



**Wyoming Secretary of State
Rules on Rules**

CHAPTER 1

Section 1. Authority.

(a) The Secretary of State, as registrar of rules, is authorized to promulgate rules governing:

(i) The format for notices of intended rulemaking, W.S. 16-3-103(g);

(ii) The format for state agencies to follow in preparing proposed amendments to existing rules, W.S. 16-3-103(f);

(iii) The format and manner of filing final rules, W.S. 16-3-104(c).

(b) These rules define the process and format for rulemaking. All forms are mandatory and can be found at the Secretary of State's website, <http://soswy.state.wy.us> No other forms are permitted.

Section 2. Definitions.

(a) The definitions in W.S. 16-3-101(b) apply to these rules.

(b) Additional definitions include:

(i) "Amended rule" means a rule that replaces in whole or in part an existing rule, or adds to an existing rule. An Amended Rule may or may not be a New Rule.

(ii) "Cumbersome," as used in W.S. 16-3-103(h), means any document over ten (10) pages.

(iii) "Date of Adoption" means the date the person authorized by the state agency adopts the rules or the board or commission at a public meeting adopts the rules following the public comment period.

(iv) "Electronic copy" means a copy of a document transmitted by electronic mail which is identical to the hard copy, printed version and shall be transmitted in a "portable document format" (PDF).

(v) "Emergency rule" means a temporary rule adopted, amended or

repealed pursuant to W.S. 16-3-103 (b).

(vi) "Final Rules" mean rules that have been certified by the Governor's Office and have been filed with the Secretary of State.

(vii) "New rule" means a nonemergency rule that is promulgated in response to, whether or not mandated by, an enactment of the Wyoming Legislature and which addresses the entire enactment or any portion of the enactment that prior nonemergency rules have not addressed. A new rule may involve creation of an entirely new provision in the agency's rules or may include the repeal or amendment of an existing rule. A "new rule," for purposes of this definition, only applies to rules adopted following a new enactment passed by the Wyoming legislature and does not include rules adopted in response to a federal mandate or other reason.

(viii) "Regular rule" means a rule adopted under the public notice requirements of W.S. 16-3-103 other than an emergency rule or a new rule.

(ix) "Repealed rule" means a rule which has been specifically repealed by a later rule.

(x) "Rules" means rules and regulations.

(xi) "Statement of Reasons" means a brief and concise statement of the principal reason(s) for the adoption of a rule, which explains either the terms or substance of the proposed rule or a description of the subjects and issues involved and which meets the requirements of *Tri-State Generation & Transmission Ass'n v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979).

(xii) "Superseded rule" means a rule which has been amended or replaced by a later rule relating to the same general subject matter.

Section 3. **General Provisions.**

(a) The Secretary of State may refuse to accept for filing any rule that does not conform to the formats prescribed by these rules.

(b) After filing rules with the Secretary of State, an agency may not file changes to the rules due to typos, errors or reorganization of text unless there is clearly no change of meaning. Moving text from one chapter to another (under this Section) is disallowed. Agencies must consult with their Attorney General representative regarding whether changes to the rules may be filed pursuant to Section 3.

(c) If the name of the agency or department is changed by statute,

replacement rules for the purpose of name change only may be filed without going through the entire rulemaking process.

(d) If the address of the agency or department changes, replacement rules for the purpose of address change only may be filed without going through the entire rulemaking process.

(e) If a website or email address within a rule changes, replacement rules for the purpose of address changes only may be filed without going through the entire rulemaking process.

(f) Any rules that are submitted to the Secretary of State's Office pursuant to Section 3 must be filed with:

(i) An "Explanation of Changes" form, which includes:

(A) A brief explanation of the changes and reasons; and

(B) The agency director's or chairperson's and the Attorney General's Office's written verification, in blue ink, that the changes do not change the meaning.

(g) Rules that are submitted pursuant to Section 3 must contain the entire chapter, not just the page with the correction, and must be submitted electronically to the Secretary of State's Office in PDF format, at rules@wyo.gov

Section 4. **Content and Filing Requirements for Notice of Intent.**

(a) The Notice of Intent to engage in rulemaking shall include all of the information required by W.S. 16-3-103 (a)(i).

(b) The mandatory Notice of Intent form is available on the Secretary of State's website.

(c) The Statement of Reasons shall be attached to the Notice of Intent form provided by the Secretary of State and which is available on the Secretary of State's website.

