1. General Information
   a. Agency/Board Name
      Wyoming State Engineer's Office (Wyoming State Board of Control)
   b. Agency/Board Address
      122 West 25th Street, Herschler Bldg, 1W
   c. City
      Cheyenne
   d. Zip Code
      82002
   e. Name of Agency Liaison
      Nancy D. McCann
   f. Agency Liaison Telephone Number
      307-777-5958
   g. Agency Liaison Email Address
      nancy.mccann@wy.gov
   h. Date of Public Notice
      July 21, 2017
   i. Comment Period End Date
      September 12, 2017
   j. Public Comment URL or Email Address:
      seo.rules@wyo.gov
   k. Program
      General Agency, Board or Commission Rules

* 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 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.

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<tr>
<th>Chapter Number</th>
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4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled.  □ No.  □ Yes. Please complete the boxes below.

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<tr>
<th>Date:</th>
<th>Time:</th>
<th>City:</th>
<th>Location:</th>
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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.

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<tr>
<th>Applicable Federal Law or Regulation Citation:</th>
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   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.

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.

Printed Name of Authorized Individual Patrick T. Tyrrell

Title of Authorized Individual State Engineer

Date of Authorization July 21, 2017
Statement of Principal Reasons
for Promulgating Proposed Rules to Amend Chapter 1, “Fees”,
of the Wyoming State Engineer’s Office and Wyoming State Board of Control

The Wyoming State Engineer’s Office and the State Board of Control intend to promulgate proposed rules to amend Chapter 1, “Fees”, of the State Engineer’s Office’s rules. The current rules were filed by the Secretary of State on August 27, 2014. The 2014 rules reflected the statutory requirements for adjudications and provided that advertisement fees related to water right adjudications be collected from the County where the water right is located. 2017 Wyo. Sess. Laws 241 (Ch. 99), amends multiple statutes and shifts the responsibility for payment of water right adjudication advertisement fees from the County to the appropriator who holds the water right. The Agency’s “Fees” Rules must be amended to reflect those statutory changes in order to allow for the collection of the appropriate fee from appropriators and to proceed with water right adjudications. The new law became effective on July 1, 2017, and amends the following Wyoming Statutes: §§ 41-3-914(d), 41-4-203(a)(i), 41-4-204, 41-4-307, 41-4-511 and 41-4-513.

The State Board of Control holds quarterly meetings, and those meetings include the adjudication of groundwater and surface water rights. The Board anticipates the need to collect proof fees for those adjudications from appropriators, which will now include advertising fees. The Agency adopted Emergency Rules with regard to these fees on July 5, 2017, which were filed with the Secretary of State’s Office on July 13th, and which will expire on November 10, 2017. It is the Agency’s intent to promulgate this identical regular rule to carry out its statutory responsibilities as reflected in the statutory amendments referenced above.

Upon review of the takings checklist provided by the Attorney General’s Office, the proposed rules will not result in a taking of private property or violation of due process.
CHAPTER 1

FEES

Section 1. Authority.

(a) Authority for setting fees is covered under the following sections of the Wyoming Statutes, 1977: 9-1-904, 9-1-907(b), 41-3-106(g), 41-3-107(b), 41-3-110(d), 41-3-213, 41-3-214, 41-3-914(d), 41-4-203, 41-4-205, 41-4-325, 41-4-511, and 41-4-514(a) (v & vi) & (e).

Section 2. General.

(a) Unless otherwise stated, the following non-reimbursable fees are payable when the item upon which the fee is applicable or assessed is submitted to the Wyoming State Engineer’s Office or the Wyoming State Board of Control.

(b) Method of payment shall be check, post office or express money order, bank draft, or currency. Fees may also be deducted from the Wyoming State Engineer’s Office, previously established customer cash accounts.

Section 3. Surface Water Fees.

(a) All non-reimbursable fees must be paid in advance. When the required fee is not known, time may be saved by contacting the Wyoming State Engineer’s Office either by mail or by telephone. Make all remittances payable to the “Wyoming State Engineer’s Office”. Remittances should be transmitted with the application or petition and cover letter.

