



Certification Page Regular and Emergency Rules

Revised June 2020

Emergency Rules *(Complete Sections 1-3 and 5-6)*

Regular Rules

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. Adoption Date
i. Program			
Amended Program Name <i>(if applicable)</i> :			

* 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 (non-emergency) 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 non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):

3. Rule Type and Information For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title* and Proposed Action for Each Chapter. *Please use the "Additional Rule Information" form to identify additional rule chapters.*

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name <i>(if applicable)</i> :		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name <i>(if applicable)</i> :		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name <i>(if applicable)</i> :		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name <i>(if applicable)</i> :		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name <i>(if applicable)</i> :		

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:


5. Checklist

a. For regular rules, the Statement of Principal Reasons is attached to this Certification 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

b. For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

Signature of Authorized Individual	
Printed Name of Signatory	Jeffrey P. Rude
Signatory Title	Commissioner
Date of Signature	3/15/23

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	

DEPARTMENT OF INSURANCE

STATE OF WYOMING

IN THE MATTER OF THE AMENDMENT)
OF CHAPTER 28 OF THE WYOMING)
DEPARTMENT OF INSURANCE RULES) Docket No. 23-03
AND REGULATIONS)

STATEMENT OF PRINCIPAL REASONS

FOR

The amendment of Chapter 28 of the Wyoming Insurance Department Regulations

The Department of Insurance (the Department) originally promulgated Chapters 28 of its Rules and Regulations in 1988, and last amended Chapter 28 in 2017.

Pursuant to Wyo. Stat. §§ 35-8-101, *et seq.*, 35-8-404, and 35-8-407, the Department is tasked with the oversight of perpetual care funds for privately owned cemeteries. However, as stated in the regulation, the financial oversight and reporting requirements of Chapter 28 do not apply to cemeteries that are formed by municipal corporations or duly organized cemetery districts. Since the last amendments were made to Chapter 28, the Department has become aware of at least one privately owned cemetery that has contracted with a municipal corporation in order to provide maintenance and care for the cemetery, even though the cemetery remains privately owned. In order to remove any ambiguity regarding the applicability of Chapter 28 in this circumstance, the Department is promulgating the proposed changes to Chapter 28 to clarify the responsibilities of a privately owned cemetery while contractual arrangements between a privately owned cemetery and a municipal corporation or cemetery district are in place.

Pursuant to the proposed changes to Chapter 28, the Department would continue limited oversight of the financial resources available to provide perpetual care of the private cemetery. In addition, the Department would require full compliance with all the requirements of Chapter 28 regarding reporting requirements and perpetual care fund management should the contractual arrangement between the private cemetery and the municipality or cemetery district end.

By promulgating these changes to Chapter 28, the Department hopes to encourage cooperation between privately owned cemeteries and local municipalities and cemetery districts to ensure proper ongoing care for the cemetery without undue interference and regulation by the Department, while still providing appropriate oversight to ensure there are financial resources available for care of the private cemetery should the contractual relationship between the cemetery and municipality or cemetery district end.

DEPARTMENT OF INSURANCE
STATE OF WYOMING

IN THE MATTER OF THE AMENDMENT)
OF CHAPTER 28 OF THE WYOMING)
DEPARTMENT OF INSURANCE RULES)
AND REGULATIONS)

Docket **23-03**

SUMMARY OF COMMENTS RECEIVED

Chapter 28

The Wyoming Department of received three (3) attached letters of support:

- 01.25.2023 – Carey Hartmann – Email in support of the changes to Rule 28;
- 02.03.2023 – Thomas E. Cronkleton, Jr. – Email in support of the proposed amendment to Rule 28; and
- 03.13.2023 – Brian Greene – Email endorsing the Wyoming Department of Insurance’s amendments to Rule 28.

No revisions were made based on the received public comments.



Joey Clure <joey.clure1@wyo.gov>

**Insurance Dept. - General Agency, Board or Commission Rules - Chapter 28:
Regulation Governing Perpetual Care Trust Funds for Privately Owned Cemeteries
Comments**

Carey Hartmann <carey.d.hartmann@gmail.com>
To: doi.rules@wyo.gov

Wed, Jan 25, 2023 at 11:04 AM

I am writing in support of the changes to this rule. Privately owned cemeteries that contract with city or county entities to provide care are showing responsibility in entering into a contract and are thus committed to care for their cemeteries. The current rules are onerous.

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Carey Hartmann

Listening is generosity. Listening to someone else closely is one of the most valuable gifts we can give to another human being. Dave Isay

E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.



Joey Clure <joey.clure1@wyo.gov>

**Insurance Dept. - General Agency, Board or Commission Rules - Chapter 28:
Regulation Governing Perpetual Care Trust Funds for Privately Owned Cemeteries
Comments**

Thomas Cronkleton <Thomas_Cronkleton@msn.com>
To: "doi.rules@wyo.gov" <doi.rules@wyo.gov>

Fri, Feb 3, 2023 at 5:55 PM

I support the proposed amendment and encourage its adoption. The amendment assures the proper care and maintenance of a private cemetery through a contract with a municipality or cemetery districts and benefits those who lost a family to death or are providing for their future interment.

