



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* Office of State Lands and Investments - Board of Land Commissioners			
b. Agency/Board Address 122 W 25th St W103		c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Jason Crowder		f. Agency Liaison Telephone Number 307-777-3428	
g. Agency Liaison Email Address jason.crowder@wyo.gov		h. Adoption Date April 6,2023	
i. Program State Board of Land Commissioners			
Amended Program Name (if applicable):			
* <input type="checkbox"/> 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?			
<input checked="" type="checkbox"/> No. <input type="checkbox"/> 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: 26	Chapter Name: Land Acquisition and Disposal	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
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 Repealed	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 Repealed	
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Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			

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:

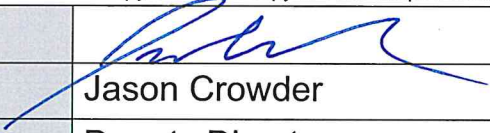
5. Checklist

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	Jason Crowder
Signatory Title	Deputy Director
Date of Signature	April 6, 2023

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	

WYOMING OFFICE OF STATE LANDS AND INVESTMENTS

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Fax: 307-777-3524
slfmail@wyo.gov



MARK GORDON
Governor

JENIFER E. SCOGGIN
Director

DATE: April 6, 2023

TO: Governor Mark Gordon, Chairman
State Board of Land Commissioners

FROM: Jenifer E Scoggin, Director
Office of State Lands and Investments

(Note: The agency contact person is Jason Crowder, 777-3428 and jason.crowder@wyo.gov)

RE: Emergency Rules and Regulations
Chapter 26 – Land Acquisition and Disposal
State Board of Land Commissioners

During the 2023 General Session, the Sixty-Seventh Legislature of the State of Wyoming passed House Enrolled Act No. 21 (House Bill 0020) (“the Act”), requiring notice and an opportunity to comment to specific parties before completing an exchange of state land. Importantly, the Act became effective immediately upon completion of all acts necessary for a bill to become law, as provided by Article 4, Section 8 of the Wyoming Constitution.

The process to accept public comments outlined within the Board’s Rules and the process detailed in the Act do not currently align, and promulgating emergency rules is necessary to conform to the Act. Additionally, the Office of State Lands and Investments (“OSLI”) is processing numerous land exchanges that will be impacted by the Act. These emergency rules will allow OSLI to continue to process state land exchanges currently in process, as the Board undergoes the regular rule making process, while complying with the Act.

The attached proposed Chapter 26 emergency rules put in place the necessary administrative framework to detail the process of providing notice and the opportunity to comment before completing an exchange of state land that conforms with the Act.

Enclosed is the emergency rulemaking packet for Chapter 26 - Land Acquisition and Disposal. Enclosures are:

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1. Statement of Principal Reasons for Adoption
2. Copies of the Emergency Rules for Chapter 26 (1-clean; 1-strike underscore)

Should you or your staff have any questions regarding this information, please do not hesitate to contact this office.

Enclosures

Chapter 26

Land Acquisition and Disposal

Emergency Rules are in effect no longer than 120 days after filing with the Registrar of Rules

Section 1. Authority. This chapter is adopted pursuant to Wyoming Statute 36-2-107.

Section 2. Definitions.

(a) As used in this chapter:

(i) “Board” means the Board of Land Commissioners.

(ii) “Director” means the director of the Office of State Lands and Investments.

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

(iv) “Parcel” means a tract of real property, or an interest in real property constituting less than fee simple title.

(v) “Responsible bidder” means a bidder at public auction who tenders, at the auction, funds in accordance with Subsection 7(b) of this chapter.

(vi) “Surface lessee” means a holder of a grazing and agricultural lease, special use lease, or wind energy lease issued in accordance with Chapters 4, 5, or 6 of the Board’s rules.

Section 3. Acquisition Procedure.

(a) Any person, including the Director, may identify a parcel for the Board to acquire as state trust land. Parcels identified for possible acquisition shall be placed on the Category I Acquisition List by the Office.

