



Certification Page
Regular and Emergency Rules
 Revised May 2014

AUG 1 8 2014

Emergency Rules (After completing all of Sections 1 and 2, proceed to Section 5 below)

Regular Rules

1. General Information

a. Agency/Board Name State Loan and Investment Board		
b. Agency/Board Address 122 West 25th Street, Herschler Bldg., 3 West	c. City Cheyenne	d. Zip Code 82002
e. Name of Contact Person Machá Bowman	f. Contact Telephone Number 307.777.6629	
g. Contact Email Address macha.bowman@wyo.gov	h. Adoption Date 08/14/2014	
i. Program Loan and Investment Board		

2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted: Ch.3-2014 Wyo. Sess. Laws Ch. 66 (HEA 37); CH.32-2014 Wyo. Sess. Laws Ch. 28, S 316 (HEA 41); Ch.35-2014 Wyo. Sess. Laws Ch. 52 (HEA 15)

c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed
 (Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)

Chapter Number:	Chapter Name:	<input checked="" type="checkbox"/> New	<input checked="" type="checkbox"/> Amended	<input type="checkbox"/> Repealed
3	Federal Mineral Royalty Capital Construction Account Grants	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
32	Capital Improvement Projects-Countywide Consensus List Awards (Block Allocations)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
35	Municipal Solid Waste Facilities Cease and Transfer Loan and Grant Program	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

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

3. State Government Notice of Intended Rulemaking

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the Secretary of State :	05/19/2014
b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Legislative Service Office :	05/19/2014
c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Attorney General :	05/19/2014

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. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
b. A public hearing was held on the proposed rules. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

If "Yes:"	Date:	Time:	City:	Location:

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 :	08/18/2014
b. Date on which final rules were sent to the Legislative Service Office :	08/18/2014
c. Date on which a PDF of the final rules was electronically sent to the Secretary of State :	08/18/2014

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual <i>(Blue ink as per Rules on Rules, Section 7)</i>	
Printed Name of Signatory	Bridget Hill
Signatory Title	Director, Office of State Lands and Investments
Date of Signature	08/18/2014

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	

Attorney General: 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

LSO: 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules (PDFs) emailed to Criss.Carlson@wyoleg.gov: clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

SQS: 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

Chapter 3 – Federal Mineral Royalty Capital Construction Account Grants

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

Wyo. Stat. § 9-4-604 authorizes the State Loan and Investment Board to make Mineral Royalty Grants to alleviate an emergency situation which poses a direct and immediate threat to health, safety or welfare, to comply with a federal or state mandate or to provide an “essential public service.”

During the 2014 legislative session, the Wyoming Legislature amended Wyo. Stat. § 9-4-604 (2014 Wyo. Sess. Laws Ch. 66) to define “essential public service.” Because “essential public service” was not defined within Wyo. Stat. §9-4-604 previously, the Board had defined it within its Chapter 3 rules. The rules currently specify that the Board interprets “essential public service” to mean “a public service facility owned by the applicant and available for use by the general public including: water and sewer projects, storm drainage projects, street and road projects, solid waste disposal projects, acquisition of emergency vehicles, public administration buildings, health care facilities, senior citizens centers, jail and detention facilities, facilities needed to provide services to the disabled, costs to purchase medical equipment that generates revenue sufficient to service a Joint Powers Act loan, as determined by the board, and similar facilities as authorized by the board. The term also means refinancing outstanding loans extended to the applicant.”

The 2014 legislation added this definition to the provisions of Wyo. Stat. § 9-4-604, but made one addition. The legislation added “local natural gas utility pipelines and distribution systems” to the list of facilities that qualify as an “essential public service.” The legislation also specifies that to be considered an “essential public service” under this provision, local natural gas utility pipelines and distribution centers and similar facilities shall be located in rural and unserved areas.

The amendments to Chapter 3 change the Board’s rules to incorporate this new statutory change and make other minor corrective changes.

Chapter 3 – Federal Mineral Royalty Capital Construction Account Grants

SUMMARY OF COMMENTS

No comments received.

Chapter 32 – Capital Improvement Projects – Countywide Consensus List Awards (Block Allocations)

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

Authorization and funding for the Board's Countywide Consensus List Program has historically come from various budget bills adopted by the Wyoming Legislature. Chapter 32 of the Board's rules currently provides for the administration of the 2011 and 2012 versions of the Wyoming Legislature's local government funding via the countywide consensus process. 2011 Wyo. Sess. Laws, Ch. 88, § 342 and 2012 Wyo. Sess. Laws, Ch. 26, § 324. In 2014, the Legislature again provided authorization and funding (\$70 million) for the Countywide Consensus List Program in the budget bill [2014 Wyo. Sess. Laws, Ch. 26, § 316].

The \$70 million the Legislature appropriated for the 2014 version of countywide consensus list program is available July 1, 2014. The funds are to be distributed to counties via block allocations based on formulas in the legislative appropriation. The 2014 formulas and the authorization for the Board to award these grants are consistent with the 2011 and 2012 legislative acts. Thus, it is appropriate to amend Chapter 32 of the Board's rules to reference the 2014 legislation and administer the 2014 grants in the same manner as the 2011 and 2012 grants.

The amendments to the Chapter 32 rules add a reference to the BFY2015/2016 authorization.

**Chapter 32 – Capital Improvement Projects – Countywide
Consensus List Awards (Block Allocations)**

SUMMARY OF COMMENTS

No comments received.

Chapter 35 – Municipal Solid Waste Facilities Cease and Transfer Loan and Grant Program

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION

The Wyoming Legislature authorized the Municipal Solid Waste Facilities Cease and Transfer Loan and Grant Program during the 2013 General Session of the Wyoming Legislature (2013 Wyo. Sess. Laws, Ch. 194). The 2013 legislation provided authority to the State Loan and Investment Board (Board) to issue grants and loans to eligible applicants for various costs related to the closure of local landfills. The 2013 legislation provided that in order to be eligible for funding under the program the operator had to cease disposal of waste into units which did not have engineered containment systems or did not conform to performance based design standards. When preparing to administer this program, it was discovered that very few applicants could meet this requirement.

Thus, during the 2014 Budget Session, the Legislature modified the requirements imposed for receiving a grant or a loan under the program. In particular, the 2014 legislation creates an exception to this requirement allowing an operator to obtain DEQ approval to transfer the waste to a DEQ permitted facility that does not have an engineered containment system or does not conform to performance based design standard if the waste is transferred for the purpose of closing the facility and allows an increase in the rate of waste accepted by a permitted facility, so long as it does not extend the life of or enlarge the facility. (2014 Wyo. Sess. Laws, Ch. 52).

The amendments to Chapter 35 change the Board's rules to incorporate this new statutory change and make other minor corrective changes.

**Chapter 35 – Municipal Solid Waste Facilities Cease and Transfer
Loan and Grant Program**

SUMMARY OF COMMENTS

No comments received.

**RULES AND REGULATIONS
STATE LOAN AND INVESTMENT BOARD**

Chapter 3

Federal Mineral Royalty Capital Construction Account Grants

Section 1. Authority.

This chapter is adopted pursuant to W.S. 9-4-604 and Laws 1979, Chapter 160, Section 6.

Section 2. Definitions.

As used in this chapter:

- (a) "Board" means the State Loan and Investment Board.
- (b) "Director" means the Director of the Office of State Lands and Investments.
- (c) "Office" means the Office of State Lands and Investments.
- (d) "Special district" means hospital, fire protection, sanitary and improvement, solid waste disposal, improvement and service, and water and sewer districts.
- (e) "Emergency vehicles" means new and complete fire trucks and ambulances owned by the applicant, and under original manufacturer's warranty. Fire trucks must also meet current National Fire Protection Association (NFPA) standards, except for wildland firetrucks. The Board may authorize grants for used fire vehicles.
- (f) "Eligible project costs" means total project cost, less ineligible project costs.

Section 3. General Policy.

The Board shall award grants under the provisions of this chapter in such a manner and to such applicants as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the state and represent a prudent use of grant funds.

Section 4. Distribution of Funds.

