

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 Addres	S	c. City		d. Zip Code			
e. Name of Agency Liaison		f. Agency Liaison Telephone Number					
g. Agency Liaison Email	g. Agency Liaison Email Address						
h. Date of Public Notice		i. Comment Period End Date					
j. Public Comment URL or Email Address:							
k. Program							
	x, the agency is indicating it is exempt from certain sections of the	Administrative Procedure Act includ	ing public com	ment period requiren	nents. Please contact		
the agency for details regar 2. Legislative Enact	<i>ding these rules.</i> E tment For purposes of this Section 2, "new" only applies	to regular rules promulgated in r	esponse to a	a Wyoming legislat	ive enactment not		
	whole or in part by prior rulemaking and does not include r	· ·	•	, , ,			
a. Are these rules new a	s per the above description and the definition of "new" in C	hapter 1 of the Rules on Rules?					
No.	Yes. Please provide the Enrolled Act Numbers and Years	Enacted:					
3. Rule Type and li							
	lumber, Title, and Proposed Action for Each Chapter. Il Rule Information form for more than 10 chapters, and attach it to	this certification					
Chapter Number:	Chapter Name:		New	Amended	Repealed		
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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 intere			•	action 1 above		
By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.						
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 Requirem	<u>ents</u>					
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 Reg	ulation Citation:					
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						
	ge <i>MEETS</i> minimum substa ge <i>EXCEEDS</i> minimum sul			tach 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 rule	S:					
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, <i>Types of Rules Filings</i> , Section 1, Proposed Rules, of the Rules on Rules).						
8. Authorization						
a. I certify that the foregoing information is correct.						
Printed Name of Authorized Individual						
Title of Authorized Individual						
Date of Authorization						



Matthew H. Mead, *Governor* Doug Miyamoto, *Director* 2219 Carey Ave. • Cheyenne, WY 82002 Phone: (307) 777-7321 • Fax: (307) 777-6593 Web: agriculture.wy.gov • Email: wda1@wyo.gov

The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

Principle Statement of Reasons

The Department of Agriculture is proposing new Chapter 58 rules for commodity certification, as provided for under Wyoming Statute § 11-43-101. The proposed rule will increase the cost of some services provided to customers. The current fees charged by the Department were established over 30 years ago, through an agreement between the Department and the regulated industry, as provided for under the requirements of the U.S. Federal Grain Inspection Service (FGIS). Due to increased activity in certain services over the past 5 years, and in consultation with the Federal Grain Inspection Service, the Department has evaluated the costs of services provided. Based on that review, the Department is proposing to adjust the fees assessed to adequately represent the time and expense involved in providing these services. The proposed fees have been reviewed by our partners at the Federal Grain Inspection Service and have been found to meet their requirements for a fee increase.

 Equal Opportunity in Employment and Services

 BOARD MEMBERS

 Jana Ginter, District 1
 • James Rogers, District 2
 • Shaun Sims, District 3
 • Amanda Hulet, District 4
 • Mike Riley, District 5

 Bryan Brost, District 6
 • Kevin Schieffer., District 7

YOUTH BOARD MEMBERS

Chapter 58

Commodity Certification Regulations

Section 1. Authority.

Pursuant to authority vested in the Wyoming Department of Agriculture (WDA) by Wyoming Statute § 11-43-101 the following regulations are hereby promulgated and adopted.

Section 2. Purpose of rules.

These rules pertain to the sampling and grading of commodities covered under the United States Agricultural Marketing Act (AMA) and associated costs to cover the cost of administering an inspection program.

Section 3. Definitions.

(a) "Licensed Inspector" means an employee of the WDA who is licensed by FGIS to inspect and grade AMA commodities in accordance with United States Department of Agriculture (USDA) standards.

(b) "Licensed Sampler" means an employee of the Wyoming Department of Agriculture who is licensed by FGIS to sample and perform all other associated activities (excluding grading) pertaining to the shipment of AMA commodities in accordance with USDA standards.

(c) "Official Sample" means a sample collected by a licensed inspector or licensed sampler.

(d) "Submitted sample" means a sample submitted for grading that was not collected by a licensed inspector or licensed sampler.

(e) "FGIS" means Federal Grain Inspection Service.

(f) "Condition of Container" means the process of inspection of a shipping container and/or carrier, by a licensed inspector, to determine its suitability for the sanitary transportation of a commodity.

(g) "Check Counting" means the process of determining the total number of filled containers in a lot in order to determine that the number of containers shown by an applicant is correct and certifying the results.

(h) "Check Weighing" means the process of weighing a selected number of random containers from a lot, determining the estimated total gross, tare and net weight or the estimated average gross or net weight per filled container and certifying the results.

(i) "Check Loading" means the process of counting individual sacks, cartons, totes, etc. by a licensed inspector as per FGIS standards to ensure the amount loaded and that the shipping container/carrier remains suitable to receive the commodity and that the condition of the commodity being loaded does not change.

(j) "Sanitation Inspection" means a physical walk through and inspection by a licensed inspector of a plant, mill, storage building, etc. including all associated outside areas to ensure that the facility and processed products are handled and stored in a sanitary manner.

(k) "Grade Certificate" means an official certificate issued by a licensed inspector for an official or submitted sample.

(1) "Normal working hours" means Monday through Friday, 8 am - 5 pm, excluding holidays observed by the State Of Wyoming.

(m) "Overtime hours" means any time other than normal working hours.

Section 4. Fees.

(a) \$10.00 for each condition of container check weighing or check loading inspections.

(b) \$20.00 for each official sample and sanitation inspection.

(c) \$50.00 for each grade certificate.

(d) Mileage and hourly rates will not be charged for activities performed during normal working hours.

(e) Mileage and hourly rates for overtime hours will be charged as follows:

(i) Mileage will be charged in accordance with W.S. § Ann. 9-3-103.

(ii) Hourly rates will be charged at \$35.00 per hour for all travel and inspection times in addition to mileage and normal fees.

(iii) Hourly rates shall be charged and billed only in whole hour increments.

(f) All fees shall be billed annually on June 30.

(g) The WDA may send a monthly activity sheet to each customer that has requested services, identifying what services were performed and showing the current outstanding portion of any bill that a customer may have. A customer may choose to pay off any outstanding portion of any bill prior to the annual billing date.

(h) Failure to pay the WDA within 90 days of the annual billing date may result in the WDA denying service until all fees for services are remitted.

(i) All fees include any FGIS user fees, postage and shipping as required.

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