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## States' Noxious Weed Statutes and Regulations:

*Wyoming*



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## **States' Noxious Weed Statutes: Wyoming**

### **Wyoming Statutes**

#### **Title 11 – Agriculture, Livestock and Other Animals**

#### **Chapter 5 – Weed and Pest Control**

#### **Article 1 – In General**

##### **11-5-101. Short title; purpose of provisions.**

- (a) This act may be cited as the "Wyoming Weed and Pest Control Act."
- (b) The purpose of this act is controlling designated and declared weeds and pests.

##### **11-5-102. Definitions.**

- (a) As used in this act:
  - (i) "Pesticide" means any material used to control or eradicate weeds or pests;
  - (ii) "Authorized dealer" means any pesticide dealer licensed in Wyoming who sells, retails, wholesales, distributes, offers or exposes for sale, exchanges, barter or gives away any pesticide within this state;
  - (iii) "Board" means the Wyoming board of agriculture established by authority of W.S. 11-2-101 through 11-2-104;
  - (iv) "Director" means the director of the department of agriculture for the state of Wyoming or his designated agent;
  - (v) "Control" means the process of containing, preventing, identifying and mitigating weed and pest infestations by using multiple integrated management practices, including but not limited to, regulation, prevention, survey, eradication, pesticides, cultivation, competition, grazing and biological control in an adaptive management effort designed to reduce economic and ecological impacts from designated and declared species and to protect uninfested lands;
  - (vi) "County commissioners" means the board of county commissioners of a county within which a district is located;

(vii) "Declared pest" means any animal or insect species which the board and the Wyoming weed and pest council have found, either by virtue of its direct or indirect effect to negatively impact management of agricultural or natural ecosystems, or as a carrier of disease or parasites, to be detrimental to the general welfare of persons residing within a district;

(viii) "Declared weed" means any plant species which the board and the Wyoming weed and pest council have found, either by virtue of its direct or indirect effect to negatively impact management of agricultural or natural ecosystems, or as a carrier of disease or parasites, to be detrimental to the general welfare of persons residing within a district;

(ix) "Department" means the state department of agriculture;

(x) "Designated list" means the list of weeds and pests from time to time designated by joint resolution of the board and the Wyoming weed and pest council or by an emergency declaration of the director;

(xi) "Designated noxious weed" means plant species having seeds or other plant parts determined to be detrimental to the general health or welfare of the state based upon the following:

(A) Has demonstrated the ability to aggressively invade native plant communities and agricultural crops;

(B) Is injurious or poisonous to livestock;

(C) Is a carrier of disease or parasites;

(D) Can, by virtue of either direct or indirect effect, negatively impact management of agricultural or natural ecosystems.

(xii) "Designated pest" means any animal or insect species that is determined to be detrimental to the health or general welfare of the state based upon the following:

(A) Has demonstrated the ability to aggressively invade native plant communities and agricultural crops;

(B) Is injurious or poisonous to livestock;

(C) Is a carrier of disease or parasites;

(D) Can, by virtue of either its direct or indirect effect, negatively impact management of agricultural or natural ecosystems.

(xiii) Repealed by Laws 1993, ch. 191, § 4.

- (xiv) "District" means any county weed and pest control district;
- (xv) "District board" means the board of directors of a district having jurisdiction within the boundaries of the district it represents;
- (xvi) "District board member area" means a geographical area within a district from which a member of the board of the district is appointed;
- (xvii) Repealed by Laws 1993, ch. 191, § 4.
- (xviii) "Farm products" means all crops, crop products, nursery stock, plants or portions thereof, but shall not mean livestock;
- (xix) "Infested farm products" means farm products which contain injurious insects, pests, weed seed, poisonous or injurious plants or any injurious portion thereof, or plant diseases;
- (xx) "Landowner" means any person who has actual use, exclusive possession of or exercises control over the land through any lease, easement, right-of-way or estate in the land. Federal landowner means the federal agency having jurisdiction over any lands affected by this act;
- (xxi) "District supervisor" means the person appointed or employed by the district board for the purpose of carrying out this act within a district;
- (xxii) "Wyoming weed and pest council" means the state council composed of one (1) representative of each district as authorized in writing by that board of directors. The director of the department of agriculture or his designated representative shall serve ex officio;
- (xxiii) "Emergency declaration" means the addition of a weed or pest to either the statewide designated list or to a county declared list on an emergency basis to allow for immediate control activities. An emergency declaration shall only last until formal action can be taken by the council and the board to list the species through established rules, and in any case not to exceed one (1) year;
- (xxiv) "This act" means W.S. 11-5-101 through 11-5-120.

### **11-5-103. Composition of districts.**

All land within the boundaries of Wyoming including all federal, state, private and municipally owned lands, is hereby included in weed and pest control districts within the county in which the land is located, with the boundaries of the district being the same as the boundaries of the county. Each district shall be known as the ".... County Weed and Pest Control District, State of Wyoming."

**11-5-104. District board of directors; appointment; terms; vacancies; compensation and expenses.**

(a) The county commissioners of each district shall hold a public meeting for appointing a district board of directors for the district. Prior to the meeting the county commissioners shall establish the number of members of the district board and shall establish district board member areas. The county commissioners may seek the advice and counsel of the members of the former district board for the establishment of district board member areas. Each district board member area shall be contiguous. Notice of the meeting shall be advertised at least once in the designated official newspaper of the county and posted on the county's official website in the manner provided in W.S. 18-3-516(f) at least twenty (20) days prior to the date of the meeting. The notice shall solicit nominations for directors by petition signed by at least ten (10) landowners to be submitted at least five (5) days before the date of the meeting.

(b) From the nominations submitted the county commissioners shall appoint the district board which shall consist of five (5) or seven (7) directors. Directors shall serve for a term of four (4) years or until their successors are appointed and qualified.

(c) Any qualified elector in the district board member area he is appointed to represent is eligible to hold the office of director.

(d) All district board members shall be appointed by the county commissioners at their first regular meeting in January of each year from among nominations submitted by petition in the manner set forth in subsection (a) of this section. In districts encompassing cities or towns with a population of five thousand (5,000) or more, one (1) district board member shall be appointed from within the limits of a city or town. A district board member shall assume office at the first regular meeting of the district board following appointment.

