



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules (After completing all of Sections 1 through 3, proceed to Section 5 below)

Regular Rules

1. General Information

a. Agency/Board Name Environmental Quality		
b. Agency/Board Address 200 W 17th St Ste 400	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Alan Edwards	f. Agency Liaison Telephone Number 307-777-7062	
g. Agency Liaison Email Address alan.edwards@wyo.gov	h. Adoption Date May 22, 2018	
i. Program Abandoned Mine Reclamation		

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 checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
1	Authorities, Definitions and General Provisions	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
7	Mine Subsidence Insurance Program	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **March 30, 2018**

- approved as to form by the Registrar of Rules; and
- provided to the Legislative Service Office and Attorney General:

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

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

5. Final Filing of Rules


a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature:

b. Date on which final rules were approved as to form by the Secretary of State and sent to the Legislative Service Office:

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

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	Todd Parfitt
Signatory Title	Director
Date of Signature	May 24, 2018

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

STATE OF WYOMING

IN THE MATTER OF REVISIONS TO)	
CHAPTERS ONE AND SEVEN)	PRINCIPAL REASONS
ABANDONED MINE RECLAMATION PROGRAM)	FOR ADOPTION

1. The Governor, pursuant to the authority vested in him by W. S. § 35-11-1207(a) and W.S. § 35-11-1302(b), has revised the following chapters of the Wyoming Department of Environmental Quality, Abandoned Mine Reclamation Program: Chapter 1, Authorities, Definitions, and General Provisions; and Chapter 7, Mine Subsidence Insurance Program.

2. On September 6, 2016, the Department of Administration and Information promulgated uniform public records rules for the use of all state agencies, as required by W. S. § 16-4-204(e). *See* Wyoming Department of Administration and Information, Director’s Office, Chapter 2, Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records (“Uniform Rules”).

3. Chapter 1, Authorities, Definitions, and General Provisions; and Chapter 7, Mine Subsidence Insurance Program have been revised to adopt the Uniform Rules, as required by W.S. § 16-3-103(j)(ii). Section 5 was added to Chapter 1 and Sections 1(b), (c), and (d) were added to Chapter 7 to include the rule and the effective date that is incorporated by reference.



Abandoned Mine Reclamation Program

Chapters 1 and 7

Response to Comments

The Wyoming Department of Environmental Quality Abandoned Mine Land Division proposes to revise Abandoned Mine Land Program Chapter 1, Authorities, Definitions, and General Provisions; and Chapter 7, Mine Subsidence Insurance Program.

The Division published a public notice stating the intent to adopt rules in the Casper Star-Tribune on April 2, 2018. Notice was also provided to interested parties that were subscribed to the Division's electronic listserv and hard copy mailing lists.

No written comments were received during the 45-day public comment period, which ended on May 21, 2018.

During the 45-day public comment period, the Division received from the Attorney General's Office a comment that noted a typo in the proposed rules. The Division corrected "as in effect of" to "in effect as of" per the Attorney General's Office recommendation.

CHAPTER 1

AUTHORITIES, DEFINITIONS AND GENERAL PROVISIONS

Section 1. Authority.

These rules and regulations are adopted by the Governor pursuant to the authority provided by W.S. 35-11-1207(a) (West 2007).

Section 2. Definitions (applicable to AML Division).

(a) "Adversely affected" means a harmful or unfavorable impact that can be directly connected to mining or mining practices.

(b) "Appraisal" means an appraisal which meets the quality of practices found in the handbook on "Uniform Appraisal Standards for Federal Land Acquisitions" (Interagency Land Acquisition Conference 2000).

(c) "Certified In Lieu Funds" means:

(i) Those moneys distributed to the state by the Office of Surface Mining from the general funds of the United States Treasury in lieu of moneys allocated to the state share of the Fund from AML fees collected after October 1 2007.

(ii) Certified In Lieu Funds are separate and distinct from the Prior Balance Replacement Funds that are distributed by the Office of Surface Mining from the balance owed the state from AML fees collected prior to October 1, 2007 but were not appropriated by Congress to be returned to the state.

(iii) Certified In Lieu Funds are not restricted in their use but priority shall be given to the eligible reclamation and remediation categories listed in Chapter 5 with eligible coal sites given priority over other projects.

