



# Notice of Intent to Adopt Rules

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

Revised November 2016

## 1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison	f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address		
h. Date of Public Notice	i. Comment Period End Date	
j. Public Comment URL or Email Address:		
k. Program		

\*  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.*

Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

**4. Public Comments and Hearing Information**

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

Date:	Time:	City:	Location:
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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.

Applicable Federal Law or Regulation Citation:
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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.

**7. Additional APA Provisions**

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

\_\_\_\_\_ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

\_\_\_\_\_ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

**8. Authorization**

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

## **STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES**

In conformance with the Governor's initiative to streamline agency rules, amendments to Chapter 5 of the State Loan and Investment Board's rules are proposed to remove definitions and provisions which already appear in statute or are defined in Chapter 1 of the State Loan and Investment Board's rules, Practice and Procedure Before the Board, in order to reduce rule length. Other amendments are for consistency and formatting.

## **Chapter 5**

### **Small Water Development Project Loans**

#### **Section 1. Authority.**

(a) These Rules and Regulations of the State Loan and Investment Board are adopted pursuant to Wyoming Statutes (W.S.) 11-34-302(b) and 11-34-103(a).

**Section 2. Definitions.** In addition to the definitions in Chapter 1, as used in this Chapter:

(a) “Acquired lands” means land to which the Board has acquired legal or equitable title.

(b) “Legal entity” means corporations, limited partnerships, general partnerships, limited liability companies, trusts, and other organizations and business entities recognized by the State of Wyoming.

(c) “Single agricultural enterprise” means an agricultural operation managed as one business.

(d) “Small water development project” means a project for development and use of water upon agricultural lands in Wyoming for agricultural purposes, to be financed in whole or in part by a loan made under this Chapter. Water development projects may include projects to convert dry land into irrigated land as well as projects which will lead to more efficient use of water and/or increased crop or forage production.

#### **Section 3. Eligible Applicants.**

(a) Individuals, to be eligible applicants, must be able to demonstrate compliance with W.S. 11-34-301(b).

(b) Legal entities, to be eligible applicants, must be able to demonstrate a majority of the ownership is by individuals who are eligible applicants under subsection (a).

#### **Section 4. Application Procedure.**

(a) Each prospective borrower shall submit a written loan application to the Office. The application shall include a proposed water development plan complete with design and cost estimates, the legal description of and evidence of water rights on the land to be developed, current financial statements including balance sheets, income and expense records and projections, and any other information the Board may require. A fee as established by the Board shall accompany all applications, and shall be returned if the application is withdrawn prior to a field appraisal being made.

(b) Timing. Loan applications must be received by the Director at least ninety (90)

calendar days prior to any regularly scheduled meeting of the Board. Applicants must cure any defects in their application no later than forty-five (45) calendar days before any regularly scheduled meeting of the Board.

(c) The staff at the Office will review each application as to:

(i) The sufficiency of the water supply and the engineering and economic feasibility of the project. Advice from the Wyoming State Engineer, other State or Federal Agencies and/or individuals will be used as deemed appropriate;

(ii) All credit factors including, but not limited to, repayment ability, financial strength and stability, and adequacy of security offered. Credit standards shall be the same for small water project loans as for Farm Loans except for level of lending as specified under Section 5(a) of this Chapter.

(d) The Director will review each application and make a recommendation to the Board for consideration at a regularly scheduled meeting.

(e) Applications, financial statements, appraisals, and all other information pertaining to an application which has not been submitted to the Board shall be held as confidential information. Upon consideration by the Board, the application and all information with respect thereto in the Office's files are public records available for inspection and reproduction as provided by law.

#### **Section 5. Loan Terms.**

(a) Single loans or a combination of loans made to a single agricultural enterprise shall not exceed an outstanding principal balance of one hundred fifty thousand dollars (\$150,000.00), regardless of the identity of the applicants.

(b) Interest rates shall be pursuant to Chapter 14 of the rules as established by the Board.

(c) The term of the loan shall not exceed forty (40) years and may be for a shorter term as determined by financial strength, repayment ability, security, and other factors.

(d) Loans shall be repaid in equal installments. However, upon application of the borrower, the Board may provide for interest only during any period in which the governor has declared that a drought or other emergency exists in the state. Once the emergency is declared to be over, repayment is to be according to the original note. The loan maturity date will remain the same.

(e) Loan fees shall be pursuant to Chapter 14 of the rules established by the Board.

#### **Section 6. Security.**

(a) Security for loans may include, but is not limited to, first and/or second mortgage on agricultural real estate, the pledge and assignment of designated special property assessments within a district, and/or first lien on irrigation equipment and fixtures.

(b) Appraisals of offered security will be done by the Office.

(c) Every loan will be evidenced by a promissory note for the principal sum of the loan signed by the borrower(s). Notes executed by legal entities will also be signed and guaranteed by the individuals owning the majority of that entity or by any other individual deemed necessary by the Board.

(d) The borrower will provide title insurance for the amount of the loan, when necessary, for the benefit of the Board as mortgagee.

(e) Every mortgage 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.

(f) 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.

#### **Section 7. Disbursement of Loan Proceeds.**

(a) After a loan has been approved, the borrower will be instructed to obtain short term financing and complete the irrigation development project. The short term lender will be instructed to comply with any construction contracts, maintain all vouchers and receipts, and disburse his proceeds in a proper manner. When the project is completed, an inspection will be done by the Office to insure that the project meets expectations. The loan closing will then be scheduled. State funds will be forwarded to the title insurance office with instructions to close the loan and pay off the short term lender.

#### **Section 8. Assumptions.**

(a) When a borrower conveys legal or equitable title to property securing a loan, the purchaser may assume the repayment obligation to the Board if qualified under W.S. 11-34-301 and Sections 3 and 4 of this Chapter. If the loan is not assumed by the purchaser, the loan shall be paid off in full at the time of the conveyance.

#### **Section 9. Partial Releases and Reamortizations.**

(a) A borrower may request a partial release of land from the mortgage. Such requests shall be directed to the Office, and may be approved by the Board if the borrower demonstrates a prompt payment history, a sound financial statement, and the release of land would be in the best interest of the Board. Small Water Development Project Loans cannot be

reamortized.

### **Section 10. Defaults.**

(a) If an annual payment is not received within thirty (30) calendar days of when due, the Office shall immediately notify the borrower of the default. The borrower shall have ninety (90) calendar days from the notice of the default to submit a repayment plan to the Office. Repayment plans shall include the following:

(i) The amounts and dates of payments that the borrower can make against the loan; and

(ii) Current financial and cash flow statements.

(b) If the borrower does not submit a repayment plan to the Office within ninety (90) calendar days from the notice of the default, the Office shall immediately initiate foreclosure on the defaulted loan.

(c) The Director shall review all repayment plans and make recommendations to the Board regarding their acceptance or rejection.

(d) If the Board accepts a repayment plan, the Office shall allow the borrower to make payments in accordance with the accepted plan. If the borrower then fails to make the payments called for in the accepted plan, the Office shall immediately initiate foreclosure on the defaulted loan.

(e) If the Board rejects a repayment plan, the Office shall immediately initiate foreclosure on the defaulted loan.

### **Section 11. Leasing of Acquired Lands.**

(a) Leasing procedure. The Board shall receive applications to lease acquired land for a period of twenty (20) calendar days after public notice is given of its intent to lease any property. Persons desiring to lease acquired lands shall submit to the Office a completed application in a sealed envelope, as provided by the Office. Applications offering cash rental shall be accompanied by a cashiers check or money order in the amount of the offer.

(b) Board's decision. The Board shall consider all aspects of the offers received and award the lease to the applicant whose offer would be most advantageous to the Board. The Board may reject any or all applications. Monies tendered by unsuccessful applicants for their rental offer shall be returned.

(c) Term. The term of the lease shall be set by the Board on a case-by-case basis, except that the term of a lease of land which is subject to a right of redemption shall not exceed the expiration of the redemption periods created by W.S. 1-18-103 and W.S. 1-18-104. If the redemption period will expire at an inopportune time during the growing season, the Board may

extend the lease term until a more convenient time in the growing season.

(d) Transfers. No lease granted under this section may be assigned or subleased without the approval of the Board.

