



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules *(After completing all of Sections 1 through 3, proceed to Section 5 below)*

Regular Rules

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. Adoption Date	
i. Program		

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 Repealed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 Repealed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 Repealed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 Repealed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 Repealed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 Repealed

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **02.15.2019**

- approved as to form by the **Registrar of Rules**; and
- provided to the **Legislative Service Office** and **Attorney General**:

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

c. If applicable, describe the **emergency** which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

5. Final Filing of Rules

a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**: **04.17.2019**

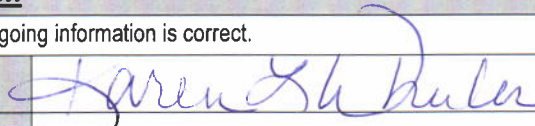
b. Date on which final rules were approved as to form by the **Secretary of State** and sent to the Legislative Service Office: **04.17.2019**

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual



Printed Name of Signatory

Karen L Wheeler

Signatory Title

Deputy Secretary of State

Date of Signature

04.17.2019

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature

Date of Signature



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 creating a new rule program, titled "Business Entities," containing the following new chapters:

- Chapter 1: General Provisions;
- Chapter 2: Business Entity Names;
- Chapter 3: Foreign Business Entities; and
- Chapter 4: Annual Reports.

Content of the new chapters of rules is similar to content being repealed in the following rule programs/topics:

- Corporations, Business – Repealing Ch. 1-8;
- Limited Liability Act – Repealing Ch. 1-5, Ch. 6 will remain;
- NonProfit Corporation Act – Repealing Ch. 1-6;
- Processing Cooperative Act – Repealing Ch. 1-3;
- Statutory Trust Act – Repealing Ch. 1-4; and
- Trade Names and Limited Partnership Names – Repealing Ch. 1-2.



Wyoming Secretary of State

Edward A. Buchanan
Secretary of State

Karen L. Wheeler
Deputy Secretary of State

FROM: Lisa Gonzales, Business Division Director

DATE: April 17, 2019

SUBJECT: Final Rules: Summary of Public Comment – Business Entities

In an effort to consolidate and simplify rules as they pertain to business entities, the Secretary of State's Office is creating a new rule program, titled "Business Entities," containing the following new chapters:

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- Limited Liability Act – Repealing Ch. 1-5, Ch. 6 will remain;
- NonProfit Corporation Act – Repealing Ch. 1-6;
- Processing Cooperative Act – Repealing Ch. 1-3;
- Statutory Trust Act – Repealing Ch. 1-4; and
- Trade Names and Limited Partnership Names – Repealing Ch. 1-2.

The public comment period began February 15, 2019 and concluded on April 8, 2019. No public comments were received during the formal public comment period stated above.

Chapter 1

General Provisions

Section 1. Authority and Purpose. The secretary of state is adopting these rules to promote uniform administration of Wyoming Statutes as they pertain to business entity filings. The secretary of state is authorized to promulgate rules pursuant to:

- (a) W.S. 17-16-122 and W.S. 17-16-130: Wyoming Business Corporation Act;
- (b) W.S. 17-29-210(iv) and W.S. 17-29-1102: Wyoming Limited Liability Company Act;
- (c) W.S. 17-19-122 and W.S. 17-19-130: Wyoming Nonprofit Corporation Act;
- (d) W.S. 17-10-203: Processing Cooperative Act; and
- (e) W.S. 17-23-117: Wyoming Statutory Trust Act.

Section 2. Definitions.

- (a) “Authorized” is defined as being officially registered with the secretary of state.
- (b) “Deceptively Similar” means a proposed business name, trade 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, trade name or service mark.
- (c) “Duplicating charges” are set at the same rate as noted in W.S. 9-1-305.
- (d) “Fifteen days” means fifteen (15) business days.
- (e) “Five days” means five (5) business days.
- (f) “Forty-five days” means forty-five (45) calendar days.
- (g) “Mailbox location” means any place used primarily to receive, store or forward mail, such as a post office box location or a private business with similar function.
- (h) “Principal address,” “principal business address,” and “principal office address” means the primary location where business activities are performed and business records are kept, and is not a mailbox location.
- (i) “Ten days” means ten (10) business days.
- (j) “Twenty days” means twenty (20) calendar days.

(k) "Sixty days" means sixty (60) calendar days.

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

Section 3. Filing Requirements.

(a) Domestic and foreign business entities shall be in active status and in good standing before statutorily authorized amendments, dissolutions, mergers, withdrawals, and transfers can be filed by the secretary of state.

(b) The document shall be in the English language. The business name need not be in English if it is written in English alphanumeric characters and punctuation, Arabic or Roman numerals.

