



## Certification Page Regular and Emergency Rules

Revised May 2014

Emergency Rules *(After completing all of Sections 1 and 2, proceed to Section 5 below)*

Regular Rules

### 1. General Information

a. Agency/Board Name <b>Wyoming Department of Agriculture/Wyoming Weed and Pest Council</b>			
b. Agency/Board Address <b>2219 Carey Avenue</b>		c. City <b>Cheyenne</b>	d. Zip Code <b>82009</b>
e. Name of Contact Person <b>Slade Franklin</b>		f. Contact Telephone Number <b>307-777-6585</b>	
g. Contact Email Address <b>slade.franklin@wyo.gov</b>			h. Adoption Date <b>February 11th, 2015</b>
i. Program <b>General Agency, Board or Commission Rules</b>			

### 2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted:

c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed  
*(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)*

Chapter Number:	Chapter Name:	New	Amended	Repealed
42	Wyoming Weed and Pest Control Act	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
44	Certification Rules and Regulations for Weed and Pest Supervisors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

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

**3. State Government Notice of Intended Rulemaking**

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the <b>Secretary of State</b> :	October 1st, 2014
b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the <b>Legislative Service Office</b> :	October 1st, 2014
c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the <b>Attorney General</b> :	October 1st, 2014

**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.  Yes  No  N/A

b. A public hearing was held on the proposed rules.  Yes  No

If "Yes:"	Date:	Time:	City:	Location:

**5. Final Filing of Rules**

a. Date on which the Certification Page with original signatures and final rules were sent to the <b>Attorney General's Office for the Governor's signature</b> :	02/11/2015
b. Date on which final rules were sent to the <b>Legislative Service Office</b> :	02/11/2015
c. Date on which a PDF of the final rules was electronically sent to the <b>Secretary of State</b> :	02/11/2015

**6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual <i>(Blue ink as per Rules on Rules, Section 7)</i>	
Printed Name of Signatory	Alison Lass
Signatory Title	Chairperson - Wyoming Board of Agriculture
Date of Signature	02/11/2015

**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	

**Attorney General:** 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

**LSQ:** 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules (PDFs) emailed to [Criss.Carlson@wyoleg.gov](mailto:Criss.Carlson@wyoleg.gov); clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

**SOS:** 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

## CHAPTER 42

### Rules and Regulations for Wyoming Weed and Pest Control Intent to Adopt Amended Rules

#### Statement of Reasons

The Wyoming Board of Agriculture proposes to amend and adopt rules pursuant to the provisions of Wyo. Stat. §§ 11-5-119.

In 2011, the Wyoming Legislature passed House Bill No. HB0015 amending the Wyoming Weed and Pest Control Act, Wyo. Stat. §§ 11-5-101 through 11-5-119. The legislation allowed for an emergency declaration or designation of a weed or pest by the Director of the Department of Agriculture. The recommended changes to Chapter 42 define the process the Director will follow when making an emergency declaration or designation of a weed or pest. The Board of Agriculture is also removing, and amending language within the Chapter pursuant to the Governor's Rules Reduction Initiative.

Wyoming Statute § 11-5-119 provides the Board of Agriculture the authority to promulgate, adopt and publish rules and regulations in accordance with the Wyoming Administrative Procedures Act at Wyo. Stat. §§ 16-3-101 through 16-3-115 for the purpose of carrying out the intent of this act. Wyoming Statute § 11-5-119 requires the Board of Agriculture to receive approval from a majority of the Weed and Pest Districts to promulgate new rules. The Wyoming Weed and Pest Council as defined by Wyo. Stat. § 11-5-102(a)(xxii) has reviewed these changes and unanimously voted to approve them at their October 31<sup>st</sup>, 2013 regular meeting.

Chapter 42 meets the minimum substantive state statutory requirements.

## CHAPTER 44

### Rules and Regulations for Wyoming Weed and Pest Control Intent to Adopt Amended Rules

#### Statement of Reasons

The Wyoming Board of Agriculture proposes to amend and adopt rules pursuant to the provisions of Wyo. Stat. §§ 11-5-106.

The Wyoming Department of Agriculture, Technical Services Section proposes amending the Wyoming Board of Agriculture Chapter 44 Certification Rules & Regulations for Weed and Pest Supervisors. To comply with the Governor's mandate to review and revise rules and regulations in all of state government, the Department of Agriculture is proposing to amend Chapter 44. Other changes have been made to Chapter 44 in order to conform these rules to the Secretary of State's required format and to update references to Wyoming statutes.

Wyoming Statute § 11-5-106 requires the Board of Certification to promulgate rules and regulations for the purpose of carrying out the intent of this act. The Board of Certification has reviewed these changes and unanimously voted to approve them at their October 11<sup>th</sup>, 2013 regular meeting. Additionally, the Wyoming Weed and Pest Council as defined by Wyo. Stat. § 11-5-102(a)(xxii) has reviewed these changes and unanimously voted to approve them at their October 31<sup>st</sup>, 2013 regular meeting.

Chapter 44 meets the minimum substantive state statutory requirements.