(b) Fee Schedule. The following fees are required for each instrument filed in the Wyoming State Engineer’s Office.

(i) Direct flow water right applications – (Using S.W. 1 or S.W.2 Forms)

(A) Stock and/or domestic purposes only $25.00

(B) All other purposes, including reservoir supply and supplemental supply $50.00

(ii) Reservoir storage water right applications (Using S.W. 3, S.W. 3A, S.W.4 Forms)

(A) Stock reservoirs (Using S.W. 4 Form) and all other reservoirs of 20 acre-feet or less in capacity $25.00

(B) For reservoirs greater than 20 acre-feet but less than 100 acre-feet in capacity $50.00
(C) For all other reservoirs ..............................................$125.00

(D) Secondary supply water right applications for reservoir storage water (Using SW-1 & SW-2 Forms) .................................................................$50.00

(iii) Temporary water right applications ..............................................$50.00

(iv) Temporary water use agreements to use water under an existing valid permit (W.S. 41-3-110) .................................................................$50.00

(v) Formal petitions to modify or change a permit or application (plus appropriate recording fees, see Section 3(b)(ix)).................................................$20.00

(vi) Processing water exchange permits or petitions (plus appropriate recording fees; both Wyoming State Engineer’s Office and County Clerk, see Section 3(b)(ix) and certification charges, see Section 6(e)).................................................$25.00

(vii) Safety of Dams PLAN Reviews

   (A) For dams more than twenty (20) feet but less than forty (40) feet in height or with a capacity of fifty (50) acre-feet or more but less than one hundred (100) acre-feet .................................................................$100.00

   (B) For dams forty (40) feet in height or more or with a capacity of one hundred (100) acre-feet or more .................................................................$150.00

(viii) Application for Weather Modification Activity .......................$50.00

(ix) For recording any instrument in the official records of the Wyoming State Engineer’s Office, Wyoming State Board of Control or with the County Clerk.

   (A) First sheet, and:.................................................................$8.00

   Each subsequent sheet .................................................................$3.00

   (B) A fee will be required for recording with County Clerks any water right instrument or certificate as required by and specified in W.S. 18-3-402.

Section 4. Ground Water Fees.

(a) All non-reimbursable fees must be paid in advance. All remittances are to be made payable to the “Wyoming State Engineer’s Office” except those remittances that are submitted in conjunction with adjudication costs, which are to be made payable to the “Wyoming State Board of Control”. Remittances should be transmitted with the application or petition and cover letter.

1-2
(b) Fee Schedule. The following fees are required for each instrument filed in the Wyoming State Engineer’s Office:

   (i) Water right application to Appropriate Ground Water

   (A) Domestic and/or Stock Watering Use Wells ..................$50.00

   (B) Irrigation, Municipal, Industrial, Miscellaneous Wells ......$75.00

   (C) Coalbed Methane Wells .......................................$50.00

   (D) Monitor and Test Wells ........................................No Fee

   (ii) Formal petition to modify or change a permit or application (plus appropriate recording fees, see Section 3(b)(ix)).................................................................$20.00

   (iii) For recording any instrument in the official records of the State Engineer, State Board of Control or with the County Clerk, see Section 3(b)(ix).

   (iv) Temporary water use agreements to use ground water under an existing valid permit, see Section 3(b)(iv).

   (c) An amount not to exceed fifty ($50.00) of the fees collected for each application for a permit under W.S. 9-1-904 (a) (v) (A) and (D) shall be deposited into the account created under W.S. 33-42-116 for wells which require the use of a licensed well driller pursuant to W.S. 33-42-103.

Section 5. Board of Control Fees.

   (a) In some instances, fees are required to accompany a petition to the Wyoming State Board of Control. All remittances shall be made payable to the “Wyoming State Board of Control”. When required, a payment of fees should be attached to the petition itself or to the cover letter.

   (b) The following fee is required in conjunction with the adjudication of a surface water right by the Wyoming State Board of Control.