(e) Reservation prohibited. A lease of acquired lands shall not contain a reservation of public hunting and fishing privileges.

## **Section 12. Sale of Acquired Lands.**

(a) Decision to sell. The Board shall sell acquired lands upon determination that the sale of the property would be the best means of restoring loan funds.

(b) Advertisement. All sales of acquired lands shall be advertised at least once per week, for four consecutive weeks, in both a newspaper in the county in which the property is located and a newspaper of statewide circulation.

(c) Auctions. All sales shall be by public auction, conducted by the Director or his representative. The minimum bid shall be as set by the Board. The Board reserves the right to reject any and all bids. The successful bidder must tender at least thirty percent (30%) of the purchase price, in the form of a cashier's check, or personal check with a letter of check guarantee, at the auction. Within ten (10) calendar days of the auction, the purchaser shall either pay the balance of the purchase price or, if eligible, enter into a sales contract pursuant to subsection (e) of this section.

(d) Title Insurance. The Office will order an open title insurance commitment. The purchaser of the property shall pay the cost of the commitment and title insurance.

(e) Sales Contracts.

(i) Amortized Sales Contracts, as described in this section, may be offered at the Board's discretion.

(ii) Eligibility. Any individual or legal entity that was the mortgagor when the land was acquired by the Board shall not be eligible to enter into a sales contract for the purchase of that acquired land.

(iii) Terms. Eligible purchasers may pay the balance of the purchase price pursuant to a sales contract with the following terms:

(A) The length of the contract shall not exceed thirty years (30) years;  
and

(B) The contract interest rate shall be pursuant to Chapter 14 of the rules as established by the Board.

(f) Assignments of Sales Contracts.

(i) Sales contracts may be assigned with approval by the Board. The original purchaser of acquired land under a sales contract shall remain obligated to the Board for performance under the contract regardless of any assignments of the purchaser's rights under the contract.

(ii) Subject to approval by the Board as described under paragraph (i) of this subsection, upon receipt of written notice of the name, address, and tax identification number of an assignee of the purchaser's contract rights, the Office shall note this information for purposes of mailing payment notices and reporting interest paid on the contract to the United States Internal Revenue Service.

**Section 13. Sale of Acquired Personal Property.**

(a) The Board hereby delegates to the Director the authority to sell, by public auction, sealed bid, or negotiated sale, any personal property acquired through foreclosure, repossession, or surrender. The Director shall report all sales of personal property to the Board at its next regular meeting.

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

**Chapter 5**  
**Small Water Development Project Loans**

**Section 1. Authority.**

(a) These Rules and Regulations of the State Loan and Investment Board are adopted pursuant to Wyoming Statutes (W.S.) 11-34-302(b) and 11-34-103(a). ~~This Chapter only pertains to small water development loans.~~

**Section 2. Definitions.**

In addition to the definitions in Chapter 1, As used in this Chapter:

(a) “Acquired lands” means land to which the Board has acquired legal or equitable title.

~~(b) “Board” means the State Loan and Investment Board.~~

~~(c) “Borrower” means an applicant for a loan for a small water development project; borrowers may include individuals who are qualified Wyoming electors, legal entities if a majority of the entity is owned by qualified Wyoming electors, court approved water districts, agencies of state and local government, and associations.~~

~~(d) “Director” means the Director of the Office of State Lands and Investments.~~

~~(e)~~(b) “Legal entity” means corporations, limited partnerships, general partnerships, limited liability companies, trusts, and other organizations and business entities recognized by the State of Wyoming.

~~(f) “Office” means the Office of State Lands and Investments.~~

~~(g)~~(c) “Single agricultural enterprise” means an agricultural operation managed as one business.

~~(h)~~(d) “Small water development project” means a project for development and use of water upon agricultural lands in Wyoming for agricultural purposes, to be financed in whole or in part by a loan made under this Chapter ~~in an amount not to exceed one hundred fifty thousand dollars (\$150,000.00)~~. Water development projects may include projects to convert dry land into irrigated land as well as projects which will lead to more efficient use of water and/or increased crop or forage production.

**~~Section 3. Purpose.~~**

~~(a) The Board may make loans pursuant to W.S. 11-34-302(a) to court approved water districts, to agencies of State and local government, persons, corporations, associations, and other legal entities in this State, all hereinafter referred to as the borrower, to finance the construction of water development projects.~~

### **Section 43. Eligible Applicants.**

(a) Individuals, to be eligible applicants, must be able to demonstrate compliance with W.S. 11-34-301(b).~~that they are qualified Wyoming electors as determined by Election Code Statutes of Title 22.~~

(b) Legal entities, to be eligible applicants, must be able to demonstrate ~~that a~~ majority of the ownership is by individuals who are eligible applicants under ~~meet the qualifications listed in subsection (a) of this section.~~

### **Section 54. Application Procedure.**

(a) Each prospective borrower shall submit a written loan application to the Office. The application shall include a proposed water development plan complete with design and cost estimates, the legal description of and evidence of water rights on the land to be developed, current financial statements including balance sheets, income and expense records and projections, and any other information the Board may require. A fee as established by the Board shall accompany all applications, and shall be returned if the application is withdrawn prior to a field appraisal being made.

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

~~(b)~~(c) The staff at the Office will review each application as to:

(i) The sufficiency of the water supply and the engineering and economic feasibility of the project. Advice from the Wyoming State Engineer, other State or Federal Agencies and/or individuals will be used as deemed appropriate;

(ii) All credit factors including, but not limited to, repayment ability, financial strength and stability, and adequacy of security offered. Credit standards shall be the same for small water project loans as for Farm Loans except for level of lending as specified under Section ~~7-5~~(a) of this ~~C~~chapter.

~~(e)~~(d) The Director will ~~then~~ review each application and make a recommendation to the Board for consideration at a regularly scheduled meeting.

~~(d)~~(e) Applications, financial statements, appraisals, and all other information pertaining to an application which has not been submitted to the Board shall be held as confidential

information. Upon consideration by the Board, the application and all information with respect thereto in the ~~Board's~~Office's files are public records available for inspection and reproduction as provided by law.

### **Section 65. Loan Terms.**

(a) Single loans or a combination of loans made to a single agricultural enterprise shall not exceed an outstanding principal balance of one hundred fifty thousand dollars (\$150,000.00), regardless of the identity of the applicants.

(b) Interest rates shall be pursuant to Chapter 14 of the rules as established by the Board.

(c) The term of the loan shall not exceed forty (40) years and may be for a shorter term as determined by financial strength, repayment ability, security, and other factors.

(d) Loans shall be repaid in equal, ~~annual~~ installments. However, upon application of the borrower, the Board may provide for interest only during any period in which the governor has declared that a drought or other emergency exists in the state. Once the emergency is declared to be over, repayment is to be according to the original note. The loan maturity date will remain the same.

(e) Loan fees shall be pursuant to Chapter 14 of the rules established by the Board.

### **Section 76. Security.**

~~(a) — The Board shall require such security as it deems advisable.~~

~~(a) —~~ (i) Security for loans may include, but is not limited to, first and/or second mortgage on agricultural real estate, the pledge and assignment of designated special property assessments within a district, and/or first lien on irrigation equipment and fixtures.

(b) Appraisals of offered security will be done 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). Notes executed by legal entities will also be signed and guaranteed by the individuals owning the majority of that entity or by any other individual deemed necessary by the Board.

(d) The borrower will provide title insurance for the amount of the loan, when necessary, for the benefit of the Board as mortgagee.

(e) Every mortgage 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.

(f) 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.

**Section 87. Disbursement of Loan Proceeds.**

(a) After a loan has been approved, the borrower will be instructed to obtain short term financing and complete the irrigation development project. The short term lender will be instructed to comply with any construction contracts, maintain all vouchers and receipts, and disburse his proceeds in a proper manner. When the project is completed, an inspection will be done by ~~a staff appraiser~~ the Office to insure that the project meets expectations. The loan closing will then be scheduled. State funds will be forwarded to the title insurance office with instructions to close the loan and pay off the short term lender.