(d) "Competitive bidding" means, at a minimum:

(i) Publication of a notice once a week for four weeks in a local newspaper, describing the land to be sold and stating the appraised value, any applicable restrictive covenants, and the time and place of the sale; and

(ii) Provisions for sealed bids to be submitted prior to the sale date followed by an oral auction open to the public.

(e) "Continuing reclamation responsibility" means responsibility for reclamation by the operator, permittee, or agent of the permittee, or by the state as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation.

(f) "Emergency" means a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of the people before the danger can be abated under normal program operation procedures. This shall be supported by a written finding from the Director.

(g) "Enhancement" means improvements necessary to meet local, state or federal public health, safety or standard operations requirements but does not include areal expansions, additions or substitutions.

(h) "Left or abandoned in either an unreclaimed or inadequately reclaimed condition" means:

(i) Lands where all mining processes ceased and no permit existed as of August 3, 1977, (lands and waters affected by mineral mining and processing practices and under the jurisdiction of the Forest Service shall utilize the effective date of August 28, 1974, whereas lands and waters under the jurisdiction of the Bureau of Land Management shall utilize the effective date of November 26, 1980) or as a result of bond forfeiture where the forfeited bond is insufficient to pay the total cost of reclamation; and

(ii) Lands or water which continue in their present condition to substantially degrade the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public.

(i) "Mineral" means clays, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any solid material or substance extracted in solid form from natural deposits on or in the earth, excluding coal and those minerals which occur naturally in liquid or gaseous form, such as oil and gas development and production.

(j) "Prior Balance Replacement Funds" means:

(i) The state share of the AML Fees collected before October 1, 2007 but were not paid to the State because Congress did not appropriate them;

(ii) The moneys are distributed to the State in seven equal payments starting in the Federal fiscal year beginning October 1, 2007; and

(iii) The funds may only be used for those purposes the State legislature establishes giving priority to addressing the impacts of mineral development.

(k) "Program" means the State Abandoned Mine Reclamation Program established in accordance with title IV of P.L. 95-87 by W.S. 35-11-1201 through 1207 (West 2007), including the State Reclamation Plan and annual projects to carry out the purposes of the program.

(l) "Reclamation" means, for the purpose of the division, restoration, reclamation, abatement, control or prevention of adverse effects of mining.

Section 3. Definitions applicable to the Mine Subsidence Insurance Program.

In addition to the definitions contained in W.S. 35-11-1301 (West 2007) the following definitions apply to the program:

(a) "Aggregate" means the total amount of funds available in the Mine Subsidence Insurance Program at any given time to pay for claims of which the Mine Subsidence Insurance Program has been notified and which are in the process of settlement.

(b) "Fair market" value means a value as determined by either the local tax assessor, an appraisal by a licensed appraiser, or a market analysis by a licensed realtor.

(c) "Fixture" means sidewalks, driveways, utilities and other physical improvements permanently affixed to the realty which enhance use and enjoyment of the realty which are either owned by or the responsibility of the insured, excluding land, trees, plants and crops.

(d) "Known subsidence areas" means lands beneath which mining has occurred and such mining has been documented in public records, or where there is physical evidence of subsidence.

(e) "Loss" means physical damage to a structure or the adverse effect to the utility of a structure as defined by W.S. 35-11-1301(a)(iii) (West 2007).

Section 4. General Provisions.

AML will:

(a) Make all determinations and findings which are required under the program in writing.

(b) When conducting mine subsidence mitigation:

(i) Coordinate activities with the Mine Subsidence Insurance Program and offer insurance to those properties identified under Chapter 7, Section 3 for the duration of the project in accordance with that Chapter. Failure of the property owner to accept the insurance will make them ineligible for consideration for repairs if in the event damage from subsidence occurs;

(ii) Undertake all reasonable and necessary steps to reclaim the land including single family lots; and

(iii) Repair any improvements to the land that AML has to remove or otherwise impact in the process of reclaiming and/or mitigating the subsidence. This provision is restricted to repairs to the improvements on the land that is being mitigated for subsidence.

