



Certification Page Regular and Emergency Rules

Revised July 2019

Emergency Rules *(Complete Sections 1-3 and 5-6)*

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 (non-emergency) 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 non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. If the rules are new, please provide the Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):

3. Rule Type and Information For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously 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:	<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 Repealed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 Repealed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 Repealed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 Repealed

* If the name of a chapter of rules is changing, please only provide the NEW chapter name on this rules certification form.

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:

5. Checklist

a. For regular rules, the Statement of Principal Reasons is attached to this Certification 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

b. For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

Signature of Authorized Individual	
Printed Name of Signatory	Warren R. Appel
Signatory Title	Agency Services Manager
Date of Signature	6/1/2020

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	



214 W. 15th Street
Cheyenne, WY 82002
T: 307.777.2800
F: 307.777.2837

www.wyomingbusiness.org

TO: The Honorable Mark Gordon, Governor
FROM: Josh Dorrell
CEO, Wyoming Business Council *R for JD*

SUBJECT: Promulgation of Emergency Rules for the Wyoming Business Relief Programs

DATE: June 1, 2020

PRIORITY: EMERGENT – Please respond as soon as possible

SUMMARY: The WBC seeks to promulgate Emergency Rules for the Wyoming Business Relief Programs created and authorized by the legislature under 2020 Special Session 1, HEA 001, Section 2(d). This initial rulemaking includes General Provisions applicable to all programs, and program-specific rules for the Business Interruption Stipend Program.

The Emergency Rules process is being leveraged in this case due to the very short timeline available from the passage of the authorizing legislation to the expected “go live” date for applications and funding. The WBC is statutorily exempt from the Wyoming Administrative Procedures Act under W.S. § 9-12-103(g)(iii).

Agency Contact: Warren R. Appel, Agency Services Coordinator

Contact Phone: (307) 777-2803

Contact Email: warren.appel1@wyo.gov

Governor’s Response Options (to be completed by Governor’s Office):

_____ Agency May Proceed

_____ Delay public comment and set up meeting with:

Signature: Governor’s Counsel

Chapter 1
Wyoming Business Relief Program – General Provisions

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules

Section 1. Authority. These emergency rules are adopted by the Wyoming Business Council (“WBC”) pursuant to 2020 Spec. Session 1, HEA 001, Section 2(d);

Section 2. Purpose. These rules are promulgated for the purpose of providing a regulatory framework for the issuance of stipends to Wyoming businesses who have been adversely affected by the COVID-19 pandemic.

Section 3. Definitions.

- (a) As used in these programs:
- (i) “Council” means the Wyoming Business Council Board of Directors
 - (ii) “Council Staff” means the staff of the Wyoming Business Council.
 - (iii) “Eligible business” means a business that:
 - (A) Was established on or before the date of enactment of any applicable public health order issued by the state or any local government of Wyoming that required closures of businesses in response to the COVID-19 pandemic; and
 - (B) Is independently owned and operated; and
 - (C) Is headquartered in Wyoming or has its principal operations located in Wyoming; and
 - (D) As of March 31, 2020, had employed fifty (50) full-time employees or less for applicants requesting Business Interruption Stipend Program funds; or
 - (E) As of March 31, 2020, had employed one hundred (100) full-time employees or less for applicants requesting Coronavirus Business Relief Stipend Program funds.
 - (iv) “Applicant” means an eligible business who applies for funding under the Wyoming Business Recovery Project programs;
 - (v) “Awardee” means an eligible business who has been awarded funding under the Wyoming Business Recovery Project programs;
 - (A) Receipt of stipends under this chapter shall not disqualify a business from receiving other COVID-19 related state or federal grants or stipends, including those established in HB1004 Section 3 or HB1004 Section 4.
 - (B) Multiple stipends are allowed up to the maximum amount of the applicable program provided fund availability.
 - (vi) “Required closure” means the closure of a business that was ordered by the state or any local government of Wyoming in an order issued or in effect beginning on the date of enactment of any applicable public health order in response to the COVID-19 pandemic, or the interruption of a business’s normal business as a result of any closures or state or local public health orders associated with the COVID-19 pandemic.
 - (vii) “COVID-related expenses” means actual expenses incurred in Wyoming for the health and safety of Wyoming employees and expenses incurred by Wyoming employers to comply with public health guidelines for the health and safety of Wyoming employees as a result of the COVID-19 pandemic and includes cleaning products, sanitizers, personal protection