(e) The county commissioners shall remove a director for repeated unexcused failure to attend meetings or for refusal or incapacity to act as a district board member.

(f) When a vacancy occurs on a district board the county commissioners shall, at the next regular meeting, appoint an individual who possesses the necessary qualifications as a district board member to fill the unexpired term.

(g) At the first regular meeting in February the district board shall elect from its members a chairman and a vice-chairman, and appoint a secretary and a treasurer. The positions of secretary and treasurer need not be members of the district board. The treasurer shall furnish a surety bond to the district before entering upon the duties of office in an amount to be set by the district board but not less than fifty thousand dollars (\$50,000.00).

(h) The members of the district board shall serve without pay, but are entitled to reimbursement for actual and necessary expenses and a mileage allowance at the rate as established for state employees.

**11-5-105. Duties; powers; supervisor compensation.**

(a) The district board shall:

(i) Implement and pursue an effective program for the control of designated weeds and pests;

(ii) Fix the time and place of regular meetings, which shall occur at least once each month and shall be open to the public;

(iii) Keep minutes of all meetings and a complete record of all official acts, including all warrants issued against monies belonging to the district, which are open for public inspection during regular office hours;

(iv) Employ certified district supervisors and if certified personnel are not available, employ an acting district supervisor who shall become certified within twenty-four (24) months from the initial date of employment;

(v) Make at least one (1) annual inspection to determine the progress of weed and pest activities within a district;

(vi) Obtain competitive bids for any purchase costing more than ten thousand dollars (\$10,000.00);

(vii) Control and disburse all monies received from any source;

(viii) Render technical assistance to any city or town with a population of five thousand (5,000) or more which establishes a program as provided in W.S. 11-5-115;

(ix) Share data with the Wyoming weed and pest council and take other actions to support the coordinated and comprehensive invasive plant species control authorized in W.S. 11-5-120.

(b) The district board of each district may:

(i) Sue and be sued;

(ii) Employ personnel and determine duties and conditions of employment;

(iii) Coordinate activities with the department and enter into cooperative agreements with other agencies;

(iv) Secure and maintain bond or liability insurance, when deemed feasible by the district board;

(v) Submit to the department reports required by the board;

(vi) Participate in programs for the control of declared weeds and declared pests not included on the designated list;

(vii) Buy and sell real property, personal property and equipment as needed to carry out district programs.

(c) The district supervisor shall receive a salary and expenses as approved by the district board.

#### **11-5-106. Board of certification; duties.**

A board of certification is established consisting of the director or his designee, a University of Wyoming weed or pest specialist appointed by the dean of the college of agriculture, two (2) certified district supervisors and a district board member appointed by the Wyoming weed and pest council. The board of certification shall promulgate rules and requirements for certification of district supervisors and shall certify all personnel meeting the established requirements.

#### **11-5-107. Purchase and sale of pesticides; cost share with landowner.**

(a) The district board may purchase from authorized dealers such quantities of pesticides as are necessary, and hire labor to carry out the provisions of this act. Warrants in payment shall be drawn on the weed and pest control fund.

(b) The district board may sell pesticides which have been registered with the department for designated or declared noxious weed and pest control.

(c) In the case of delinquent indebtedness under this section the district board may seek a judgment from the district court for the indebtedness, reasonable attorneys' fees and costs. The judgment shall be enforced as provided by law.

(d) The district board may cost share with the landowner the cost of the pesticides, the cost of the application and the cost of any other integrated management practice for the control of designated or declared noxious weeds and pests.

#### **11-5-108. Rates and application of pesticides; payment by landowner; bidding restriction.**

(a) The district board may establish rates and engage in the application of pesticides for weed and pest control, subject to subsection (b) of this section. If services provided

are not paid for by the landowner for whom rendered as provided in W.S. 11-5-107(d), such indebtedness may be collected as provided by W.S. 11-5-107(c).

(b) A district board shall not engage in competitive bidding of bare ground application of pesticides for industrial weed control, unless there are no commercially licensed entities operating in the state that are able and willing to perform the service. Nothing in this subsection shall limit the district board's authority to act pursuant to W.S. 11-5-105(a)(i) and 11-5-109.

**11-5-109. Inspection of land; remedial requirements; cost to landowner.**

(a) Whenever the district board has probable cause to believe that a landowner's property is infested by weeds or pests which are liable to spread and contribute to the injury or detriment of others and the board has provided written notice of probable cause to the landowner, it shall make or have made an inspection of the suspected premises through the use of lawful entry procedures. No entry upon any premises, lands or places shall be permitted under this subsection until the landowner or occupant has been notified by certified mail and, if the landowner has consented to receive notices electronically, by electronic means that provide actual notice to the landowner or occupant that the inspection is pending at least fifteen (15) days prior to the inspection. If possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant. If, after receiving notice that an inspection is pending, the landowner or occupant denies access to the district supervisor or the supervisor's designee, the supervisor may seek an administrative inspection warrant issued by a municipal, circuit or district court having jurisdiction over the land. No landowner shall deny access to land when presented with an administrative inspection warrant issued by a court. The court shall issue an administrative inspection warrant upon presentation by the district board, through its agent or employee, of an affidavit stating:

(i) The information that gives the district board probable cause to believe that any provision of this chapter is being or has been violated;

(ii) That the landowner or occupant has denied access to the district supervisor or the supervisor's designee or has not responded within fifteen (15) days of receiving notice; and

(iii) A particularized description of the location of the affected land.

(b) If the suspected area is found to be infested, the district board, by resolution adopted by two-thirds (2/3) of its members, shall confirm such fact. The resolution may set forth minimum remedial requirements for control of the infested area, provided that:

(i) The remedial requirements are likely to be effective in controlling an infestation of the species in question at the infested area;

(ii) The board includes potential estimated costs if available;



(iii) The benefits, both economic and environmental, exceed the estimated costs of the remedial requirements;

(iv) The board may assist the landowner in developing an integrated pest management plan for the species in question; and

(v) The landowner may propose alternate remedial requirements.

