

Technical Services

Statutes & Regulations



Wyoming
DEPARTMENT OF *Agriculture*

2219 Carey Avenue
Cheyenne, WY 82002-0100

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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 of 1973".

(b) The purpose of this act is controlling designated weeds and pests.

11-5-102. Definitions.

(a) As used in this act:

(i) "Agricultural pesticide" means any material used to control or eradicate weeds or pests;

(ii) "Authorized dealer" means a resident of Wyoming who sells, retails, wholesales, distributes, offers or exposes for sale, exchanges, barter or gives away any agricultural 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 and limiting weed and pest infestations;

(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 which the board and the Wyoming weed and pest council have found, either by virtue of its direct effect, 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 which the board and the Wyoming weed and pest council have found, either by virtue of its direct effect, 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;

(xi) "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;

(xii) "Designated pests" means animals or insects which are on the designated list considered detrimental to the general welfare of the state;

(xiii) Repealed by Laws 1993, ch. 191, 4.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, 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 owner or lessee of state, municipal or private land, and includes an owner of any 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) "This act" means W.S. 11-5-101 through 11-5-119.

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 in the official newspaper of the county at least two (2) times before the date of the meeting, with the last publication being at least ten (10) 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 three thousand dollars (\$3,000.00).

(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.

(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. Such programs do not qualify for cost-sharing from the department.

(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. All inspectors certified as of February 10, 1973 are deemed certified district supervisors without any further actions of the board of certification.

11-5-107. Purchase and sale of pesticides and equipment.

(a) The district board may purchase from authorized dealers such quantities of agricultural pesticides and equipment 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 agricultural pesticides which have been registered with the department for 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.

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 agricultural pesticides for weed and pest control, subject to subsection (b) of this section. The district board may cost share in the agricultural pesticides, and the landowner shall pay the full cost of the application. If services provided are not paid for by the landowner for whom rendered, 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 there exists land infested by weeds or pests which are liable to spread and contribute to the injury or detriment of others, it shall make or have made an investigation of the suspected premises through the use of lawful entry procedures. The designated representative of the district board, after giving the landowner written notice, may go upon premises within the district, through the use of lawful entry procedures, without interference or obstruction for purposes of making a reasonable investigation

of the infested area. Notice is deemed to have been given if it is deposited in a United States post office by certified mail with sufficient postage, addressed to the last known address of the landowner at least five (5) days before entry.

(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 district board may set forth minimum remedial requirements for control of the infested area.

(c) The district board shall deliver, by certified mail, to the address of the landowner appearing on the most recent tax roles of the district:

(i) A copy of the resolution;

(ii) A statement of the cost of fulfilling the requirements; and

(iii) A request that the requirements contained in the resolution be carried out at the owner's expense within a designated period of time or on a cooperative basis.

(d) At the request of the landowner, the district board shall hold a hearing in accordance with the Wyoming Administrative Procedure Act.

(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 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 may be used in any phase of weed and pest control as determined by the governing body of the city or town. The control program shall include work on designated weeds and pests as determined by the district board.

(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.

Any person violating any provision of this act is guilty of a misdemeanor, and shall be fined not more than one hundred dollars (\$100.00) in addition to fines provided for in W.S. 11-5-109(e).

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.

ARTICLE 2 - LEAFY SPURGE CONTROL

11-5-201. Repealed by Laws 1983, ch. 87, 1.

11-5-202. Repealed by Laws 1983, ch. 87, 2.

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) Pursuant to this article a district may implement an integrated management system on two (2) undesirable plants or on two (2) pests or a combination of one (1) undesirable plant and one (1) pest but under no circumstance shall the program exceed a total of two (2).

(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 supervisors, publish notice in at least one (1) newspaper of general circulation within the county describing the special management program, listing the participating landowners and stating the approximate cost of the program.

(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 the total cost of the treatment program on those lands;

(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 state board of agriculture 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.

ARTICLE 4 - EMERGENCY INSECT MANAGEMENT PROGRAM

11-5-401. Definitions.

(a) As used in this article:

(i) "Account" means the emergency insect management special revenue account created under W.S. 11-5-402;

(ii) "Committee" means the director of the department of agriculture, the director of the department of health, the director of the game and fish department, the Wyoming state veterinarian and the governor;

(iii) "Insect pests" mean infestations of grasshoppers, Mormon crickets or other cyclic or outbreak insect infestations or insect species new, recently introduced or which present a substantial possibility to be introduced into Wyoming such as fire ants, Africanized honeybees or other insect pests;

(iv) "Insect vectors" mean blood-feeding arthropods, mosquitoes, biting flies and other such insects that harbor or transmit pathogens harmful to human health and safety, animal health including livestock and wildlife, agriculture or natural resources.

11-5-402. Emergency insect management account; established.

The emergency insect management program account is created to consist of funds appropriated or designated to the account by law for the emergency management of insect pests or insect vectors.

11-5-403. Administrative support for committee.

Administrative support to the committee shall be provided by the department of agriculture. Expenses of the committee incurred under this article including administrative support shall be paid from the account.

11-5-404. Program development; additional committee responsibilities; annual report.

(a) Emergency insect management programs developed and receiving funds from the account under this article shall be based upon integrated pest management principles using the most current, scientifically valid methods to manage insect pests and vectors.

(b) Subject to subsection (a) of this section, the committee shall establish policies, standards and guidelines for programs receiving funds from the account under this article. In accordance with established program guidelines and policies, the committee shall review applications for participation submitted under this article, and based upon its review and evaluation, approve or disapprove program applications and if approved, establish the amount of program funding from the account.

(c) In addition to subsection (b) of this section, the committee shall, in cooperation with the governor, collect and compile data necessary to determine if emergency insect management programs under this article involve any threatened or endangered species under the federal Endangered Species Act of 1973, 16 U.S.C. 1531 et seq., as amended. If programs involve such species, the committee, in cooperation with the governor, shall request an exemption from federal regulation under this act for insect management purposes.

(d) The committee shall establish necessary procedures to process applications filed pursuant to this article.

(e) In addition to subsection (d) of this section, the committee shall annually report its activities for each fiscal period as required under W.S. 9-2-1014.

11-5-405. Advisory assistance; assistance specified; expenses.

(a) To assist with the establishment of policies, guidelines and the development of programs under this article, the committee may assemble necessary expertise from one (1) or more of the following organizations, institutions, groups or individuals:

- (i) The Wyoming county commissioners association;
- (ii) The Wyoming association of municipalities;
- (iii) Pesticide applicators;
- (iv) Landowners;
- (v) Agricultural producers;
- (vi) University of Wyoming faculty and staff;
- (vii) Scientific and technology industry representatives;
- (viii) Public representatives; and
- (ix) Other representatives or individuals as may be determined by the committee.

(b) Persons assisting the committee in an advisory capacity pursuant to subsection (a) of this section and not employed by the state nor any political subdivision of the state shall receive reimbursement for actual and necessary expenses and mileage allowance at the rates established by law for state employees.