equipment, other safety equipment, expenses related to training and implement necessary and required protocols to continue operating the business, expenses related to the hiring and paying of employees necessary to implement protocols associated with screening, safety, security, cleaning, and sanitizing business premises.

(viii) “Independently owned and operated” means a business is privately or publicly owned. This excludes governmental entities and government-owned entities.

(ix) “Headquartered in Wyoming” means a business’s principal office is located in Wyoming and at least sixty percent (60%) of the organization’s employees are employed in Wyoming or sixty percent (60%) of the business payroll is paid to individuals living in Wyoming.

(x) “Principal operations in Wyoming” means more than fifty percent (50%) of a company’s primary work is located in Wyoming.

(xi) “Business Interruption” means any interruption to a business as a result of the COVID-19 health emergency and resulting closures. Interruptions may include those inside and outside Wyoming. These may include, but are not limited to:

- (A) Supply chain disruptions;
- (B) Decreased demand for products or services;
- (C) Required closures; and/or
- (D) Regulatory requirements that make operating unprofitable

(xii) “Intend to maintain a meaningful nexus to the state of Wyoming” means a company remains headquartered in Wyoming or its principal operations remain in Wyoming for not less than three (3) years after receiving a stipend.

(xiii) “Costs of business interruption” means lost business revenue due to required closures, plus additional expenses incurred due to required closures, less cost savings realized as a result of required closures and any Paycheck Protection Program funds received.

(xiv) “Lost business revenue” means substantiated revenue or projected revenue that would have been earned in the absence of required closures, including but not limited to actual revenue, accounts receivable or contracts for work. Applicants must be able to substantiate their Lost Business Revenue.

(xv) “COVID-19 related expenses” means actual expenses that the business incurred that it would not have incurred in the absence of the COVID-19 health emergency, including but not limited to expenses for personal protective equipment, signage and cleaning.

(xvi) “Cost savings realized” means costs the business did not incur, that it would normally incur as a result of the COVID-19 emergency, including but not limited to costs of supplies, inventory, and labor.

(xvii) “Preference” means eligible businesses that have not received any funding from the paycheck protection program established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. No. 116-136 will have primary consideration as determined by the Council from the implementation date of the Business Interruption Stipend Program.

Section 4. Certification.

(a) Applicants certify that:

- (i) Applicant complied with all applicable state and local public health orders

Chapter 2
Business Interruption Stipend Program

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules

Section 1. Authority. These emergency rules are adopted by the Wyoming Business Council (“WBC”) pursuant to 2020 Spec. Session 1, HEA 001, Section 2(d);

Section 2. Purpose. These rules are promulgated for the purpose of providing a regulatory framework for the issuance of stipends to Wyoming businesses who have experienced business interruptions caused by required closures due to COVID-19 pandemic.

Section 3. Eligible Applicants.

(a) In addition to the General Provisions in Chapter 1 and the requirements set forth in HEA 01, an Applicant must be an eligible business and must have incurred actual losses as a result of business interruptions due to the COVID-19 health emergency and required closure; and;

(b) Tribal government-owned businesses are not eligible to apply for the Business Interruption Stipend Program;

(c) Any government-owned entity is not eligible to apply for the Business Interruption Stipend Program;

(d) Non-profit entities of any kind are not eligible to apply for the Business Interruption Stipend Program;

(e) Receipt of stipends under this chapter shall not disqualify a business from receiving other COVID-19 related state or federal grants or stipends, including the Coronavirus Business Relief Stipend program and the Coronavirus Mitigation Stipend program.