(c) Submit thru the Director to the Governor a reclamation plan. This plan shall be updated and resubmitted at a minimum of every five years. The plan shall include:

(i) The proposed reclamation and costs of coal and noncoal hazards; and

(ii) An estimate the availability of funds to be devoted to the Public Facilities Program described in Chapter 6.

Section 5. Public Records.

(a) These rules incorporate by reference the following rules and regulations, in effect as of September 6, 2016:

(i) Wyoming Department of Administration and Information, Director's Office, Chapter 2, Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records, available at <https://rules.wyo.gov>.

(b) These rules do not incorporate later amendments or editions of the incorporated matter.

(c) All incorporated matter is available for public inspection at the Department's Cheyenne office. Contact information for the Cheyenne Office may be obtained at <http://deq.wyoming.gov> or from (307) 777-7937.

CHAPTER 1

AUTHORITIES, DEFINITIONS AND GENERAL PROVISIONS

Section 1. Authority.

These rules and regulations are adopted by the Governor pursuant to the authority provided by W.S. 35-11-1207(a) (West 2007).

Section 2. Definitions (applicable to AML Division).

(a) "Adversely affected" means a harmful or unfavorable impact that can be directly connected to mining or mining practices.

(b) "Appraisal" means an appraisal which meets the quality of practices found in the handbook on "Uniform Appraisal Standards for Federal Land Acquisitions" (Interagency Land Acquisition Conference 2000).

(c) "Certified In Lieu Funds" means:

(i) Those moneys distributed to the state by the Office of Surface Mining from the general funds of the United States Treasury in lieu of moneys allocated to the state share of the Fund from AML fees collected after October 1 2007.

(ii) Certified In Lieu Funds are separate and distinct from the Prior Balance Replacement Funds that are distributed by the Office of Surface Mining from the balance owed the state from AML fees collected prior to October 1, 2007 but were not appropriated by Congress to be returned to the state.

(iii) Certified In Lieu Funds are not restricted in their use but priority shall be given to the eligible reclamation and remediation categories listed in Chapter 5 with eligible coal sites given priority over other projects.

(d) "Competitive bidding" means, at a minimum:

(i) Publication of a notice once a week for four weeks in a local newspaper, describing the land to be sold and stating the appraised value, any applicable restrictive covenants, and the time and place of the sale; and

(ii) Provisions for sealed bids to be submitted prior to the sale date followed by an oral auction open to the public.

(e) "Continuing reclamation responsibility" means responsibility for reclamation by the operator, permittee, or agent of the permittee, or by the state as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation.

(f) "Emergency" means a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of the people before the danger can be abated under normal program operation procedures. This shall be supported by a written finding from the Director.

(g) "Enhancement" means improvements necessary to meet local, state or federal public health, safety or standard operations requirements but does not include areal expansions, additions or substitutions.

(h) "Left or abandoned in either an unreclaimed or inadequately reclaimed condition" means:

(i) Lands where all mining processes ceased and no permit existed as of August 3, 1977, (lands and waters affected by mineral mining and processing practices and under the jurisdiction of the Forest Service shall utilize the effective date of August 28, 1974, whereas lands and waters under the jurisdiction of the Bureau of Land Management shall utilize the effective date of November 26, 1980) or as a result of bond forfeiture where the forfeited bond is insufficient to pay the total cost of reclamation; and

(ii) Lands or water which continue in their present condition to substantially degrade the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public.

(i) "Mineral" means clays, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any solid material or substance extracted in solid form from natural deposits on or in the earth, excluding coal and those minerals which occur naturally in liquid or gaseous form, such as oil and gas development and production.

(j) "Prior Balance Replacement Funds" means:

(i) The state share of the AML Fees collected before October 1, 2007 but were not paid to the State because Congress did not appropriate them;

(ii) The moneys are distributed to the State in seven equal payments starting in the Federal fiscal year beginning October 1, 2007; and

(iii) The funds may only be used for those purposes the State legislature establishes giving priority to addressing the impacts of mineral development.

(k) "Program" means the State Abandoned Mine Reclamation Program established in accordance with title IV of P.L. 95-87 by W.S. 35-11-1201 through 1207 (West 2007), including the State Reclamation Plan and annual projects to carry out the purposes of the program.