(d) The Notice of Intent must be filed electronically with the Secretary of State. The copy shall be sent by electronic mail to the Secretary of State's Office at rules@wyo.gov. A hard copy of the notice must be sent to the Attorney General and the Legislative Service Office.

Section 5. Proposed Rules.

(a) Rules that propose to amend existing rules shall be prepared in the following format:

(i) New language added to existing language shall be underscored;

(ii) Deletions of existing language shall be shown by striking through the deleted language;

(iii) If amendments are pervasive, strike and underscore are not required, but are still preferred. If strike and underscore are not used:

(A) Approval from the Attorney General's Office must be stated on the Notice of Intent form; and

(B) The Statement of Reasons or other accompanying documents must clearly show the type of changes made and specifically include all substantive deletions and additions with appropriate citations to the sections affected.

(b) Proposed rules and the Statement of Reasons must be sent to the Governor's Office for initial approval a minimum of ten (10) working days prior to the start of the public comment period. Upon approval from the Governor's Office:

(i) Agencies may publish the rules for public comment;

(ii) A hard copy of the proposed rules in strike and underscore format and the Statement of Reasons must then be sent to the Legislative Service Office and the Attorney General's Office.

(c) The Notice of Intent of the rulemaking proceedings must be mailed to all persons who have requested advance notice. A copy of the proposed rules must be made available to all persons upon request.

(d) Proposed rules shall not be submitted to the Secretary of State.

Section 6. Format for Final Rules Submitted for Filing.

(a) Form in Which Rules Shall be Prepared.

(i) The regular rules shall be printed with black type on 8½" by 11" **white** paper.

(ii) Emergency rules shall be printed with black type on 8½" by 11" **colored** paper.

(iii) Margins shall be 1" at the top and 1 1/4" at the left, right and bottom.

(iv) The rules shall be single-spaced with double spaces between paragraphs.

(v) All rules must be copied back-to-back and head-to-head. Each chapter shall be copied so that page 1-2 is always on the back of 1-1, etc.

(vi) Pages of the text shall be numbered, starting with Arabic numeral 1, centered ½" from the bottom of the page. The page numbering should include the chapter number and the page number. EXAMPLE: Chapter 3, page 6 would be listed as 3-6. Appendices shall be numbered using an upper case Arabic letter, followed by a "-" and then by an Arabic number (example: A-1).

(vii) Copies sent electronically to the Secretary of State's Office must follow the required formats in Section 6, except for the printing on colored paper for emergency rules and the copying back-to-back and head-to-head.

(b) Arrangement of Rules. Arrangement of rules shall be in the following format:

EXAMPLE
Chapter 1

Section 1. Sample. The first or only section in a rule shall be identified as Section 1, and any following sections shall be identified by Arabic numerals in sequence. Continue the second line of each paragraph or subdivision all the way back to the left margin.

In order to follow the format of the statutes:

(a) Subsections (divisions of sections) shall be identified by lower case letters in parentheses as: (a), (b), (c), etc. Each subsection shall be indented to the next tab.

(i) Paragraphs

(A) Subparagraphs

(I) Subdivisions of subparagraphs - upper case Roman

numbers

(1.)

a.

(c) When an agency amends a rule, it may choose to publish for public comment only the section being amended. However, when submitting proposed rules and final rules to the Governor, Attorney General’s Office, Legislative Service Office and the Wyoming Secretary of State’s Office, it shall submit the entire chapter. The electronic copy must also include the entire chapter. Agencies must also submit the final amended rules in a strike and underscore format to the Governor, the Legislative Service Office, and the Attorney General, except as provided under Section 5(a) above.

Section 7. Process for Filing Final Rules.

(a) Final rules must be submitted for filing with the Secretary of State’s Office within seventy-five (75) days of the date the rules are adopted. Any rule that is not timely filed does not become effective, and the agency, board or commission must begin the rulemaking process again.

(i) Agencies submit the rules package to the Attorney General who will then forward them to the Governor for signature. The package of rules shall include:

(A) The appropriate Certification Page, which includes the Statement of Reasons as part of that form. This form can be found on the Secretary of State’s web page;

(B) Original authorized signatures in blue ink of the agency head, commission or board on the Certification Form;

(C) Summary of comments. If no comments were received, the summary should say, “No comments were received”;

(D) A clean copy of the final rules; and

(E) A strike and underscore copy of the final rules.

(ii) After the Governor has signed the Certification Page, the Attorney General’s Office shall deliver the Certification Page to the Secretary of State’s Office.