11-5-406. Program participation requirements; application; funding participation levels specified; restriction on expenditures.

(a) Any state agency or political subdivision may apply to the committee for participation in emergency insect management programs under this article. Applications shall be filed with the department of agriculture and shall at minimum, substantiate compliance with standards and guidelines established by the committee.

(b) Emergency management program participation under this article shall be subject to the following requirements:

(i) Insect vector management programs or nonoutbreak insect programs shall receive not more than fifty percent (50%) of total program costs from the account;

(ii) Subject to paragraph (iii) of this subsection, a reactive program for the suppression of outbreaks of grasshoppers, Mormon crickets or other outbreak insects on state and private lands shall receive not more than fifty percent (50%) of total program costs from the account;

(iii) If the emergency insect management program under paragraph (ii) of this subsection is for grasshopper suppression, the program shall consist of treatments targeting infestations greater than two thousand (2,000) acres or those suppressing less than the entire infestation regardless of size;

(iv) Subject to paragraph (v) of this subsection, a proactive, preventative program targeting incipient infestations of grasshoppers, Mormon crickets or other outbreak insects on state and private lands, with the potential to expand into outbreaks, shall receive not more than seventy-five percent (75%) of total program costs from the account;

(v) If the emergency insect management program under paragraph (iv) of this subsection is for grasshoppers, the program shall include up to two thousand (2,000) acres if the entire infestation is included within the program;

(vi) During the first three (3) years of operation of any emergency insect management program, not more than twenty percent (20%) of funds provided to the program from the account shall be used for administrative costs, equipment and mapping activities, and not more than ten percent (10%) of such funds shall be used for these purposes in subsequent years;

(vii) In addition to paragraph (vi) of this subsection and during the first three (3) years of program operation, not more than twenty percent (20%) of funds provided from the account to any program shall be expended for applied research specifically designed to provide immediate results directly in support of improved integrated pest management practices, and not more than ten percent (10%) of such funds may be used for this purpose in subsequent years.

CHAPTER 22

BOARD OF CERTIFICATION WYOMING WEED AND PEST CONTROL LAW RULES OF PRACTICE & PROCEDURE FOR CONTESTED CASE HEARINGS

Section 1. **Authority.**

(a.) These rules are promulgated as required by the Wyoming Weed and Pest Control Law of 1957 (W.S. 11-5-101 through W.S. 11-5-303), hereinafter called the Act, and the Wyoming Administrative Procedures Act (W.S. 16-3-101 through W.S. 16-3-115) for the purpose of carrying out the intent of the Act and is applicable to all section of the Act.

Section 2. **Definitions.**

- (a.) Board: The Board of Certification established by W. S. 11-5-106.
- (b.) Proponent: The Board, or any other person or party who initiates or requests any action or decision, and may include complainant where applicable.
- (c.) Contestant: Any person who will be aggrieved or adversely affected by a proposed action of the Board and who requests a hearing before the Board, and may include the opponent or defendant where applicable.
- (d.) Party: Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.
- (e.) Person: Any individual, partnership, association or organized group of persons whether incorporated or not.
- (f.) Rules of Civil Procedure: Those Wyoming Rules of Civil Procedure in effect at the time of the hearing.
- (g.) Hearing Officer: Designated hearing officer who shall preside over the hearing.

Section 3. **Notice of Proposed Action by the Board.**

- (a.) The Board may initiate any action which may result in a contested case in accordance with the Wyoming Administrative Procedure Act by:
- (i.) Giving written notice of proposed action either served personally or by certified mail, return receipt requested, to the person or persons who will be aggrieved or adversely affected thereby, or
- (ii.) Causing the publication in proper form, of a copy of the notices,

(1.) Said publication to be made in three newspapers of general circulation in the state.

(2.) Said publication to appear at least once a week for three consecutive weeks prior to the commencement of the action, the last publication to appear at least five days prior to the action.

(b.) A notice of proposed action by the Board shall include a statement of:

(i.) The nature of the proposed action.

(ii.) The particular rules, regulations, bylaws, and/or statutes which are involved.

(iii.) A short, plain statement of the matters asserted.

(iv.) The fact that a hearing may be requested within twenty days after the date of the mailing of the notice; and that if a hearing is not requested, the proposed action shall automatically take effect at the expiration of the twenty day period.

(c.) If a person makes a request for a hearing pursuant to this section, the request contain the information required by Section 4b.

(d.) Upon receipt of a request for hearing, the Board shall give the person making the request written notice by certified mail, return receipt requested of the time, place and nature of the hearing as well as the legal authority under which the hearing is being held.

Section 4. **Hearing Before the Board.**

(a.) Any person aggrieved or adversely affected in fact by the Board's action or decision, or who will be aggrieved or adversely affected in fact by the recommendation, may within twenty days after the date of the mailing of the notice of the action or decision or recommendation, request a hearing before the Board.

(b.) The request for hearing shall be directed to and served upon the Hearing Officer of the Board or the Director of the Department of Agriculture and shall show:

(i.) A request for hearing before the Board.

(ii.) The decision, or recommendation upon which a hearing is requested.

(iii.) A statement in ordinary, but concise, language of the reason for requesting a hearing.

(iv.) The address of the person making the request and the name and address of his attorney, if any.

(c.) Upon receipt of a request for hearing, the Board shall give the person making the request written notice of:

- (i.) The time, place and nature of the hearing.
- (ii.) The legal authority under which the hearing is to be held.
- (iii.) The particular rules, bylaws and/or statutes involved.
- (iv.) A short and plain statement of the matters asserted.

(v.) The written notice shall be served by mail addressed to the person making the request or his attorney.

(d.) The hearing shall be conducted as a contested case hearing.

Section 5. Order of Procedure at Hearings.

(a.) As nearly as may be, hearings shall be conducted in accordance with the following order of procedure.

(b.) The Hearing Officer shall announce that the Board is open to transact business and call by docket number and title the case to be heard.

(c.) The proponent will be allowed an opening statement to briefly explain its position to the Board and outline the evidence it proposes to offer, together with the purpose thereof.

(d.) The contestant will be allowed an opening statement.

(e.) Any additional parties will be allowed an opening statement.

(f.) The proponent's evidence will be heard. Witnesses may be cross-examined by the contestant or his attorney, by members of the Board and the Hearing Officer. The proponent's offered exhibits will be marked by letters of the alphabet, beginning with AA@.

(g.) The evidence of the contestant will be heard and exhibits of such will be marked with numbers, beginning with the number A1". The proponent or his attorney, each member of the Board, and the Hearing Officer, shall have the right to cross-examine all witnesses presented on behalf of the contestant.

(h.) Other parties may offer evidence.

(i.) The Hearing Officer may, in his discretion, allow evidence to be offered out of order, as herein prescribed.

(j.) Closing statements will be made in the following sequence:

(i.) Proponent

(ii.) Contestant

(iii.) Proponent's rebuttal if the Hearing Officer feels it is necessary.