(b) The Office shall review all parcels appearing on the Category I Acquisition List for suitability for acquisition. If the Director determines that a parcel may be suitable for acquisition, the Director shall move the parcel onto the Category II Acquisition List. Any parcel that the Director has not moved onto the Category II Acquisition List within one year, shall be removed from the Category I Acquisition List.

(c) The Category I and Category II Acquisition Lists shall be held in confidence by the Office and the Board.

(d) The Office shall review all parcels appearing on the Category II Acquisition List and prepare a detailed analysis of each parcel. The analysis shall include:

(i) An estimate of the market value of the parcel, individually and in combination with other state trust lands;

(ii) The income-generating potential of the parcel, individually and in combination with other state trust lands; and

(iii) The manageability of the parcel, individually and in combination with other state trust lands.

(e) When review of a parcel on the Category II Acquisition List is complete, the Office may present the detailed analysis to the Board in executive session in accordance with W.S. 16-4-405(a)(vii). If the Board rejects acquisition of the parcel, the Office shall remove the parcel from the Acquisition List. If the Board determines that the parcel may be desirable for acquisition, it may authorize the Office to continue the acquisition process.

(f) When the Board authorizes the Office to continue the acquisition process for a parcel, the Office shall acquire an option to purchase from the owner of the parcel.

(g) After acquiring the option to purchase, the Office shall:

(i) Obtain an appraisal of the market value of the parcel;

(ii) Notify the Wyoming Department of State Parks and Cultural Resources and the Wyoming Game & Fish Department of the proposed acquisition.

(iii) Make available to the public:

(A) The detailed analysis prepared by the Office;

(B) The appraisal;

(C) The existence and importance of any wildlife habitat and wildlife-oriented recreational opportunities located on the parcel, as determined by the Wyoming Game & Fish Department; and

(D) The existence and importance of any public recreation opportunities or cultural resources located on the parcel, as determined by the Wyoming Department of State Parks & Cultural Resources.

(iv) Initiate a public comment period to accept public comments concerning the proposed acquisition from interested parties;

(v) Provide notice directly to owners of land adjoining the lands proposed for acquisition, and to the board of county commissioners from the affected county or counties; and

(vi) Hold a public hearing in the county in which the parcel is located. Notice

of the hearing shall be sent to the appropriate board of county commissioners.

(h) If at any time the Office finds that acquisition of the parcel is not in the best interest of the state's trust beneficiaries, or if a provision of the option to purchase is violated or cannot be complied with on the part of any party, the Office may elect to terminate the option to purchase and cease the acquisition process. If the Office ceases the acquisition process, it shall immediately remove the parcel from the Category II Acquisition List. The Office shall provide an informational Board Matter for the Board's next regularly scheduled public meeting informing the Board that the acquisition process has ceased.

(i) Not less than sixty (60) days after the information listed in subsection (g)(iii) is made available to the public, the Board shall consider in open session the proposed acquisition of the parcel. If the Board rejects acquisition of the parcel, the Office shall remove the parcel from the Acquisition List. If the Board determines that the parcel should be acquired, it shall direct the Office to exercise the option to purchase.

Section 4. Disposal Procedure.

(a) Any person, including the Director, may identify a state trust parcel for disposal by the Board. Parcels identified for possible disposal shall be placed on the Category I Disposal List by the Office.

(b) The Office shall review all parcels appearing on the Category I Disposal List for suitability for disposal. If the Director determines that a parcel may be suitable for disposal, the Director shall move the parcel onto the Category II Disposal List. Any parcel that has not been moved onto the Category II Disposal List within one year, shall be removed from the Category I Disposal List.

(c) The Office shall make the Category I and Category II Disposal Lists available to the public.