Thomas E. Cronkleton, Jr.

100 W 21st St

Cheyenne, WY 82001-3651

E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.



Joey Clure <joey.clure1@wyo.gov>

WY Insurance Dept - General Agency, Board or Commission Rules - Chap. 28 Regulation Governing Perpetual Care Trust Funds for Privately Owned Cemeteries Comments

Brian Greene <flybrigo@yahoo.com>
To: "doi.rules@wyo.gov" <doi.rules@wyo.gov>

Fri, Mar 10, 2023 at 9:47 PM

Greetings,

I'm Brian Greene, a 31-year resident of Cheyenne, WY, and concurrently a 31 member of the Cathedral of St. Mary in Cheyenne.

My wife, Cynthia, and I, heartily endorse the WY Insurance Dept's amendments to Chapter 28 of its rules and regulations. Thank you for these changes, especially those in Section 11, Exceptions.

Olivet Cemetery is a privately owned cemetery. It is my understanding that the Community Recreation & Events Department for the City of Cheyenne and the Cathedral/Diocese of Cheyenne have had a contractual agreement for the perpetual care of Olivet Cemetery, <https://stmarycathedral.com/olivet-cemetery>

It is my hope that these amendments to Chapter 28 will be adopted and promulgated this spring. By doing so, I hope other privately owned cemeteries in WY will be more likely to enter into these kinds of agreements with municipalities and cemetery districts in the state.

Thank you for your attention to this matter.

Sincerely,

Brian and Cynthia Greene, [6146 Kevin Ave, Cheyenne, WY 82009](#)

E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

CHAPTER 28

REGULATION GOVERNING PERPETUAL CARE TRUST FUNDS FOR PRIVATELY OWNED CEMETERIES

Section 1. Authority. These regulations govern perpetual care trust funds for any cemetery organized by any individual, group of individuals, corporation or association and are promulgated pursuant to W.S. §§16-3-101 *et seq.*, 26-2-109, 26-2-110, 35-8-101, *et seq.*, 35-8-404, and 35-8-407. These regulations do not apply to cemeteries formed by municipal corporations and duly organized cemetery districts.

Section 2. Definitions. Unless otherwise stated, the definitions found in W.S. §§ 26-1-102, 33-16-502, and 35-8-401 shall apply.

(a) "Buyer" means any person, including individuals who are employees or officers of a corporation owning the disposition site, who purchases or receives a disposition site.

(b) "Disposition site" means any structure, lot, or other physical location used for the final disposition of a deceased human body.

(c) "Lot" or "grave" means a space of ground in a cemetery intended to be used for the permanent disposition of a deceased human body.

(d) "Perpetual care" refers to the general maintenance of the cemetery including: the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; keeping all places where interments have been made in proper order; keeping in repair the drains, waterlines, roads, buildings, fences, and other structures consistent with a well-maintained cemetery. It shall also include overhead expenses necessary for such purposes, including maintenance of machinery, tools and equipment for such care, compensation of employees, payment of reasonable and necessary insurance premiums, reasonable payments for employees' pension and other benefit plans, and the maintenance of necessary records of lot ownership, transfers and burials. It also includes the administration of endowed care funds in those instances wherein those administering such funds fail or refuse to act.

(e) "Privately owned cemetery" means any cemetery organized by any person except municipal corporations and duly organized cemetery districts.

(f) "Seller" means an individual, group of individuals, corporation, or association who represent(s) themself(ves) as a privately owned cemetery to convey privately owned disposition site ownership.

Section 3. Perpetual Care Trust Fund.

(a) Each seller shall establish a perpetual care trust fund before the advertisement or sale of disposition sites. All income and interest from the fund shall be used exclusively for perpetual care. The trust fund shall be irrevocable and deposited in Wyoming at a licensed bank, trust company, or federal savings and loan association and shall be invested as required herein.

(b) The deposit into the perpetual care trust fund shall be made by the seller not later than thirty (30) days after the close of the month in which any payment was received for the purchase of any disposition site. If payments are received in installments, the applicable pro rata share of each payment shall be deposited.

(c) A seller must deposit with the trustee an initial sum of ten thousand dollars (\$10,000) or more in cash. When deposits in the trust fund have reached \$20,000, the seller may withdraw deposits at the rate of one thousand dollars (\$1,000) for each additional two thousand dollars (\$2,000) added to the fund. No funds may be withdrawn from the Perpetual Care Trust Fund without the written authorization of the Commissioner or his designee.

