



Notice of Intent to Adopt Rules

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

Revised May 2018

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 Chapter Numbers and Years Enacted
(eg: 2015 Session Laws Chapter 154):

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 Repealed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 Repealed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 Repealed
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 Repealed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 Repealed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 Repealed
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 Repealed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 Repealed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: _____

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:
--

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>	



Wyoming Secretary of State

Edward A. Buchanan
Secretary of State

Karen L. Wheeler
Deputy Secretary of State

Statement of Reasons

In an effort to consolidate and simplify rules as they pertain to business entities, the Secretary of State's Office is repealing the following rules pertaining to the Statutory Trust Act:

- Chapter 1: General Provisions;
- Chapter 2: Statutory Trust Company Names;
- Chapter 3: Foreign Statutory Trust Company; and
- Chapter 4: Continuance of Foreign Statutory Trust Company

Relevant sections of the repealed chapters will appear in the new rules program, titled Business Entities, in one of the four new chapters of rules.

CHAPTER 1
General Provisions

Repealed.

CHAPTER 1

General Provisions

~~Section 1. **Authority.** The Secretary of State, pursuant to W.S. 17-23-117, is authorized to promulgate rules and regulations to implement the Wyoming Statutory Trust Act.~~

~~Section 2. **Purpose.** These rules are adopted to promote the uniform administration of the Wyoming Statutory Trust Act.~~

~~Section 3. **Definitions.**~~

~~(a) "Authorized" is defined as being officially registered with the Secretary of State.~~

~~(b) "Deceptively Similar" means a proposed business name, trademark or service mark which is similar in appearance to, similar in sound to, or most pertinent words are the same as, an authorized trademark or service mark.~~

~~(c) "Distinguishable upon the records" is defined in W.S. 17-16-401(f).~~

~~(d) "Duplicating charges" are set in W.S. 9-1-305 and all duplicating charges which are left to the discretion of the Secretary of State are, by these rules, set at that same rate. Charges for electronic data are established by the Secretary of State based on the type of electronic transfer requested.~~

~~(e) "Five days" means five (5) business days.~~

~~(f) "Written notice" means delivery by standard United States mail unless otherwise noted in the statute or rules. The Secretary of State may send notice by a more expedited or secure method such as priority mail, certified mail or express delivery service.~~

~~Section 4. **Filing Requirements.**~~

~~(a) Documents shall contain the information required by the Wyoming Statutory Trust Act W.S. 17-23-101 through 17-23-302.~~

~~(b) The document shall be in the English language. A limited liability company name need not be in English if it is written in English letters, Arabic, or Roman numerals and if it is accompanied by an English translation acceptable to the Secretary of State.~~

~~(c) Domestic and foreign statutory trusts shall be in good standing before amendments, dissolutions, mergers and withdrawals can be filed by the Secretary of State.~~

~~Section 5. Fees Not Established in W.S. 17-23-101 through 17-23-302~~

~~(a) For Domestic Statutory Trust Companies:~~

- ~~(i) Certificate of Trust \$100.00~~
- ~~(ii) Certificate of Amendment \$ 25.00~~
- ~~(iii) Certificate of Cancellation \$ 25.00~~
- ~~(iv) Certificate of Merger or Consolidation \$ 25.00~~

~~(b) For Foreign Statutory Trust Companies:~~

- ~~(i) Application for Certificate of Authority \$100.00~~
- ~~(ii) Application for Amended Certificate of Authority \$ 25.00~~
- ~~(iii) Application for Certificate of Withdrawal \$ 25.00~~
- ~~(iv) Continuation of Foreign Statutory Trust \$100.00~~

~~(c) For both Domestic and Foreign Statutory Trusts:~~

- ~~(i) Reserved Name \$ 25.00~~
- ~~(ii) Certificate of Existence \$ 10.00~~

CHAPTER 2
Statutory Trust Company Names

Repealed.

CHAPTER 2
Statutory Trust Company Names

Section 1. Statutory Trust Company Name.

(a) A proposed business entity name shall not be the same as or deceptively similar to any trademark or service mark registered in this state and shall be distinguishable upon the records of the Secretary of State from other business names as provided in W.S. 17-16-401 and as determined by the Secretary of State.

(b) The use of statutory trust company names shall be restricted in the following manner:

(i) No person or entity shall organize under a name using any of the terms "bank," "banker," "bancorp," "bancorporation," "banc," "banque," "banquers," "banco," "banca," or words of similar import, whether in English or a foreign language, until they have fully complied with W.S. 1977-13-1-101 et seq., the banking laws of a United States jurisdiction, the Federal Bank Holding Act of 1956 (12 USC 1841), or the federal Homeowners Loan Act (12 U.S.C. 1461 et seq.). If good reason is shown for the use of the words "bancorp" or "bancorporation," the Secretary of State may at her discretion allow the use of the word(s), e.g., subsidiaries using parent company's name and parent company is regulated. If a proposed statutory trust company name uses any of the terms outlined in this subparagraph in a way which is clearly not related to banking, or any other financial endeavor, this subparagraph does not apply. (For example, "Wyoming Blood Bank".)