(d) For each parcel on the Category II Disposal List, the Office shall:

(i) Notify any surface lessees of the parcel, the Wyoming Department of State Parks and Cultural Resources, and the Wyoming Game & Fish Department of the proposed disposal; and

(ii) Prepare a detailed analysis of the parcel, including:

(A) An appraisal of the market value of the parcel;

(B) The income-generating potential of the parcel, individually and in combination with other state trust lands;

(C) The manageability of the parcel, individually and in combination

with other state trust lands;

(D) The existence and importance of any wildlife habitat and wildlife-oriented recreational opportunities located on the parcel, as determined by the Wyoming Game & Fish Department; and

(E) The existence and importance of any public recreational opportunities or cultural resources located on the parcel, as determined by the Wyoming Department of State Parks and Cultural Resources;

(e) When the detailed analysis is complete, the Office shall:

(i) Make the detailed analysis available to the public;

(ii) Initiate a public comment period to accept public comments concerning the proposed disposal from interested parties;

(iii) Provide notice directly to leaseholders of the state lands to be disposed of, owners of land adjoining the lands proposed for acquisition, and to the board of county commissioners from the affected county or counties; and

(iv) Hold a public hearing in the county in which the parcel is located. Notice of the hearing shall be sent to the appropriate board of county commissioners.

(f) If at any time the Office finds that disposal of the parcel is not in the best interest of the state's trust beneficiaries, the Office may cease the disposal process. If the Office ceases the disposal process, it shall immediately remove the parcel from the Category II Disposal List.

(g) After the public hearing has been held, the Office shall present the detailed analysis to the Board. If the Board rejects disposal of the parcel, the Office shall remove the parcel from the Disposal List. If the Board determines that the parcel should be disposed of, it shall:

(i) Direct the Office to exchange the parcel for a parcel authorized for acquisition; or

(ii) Establish the minimum bid and direct the Office to sell the parcel at public auction.

Section 5. Exchanges.

Any person, including the Director, may propose a land exchange by placing the parcels to be acquired by the Board in the exchange on the acquisition list in accordance with Section 3 of this chapter, and placing the parcels to be conveyed by the Board in the exchange on the disposal list in accordance with Section 4 of this chapter. If the Board approves both the acquisition, pursuant to the procedure in Section 3, and the disposal, pursuant to the procedure in

Section 4, of the parcels comprising the exchange proposal, the Office shall complete the exchange.

Section 6. Voluntary Land Exchange Program.

(a) Definitions. As used in this Section:

(i) “Access” is the means of approaching and entering a parcel via a public right-of- way or other legal easement.

(ii) “Encompassed” means a parcel that is entirely within the real property boundaries of the nominating party.

(iii) “Voluntary” means the willful submission of a nomination by a party who may encompass a parcel.

(iv) “Price Opinion” means the value of a parcel as determined by the Office.

(v) “Isolated Parcel” means a parcel of state trust land comprised of 640 acres or less, without Access.

(b) Only Isolated Parcels that are entirely Encompassed by real property owned by the nominating party, shall qualify for the Voluntary Land Exchange (VLE) program.

(c) The purpose of the VLE program is to provide an opportunity for the Board through the Office to reposition state trust land ownership from isolated parcels to parcels with Access in an expedited and efficient manner.

(d) All transactions proposed within the VLE program shall follow the process outlined within Section 5 of this Chapter except that the transaction shall include the following requirements:

(i) Once an exchange has received preliminary approval from the Board, the nominating party will be issued a non-negotiable Price Opinion developed by the Office;

(ii) By accepting the Price Opinion, the nominating party agrees to waive the formal appraisal process and facilitate the exchange at the values established by the Office;

(iii) Should the nominating party fail to accept the Price Opinion, they may elect to:

(A) Terminate the transaction, or

(B) Secure an appraiser certified under the Uniform Standards of Professional Appraisal Practice (USPAP) and qualified to conduct an appraisal of the parcels to determine the parcel’s value. Such appraiser shall be approved and provided with appraisal

instructions by the Office. The final appraisal report supplied by the appraiser shall be reviewed by the Office pursuant to USPAP guidelines.

(iv) Once the detailed analysis is published, the Office will notice and solicit public comment from interested parties for thirty (30) calendar days, with direct notice provided to leaseholders of the state lands to be exchanged, and the board of county commissioners from the affected county or counties.