(l) "Reclamation" means, for the purpose of the division, restoration, reclamation, abatement, control or prevention of adverse effects of mining.

Section 3. Definitions applicable to the Mine Subsidence Insurance Program.

In addition to the definitions contained in W.S. 35-11-1301 (West 2007) the following definitions apply to the program:

(a) "Aggregate" means the total amount of funds available in the Mine Subsidence Insurance Program at any given time to pay for claims of which the Mine Subsidence Insurance Program has been notified and which are in the process of settlement.

(b) "Fair market" value means a value as determined by either the local tax assessor, an appraisal by a licensed appraiser, or a market analysis by a licensed realtor.

(c) "Fixture" means sidewalks, driveways, utilities and other physical improvements permanently affixed to the realty which enhance use and enjoyment of the realty which are either owned by or the responsibility of the insured, excluding land, trees, plants and crops.

(d) "Known subsidence areas" means lands beneath which mining has occurred and such mining has been documented in public records, or where there is physical evidence of subsidence.

(e) "Loss" means physical damage to a structure or the adverse effect to the utility of a structure as defined by W.S. 35-11-1301(a)(iii) (West 2007).

Section 4. General Provisions.

AML will:

(a) Make all determinations and findings which are required under the program in writing.

(b) When conducting mine subsidence mitigation:

(i) Coordinate activities with the Mine Subsidence Insurance Program and offer insurance to those properties identified under Chapter 7, Section 3 for the duration of the project in accordance with that Chapter. Failure of the property owner to accept the insurance will make them ineligible for consideration for repairs if in the event damage from subsidence occurs;

(ii) Undertake all reasonable and necessary steps to reclaim the land including single family lots; and

(iii) Repair any improvements to the land that AML has to remove or otherwise impact in the process of reclaiming and/or mitigating the subsidence. This provision is restricted to repairs to the improvements on the land that is being mitigated for subsidence.

(c) Submit thru the Director to the Governor a reclamation plan. This plan shall be updated and resubmitted at a minimum of every five years. The plan shall include:

(i) The proposed reclamation and costs of coal and noncoal hazards; and

(ii) An estimate the availability of funds to be devoted to the Public Facilities Program described in Chapter 6.

Section 5. Public Records.

(a) These rules incorporate by reference the following rules and regulations, in effect as of September 6, 2016:

(i) Wyoming Department of Administration and Information, Director's 181 Office, Chapter 2, Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records, available at <https://rules.wyo.gov>.

(b) These rules do not incorporate later amendments or editions of the incorporated 185 matter.

(c) All incorporated matter is available for public inspection at the Department's Cheyenne office. Contact information for the Cheyenne Office may be obtained at <http://deq.wyoming.gov> or from (307) 777-7937.

CHAPTER 7

MINE SUBSIDENCE INSURANCE PROGRAM

Section 1. General

(a) This chapter establishes rules and regulations for a program of insurance administered by the Abandoned Mine Land Division to insure structures in Wyoming from damage resulting from mine subsidence.

(b) These rules incorporate by reference the following rules and regulations, in effect as of September 6, 2016:

(i) Wyoming Department of Administration and Information, Director's Office, Chapter 2, Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records, available at <https://rules.wyo.gov>.

(c) These rules do not incorporate later amendments or editions of the incorporated matter.

(d) All incorporated matter is available for public inspection at the Department's Cheyenne office. Contact information for the Cheyenne Office may be obtained at <http://deq.wyoming.gov> or from (307) 777-7937.

Section 2. Rights of Subrogation.

In the event of a loss, an insured person's rights to recover from another become the rights of the State up to the amount of the covered loss and the insured person must protect these rights and assist representatives of the State in enforcing them.

Section 3. Notice to Property Owners.

(a) The division and their consultants, using best engineering and professional judgment based on analysis of the potential impact, shall identify surrounding properties that may reasonably be at risk from subsidence damage due to AML mitigation work.

(b) Prior to initiating subsidence mitigation work, the division's contractor shall notify the owner of all property identified in (a) and offer to purchase subsidence insurance for the property for the duration of the project.

(c) If accepted, the property owner must allow the property to be inspected to establish baseline conditions and allow the property to be inspected at any reasonable time during the project.