(ii) The name must not imply that the statutory trust company name is a degree granting institution of higher learning until verifying that it is licensed by the Department of Education. If the Department of Education requires licensing and the company is not licensed, then the Secretary of State shall refuse to file the documents until licensing is completed. This rule does not apply to institutions of higher learning which are exempt from licensing under the Department of Education's statutes or rules or to non-educational entities such as "University Bookstore, Inc."

(iii) Any statutory trust name in which the word "statutory" does not immediately precede the word "trust" will be rejected by the Secretary of State. A statutory trust name need not include the words "statutory trust".

Section 2. Procedure if Filing Rejected.

(a) If a filing officer rejects a proposed business name or an application for reservation of business name because it is the same as, or deceptively similar to any trademark or service mark currently authorized or not distinguishable upon the records of the Secretary of State from another business name currently authorized, the filing officer shall notify the applicant within five days after the filing is delivered, that the filing is rejected with a brief, written explanation of the reason.

(b) Within five days of delivery of notice of rejection, the applicant may appeal the decision to the Secretary of State. Such a request must be in writing and should include information as to why the appeal should be granted. Within five days of delivery of the appeal request, the Secretary of State shall notify the business entity which holds the currently authorized name that an appeal has been filed. The authorized business entity shall be notified that it may present information as to why the appeal should/should not be granted. If the authorized business entity chooses to provide information, it shall do so within five days of delivery of notice of the appeal request.

~~(e) Within five days after all information is to be submitted, the Secretary of State shall issue a final decision regarding the appeal. All parties shall be notified of the decision by certified letter.~~

~~(d) This procedure shall be informal and shall not be a contested case proceeding. Any final decision may be appealed to the appropriate District Court pursuant to the Wyoming Administrative Procedure Act. If the procedure in this Section is invoked, the thirty day appeal time provided in W.S. 16-3-114 and Rule 12.04 of the Wyoming Rules of Appellate Procedure, does not begin to run until the Secretary of State issues a final decision letter as described in paragraph (e) above.~~

CHAPTER 3
Foreign Statutory Trust Company

Repealed.

CHAPTER 3

Foreign Statutory Trust Company

~~Section 1. **Name of Foreign Statutory Trust Company.** Chapter 2, Sections 1 through 2 apply to a foreign statutory trust company name and a fictitious name.~~

~~Section 2. **Foreign Statutory Trust Company Transacting Business in Wyoming.** To the extent not inconsistent with the Wyoming Statutory Trust Act, W.S. 17-23-101 through 17-23-302, a statutory trust company organized in another jurisdiction may do business in Wyoming by complying with the Wyoming Business Corporation Act W.S. 17-16-1501 through 17-16-1510, 17-16-1520 and 17-16-1530 through 17-16-1532.~~

~~Section 3. **Transacting Business Without Authority.** Whenever the Secretary of State is notified that a statutory trust company is transacting business without authority, the Secretary of State shall take action to determine how long the company has been doing business without a certificate of authority. Notice will then be sent to the statutory trust company as to taxes, fees, interest and penalties due based on this determination. If the foreign statutory trust company disagrees, it must notify the Secretary of State within 10 days advising why the taxes, fees, interest and penalties are not due. The Secretary of State shall then make a final ruling. Any final decision may be appealed to the appropriate District Court pursuant to the Wyoming Administrative Procedure Act.~~

~~Section 4. **Fees.** A foreign statutory trust company organized in another state or country doing business in Wyoming shall pay the annual fee as set forth in W.S. 17-23-117(c) and the appropriate fees as set forth in Chapter 1, Section 6.~~

~~Section 5. **Reinstatement of Foreign Statutory Trust Company.** A foreign statutory trust company reinstating after failure to pay the annual fee set forth in W.S. 17-23-111 shall submit a certificate of existence dated within sixty (60) days prior to filing in the Secretary of State's office and shall comply with the requirements set forth in W. S. 17-23-111.~~

CHAPTER 4

Continuance of Foreign Statutory Trust Company

Repealed.

CHAPTER 4

Continuance of Foreign Statutory Trust Company

Section 1. ~~General Provisions.~~

(a) ~~The applicant shall provide a document from an official of the foreign jurisdiction acknowledging termination of the domicile.~~

(b) ~~The applicant shall provide a copy of the company resolution authorizing continuance of the statutory trust company into Wyoming.~~

(c) ~~The application for continuance shall be accompanied by its original certificate of trust and all amendments thereto currently certified (within the last six (6) months) by the proper officer of the state or nation of formation.~~