(c) The district board shall deliver, by certified mail, to the address of the landowner appearing on the most recent tax rolls of the district and, if the landowner has consented to receive notices electronically, by electronic means that provide actual notice to the landowner all of the following:

(i) A copy of the resolution;

(ii) A statement of the estimated cost to the landowner of fulfilling the requirements and the amount that may be shared with the landowner, as determined by district board policy.

(iii) Repealed by Laws 2020, ch. 135, § 2.

(d) At the request of the landowner, the district board shall hold a hearing in accordance with the Wyoming Administrative Procedure Act. The landowner may appeal the board's resolution to the district court.

(e) A landowner who is responsible for an infestation and fails or refuses to perform the remedial requirements for the control of the weed or pest on the infested area within the time designated in the district board's resolution may be fined not more than fifty dollars (\$50.00) per day for each day of violation and not more than a total of two thousand five hundred dollars (\$2,500.00) per year as determined by the court. Any person accused under this act is entitled to a trial by jury. The accumulated fines under this section are a lien against the property of the landowner from the day notice is delivered to the landowner by the district board. All fines shall be deposited with the county treasurer and credited to the county school fund.

#### **11-5-110. Appraisal of damage to landowner; hearing.**

When the district board determines by resolution that the landowner's property has been damaged as a result of carrying out its requirements, the district board shall by resolution appoint three (3) disinterested freeholders within the district to appraise the amount of damage, upon which the district shall forthwith compensate the landowner. The landowner may file a claim for damages and is entitled to a hearing relative to the amount of damages pursuant to the Wyoming Administrative Procedure Act.

**11-5-111. Tax levied on property in district; maximum amount; weed and pest control fund.**

The county commissioners shall annually levy a tax to carry out this act. The tax shall be levied upon all property in the district and shall not exceed one (1) mill on each one dollar (\$1.00) of assessed valuation. The tax is not part of the general county or city mill levies. All taxes levied and collected shall be remitted to the district for a separate fund to be known as the weed and pest control fund, which shall be used only to carry out this act.

**11-5-112. Repealed by Laws 1979, ch. 135, § 3.**

**11-5-113. Allocation of funds; formula; special funding.**

(a) An allocation committee composed of the director of the department of agriculture, three (3) members appointed by the Wyoming weed and pest council and one (1) member of the board shall allocate the funds of any legislative appropriation to the district boards pursuant to a formula adopted by the committee. No district board shall receive an amount in excess of one-third ( $1/3$ ) of its actual expenditures from any appropriation, unless the appropriation provides assistance in control to a district board under subsection (b) of this section.

(b) If the district board determines a weed or pest is seriously endangering areas of a district or the state, assistance in control may be provided by legislative appropriation for this purpose, and the allocation committee shall allocate the appropriation accordingly, and the allocation committee and each affected district board shall be responsible for insuring that the funds are properly expended.

**11-5-114. Allocated funds; procedure to disburse.**

A request for allocated funds pursuant to W.S. 11-5-113 shall be initiated by the district board by submitting a voucher and documentation. Upon the approval of the voucher by the allocation committee, payment shall be made by the state auditor out of funds provided for control of weeds and pests.

**11-5-115. Program in cities and towns authorized; funding; use of monies.**

(a) The governing body of any city or town with a population of five thousand (5,000) or more may establish and administer a program for the control of weeds and pests within the jurisdictional limits of the city or town. If such a program is not established, the district board shall administer a program for the city or town.

(b) A district having a city or town with a population of five thousand (5,000) or more which establishes a program shall, within thirty (30) days after receipt of any funds collected pursuant to W.S. 11-5-111, transfer eighty-five percent (85%) of the funds attributed to the property within the corporate limits of the city or town to the governing

body of the city or town, retaining fifteen percent (15%) of the funds for administration of the district and for technical assistance rendered to the city or town by the district board.

(c) Monies received by the cities from the district shall be used to control noxious weeds and pests as determined by the governing body of the city or town. The city or town shall provide an annual report to the district board on designated and declared weed and pest work completed within the jurisdictional limits of the city or town.

(d) The governing body of a city or town which establishes a control program may petition the district board for special assistance and funding authorized by W.S. 11-5-113 and 11-5-114.

#### **11-5-116. Quarantine by director; request by district.**

(a) Whenever the director, the district board or their agents find any section of the state to be infested with insects, pests, poisonous or injurious plants or plant diseases, and it is established that farm products from that section are liable to spread the insects, pests, poisonous or injurious plants or plant diseases into other sections to the injury of others, the director shall without unnecessary delay, declare a quarantine against such section to prevent the transfer of farm products from the quarantined area. When it is ascertained that insects, pests, weed seed, poisonous or injurious plants or plant diseases are likely to be introduced into Wyoming by the importation of farm products, domestic animals or other objects, the director shall declare a quarantine against the importation of such farm products.

(b) A district may initiate a district-wide quarantine by one (1) of the following procedures:

(i) A district may request in writing that the director declare a district-wide quarantine. Upon receipt of the request, the director shall instruct the district to circulate a petition for ninety (90) days within the district to obtain signatures of at least two-thirds (2/3) of all resident landowners owning at least fifty-one percent (51%) of all resident-owned land. Upon receipt of the properly executed petition, the director shall declare a district-wide quarantine;

(ii) A district board may hold a hearing in compliance with the Wyoming Administrative Procedure Act. The director shall declare a district-wide quarantine when the district has provided the director with proper documentation that a hearing has been held and the district has found a need for a district-wide quarantine;

(iii) The district board may hold a district-wide referendum. The director shall declare a district-wide quarantine upon receipt of a certified document indicating that the referendum was accepted by a majority of the electors who voted in the election.

(c) The director shall declare an individual quarantine when requested by resolution adopted by a two-thirds (2/3) majority of the board.

(d) The district board in compliance with W.S. 11-5-101 through 11-5-119 may request a quarantine against the entry of infested farm products that may be injurious and detrimental to the state and enter into agreements with the law enforcing agencies to carry out the quarantine provision:

(i) Farm products and equipment shall be certified free of designated noxious weed seeds or infested farm products prior to entry into the state, with the exception of any processed feed or grain to be reprocessed and fed to livestock;

(ii) Farm products and equipment are to be certified in the state of origin by the proper officials;

(iii) Interstate shipment of farm products through the state need not be certified if covered in a prescribed manner as not to allow the dissemination of infested farm products.