**Section 98. Assumptions.**

(a) When a borrower conveys legal or equitable title to property securing a loan, the purchaser may assume the repayment obligation to the Board if qualified under W.S. 11-34-301 and Sections ~~34~~ and ~~45~~ of this Chapter. If the loan is not assumed by the purchaser, the loan shall be paid off in full at the time of the conveyance.

**Section 109. Partial Releases and Reamortizations.**

(a) A borrower may request a partial release of land from the mortgage. Such requests shall be directed to the Office, and may be approved by the Board if the borrower demonstrates a prompt payment history, a sound financial statement, and the release of land would be in the best interest of the Board. Small Water Development Project Loans cannot be reamortized.

**Section 110. Defaults.**

(a) If an annual payment ~~which is not received within thirty (30) calendar days of when due December 1st, is not received by December 31st of each year,~~ the Office shall immediately notify the borrower of the default. The borrower shall have ninety (90) calendar days from the notice of the default ~~until the following May 1st~~ to submit a repayment plan to the Office. Repayment plans shall include the following:

- (i) The amounts and dates of payments that the borrower can make against the loan; and
- (ii) Current financial and cash flow statements.

(b) If the borrower does not submit a repayment plan to the Office ~~Board~~ within ninety (90) calendar days from the notice of the default ~~by May 1st,~~ the Office ~~Board~~ shall immediately initiate foreclosure on the defaulted loan.

(c) The Director shall review all repayment plans and make recommendations to the Board regarding their acceptance or rejection ~~no later than the following August Board meeting.~~

(d) If the Board accepts a repayment plan, the ~~Office Board~~ shall allow the borrower to make payments in accordance with the accepted plan. If the borrower then fails to make the payments called for in the accepted plan, the ~~Office Board~~ shall immediately initiate foreclosure on the defaulted loan.

(e) If the Board rejects a repayment plan, the ~~Office Board~~ shall immediately initiate foreclosure on the defaulted loan.

### **Section 121. Leasing of Acquired Lands.**

(a) Leasing procedure. The Board shall receive applications to lease acquired land for a period of twenty (20) calendar days after public notice is given of its intent to lease any property. Persons desiring to lease acquired lands shall submit to the Office a completed application in a sealed envelope, as provided by the Office. Applications offering cash rental shall be accompanied by a cashier's check or money order in the amount of the offer.

(b) Board's decision. The Board shall consider all aspects of the offers received and award the lease to the applicant whose offer would be most advantageous to the Board. The Board may reject any or all applications. Monies tendered by unsuccessful applicants for their rental offer shall be returned.

(c) Term. The term of the lease shall be set by the Board on a case-by-case basis, except that the term of a lease of land which is subject to a right of redemption shall not exceed the expiration of the redemption periods created by W.S. 1-18-103 and W.S. 1-18-104. If the redemption period will expire at an inopportune time during the growing season, the Board may extend the lease term until a more convenient time in the growing season.

(d) Transfers. No lease granted under this section may be assigned or subleased without the approval of the Board.

(e) Reservation prohibited. A lease of acquired lands shall not contain a reservation of public hunting and fishing privileges.

### **Section 132. Sale of Acquired Lands.**

(a) Decision to sell. The Board shall sell acquired lands upon determination that the sale of the property would be the best means of restoring loan funds.

(b) Advertisement. All sales of acquired lands shall be advertised at least once per week, for four consecutive weeks, in both a newspaper in the county in which the property is located and a newspaper of statewide circulation.

(c) Auctions. All sales shall be by public auction, conducted by the Director or his representative. The minimum bid shall be as set by the Board. The Board reserves the right to reject any and all bids. The successful bidder must tender at least thirty percent (30%) of the purchase price, in the form of a cashier's check, or personal check with a letter of check guarantee, at the auction. Within ten (10) calendar days of the auction, the purchaser shall either pay the balance of the purchase price or, if eligible, enter into a sales contract pursuant to subsection (e) of this section.

(d) Title Insurance. The Office will order an open title insurance commitment. The purchaser of the property shall pay the cost of the commitment and title insurance.

(e) Sales Contracts.

(i) Amortized Sales Contracts, as described in this section, may be offered at the Board's discretion.

(ii) Eligibility. Any individual or legal entity that was the mortgagor when the land was acquired by the Board shall not be eligible to enter into a sales contract for the purchase of that acquired land.

(iii) Terms. Eligible purchasers may pay the balance of the purchase price pursuant to a sales contract with the following terms:

(A) The length of the contract shall not exceed thirty years (30) years;  
and

(B) The contract interest rate shall be pursuant to Chapter 14 of the rules as established by the Board.

(f) Assignments of Sales Contracts.

(i) Sales contracts may be assigned with approval by the Board. The original purchaser of acquired land under a sales contract shall remain obligated to the Board for performance under the contract regardless of any assignments of the purchaser's rights under the contract.

(ii) Subject to approval by the Board as described under paragraph (i) of this subsection, upon receipt of written notice of the name, address, and tax identification number of an assignee of the purchaser's contract rights, the Office shall note this information for purposes of mailing payment notices and reporting interest paid on the contract to the United States Internal Revenue Service.

### **Section 143. Sale of Acquired Personal Property.**

(a) The Board hereby delegates to the Director the authority to sell, by public auction, sealed bid, or negotiated sale, any personal property acquired through foreclosure, repossession,

or surrender. The Director shall report all sales of personal property to the Board at its next regular meeting.

## **STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES**

Amendments to Chapter 7 of the State Loan and Investment Board's rules are necessary to incorporate 2017 legislative changes, SEA0024, to W.S. 11-34-115 governing the Farm Loan program. In particular, the maximum loan amount was increased from \$800,000 to \$1 million. In addition, Chapter 7 is being amended to remove definitions and provisions which already appear in statute or are defined in Chapter 1 of the State Loan and Investment Board's rules, Practice and Procedure Before the Board, in order to reduce rule length. Other amendments are for consistency and formatting.

## **Chapter 7 Farm Loans**

### **Section 1. Authority.**

- (a) This Chapter is adopted pursuant to Wyoming Statute (W.S.) 11-34-101 et seq.

**Section 2. Definitions.** In addition to the definitions in Chapter 1, as used in this Chapter:

- (a) “Acquired lands” means lands to which the Board has acquired legal or equitable title.
- (b) “Agricultural products” means typical crops produced from the cultivation and management of the soil.
- (c) “Beginning Agricultural Producer” means an individual or entity that has never owned and/or operated more than 160 acres of cultivated irrigated land, or 320 acres of cultivated dry crop land, or 640 acres of grazing land unless such land was acquired within the last two (2) years; has adequate working capital; substantially participates in the operation; and meets all eligibility requirements provided for in this Chapter.
- (d) “Legal entity” means corporations, limited partnerships, general partnerships, limited liability companies, trusts and other organizations or business entities recognized by the State of Wyoming.
- (e) “Livestock” means horses, cattle, buffalo, sheep, swine and yaks.
- (f) “Single agricultural enterprise” means an agricultural operation managed as one business.

### **Section 3. General Policy.**

- (a) Farm loans shall be made in such a manner and to such parties as shall, in the judgment of the Board, inure to the greatest benefit of the state and represent a wise investment of state funds.
- (b) The Beginning Agriculture Producer loan program is intended to help beginning farmers or ranchers get into a production agriculture business. It is not intended to benefit investors or developers.
- (c) All loans are to be fully amortized in equal installments over the term of the loan.

### **Section 4. Eligible Applicants.**

- (a) Individuals, to be eligible applicants, must be able to demonstrate compliance

with W.S. 11-34-110(b).

(b) Legal entities, to be eligible applicants, must be able to demonstrate that a majority of the ownership is by individuals who are eligible applicants under subsection (a).

(c) If the applicant for a Beginning Agricultural Producer loan is a legal entity, all owners must be eligible Beginning Agricultural Producers.

### **Section 5. Eligible Purposes.**

(a) Loans may be made only for the following purposes:

(i) To purchase lands used principally for raising agricultural products, livestock, or dairying;

(ii) To purchase livestock, fertilizers, and equipment calculated to maintain or increase the earning capacity of the borrower's agricultural operation;

(iii) To purchase, construct, or install improvements calculated to maintain or increase the earning capacity of the borrower's agricultural operation; or

(iv) To liquidate debts of the borrower incurred in the furtherance of the borrower's agricultural operation;

(v) To enhance or restore livestock numbers in the state pursuant to W.S. 11-34-113-(j).