**Board of Agriculture Weed and Pest Rules**  
**Chapter 42**  
**Wyoming Weed and Pest Control Act**

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 Boards 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.

Board of Agriculture Weed and Pest Rules

Chapter 42

Wyoming Weed and Pest Control Act

~~BOARD OF AGRICULTURE WEED AND PEST RULE~~

~~CHAPTER 42 - WYOMING WEED AND PEST CONTROL ACT RULES AND REGULATIONS~~

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.

~~(a) This Rule is promulgated pursuant to W.S. 11-5-119 of the Wyoming Weed and Pest Control Act of 1973, hereinafter called the Act, and the Wyoming Administrative Procedure Act for the purpose of carrying out the intent of the Act, and is applicable to all sections of the Act except W.S. 11-5-106 and 11-5-118.~~

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

~~(a) For the purpose of carrying out the intent of the Act the following definitions shall be considered.~~

~~(b) The term "Agency" shall mean any authority, bureau board, commission, department, division, officer, or employee of the federal government, the state, county, municipality, or other political subdivision of the state, except the state legislature and the judiciary.~~

~~(a) The term "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.~~

~~(c)~~

~~(d) (b) The term "Individual Quarantine" shall mean the an area owned or controlled by one person or company or legal entity or ageneya single landowner within in one weed and pest control district which has been quarantined.~~

~~(i) The term "Person" means any individual, partnership, association, or organized group of persons whether incorporated or not.~~

~~(e)~~ (c)        The term "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 ~~person~~ landowner in one weed and pest district.

~~(f)~~        The term "State-wide" ~~shall means~~ the area contained within the boundaries of the  
(d)        State of Wyoming.

~~(g)~~        The term "Visible Weed or Pest" ~~shall mean weeds or pests or infestations thereof, capable of being seen; apparent; manifest; obvious.~~

Section 3.        Amendments to Designated List, ~~W.S. 11-5-102.~~ The procedures for amending the Designated List are as follows:

~~(a)~~        The procedures for amending the Designated List are as follows:

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

(b)        The District Board shall approve or disapprove the proposed amendment by motion at its next regular ~~scheduled~~ meeting and, if approved, ~~the~~ a complete file ~~including the District Board's motion~~ 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,

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

~~(ii)~~ (c) The Wyoming Weed and Pest Council shall approve or disapprove the District Board's proposed amendment at its next regular ~~scheduled~~ 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 ~~original file and the District Board motion~~ complete file;

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

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

~~(iv)~~ (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 4.~~Section 5. Declared Pest and Declared Weed Program Participation Under W.S. 11-5-105(b)(vi).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:~~set forth in Section 3 shall be applicable except that the District Board shall hold a public hearing to receive comments for the species to be declared in their district and the weed or pest species shall not be added to the designated list.~~

(i) A person may propose an amendment for addition or removal from a District Boards 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.

~~(a)~~(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 5. Landowner Damage Hearings.

~~(a) The District Board shall conduct all hearings referred to in W.S. 11-5-110.~~

~~Section 6.~~ 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) Each request for a quarantine shall be accompanied by a sworn affidavit, which contains the following information:~~

~~(i)~~ (a) \_\_\_\_\_ The area to be quarantined, if applicable;

~~(ii)~~ (b) \_\_\_\_\_ Infested object, item or farm products, to be quarantined;

~~(iii)~~ (c) \_\_\_\_\_ A statement that the pPerson 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;

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

~~(v)~~ (e) \_\_\_\_\_ The termination date of the quarantine, if such date is anticipated.

~~Section 7.~~ Section 8. State-wide Quarantine Against Importation of Farm Products, W.S. 11-5-116(a).

(a) ~~Notwithstanding the Director's statutory authority under W.S. 11-5-116(a),~~ If a pPerson 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, ~~the that Person person ascertaining such~~ may file a request for quarantine with the District Board, if the Person provides 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 ~~accompanying affidavit referred to in Section 6(i)-(v)~~ 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, shall 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 ~~the receipt of such individual request and District Board approval~~ to determine if a State-wide quarantine should continue.

~~Section 8.~~ Section 9. Quarantine of a Section of the State  
Quarantine to Prevent Transfer of Farm Products to Other  
Sections of the State, W.S. 11-5-116(a).

(a) ~~Notwithstanding the Director's statutory authority under W.S. 11-5-116(a),~~ if several 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 ~~6(a)(i)-(v)~~ 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 ~~in the section of the state to be quarantined~~ 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 ~~will~~ 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 9.~~ Section 10. District-wide Quarantines to Prevent Movement of Farm Products to Other Sections of the State, W. S. 11-5-116(b).

(a) Districts seeking a quarantine under W.S. 11-5-116(b) (i) ~~must~~ 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 ~~6(a)(i)-(v)~~, 7 of this Chapter, the initial request, and proof of compliance with W.S. 11-5-116(b) (i), (ii) and or (iii).

~~Section 10.~~ Section 11. Individual Quarantines to Prevent Movement of Farm Products to Other Sections of a District or the State, W.S. 11-5-116(c).