**11-5-117. Criminal provision; penalty; civil penalties; limitations; necessary proof.**

(a) Any person violating any provision of this act is guilty of a misdemeanor, and shall be fined not more than seven hundred fifty dollars (\$750.00) in addition to fines provided for in W.S. 11-5-109(e).

(b) In any proceeding to impose any fine or penalty for any failure to perform a remedial requirement ordered by a district board for control of a weed or pest in any infested area, the district board shall have the burden of proving:

(i) That the proposed remedial action would control the target weed or pest;

(ii) That the remedial action would be a cost effective action and would be more cost effective than any alternative action proposed or adopted by the landowner; and

(iii) That the weed or pest to be controlled was at risk of spreading to the land of others in the area.

**11-5-118. Inspection for contamination.**

Farm products and agricultural, commercial or industrial equipment entering or moving within the district are subject to inspection for contamination of designated weeds and pests by the district board through its designated agents. The board and the Wyoming weed and pest council may promulgate rules and regulations which establish inspection standards and remedial requirements under this section.

### **11-5-119. Rules and regulations.**

The board, with the approval of a majority of the districts, may promulgate, adopt and publish rules and regulations in accordance with the Wyoming Administrative Procedure Act for the purpose of carrying out the intent of this act.

### **11-5-120. Wyoming weed and pest council duties.**

(a) In addition to other duties prescribed by law, the Wyoming weed and pest council shall aid county weed and pest control districts in creating, managing and enhancing coordinated and comprehensive invasive plant species control programs by:

(i) Developing and implementing data systems to support each district in making invasive plant species management decisions informed by accurate, timely data, local experts, cultural practices and best available science;

(ii) Coordinating with the University of Wyoming and community colleges to assess, to the extent practicable, the impacts that invasive plant species can have on socio-ecological systems. As used in this paragraph, "socio-ecological system" means a dynamic system encompassing interactions between people and nature within a defined geographical area;

(iii) Coordinating with the University of Wyoming, community colleges and government agencies to support and expand outreach and provide applied research on the best use of existing tools to control invasive plant species and the development of new invasive plant species management methods;

(iv) Working with federal partners to reduce barriers to timely, effective invasive plant species management on federal lands and adjoining nonfederal lands;

(v) On a biennial basis, reporting to the joint agriculture, state and public lands and water resources interim committee on the status of current funding models, existing or new funding challenges and opportunities to improve funding for designated or declared invasive plant species;

(vi) Encouraging and incentivizing cooperative, landscape-scale projects to control invasive plant species that include multi-jurisdictional partnerships with clear, long-term strategies;

(vii) Coordinating with other state and federal agencies to increase public awareness of the challenges presented by invasive plant species and to encourage prevention and mitigation practices.

(b) The Wyoming weed and pest council may, with the approval of the majority of the board, adopt and publish rules in accordance with the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq. to carry out the purposes of this act.

### **Article 3 - Special Management Program**

#### **11-5-301. Authorization of program.**

A weed and pest special management program may be carried out as provided by this article and legislative appropriation acts. All state and local governmental entities shall comply with the program.

#### **11-5-302. Definitions.**

(a) As used in this article:

- (i) "District" means any county weed and pest control district;
- (ii) "Integrated management system" means the planning and implementation of a coordinated program utilizing all proven methods for containing and controlling undesirable plants and pests, including but not limited to education, preventive measures, physical methods, biological agents, pesticide methods, cultural methods and management;
- (iii) "Management zone" means a geographical area within a district;
- (iv) "Materials" means materials used in carrying out the objectives of integrated management system;
- (v) "Method" means a procedure or process for carrying out the application method prescribed;
- (vi) "Pest" means any declared pest or designated pest defined by W.S. 11-5-102(a);
- (vii) "Treatment program" means the use of an integrated management system prescribed by the district board or the board's designated representative;
- (viii) "Undesirable plant" means any declared weed or designated noxious weed as defined by W.S. 11-5-102(a).

#### **11-5-303. Program components; funding; rulemaking authority; penalties.**

(a) Any district may carry out a weed and pest special management program in accordance with this article. If a district initiates a program, leafy spurge (*Euphorbia esula*) shall receive priority in the program. A district may also implement an integrated management system under W.S. 11-5-101 through 11-5-119 using funds specified by W.S. 11-5-111, provided leafy spurge shall receive priority pursuant to this article.

(b) Repealed by Laws 2021, ch. 2, § 3.

(c) Any district which implements a special management program under this article shall:

(i) Establish one (1) or more management zones within the district. A management zone can only be formed with the written consent of a majority of the landowners in the proposed management zone;

(ii) Complete an inventory on lands within each management zone to determine the scope of infestation;

(iii) Establish management criteria for the special management program;

(iv) Select the materials and methods for the special management program based upon best available scientific facts, current technology and economic considerations;

(v) At least ten (10) days before final approval of the program by the district board, give notice to the public in at least one (1) newspaper of general circulation within the county describing the special management program and approximating the cost of the program. Notice shall also be given through another medium if the board determines additional publication is necessary to ensure sufficient notice to the public.

(d) Programs under this article shall be funded as follows:

(i) Landowners shall contribute to the cost of the treatment program on their land as determined by the district board not to exceed twenty percent (20%) of the total cost;

(ii) The district shall contribute to the cost of the treatment program within the limitation of district funds available under subsection (e) of this section;

(iii) State or federal agencies owning lands or administering lands, which are untaxed for the purposes of this act, shall contribute to the total cost of the special management program;

(iv) Assistance to a district's coordinated program may be provided by legislative appropriation pursuant to W.S. 11-5-113(b).

(e) A district may levy not to exceed an additional one (1) mill on the assessed value of the taxable property within the district to fund its contributions under this section. Upon request by the district board, the board of county commissioners may levy the amount of tax requested not to exceed the mill levy authorized by W.S. 11-5-111 and this subsection.