### **Section 6. Application Procedure.**

(a) Applications.

(i) Each prospective borrower shall submit a written loan application, on the form furnished by the Office.

(ii) Incomplete applications shall not be submitted to the Board for consideration.

(iii) Any false or misleading statements made by the applicant in an application shall be grounds for summary rejection of the application.

(iv) A fee as established by W.S. 11-34-121 shall be deposited with the Board before the application is considered. The unused portion of the fee shall be returned to the applicant if the loan is not granted.

(v) Applications, financial statements, appraisals, and all other information pertaining to an application which has not been submitted to the Board shall be held as

confidential information. Upon consideration by the Board, the application and all information with respect thereto in the Office's files are public records available for inspection and reproduction as provided by law.

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

(b) Consideration.

(i) The Office shall conduct a preliminary review of all applications received. If the Office identifies problems with the application which would result in a negative recommendation to the Board, the Office shall notify the applicant of the problem and the applicant shall have the opportunity to withdraw the application from further consideration.

(ii) All applications, not withdrawn under paragraph (i) of this subsection, shall be presented to the Board for its consideration.

(iii) The Board shall take the following into account, when considering applications:

(A) The applicant's net worth;

(B) The applicant's ability to repay the loan based on viable, continuous income from any source;

(C) The applicant's credit history; and

(D) The applicant's need.

(iv) The Board shall take action on applications only once. The Board shall not reconsider an application that is substantially the same as an application previously acted upon. Applicants may submit a substantially different application, provided that it complies with all the requirements for filing a new application.

## **Section 7. Loan Terms.**

(a) Amount. Single loans or a combination of loans made to a single agricultural enterprise shall be made pursuant to W.S. 11-34-115.

(i) Loans made to enhance or restore livestock numbers in the state may not exceed three hundred thousand dollars (\$300,000) to any one (1) borrower and shall be aggregated with all other loans for purposes of determining compliance with loan percentages.

(b) Interest rate. The interest rate for loans under this Chapter shall be pursuant to

Chapter 14 of the rules as established by the Board.

(c) Length. The term of each loan shall be set by the Board with due regard given to repayment ability and the security offered, but in no event shall the term exceed thirty (30) years.

(d) Repayment. Loans shall be payable in equal installments.

(e) Loan fees shall be pursuant to Chapter 14 of the rules as established by the Board.

### **Section 8. Security.**

(a) Every loan shall be evidenced by a promissory note for the principal sum of the loan.

(b) Farm loans and Beginning Agricultural Producer loans shall be secured by a first mortgage upon farm or ranch land within Wyoming of sufficient value to secure the loan. Proof of merchantable title must be provided by the borrower in the form of title insurance naming the Board as beneficiary. Farm loans may not exceed 60% of appraised value and Beginning Agricultural Producer loans may not exceed 70% of appraised value.

(c) An appraisal shall be prepared for the Board. Appraisals shall reflect the current agricultural market value of the land to be mortgaged.

(d) The Board shall take a Uniform Commercial Code (UCC) security agreement on all irrigation equipment located on the lands being offered for security.

(e) The Board shall take security interests in secure leaseholds, reservoir company stock, and grazing association stock whenever necessary to protect the value of the lands being offered for security as an agricultural operation.

### **Section 9. Disbursement.**

(a) The proceeds of a farm loan shall not be disbursed to the borrower until such time as the borrower can show a mature obligation, the satisfaction or partial satisfaction of which will result from the application of the loan proceeds. The borrower shall use the proceeds of any farm loan exclusively for the purpose or purposes set out in the application, and shall furnish evidence satisfactory to the Board to that effect.

(b) The Office shall inspect and verify any reports and records required by the Board and submitted by the borrower before proceeds shall be released for payment.

(c) Loan proceeds shall be disbursed at a closing when all loan documents shall be executed by the borrower. Documents executed on behalf of a legal entity shall be executed by persons authorized by that entity to borrow money and mortgage property. Officers or majority owners of legal entities shall also be personally liable for repayment of the loan.

## **Section 10. Assumptions.**

(a) When a borrower conveys legal or equitable title to property securing a farm loan, the purchaser may assume the repayment obligation to the Board if qualified under W.S. 11-34-110 and Section 4 of this Chapter. If the loan is not assumed by the purchaser, the loan shall be paid off in full at the time of the conveyance.

(b) Beginning Agricultural Producer loans may not be assumed.

(c) Loans made for the purpose of enhancing or restoring livestock numbers in the state under W.S. 11-34-113(j) may not be assumed.

## **Section 11. Partial Releases.**

(a) A borrower may request a partial release of land from the mortgage. Such requests shall be directed to the Office, and may be approved by the Board if the borrower demonstrates a prompt payment history, a sound financial statement, and the release of land would be in the best interest of the Board.

(b) For Beginning Agricultural Producer loans, no partial releases will be granted during the first ten (10) years of the loan term unless all of the sale proceeds or the appraised value of the land to be released is applied to the loan balance.

## **Section 12. Reamortizations.**

(a) A borrower requesting reamortization must provide current financial information and other documentation as requested by the Office and must show that reamortization will significantly improve the financial viability of his agricultural operation. Fees for reamortization shall be pursuant to Chapter 14 of the rules as established by the Board.

## **Section 13. Defaults.**

(a) If an annual payment is not received within thirty (30) calendar days of when due, the Office shall immediately notify the borrower of the default. The borrower shall have ninety (90) calendar days from the notice of the default to submit a repayment plan to the Office. Repayment plans shall include the following:

(i) The amounts and dates of payments that the borrower can make against the loan; and

(ii) Current financial and cash flow statements.

(b) If the borrower does not submit a repayment plan to the Office within ninety (90) calendar days from the notice of the default, the Office shall immediately initiate foreclosure on the defaulted loan.

(c) The Director shall review all repayment plans and make recommendations to the Board regarding their acceptance or rejection.

(d) If the Board accepts a repayment plan, the Director shall allow the borrower to make payments in accordance with the accepted plan. If the borrower then fails to make the payments called for in the accepted plan, the Office shall immediately initiate foreclosure on the defaulted loan.

(e) If the Board rejects a repayment plan, the Office shall immediately initiate foreclosure on the defaulted loan.

#### **Section 14. Leasing of Acquired Lands.**

(a) Leasing procedure. The Board shall receive applications to lease acquired land for a period of twenty (20) calendar days after public notice is given of its intent to lease any property. Persons desiring to lease acquired lands shall submit to the Office a completed application in a sealed envelope, as provided by the Office. Applications offering cash rental shall be accompanied by a cashiers check or money order in the amount of the offer.

(b) Board's decision. The Board shall consider all aspects of the offers received and award the lease to the applicant whose offer would be most advantageous to the Board. The Board may reject any or all applications. Monies tendered by unsuccessful applicants for their rental offer shall be returned.

(c) Term. The term of the lease shall be set by the Board on a case-by-case basis, except that the term of a lease of land which is subject to a right of redemption shall not exceed the expiration of the redemption periods created by W.S. 1-18-103 and W.S. 1-18-104. If the redemption period will expire at an inopportune time during the growing season, the Board may extend the lease term until a more convenient time in the growing season.

(d) Transfers. No lease granted under this section may be assigned or subleased without the approval of the Board.

(e) Reservation prohibited. A lease of acquired lands shall not contain a reservation of public hunting and fishing privileges.

#### **Section 15. Sale of Acquired Lands.**

(a) Decision to sell. The Board shall sell acquired lands upon determination that the sale of the property would be the best means of restoring loan funds.

(b) Advertisement. All sales of acquired lands shall be advertised at least once per week, for four consecutive weeks, in both a newspaper in the county in which the property is located and a newspaper of statewide circulation.

(c) Auctions. All sales shall be by public auction, conducted by the Director or his

representative. The minimum bid shall be as set by the Board. The Board reserves the right to reject any and all bids. The successful bidder must tender at least thirty percent (30%) of the purchase price, in the form of a cashier's check, or a personal check with a letter of check guarantee, at the auction. Within ten (10) calendar days of the auction, the purchaser shall either pay the balance of the purchase price or if eligible enter into a sales contract pursuant to subsection (e) of this section.