The Board shall award funding in the following manner:

- (a) The Board shall award approximately eighty-seven and one half percent (87.5%) of the available funds for grants that do not exceed fifty percent (50%) of eligible project costs.
- (b) The Board shall award approximately twelve and one half percent (12.5%) of the available funds for grants that are over fifty percent (50%) but do not exceed seventy-five percent (75%) of eligible project costs. In the event the Board does not award all of the designated 75% grant funds available at any grant meeting, those funds will be carried forward to the next grant meeting. In the event that the Board has not awarded all of the 75% grant funds by the end of the biennial appropriation period the remaining funds will revert to the 50% grant fund.

(c) The Board retains the authority to adjust the above award percentages as necessary to complete project funding.

Section 5. Grant Eligibility.

(a) Applicants. Incorporated cities and towns, counties, special districts and joint powers boards shall be eligible to apply for grants under this chapter. If the applicant is a special district or joint powers board, it must be legally formed and approved prior to submitting an application. An applicant must be in compliance with all applicable reporting requirements with the Wyoming Department of Audit and Wyoming Department of Revenue prior to its application being considered by the Board. Applicants shall be allowed to submit multiple applications for fifty percent (50%) grants and up to two seventy-five percent (75%) grants for different projects at one grant meeting.

(b) Purposes. Pursuant to W.S. 9-4-604(a), the Board may award grants necessary to alleviate an emergency situation which poses a direct and immediate threat to health, safety or welfare, to comply with a federal or state mandate, or to provide an essential public service as defined in W.S. 9-4-604(p).

(i) The Board interprets the term, “federal or state mandate” as used in W.S. 9-4-604(a) to mean those federal or state mandates that specifically concern public health and safety.

(c) Maximum Grant Percentage. Pursuant to W.S. 9-4-604(g)(ii) and W.S. 9-4-604(h)(ii) the Board may award grants for over 50% to municipalities if the Board determines that the municipality “...either levied at least seven (7) mills for operating expenses including special district levies chargeable against the general city or town levy during the current fiscal year or is imposing the optional tax permitted by W.S. 39-15-204(a)(i) or (iii) at the time of the application and is utilizing all other local revenue sources reasonably and legally available to finance the project...” The Board may make grants in excess of fifty percent (50%) to counties and special districts “...if the board determines that the applicant either levied at least eleven (11) mills for operating expenses during the current fiscal year or is imposing the optional tax permitted by W.S. 39-15-204(a)(i) or (iii) at the time of the application and is utilizing all other local revenue sources reasonably and legally available to finance the project ...” The Board shall use the following criteria to determine if applicants are utilizing all other local revenue sources reasonably and legally available to finance the project:

(i) Municipalities that meet one or both of the following criteria are eligible to receive grant assistance up to seventy-five percent (75%) of the eligible project costs: (1) Have a population of less than 1,300 according to the latest federal census. (2) Located within a county where the three-year average of the local government share of state sales and use tax per capita is less than seventy percent (70%) of the statewide average. The Office will use the three most current annual reports from the Wyoming Department of Revenue to determine the three-year average of the local government share of sales and use tax. The Office will use the current federal census to determine the per capita percentage.

(ii) Counties and hospital and fire protection districts located within a county, whose assessed valuation is less than two and one-half percent (2.5%) of the State’s total assessed valuation are eligible to receive grant assistance up to seventy-five percent (75%) of the eligible project costs. The Office will use the current annual report from the Wyoming Department of Revenue to determine assessed valuation. The Office will use the current federal census to determine population.

(iii) Application for a seventy-five percent (75%) grant precludes a simultaneous application for a fifty percent (50%) grant for the same project. However, applicants may apply for separate projects from both grant pools.

(d) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement from grant funds and shall be ineligible to be counted toward the applicant's match:

- (i) Costs for sidewalks that are owned or maintained by a private property owner;
- (ii) Costs for tap fees, sewer and water fees, and plant investment fees;
- (iii) Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of project cost;
- (iv) All non-cash costs except:
 - (A) Land, labor, materials, equipment, and services provided by the applicant, and used for project purposes, valued at reasonable, actual cost; and
 - (B) Land, labor, materials, equipment, and services provided to the applicant by others, at no cost to the applicant, used for project purposes and valued at reasonable, actual cost.
- (v) Costs for preparation or presentation of grant or loan applications for any source of funding;
- (vi) Costs for transportation, meals and lodging incurred anywhere way from the site of the project;
- (vii) Costs for furnishings;
- (viii) Legal fees;
- (ix) Costs related to issuance of bonds;
- (x) Costs for real property in excess of current fair market value and/or costs for an amount of real property in excess of that needed for project purposes;
- (xi) Costs to establish and form special districts or joint powers boards;
- (xii) Costs incurred prior to grant award, except costs for architectural and engineering design or in emergency situations;
- (xiii) Costs for a contingency or extra work allowance in excess of 10% of estimated construction costs.

Section 6. Application Procedure

(a) Applications. Separate applications shall be prepared for each project. Applicants shall submit three (3) copies of their completed application to the Office. Applications shall be properly executed by the officers of the applicant.

(b) Timing. The Board shall meet regularly on the third Thursday of each January and June to consider applications for grants under this chapter. Applications for the January Mineral Royalty Grant meeting must be received by the third Thursday of the preceding September. Applications for the June

Mineral Royalty Grant meeting must be received by the third Thursday of the preceding February. Applications for emergency consideration must be received at least ten (10) working days prior to any regular meeting of the Board.

(c) Renewal of Applications. Applications will not be retained by the Office. A new application shall be submitted for each Board meeting.

(d) Information Required for All Applications. The following information shall be provided in all applications:

- (i) An application cover page on a form provided by the Office;
- (ii) A project summary on a form provided by the Office;
- (iii) The grant amount requested and percentage of total project costs that the grant would pay;
- (iv) A full description of the proposed project, specifically including, but not limited to, a phase construction schedule, if applicable;
- (v) A detailed project budget broken into at least six (6) month intervals delineating all costs of the proposed project and the method by which the project costs were estimated;
- (vi) A licensed engineer's statement of the feasibility of the project, except for the purchase of emergency vehicles;
- (vii) The geographic area and population served directly and indirectly by the project and the percentage of the applicant's population directly served by the project;
- (viii) A description of other project funding sources, committed or pending, the portion of the project cost expected to be funded from each source, including any future grant applications under this chapter, and copies of funding commitments from all project funding sources, including the applicant, to demonstrate commitment to the project;
- (ix) If the applicant is a special district, a copy of the resolution that shows formation of the special district and certification from the Board of County Commissioners that the special district currently exists;
- (x) If the applicant is a joint powers board, a copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Attorney General;
- (xi) A standard resolution authorizing the filing of the application on a form provided by the Office;
- (xii) A financial statement of the applicant, on a uniform "General Financial Information" form provided by the Office;
- (xiii) If an applicant submits multiple applications under this chapter for consideration at one meeting, a priority ranking of the multiple applications as established by the applicant;
- (xiv) If the project is needed to meet federal or state health and safety requirements, documentation of the specific requirements and an explanation of how the project addresses the

requirements;

(xv) For applications submitted by a special district, either standing alone or as a member of a joint powers board, the written review as required by W.S. 9-4-604(h); and

(xvi) Other applicable information as requested by the Office.

(e) Additional Information Required. If the grant funds requested by the applicant exceed fifty percent (50%) of estimated project costs, the following information shall also be provided in the application:

(i) If the grant request is for water facilities,

(A) Whether water meters have been installed or will be installed;

(B) Whether the applicant will require the owners of all new additions of land to the city or town to pay all costs of expanding the water system within and to the boundaries of the addition; and

(C) Whether water rates, tap fees, and plant investment fees are in effect or are to be adopted, and an analysis of whether the water rates will be adequate to finance the operation and maintenance of the system;

(ii) If the grant request is for sewer facilities,

(A) Whether the applicant will require the owners of all new additions of land to the city or town to pay all costs of expanding the sewer system within and to the boundaries of the addition; and

(B) Whether sewer rates, tap fees, and plant investment fees are in effect or are to be adopted, and an analysis of whether the sewer rates will be adequate to finance the operation and maintenance of the system.