(d) This offer will be made to protect the state from subsidence damage claims for the duration of the project.

Section 4. Contract Terms and Conditions.

(a) Coverage shall be for a term of one year and shall renew upon payment of the premium unless cancelled or non-renewed pursuant to Section 11.

(b) Excluded from coverage are:

(i) Existing and unrepaired mine subsidence loss, except that structures damaged prior to June 11, 1986 shall be covered under the conditions enumerated in W.S. 35-11-1302 (a) (i) through (v).

(ii) Any damage not due to mine subsidence.

(iii) Bodily injury or death.

(iv) Damage to contents not attached to and part of the structure, personal property or automobiles (owned or non-owned) or motorized vehicles whether used to service the premises or not.

(v) Except as provided in this paragraph, additional living expenses or the interruption of rental income incurred by an insured person. Reasonable additional living expenses can be covered where a residential structure will be unlivable during a reasonable repair period, or a professional engineer or engineer in a public office having authority to make such decisions finds that there is imminent threat to life as a result of a loss.

(vi) Loss to land, trees, plants and crops.

(vii) Loss to structures vacant or unoccupied for more than 180 days unless the owner has made arrangements for the upkeep and inspection of the structure on a monthly basis.

(viii) Loss to mobile homes except as covered in Section 10.

(ix) Loss to structures excluded under Section 11.

(x) Loss to structures that were not constructed according to local building codes in effect at the time the structure was built or placed into service.

(c) In order to be accepted for insurance the property owner shall allow inspections of the insured structure. The purpose of the inspections shall be to determine structural integrity and to document the extent of any existing damage from mine subsidence. Failure by the property owner to allow an inspection of the structure or structures, both external and internal, will result in the division rejecting the property owner's request for insurance. Cost of the inspection shall be borne by the division.

(d) Insured structures shall be subject to reinspection. All reasonable attempts to notify the property owner shall be made prior to a reinspection. Cost of the reinspection shall be borne by the division.

Section 5. Premiums.

(a) Premium rates may be established by an actuarial evaluation of the mine subsidence risk in Wyoming. Premiums shall be calculated to cover the expenses of administration, the cost of anticipated claims and establishment of a reserve to cover catastrophic losses and ensure solvency of the Mine Subsidence Insurance Program.

(b) Based upon actuarial evaluation premium rates for residential structures shall be set by the Governor within the range of \$1.75 and \$2.25 per thousand of coverage, and \$2.75 and \$3.25 per thousand for coverage on commercial structures.

(c) Premiums shall be payable on an annual basis.

(d) Premiums shall be paid by the State of Wyoming or its contractors if the property has been identified, in accordance with Section 3 of this Chapter, as in an area that may reasonably be at risk from subsidence due to AML mitigation work.

Section 6. Deductibles.

The deductible per loss on residential structures shall be 1 percent of the amount of the coverage purchased but in no event shall the deductible be less than \$250 or more than \$500. The deductible per loss on commercial structures shall be 1 percent of the amount of coverage purchased but in no event shall the deductible be less than \$250 or more than \$1,000. After a deductible has been met in any calendar year, no further deductibles shall be charged to any subsequent losses occurring during the remainder of that calendar year. No deductible shall be assessed for property owners who qualify for retroactive coverage under W.S. 35-11-1302(a).

Section 7. Coverage Limits.

(a) Except as provided by this Section, the maximum amount of insurance available for all losses to an insured residential or commercial structure shall be \$275,000.00 per loss.

(b) Structures shall not be insured for more than their estimated fair market value.

(c) Structures shall not be insured for less than 75 percent of estimated fair market value unless limited by (a) above.

(d) Each structure which occupies the realty may be separately insured at the rate established in Section 5 for an amount not to exceed their fair market value but not more than the amount in (a) above nor less than the amount in (c) above.

Section 8. Claims Adjustment Procedures.

(a) Losses shall be reported to the Administrator within ninety days from the time loss occurs but no claims will be accepted after the date a policy has been canceled or terminated. The Administrator will verify that the coverage is in force and assign an adjuster to determine the cause and extent of the loss, document the damage, and if requested by the insured, assist the insured in obtaining repair cost estimates and in completing the proof of loss.