Section 4. Bond. Every seller shall post with the Commissioner a surety bond in an amount of not less than five percent (5%) of all amounts received from all buyers or their representatives, whether deposited or invested. The bond amount shall be determined as of December 31st of the preceding year, or such greater amount which the seller may wish to post, but in no event less than \$10,000. The bond amount may not be reduced without the prior written approval of the Commissioner. The State of Wyoming shall be named as the obligee in the bond for the benefit of the buyers, their heirs, legatees, or assigns who are damaged by the loss of any monies paid to the seller after their receipt by the seller. This bond may consist of cash, demand deposits, savings accounts, certificates of deposit, corporate surety bond, or other such security as the Commissioner shall require.

Section 5. Investment of Perpetual Care Trust Fund. The seller shall limit his deposits to obligations of the United States or of any states thereof; obligations and stock of federal government agencies; demand deposits, savings accounts, certificates of deposit, or shares of savings and loan associations, provided that the seller may invest, notwithstanding the limitations of this section, funds in an amount not to exceed in the aggregate the amount of the seller's bond posted in accordance with Section 4, in such types of investments that prudent investors would acquire or retain for their own account. The seller shall be strictly accountable for the corpus of the funds to the buyer and the Commissioner.

Section 6. Treatment of Consumer.

(a) No privately owned cemetery shall limit disposition site sales based on sex, race, religion, or other protected classes.

(b) Whenever a seller conveys ownership in a disposition site, the seller shall execute and deliver to the buyer a written statement that specifically states:

- (i) The nature and the extent of the perpetual care to be provided;
- (ii) That such care shall be provided from the income and interest of the perpetual care trust fund;
- (iii) That the perpetual care trust fund has been established in conformity with these regulations and the laws of Wyoming; and
- (iv) That not less than the amounts required by statute have been set aside and deposited in trust.

(c) A master copy of all written documents provided by sellers to buyers or potential buyers, including installment contracts, sales promotions, coupons or certificates, warranty deeds, advertising, descriptions of solicitation practices, and any other materials used in the sale of disposition sites shall be delivered to the Commissioner. All materials shall be approved by the Commissioner before use.

Section 7. Inspection of Cemetery. The Commissioner may inspect privately owned cemeteries to determine if proper perpetual care is being taken. If proper perpetual care is not being taken, the Commissioner may require deposit of additional corpus into the perpetual care trust fund, and/or implement procedures for more efficient use of perpetual care income.

Section 8. Cemetery Records. All records of a privately owned cemetery must be maintained in the county in which the cemetery is located. These records shall include a detailed map of the cemetery, accurate records of each disposition site sold, and detailed records of deposits and investments of the perpetual care trust fund. These records shall be kept in perpetuity.

Section 9. Annual Report. On or before March 1st of each year, each seller shall file an annual report containing the information required by the Commissioner on the Privately Owned Cemetery Annual Report Form available on the Wyoming Department of Insurance website.

Section 10. Examination. The seller shall make available to the Commissioner for examination all books, records, and accounts pertaining to the sale of disposition sites and deposits into the perpetual care trust fund. The Commissioner, or his designee, may require the attendance and examination under oath of any person whose testimony may be required. The cost of any examination may be charged to the cemetery.

Section 11. Exceptions.

(a) The provisions of Sections 3 through 10 of this regulation do not apply to any privately owned cemetery being maintained or managed pursuant to a valid contract with a municipal corporation or duly organized cemetery district so long as the contract remains in effect.

(b) Any privately owned cemetery seeking an exemption pursuant to the provisions of this section shall provide to the commissioner a copy of the current cemetery maintenance contract with the municipal corporation or cemetery district at the time the exemption is requested, and within thirty (30) days of any renewal or amendment of the cemetery maintenance contract. Any exemption granted pursuant to this section shall be at the sole discretion of the commissioner.

(c) Any privately owned cemetery who is granted an exemption pursuant to the provisions of this section shall make all records pertaining to the maintenance of the cemetery available to the commissioner for review upon reasonable advance notice during the cemetery's regular working hours, including but not limited to perpetual care fund records, plot sale information, and any other records required generally of privately owned cemeteries pursuant to this regulation.

(d) Any exemption granted pursuant to the provisions of this section may be revoked by the commissioner after notice and the opportunity for a hearing pursuant to the provisions of the Wyoming Administrative Procedures Act, W.S. § 16-3-101 *et seq.*, and any applicable rules and regulations of the Department of Insurance.

Section 12. Effective Date. This regulation shall become effective upon filing with the Secretary of State.

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(c) Any privately owned cemetery that is granted an exemption pursuant to the provisions of this section shall make all records pertaining to the maintenance of the cemetery available to the commissioner for review upon reasonable advance notice during the cemetery's regular working hours, including but not limited to perpetual care fund records, plot sale information, and any other records required generally of privately owned cemeteries pursuant to this regulation.

(d) Any exemption granted pursuant to the provisions of this section may be revoked by the commissioner after notice and the opportunity for a hearing pursuant to the provisions of the Wyoming Administrative Procedures Act, W.S. § 16-3-101 *et seq.*, and any applicable rules and regulations of the Department of Insurance.

Section 12. Effective Date. This regulation shall become effective upon filing with the Secretary of State.