(f) Preliminary Review. Within forty-five (45) working days of receipt of an application, the Office shall notify the applicant, in writing, if the application lacks any of the items required in subsections (d) and (e) of this section. The applicant shall have ten (10) working days to submit the required information.

(g) Incomplete Applications. Incomplete applications shall not be presented to the Board for consideration.

Section 7. Evaluation Criteria.

(a) Criteria. The Board shall evaluate applications utilizing the following criteria:

(i) The extent of match committed to the project from all sources;

(ii) Whether the applicant has made a significant commitment of local resources;

(iii) Whether the applicant has matching funds for the project from other than state grants;

- (iv) Whether the project is appropriately sized in relation to the population to be served by the project;
- (v) The relative urgency of the project;
- (vi) Whether the applicant is current on all its repayment obligations to the Board;
- (vii) The extent to which the applicant is utilizing, or plans to utilize, available and qualified Wyoming based professional firms and contractors on the project;
- (viii) The financial need of the applicant, as determined by the Board;
- (ix) The percentage of the applicant's population directly served by the project;

Section 8. Board Consideration.

The Board shall consider each application, allow for comments from the applicant and from the Director, and establish the maximum amount of the grant and the percent of eligible project costs that will be paid by the grant.

Section 9. Grant Disbursement and Administration.

(a) Grant Disbursement. Grant funds shall be disbursed to the applicant only as needed to discharge obligations incurred in accordance with the Board approved percentage split of eligible project costs. Requests for disbursements shall be made on a form supplied by the Office and supported by adequate proof that such obligations have been incurred for project purposes and are due and owing.

(b) The minimum grant disbursement shall be Five Hundred dollars (\$500.00) unless it is the final disbursement of grant funds for the project.

(c) Fund Reversion.

(i) If the Director determines that the project has not been commenced within one (1) year from the date the grant is approved, the grant will automatically expire. Based upon information supplied by the grantee, the Director may grant an extension of time in which to commence the project.

(ii) If the Director determines that the project has not been completed within a reasonable time, he shall notify the grantee in writing at least thirty (30) days prior to presenting the matter for Board review. The Board, upon review of the project circumstances, may terminate or modify the grant award.

(iii) If the Director determines that the project is complete, but the full amount of the grant has not been expended, the Office shall notify the grantee of this determination. Thirty (30) days following the notification, the unused portion of the grant or loan shall revert to uncommitted status.

Section 10. Audits and Inspections.

The Board may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project.

Section 11. Rule Amendments.

Amendments to these rules do not apply to applications filed after the effective date for phased construction projects which have already received partial funding under this chapter.

**RULES AND REGULATIONS
STATE LOAN AND INVESTMENT BOARD**

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- (e) "Emergency vehicles" means new and complete fire trucks and ambulances owned by the applicant, and under original manufacturer's warranty. Fire trucks must also meet current National Fire Protection Association (NFPA) standards, except for wildland firetrucks. The Board may authorize grants for used fire vehicles.
- (f) "Eligible project costs" means total project cost, less ineligible project costs.

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(c) The Board retains the authority to adjust the above award percentages as necessary to complete project funding.

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(b) Purposes. Pursuant to W.S. 9-4-604(a), the Board may award grants necessary to alleviate an emergency situation which poses a direct and immediate threat to health, safety or welfare, to comply with a federal or state mandate, or to provide an essential public service as defined in W.S. 9-4-604(p).

(i) The Board interprets the term, “federal or state mandate” as used in W.S. 9-4-604(a) to mean those federal or state mandates that specifically concern public health and safety.

~~(ii) The Board interprets the term, “essential public service” as used in W.S. 9-4-604(a) to mean a public service facility owned by the applicant and available for use by the general public including: water and sewer projects, storm drainage projects, street and road projects, solid waste disposal projects, acquisition of emergency vehicles, public administration buildings, health care facilities, senior citizens centers, jail and detention facilities, facilities needed to provide services to the disabled, costs to purchase medical equipment that generates revenue sufficient to service a Joint Powers Act Loan, as determined by the Board, and similar facilities as authorized by the Board. The term also means refinancing outstanding loans extended to the applicant.~~

(c) Maximum Grant Percentage. Pursuant to W.S. 9-4-604(g)(ii) and W.S. 9-4-604(h)(ii) the Board may award grants for over 50% to municipalities if the Board determines that the municipality “...either levied at least seven (7) mills for operating expenses including special district levies chargeable against the general city or town levy during the current fiscal year or is imposing the optional tax permitted by W.S. 39-15-204(a)(i) or (iii) at the time of the application and is utilizing all other local revenue sources reasonably and legally available to finance the project...” The Board may make grants in excess of fifty percent (50%) to counties and special districts “...if the board determines that the applicant either levied at least eleven (11) mills for operating expenses during the current fiscal year or is imposing the optional tax permitted by W.S. 39-15-204(a)(i) or (iii) at the time of the application and is utilizing all other local revenue sources reasonably and legally available to finance the project ...” The Board shall use the following criteria to determine if applicants are utilizing all other local revenue sources reasonably and legally available to finance the project:

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(ii) Counties and hospital and fire protection districts located within a county, whose assessed valuation is less than two and one-half percent (2.5%) of the State's total assessed valuation are eligible to receive grant assistance up to seventy-five percent (75%) of the eligible project costs. The Office will use the current annual report from the Wyoming Department of Revenue to determine assessed valuation. The Office will use the current federal census to determine population.

(iii) Application for a seventy-five percent (75%) grant precludes a simultaneous application for a fifty percent (50%) grant for the same project. However, applicants may apply for separate projects from both grant pools.

(d) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement from grant funds and shall be ineligible to be counted toward the applicant's match:

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(ii) Costs for tap fees, sewer and water fees, and plant investment fees;

(iii) Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of project cost;

(iv) All non-cash costs except:

(A) Land, labor, materials, equipment, and services provided by the applicant, and used for project purposes, valued at reasonable, actual cost; and

(B) Land, labor, materials, equipment, and services provided to the applicant by others, at no cost to the applicant, used for project purposes and valued at reasonable, actual cost.

(v) Costs for preparation or presentation of grant or loan applications for any source of funding;

(vi) Costs for transportation, meals and lodging incurred anywhere way from the site of the project;

(vii) Costs for furnishings;

(viii) Legal fees;

(ix) Costs related to issuance of bonds;

(x) Costs for real property in excess of current fair market value and/or costs for an amount of real property in excess of that needed for project purposes;

(xi) Costs to establish and form special districts or joint powers boards;

(xii) Costs incurred prior to grant award, except costs for architectural and engineering design or in emergency situations;

(xiii) Costs for a contingency or extra work allowance in excess of 10% of estimated construction costs.

Section 6. Application Procedure

(a) Applications. Separate applications shall be prepared for each project. Applicants shall submit three (3) copies of their completed application to the Office. Applications shall be properly executed by the officers of the applicant.

(b) Timing. The Board shall meet regularly on the third Thursday of each January and June to consider applications for grants under this chapter. Applications for the January Mineral Royalty Grant meeting must be received by the third Thursday of the preceding September. Applications for the June Mineral Royalty Grant meeting must be received by the third Thursday of the preceding February. Applications for emergency consideration must be received at least ten (10) working days prior to any regular meeting of the Board.