(k.) The time for oral argument may be limited by the Hearing Officer.

(l.) The Hearing Officer may recess the hearing as required.

(m.) After all interested parties have been offered an opportunity to be heard, the Hearing Officer shall declare the evidence closed and excuse all witnesses.

(n.) The Hearing Officer may, at his discretion or the Board's request, allow or require parties to tender written briefs, and the time for filing such briefs shall be set by the Hearing Officer.

(o.) The Board may, at its discretion, appoint a designated Hearing Officer, who will preside as hearing officer during the course of such hearing; such designated Hearing Officer shall be an attorney licensed to practice law in the State of Wyoming.

(p.) The designated Hearing Officer shall, for purposes of that hearing, have all powers provided in W.S. 16-3-112(b).

(q.) The Hearing Officer may declare that the matter is taken under advisement and that the decision and order of the Board will be announced at a later date.

Section 6. Applicable Rules of Civil Procedure.

(a.) The Wyoming Rules of Civil Procedure shall apply in all hearings before the Board.

Section 7. Attorneys.

(a.) The filing of a pleading or other appearance by an attorney constitutes his appearance for the party for whom made. The Board must be notified in writing of his withdrawal from any matter. Any person appearing before the Board at a hearing in representative capacity shall be precluded from examining or cross-examining any witness, unless such person shall be an attorney licensed to practice law in the State of Wyoming, or a non-resident attorney associated with a Wyoming attorney.

Section 8. Intervention.

(a.) Any person interested in obtaining relief sought by a proponent or otherwise interested in the determination of a proceeding pending before the Board, may petition for leave to intervene in such proceeding prior to or at the time it is called for hearing, but not thereafter except for good cause shown. The petition shall set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and if affirmative relief is sought, the same should conform to the requirements for a formal complaint. Leave will not be granted except on allegations reasonable pertinent to the issue already presented and which do not unduly broaden them.

If leave is granted, the petitioner becomes an intervener and a party to the proceeding with the right to have notice of, and appear at the taking of testimony, to produce and cross-examine witnesses, and to be heard on the argument of the case.

Section 9. Transcripts.

(a.) Oral proceedings or any part thereof shall be transcribed on request of any party upon payment of the cost thereof. In case of an appeal to the District Court, the party appealing shall secure and file a transcript of the testimony and other evidence offered at the time of the hearing with the Board, which transcripts shall be verified by the oath of the reporter or transcribed as true and correct transcripts of the testimony and other evidence in the hearing. The cost of making the transcript shall be paid by the party prosecuting such appeal. The complete record on appeal, including the transcript of testimony, shall be verified by the clerk.

Section 10. Decision and Order.

(a.) The Board shall make a written decision and order in all cases, which decisions shall contain findings of fact and conclusions of law based exclusively on the evidence admitted at the hearing and matters officially noticed. The decision and order of the Board shall be placed in the record of the case which shall be retained by the board.

Section 11. Record.

(a.) The record in all cases shall include:

- (i.) All formal and informal notices.
- (ii.) Evidence received or considered including matters officially noticed.
- (iii.) Questions and offers of proof, objections and rulings thereon.
- (iv.) Any proposed findings and objections thereto.
- (v.) The decision and order of the Board.

Section 12. Members of the Board Present.

(a.) No member of the Board shall vote upon a decision of the Board unless he shall have been present at the hearing or has read the transcript of the proceedings. A decision by a majority of the members of the Board voting shall be the decision of the Board.

Section 13. Appeals.

(a.) Appeals from decisions of the Board are governed by the Wyoming Administrative Procedures Act and the Wyoming Rules of Appellate Procedure.

Section 14. Transcript in Case of Appeal.

(a.) In case of an appeal to the District Court as above provided, the party appealing shall secure and file with the Court a transcript of the testimony and all other evidence offered at the hearing, which transcript must be verified by the oath of the reporter who took the testimony as a true and correct transcript of the testimony and other evidence in the case. The compensation of the reporter for making the transcript of the testimony and all other costs involved in such appeal shall be borne by the party prosecuting such appeal.

BOARD OF AGRICULTURE WEED AND PEST RULE

CHAPTER 42

Section 1. Authority.

(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.

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

(i) 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.

(ii) The term “District-wide” means the area contained within the boundaries of a weed and pest control district, including all federal, state, private and municipally owned lands.

(iii) The term “Individual Quarantine” shall mean the area owned or controlled by one person or company or legal entity or agency in one weed and pest control district.

(iv) The term “Person” means any individual, partnership, association, or organized group of persons whether incorporated or not.

(v) 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 in one weed and pest district.

(vi) The term “State-wide” shall mean the area contained within the boundaries of the State of Wyoming.

(vii) 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.

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

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

(ii) The District Board shall approve or disapprove the proposed amendment by motion at its next regular scheduled meeting and, if approved, the complete file including the District Board's motion shall be presented to the Wyoming Weed and Pest Council;

(iii) 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;

(iv) The Board shall hold a public hearing to receive comments for the proposed amendment; and

(v) 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 president of the Board shall co-sign the joint resolution. The Board shall advise the Wyoming Weed and Pest Council of its action.

Section 4. Declared Pest and Declared Weed Program Participation Under W.S. 11-5-105(b)(vi).

(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 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.

Section 5. Landowner Damage Hearings.

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

Section 6. Request for Quarantine, General Requirements.

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

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

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

(iii) 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;

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

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

Section 7. 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 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, the Person ascertaining such may file a request for quarantine with the District Board, if the Person provides such information as may be required by the District Board.

(b) The District Board shall approve or disapprove the request within forty-eight 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) 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 without unnecessary delay declare a State-wide quarantine for twenty (20) days.

(d) The Director shall hold a hearing within twenty (20) days of the receipt of such individual request and District Board approval to determine if a State-wide quarantine should continue.

Section 8. 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 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), 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. 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 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. 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 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), the initial request, and proof of compliance with W.S. 11-5-116(b)(ii) and (iii).

Section 10. 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 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 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), 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. 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), 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 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 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 following

(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 Section 11(c)(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 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, state-wide quarantine, and individual shipment quarantines.

Section 12. 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 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).

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

(c) In addition to a hearing for the reasons stated in Section 11(c)(iii), 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(c)(ii) and waives his right to a hearing before the District Board, the waiver, the affidavit referred to in Section 6(a)(ii)-(v), 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(c)(ii) 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) 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 11(d) shall be followed.

Section 13. Quarantine Termination Date.

(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. Hearings.

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

(b) Under Section 11 and 12, hearings before the District Board to disagree with remedial options, the identity of the pest, or the injurious and detrimental determination must be requested within twenty-four (24) hours of notification of the findings.

(c) Under Section 11 and 12, hearings before the District Board to disagree with the remedial options, the identity of the 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.

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.

Section 2. Qualifications. Agricultural background with:

a. College degree, preferably with a major in agriculture and/or related field, who shall have satisfactorily completed courses in Entomology and Weed Science or their equivalent, from an accredited college or university, or;

b. High school graduate or its equivalent and in addition has two (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. Supervisors. Supervisors are required to attend at least one workshop and/or training course every two years to maintain their status.