(d) Title Insurance. The Office will order an open title insurance commitment. The purchaser of the property shall pay the cost of the commitment and title insurance.

(e) Sales Contracts.

(i) Amortized Sales Contracts, as described in this section, may be offered at the Board's discretion.

(ii) Eligibility. Any individual or legal entity that was the mortgagor when the land was acquired by the Board shall not be eligible to enter into a sales contract in the purchase of that acquired land.

(iii) Terms. Eligible purchasers may pay the balance of the purchase price pursuant to a sales contract with the following terms:

(A) The length of the contract shall not exceed thirty (30) years; and

(B) The contract interest rate shall be pursuant to Chapter 14 of the rules as established by the Board.

(f) Assignments of Sales Contracts.

(i) Sales contracts may be assigned with approval by the Board. The original purchaser of acquired land under a sales contract shall remain obligated to the Board for performance under the contract regardless of any assignments of the purchaser's rights under the contract.

(ii) Subject to approval by the Board as described under paragraph (i) of this subsection, upon receipt of written notice of the name, address, and tax identification number of an assignee of the purchaser's contract rights, the Office shall note this information for purposes of mailing payment notices and reporting interest paid on the contract to the United States Internal Revenue Service.

### **Section 16. Sale of Acquired Personal Property.**

(a) The Board hereby delegates to the Director the authority to sell, by public auction, sealed bid, or negotiated sale, any personal property acquired through foreclosure, repossession, or surrender. The Director shall report all sales of personal property to the Board at its next regular meeting.

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

**Chapter 7**  
**Farm Loans**

**Section 1. Authority.**

- (a) This ~~C~~chapter is adopted pursuant to Wyoming Statute (W.S.) 11-34-101 et seq.

**Section 2. Definitions.**

In addition to the definitions in Chapter 1, Aas used in this ~~C~~chapter:

(a) “Acquired lands” means lands to which the Board has acquired legal or equitable title.

(b) “Agricultural products” means typical crops produced from the cultivation and management of the soil.

(c) “Beginning Agricultural Producer” means an individual or entity that has never owned and/or operated more than 160 acres of cultivated irrigated land, or 320 acres of cultivated dry crop land, or 640 acres of grazing land unless such land was acquired within the last two (2) years; has adequate working capital; substantially participates in the operation; and meets all eligibility requirements provided for in this Chapter.

~~(d) —“Board” means the State Loan and Investment Board.~~

~~(e) —“Director” means the Director of the Office of State Lands and Investments.~~

~~(d)~~ (d) “Legal entity” means corporations, limited partnerships, general partnerships, limited liability companies, trusts and other organizations or business entities recognized by the State of Wyoming.

~~(g)~~(e) “Livestock” means horses, cattle, buffalo, sheep, ~~and swine~~ and yaks.

~~(h) —“Office” means the Office of State Lands and Investments.~~

~~(f)~~(f) “Single agricultural enterprise” means an agricultural operation managed as one business.

**Section 3. General Policy.**

(a) ~~The Board shall extend farm loans to foster and encourage agriculture, dairying, and livestock raising in the State of Wyoming, and the development and improvement of farm lands. Farm loans shall be made in such a manner and to such parties as shall, in the judgment of~~

the Board, inure to the greatest benefit of the state and represent a wise investment of state funds.

(b) The Beginning Agriculture Producer loan program is intended to help beginning farmers or ranchers get into a production agriculture business. It is not intended to benefit investors or developers.

(c) Pursuant to ~~W.S. 11-34-113(j)~~, the Board may make loans for the purpose of ~~enhancing or restoring livestock numbers in the state. Said loans are not to exceed seven (7) years in term and~~ All loans are to be fully amortized in equal ~~annual~~ installments over the term of the loan.

#### **Section 4. Eligible Applicants.**

(a) Individuals, to be eligible applicants, must be able to demonstrate ~~that they are qualified Wyoming Electors as determined by Election Code Statutes of Title 22~~ compliance with W.S. 11-34-110(b).

(b) Legal entities, to be eligible applicants, must be able to demonstrate that a majority of the ownership is by individuals who ~~meet the qualifications listed in subsection (a) of this section~~ are eligible applicants under subsection (a).

(c) If the applicant for a “~~b~~Beginning ~~a~~Agricultural ~~p~~Producer” loan is a legal entity, all owners must be eligible ~~b~~Beginning ~~a~~Agricultural ~~p~~Producers.

#### **Section 5. Eligible Purposes.**

(a) Loans may be made only for the following purposes:

(i) To purchase lands used principally for raising agricultural products, livestock, or dairying;

(ii) To purchase livestock, fertilizers, and equipment calculated to maintain or increase the earning capacity of the borrower’s agricultural operation;

(iii) To purchase, construct, or install improvements calculated to maintain or increase the earning capacity of the borrower’s agricultural operation; or

(iv) To liquidate debts of the borrower incurred in the furtherance of the borrower’s agricultural operation;

(v) To enhance or restore livestock numbers in the state pursuant to W.S. 11-34-113-(j).

#### **Section 6. Application Procedure.**

(a) Applications.

(i) Each prospective borrower shall submit a written loan application, on the form furnished by the Office.

(ii) Incomplete applications shall not be submitted to the Board for consideration.

(iii) Any false or misleading statements made by the applicant in an application shall be grounds for summary rejection of the application.

(iv) A fee as established by W.S. 11-34-121 shall be deposited with the ~~State Loan and Investment~~ Board before the application is considered. The unused portion of the fee shall be returned to the applicant if the loan is not granted.

(v) Applications, financial statements, appraisals, and all other information pertaining to an application which has not been submitted to the Board shall be held as confidential information. Upon consideration by the Board, the application and all information with respect thereto in the ~~Board's~~ Office's files are public records available for inspection and reproduction as provided by law.

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

(b) Consideration.

(i) The Office shall conduct a preliminary review of all applications received. If the ~~staff~~ Office identifies problems with the application which would result in a negative recommendation to the Board, the ~~staff~~ Office shall notify the applicant of the problem and the applicant shall have the opportunity to withdraw the application from further consideration.

(ii) All applications, not withdrawn under paragraph (i) of this subsection, shall be presented to the Board for its consideration.

(iii) The Board shall take the following into account, when considering applications:

(A) The applicant's net worth;

(B) The applicant's ability to repay the loan based on viable, continuous income from any source;

(C) The applicant's credit history; and

(D) The applicant's need.

(iv) The Board shall take action on applications only once. The Board shall not reconsider an application that is substantially the same as an application previously acted upon. Applicants may submit a substantially different application, provided that it complies with all the requirements for filing a new application.

### **Section 7. Loan Terms.**

(a) Amount. Single loans or a combination of loans made to a single agricultural enterprise shall not exceed an outstanding principal balance of eight hundred thousand dollars (\$800,000), regardless of the identity of the applicants. No loan may be made for less than \$10,000 shall be made pursuant to W.S. 11-34-115.

(i) Loans made to enhance or restore livestock numbers in the state pursuant to W. S. 11-34-113(j) may not exceed three hundred thousand dollars (\$300,000) to any one (1) borrower and shall be aggregated with all other loans for purposes of determining compliance with loan percentages.

(b) Interest rate. The interest rate for loans under this Chapter shall be pursuant to Chapter 14 of the rules as established by the Board, in accordance with current interest rates.

(c) Length. The term of each loan shall be set by the Board with due regard given to repayment ability and the security offered, but in no event shall the term exceed thirty (30) years.

~~(i) For loans made to enhance or restore livestock numbers in the state, pursuant to W. S. 11-34-113 (j), the term of the loan shall not exceed seven (7) years.~~

(d) Repayment. Loans shall be payable in equal, ~~annual~~ installments.

(e) Loan fees shall be pursuant to Chapter 14 of the rules as established by the Board.

### **Section 8. Security.**

(a) Every loan shall be evidenced by a promissory note for the principal sum of the loan.