(iii) Agencies must submit a clean copy of the final rules electronically

to the Secretary of State's Office in PDF format at rules@wyo.gov. The Secretary of State's Office will accept the PDF copy of the rules at any time but will only officially file the rules after the Attorney General's Office has delivered the signed Certification Page. A hard copy of the Rules is not submitted to the Secretary of State.

(iv) Although Agencies may have a Table of Contents for their rules, the Table of Contents is not a part of the formal rules and will not be posted on the Rules Website.

(v) Agencies must also submit the entire rule package in hard copy and electronic format (PDF) to the Legislative Service Office within ten (10) days of the agency's action adopting the rules. The electronic copy shall be delivered to lso@wyoleg.gov

Section 8. Copies of Rules. The Secretary of State, upon request and payment of a fee, will furnish copies of a rule or rules which have been filed as prescribed by law. Each state agency may publish its own rules in a pamphlet or a booklet and make them available to the public. Rules may also be obtained by accessing the Secretary of State's web page.

Section 9. Exemptions.

(a) **Optional Provisions for Federal and Model Rules.** If an agency administers federal programs or wants to adopt model rules and regulations, it may adopt the entire federal rules and regulations or model rules. It may opt to, but is not required to, file those rules in the federal or model format rather than putting them in state format. If an agency uses this exemption, it must file a summary page of changes with the proposed rules.

If an agency chooses this option, it must:

- (i) Be adopting an **entire** portion of the federal regulations (segmented parts of rules or rules listing state exceptions are NOT acceptable);
- (ii) Be in the standard federal regulation format; and
- (iii) Be filed on 8½" x 11" paper.

(b) An agency may incorporate by reference all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this state, another state or by a nationally recognized organization or association, as permitted by W.S. 16-3-103(h), provided:

(i) The agency follows all procedures to adopt, amend or repeal this rule each time the original document is amended or repealed; and

(ii) The agency fully identifies the location where the public may view the rule (i.e. website address or library or agency address and phone number where one can view a copy) and when the website changes, the agency amends the rules in accordance with Section 3.

(c) Occasionally, federal and model rules are amended to correct minor typographical and punctuation errors. State agencies that have adopted the federal or model rules or that have incorporated the federal or model rules by reference may file the changes to the rules in accordance with Section 3, by filing an Explanation of Changes form with the Secretary of State.

(d) Agencies Exempt from the Rule Making Provisions of the Administrative Procedure Act or Differently Regulated. The following is a listing of agencies whose guiding statutes provide exemptions or alternative direction regarding rule making procedures:

(i) Department of Corrections pursuant to W.S. 25-1-105(a);

(ii) Board of Parole pursuant to W.S. 7-13-402 (f);

(iii) Wyoming Business Council pursuant to W.S. 9-12-103; and

(iv) The Governor's Office, Rules for Good Time Allowance, pursuant to W.S. 7-13-420.

These agencies should consult their Attorney General representative regarding rules. Their rules must be filed with the Secretary of State using the Certification Page for Rules of Agencies Alternate from the APA, which can be found at the Secretary of State's website at <http://soswy.state.wy.us> These rules will be available in electronic format only if the agency files its rules in accordance with the Rules on Rules format.

Section 10. Filing Rules That Have Been Line-item Vetoed by the Governor. (W.S. 16-3-103(d) and 16-3-104(a)).

(a) When an agency receives a returned rules package containing line-item vetoes, it must redraft the approved portion of the rule and return the corrected rules in hard copy in clean format to the Attorney General. If the agency has prefiled its rules with the Secretary of State's Office, it must electronically resend a corrected PDF copy to the Secretary of State for filing with an explanation attached. Upon delivery of the Certification Page by the Attorney General's Office, the rules will be filed by the

Secretary of State's Office.

(b) Rules that have been line-item vetoed must be filed within seventy-five (75) days of the original date of adoption.

Section 11. Expiration of Emergency Rules.

(a) As provided by W.S. 16-3-103(b) and 16-3-104(b)(ii), an emergency rule is effective for no longer than one hundred twenty (120) days after filing with the Secretary of State. Pages containing emergency rules will not be filed as replacement pages for permanent rules but will be filed as a supplement to the permanent rules and be removed at the end of one hundred twenty (120) days.

(b) Emergency rules may be readopted for an additional 120-day period. Emergency rules that are identical or substantially similar shall not be effective for a total period of more than two hundred forty (240) days.

(c) Emergency rules will include the following statement directly below the Chapter title:

(i) "Emergency rules are no longer in effect 120 days after filing with the Secretary of State."