

# Notice of Intent to Adopt Rules

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

Revised August 2023

1. General Informa	tion						
a. Agency/Board Name*							
b. Agency/Board Addres	5	c. City		d. Zip Code			
e. Name of Agency Liais	on	f. Agency Liaison Telephone	Number				
g. Agency Liaison Email	Address						
h. Date of Public Notice		i. Comment Period End Date					
j. Public Comment URL o	or Email Address:						
k. Program							
Amended Program	Name (if applicable):						
* By checking this boy	, the agency is indicating it is exempt from c	certain sections of the Administrative Procedure Act includ	ina public comi	ment period reauiren	nents. Please contact		
the agency for details regar							
		"new" only applies to regular non-emergency rules					
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 non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?							
No. Yes					: Year:		
3. Rule Type and Ir	formation For purposes of this Sect	tion 3, "New" means an emergency or regular rule th	at has never	been previously o	created.		
a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.							
Chapter Number:	Chapter Name:		New	Amended	Repealed		
	Amended Chapter Name (if applicab	ole):	I				
Chapter Number:	Chapter Name:		New	Amended	Repealed		
	Amended Chapter Name (if applicab	ole):	I				
Chapter Number:	Chapter Name:		New	Amended	Repealed		
	Amended Chapter Name (if applicab	ole):					
Chapter Number:	Chapter Name:		New	Amended	Repealed		
	Amended Chapter Name (if applicab	ble):					
Chapter Number:	Chapter Name:		New	Amended	Repealed		
	Amended Chapter Name (if applicab	ole):	1				
Chapter Number:	Chapter Name:		New	Amended	Repealed		
	Amended Chapter Name (if applicab	ole):	I				

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.						
<u>5. Federal Law Requireme</u>	<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 Regulation Citation:       7 CFR 800.70         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:						
<u>6. State Statutory Requirements</u>						
a. Indicate one (1): The proposed rule change The proposed rule change exceed the requirements.				a statement explaining the reason that the rules		
b. The Agency has completed a takings assessment as required by 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:						

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, <i>Types of Rules Filings</i> , Section 1, Proposed Rules, of the Rules on Rules).						
<u>8. Authorization</u>						
a. I certify that the foregoing information is correct.						
Printed Name of Authorized Individual						
Title of Authorized Individual						
Date of Authorization						



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

# **Statement of Principal Reasons**

The Wyoming Department of Agriculture (WDA) is proposing changes to its Chapter 58 commodity certification regulations. The proposed changes reduce or eliminate certain fees charged by the Department for bean sampling and inspection services, add an inspection category, and add a line item fee that will show the amount to be collected specifically for the United States Department of Agriculture Federal Grain Inspection Service (FGIS) under WDA's Commodity Cooperative Service Agreement with FGIS. The Department is proposing these changes due to a directive from FGIS to list its fee as a separate line item. WDA is also eliminating fees that it does not need to charge.

 Equal Opportunity in Employment and Services

 BOARD MEMBERS

 Andrew Patrick, District 1
 • James Rogers, District 2
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## Chapter 58 Commodity Certification Regulations

## Section 1. Authority.

Pursuant to Wyoming Statute §§ 11-2-202 and 11-43-101, the Wyoming Department of Agriculture (WDA) promulgates these regulations.

## Section 2. Purpose of rules.

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

# Section 3. Definitions.

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

(b) "Licensed sampler" means an employee of the WDA 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) "FGIS" means Federal Grain Inspection Service.

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

(f) "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.

(g) "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.

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

(i) "Insects in grain inspection" means the process of sampling an appropriate number of containers and inspecting the withdrawn AMA commodity to determine if there are insects present and then certifying the results.

(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.

# Section 4. Fees.

(a) \$9.50 for each condition of container, check weighing inspection, or check loading inspections.

(b) \$19.00 for each official sample drawn, insects in grain inspection, and sanitation inspection.

(c) 4% commodity cooperative service agreement fee charged for services performed under subsections (a) and (b).

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

(e) 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.

(f) 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.

# Chapter 58

# **Commodity Certification Regulations**

## Section 1. Authority.

Pursuant to authority vested in <u>Wyoming Statute §§ 11-2-202 and 11-43-101</u>, the Wyoming Department of Agriculture (WDA) promulgates these regulations. by Wyoming Statute § 11-43-101 the following regulations are hereby promulgated and adopted.

#### Section 2. Purpose of rules.

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

#### Section 3. Definitions.

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

(b) "Licensed <u>Ssampler</u>" means an employee of the <u>WDA</u> <u>Wyoming Department of</u> <u>Agriculture</u> 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 <u>S</u>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 <u>C</u>ontainer" means the process of inspection of a shipping container or carrier, by a licensed inspector, to determine its suitability for the sanitary transportation of a commodity.

(g) "Check <u>Cc</u>ounting" 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  $\underline{W}\underline{w}$  eighing" 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 <u>Ll</u>oading" means the process of counting individual sacks, cartons, totes, etc. by a licensed inspector as per FGIS standards to ensure <u>that</u> the <u>correct</u> amount <u>was</u> loaded, and that the shipping container <u>or</u> /carrier remains suitable to receive the commodity, and that the condition of the commodity being loaded does not change.

(j) <u>"Insects in grain inspection" means the process of sampling an appropriate number of containers and inspecting the withdrawn AMA commodity to determine if there are insects present and then certifying the results.</u>

(k) "Sanitation <u>Hinspection</u>" 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.

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

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

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

Section 4. Fees.

(a) \$9.50 10.00 for each condition of container, check weighing inspection, or check loading inspections.

(b)  $\frac{19.00}{20.00}$  for each official sample <u>drawn, insects in grain inspection</u>, and sanitation inspection.

(c) 4% commodity cooperative service agreement fee charged for services performed under subsections (a) and (b).

(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.