(c) Renewal of Applications. Applications ~~shall will not~~ be retained by the Office. A new application shall be submitted for each Board meeting. ~~and may be renewed only by a written request from the applicant received within the time period established in subsection (b) of this section. If applications are not renewed, they shall be destroyed by the Office.~~

(d) Information Required for All Applications. The following information shall be provided in all applications:

- (i) An application cover page on a form provided by the Office;
- (ii) A project summary on a form provided by the Office;
- (iii) The grant amount requested and percentage of total project costs that the grant would pay;
- (iv) A full description of the proposed project, specifically including, but not limited to, a phase construction schedule, if applicable;
- (v) A detailed project budget broken into at least six (6) month intervals delineating all costs of the proposed project and the method by which the project costs were estimated;
- (vi) A licensed engineer's statement of the feasibility of the project, except for the purchase of emergency vehicles;
- (vii) The geographic area and population served directly and indirectly by the project and the percentage of the applicant's population directly served by the project;
- (viii) A description of other project funding sources, committed or pending, the portion of the project cost expected to be funded from each source, including any future grant applications under this chapter, and copies of funding commitments from all project funding sources, including the applicant, to demonstrate commitment to the project;
- (ix) If the applicant is a special district, a copy of the resolution that shows formation of the special district and certification from the Board of County Commissioners that the special district currently exists;
- (x) If the applicant is a joint powers board, a copy of the certificate of organization

filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Attorney General;

(xi) A standard resolution authorizing the filing of the application on a form provided by the Office;

(xii) A financial statement of the applicant, on a uniform "General Financial Information" form provided by the Office;

(xiii) If an applicant submits multiple applications under this chapter for consideration at one meeting, a priority ranking of the multiple applications as established by the applicant;

(xiv) If the project is needed to meet federal or state health and safety requirements, documentation of the specific requirements and an explanation of how the project addresses the requirements;

(xv) For applications submitted by a special district, either standing alone or as a member of a joint powers board, the written review as required by W.S. 9-4-604(h); and

(xvi) Other applicable information as requested by the Office.

(e) Additional Information Required. If the grant funds requested by the applicant exceed fifty percent (50%) of estimated project costs, the following information shall also be provided in the application:

(i) If the grant request is for water facilities,

(A) Whether water meters have been installed or will be installed;

(B) Whether the applicant will require the owners of all new additions of land to the city or town to pay all costs of expanding the water system within and to the boundaries of the addition; and

(C) Whether water rates, tap fees, and plant investment fees are in effect or are to be adopted, and an analysis of whether the water rates will be adequate to finance the operation and maintenance of the system;

(ii) If the grant request is for sewer facilities,

(A) Whether the applicant will require the owners of all new additions of land to the city or town to pay all costs of expanding the sewer system within and to the boundaries of the addition; and

(B) Whether sewer rates, tap fees, and plant investment fees are in effect or are to be adopted, and an analysis of whether the sewer rates will be adequate to finance the operation and maintenance of the system.

(f) Preliminary Review. Within forty-five (45) working days of receipt of an application, the Office shall notify the applicant, in writing, if the application lacks any of the items required in subsections (d) and (e) of this section. The applicant shall have ten (10) working days to submit the required information.

(g) Incomplete Applications. Incomplete applications shall not be presented to the Board for consideration.

Section 7. Evaluation Criteria.

- (a) Criteria. The Board shall evaluate applications utilizing the following criteria:
- (i) The extent of match committed to the project from all sources;
 - (ii) Whether the applicant has made a significant commitment of local resources;
 - (iii) Whether the applicant has matching funds for the project from other than state grants;
 - (iv) Whether the project is appropriately sized in relation to the population to be served by the project;
 - (v) The relative urgency of the project;
 - (vi) Whether the applicant is current on all its repayment obligations to the Board;
 - (vii) The extent to which the applicant is utilizing, or plans to utilize, available and qualified Wyoming based professional firms and contractors on the project;
 - (viii) The financial need of the applicant, as determined by the Board;
 - (ix) The percentage of the applicant's population directly served by the project;

Section 8. Board Consideration.

The Board shall consider each application, allow for comments from the applicant and from the Director, and establish the maximum amount of the grant and the percent of eligible project costs that will be paid by the grant.

Section 9. Grant Disbursement and Administration.

(a) Grant Disbursement. Grant funds shall be disbursed to the applicant only as needed to discharge obligations incurred in accordance with the Board approved percentage split of eligible project costs. Requests for disbursements shall be made on a form supplied by the Office and supported by adequate proof that such obligations have been incurred for project purposes and are due and owing.

(b) The minimum grant disbursement shall be Five Hundred dollars (\$500.00) unless it is the final disbursement of grant funds for the project.

(c) Fund Reversion.

(i) If the Director determines that the project has not been commenced within one (1) year from the date the grant is approved, the grant will automatically expire. Based upon information supplied by the grantee, the Director may grant an extension of time in which to commence the project.

(ii) If the Director determines that the project has not been completed within a

reasonable time, he shall notify the grantee in writing at least thirty (30) days prior to presenting the matter for Board review. The Board, upon review of the project circumstances, may terminate or modify the grant award.

(iii) If the Director determines that the project is complete, but the full amount of the grant has not been expended, the Office shall notify the grantee of this determination. Thirty (30) days following the notification, the unused portion of the grant or loan shall revert to uncommitted status.

Section 10. Audits and Inspections.

The Board may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project.

Section 11. Rule Amendments.

Amendments to these rules do not apply to applications filed after the effective date for phased construction projects which have already received partial funding under this chapter.

**RULES AND REGULATIONS
STATE LOAN AND INVESTMENT BOARD**

Chapter 32

**Capital Improvement Projects – Countywide Consensus List Awards
(Block Allocations)**

Section 1. Authority.

This chapter is adopted pursuant to Session Laws of Wyoming 2011, Chapter 88, Section 342, Session Laws of Wyoming 2012, Chapter 26, Section 324 and Session Laws of Wyoming 2014, Chapter 26, Section 316.

Section 2. Definitions.

As used in this chapter:

- (a) "Board" means the State Loan and Investment Board.
- (b) "Capital Project" means the construction, replacement, or improvement of a fixed asset or public service facility and major building and facility repair and replacement. Routine maintenance and repair does not constitute a capital project
- (c) "Consensus List" means a county-wide priority ranking of capital improvement projects from highest to lowest within available grant funding. This list must be certified as agreed to by the board of county commissioners and the governing bodies of the cities and towns within that county that comprise at least seventy percent (70%) of the incorporated population.
- (d) "Director" means the Director of the Office of State Lands and Investments.
- (e) "Eligible Applicant" means a county and its incorporated cities and towns, special districts and joint powers boards. The county must certify to the Board that the county board of commissioners and the councils of the cities and towns that comprise seventy (70%) of the incorporated population within that county have reached agreement on the project(s) for which the grants will be used.
- (f) "Eligible Project Costs" means total project cost, less ineligible

project costs.

(g) "Office" means the Office of State Lands and Investments.

(h) "Public Service Facility" means a facility owned by the applicant and available for use by the general public including: water and sewer projects, storm drainage projects, street and road projects, solid waste disposal projects, acquisition of emergency vehicles, public administration buildings, health care facilities, senior citizens centers, jail and detention facilities, facilities needed to provide services to the disabled, costs to purchase medical equipment that generates revenue sufficient to service a Joint Powers Act Loan, as determined by the Board, and similar facilities as authorized by the Board.

(i) "Major building and facility repair and replacement" means the repair or replacement of complete or major portions of building and facility systems at irregular intervals which is required to continue the use of the building or facility at its original capacity for its original intended use, including for compliance with the Americans with Disabilities Act, and including installing fire suppression systems and is typically accomplished by contractors due to the personnel demand to accomplish the work in a timely manner, the level of sophistication of the work or the need for warranted work;

(j) "Routine maintenance and repair" means activities necessary to keep a building or facility in safe and good working order so that it may be used at its original or designed capacity for its originally intended purposes, including janitorial, grounds keeping and maintenance tasks done on a routine basis and typically accomplished by ownership personnel with exceptions for any routine tasks accomplished by contractors such as elevator or other specialized equipment or building system maintenance.

Section 3. General Policy.

The Board shall award grants for projects under the provisions of this chapter based on certified county-wide consensus lists and funding availability for the benefit of the citizens of the state.

Section 4. Grant Eligibility.

(a) Applicants. Incorporated cities and towns, counties, special districts and joint powers boards shall be eligible to apply for grants under this chapter provided the applicant is an "eligible applicant" as defined in Section 2(e). If the applicant is a special district or joint powers board, it must be legally formed and approved and

otherwise in compliance with statutory requirements of the Wyoming Department of Revenue prior to receiving a grant award under this chapter. An applicant must be in compliance with all applicable reporting requirements with the Wyoming Department of Audit prior to its application being considered by the Board.

(b) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement from grant.