(f) Any landowner who refuses to perform remedial requirements as established by the district board after due notice as required by W.S. 11-5-109 may be subject to a fine provided by W.S. 11-5-109.

(g) The Wyoming weed and pest council, with the approval of the majority of the board, may:

(i) Adopt rules and regulations as provided by W.S. 11-5-119 to implement an effective special management program in Wyoming; and

(ii) Establish procedures for prompt reporting and billing of expenditures made and for timely forecasting of future expenditures which will be required.



## **Title 37 – Public Utilities**

### **Chapter 9 – Railroads**

#### **Article 3 – Fireguards; Fences; Injuries to Stock**

##### **§ 37-9-311. Spraying weeds on rights-of-way**

It shall further be the duty of the railroad to spray noxious weeds on rights-of-way to prevent spread to adjoining lands.

## Wyoming Administrative Rules

### Department of Agriculture (010)

#### General Agency, Board or Commission Rules (0005)

#### Chapter 42 - Wyoming Weed and Pest Control Act of 1973

#### 010-42 Wyoming Code of Regulations Section 42

**Section 1. Authority.** This Rule is promulgated pursuant to W.S. 11-5-119 of the Wyoming Weed and Pest Control Act (W.S. 11-5- 101 through 11-5-119), hereinafter called the Act.

**Section 2. Definitions.** As used in this rule the following definitions shall apply:

(a) "District-wide" means the area contained within the boundaries of a weed and pest control district, including but not limited to all federal, state, county, private and municipally owned lands.

(b) "Individual Quarantine" shall mean an area owned or controlled by a single landowner within one weed and pest control district which has been quarantined.

(c) "Section of the State" means any portion of one or more weed and pest control district(s) larger than an area owned or controlled by one landowner in one weed and pest district.

(d) "State-wide" means the area contained within the boundaries of the State of Wyoming.

**Section 3. Amendments to Designated List.** The procedures for amending the Designated List are as follows:

(a) A person may propose an amendment for addition to or removal from the Designated List, which shall be presented in writing to a District Board;

(b) The District Board shall approve or disapprove the proposed amendment by motion at its next regular meeting and, if approved, a complete file shall be presented to the Wyoming Weed and Pest Council, including the following:

(i) A resolution prepared and signed by the District Board chairman;

(ii) Minutes from the meeting where the motion was approved by the District Board;

(iii) Species profile for the proposed weed or pest including scientific names and common names;

(iv) Known distribution within the State of Wyoming; and,

(v) Documented impacts which requires listing as a designated weed or designated pest.

(c) The Wyoming Weed and Pest Council shall approve or disapprove the District Board's proposed amendment at its next regular meeting and, if approved, shall prepare a joint resolution to be signed by the president and presented to the Board. The Board shall also be provided the complete file;

(d) The Board shall hold a public hearing to receive comments on the proposed amendment;

(e) After public comments are received, the Board shall approve or disapprove the proposed amendment by motion at its next regular meeting. If the proposed amendment is approved, the President of the Board shall co-sign the joint resolution. The Board shall advise the Wyoming Weed and Pest Council of its action;

(f) The Board shall notify the public of its action through publication in a newspaper of general circulation in the State and the Department of Agriculture website.

**Section 4. Emergency Amendments to Designated List.** The procedures for making an emergency amendment to the Designated List are as follows:

(a) A person may propose an amendment for addition to the Designated List, which shall be presented in writing to a District Board;

(b) The District Board shall approve or disapprove the proposed amendment by motion at a special or regular meeting and, if approved, a complete file shall be presented to the Director, including the following:

(i) A letter requesting an Emergency Designation of the weed or pest;

(ii) A resolution prepared and signed by the District Board chairman;

(iii) Minutes from the meeting where the motion was approved by the District Board;

(iv) Species profile of the proposed weed or pest including scientific names and common names;

(v) Distribution of the proposed weed or pest within the State of Wyoming;

(vi) Reasons for the emergency including how the species is having an impact statewide, or on sections of state encumbering more than one district which requires listing; and,

(vii) Proposed control activities.

(c) Following consultation with the President of the Board and the President of the Wyoming Weed and Pest Council, the Director shall approve or disapprove the motion within (5) business days of receiving the file;

(i) Non action on the part of the Director within the five (5) business days shall be deemed a disapproval of the proposed amendment.

(d) The Director shall notify the District Board of his decision in writing;

(i) If approved, the Director shall notify the District Board of the expiration date of the emergency amendment not to exceed one (1) year or until formal action can be taken under Section 3 of this Chapter.

(e) The Director shall notify the public of the approved emergency amendment through publication in a newspaper of general circulation in the State and on the Department's website;

(f) District Boards shall post the approved emergency amendment at a location accessible to the public.

(g) Emergency amendments for a species shall not qualify for another emergency amendment within three (3) years.

(h) Approved emergency amendments and all documentation shall be forwarded to the Council for consideration under Section 3 of this Chapter.

## **Section 5. Declared Weeds and Pests.**

(a) If a District Board desires to participate in Declared Pest and Declared Weed programs for the control of weeds and pests not included in the designated list as provided in W.S. 11-5- 105(b)(vi), the procedure for having a weed or pest declared is as follows:

(i) A person may propose an amendment for addition or removal from a District Board's Declared weed and pest program, which shall be presented to the District Board with jurisdiction over the boundaries presented in the proposal;

(ii) The District Board shall hold a public hearing to receive comments on the proposed amendment; and

(iii) Following the hearing the District Board shall approve or disapprove the proposed amendment by motion at the next scheduled meeting.

(iv) If the District Board approves an amendment for the removal of a declared weed or a declared pest, then the District Board shall notify the Wyoming Weed and Pest Council and the Board of its action and the amendment shall take effect immediately.

(v) If the approved amendment is for the addition of a declared weed or a declared pest, then:

(A) The District Board chairman shall prepare and sign a resolution and present it to the Wyoming Weed and Pest Council;

(B) The Wyoming Weed and Pest Council shall approve or disapprove the District Board's resolution at its next regular meeting and, if approved, the President shall sign the resolution and present it to the Board;

(C) The Board shall approve or disapprove the proposed amendment by motion at its next regular meeting. If the proposed amendment is approved, the President of the Board shall sign the resolution. The Board shall advise the Wyoming Weed and Pest Council of its action.