      (i) Proof of appropriation.................................................$70.00

      (ii) Fees collected for the adjudication of surface water rights are used for the recording of the certificate of appropriation and attached pages with the County Clerk in accordance with W.S. 18-3-402, and are used to pay required newspaper advertising fees.

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(d) The fees for each certificate to be amended

(i) by petition for an amended certificate,

(ii) by petition for change in place of use, or

(iii) by petition for change of use.

(A) Total cost per certificate to be amended .........................$50.00

(e) The fees for each appropriation (certificate) to be abandoned through a petition for declaration of abandonment.

(i) Total cost per certificate to be abandoned .........................$50.00

(f) No fees are required for petitions for change of point of diversion, point of diversion and means of conveyance, change in location of wells, and voluntary abandonment.

(g) For recording any instrument in the official records of the Wyoming State Engineer’s Office, Wyoming State Board of Control, or the County Clerk, see Section 3(b)(ix).

(h) A recordation fee of ten dollars ($10.00) per page is required to accompany the filing of an ADWR, as provided by W.S. 9-1-904 (a)(i).

Section 6. Miscellaneous Fees.

(a) For making prints of maps on file. Sizes as specified in W.S. 33-29-139.

(i) “B”, “D”, or township plat size map ...........................................$1.00

(ii) “E” & “G” size map .................................................................$1.50

(iii) “F” & larger size map ............................................................$.75/linear foot

(iv) Minimum Charge (any map) ...............................................$1.00

(v) Mylar map copies .................................................................Commercial rates

(b) For making photocopies of records, files, correspondence, data base paper copies, etc.
(c) For making microfilm copies of records:
   (i) Each paper copy .........................................................$.50
   (ii) Each microfiche .........................................................$.50

(d) For water right searches:
   (i) Each search (plus appropriate copy fees) .........................$25.00
   (ii) Computer data base searches
        (A) Set up for each search (plus media, photocopy and data fees).................................................................$25.00

(e) Certified copies
   (i) Certificate cover (plus appropriate copy fees) ......................$3.00

(f) FAX copies per page .............................................................$1.00
CHAPTER 1

FEES

WYOMING STATE ENGINEER’S OFFICE
WYOMING STATE BOARD OF CONTROL

CHAPTER 1

Section 1. Authority.

(a) Authority for setting fees is covered under the following sections of the Wyoming Statutes, 1977: 9-1-904, 9-1-907(b), 41-3-106(g), 41-3-107(b), 41-3-110(d), 41-3-213, 41-3-214, 41-3-914(d), 41-4-203, 41-4-205, 41-4-325, 41-4-511, and 41-4-514(a) (v & vi) & (e).

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(ii) Reservoir storage water right applications (Using S.W. 3, S.W. 3A, S.W.4 Forms)

(A) Stock reservoirs (Using S.W. 4 Form) and all other reservoirs of 20 acre-feet or less in capacity.................................................................$25.00
(B) For reservoirs greater than 20 acre-feet but less than 100 acre-feet in capacity .................................................................$50.00

(C) For all other reservoirs ...............................................$125.00

(D) Secondary supply water right applications for reservoir storage water (Using SW-1 & SW-2 Forms) .................................................................$50.00

(iii) Temporary water right applications ...............................$50.00

(iv) Temporary water use agreements to use water under an existing valid permit (W.S. 41-3-110) .................................................................$50.00

(v) Formal petitions to modify or change a permit or application (plus appropriate recording fees, see Section 3(b)(ix))..............................$20.00

(vi) Processing water exchange permits or petitions (plus appropriate recording fees; both Wyoming State Engineer’s Office and County Clerk, see Section 3(b)(ix) and certification charges, see Section 6(e)).................................$25.00

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   (A) For dams more than twenty (20) feet but less than forty (40) feet in height or with a capacity of fifty (50) acre-feet or more but less than one hundred (100) acre-feet ................................................................................$100.00

   (B) For dams forty (40) feet in height or more or with a capacity of one hundred (100) acre-feet or more ..............................................................................$150.00

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(ix) For recording any instrument in the official records of the Wyoming State Engineer’s Office, Wyoming State Board of Control or with the County Clerk.