(c) The secretary of state may void the filing of a document as of the date of filing and remove it from the records if:

(i) The fee for the document was paid by an instrument or credit card payment that was dishonored when presented to the state for payment; and

(ii) The business entity fails to pay the fee, plus any additional processing charge authorized by law within ten (10) days of notice.

Section 4. Filing Fees Not Established in Statute.

(a) Wyoming Business Corporation Act, W.S. 17-16-101 through 17-16-1803:

Any Filing Except for Initial or Annual Report Filings	\$50.00
Certificates of Existence/Evidence/Good Standing	\$10.00

(b) Wyoming Limited Liability Company Act, W.S. 17-29-210:

Articles of Domestication/Articles of Continuance	\$100.00
Certificates of Existence/Evidence/Good Standing	\$10.00
All Other Amendments	\$50.00

(c) Wyoming Nonprofit Corporation Act, W.S. 17-19-122:

Domestic Articles of Correction or Dissolution	\$10.00
Domestic Restated Articles and Articles of Amendment	\$3.00
All Foreign Amendments	\$10.00
Certificates of Existence/Evidence/Good Standing	\$3.00

(d) Processing Cooperative Act:

Articles of Organization and Certificate of Authority	\$100.00
Certificates of Existence/Evidence/Good Standing	\$10.00
Reinstatement for Tax	\$50.00
Reinstatement for Registered Agent Plus Penalty	\$150.00
Any Other Amendment	\$50.00

NOTE: Annual license tax is prescribed by W.S. 17-16-1630.

(e) Wyoming Statutory Trust Act, W.S. 17-23-101 through 17-23-302:

Certificate of Trust/Certificate of Authority	\$100.00
Certificates of Existence/Evidence/Good Standing	\$10.00
Certificate of Amendment/Amended Certificate of Authority	\$50.00
Certificate of Cancellation/Certificate of Withdrawal	\$50.00
Certificate of Merger or Consolidation (Both Domestic and Foreign)	\$50.00
Reserved Name	\$50.00
Conversion (Both Domestic and Foreign)	\$100.00
Continuation of a Foreign Statutory Trust	\$100.00

Section 5. Courtesy Notice to Business Entities Not Registered. Whenever the secretary of state is notified that a business entity, whether domestic or foreign, is transacting business without appropriate registration, the secretary of state shall take action to determine how long the company has been doing business without appropriate registration. Notice shall be sent to the business entity as to taxes, fees, interest and penalties due based on this determination. If the business entity disagrees, it must notify the secretary of state within ten (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. If the procedure in this Section is invoked, the thirty (30) day appeal time provided in Rule 12.04 of the Wyoming Rules of Appellate Procedure and the judicial review addressed in W.S. 16-3-114, does not begin to run until the secretary of state issues a final decision letter.

Chapter 1
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<u>Any Filing Except for Initial or Annual Report Filings</u>	<u>\$50.00</u>
<u>Certificates of Existence/Evidence/Good Standing</u>	<u>\$10.00</u>

(b) Wyoming Limited Liability Company Act, W.S. 17-29-210:

<u>Articles of Domestication/Articles of Continuance</u>	<u>\$100.00</u>
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<u>All Other Amendments</u>	<u>\$50.00</u>

(c) Wyoming Nonprofit Corporation Act, W.S. 17-19-122:

<u>Domestic Articles of Correction or Dissolution</u>	<u>\$10.00</u>
<u>Domestic Restated Articles and Articles of Amendment</u>	<u>\$3.00</u>
<u>All Foreign Amendments</u>	<u>\$10.00</u>
<u>Certificates of Existence/Evidence/Good Standing</u>	<u>\$3.00</u>

(d) Processing Cooperative Act:

<u>Articles of Organization and Certificate of Authority</u>	<u>\$100.00</u>
<u>Certificates of Existence/Evidence/Good Standing</u>	<u>\$10.00</u>
<u>Reinstatement for Tax</u>	<u>\$50.00</u>
<u>Reinstatement for Registered Agent Plus Penalty</u>	<u>\$150.00</u>
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NOTE: Annual license tax is prescribed by W.S. 17-16-1630.

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<u>Certificate of Trust/Certificate of Authority</u>	<u>\$100.00</u>
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<u>Certificate of Cancellation/Certificate of Withdrawal</u>	<u>\$50.00</u>
<u>Certificate of Merger or Consolidation (Both Domestic and Foreign)</u>	<u>\$50.00</u>
<u>Reserved Name</u>	<u>\$50.00</u>
<u>Conversion (Both Domestic and Foreign)</u>	<u>\$100.00</u>
<u>Continuation of a Foreign Statutory Trust</u>	<u>\$100.00</u>

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Chapter 2 Business Entity Names

Section 1. Business Entity Names Restricted Use.

