into the designated water development account.

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