(i) Costs for any asset that is owned or maintained by a private property owner;

(ii) Costs for tap fees, sewer and water fees, and plant investment fees;

(iii) Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of project cost;

(iv) All non-cash costs except land, labor, materials, equipment, and services provided by the applicant, and used for project purposes based on actual, appraised or market value;

(v) Costs for preparation or presentation of grant or loan applications for any source of funding;

(vi) Costs of tools and furnishings for capital projects, including but not limited to, capital equipment, hammers, furniture, drapes and blinds not integral to and necessary for the project;

(vii) Legal fees;

(viii) Costs related to issuance of bonds;

(ix) Costs for real property in excess of current fair market value and/or costs for an amount of real property in excess of that needed for project purposes;

(x) Costs to establish and form special districts or joint powers boards;

(xi) Costs incurred prior to grant award, except costs for architectural and engineering design or in emergency situations;

Section 5. Application and Consensus List Procedures.

(a) Applications, Consensus Lists and Timing. Applications from eligible applicants for consideration for project funding are initially submitted locally into the county consensus list process in the county where the project is situated. For projects involving more than one county, applications are initially submitted into the county consensus list process in each of the project-affected counties. In reviewing applications the board of county commissioners and the governing bodies of the cities and towns within that county that comprise at least seventy percent (70%) of the incorporated population shall certify to the Board that they have reached agreement on the projects for which the funds will be used. Certified county consensus lists and supporting documentation must be submitted to the Office at least thirty-five (35) calendar days prior to any regular or special meeting of the Board. Applicants must cure any deficiencies in their application(s) (incomplete application) no later than twenty-one (21) calendar days before any scheduled meeting of the Board.

The certified consensus list that the board of county commissioners submits to the Office for Board action shall consist of the following:

(i) A joint resolution, on a form provided by the Office, certifying that the county commission and at least seventy percent (70%) of the incorporated population of the respective county have reached agreement on the project(s) to be funded under this chapter (priority list). The resolution shall list each project individually to be funded under this chapter. The resolution must also indicate the grant amount requested for each project and the percentage of the total project to be funded with a grant under this chapter. The resolution must not exceed the total amount allocated for the county.

(ii) The resolution shall include a list of other eligible project(s) that have been certified and can be substituted in the event that a project on the approved priority list project(s) cannot proceed (substitution list).

(1) Changes to the priority list or substitution list must be submitted on a new joint resolution, on a form provided by the office and signed by all the representatives that signed the original resolution. This includes moving funding from a priority list project to a substitution list project. The prior approved project(s) must be listed on the priority list showing the awarded grant number, showing a decrease in the amount of grant funds requested for each project. The substitution list project (or new project) must include all of the information requested under Section 6(a)(i).

(iii) For each individual project, the applicant shall submit an “Application Cover Page” on a form provided by the Office.

(iv) For each individual project, the applicant shall submit a “Project Summary” form provided by the Office.

(b) Incomplete Applications. Incomplete applications shall not be presented to the Board for consideration.

Section 6. Board Consideration.

The Board shall consider each eligible county’s consensus list, allow for comments from the owner of the project and from the Director. The Board will establish the maximum award for each eligible county for each project on each eligible county’s consensus list.

Section 7. Grant Disbursement and Administration.

(a) Grant Disbursement. Each individual project is subject to the requirements of this section. Grant funds for eligible project costs shall be disbursed to the applicant only as needed to discharge obligations. Requests for disbursements shall be made on a form supplied by the Office and supported by adequate proof that such obligations have been incurred for project purposes and are due and owing.

(b) The minimum grant disbursement shall be One Thousand dollars (\$1,000.00) unless it is the final disbursement of grant funds for the project.

(c) Fund Reversion.

(i) If the Director determines that the project is complete, but the full amount of the grant has not been expended, the Office shall notify the grantee of this determination. Thirty (30) days following the notification, the unused portion of the grant shall be reallocated to the countywide consensus process for that county.

Section 8. Audits and Inspections.

Each individual project is subject to the requirements of this section. The Board may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project.

**RULES AND REGULATIONS
STATE LOAN AND INVESTMENT BOARD**

Chapter 32

**Capital Improvement Projects – Countywide Consensus List Awards
(Block Allocations)**

Section 1. Authority.

This chapter is adopted pursuant to Session Laws of Wyoming 2011, Chapter 88, Section 342, and Session Laws of Wyoming 2012, Chapter 26, Section 324 and Session Laws of Wyoming 2014, Chapter 26, Section 316.

Section 2. Definitions.

As used in this chapter:

- (a) "Board" means the State Loan and Investment Board.
- (b) "Capital Project" means the construction, replacement, or improvement of a fixed asset or public service facility and major building and facility repair and replacement. Routine maintenance and repair does not constitute a capital project
- (c) "Consensus List" means a county-wide priority ranking of capital improvement projects from highest to lowest within available grant funding. This list must be certified as agreed to by the board of county commissioners and the governing bodies of the cities and towns within that county that comprise at least seventy percent (70%) of the incorporated population.
- (d) "Director" means the Director of the Office of State Lands and Investments.
- (e) "Eligible Applicant" means a county and its incorporated cities and towns, special districts and joint powers boards. The county must certify to the Board that the county board of commissioners and the councils of the cities and towns that comprise seventy (70%) of the incorporated population within that county have reached agreement on the project(s) for which the grants will be used.
- (f) "Eligible Project Costs" means total project cost, less ineligible

project costs.

(g) "Office" means the Office of State Lands and Investments.

(h) "Public Service Facility" means a facility owned by the applicant and available for use by the general public including: water and sewer projects, storm drainage projects, street and road projects, solid waste disposal projects, acquisition of emergency vehicles, public administration buildings, health care facilities, senior citizens centers, jail and detention facilities, facilities needed to provide services to the disabled, costs to purchase medical equipment that generates revenue sufficient to service a Joint Powers Act Loan, as determined by the Board, and similar facilities as authorized by the Board.

(i) "Major building and facility repair and replacement" means the repair or replacement of complete or major portions of building and facility systems at irregular intervals which is required to continue the use of the building or facility at its original capacity for its original intended use, including for compliance with the Americans with Disabilities Act, and including installing fire suppression systems and is typically accomplished by contractors due to the personnel demand to accomplish the work in a timely manner, the level of sophistication of the work or the need for warranted work;

(j) "Routine maintenance and repair" means activities necessary to keep a building or facility in safe and good working order so that it may be used at its original or designed capacity for its originally intended purposes, including janitorial, grounds keeping and maintenance tasks done on a routine basis and typically accomplished by ownership personnel with exceptions for any routine tasks accomplished by contractors such as elevator or other specialized equipment or building system maintenance.

Section 3. General Policy.

The Board shall award grants for projects under the provisions of this chapter based on certified county-wide consensus lists and funding availability for the benefit of the citizens of the state.

Section 4. Grant Eligibility.

(a) Applicants. Incorporated cities and towns, counties, special districts and joint powers boards shall be eligible to apply for grants under this chapter provided the applicant is an "eligible applicant" as defined in Section 2(e). If the applicant is a special district or joint powers board, it must be legally formed and approved and

otherwise in compliance with statutory requirements of the Wyoming Department of Revenue prior to receiving a grant award under this chapter. An applicant must be in compliance with all applicable reporting requirements with the Wyoming Department of Audit prior to its application being considered by the Board.

(b) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement from grant.

(i) Costs for any asset that is owned or maintained by a private property owner;

(ii) Costs for tap fees, sewer and water fees, and plant investment fees;

(iii) Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of project cost;

(iv) All non-cash costs except land, labor, materials, equipment, and services provided by the applicant, and used for project purposes based on actual, appraised or market value;

(v) Costs for preparation or presentation of grant or loan applications for any source of funding;

(vi) Costs of tools and furnishings for capital projects, including but not limited to, capital equipment, hammers, furniture, drapes and blinds not integral to and necessary for the project;

(vii) Legal fees;

(viii) Costs related to issuance of bonds;

(ix) Costs for real property in excess of current fair market value and/or costs for an amount of real property in excess of that needed for project purposes;

(x) Costs to establish and form special districts or joint powers boards;

(xi) Costs incurred prior to grant award, except costs for architectural and engineering design or in emergency situations;

Section 5. Application and Consensus List Procedures.