Statutes:

Predatory Animals

Regulations:

**Chapter 14 – Predatory Animal
Regulations**

**Wyoming Animal Damage
Management Board**

**Chapter 25 – Rabies Prevention in
Wildlife**

**Chapter 1 – Regulations Governing
the Granting of Predator Management
Program Funds**

PREDATORY ANIMALS

ARTICLE 1 - CONTROL GENERALLY

11-6-101. Permission to eradicate upon refusal of entry by property owner.

Whenever predatory animals become a menace to livestock owned or controlled by any resident of Wyoming and the owner or lessee of any real estate in the vicinity where the livestock is ranged or pastured refuses permission to the owner of the livestock, his agents or employees, to enter upon the real estate for the purpose of destroying such predatory animals, entry may be obtained as provided by W.S. 11-6-102 and 11-6-103.

11-6-102. Application to county commissioners; hearing; determination; limitation on use of firearms.

The owner of the livestock may file a written application with the board of county commissioners of the county where the real estate is located, applying for permission to eradicate predatory animals. If, after giving the owner or lessee an opportunity of a hearing, the county commissioners may grant such permission, but the person receiving the permission shall not use firearms in destroying such animals without first obtaining permission from the owner or lessee of the real estate.

11-6-103. Liability for damage to property.

The permission granted shall permit the petitioner to enter upon the real estate but shall not relieve the petitioner from any damages which he inflicts upon any property of the owner or lessee of the real estate.

11-6-104. Centralized and coordinated rodent and predator control plan authorized; release of information restricted.

(a) The department may establish and implement a cooperative and coordinated plan for rodent and predator control. It may cooperate with federal agencies in the control of rodents, predatory animals and predacious birds, as defined in W.S. 23-1-101, which are destructive to livestock, game and poultry, or are detrimental to feed and foodstuffs, crops and forage production and human health. The department may promulgate necessary rules and regulations to carry out the purposes of this section.

(b) Any information regarding the number or nature of rodents or predators legally taken within the state pursuant to this section shall only be released in its aggregate form. The identity of any person legally taking a rodent or predator within this state is solely for the use of the responsible agency or appropriate law enforcement agency, shall not be released without the individual's written consent and is not a public record for purposes of W.S. 16-4-201 through 16-4-205.

11-6-105. Issuance of aerial hunting permits authorized.

The department may issue permits for the aerial hunting of rodents and predators to any person for the protection of livestock, domesticated animals or human life, upon a showing that the person or their designated pilot, along with the aircraft to be utilized in the aerial hunting, have been licensed and qualified in accordance with the requirements of the Wyoming aeronautics commission. The department shall furnish to the game and fish department a list of the names and addresses of the persons to whom they have issued aerial permits. The department may predicate the issuance or retention of such permits upon the recipients' full and prompt disclosure of information as the department may request for submission to the authorities designated in accordance with section 13 of the Fish and Wildlife Act of 1956 or its successor. The department shall collect a fee from each person who has any aircraft permitted under this section on or before April 1 of each year in the amount authorized by W.S. 11-1-104.

11-6-106. Receiving and expending monies for supplies.

The department may receive money for rodent and predator control from the federal government, state appropriations, counties, agencies, boards, associations, commissions, individuals and any other cooperators and may expend such monies to purchase supplies, materials, services, and to employ or contract personnel for rodent and predator control. The department may make such supplies, materials, services and personnel available to cooperators at approximate cost.

11-6-107. Disposition of proceeds.

All predator furs, skins and specimens taken by hunters or trappers whose salaries are paid in full by cooperating agencies, shall be sold and the proceeds returned to the respective predator management district of the county in which the furs, skins or specimens originated. All receipts from sales of materials and services related to predatory animal and rodent control received by the department shall be paid into the state general fund.

11-6-108. Cooperative agreements generally.

The department may enter into cooperative agreements with other governmental agencies, counties, associations, corporations or individuals for carrying out the purposes of W.S. 11-6-104 through 11-6-107.

ARTICLE 2 - DISTRICTS AND DISTRICT BOARDS

11-6-201. Creation and designation of districts; state predator management advisory board.

(a) Each county is created and designated as a predator management district. Each district shall be known as the "Predator Management District of County, Wyoming," and it may hold property and be a party to suits and contracts.

(b) There is created a state predator management advisory board composed of one (1) representative of each predator management district. The state predator management advisory board representative shall be appointed by the individual predator management district boards of directors and so designated in writing.

11-6-202. Administration of districts by district boards; number and qualifications of members; term; filling of vacancies.

(a) The affairs of each district shall be administered by a board of directors, each of whom shall be a bona fide resident of Wyoming. Directors for the positions identified in paragraphs (i) and (ii) of this subsection shall be elected at an annual meeting of district livestock owners. Directors for the positions identified in paragraphs (iv) and (v) of this subsection shall be appointed as described. The composition of the board shall be as follows:

(i) Three (3) directors shall be sheep owners having paid predator management fees on sheep in the district in the year preceding election. At each subsequent annual district meeting one (1) director shall be elected for a three (3) year term. All sheep owners whether an individual, corporation or partnership, having paid predator management fees on sheep in the district regardless of the domicile of the sheep, are entitled to one (1) vote at the meeting;

(ii) Three (3) directors shall be cattle owners having paid predator management fees on cattle in the district in the year preceding election. At each subsequent annual district meeting one (1) director shall be elected for a three (3) year term. All cattle owners whether an individual, corporation or partnership, having paid predator management fees on cattle in the district regardless of the domicile of the cattle, are entitled to one (1) vote at the meeting;

(iii) If a qualified applicant for a director position identified in paragraph (i) or (ii) of this subsection cannot be found or if no qualified applicant seeks election to the board of directors, then the director position may be filled by an otherwise qualified elector, provided no more than four (4) directors may represent any one (1) species of livestock;

(iv) The board of county commissioners shall appoint one (1) director to serve for an initial term of two (2) years and thereafter for three (3) year terms from electors in the county not engaged in raising sheep or cattle. No appointed member may serve for a consecutive period of more than six (6) years;

(v) If the board of directors determines state funds are necessary for an effective predator management program to assure the statutory requirements provided in W.S. 11-6-205 are fulfilled and state funds are appropriated and received for that purpose, then three (3) directors representing sportsmen and hunters from the district shall be appointed to the board of directors by the county commissioners serving the local district. Sportsmen and hunter representatives shall be bona fide residents of the district not engaged in raising sheep or cattle and shall hold or have held either a valid Wyoming fishing or hunting license or a Wyoming wildlife damage management stamp within the preceding twelve (12) month period. County commissioners, to the greatest extent practical, shall select sportsmen and hunter representatives to ensure representation from as broad a geographic distribution of the district as possible. The county

commissioners shall determine who of the three (3) sportsmen and hunter directors appointed to a board under this paragraph shall serve an initial term of one (1) year, who shall serve an initial term of (2) years and who shall serve a term of three (3) years. Thereafter, each term shall be for three (3) years.