(v) The Office shall conduct a public hearing in the county in which the land is located only if a hearing is requested by the appropriate board of county commissioners.

Section 7. Public Auctions.

(a) All costs incurred by the Office in advertising the auction shall be reimbursed by the purchaser.

(b) The successful bidder will tender a minimum of twenty-five percent (25%) of the total purchase price for the land plus costs associated with the sale, in the form of a cashier's check, certified check, or personal check with a letter of credit. If the highest bid is not from a responsible bidder, the auctioneer shall accept the next highest bid as the high bid.

(c) On the day of the auction, the successful responsible bidder will pay the balance of the purchase price, or execute a sales contract under the provisions of paragraph (d)(ii) of this section.

(d) Payment Options

(i) Purchasers desiring to pay the purchase price in full at the auction shall provide the auctioneer the necessary information to complete a patent or deed.

(ii) Purchasers desiring to finance up to seventy-five percent (75%) of the purchase price through a sales contract shall provide the auctioneer the necessary information to complete the contract. After a receipt for the purchase of improvements as required by W.S. 36-9-105 has been delivered to the Office, the contract shall be forwarded to the purchaser. The Office shall record the executed contract in the Register of Deeds, in the county clerk's office of the appropriate county.

Section 8. Instruments of Conveyance.

(a) To complete an exchange, or upon full payment under a sales contract, or in the case of a cash purchase upon delivery to the Office of a receipt for the purchase of improvements as required by W.S. 36-9-105, the Office shall prepare and record in the Register of Deeds, in the county clerk's office of the appropriate county, one of the following instruments of conveyance:

(i) A patent, if the land has been in state ownership since statehood.

(ii) A warranty deed, if the land has been acquired by the state via a warranty deed.

(iii) A quit claim deed, if the land has been acquired by the state without a warranty.

(b) No patent or deed shall be issued for any portion of the land subject to a sales contract until full payment has been received for all the land under the contract. All recording fees will be paid by the grantee.

(c) For Board acquisitions, the grantor of any privately-owned parcel being granted to the Board shall purchase a policy of title insurance naming the Board as the insured party.

Section 9. Assignments of Sales Contracts.

(a) The original purchaser of state trust land under a sales contract shall remain obligated to the Board for performance under the contract until the Board approves an assignment of the purchaser's rights under the contract.

(b) 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.

Chapter 26

Land Acquisition and Disposal

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Section 1. Authority. This chapter is adopted pursuant to Wyoming Statute 36-2-107.

Section 2. Definitions.

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(v) “Responsible bidder” means a bidder at public auction who tenders, at the auction, funds in accordance with Subsection 7(b) of this chapter.

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(d) The Office shall review all parcels appearing on the Category II Acquisition List and prepare a detailed analysis of each parcel. The analysis shall include:

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(f) When the Board authorizes the Office to continue the acquisition process for a parcel, the Office shall acquire an option to purchase from the owner of the parcel.

(g) After acquiring the option to purchase, the Office shall:

(i) Obtain an appraisal of the market value of the parcel;

(ii) Notify the Wyoming Department of State Parks and Cultural Resources and the Wyoming Game & Fish Department of the proposed acquisition.

(iii) Make available to the public:

(A) The detailed analysis prepared by the Office;

(B) The appraisal;

(C) The existence and importance of any wildlife habitat and wildlife-oriented recreational opportunities located on the parcel, as determined by the Wyoming Game & Fish Department; and

(D) The existence and importance of any public recreation opportunities or cultural resources located on the parcel, as determined by the Wyoming Department of State Parks & Cultural Resources.

(iv) Initiate a public comment period to accept public comments concerning the proposed acquisition from interested parties; ~~Accept public comment concerning the proposed acquisition; and~~

(v) Provide notice directly to owners of land adjoining the lands proposed for acquisition, and to the board of county commissioners from the affected county or counties; and

~~(v)~~(vi) Hold a public hearing in the county in which the parcel is located. Notice of the hearing shall be sent to the appropriate board of county commissioners.