(b) The authority and limits for settling losses after payment of the deductible shall be:

(i) The Subsidence Insurance Program Manager with the concurrence of the Abandoned Mine Land Administrator up to \$25,000.

(ii) The Administrator with the concurrence of the Director, over \$25,000 up to the policy maximum.

(c) Drafts or checks used to pay for losses shall be in such form that endorsement by the insured will constitute a full release to the Mine Subsidence Insurance Program and the State.

(d) Losses shall be settled for the cost to repair the structure to its condition prior to subsidence damage or the amount of insurance on the structure, whichever is less.

Section 9. Mobile Homes.

Mobile homes shall be eligible for coverage provided they are anchored to the ground or are mounted upon a foundation and are connected to water, sewer, and electrical utilities and the home was installed according to local codes in effect at the time the structure was installed and/or constructed.

(a) The anchorage's capacity must prevent uplifting and overturning due to wind or seismic activity. Screw-in soil anchors are not considered a permanent anchorage.

(b) The anchorage must be attached to a footing sufficiently sized to prevent overloading of the soil-bearing capacity and which also avoids soil settlement. The footing shall be reinforced concrete to be considered permanent.

(c) The base of the footing must extend below the maximum frost penetration depth for the area.

(d) The foundation must enclose a crawl space with a continuous wall (whether bearing or non-bearing) that separates the crawl space from the backfill, and prohibits vermin and water from entering the enclosed area.

(e) The anchorage must have sufficient capacity in both the transverse and longitudinal directions to prevent sliding due to wind and/or seismic activity.

Section 10. Structures to be Excluded.

Structures for which construction begins in known subsidence areas after the effective date of the mine subsidence insurance program are excluded from the Mine Subsidence Insurance Program, unless:

(a) The structure has been constructed in accordance with local codes specific for subsidence prone areas; or

(b) If there are no local codes specific for subsidence prone areas the property owner can produce evidence that:

- (i) There is a reduced risk that the structure will sustain a loss due to mine subsidence; or
- (ii) The structures are constructed to tolerate the anticipated effects of subsidence.

Section 11. Cancellation and Non-Renewal of Coverage.

(a) The insured may cancel coverage by providing the Administrator a thirty day written notice.

(b) The Administrator after providing an insured thirty days written notice may cancel or refuse to renew coverage under one or more of the following conditions:

(i) Misrepresentation, concealment or fraud: any material fact or circumstance which a person intentionally conceals or misrepresents, either in an effort to obtain insurance coverage or as a result of a loss.

(ii) Exhaustion of the coverage amount appearing on the certificate of insurance.

(iii) Exhaustion of the total amount of funds available to the mine subsidence insurance program.

(iv) Refusal to permit re-inspection of an insured structure.

(c) A policy shall be cancelled if the full renewal premium is not paid within thirty days of the premium due date as it appears on the renewal premium notice.

(d) Policies shall be automatically cancelled if the aggregate becomes exhausted. Losses that have been reported will be settled on a pro-rata basis.

(e) An individual policy shall be automatically cancelled if a single claim exhausts the coverage limits as established in Section 7.

(f) Any refund of premium due an insured upon cancellation shall be paid on a pro-rata basis.

(g) Notice of a refusal to renew shall be furnished the insured person by mail at least thirty days prior to the renewal date.

Section 12. Limit of Liability.

The liability of the State of Wyoming is limited to the amount of funds available for the Mine Subsidence Insurance Program

CHAPTER 7

MINE SUBSIDENCE INSURANCE PROGRAM

Section 1. General

(a) This chapter establishes rules and regulations for a program of insurance administered by the Abandoned Mine Land Division to insure structures in Wyoming from damage resulting from mine subsidence.

(b) These rules incorporate by reference the following rules and regulations, in effect as of September 6, 2016:

(i) Wyoming Department of Administration and Information, Director's Office, Chapter 2, Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records, available at <https://rules.wyo.gov>.

(c) These rules do not incorporate later amendments or editions of the incorporated matter.

(d) All incorporated matter is available for public inspection at the Department's Cheyenne office. Contact information for the Cheyenne Office may be obtained at <http://deq.wyoming.gov> or from (307) 777-7937.