(b) Farm loans and Beginning Agricultural Producer loans shall be secured by a first mortgage upon farm or ranch land within Wyoming of sufficient value to secure the loan. Proof of merchantable title must be provided by the borrower in the form of title insurance naming the Board as beneficiary. Farm loans may not exceed 60% of appraised value and Beginning Agricultural Producer loans may not exceed 70% of appraised value.

~~(c) Loans made for the purpose of enhancing or restoring livestock numbers in the state shall comply with W.S. 11-34-114(c), pursuant to W. S. 11-34-113(j), may be secured by a first or second mortgage on the borrower's real estate and shall be aggregated with all other loans for purposes of determining compliance with loan to value for collateral requirements.~~

~~After loan closing, the aggregated loan to value ratio shall not exceed 70%.~~

(dc) An appraisal ~~as provided for by statute~~ shall be prepared for the Board. Appraisals shall reflect the current agricultural market value of the land to be mortgaged.

(ed) The Board shall take a Uniform Commercial Code (UCC) security agreement on all irrigation equipment located on the lands being offered for security.

(fe) The Board shall take security interests in secure leaseholds, reservoir company stock, and grazing association stock whenever necessary to protect the value of the lands being offered for security as an agricultural operation.

### **Section 9. Disbursement.**

(a) The proceeds of a farm loan shall not be disbursed to the borrower until such time as the borrower can show a mature obligation, the satisfaction or partial satisfaction of which will result from the application of the loan proceeds. The borrower shall use the proceeds of any farm loan exclusively for the purpose or purposes set out in the application, and shall furnish evidence satisfactory to the Board to that effect.

(b) The Office shall inspect and verify any reports and records required by the Board and submitted by the borrower before proceeds shall be released for payment.

(c) Loan proceeds shall be disbursed at a closing when all loan documents shall be executed by the borrower. Documents executed on behalf of a legal entity shall be executed by persons authorized by that entity to borrow money and mortgage property. Officers or majority owners of legal entities shall also be personally liable for repayment of the loan.

~~(d) The borrower shall pay the costs of recording all lien documents.~~

### **Section 10. Assumptions.**

(a) When a borrower conveys legal or equitable title to property securing a farm loan, the purchaser may assume the repayment obligation to the Board if qualified under W.S. 11-34-110 and Section 4 of this Chapter. If the loan is not assumed by the purchaser, the loan shall be paid off in full at the time of the conveyance.

(b) “Beginning ~~a~~Agricultural ~~p~~Producer<sup>22</sup> loans may not be assumed.

(c) Loans made for the purpose of enhancing or restoring livestock numbers in the state under W.S. 11--34--113(j) may not be assumed.

### **Section 11. Partial Releases.**

(a) A borrower may request a partial release of land from the mortgage. Such requests shall be directed to the Office, and may be approved by the Board if the borrower

demonstrates a prompt payment history, a sound financial statement, and the release of land would be in the best interest of the Board.

(b) For “~~b~~Beginning ~~a~~Agricultural ~~p~~Producer<sup>22</sup> loans, no partial releases will be granted during the first ten (10) years of the loan term unless all of the sale proceeds or the appraised value of the land to be released is applied to the loan balance.

### **Section 12. Reamortizations.**

(a) Pursuant to ~~W.S. 11-34-113~~, the Board may reamortize the unpaid principal balance of a farm loan, a Beginning Agricultural Producer Loan or a loan made for the purpose of enhancing or restoring livestock numbers in the state, over the remaining term of the mortgage at the same interest rate as that in effect at the time of the reamortization. A borrower requesting reamortization must provide current financial information and other documentation as requested by the Office and must show that reamortization will significantly improve the financial viability of his agricultural operation. Fees for reamortization shall be pursuant to Chapter 14 of the rules as established by the Board.

### **Section 13. Defaults.**

(a) If an annual payment is not received within thirty (30) calendar days of when due ~~which is due December 1st is not received by December 31st of each year~~, the Office shall immediately notify the borrower of the default. The borrower shall have ninety (90) calendar days from the notice of the default until the following May 1st to submit a repayment plan to the Office. Repayment plans shall include the following:

- (i) The amounts and dates of payments that the borrower can make against the loan; and
- (ii) Current financial and cash flow statements.

(b) If the borrower does not submit a repayment plan to the Office within ninety (90) calendar days from the notice of the default by May 1st, the Office Director shall immediately initiate foreclosure on the defaulted loan.

(c) The Director shall review all repayment plans and make recommendations to the Board regarding their acceptance or rejection ~~no later than the following August Board meeting~~.

(d) If the Board accepts a repayment plan, the Director shall allow the borrower to make payments in accordance with the accepted plan. If the borrower then fails to make the payments called for in the accepted plan, the Office Board shall immediately initiate foreclosure on the defaulted loan.

(e) If the Board rejects a repayment plan, the Office Board shall immediately initiate foreclosure on the defaulted loan.

#### **Section 14. Leasing of Acquired Lands.**

(a) Leasing procedure. The Board shall receive applications to lease acquired land for a period of twenty (20) calendar days after public notice is given of its intent to lease any property. Persons desiring to lease acquired lands shall submit to the Office a completed application in a sealed envelope, as provided by the Office. Applications offering cash rental shall be accompanied by a cashiers check or money order in the amount of the offer.

(b) Board's decision. The Board shall consider all aspects of the offers received and award the lease to the applicant whose offer would be most advantageous to the Board. The Board may reject any or all applications. Monies tendered by unsuccessful applicants for their rental offer shall be returned.

(c) Term. The term of the lease shall be set by the Board on a case-by-case basis, except that the term of a lease of land which is subject to a right of redemption shall not exceed the expiration of the redemption periods created by W.S. 1-18-103 and W.S. 1-18-104. If the redemption period will expire at an inopportune time during the growing season, the Board may extend the lease term until a more convenient time in the growing season.

(d) Transfers. No lease granted under this section may be assigned or subleased without the approval of the Board.

(e) Reservation prohibited. A lease of acquired lands shall not contain a reservation of public hunting and fishing privileges.

#### **Section 15. Sale of Acquired Lands.**

(a) Decision to sell. The Board shall sell acquired lands upon determination that the sale of the property would be the best means of restoring loan funds.

(b) Advertisement. All sales of acquired lands shall be advertised at least once per week, for four consecutive weeks, in both a newspaper in the county in which the property is located and a newspaper of statewide circulation.

(c) Auctions. All sales shall be by public auction, conducted by the Director or his representative. The minimum bid shall be as set by the Board. The Board reserves the right to reject any and all bids. The successful bidder must tender at least thirty percent (30%) of the purchase price, in the form of a cashier's check, or a personal check with a letter of check guarantee, at the auction. Within ten (10) calendar days of the auction, the purchaser shall either pay the balance of the purchase price or if eligible enter into a sales contract pursuant to subsection (e) of this section.

(d) Title Insurance. The Office will order an open title insurance commitment. The purchaser of the property shall pay the cost of the commitment and title insurance.

(e) Sales Contracts.

(i) Amortized Sales Contracts, as described in this section, may be offered at the Board's discretion.

(ii) Eligibility. Any individual or legal entity that was the mortgagor when the land was acquired by the Board shall not be eligible to enter into a sales contract in the purchase of that acquired land.

(iii) Terms. Eligible purchasers may pay the balance of the purchase price pursuant to a sales contract with the following terms:

(A) The length of the contract shall not exceed thirty (30) years; and

(B) The contract interest rate shall be pursuant to Chapter 14 of the rules as established by the Board.

(f) Assignments of Sales Contracts.

(i) Sales contracts may be assigned with approval by the Board. The original purchaser of acquired land under a sales contract shall remain obligated to the Board for performance under the contract regardless of any assignments of the purchaser's rights under the contract.

(ii) Subject to approval by the Board as described under paragraph (i) of this subsection, upon receipt of written notice of the name, address, and tax identification number of an assignee of the purchaser's contract rights, the Office shall note this information for purposes of mailing payment notices and reporting interest paid on the contract to the United States Internal Revenue Service.

### **Section 16. Sale of Acquired Personal Property.**

(a) The Board hereby delegates to the Director the authority to sell, by public auction, sealed bid, or negotiated sale, any personal property acquired through foreclosure, repossession, or surrender. The Director shall report all sales of personal property to the Board at its next regular meeting.