(b) If a District Board has a declared weed or declared pest which has been added to the Designated List, then that weed or pest shall be automatically removed as a declared weed or declared pest.

**Section 6. Emergency Amendments to a Declared List.** The procedures for a district-wide emergency declaration of a weed or pest are as follows:

(a) A person may propose an amendment for addition of a weed or pest, which shall be presented in writing to the District Board;

(b) The District Board shall approve or disapprove the proposed amendment by motion at a special or regular meeting and, if approved, the District Board's chairman shall provide the following information to the Director:

(i) A letter of request for an Emergency Declaration of the weed or pest;

(ii) A resolution prepared and signed by the District Board chairman;

(iii) Minutes from the meeting where the motion was approved by the District Board;

(iv) Species profile of the proposed weed or pest include scientific names and common names;

(v) Distribution of the proposed weed or pest within the District boundaries;

(vi) Reasons for the emergency; and

(vii) Proposed control activities.

(c) Following consultation with the President of the Board and the President of the Wyoming Weed and Pest Council, the Director shall notify the District Board of his approval or disapproval on the resolution within (5) business days of receiving the file;

(i) Non action on the part of the Director within the five (5) business days shall be deemed a disapproval.

(ii) If approved, the Director shall notify the District Board of the expiration date for the emergency declaration not to exceed one (1) year or until formal action can be taken under Section 3 of this Chapter.

(d) The District Board shall post the approved emergency amendment at a location accessible to the public.

(e) Emergency amendments for a species shall not qualify for another emergency amendment within three (3) years.

(f) Approved emergency amendments and all documentation shall be forwarded to the Council for consideration under Section 5 of this Chapter.

### **Section 7. Request for Quarantine, General Requirements.**

Each request for a quarantine shall be accompanied by a sworn affidavit, which contains the following information:

(a) The area to be quarantined, if applicable;

(b) Infested object, item or farm products, to be quarantined;

(c) A statement that the person requesting the quarantine has found the lands, object, item, or farm products to be infested by insects, pests, weed seed, poisonous or injurious plants, or plant diseases, and that the requesting person has a reasonable belief that the infested object, item, or farm products from those land, are liable to spread the weed or pest to the injury and detriment of the state;

(d) The inspection and release procedures for the area or portion of the area, object, item or farm products; and

(e) The termination date of the quarantine, if such date is anticipated.

### **Section 8. State-wide Quarantine Against Importation of Farm Products.**

(a) If a person residing within a District ascertains that insects, pests, weed seed, poisonous or injurious plants or plant diseases are likely to be introduced into Wyoming by the importation of the infected objects, items, farm products, or domestic animals and spread to the injury of others, that person may file a request for quarantine with the District Board, by providing such information as may be required by the District Board.

(b) The District Board shall approve or disapprove the request within forty-eight (48) hours after the request has been properly filed and, if approved, the Director must be provided with a copy of the request and all pertinent information, including the affidavit required by Section 7 of this Chapter and the District Board's minutes indicating the request for quarantine has been approved.

(c) Upon initial review of the person's request and the District Board's approval, the Director, if he ascertains that insects, pests, weed seeds, poisonous or injurious plants, or plant disease are likely to be introduced into Wyoming by the importation of

farm products, domestic animals, or other objects, shall without unnecessary delay declare a State-wide quarantine for twenty (20) days.

(d) The Director shall hold a hearing within twenty (20) days of declaring the twenty (20) day quarantine to determine if a State-wide quarantine should continue.

#### **Section 9. Quarantine of a Section of the State to Prevent Transfer of Farm Products to Other Sections of the State.**

(a) If two (2) or more districts desire a Section of the State to be quarantined, they shall provide the Director with the affidavit referred to in Section 7 of this Chapter, and the District Boards' minutes. These documents and a written request from the District Boards involved shall be provided to the Director with one letter of transmittal signed by the chairman of each District Board. The combined District Boards may request the Director to declare a Section of State quarantine for thirty (30) days and the Director shall do so without unnecessary delay.

(b) The District Boards involved shall hold a joint hearing not less than ten (10) days after notice of the hearing to continue the quarantine is published in a newspaper of general circulation within their Districts. At such hearing the District Boards shall determine if the Director should continue the quarantine. If the District Boards determine the Director should continue the quarantine, they shall provide the Director with the original quarantine request, the individual District Board requests, the consolidated request, copies of the findings, conclusions and the final requests of the District Boards and copies of the hearing transcripts. Upon receipt of these items, the Director shall continue the quarantine.

(c) In the event the District Boards do not concur, those districts which do concur shall transmit all documents to the Director by letter signed by all the concurring District Board chairmen. Upon receipt of such letter and documents, the Director shall convene a hearing in not less than ten (10) days of notice of the hearing to determine if the quarantine shall be continued.

#### **Section 10. District-wide Quarantines to Prevent Movement of Farm Products to Other Sections of the State.**

(a) Districts seeking a quarantine under W.S. 11-5- 116(b)(i) shall follow the directions in that subsection.

(b) District-wide quarantines shall be declared by the Director when the requesting District Board provides the Director with the affidavit referred to in Section 7 of this Chapter, the initial request, and proof of compliance with W.S. 11-5-116(b)(i),(ii) or (iii).

#### **Section 11. Individual Quarantines to Prevent Movement of Farm Products to Other Sections of a District or the State.**

(a) The District Board shall notify the landowner in writing of its intent to request that the Director quarantine the land or portion thereof. The notice shall describe the lands to be quarantined and shall contain a notice of time and place for a hearing before

the District Board. Such hearing, unless waived in writing, shall be held not less than ten (10) days nor more than twenty (20) days from the date of such notice. At the hearing the District Board shall determine by resolution adopted by a two-thirds (2/3) majority if a quarantine should be declared on such lands by the Director.

(b) If a District Board determines a quarantine should be declared by the Director, the District Board shall forward the request for quarantine, the affidavit required by Section 7 a certified copy of the District Board's resolution adopted by a two-thirds (2/3) majority of the board, and a copy of the hearing transcript to the Director who shall declare a quarantine.