(a) Applications, Consensus Lists and Timing. Applications from eligible applicants for consideration for project funding are initially submitted locally into the county consensus list process in the county where the project is situated. For projects involving more than one county, applications are initially submitted into the county consensus list process in each of the project-affected counties. In reviewing applications the board of county commissioners and the governing bodies of the cities and towns within that county that comprise at least seventy percent (70%) of the incorporated population shall certify to the Board that they have reached agreement on the projects for which the funds will be used. Certified county consensus lists and supporting documentation must be submitted to the Office at least thirty-five (35) calendar days prior to any regular or special meeting of the Board. Applicants must cure any deficiencies in their application(s) (incomplete application) no later than twenty-one (21) calendar days before any scheduled meeting of the Board.

The certified consensus list that the board of county commissioners submits to the Office for Board action shall consist of the following:

(i) A joint resolution, on a form provided by the Office, certifying that the county commission and at least seventy percent (70%) of the incorporated population of the respective county have reached agreement on the project(s) to be funded under this chapter (priority list). The resolution shall list each project individually to be funded under this chapter. The resolution must also indicate the grant amount requested for each project and the percentage of the total project to be funded with a grant under this chapter. The resolution must not exceed the total amount allocated for the county.

(ii) The resolution shall include a list of other eligible project(s) that have been certified and can be substituted in the event that a project on the approved priority list project(s) cannot proceed (substitution list).

(1) Changes to the priority list or substitution list must be submitted on a new joint resolution, on a form provided by the office and signed by all the representatives that signed the original resolution. This includes moving funding from a priority list project to a substitution list project. The prior approved project(s) must be listed on the priority list showing the awarded grant number, showing a decrease in the amount of grant funds requested for each project. The substitution list project (or new project) must include all of the information requested under Section 6(a)(i).

(iii) For each individual project, the applicant shall submit an “Application Cover Page” on a form provided by the Office.

(iv) For each individual project, the applicant shall submit a “Project Summary” form provided by the Office.

(b) Incomplete Applications. Incomplete applications shall not be presented to the Board for consideration.

Section 6. Board Consideration.

The Board shall consider each eligible county’s consensus list, allow for comments from the owner of the project and from the Director. The Board will establish the maximum award for each eligible county for each project on each eligible county’s consensus list.

Section 7. Grant Disbursement and Administration.

(a) Grant Disbursement. Each individual project is subject to the requirements of this section. Grant funds for eligible project costs shall be disbursed to the applicant only as needed to discharge obligations. Requests for disbursements shall be made on a form supplied by the Office and supported by adequate proof that such obligations have been incurred for project purposes and are due and owing.

(b) The minimum grant disbursement shall be One Thousand dollars (\$1,000.00) unless it is the final disbursement of grant funds for the project.

(c) Fund Reversion.

(i) If the Director determines that the project is complete, but the full amount of the grant has not been expended, the Office shall notify the grantee of this determination. Thirty (30) days following the notification, the unused portion of the grant shall be reallocated to the countywide consensus process for that county.

Section 8. Audits and Inspections.

Each individual project is subject to the requirements of this section. The Board may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project.

CHAPTER 35

MUNICIPAL SOLID WASTE FACILITIES CEASE AND TRANSFER LOAN AND GRANT PROGRAM

Section 1. **In General.**

(a) Authority: This chapter is adopted pursuant to W.S. 35-11-530.

(b) Applicability: The rules and regulations contained herein shall apply to any municipal solid waste facility operator. These regulations are effective immediately upon filing with the Secretary of State.

(c) Objective: The objective of these rules and regulations is to provide grants and loans from the municipal solid waste facilities cease and transfer accounts for cease and transfer activities as provided in W.S. 35-11-528, 35-11-529 and 35-11-530.

(d) Definitions:

(i) "Board" means the State Loan and Investment Board.

(ii) "Capping" means construction of final cover over the top of a land disposal facility.

(iii) "DEQ" means the Wyoming Department of Environmental Quality.

(iv) "Office" means the Office of State Lands and Investments.

(v) "Revenue-generating facilities" means facilities owned by the applicant that generate revenue from user fees or assessments paid by the beneficiaries of the facilities.

(vi) "WWAB" means Water and Waste Advisory Board to the Wyoming Department of Environmental Quality.

(vii) Refer to Chapter 1, of the Wyoming Department of Environmental Quality, Solid Waste Rules and Regulations for definitions of the following: closure, collateral, facility, final cover, municipal solid waste, operator, and transfer facility.

Section 2. **Program Eligibility.**

To be eligible for funding under the program, the applicant shall:

- (a) meet the eligibility criteria set forth in W.S. 35-11-528(d); and
- (b) be in compliance with all applicable reporting requirements with the Wyoming Department of Audit and Wyoming Department of Revenue prior to its application being considered by the Board.

Section 3. Project Costs.

(a) Eligible project costs: The Board shall extend loans and/or grants under the provisions of this chapter for:

- (i) Capping of a closed landfill;
- (ii) Other closure related expenses including engineering, geological and other professional services;
- (iii) Construction or acquisition of appropriate solid waste transfer facilities and equipment, including acquisition of real property.

(b) Ineligible project costs: The following project costs shall be ineligible for reimbursement from grant funds and shall be ineligible to be counted toward the applicant's match:

- (i) Salaries or benefits for employees of the municipal solid waste facility;
- (ii) Long-term monitoring at a closed municipal solid waste facility or a closed cell of a still operating municipal solid waste facility;
- (iii) Operational costs of municipal solid waste facilities;
- (iv) Costs for any asset that is owned by a private property owner;
- (v) Costs for tap fees, sewer and water fees, and plant investment fees;
- (vi) Engineering fees, including design, inspection and contract administration costs, over ten percent (10%) of projects costs, unless otherwise approved by DEQ;
- (vii) All non-cash costs except:

(A) Land, labor, materials, equipment, and services provided by the applicant, and used for project purposes, valued at reasonable, actual cost;

(B) Land, labor, materials, equipment, and services provided to the applicant by others, at no cost to the applicant, used for project purposes and valued at reasonable, actual cost; and

(C) Land which is integral to the Municipal Solid Waste Facilities Cease and Transfer process but not costs for land in excess of current fair market value and/or costs for an amount of land in excess of that needed for project purposes. Land costs not defined in the application will be ineligible for reimbursement.

(viii) Costs for preparation or presentation of grant or loan applications for any source of funding;

(ix) Costs for transportation, meals and lodging incurred anywhere away from the site of the project;

(x) Costs of tools, supplies and furnishings for capital projects not included in DEQ-approved construction contract documents, including but not limited to, capital equipment, hammers, tanks, tools, furniture, drapes, blinds, file cabinets, file folders and survey stakes;

(xi) Legal fees;

(xii) Costs related to issuance of bonds;

(xiii) Costs for real property in excess of current fair market value and/or costs for an amount of real property in excess of that needed for project purposes;

(xiv) Costs to establish and form special districts or joint powers boards;

(xv) Costs incurred prior to grant or loan award, except costs for architectural and engineering design;

(xvi) Costs for a contingency or additional work allowance in excess of ten percent (10%) of estimated construction costs, unless otherwise approved by DEQ;

(xviii) Costs for change orders not approved by the Office and DEQ;

(xix) Lump sum contracts unless approved by the Office and DEQ; and

(xv) Costs for meals and incidental expenses in excess of federal per diem rates.

Section 4. **Application Procedure.**

(a) Applications. Separate applications shall be prepared for each project. Applicants shall submit two (2) copies of their completed application to the Office. Applications shall be properly executed by the officers of the applicant.

(b) Timing of Board Consideration. Loan and/or grant applications must be received by the Director at least ninety (90) days prior to any scheduled meeting of the Board. Applicants must cure any defects in their applications no later than forty-five (45) calendar days before any scheduled meeting of the Board.

(c) Applications shall be reviewed by the DEQ and applicants will be notified of any deficiencies. When the DEQ has found an application to contain all required information and has completed its review, the DEQ shall provide a report to the Board. A copy of the report shall also be provided to the applicant. The report shall include the findings of the DEQ's review, recommendations for denial, approval or conditional approval of grants and/or loans, and a recommendation to the Board relating the proposed amount of a recommended grant and/or loan.