(a) A proposed business entity name, whether domestic, foreign or fictitious name, shall not be the same as or deceptively similar to any trade name, 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 business entity names shall be restricted in the following manner:

(i) No person or entity shall incorporate under a name using any of the terms “bank,” “banker,” “bancorp,” “bancorporation,” “banc,” “banque,” “banquers,” “banco,” “banca,” or similar words, whether in English or a foreign language, until they have fully complied with W.S. 13-1-101 et seq., the banking laws of a United States jurisdiction, the federal Bank Holding Company Act of 1956 (12 U.S.C. § 1841), or the federal Home Owners’ 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 their discretion allow the use of the word(s), e.g., subsidiaries using parent company’s name and parent company is regulated.

(ii) The secretary of state shall not register a business entity name including the term “trust” until notifying the Department of Audit and receiving written confirmation that the business entity is a financial institution and has complied with Title 13 of the Wyoming Statutes. 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.”

(iii) The secretary of state shall not register a business entity name which implies it 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 business entity is not licensed, then the secretary of state shall refuse to file the documents until licensing is completed.

Section 2. Name Availability for Revocation of Dissolution. For profit and nonprofit entities only and as per W.S. 17-16-1404, the secretary of state shall file Articles of Revocation of Dissolution unless the corporation's name becomes unavailable during the statutorily allotted time of one hundred-twenty (120) days. Corporations may list an alternative name to use in the event of name unavailability in Articles of Revocation of Dissolution. If the name is unavailable and no alternative name is provided, the Secretary of State shall give written notice to the dissolved corporation of the rejection of the filing.

Section 3. Procedure If Filing Is Rejected.

(a) If a filing officer rejects a proposed business entity name because it is the same as, or deceptively similar to a currently authorized trademark or service mark on file or not distinguishable upon the records of the secretary of state from a trade name on file, the proposed user may show proof that the user is the owner of that trademark, service mark or trade name and that the user proposes to use that mark or that trade name as the name of the business entity.

(b) If a filing officer rejects a proposed business entity name or an application for reservation of a business entity 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 entity name currently authorized, the filing officer shall notify the applicant within fifteen (15) days after the filing is delivered, that the filing is rejected with a brief, written explanation of the reason.

(c) Within five (5) 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 (5) days after 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 (5) days of delivery of notice of the appeal request.

(d) Within five (5) 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.

(e) 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 (30) day appeal time provided in Rule 12.04 of the Wyoming Rules of Appellate Procedure and the judicial review addressed in W.S. 16-3-114, does not begin to run until the secretary of state issues a final decision letter as described in paragraph (d) above.

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(b) The use of business entity names shall be restricted in the following manner:

(i) No person or entity shall incorporate under a name using any of the terms “bank,” “banker,” “bancorp,” “bancorporation,” “banc,” “banque,” “banquers,” “banco,” “banca,” or similar words, whether in English or a foreign language, until they have fully complied with W.S. 13-1-101 et seq., the banking laws of a United States jurisdiction, the federal Bank Holding Company Act of 1956 (12 U.S.C. § 1841), or the federal Home Owners’ 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 their discretion allow the use of the word(s), e.g., subsidiaries using parent company’s name and parent company is regulated.

(ii) The secretary of state shall not register a business entity name including the term “trust” until notifying the Department of Audit and receiving written confirmation that the business entity is a financial institution and has complied with Title 13 of the Wyoming Statutes. 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.”

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(c) Within five (5) 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 (5) days after 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 (5) days of delivery of notice of the appeal request.

(d) Within five (5) 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.

(e) 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 (30) day appeal time provided in Rule 12.04 of the Wyoming Rules of Appellate Procedure and the judicial review addressed in W.S. 16-3-114, does not begin to run until the secretary of state issues a final decision letter as described in paragraph (d) above.

Chapter 3

Foreign Business Entities

Section 1. Reinstatements. A foreign business entity reinstating after failure to pay the annual fees and/or failure to maintain a registered agent, shall submit a certificate of existence/evidence/good standing dated within sixty (60) days prior to filing in the Secretary of State's Office.

Section 2. Merger. Whenever a foreign business entity authorized to transact business in this state is party to a statutory merger permitted by the laws of the state or country of formation, it shall, within thirty (30) days after a merger becomes effective, file with the secretary of state:

(a) A certificate of evidence dated within sixty (60) days prior to filing in this office;
or

(b) A copy of the merger documents, dated within sixty (60) days certified by the official having custody of corporate records in the state or country of formation.

Section 3. Domestication of a Foreign Profit Corporation, Nonprofit Corporation, and Limited Liability Company.