## **Section 12. District-wide Quarantine of Movement of Infested Farm Products and Equipment into a District.**

(a) District-wide quarantines shall be declared by the Director when the requesting District Board provides the Director with the affidavit referred to in Section 7 of this Chapter and the initial request

(b) If farm products and equipment are not certified as free from insects, pests, weed seeds, poisonous or injurious plants, or plant disease or are not certified free from infested farm products that may be injurious and detrimental to the state, and no exceptions under W.S. 11-5-116(d)(i)-(iii) apply, then a District Board, its agent, or law enforcement may detain and inspect the vehicle and cargo carrying the farm products and equipment for visible insects, pests, weed seeds, poisonous or injurious plants, or plant disease.

(c) After inspection by the District Board, its agent, or law enforcement and the finding of infested farm products or equipment, the person making the finding shall:

(i) Inform the person in charge of the vehicle and/or the owner of the farm products or equipment of his findings;

(ii) Instruct the person in charge of the vehicle that the following remedial options are available:

(A) Return the cargo or equipment to its point of origin;

(B) Return the cargo or equipment to its point of origin or other designated site and clean the cargo or equipment to the point that no infestation is present;

(C) Take the cargo to a processing plant to have the infestation rendered harmless and/or cleaned to the point that no infested farm products are present;

(D) Change the destination of the cargo or equipment to a place where the infested farm products or equipment will not be detrimental; or

(E) Destroy the infested farm products in a manner that destroys the infesting agent; and

(iii) Inform the person in charge of the vehicle and/or owner of the infested farm products or equipment of the right to appear at a hearing before the District Board if the person disagrees with the proposed remedies presented or the identity of the infestation. The person may appear at the hearing in person or through counsel. A person may waive the right to a hearing in writing.

(A) In the event the person in charge of the vehicle does not comply with options as specified in this Section and requests a hearing before the District Board, the

hearing shall be held to disagree with the remedies or the identification of the infestation.

(d) If the agent and/or district supervisor does not find infested farm products upon completion of inspection of the cargo or equipment, the agent and/or district supervisor shall give the person in charge of the vehicle a certificate showing no infested farm products or equipment were found and that the vehicle and cargo are released. The certificate should also contain the date, time, place, vehicle's cargo description, and origin and destination of the load;

(e) The procedures outlined in this Section may be followed for the inspection of infested farm product and equipment shipments in the district-wide quarantine, statewide quarantine, and individual shipment quarantines.

### **Section 13. Quarantine of Individual Shipments of Infested Farm Products and Farm Equipment Into a District.**

(a) If a District does not have a District-wide quarantine against the movement of infested farm products or equipment into a District under W.S. 11-5-116(d), but has a reasonable belief that infested farm products or equipment are entering the District that may be injurious and detrimental to the state, the District Board, its agent, or law enforcement may detain the vehicle containing such products and equipment and inspect the vehicle and cargo using the procedures outlined in Section 12 of this Chapter.

(b) If the cargo is found to contain infested farm products or equipment the procedures in Section 12 (c) of this Chapter shall be followed.

(c) In addition to a hearing for the reasons stated in Section 12(c) of this Chapter, a hearing may also be held to determine if the infestation will be injurious and detrimental to the State.

(i) In the event the person in charge of the vehicle does not comply with the options as specified in Section 12(c) of this Chapter and waives his right to a hearing before the District Board, the waiver, the affidavit referred to in Section 7(b) – (e) of this Chapter, and the request for a quarantine shall be forwarded to the Director who upon receipt thereof, shall declare a quarantine and request the person in charge to follow the remedial options.

(ii) In the event the person in charge of the vehicle does not comply with the options as specified in Section 12(c) of this Chapter and a hearing is held and the District Board determines a quarantine should be declared, the District Board shall adopt a resolution to that effect. The resolution shall be forwarded along with the affidavit referred to in Section 7 of this Chapter and the request for quarantine to the Director who upon receipt thereof shall declare the quarantine.

(d) If the agent and/or district supervisor does not find infested farm products or equipment, the procedure in Section 12(d) of this Chapter shall be followed.

**Section 14. Quarantine Termination Date.** All quarantines, which do not contain a termination date, shall remain in effect until terminated by the same procedure under which the quarantine was initiated.



**Section 15. Hearings.**

(a) All hearings shall be held in compliance with the Wyoming Administrative Procedure Act.

(b) Under Section 12 and 13 of this Chapter, hearings before the District Board to disagree with remedial options, the identity of the weed or pest, or the injurious and detrimental determination must be requested within twenty-four (24) hours of notification of the findings.

(c) Under Section 12 and 13 of this Chapter, hearings before the District Board to disagree with their remedial options, the identity of the insects, pests, weed seeds, poisonous or injurious plants, or plant disease, or the injurious and detrimental determination, must be held within twenty-four (24) hours of receipt of the request for a hearing.

(d) All other hearings before a District Board can be requested at any time unless specified in the Rule and be held within the time frame allowed in accordance with the District Board's hearing rules and at the District Board's discretion.

**Department of Agriculture (010)**

**Weed and Pest Programs (0016)**

**Chapter 3: Certification Rules for Weed and Pest District Supervisors**

**010-16 Wyoming Code of Regulations Section 42**

**Section 1. Authority.** These Rules are promulgated by the Board pursuant to Wyoming Statute 11-5-106.

**Section 2. Definitions.**

- (a) Board means the Board of Certification described in W.S. 11-5-106.
- (b) Administration training means instruction on public administration, governmental policy and procedure, human resources, management, and other topics approved by the Board pertaining to administration of a government program.

**Section 3. Qualifications.**

(a) To be certified by the Board, a person must have all of the following:

(i) Either:

(A) A four year college degree, preferably with a major in agriculture or environmental sciences; or

(B) A high school diploma or its equivalent and two years practical experience working in weed and pest management or related fields.

(ii) A passing grade in both a course in entomology and a course in weed science from the University of Wyoming, or a passing grade in equivalent courses from an accredited college or university. The Board may grant a variance for this requirement if the applicant can provide documentation that demonstrates that a non-accredited course(s) is equivalent to the accredited courses described in this paragraph.