## **STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES**

Chapters 27, 28, and 29 of the State Loan and Investment Board's rules provide for the distribution of 2008 legislative appropriations for emergency capital project grants, large capital construction projects, and investment grade energy audits for local governments. These rules are no longer utilized by the Board because the Board has already distributed the funds appropriated for these purposes. As such, the rules are no longer necessary and the Board is repealing these rules in their entirety.

**Chapter 27**

**Emergency Capital Project Grants – Individual Applications**

**REPEALED**

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

**Chapter 27**

**Emergency Capital Project Grants – Individual Applications**

**REPEALED**

~~Section 1. Authority.~~

~~This chapter is adopted pursuant to Laws 2008, Chapter 48, Section 330(a).~~

~~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. Routine maintenance and repair does not constitute a capital project.~~

~~(c) — "Director" means the Director of the Office of State Lands and Investments.~~

~~(d) — "Eligible Applicant" means incorporated cities and towns, counties, special districts and joint powers boards in Wyoming.~~

~~(e) — "Eligible Project Costs" means total project cost less ineligible project costs.~~

~~(f) — "Emergency Situation" means a situation(s) that poses a direct and immediate threat to public health, safety or welfare.~~

~~(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.~~

### ~~Section 3. General Policy.~~

~~The Board shall award grants under the provisions of this chapter for emergency capital projects 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. Funding Availability.~~

~~Available emergency funding for capital projects statewide for this chapter is allocated pursuant to Laws 2008, Chapter 48, Section 330(a).~~

### ~~Section 5. Grant Eligibility.~~

~~(a) — Applicants. — Incorporated cities and towns, counties, special districts and joint powers boards shall be eligible to apply to the Office for grants under this chapter. If the applicant is a special district or joint powers board, it must be legally formed, approved and otherwise in compliance with statutory requirements of the Wyoming Department of Revenue prior to submitting an application to receive 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) — Purposes. — The Board shall provide emergency capital project grants to eligible applicants to be used only when the board finds the grant is necessary to:~~

~~(i) — Alleviate an emergency situation which poses a direct and immediate threat to public health, safety or welfare; or~~

~~(ii) — Comply with a federal or state mandate; or~~

~~(iii) — Provide an essential public service. — Essential public services include, but are not limited to capital construction, acquisition of capital equipment, public safety projects, housing related projects and road repair or construction.~~

~~(c) — Ineligible Project Costs. — The following project costs shall be ineligible for reimbursement from grant funds:~~

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

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

~~(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 four (4) copies of their completed application to the Office. Applications shall be properly executed by the officers of the applicant.~~

~~(b) — Timing. Applications for emergency consideration must be received at least twenty (20) calendar days prior to any regular or special meeting of the Board.~~

~~(c) — 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 detailing the emergency situation as defined in this chapter;~~

~~(iii) — The grant amount requested by project type as specified by the Office 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 phased 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.~~

~~(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);~~

~~(d) 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 relative urgency of the project as an emergency situation as defined in this chapter;~~

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

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

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

~~(v) Whether the project is appropriately sized in relation to the population to be served by 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;~~

~~(x) Reviews of the application by applicable state agencies.~~

#### ~~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 along with applicable match requirements.~~

#### ~~Section 9. Grant Disbursement and Administration.~~

~~(a) Grant Disbursement. 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 (\$1000.00) 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 shall revert to uncommitted status.~~

~~Section 10. Audits and Inspections.~~

~~Each individual project is subject to 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 28**

**Unfunded or Partially Funded Large Capital Construction Projects – Individual Applications**

**REPEALED**

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

**~~Chapter 28~~**

**~~Unfunded or Partially Funded Large Capital Construction Projects – Individual Applications~~**

**~~REPEALED~~**

~~Section 1. Authority.~~

~~This chapter is adopted pursuant to W.S. 9-4-604 and Laws 2008, Chapter 48, Sections 328(g), 329(g) and 330(b).~~

~~Section 2. Definitions.~~

~~As used in this chapter:~~

~~(a) "Board" means the State Loan and Investment Board.~~

~~(b) "Capital Construction Project" means the construction, replacement or improvement of a fixed asset or public service facility. Routine maintenance and repair does not constitute a capital project.~~

~~(c) "Director" means the Director of the Office of State Lands and Investments.~~

~~(d) "Eligible Applicant" means incorporated cities and towns, counties, special districts and joint powers boards in Wyoming.~~

~~(e) "Eligible Project Costs" means total project cost less ineligible project costs.~~

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

~~(g) "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.~~

### ~~Section 3. General Policy.~~

~~The Board shall award grants under the provisions of this chapter for unfunded or partially funded large capital construction projects 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. Funding Availability.~~

~~Available funding for unfunded or partially funded large capital construction projects statewide for this chapter is allocated pursuant to Laws 2008, Chapter 48, Section 330(b).~~

### ~~Section 5. Grant Eligibility.~~

~~(a) — Applicants. Incorporated cities and towns, counties, special districts and joint powers boards shall be eligible to apply to the Office for grants under this chapter. If the applicant is a special district or joint powers board, it must be legally formed, approved and otherwise in compliance with statutory requirements of the Wyoming Department of Revenue prior to submitting an application to receive 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) — Minimum Taxation Requirements. Pursuant to W.S. 9-4-604 and Laws Chapter 48, Section 330(b) the following minimum taxation requirements apply to any applicant for funding under this chapter. No grant shall be made by the state loan and investment board under this section to any county unless the county imposes at least eleven (11) or ninety-one and sixty-seven one-hundredths percent (91.67%) of the available mills authorized by article 15, section 5 of the Wyoming constitution, or unless the county is imposing the optional sales tax authorized under W.S. 39-15-204(a)(i) or (iii). No grant shall be made by the state loan and investment board under this section to any municipality unless the municipality imposes at least seven (7) or eighty-seven and five-tenths percent (87.5%) of the available mills authorized by article 15, section 6 of the Wyoming constitution. No grant shall be made by the state loan or investment board under this section to any special district or other lawful entity which imposes less than eighty percent (80%) of any authorized mill levy. The state loan and investment board may waive the taxation requirements imposed by this subsection for good cause shown such as other funding sources, but in no case shall the state loan and investment board authorize any grant to any municipality under this section which does not impose at least two (2) or twenty-five percent (25%) of the available mills authorized by article 15, section 6 of the Wyoming constitution.~~

~~(c) — Purposes. Pursuant to W.S. 9-4-604 and Laws, Chapter 2008, Chapter 48, Sections 328(g), 329(g) and 330(b) the Board shall provide capital construction project grants to eligible applicants to be used only when the board finds the grant is necessary to:~~

~~(i) — Alleviate an emergency situation which poses a direct and immediate threat to public health, safety or welfare; or~~

~~(ii) — Comply with a federal or state mandate; or~~

~~(iii) — Provide an essential public service. Essential public services include, but are not limited to capital construction, acquisition of capital equipment, public safety projects, housing related projects and road repair or construction; or~~

~~(iv) — The project was either unfunded or partially funded by the countywide consensus list process in the county or counties in which the project is situated pursuant to Laws 2008, Chapter 48, Sections 328(g), 329(g) and 330(b); and applicant has documented that the project in terms of dollars is the largest dollar project currently being considered by applicant and/or that the scope of the project exceeds the financial ability of applicant to fund it from other available revenue sources including loans from state and federal agencies and private sources.~~

~~(d) — The Board will use the following guidelines pursuant W.S. 9-4-604 to determine appropriate grant percentages:~~

~~(i) — All eligible applicants are presumed eligible to receive a grant up to fifty percent (50%) of eligible project costs;~~

~~(ii) — Subject to applicable statutes, the Board reserves the right to make grants for more than fifty percent (50%) of eligible project costs to eligible applicants if the Board determines that:~~

~~(A) — the municipality either levied at least seven (7) mills for operating expenses including special districts 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 application and is utilizing all other local revenue sources reasonably and legally available to finance the project; or~~

~~(B) — the county or special district 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.~~

~~(e) — Ineligible Project Costs. The following project costs shall be ineligible for~~

reimbursement from grant funds:

- ~~(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 for transportation, meals and lodging incurred anywhere away from the site of the project;~~
- ~~(vii) — Costs of tools and furnishings for capital projects, including but not limited to, capital equipment, hammers, tanks, furniture, drapes and blinds not integral to and necessary for the project;~~
- ~~(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 four (4) copies of their completed application to the Office. Applications shall be properly executed by the officers of the applicant.~~

~~(b) — Timing. Applications must be received at least twenty (20) calendar days prior to any regular or special meeting of the Board.~~

~~(c) — 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 as defined in this chapter;~~

~~(iii) — The grant amount requested by project type as specified by the Office 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 phased 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.~~

~~(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);~~

~~(d) — 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) — Whether the applicant has made a significant commitment of local and other available state resources, including but not limited to, countywide consensus list funding, alternative grant funding, and a loan(s) in proportion to an applicant's ability to service the debt load for said loan(s);~~

~~(ii) — Whether the project is appropriately sized in relation to the population to be served by the project;~~

~~(iii) — Whether the applicant is current on all its repayment obligations to the Board;~~

~~(iv) — The extent to which the applicant is utilizing, or plans to utilize, available and qualified Wyoming based professional firms and contractors on the project;~~

~~(v) — The financial need of the applicant, as determined by the Board;~~

~~(vi) — 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.~~

~~Section 9. Grant Disbursement and Administration.~~

~~(a) Grant Disbursement. 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 (\$1000.00) 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 unless applicant sets forth in writing steps that have been undertaken to commence the project. 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, the Director 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 shall revert to uncommitted status and the unused portion of the grant funds will be made available to other applicants for grants awarded by the Board pursuant to this chapter.~~

~~Section 10. Audits and Inspections.~~

~~Each individual project is subject to 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 29**

### **Investment Grade Energy Audits – Individual Applications**

**REPEALED**

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

**Chapter 29**

**Investment Grade Energy Audits – Individual Applications**

**REPEALED**

~~Section 1. Authority.~~

~~This chapter is adopted pursuant to Laws 2008, Chapter 48, Section 330(b)(i).~~

~~Section 2. Definitions.~~

~~As used in this chapter:~~

~~(a) — "Board" means the State Loan and Investment Board.~~

~~(b) — "Council" means the Wyoming Business Council – State Energy Office.~~

~~(c) — "Director" means the Director of the Office of State Lands and Investments.~~

~~(d) — "Eligible Applicant" means incorporated cities and towns, counties, special districts and joint powers boards in Wyoming.~~

~~(e) — "Eligible Project Costs" means total project cost less ineligible project costs.~~

~~(f) — "Energy Performance Contract" means the contracting vehicle that allows facility owners to accomplish energy or water efficiency projects without upfront capital costs or capital appropriations.~~

~~(g) — "Energy Service Company" means the contractor, pre-qualified under the Wyoming Energy Conservation Improvement Program, responsible for audit, design, implementation, measurement, verification and guarantee of savings for individual projects.~~

~~(h) — "Facility Owner" means a local government entity or group of local government entities responsible for an individual facility or group of facilities including operation, maintenance, financial, legal, and upper management personnel.~~

~~(i) —“Investment Grade Energy Audit” means the detailed engineering investigation and report of a facility’s current energy and water consuming equipment inventory, condition, operation, maintenance, and performance, energy baseline, potential energy and water efficiency upgrades, life cycle costs, and risks for future performance that provides the justification for the energy performance contract project.~~

~~(j) —“Manager” means the Manager of the Wyoming Business Council — State Energy Office.~~

~~(k) —“Office” means the Office of State Lands and Investments.~~

~~(l) —“Wyoming Energy Conservation Improvement Program” means the Wyoming Business Council — State Energy Office program designed to enable and support development and implementation of energy performance contract projects.~~

### ~~Section 3. General Policy.~~

~~The Board shall award grants under the provisions of this chapter for investment grade energy audits 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. Funding Availability.~~

~~Available funding for investment grade energy audits statewide for this chapter is allocated pursuant to Laws 2008, Chapter 48, Section 330(b)(i) subject to approval by the State Loan and Investment Board. On April 3, 2008 the State Loan and Investment Board met and approved setting aside \$1,000,000 for grants for investment grade energy audits.~~

### ~~Section 5. Grant Eligibility.~~

~~(a) — Applicants. Incorporated cities and towns, counties, special districts and joint powers boards shall be eligible to apply to the Office for grants under this chapter. To be eligible for funding applicants must have executed an INVESTMENT GRADE AUDIT AND PROJECT DEVELOPMENT CONTRACT with an energy service company on or after July 1, 2008. If the applicant is a special district or joint powers board, it must be legally formed, approved and otherwise in compliance with statutory requirements of the Wyoming Department of Revenue prior to submitting an application to receive 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) — Purposes and Match Requirement. — The Board shall provide investment grade energy audit grants to eligible applicants only for the purpose of auditing energy consumption of an applicant's buildings and operations. — Board awarded grants shall be matched by eligible applicants with a contribution of not less than one dollar (\$1.00) for each two dollars (\$2.00) of the grant amount.~~

~~(c) — Ineligible Investment Grade Energy Audit Costs. — The following audit costs shall be ineligible for reimbursement from grant funds:~~

~~(i) — Costs in excess of the threshold established for investment grade energy audits established by the Wyoming Energy Conservation Improvement Program;~~

~~(ii) — Costs for preparation or presentation of grant or loan applications for any source of funding;~~

~~(iii) — Costs for transportation, meals and lodging incurred anywhere away from the site(s) of the investment grade energy audit;~~

~~(iv) — Costs for eligible applicant's staff time and expenses incurred during the preparation of the investment grade energy audit;~~

~~(v) — Legal fees;~~

~~(vi) — Costs to establish and form special districts or joint powers boards;~~

~~(vii) — Costs incurred prior to grant award;~~

#### ~~Section 6. — Application Procedure.~~

~~(a) — Applications. — Separate applications shall be prepared by applicants for separate investment grade energy audits. — Applicants are permitted to submit one application for multiple buildings and operations encompassed in a single investment grade energy audit. — Applicants shall submit four (4) copies of their completed application to the Office. — Applications shall be properly executed by the officers of the applicant.~~

~~(b) — Timing. Applications for investment grade energy audit grant consideration must be received at least fifteen (15) calendar days prior to any regular or special meeting of the Board.~~

~~(c) — 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 detailing the buildings and operations to be included in the investment grade energy audit;~~

~~(iii) — If the applicant is a special district, a copy of the resolution that shows formation of the special district;~~

~~(iv) — 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; and~~

~~(v) — A standard resolution authorizing the filing of the application on a form provided by the Office.~~

~~(d) — Incomplete Applications. Incomplete applications shall not be presented to the Board for consideration.~~

#### ~~Section 7. Evaluation Criteria.~~

~~Criteria. The Board shall evaluate applications utilizing the following criteria:~~

~~(a) — Whether applicant has executed a facility owner contract with the Wyoming Energy Conservation Improvement Program;~~

~~(b) — Whether the applicant has matching funds for the audit from other than state grants;~~

~~(c) — Whether the applicant is current on all its repayment obligations to the Board.~~

#### ~~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 along with applicable match requirements.~~

#### ~~Section 9. Grant Disbursement and Administration.~~

~~(a) — Grant Disbursement Process. 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 audit purposes and are due and owing.~~

~~(b) — Minimum Grant Disbursement. The minimum grant disbursement shall be One Thousand dollars (\$1000.00) unless it is the final disbursement of grant funds for the audit.~~

~~(c) — Grant Funds Relinquishment. Unexpended grant funds awarded pursuant to this chapter and unobligated funds appropriated for the purposes set forth in this chapter will on April 1, 2010 automatically be relinquished. Said funds will be made available for unfunded or partially funded large capital construction projects pursuant to Laws 2008, Chapter 48, Section 330(b)(i).~~

#### ~~Section 10. Audits and Inspections.~~

~~Each investment grade energy audit grant award is subject to requirements of this section. The Board may, at its expense, conduct an audit of the records of the applicant related to a grant awarded pursuant to this chapter.~~