Section 2. Rights of Subrogation.

In the event of a loss, an insured person's rights to recover from another become the rights of the State up to the amount of the covered loss and the insured person must protect these rights and assist representatives of the State in enforcing them.

Section 3. Notice to Property Owners.

(a) The division and their consultants, using best engineering and professional judgment based on analysis of the potential impact, shall identify surrounding properties that may reasonably be at risk from subsidence damage due to AML mitigation work.

(b) Prior to initiating subsidence mitigation work, the division's contractor shall notify the owner of all property identified in (a) and offer to purchase subsidence insurance for the property for the duration of the project.

(c) If accepted, the property owner must allow the property to be inspected to establish baseline conditions and allow the property to be inspected at any reasonable time during the project.

(d) This offer will be made to protect the state from subsidence damage claims for the duration of the project.

Section 4. Contract Terms and Conditions.

(a) Coverage shall be for a term of one year and shall renew upon payment of the premium unless cancelled or non-renewed pursuant to Section 11.

(b) Excluded from coverage are:

(i) Existing and unrepaired mine subsidence loss, except that structures damaged prior to June 11, 1986 shall be covered under the conditions enumerated in W.S. 35-11-1302 (a) (i) through (v).

(ii) Any damage not due to mine subsidence.

(iii) Bodily injury or death.

(iv) Damage to contents not attached to and part of the structure, personal property or automobiles (owned or non-owned) or motorized vehicles whether used to service the premises or not.

(v) Except as provided in this paragraph, additional living expenses or the interruption of rental income incurred by an insured person. Reasonable additional living expenses can be covered where a residential structure will be unlivable during a reasonable repair period, or a professional engineer or engineer in a public office having authority to make such decisions finds that there is imminent threat to life as a result of a loss.

(vi) Loss to land, trees, plants and crops.

(vii) Loss to structures vacant or unoccupied for more than 180 days unless the owner has made arrangements for the upkeep and inspection of the structure on a monthly basis.

(viii) Loss to mobile homes except as covered in Section 10.

(ix) Loss to structures excluded under Section 11.

(x) Loss to structures that were not constructed according to local building codes in effect at the time the structure was built or placed into service.

(c) In order to be accepted for insurance the property owner shall allow inspections of the insured structure. The purpose of the inspections shall be to determine structural integrity and to document the extent of any existing damage from mine subsidence. Failure by the property owner to allow an inspection of the structure or structures, both external and internal, will result in the division rejecting the property owner's request for insurance. Cost of the inspection shall be borne by the division.

(d) Insured structures shall be subject to reinspection. All reasonable attempts to notify the property owner shall be made prior to a reinspection. Cost of the reinspection shall be borne by the division.

Section 5. Premiums.

(a) Premium rates may be established by an actuarial evaluation of the mine subsidence risk in Wyoming. Premiums shall be calculated to cover the expenses of administration, the cost of anticipated claims and establishment of a reserve to cover catastrophic losses and ensure solvency of the Mine Subsidence Insurance Program.

(b) Based upon actuarial evaluation premium rates for residential structures shall be set by the Governor within the range of \$1.75 and \$2.25 per thousand of coverage, and \$2.75 and \$3.25 per thousand for coverage on commercial structures.

(c) Premiums shall be payable on an annual basis.

(d) Premiums shall be paid by the State of Wyoming or its contractors if the property has been identified, in accordance with Section 3 of this Chapter, as in an area that may reasonably be at risk from subsidence due to AML mitigation work.

Section 6. Deductibles.

The deductible per loss on residential structures shall be 1 percent of the amount of the coverage purchased but in no event shall the deductible be less than \$250 or more than \$500. The deductible per loss on commercial structures shall be 1 percent of the amount of coverage purchased but in no event shall the deductible be less than \$250 or more than \$1,000. After a deductible has been met in any calendar year, no further deductibles shall be charged to any subsequent losses occurring during the remainder of that calendar year. No deductible shall be assessed for property owners who qualify for retroactive coverage under W.S. 35-11-1302(a).

Section 7. Coverage Limits.

(a) Except as provided by this Section, the maximum amount of insurance available for all losses to an insured residential or commercial structure shall be \$275,000.00 per loss.