(d) Information Required for All Applications. The following information shall be provided in all applications:

(i) An application cover page on a form provided by the Office;

(ii) A project summary on a form provided by the Office;

(iii) The grant and/or loan amount requested and percentage of total project costs for which the grant is sought;

(iv) A full description of the proposed project, specifically including, but not limited to, a phased construction schedule, if applicable, and alternative project designs;

(v) A detailed project budget divided into at least six (6) month intervals delineating all costs of the proposed project and the method by which the project costs were estimated;

(vi) A licensed engineer's statement of the feasibility of the project;

(vii) The geographic area and population served directly and indirectly by the project and the percentage of the applicant's population directly served by the project;

(viii) A description of other project funding sources, committed or pending, the portion of the project cost expected to be funded from each source, including any future grant applications under this chapter, and copies of funding commitments from all project funding sources, including the applicant, to demonstrate commitment to the project;

(ix) If the applicant is a special district, a copy of the resolution that shows formation of the special district and certification from the Board of County Commissioners that the special district currently exists and is in good standing;

(x) If the applicant is a joint powers board, a copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Wyoming Attorney General's Office;

(xi) A standard resolution authorizing the filing of the application on a form provided by the Office;

(xii) A financial statement of the applicant, on a uniform "General Financial Information" form provided by the Office;

(xiii) If an applicant submits multiple applications under this chapter for consideration at one meeting, a priority ranking of the applications as established by the applicant;

(xiv) If the project is needed to meet federal or state health and safety requirements, documentation of the specific requirements and an explanation of how the project addresses the requirements;

(xv) For applications submitted by a special district, either standing alone or as a member of a joint powers board, the written review as required by W.S. 9-4-604(h);

(xvi) Other applicable information as requested by the Office; and

(xvii) Information demonstrating compliance with the eligibility criteria of Section 2 of this Chapter.

Section 5. Grant and Loan Prioritization.

(a) Grants and/or loans shall be prioritized based on the following criteria:

(i) Funding availability;

(ii) Cost efficiencies achieved by allocation of resources;

(iii) Opportunities for increased cost sharing between cease and transfer actions at multiple leaking municipal solid waste facilities;

(iv) Timeliness of cease and transfer actions in reducing risk to public health, safety and welfare or the environment;

(v) Remaining life of the existing municipal solid waste facility;

(vi) Whether the proposed actions are a cost-effective alternative in accordance with the integrated solid waste management plan approved for the municipal solid waste facility;

(vii) Whether the proposed action is reasonable and appropriate for the current and projected volumes of all solid waste for the area served by the facility;

(viii) Whether the proposal contains recycling and other forms of waste diversion as a component of the proposed facilities and management practices; and

(ix) The likelihood that the cease and transfer actions will reduce or eliminate the threat posed to public health, safety and welfare of the environment by continuing releases.

Section 6. Loan Terms.

(a) Interest rates for loans made under this chapter may be at zero percent, up to an annual interest rate equal to the average prime interest rate as determined by W.S. 35-11-528(e). In no event, shall the interest rate exceed an annual interest rate equal to the average prime interest rate as determined by the state treasurer. Interest rates established under this section shall be adjusted on January 1 of each year.

(b) Interest rates shall be established in recognition of the repayment abilities and needs of the applicant eligible for loans under the program.

(c) The Board shall establish loan amortization schedules, terms and conditions for each loan approved based on:

- (i) The applicant's need;
- (ii) Financial condition of the landfill operator or the entity responsible for solid waste funding;
- (iii) The projected life of the transfer facility; and
- (iv) The ability of the applicant to repay the loan in a timely manner.

(d) The term of the loan shall not exceed twenty (20) years and may be for a shorter term as determined by financial strength, repayment ability, security and other factors.

Section 7. Security.

(a) The Board shall require such security as it deems advisable. Security for loans may include, but is not limited to, the pledge and assignment of designated special property assessments within a district, the pledge and assignment of user fees, the pledge and assignment of transfer station generated revenue, and/or a first lien on equipment and fixtures.

(b) Appraisals of offered security will be completed by staff appraisers from the Office.

(c) Every loan will be evidenced by a promissory note for the principal sum of the loan signed by the borrower(s).

(d) The loan agreement shall provide a legal right of access to the Board and its agents for the purposes of inspection, maintenance, inventory, retrieval of personal property and fixtures, and foreclosure proceedings. Such right shall be assignable to the purchaser at any foreclosure sale.

(e) All loan documents including, but not limited to, notes, mortgage deeds, and security instruments shall be executed in the form and manner acceptable to the Wyoming Attorney General's Office.

Section 8. State Loan and Investment Board Actions.

(a) After DEQ approves a recommendation for an application, the loan and/or grant application package, containing all items described in Section 4 above, shall be forwarded to the Office for Board consideration at its next regularly scheduled meeting. This package shall

include a report from DEQ stating its recommendation regarding the applicant's loan request. All items required in Sections 2-5 of these rules shall be addressed in the report.

(b) Upon approval by the Board, documents shall be prepared for execution of the agreements necessary for the loan and/or grant to be made to the applicant.

(c) In no event shall the Board approve grant and/or loan funding in excess of seventy-five percent (75%) of the total costs of all cease and transfer activities of a municipal solid waste facility.

(d) Participation in the program shall not restrict funding for a municipal solid waste facility from any other program created or supported by the state, including, but not limited to, any other program under the authority of and administered by the Board.

Section 9. Disbursement of Loan Proceeds.

Loan proceeds shall be disbursed in minimum draws of one thousand dollars (\$1,000.00). Requests for disbursements shall be submitted on a form provided by the Office and include supporting invoices establishing the eligibility of costs submitted for disbursement. Loan proceeds will only be disbursed for eligible project costs as set forth in this Chapter following review by the Office and DEQ.

Section 10. Audits and Inspections.

The DEQ or Board may, at their expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project.

CHAPTER 35

MUNICIPAL SOLID WASTE FACILITIES CEASE AND TRANSFER LOAN AND GRANT PROGRAM

Section 1. **In General.**

- (a) Authority: This chapter is adopted pursuant to W.S. 35-11-530.
- (b) Applicability: The rules and regulations contained herein shall apply to any municipal solid waste facility operator. These regulations are effective immediately upon filing with the Secretary of State.
- (c) Objective: The objective of these rules and regulations is to provide grants and loans from the municipal solid waste facilities cease and transfer accounts for cease and transfer activities as provided in W.S. 35-11-528, 35-11-529 and 35-11-530.
- (d) Definitions:
- (i) "Board" means the State Loan and Investment Board.
 - (ii) "Capping" means construction of final cover over the top of a land disposal facility.
 - (iii) "DEQ" means the Wyoming Department of Environmental Quality.
 - (iv) "Office" means the Office of State Lands and Investments.
 - (v) "Revenue-generating facilities" means facilities owned by the applicant that generate revenue from user fees or assessments paid by the beneficiaries of the facilities.
 - (vi) "WWAB" means Water and Waste Advisory Board to the Wyoming Department of Environmental Quality.
 - (vii) Refer to Chapter 1, of the Wyoming Department of Environmental Quality, Solid Waste Rules and Regulations for definitions of the following: closure, collateral, facility, final cover, municipal solid waste, operator, and transfer facility.

Section 2. **Program Eligibility.**

~~(a) To be eligible for funding under the program the following criteria shall be met:~~ the applicant shall:

(a) meet the eligibility criteria set forth in W.S. 35-11-528(d); and

(b) be in compliance with all applicable reporting requirements with the Wyoming Department of Audit and Wyoming Department of Revenue prior to its application being considered by the Board.