(b) No director shall continue to hold office after disqualification under any of the provisions of this section. All vacancies on the district board may be filled for unexpired terms by the other directors in office except the public member's and the sportsmen and hunter member's unexpired term shall be filled by board of county commissioners appointment. All members shall hold their offices until their successors are elected and qualified.

11-6-203. Manner of calling annual meeting of predator management districts; when held; election of chairman and secretary.

(a) The annual meeting of each predator management district shall be held within the first two (2) weeks of December and each board shall:

(i) On or before December 1, obtain an accurate list of all persons who have paid predator management fees on sheep or cattle in the district;

(ii) Publish a notice stating the time and place of any meeting of the district and that directors of the board representing livestock interests as provided in W.S. 11-6-202(a)(i) and (ii) shall be elected at the meeting. Notice shall be published once in a newspaper of general circulation in the district ten (10) days prior to the date of the meeting;

(iii) Set the date of the meeting so as not to conflict with the date of similar meetings held in adjoining districts in order that sheep and cattle owners operating in more than one (1) district may attend and vote in other districts where they are engaged in such business;

(iv) Set the annual predatory animal control fee for the district as provided by W.S. 11-6-210(a).

(b) When assembled in accordance with the provisions of subsection (a) of this section, the sheep and cattle owners shall elect a chairman and secretary who shall act as judges of the election of directors representing livestock interests of the board.

11-6-204. District boards; election and appointment of officers; meetings; quorum; oath; appropriation requests.

At the annual meeting of the district board, following election of directors pursuant to W.S. 11-6-202(a)(i), (ii) and (iv) and upon appointment of directors pursuant to W.S. 11-6-202(a)(v), if applicable, the directors shall organize by choosing from their number a president and vice-president and shall appoint a secretary-treasurer. Subsequent meetings may be called by the president upon reasonable notice. A majority of the board constitutes a quorum for the transaction of business at any board meeting. The members of the board shall receive no compensation for serving as members. Each director shall take an oath for the faithful

performance of his duties. If the board determines to request an appropriation of funds from the board of county commissioners, it shall, at least thirty (30) days prior to the time for annual levy of general taxes, notify the board of county commissioners of the amount the district board considers necessary for district operations during the following year.

11-6-205. District boards; duties generally.

(a) Each predator management district board shall:

(i) Exercise general supervision over the control of predatory animals and predacious birds that prey upon and destroy livestock, other domestic animals and wildlife;

(ii) Devise and put in operation those methods that best manage or control damage caused by predatory animals or predacious birds;

(iii) Administer funds received from predator management fees and from other sources to carry out the predator management program;

(iv) Coordinate with affected individuals and entities to develop a comprehensive predator management program for each respective predator management district which addresses livestock, wildlife and public health concerns.

11-6-206. District boards; powers generally.

Each predator management district board may adopt rules and regulations necessary for carrying out the purpose and provisions of this article. Each board may appoint employees and assistants as necessary and fix their compensation. Each board may enter into cooperative agreements with boards of county commissioners, other predator management districts, federal or state agencies or other organizations or associations for the purpose of controlling predatory animals and predacious birds. Each board is authorized to pay bounties for predatory animals and predacious birds.

11-6-207. District boards; record of proceedings and expenditures; monthly warrants issued by county for monies collected.

(a) The secretary-treasurer of each predator management district shall keep a complete and accurate record of the proceedings of the board.

(b) All salaries, expenses or bounties shall be paid from the predator management district fund of the district by the secretary-treasurer.

(c) All expenditures of the district shall be supported by properly approved vouchers and supporting documents in writing signed by the board president and any other director.

(d) The county treasurer shall issue monthly warrants to the predator management district for all monies collected in the county for the predator management district.

11-6-208. District boards; annual report.

On or before October 1 of each year, the president and secretary-treasurer of each district board and each county treasurer shall make an annual report to their board of county commissioners showing all receipts and disbursement of district funds made by direction of the board during the preceding fiscal year. A report of the receipts, expenditures and financial transactions of the district shall be made as provided by W.S. 9-1-507. The director of the state department of audit may call upon any district board or upon any county treasurer for further information relating to any predator management district.

11-6-209. Annual meetings of predator management boards.

Annual meetings for the election of members of boards of directors of predator management districts shall be called by the president of each board. The meetings shall be called by a notice published in the manner provided by W.S. 11-6-203.

11-6-210. Creation of predator management district fund; predator management fees; donations; appropriation by county commissioners.

(a) At the time of collecting brand inspection fees imposed under W.S. 11-20-401 and 11-20-402, the brand inspector shall collect predator management fees on all sheep and cattle inspected within each predator management district. However, predator management fees shall not be collected on cattle and sheep shipped into this state for immediate sale or slaughter. The amount of the fee for each predator management district shall be established by each predator management district board in consultation with the state predator management advisory board and shall not exceed one dollar (\$1.00) per head on sheep and cattle. The directors elected pursuant to W.S. 11-6-202(a)(i) and (ii) from each predator management district board shall annually determine the predator management fee to be charged and collected in the district taking into consideration comments solicited from the producers present at the district's annual meeting as provided for in W.S. 11-6-203, who have paid predator management fees within the district during the preceding twelve (12) months and shall inform the livestock board of the fee prior to January 1 each year. The fee shall not be collected on the same livestock more than once in any twelve (12) month period. The livestock board may retain not to exceed five percent (5%) of the revenues collected for the actual cost of collecting the predator management fee. Remaining revenues collected by the livestock board under this section shall be remitted to the state treasurer for deposit in an account. The state treasurer, on a quarterly basis, shall distribute the revenues to the county treasurer of the county from which the shipment originated unless, at the time of payment of the fees, the livestock owner designates the fees to be distributed in total to another county in this state in which the livestock are fed or pastured. The county treasurer shall deposit revenues distributed under this subsection into a special continuing fund, to be known as the "Predator Management District Fund of County" and to be administered by the predator management board of that district.

(b) Repealed by Laws 1990, ch. 87, 3.

(c) Repealed by Laws 1990, ch. 87, 3.

(d) The district board may receive donations and appropriations of money from any source, and such donations and appropriations shall be placed in the district fund by the county treasurer upon request of the district board. Nothing in W.S. 11-6-201 through 11-6-210 shall be construed to prohibit boards of county commissioners from appropriating funds for the purpose of controlling predatory animals and predacious birds, and such appropriation by boards of county commissioners is authorized.

(e) Repealed by Laws 1990, ch. 87, 3.