(h) If at any time the Office finds that acquisition of the parcel is not in the best interest of the state's trust beneficiaries, or if a provision of the option to purchase is violated or cannot be complied with on the part of any party, the Office may elect to terminate the option to purchase and cease the acquisition process. If the Office ceases the acquisition process, it shall immediately remove the parcel from the Category II Acquisition List. The Office shall provide an informational Board Matter for the Board's next regularly scheduled public meeting informing the Board that the acquisition process has ceased.

(i) Not less than sixty (60) days after the information listed in subsection (g)(iii) is made available to the public, the Board shall consider in open session the proposed acquisition of the parcel. If the Board rejects acquisition of the parcel, the Office shall remove the parcel from the Acquisition List. If the Board determines that the parcel should be acquired, it shall direct the Office to exercise the option to purchase.

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(e) When the detailed analysis is complete, the Office shall:

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(ii) Initiate a public comment period to accept public comments concerning the proposed disposal from interested parties; Solicit and receive public comment on the proposed disposal; and

(iii) Provide notice directly to leaseholders of the state lands to be disposed of, owners of land adjoining the lands proposed for acquisition, and to the board of county commissioners from the affected county or counties; and

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(c) The purpose of the VLE program is to provide an opportunity for the Board through the Office to reposition state trust land ownership from isolated parcels to parcels with Access in an expedited and efficient manner.

(d) All transactions proposed within the VLE program shall follow the process outlined within Section 5 of this Chapter except that the transaction shall include the following requirements:

(i) Once an exchange has received preliminary approval from the Board, the nominating party will be issued a non-negotiable Price Opinion developed by the Office;

(ii) By accepting the ~~PO~~ Price Opinion, the nominating party agrees to waive the formal appraisal process and facilitate the exchange at the values established by the Office;

(iii) Should the nominating party fail to accept the Price Opinion, they may elect to:

(A) Terminate the transaction, or

(B) Secure an appraiser certified under the Uniform Standards of Professional Appraisal Practice (USPAP) and qualified to conduct an appraisal of the parcels to determine the parcel's value. Such appraiser shall be approved and provided with appraisal instructions by the Office. The final appraisal report supplied by the appraiser shall be reviewed by the Office pursuant to USPAP guidelines.

(iv) Once the detailed analysis is published, the Office will notice and solicit public comment from interested parties for thirty (30) calendar days, with direct notice provided to leaseholders of the state lands to be exchanged, and the board of county commissioners from the affected county or counties.

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Section 7. Public Auctions.

(a) All costs incurred by the Office in advertising the auction shall be reimbursed by the purchaser.

(b) The successful bidder will tender a minimum of twenty-five percent (25%) of the total purchase price for the land plus costs associated with the sale, in the form of a cashier's check, certified check, or personal check with a letter of credit. If the highest bid is not from a responsible bidder, the auctioneer shall accept the next highest bid as the high bid.

(c) On the day of the auction, the successful responsible bidder will pay the balance of the purchase price, or execute a sales contract under the provisions of paragraph (d)(ii) of this section.

(d) Payment Options

(i) Purchasers desiring to pay the purchase price in full at the auction shall provide the auctioneer the necessary information to complete a patent or deed.

(ii) Purchasers desiring to finance up to seventy-five percent (75%) of the purchase price through a sales contract shall provide the auctioneer the necessary information to complete the contract. After a receipt for the purchase of improvements as required by W.S. 36-9-105 has been delivered to the Office, the contract shall be forwarded to the purchaser. The Office shall record the executed contract in the Register of Deeds, in the county clerk's office of the appropriate county.

Section 8. Instruments of Conveyance.

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- (i) A patent, if the land has been in state ownership since statehood.
- (ii) A warranty deed, if the land has been acquired by the state via a warranty deed.
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(a) The original purchaser of state trust land under a sales contract shall remain obligated to the Board for performance under the contract until the Board approves an assignment of the purchaser's rights under the contract.

(b) 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.