~~(i) The local operator must enter into a written agreement with the Department to meet all regulatory obligations under the program;~~

~~(ii) The local operator must implement and revise the community's solid waste management plan as necessary to comply with all regulatory obligations;~~

~~(iii) The local operator must cease disposal of all municipal solid waste streams at the closed municipal solid waste facility;~~

~~(iv) The local operator must conform to the requirements of W.S. 35-11-532; and~~

~~(v) The local operator must cease disposal into units and facilities regulated under this article which do not have engineered containment systems or do not conform to performance based design standards.~~

Section 3. **Project Costs.**

(a) Eligible project costs: The Board shall extend loans and/or grants under the provisions of this chapter for:

(i) Capping of a closed landfill;

(ii) Other closure related expenses including engineering, geological and other professional services;

(iii) Construction or acquisition of appropriate solid waste transfer facilities and equipment, including acquisition of real property.

(b) Ineligible project costs: The following project costs shall be ineligible for reimbursement from grant funds and shall be ineligible to be counted toward the applicant's match:

- (i) Salaries or benefits for employees of the municipal solid waste facility;
- (ii) Long-term monitoring at a closed municipal solid waste facility or a closed cell of a still operating municipal solid waste facility;
- (iii) Operational costs of municipal solid waste facilities;
- (iv) Costs for any asset that is owned by a private property owner;
- (v) Costs for tap fees, sewer and water fees, and plant investment fees;
- (vi) Engineering fees, including design, inspection and contract administration costs, over ten percent (10%) of projects costs, unless otherwise approved by DEQ;
- (vii) All non-cash costs except:
 - (A) Land, labor, materials, equipment, and services provided by the applicant, and used for project purposes, valued at reasonable, actual cost;
 - (B) Land, labor, materials, equipment, and services provided to the applicant by others, at no cost to the applicant, used for project purposes and valued at reasonable, actual cost; and
 - (C) Land which is integral to the Municipal Solid Waste Facilities Cease and Transfer process but not costs for land in excess of current fair market value and/or costs for an amount of land in excess of that needed for project purposes. Land costs not defined in the application will be ineligible for reimbursement.
- (viii) Costs for preparation or presentation of grant or loan applications for any source of funding;
- (ix) Costs for transportation, meals and lodging incurred anywhere away from the site of the project;
- (x) Costs of tools, supplies and furnishings for capital projects not included in DEQ-approved construction contract documents, including but not limited to, capital equipment, hammers, tanks, tools, furniture, drapes, blinds, file cabinets, file folders and survey stakes;

- (xi) Legal fees;
- (xii) Costs related to issuance of bonds;
- (xiii) Costs for real property in excess of current fair market value and/or costs for an amount of real property in excess of that needed for project purposes;
- (xiv) Costs to establish and form special districts or joint powers boards;
- (xv) Costs incurred prior to grant or loan award, except costs for architectural and engineering design;
- (xvi) Costs for a contingency or additional work allowance in excess of ten percent (10%) of estimated construction costs, unless otherwise approved by DEQ;
- (xiii) Costs for change orders not approved by the Office and DEQ;
- (xiv) Lump sum contracts unless approved by the Office and DEQ; and
- (xv) Costs for meals and incidental expenses in excess of federal per diem rates.

Section 4. Application Procedure.

(a) Applications. Separate applications shall be prepared for each project. Applicants shall submit ~~three (3)~~ two (2) copies of their completed application to the Office. Applications shall be properly executed by the officers of the applicant.

(b) Timing of Board Consideration. Loan and/or grant applications must be received by the Director at least ninety (90) days prior to any scheduled meeting of the Board. Applicants must cure any defects in their applications no later than forty-five (45) calendar days before any scheduled meeting of the Board.

(c) Applications shall be reviewed by the DEQ and applicants will be notified of any deficiencies. When the DEQ has found an application to contain all required information and has completed its review, the DEQ shall provide a report to the Board. A copy of the report shall also be provided to the applicant. The report shall include the findings of the DEQ's review, recommendations for denial, approval or conditional approval of grants and/or loans, and a recommendation to the Board relating to the proposed amount of a recommended grant and/or loan.

(d) Information Required for All Applications. The following information shall be provided in all applications:

(i) An application cover page on a form provided by the Office;

(ii) A project summary on a form provided by the Office;

(iii) The grant and/or loan amount requested and percentage of total project costs for which the grant is sought;

(iv) A full description of the proposed project, specifically including, but not limited to, a phased construction schedule, if applicable, and alternative project designs;

(v) A detailed project budget divided into at least six (6) month intervals delineating all costs of the proposed project and the method by which the project costs were estimated;

(vi) A licensed engineer's statement of the feasibility of the project;

(vii) The geographic area and population served directly and indirectly by the project and the percentage of the applicant's population directly served by the project;

(viii) A description of other project funding sources, committed or pending, the portion of the project cost expected to be funded from each source, including any future grant applications under this chapter, and copies of funding commitments from all project funding sources, including the applicant, to demonstrate commitment to the project;

(ix) If the applicant is a special district, a copy of the resolution that shows formation of the special district and certification from the Board of County Commissioners that the special district currently exists and is in good standing;

(x) If the applicant is a joint powers board, a copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Wyoming Attorney General's Office;

(xi) A standard resolution authorizing the filing of the application on a form provided by the Office;

(xii) A financial statement of the applicant, on a uniform "General Financial Information" form provided by the Office;

(xiii) If an applicant submits multiple applications under this chapter for consideration at one meeting, a priority ranking of the applications as established by the applicant;

(xiv) If the project is needed to meet federal or state health and safety requirements, documentation of the specific requirements and an explanation of how the project addresses the requirements;

(xv) For applications submitted by a special district, either standing alone or as a member of a joint powers board, the written review as required by W.S. 9-4-604(h);

(xvi) Other applicable information as requested by the Office; and

(xvii) Information demonstrating compliance with the eligibility criteria of Section 2 of this Chapter.

Section 5. Grant and Loan Prioritization.

(a) Grants and/or loans shall be prioritized based on the following criteria:

(i) Funding availability;

(ii) Cost efficiencies achieved by allocation of resources;

(iii) Opportunities for increased cost sharing between cease and transfer actions at multiple leaking municipal solid waste facilities;

(iv) Timeliness of cease and transfer actions in reducing risk to public health, safety and welfare or the environment;

(v) Remaining life of the existing municipal solid waste facility;

(vi) Whether the proposed actions are a cost-effective alternative in accordance with the integrated solid waste management plan approved for the municipal solid waste facility;

(vii) Whether the proposed action is reasonable and appropriate for the current and projected volumes of all solid waste for the area served by the facility;

(viii) Whether the proposal contains recycling and other forms of waste diversion as a component of the proposed facilities and management practices; and

(ix) The likelihood that the cease and transfer actions will reduce or eliminate the threat posed to public health, safety and welfare of the environment by continuing releases.

Section 6. Loan Terms.

(a) Interest rates for loans made under this chapter may be at zero percent, up to an annual interest rate equal to the average prime interest rate as determined by W.S. 35-11-528(e). In no event, shall the interest rate exceed an annual interest rate equal to the average prime interest rate as determined by the state treasurer. Interest rates established under this section shall be adjusted on January 1 of each year.

(b) Interest rates shall be established in recognition of the repayment abilities and needs of the applicant eligible for loans under the program.

(c) The Board shall establish loan amortization schedules, terms and conditions for each loan approved based on:

(i) The applicant's need;

(ii) Financial condition of the landfill operator or the entity responsible for solid waste funding;

(iii) The projected life of the transfer facility; and

(iv) The ability of the applicant to repay the loan in a timely manner.

(d) The term of the loan shall not exceed twenty (20) years and may be for a shorter term as determined by financial strength, repayment ability, security and other factors.

Section 7. Security.

(a) The Board shall require such security as it deems advisable. Security for loans may include, but is not limited to, the pledge and assignment of designated special property assessments within a district, the pledge and assignment of user fees, the pledge and assignment of transfer station generated revenue, and/or a first lien on equipment and fixtures.

(b) Appraisals of offered security will be completed by staff appraisers from the Office.

(c) Every loan will be evidenced by a promissory note for the principal sum of the loan signed by the borrower(s).

(d) The loan agreement shall provide a legal right of access to the Board and its agents for the purposes of inspection, maintenance, inventory, retrieval of personal property and fixtures, and foreclosure proceedings. Such right shall be assignable to the purchaser at any foreclosure sale.

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