(iii) Eight hours of administration training. The Board may grant a variance for this requirement if the applicant can provide documentation that demonstrates competency in administration through other means such as passing collegiate courses or possessing a college degree in public administration.

(b) The Board shall determine course equivalency in consultation with the appropriate University of Wyoming specialist.

(c) An applicant for certification must provide the Board with documents demonstrating that the applicant has satisfied the qualifications above. If the applicant's documentation is insufficient, the Board may ask for additional documentation or deny certification.

(d) Once the Board has reviewed an applicant's documentation and confirmed that the applicant has satisfied the qualifications, it shall certify the applicant. Nevertheless, the Board may deny certification for a qualified applicant if the Board has previously revoked the applicant's certification.

**Section 4. Appeals.** Applicants may appeal the Board's denial of certification within 20 days of the hand delivery or mailing of a notice of denial through the process outlined in the Board of Certification Wyoming Weed and Pest Control Law Rules of Practice & Procedures for Contested Case Hearings.

**Section 5. Continuing Education.** Persons certified by the Board shall maintain their certification by attending at least one fall conference or spring workshop put on by the Wyoming Weed and Pest Council within a two-year period from certification or re-certification. If a person certified by the Board fails to meet this continuing education requirement, the Board may revoke the person's certification.

**Section 6. Revocation.**

(a) If the Board decides to revoke a person's certification, the Board shall provide that person with a revocation notice, which shall state:

(i) That the certification shall be revoked 20 days after the mailing of the revocation notice unless a contested case hearing is requested;

(ii) That the person failed to satisfy the continuing education requirement in Section 5 of these rules;

(iii) That the person may request a hearing by submitting a request to the Board within 20 days after the mailing of the revocation notice;

(iv) The name and address of the Board representative to whom a request for a hearing may be made;

(v) That if a hearing is requested, the hearing shall be conducted in accordance with the Board of Certification Wyoming Weed and Pest Control Law Rules of Practice & Procedures for Contested Case Hearings; and

(vi) That the person may appear in person or by counsel licensed to practice in the State of Wyoming.

(b) The Board shall send all revocation notices in this section by certified mail, return receipt requested.

(c) If the person does not confirm attendance at the requested hearing within five days of the scheduled hearing, the Board will cancel the hearing, and the person's certification will be revoked.

(d) If the Board revokes a supervisor's certification, the Board will notify the Weed and Pest District Board that employs that supervisor of the revocation.

## **Office of Lands and Investments (060)**

### **Board of Land Commissioners**

#### **Chapter 28 - Weed and Pest Control Program**

#### **060 Wyoming Code of Regulations Section 28**

**Section 1. Authority** This chapter is promulgated under the authority of W.S. 36-2-107

#### **Section 2. Definitions**

As used in this chapter:

- (a) "Board" means the Board of Land Commissioners.
- (b) "Director" means the Director of the Office of State Lands and Investments.
- (c) "Office" means the Office of State Lands and Investments.
- (d) "Control" means the process of containing and limiting weed and pest infestations.
- (e) "Designated List" means the list defined by W.S. § 11-5-102 (a)(x), if approved by the Board and on file with the Office.
- (f) "Designated noxious weeds" means the weeds, seeds or other plant parts that are considered detrimental, destructive, injurious or poisonous, either by virtue of their direct effect or as carriers of diseases or parasites that exist within this state, and are on the designated list.
- (g) "Designated pests" means animals or insects which are on the designated list considered detrimental to the general welfare of the state.
- (h) "District" means any county weed and pest control district.
- (i) "EDRR" means Early Detection Rapid Response. EDRR may be utilized for control of noxious weeds and/or pests that are not known to exist in Wyoming, or if found in Wyoming are found in limited, isolated, or recently introduced infestations.
- (j) "SMP" means Special Management Program. Criteria as defined in W.S.11-5-301 et seq.

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

- (a) Pursuant to W.S. 11-5-101 et seq., landowners are required to control noxious weeds or pests on their land.
- (b) Holders of Grazing Leases, Special Use Leases, Mineral Leases, Easement Holders and other permit holders on state lands are required, by contract, to participate in the control of designated noxious weeds and pests.
- (c) Payments from the state, for control of noxious weeds and pests on state lands, shall be made on a reimbursement basis only and following receipt of applicable invoice(s) and a completed Request for Reimbursement form. Reimbursement payments shall be made to Districts only and shall not be made to state lessees.

(d) Leafy spurge and SMP's formed with state land included shall receive priority for available funding.

**Section 4. Payment of Weed and Pest Control**

(a) Lessees of state land must work through the local Weed and Pest Control District to be eligible for assistance with control of designated noxious weeds and pests on state land.

(b) Districts may apply to the Office for reimbursement of certain costs of eradication and control of designated noxious weeds and pests on state land. To be eligible for reimbursement, the Office must approve the control project and estimated cost of treatment prior to implementation. Subject to available funding, reimbursement for control shall be made for the following:

(i) Leafy spurge (*Euphorbia esula*), up to the total cost of the project implemented on state land.

(ii) EDRR weeds and pests, up to the total cost of the project implemented on state land.

(iii) Russian-olive (*Elaeagnus angustifolia*), Saltcedar (*Tamarix ramosissima*), and Prairie dog (*Cynomys*, spp.),

(A) For chemical applications - the cost of materials and fifty (50) percent of application costs incurred on state land. Lessees of state land shall pay the remaining fifty (50) percent of the cost associated with chemical control measures.

(B) For mechanical or biological control measures - fifty (50) percent of the total cost incurred on state land. Mechanical and biological control measures must be pre-approved by the Office. Lessees of state land shall pay the remaining fifty (50) percent of the cost associated with mechanical and biological control measures.

(iv) For all other noxious weeds and pests, the cost of materials only. Lessees of state land shall pay the application cost for control measures implemented on state land.

(v) For vacant state lands, up to the total cost of the project.

**Section 5. Payment under SMP** Districts may form a SMP pursuant to W.S. 11-5-301. The Office shall participate in the SMP subject to available funding. Reimbursement shall be made for the total cost of treatment and control of designated noxious weeds and pests on state land treated within the SMP.