(b) Structures shall not be insured for more than their estimated fair market value.

(c) Structures shall not be insured for less than 75 percent of estimated fair market value unless limited by (a) above.

(d) Each structure which occupies the realty may be separately insured at the rate established in Section 5 for an amount not to exceed their fair market value but not more than the amount in (a) above nor less than the amount in (c) above.

Section 8. Claims Adjustment Procedures.

(a) Losses shall be reported to the Administrator within ninety days from the time loss occurs but no claims will be accepted after the date a policy has been canceled or terminated. The Administrator will verify that the coverage is in force and assign an adjuster to determine the cause and extent of the loss, document the damage, and if requested by the insured, assist the insured in obtaining repair cost estimates and in completing the proof of loss.

(b) The authority and limits for settling losses after payment of the deductible shall be:

(i) The Subsidence Insurance Program Manager with the concurrence of the Abandoned Mine Land Administrator up to \$25,000.

(ii) The Administrator with the concurrence of the Director, over \$25,000 up to the policy maximum.

(c) Drafts or checks used to pay for losses shall be in such form that endorsement by the insured will constitute a full release to the Mine Subsidence Insurance Program and the State.

(d) Losses shall be settled for the cost to repair the structure to its condition prior to subsidence damage or the amount of insurance on the structure, whichever is less.

Section 9. Mobile Homes.

Mobile homes shall be eligible for coverage provided they are anchored to the ground or are mounted upon a foundation and are connected to water, sewer, and electrical utilities and the home was installed according to local codes in effect at the time the structure was installed and/or constructed.

(a) The anchorage's capacity must prevent uplifting and overturning due to wind or seismic activity. Screw-in soil anchors are not considered a permanent anchorage.

(b) The anchorage must be attached to a footing sufficiently sized to prevent overloading of the soil-bearing capacity and which also avoids soil settlement. The footing shall be reinforced concrete to be considered permanent.

(c) The base of the footing must extend below the maximum frost penetration depth for the area.

(d) The foundation must enclose a crawl space with a continuous wall (whether bearing or non-bearing) that separates the crawl space from the backfill, and prohibits vermin and water from entering the enclosed area.

(e) The anchorage must have sufficient capacity in both the transverse and longitudinal directions to prevent sliding due to wind and/or seismic activity.

Section 10. Structures to be Excluded.

Structures for which construction begins in known subsidence areas after the effective date of the mine subsidence insurance program are excluded from the Mine Subsidence Insurance Program, unless:

(a) The structure has been constructed in accordance with local codes specific for subsidence prone areas; or

(b) If there are no local codes specific for subsidence prone areas the property owner can produce evidence that:

- (i) There is a reduced risk that the structure will sustain a loss due to mine subsidence; or
- (ii) The structures are constructed to tolerate the anticipated effects of subsidence.

Section 11. Cancellation and Non-Renewal of Coverage.

(a) The insured may cancel coverage by providing the Administrator a thirty day written notice.

(b) The Administrator after providing an insured thirty days written notice may cancel or refuse to renew coverage under one or more of the following conditions:

- (i) Misrepresentation, concealment or fraud: any material fact or circumstance which a person intentionally conceals or misrepresents, either in an effort to obtain insurance coverage or as a result of a loss.
- (ii) Exhaustion of the coverage amount appearing on the certificate of insurance.
- (iii) Exhaustion of the total amount of funds available to the mine subsidence insurance program.
- (iv) Refusal to permit re-inspection of an insured structure.

(c) A policy shall be cancelled if the full renewal premium is not paid within thirty days of the premium due date as it appears on the renewal premium notice.

(d) Policies shall be automatically cancelled if the aggregate becomes exhausted. Losses that have been reported will be settled on a pro-rata basis.

(e) An individual policy shall be automatically cancelled if a single claim exhausts the coverage limits as established in Section 7.

(f) Any refund of premium due an insured upon cancellation shall be paid on a pro-rata basis.

(g) Notice of a refusal to renew shall be furnished the insured person by mail at least thirty days prior to the renewal date.

Section 12. Limit of Liability.

The liability of the State of Wyoming is limited to the amount of funds available for the Mine Subsidence Insurance Program