(a) The applicant shall provide a certified copy of the business entity's original articles of incorporation/formation and all amendments certified within the last six (6) months by the official having custody of corporate records in the state of formation.

(b) The applicant shall provide a written consent to appointment manually signed by the registered agent.

Section 4. Continuance.

(a) The applicant shall provide:

(i) A copy, either hard copy or via email, of the appropriate document from an official of the foreign jurisdiction acknowledging termination of the domicile; or

(ii) A copy of the unfiled appropriate documents which will be submitted to the foreign jurisdiction after the continuance has been processed in Wyoming.

(b) The applicant shall provide a written consent to appointment signed by the registered agent.

(c) The applicant shall provide a copy of the resolution authorizing continuance in Wyoming.

(d) The application for continuance shall be accompanied by its original certificate of formation and all amendments to date certified within the last six (6) months by the official having custody of corporate records in the state or country of formation.

Section 5. Consequences of Transacting Business Without Authority.

(a) With the exception of nonprofits, any business entity conducting business in Wyoming without a certificate of authority for forty-five (45) days or more is subject to the penalty provided in W.S. 17-16-1502(d).

(b) A business entity subject to the penalty for transacting business without authority under 17-16-1502(d) shall submit past annual reports for every full twelve (12) months the entity transacted business without a certificate of authority in the state.

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 - (i) A copy, either hard copy or via email, of the appropriate document from an official of the foreign jurisdiction acknowledging termination of the domicile; or
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- (b) The applicant shall provide a written consent to appointment signed by the registered agent.

(c) The applicant shall provide a copy of the resolution authorizing continuance in Wyoming.

(d) The application for continuance shall be accompanied by its original certificate of formation and all amendments to date certified within the last six (6) months by the official having custody of corporate records in the state or country of formation.

Section 5. Consequences of Transacting Business Without Authority.

(a) With the exception of nonprofits, any business entity conducting business in Wyoming without a certificate of authority for forty-five (45) days or more is subject to the penalty provided in W.S. 17-16-1502(d).

(b) A business entity subject to the penalty for transacting business without authority under 17-16-1502(d) shall submit past annual reports for every full twelve (12) months the entity transacted business without a certificate of authority in the state.

Chapter 4 Annual Reports

Section 1. Definitions.

(a) “Assessed value” is the taxable value of an asset subject to a Wyoming ad valorem tax as defined by W.S. 39-11-101(a)(i) as shown on the annual assessment schedule prepared by the County Assessor. Generally, assets which have an assessed value are reported on line 10 (buildings and other depreciable assets) and line 12 (land) on a corporation’s balance sheet.

(b) “Balance sheet value” is the end of tax year value of an asset entered on the company’s balance sheet. Balance sheet value shall be reported as contemplated in W.S. 17-16-1630 which states:

(i) “Financial information” in the annual report shall be current as of the end of the corporation’s fiscal year immediately preceding the date the annual report is executed on behalf of the corporation.

(c) “Capital, property and assets” does not include the value of the corporation’s stock, net worth, or the net equity of the corporation. Capital, property and assets means “total assets” from the company’s balance sheet (similar to line 15 of Schedule L of IRS Form 1120 or 1120S, as the form existed at the time these rules became effective) for the year most recently ended with three EXCEPTIONS:

(i) For “Depreciable assets” (line 10) use the assessed value for any asset having an assessed value (buildings or improvements) and use balance sheet value less accumulated depreciation for assets with no assessed value. Depreciation shall not be deducted from “assessed value.”

(ii) For “Depletable assets” (line 11) like soda, coal, mineral oil, silver or gold, use the “assessed value” of the gross product from the mine or mining claim (amount shown on Wyoming State Department of Revenue annual gross products tax return), not the balance sheet value.

(iii) For “Land” (line 12) use the assessed value not the balance sheet value.

Section 2. Worksheet Confidentiality.

(a) The worksheet which discloses proprietary information is not a public record under the Public Records Act and therefore is not disclosable to the public.

(b) The license tax paid appearing on page one of the secretary of state's annual report form is public record and will be disclosed.

Section 3. Due Dates.

(a) Annual reports may only be filed within one hundred-twenty (120) days of the due date.

(b) If a business entity fails to pay its annual report by the due date, it shall be deemed delinquent for a period of sixty (60) days, after which the entity shall be administratively dissolved.

Section 4. Revocation of Exemption from Annual Reports. When the secretary of state receives notice from the banking commissioner regarding a bank or savings and loan association or from the insurance commissioner regarding an insurance company that the entity is no longer engaged in their respective annual-report exempt business, the secretary of state shall remove the entity's exemption from filing annual reports with the secretary of state under W.S. 17-16-1630 and provide notice to the affected entity.

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