(f) Notwithstanding subsection (a) of this section, the amount of the annual predator management fee for sheep and cattle shipped into this state for confinement in a commercial feedlot shall not exceed twenty-five cents (\$0.25) per head on sheep and cattle. For purposes of this subsection, "commercial feedlot" means any place, establishment or facility commonly known as a feedlot conducted, operated or managed for profit or nonprofit for livestock producers, feeders or market agencies, consisting of pens and their appurtenances, in which livestock are received, held, fed, cared for or kept for sale or shipment in commerce. A pasture, field or other enclosure, fenced or unfenced, shall not be considered a commercial feedlot for purposes of this subsection. The predator management district board shall have the authority to determine if a facility qualifies as a commercial feedlot as defined in this subsection.

(g) Each predator management district board shall annually allocate five percent (5%) of all predator management fee collections to be used for refunds, in whole or in part. If a refund is requested the board shall pay the refund within one hundred eighty (180) days of application. Refunds under this subsection shall be subject to the following:

(i) To be valid, the application for refund shall be received no later than sixty (60) days after the end of the calendar year in which the fee was paid;

(ii) No person receiving a refund shall receive any predatory animal control services funded in whole or in part by the predatory animal control fees until that person has paid one hundred fifty percent (150%) of all refunds received during the year in which the services were sought and the three (3) preceding calendar years; and

(iii) All monies not paid in refunds shall annually revert to the district predator management account on July 1 of the following year.

(h) Notwithstanding subsection (a) of this section, no predatory animal control fee shall be collected on livestock shipped or trailed within this state if change of ownership does not occur.

(j) Any person failing to pay the predator animal control fee imposed by subsection (a) or (f) of this section shall be punished as provided by W.S. 11-1-103.

(k) In addition to the other fees imposed by this section, any person paying the predator control fee may pay an additional ten cents (\$.10) per head to fund the predator management activities of the Wyoming animal damage management board created by W.S. 11-6-303. Any fees collected

pursuant to this subsection shall be deposited in the animal damage management account created by W.S. 11-6-306.

(m) After July 1, 2002 and before December 1, 2002, a predatory animal district board may hold a special meeting during which an adjustment of the predatory animal control fee set under subsection (a) of this section may be made for the balance of calendar year 2002. The special meeting shall be held pursuant to the procedures found in W.S. 11-6-203(a)(ii) and (iii) except that the notice shall state the time and place and that a fee increase shall be considered. The board shall immediately notify in writing the livestock board of any fee adjustment made under this subsection. The fee adjustment shall take effect thirty (30) days after the date of mailing of the notice to the livestock board and shall remain in effect through December 31, 2002.

(n) If a livestock producer requests predator management services from the district board representing the county in which the producer is pasturing or housing livestock, and no predator management fees have been collected from the producer within the previous twelve (12) months, or if the fees have been refunded, the board may charge a service fee to recover reasonable and actual costs of the predator management services provided.

(o) To be eligible to receive state funds, the district shall assess and collect all available fees on livestock in the district.

ARTICLE 3 - WYOMING ANIMAL DAMAGE MANAGEMENT PROGRAM

11-6-301. Short title.

This article may be cited as the "Wyoming animal damage management program".

11-6-302. Definitions.

(a) As used in this article:

(i) "Board" means the Wyoming animal damage management board (ADMB);

(ii) "Crop" or "agricultural crop" when not otherwise defined by statute means corn, oats, wheat, barley, flax, sorghums and other grains, potatoes, vegetables, forage legumes, hay, and any other product of cultivation, trees, bees, honey and hives;

(iii) "Damage" means any injury to or loss of livestock, agricultural crops or wildlife inflicted by predatory animals, predacious birds or depredating animals;

(iv) "Depredating animal" means any trophy game animal or furbearing animal that causes damage;

(v) "Furbearing animal" means badger, beaver, bobcat, marten, mink, muskrat or weasel;

(vi) "Livestock" means horses, mules, cattle, swine, sheep, goats, poultry, guard animals or any other animal maintained under domestication. Bison are considered livestock unless otherwise designated by the Wyoming livestock board and the Wyoming game and fish commission;

(vii) "Person" means as defined by W.S. 8-1-102(a)(vi);

(viii) "Predacious bird" means any predatory avian species that is permitted to be taken under either Wyoming law or federal law;

(ix) "Predatory animal" means:

(A) Coyote, jackrabbit, porcupine, raccoon, red fox, skunk or stray cat; and

(B) Until the date gray wolves are removed from the list of experimental nonessential population, endangered species or threatened species in Wyoming as provided by W.S. 23-1-108, "predatory animal" includes wolves. After that date, "predatory animal" shall include any gray wolf not within an area of the state in which the gray wolf is:

(I) Designated as a trophy game animal under subdivision (x)(B)(I) of this subsection; or

(II) Classified as a trophy game animal by the game and fish commission pursuant to W.S. 23-1-304(a).

(x) "Trophy game animal" means:

(A) Black bear, grizzly bear or mountain lion; and

(B) From and after the date gray wolves are removed from the list of experimental nonessential population, endangered species or threatened species in Wyoming as provided by W.S. 23-1-108:

(I) "Trophy game animal" shall include any gray wolf within those tracts of land within the following described area, subject to modification as authorized in this subdivision: northwest Wyoming beginning at the east boundary of the Shoshone National Forest and the Wyoming-Montana state line; southerly along said forest boundary to the common boundary between the Shoshone National Forest and the Wind River Indian Reservation; westerly and then southeasterly along the Shoshone National Forest boundary to the Union Pass Road (USFS Road 263); southerly along said road until it intersects the north boundary of the Upper Green River Cattle Association's grazing allotment on forest service lands; following the eastern boundary of said allotment southerly and westerly to the point it intersects the Bridger-Teton National Forest boundary; westerly along said forest boundary to U.S. Highway 189-191; northwesterly along said highway

to U.S. Highway 26-89-191 at Hoback Junction; northerly along said highway to Wyoming Highway 22; westerly along said highway to the Wyoming-Idaho state line; north along said state line to the Wyoming-Montana state line; north and then east along said state line to the east boundary of the Shoshone National Forest. This described area may be diminished by rule of the game and fish commission if the game and fish commission determines the diminution does not impede the delisting of gray wolves and will facilitate Wyoming's management of wolves; and

(II) "Trophy game animal" shall include any gray wolf within any area of the state where gray wolves are classified as trophy game animals by the game and fish commission pursuant to W.S. 23-1-304(a).

(xi) "Wildlife" means all wild mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks, and wild bison designated by the Wyoming game and fish commission and the Wyoming livestock board within this state;

(xii) "Take" means as defined by W.S. 23-1-102(a)(vii).