   (A) First sheet, and; .................................................................$8.00
   Each subsequent sheet ..............................................................$3.00

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(i) Water right application to Appropriate Ground Water

(A) Domestic and/or Stock Watering Use Wells …………………$50.00

(B) Irrigation, Municipal, Industrial, Miscellaneous Wells ….$75.00

(C) Coalbed Methane Wells ………………………………………$50.00

(D) Monitor and Test Wells ………………………………………No Fee

(ii) Formal petition to modify or change a permit or application (plus appropriate recording fees, see Section 3(b)(ix).…………………………………..……...…$20.00

(iii) For recording any instrument in the official records of the State Engineer, State Board of Control or with the County Clerk, see Section 3(b)(ix).

(iv) Temporary water use agreements to use ground water under an existing valid permit, see Section 3(b)(iv).

(c) An amount not to exceed fifty ($50.00) of the fees collected for each application for a permit under W.S. 9-1-904 (a) (v) (A) and (D) shall be deposited into the account created under W.S. 33-42-116 for wells which require the use of a licensed well driller pursuant to W.S. 33-42-103.

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(a) In some instances, fees are required to accompany a petition to the Wyoming State Board of Control. All remittances shall be made payable to the “Wyoming State Board of Control”. When required, a payment of fees should be attached to the petition itself or to the cover letter.

(b) The following fee is required in conjunction with the adjudication of a surface water right by the Wyoming State Board of Control.

(i) Proof of appropriation excluding advertising …………………$270.00

(ii) Fees collected for the adjudication of surface water rights are used for the recording of the certificate of appropriation and attached pages with the County Clerk in accordance with W.S. 18-3-402, and are used to pay required newspaper advertising fees.
Advertising shall be paid by the County in accordance with W.S. 41-4-307.

(c) The following fee is required in conjunction with the adjudication of a ground water right by the Wyoming State Board of Control,

(i) Proof of appropriation excluding advertising ......................... $370.00

(ii) Fees collected for the adjudication of ground water rights are used for the recording of the certificate of appropriation and attached pages with the county clerk in accordance with W.S. 18-3-402, and are used to pay required newspaper advertising fees.

Advertising shall be paid by the County in accordance with W.S. 41-4-307.

(d) The fees for each certificate to be amended

1) (i) by petition for an amended certificate,

2) (ii) by petition for change in place of use, or

3) (iii) by petition for change of use.

(A) Total cost per certificate to be amended ......................... $50.00

(e) The fees for each appropriation (certificate) to be abandoned through a petition for declaration of abandonment.

(i) Total cost per certificate to be abandoned ......................... $50.00

(f) No fees are required for petitions for change of point of diversion, point of diversion and means of conveyance, change in location of wells, and voluntary abandonment.

(g) For recording any instrument in the official records of the Wyoming State Engineer’s Office, Wyoming State Board of Control, or the County Clerk, see Section 3(b)(ix).

(h) A recordation fee of ten dollars ($10.00) per page is required to accompany the filing of an ADWR, as provided by W.S. 9-1-904 (a)(i).

Section 6. Miscellaneous Fees.

(a) For making prints of maps on file. Sizes as specified in W.S. 33-29-139.

(i) “B”, “D”, or township plat size map .............................................. $1.00

(ii) “E” & “G” size map ............................................................... $1.50

(iii) “F” & larger size map ............................................................ $0.75/linear foot
(iv) Minimum Charge (any map) ..................................................$1.00

(v) Mylar map copies .........................................................Commercial rates

(b) For making photocopies of records, files, correspondence, data base paper copies, etc.

   (i) Each copy ..............................................................$.25

(c) For making microfilm copies of records:

   (i) Each paper copy ......................................................$.50

   (ii) Each microfiche .....................................................$.50

(d) For water right searches:

   (i) Each search (plus appropriate copy fees) .........................$25.00

   (ii) Computer data base searches

      (A) Set up for each search (plus media, photocopy and data fees) ..........................................................$25.00

(e) Certified copies

   (i) Certificate cover (plus appropriate copy fees) .....................$3.00

(f) FAX copies per page .....................................................$1.00