(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

~~6(a)(i)-(v), 7~~ a certified copy of the District Board's resolution adopted by a two-thirds (2/3) majority of the board ~~requesting a quarantine,~~ and a copy of the hearing transcript to the Director who shall declare a quarantine.

~~Section 11.~~ Section 12. District-wide Quarantine of Movement of Infested Farm Products and Equipment into a District, W.S. 11-5-116(d).

(a) District-wide quarantines ~~under W.S. 11-5-116(d)~~ shall be declared by the Director when the requesting District Board provides the Director with the affidavit referred to in Section ~~6(a)(i)-(v) 7~~ of this Chapter and, ~~the initial request, and proof of compliance with W.S. 11-5-116(b) and (d).~~

(b) If farm products and equipment are not certified as free from ~~noxious insects, pests, weed seeds, poisonous or injurious plants, or plant disease~~ weed seeds or pests 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. ~~weed and/or pest.~~

(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 ~~must do the followingshall:~~

(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 recleaned 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 11(e)(ii) 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 11 may be followed for the inspection of infested farm product and equipment shipments in the district-wide quarantine, ~~section of the state quarantine,~~ statewide quarantine, and individual shipment quarantines.

~~Section 12.~~ Section 13. Quarantine of Individual Shipments of Infested Farm Products and Farm Equipment Into a District, W.S. 11-5-116(d).

(a) ~~In the event that~~ 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 ~~11(b)-(d)~~ 12 of this Chapter.

(b) If the cargo is found to contain infested farm products or equipment the procedures in Section ~~11(e)(i)-(iii)~~12(c) of this Chapter shall be followed.

(c) In addition to a hearing for the reasons stated in Section ~~1112(c)(iii)~~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 ~~11(e)(ii)~~12(c) of this Chapter and waives his right to a hearing before the District Board, the waiver, the affidavit referred to in Section ~~6(a)(ii)-(v)~~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 ~~11(e)(ii)~~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 ~~6(a)(ii)-(v)~~7 of this Chapter and the request for quarantine to the Director who upon receipt thereof shall declare the quarantine.

~~(e)~~(d) If the agent and/or district supervisor does not find infested farm products or equipment, the procedure in Section ~~11(d)~~12(d) of this Chapter shall be followed.

~~Section 13.~~ 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.

~~(a) 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 14.~~ Section 15. Hearings.

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

(b) Under Section ~~11-12~~ and 1213 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 ~~11-12~~ and 1213 of this Chapter, hearings before the District Board to disagree with ~~there~~ their remedial options, the identity of the insects, pests, weed seeds, poisonous or injurious plants, or plant disease ~~pest~~, 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.

Board of Agriculture Weed and Pest Rules

Chapter 44

Certification Rules & Regulations For Weed & Pest Supervisors

Section 1. Authority. Pursuant to the authority vested in the Board of Certification by virtue of Wyoming Statutes 11-69.1 through 11-69.21 and Wyoming Statutes 9-276.19 through 9-276.33, the following rules and regulations are hereby promulgated. This Rule is promulgated pursuant to W.S. 11-5-106 of the Wyoming Weed and Pest Control Act (W.S. 11-5-101 through 11-5-119), hereinafter called the Act.

Section 2. Qualifications. Agricultural background with:

(a) Weed and Pest District Supervisors must have a four (4) year college degree, preferably with a major in agriculture and/or related field, who shall and have satisfactorily completed courses in Entomology and Weed Science or their equivalent, from an accredited college or university, or:

(b) High school graduate diploma or its equivalent and in addition has two have (2) years practical experience working in job-related fields of weed and pest operations, who shall have satisfactorily completed courses in Entomology and Weed Science or their equivalent, from an accredited college or university.

(c) If the qualifications as specified in Section 2 a or b have been achieved, the person shall be deemed a certified supervisor under the Wyoming Weed and Pest Control Act of 1973. The certified supervisor will not be subject to additional testing and examinations under the act.

~~Section 3. Supervisors employed. Prior to promulgation shall be deemed certified supervisors if the following requirements have been met.~~

~~(a) Have satisfactorily completed Entomology and Weed Science courses or their equivalent, from an accredited college or university.~~

~~(b) If the qualifications as specified in Section 3 a have been achieved, the person shall be deemed a certified supervisor under the Wyoming Weed and Pest Control Act of 1973. The certified supervisor will not be subject to additional testing and examinations under the act.~~

~~(c) If the requirements as specified in Section 3 a have not been achieved, the supervisor will be subject to testing and additional requirements as specified by the Weed & Pest Board of Certification under the act.~~

~~(d) A passing grade of seventy percent (70%) shall be required. Answers to tests would be predetermined.~~

~~Section 4. Section 3. Supervisors Continuing Education. Each Supervisors are is required to attend at least one workshop and/or training course, as approved by the Board of Certification (W.S. 11-5-106), every two years to maintain ~~their~~ his or her status as a supervisor.~~

**Board of Agriculture Weed and Pest Rules**  
**Chapter 44**  
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Section 3. Continuing Education. Each supervisor is required to attend at least one workshop and/or training course, as approved by the Board of Certification (W.S. 11-5-106), every two years to maintain his or her status as a supervisor.