(b) To the extent necessary to achieve federal government delisting of the gray wolf, the governor may direct the game and fish commission to adopt a boundary between the area in which the wolf is treated as a trophy game animal and the area where it is treated as a predator at any place between the area described in subdivision (a)(x)(B)(I) of this section and the following described area: northwest Wyoming beginning at the junction of Wyoming Highway 120 and the Wyoming-Montana state line; southerly along Wyoming Highway 120 to the Greybull River; southwesterly up said river to the Wood River; southwesterly up said river to the Shoshone National Forest boundary; southerly along said boundary to the Wind River Indian Reservation boundary; westerly, then southerly along said boundary to the Continental Divide; southeasterly along said divide to the Middle Fork of Boulder Creek; westerly down said creek to Boulder Creek; westerly down said creek to the Bridger-Teton National Forest boundary; northwesterly along said boundary to its intersection with U.S. Highway 189-191; northwesterly along said highway to the intersection with U.S. Highway 26-89-191; northerly along said highway to Wyoming Highway 22 in the town of Jackson; westerly along said highway to the Wyoming-Idaho state line; north along said state line to the Wyoming-Montana state line; north, then east along said state line to Wyoming Highway 120. Any boundary change adopted pursuant to this subsection shall be certified and effective as provided in W.S. 23-1-109(f).

11-6-303. Animal damage management board (ADMB) created; composition; appointment; terms; vacancies; compensation.

(a) There is created the animal damage management board for the purposes of mitigating damage caused to livestock, wildlife and crops by predatory animals, predacious birds and depredating animals or for the protection of human health and safety. The board may mitigate damage caused by depredating animals by and through a memorandum of understanding with the Wyoming game and fish commission. The board shall be composed of twelve (12) members appointed by the governor as follows:

- (i) The director of the Wyoming department of agriculture;
 - (ii) The director of the Wyoming game and fish department;
 - (iii) One (1) domestic sheep producer;
 - (iv) One (1) cattle producer;
 - (v) The state director for the United States department of agriculture, animal and plant health inspection service, wildlife services (USDA/APHIS/WS);
 - (vi) Two (2) members representing the interests of sportsmen, outfitters and hunters, not more than one (1) of these members shall be appointed to represent the interests of outfitters;
 - (vii) The president of the state predator management advisory board created under W.S. 11-6-201;
 - (viii) One (1) member from an urban area;
 - (ix) One (1) member from the Wyoming game and fish commission;
 - (x) One (1) member of the Wyoming board of agriculture; and
 - (xi) One (1) member representing the interests of nonconsumptive users of the state's wildlife resource.
- (b) A representative from the United States forest service (USFS), the United States fish and wildlife service (USFWS) and United States bureau of land management (BLM) shall serve as exofficio nonvoting members of the board.
- (c) The directors of the departments of agriculture and game and fish shall serve as co-chairs of the ADMB and shall give general direction to the ADMB and the ADMB administrative officer.
- (d) The director of the department of agriculture or his designee shall serve as the ADMB's administrative officer and carry out the ADMB's administrative functions.
- (e) Except for the directors of the departments of agriculture and game and fish, the state director for the United States department of agriculture, animal and plant health inspection service, wildlife services (USDA/APHIS/WS), and the president of the state predator management advisory board created under W.S. 11-6-201, the remaining members of the board shall hold office for staggered terms of four (4) years. For the remaining members of the initial board, four (4) members shall be appointed for a term of four (4) years, four (4) members shall be appointed for a term of two (2) years. Each appointed member shall be limited to serving on the board for eight (8) consecutive years, however, a member may be reappointed after a four (4) year absence. Each member shall hold office until his successor is appointed and has been qualified.

As terms of current ADMB members expire, the governor shall appoint each new member or reappointed member to a four (4) year term.

(f) When a vacancy occurs in the membership for any reason, a replacement shall be appointed for the unexpired term.

(g) Attendance of six (6) members at a duly called meeting shall constitute a quorum for the transaction of official business. The ADMB shall convene at the times and places prescribed by the chair.

(h) Members of the board who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the established state rate, to be paid from the animal damage management account.

(j) Members may decline to receive per diem and expenses for their service.

(k) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the ADMB at the established state rate, to be paid from the animal damage management account.

(m) State government official and employee members may decline to receive per diem and expenses for their service.

11-6-304. ADMB responsibilities; animal damage management policy; rules; methods to manage predatory animals, predacious birds, depredating animals and rabid wildlife; manner of calling meetings; frequency.

(a) The ADMB is responsible for the formulation of the damage prevention management policy of the state, and by and through an executed memorandum of understanding (MOU) with the Wyoming game and fish commission is responsible for management of rabid wildlife, crop, livestock and wildlife damage done by depredating animals and wildlife damage by predatory animals and predacious birds. The ADMB in conjunction with its responsibility may, consistent with the Wyoming Administrative Procedure Act adopt rules to implement policies administered by the ADMB. After consultation with the livestock board and the department of health, the ADMB shall promulgate rules pertaining to rabies prevention in wildlife including surveillance, public education, vaccination protocol, post-exposure procedures and quarantines. The ADMB may enter into the agreements with law enforcing agencies to carry out the quarantine provisions. Nothing in this article shall preempt the Wyoming game and fish commission authority to manage wildlife or determine damage pursuant to any provision in title 23.

(b) In its deliberations the ADMB shall:

(i) Entertain requests for assistance in order to allow mitigation of predator damage;

(ii) Specify programs designed to prevent damage by predatory animals, rabid wildlife, predacious birds and depredating animals to livestock, agricultural crops, wildlife, property, human health and safety;

(iii) Provide various degrees of predatory animal, predacious bird and depredating animal damage management services to individual agricultural livestock and crop producers, landowners, lessors or administrators, and to urban, residential and industrial property owners. Damage management services shall also be provided and conducted for the benefit of wildlife populations and human health and safety;

(iv) Specify methods for the prevention and management of damage and for the selective control of predatory animals, rabid wildlife, predacious birds and depredating animals;

(v) Maintain responsibility and appropriate funds for the purpose of providing damage prevention and management to agricultural livestock and crops, wildlife, property and human health and safety caused by predatory animals, rabid wildlife, predacious birds and depredating animals;

(vi) Cooperate with federal, state and county governments, educational institutions and private persons or organizations to effectuate agricultural and wildlife damage and rabid wildlife prevention policies;

(vii) Develop memorandums of understanding between the Wyoming department of agriculture and the Wyoming game and fish commission and the United States department of agriculture, animal and plant health inspection service, wildlife services (USDA/APHIS/WS) to accommodate funding sources and administrative guidelines for the program;

(viii) Consider any recommendations received from the Wyoming game and fish commission and the Wyoming department of agriculture.

(c) The ADMB shall conduct meetings in accordance with its established policy, but shall meet at least once each year in the month of January.

(d) The ADMB may adopt rules and regulations necessary for carrying out the purpose and provisions of this article. The ADMB may appoint employees and assistants as necessary and fix their compensation. The ADMB may enter into cooperative agreements with boards of county commissioners, predator management districts, federal or state agencies or other commissions, organizations or associations for the purpose of managing predatory animals, rabid wildlife, predacious birds and depredating animals. Predator management district boards which choose not to enter into a cooperative agreement with the ADMB shall not be precluded from continuing with, or entering into, a cooperative agreement or memorandum of understanding with the United States department of agriculture, animal and plant health inspection service, wildlife services (USDA/APHIS/WS), other entities of government, organizations or associations. This act is not intended and shall not replace, rescind, modify nor cancel cooperative agreements or cooperative service agreements between the USDA/APHIS/WS and the county predator management districts created under W.S. 11-6-201 through 11-6-210.