Section 4. Application Process.

(a) Prioritization criteria.

(i) The Council shall prioritize stipends under this chapter based on the following criteria:

(A) The Council will give preference to those Applicants that have not received any funding from the Paycheck Protection Program established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. No. 116-136 and/or were required to be closed by applicable public health orders. These businesses will receive preference in funding. The preference will be applied through the timing of when applications are received and processed by the Council. The Council will establish and publish the timing for all applications. The priority preference will go in the following order:

(I) Applicants that did not receive Paycheck Protection Program funding and were specified in the following health orders;

(1.) The following businesses are deemed “required to be closed” for priority purposes: theaters, bars, nightclubs, coffee shops, employee cafeterias, self-serve buffets, salad bars, unpackaged self-serve food service, gyms, conference rooms, museums, restaurants, nail salons, hair salons, barber shops, massage therapy services, tattoo, body art and piercing shops, and cosmetology, electrology, and esthetic services.

(II) Applicants that may have received funding from the Paycheck Protection Program, but were specified in the preceding health orders and/or applicants that were not specified in the preceding health orders, but did not receive funding from the Paycheck Protection Program;

(III) Any Applicant;

(b) Application.

(i) The Council shall provide a “Business Interruption Stipend Program” application online that includes a requirement to provide information relevant for funding decisions, including but not limited to:

(A) Information that establishes the applicant’s eligibility and prioritization criteria listed under Section 2(a) and Section 3(a) of this Chapter.

(B) Certification of cost of business interruption due to/caused by the COVID-19 health emergency and required closure(s).

(ii) Each applicant shall file its application for “Business Interruption Stipend Program” funds with the Council online at a website provided by the Council.

(iii) Applicants must report the amount of federal loans, grants, or aid provided for COVID-19 related purposes, including from the CARES Act, or other similarly purposed federal act, including funds from the Wyoming Community Development Authority funded by the CARES Act for which the applicant:

(A) Believes they are eligible;

(B) Has applied; or

(C) Has received.

Section 5. Amount of award.

(a) The amount of award is the amount to reimburse the business for the cost of business interruption. This amount is determined by calculating lost revenue and COVID-19 related expense and subtracting from that amount the businesses Cost Saving Realized and any federal or state funding that the business has received to compensate for these same losses, including Paycheck Protection Program funds the business received and expects to be forgiven.

(b) Cost of business interruption must have occurred after March 13, 2020;

(c) In no event shall an Applicant’s award exceed fifty thousand dollars (\$50,000.00).

Section 6. Review and Recommendation.

(a) Applications are received on a rolling basis until funds have been expended and will be reviewed in the following manner:

(i) Council staff reviews to ensure accuracy, eligibility, and completeness, with consideration to Section 4(a);

(ii) Each Application will be assigned a unique identifying number and be given prioritization, if applicable, according to Section 4(a);

(iii) Monies will be expended on a first come, first served basis, with the exception of the consideration to the preference in Section 4(a);

(iv) Monies will be disbursed either via electronic funds transfer or by paper check from the Wyoming State Auditor’s Office;

Section 7. Certification. Applicants shall certify that:

- (a) The statements contained in the application are true, complete and accurate to the best of applicant's knowledge;
- (b) The funds will only be used for purposes allowed under the program; and
- (c) The funds are requested to reimburse costs of business interruptions caused by COVID-19. Applicant understands and acknowledges that failure to comply with these terms and certifications may result in the WBC requiring a total or partial refund of the grant funds.

Section 8. Program Administration and Audit.

Council staff may conduct and contract for random audits of eligible businesses receiving awards under this section to ensure awarded funds are expended in compliance with state and federal law. By accepting an award under this Chapter, the Applicant agrees to assist and provide the information requested by the auditors.

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