(e) The ADMB may elect to provide various degrees of predator damage management services to any other person pursuant to a separately negotiated cooperative agreement.

(f) The board shall investigate, test and refine the concept of integrated predator management. The board shall develop and establish measurable goals and objectives. The board shall report to the governor and the joint agriculture, public lands and water resources interim committee and joint appropriations interim committee on or before December 31 of each year to determine the progress the board has made toward achieving the goals and objectives it has established.

11-6-305. Wyoming animal damage management board funding; sources; methods of collection.

(a) There is created a "wildlife damage management" stamp. The stamp, issued at licensed selling agents as designated by the Wyoming game and fish commission may be purchased voluntarily. Proceeds from the sale of the stamp, excluding fifty cents (\$.50) which the agent shall retain for each stamp sold, shall be deposited by the state treasurer into the animal damage management account created by W.S. 11-6-306. The Wyoming game and fish commission shall retain the fees related to those administrative costs which are required to design and print stamps, and collect, account for and disburse these funds to the ADMB. The Wyoming game and fish commission shall annually provide to the ADMB a complete and detailed accounting of all administrative costs and fees.

(b) The purchase price for the stamp shall be determined annually by the ADMB in whole dollar increments and established at such a level to meet financial obligations as budgeted.

(c) The ADMB may receive money for predatory animal, predacious bird and depredating animal management from the federal government, state appropriations, counties, agencies, boards, associations, commissions, individuals and any other cooperators, and may expend monies to purchase supplies, materials, services, and to employ or contract personnel for predatory animal, predacious bird and depredating animal damage management. The ADMB may make supplies, materials, services and personnel available to cooperators at approximate cost.

11-6-306. Animal damage management account.

(a) There is created the animal damage management account.

(b) Money received under W.S. 11-6-305 shall be deposited by the state treasurer in the animal damage management account to be appropriated for the purposes provided in this article.

(c) Any supplemental contributions received by the department from livestock owners for predatory animal, predacious bird or depredating animal damage management programs or the prevention and management of rabid wildlife shall be deposited into the animal damage management account.

(d) The animal damage management account shall be administered for the ADMB by the Wyoming department of agriculture.

11-6-307. Board to request funding from game and fish commission.

The board shall annually request one hundred thousand dollars (\$100,000.00) from the Wyoming game and fish commission. These funds shall be expended for wildlife priorities. The game and fish commission may provide recommendations to the board regarding expenditure of these funds.

11-6-308. District boards; relation to ADMB; duties generally.

(a) Each predator management district board shall:

(i) Exercise general supervision in determining local priorities for the management of predatory animals and predacious birds that prey upon and destroy livestock, other domestic animals, wildlife and crops;

(ii) Devise and put in operation those methods that best manage predatory animals and predacious birds;

(iii) Administer funds received to carry out the animal damage management program;

(iv) Maintain existing financial and physical resources;

(v) Provide input to the ADMB.

11-6-309. Predator management district participation with the ADMB.

If the predator management district has elected to participate in providing funding or upon approval of the ADMB, other in-kind resources, to the animal damage management account, the district may solicit funds or receive services from the ADMB under separate negotiated agreement.

11-6-310. Applicability of chapter.

This article, unless contrary to federal law, shall apply to all federal, state and private lands.

11-6-311. Exemptions.

The state predator management advisory board or the ADMB may exempt persons from payment of the imposed fees when the respective board determines that livestock as defined in this act are permanently confined within pens or corrals within incorporated city limits where animal damage control activity by state or federal agencies is prohibited or severely restricted.

11-6-312. Cooperative agreements generally.

The ADMB may enter into cooperative agreements with other governmental agencies, counties, associations, corporations or individuals for carrying out the purposes of this article.

11-6-313. Repealed By Laws 2008, Ch. 39, 1.

CHAPTER 14
PREDATORY ANIMAL CONTROL REGULATIONS

Section 1. **Authority.**

(a.) Pursuant to authority vested in the Department of Agriculture by virtue of Sections 11-6-104 and 11-6-105 Wyoming Statutes 1977 as amended, pertaining to predatory animals, the following regulations implement procedures for the issuance, denial, and revocation of permits for aerial hunting; implements provisions of the Fish and Wildlife Act of 1956 as amended by Public Laws 92-159 and 92-502; establishes effective time periods for permits; establishes method for permit applicants to secure approvals from local predator control districts; identifies permit areas; and provides exemptions as provided for in the Federal Airborne Hunting Act. The following regulations are hereby promulgated and adopted.

Section 2. **Aerial Hunting, General.**

(a.) The use of aircraft to harass, hunt, pursue, or kill wildlife is prohibited by Part 19, sub-part B, Section 14.11 Code of Federal Regulations Title 50, with certain exceptions.

(b.) Exceptions

(i.) Section 19.12 of the Federal Airborne Hunting Regulations exempt any person who is acting within the scope of their official duties as an employee or authorized agent of a state or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops. The department recognizes the Federal Airborne Hunting Regulations and hereby exempts from state permit requirements, those persons meeting the conditions described in Section 19.12 of those regulations.

(ii.) Exemptions authorized to persons under Section 19.12, shall only be valid while said person is operating under USDA-APHIS-Animal Damage Control supervision. Persons engaged in aerial hunting for any other purpose shall be required to obtain a permit.

Section 3. **State Permits.**

(a.) Sub-part D of the Federal Regulations, Section 19.31, (a), provides that states may issue permits to persons, to engage in airborne hunting or harassing of wildlife for purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life, or crops. The department will not issue permits for the purpose of sport hunting.

(b.) The department will issue permits for aerial hunting to persons who meet the requirements of these regulations and who provide the information requested on the application forms.

(c.) Types of aerial hunting permits.

(i.) Aircraft permits. All aircraft that are used to hunt, pursue, or harass predators or other wildlife shall have attached, within the cabin of the aircraft, a predator control sticker obtained from the department indicating the aircraft identification number and the year for which the sticker is valid. Applications for predator aircraft stickers will be submitted to the department on forms provided for that purpose.

(ii.) Pilot permits. Any person except those exempted under Section 2B.2. who pilots an aircraft used to hunt, pursue, or harass predators or other wildlife, must have in their possession a current and valid predator pilot permit, obtained from the Department. Applications for predator permits will be submitted to the department on forms provided for that purpose.

(iii.) Gunner permits. Any person except those exempted under Section 2B.2. who assists a pilot of a predator control aircraft by shooting at wildlife while airborne, or while on the ground, takes or attempts to take any wildlife by means, aid, or use of an aircraft must have in their possession a current and valid gunner permit, obtained from the department. Applications for gunner permits will be submitted to the department on forms provided for that purpose.

(iv.) Any individual possessing a pilot and/or gunner permit, shall produce the permit upon the request of any authorized State or Federal law enforcement officer. Failure to produce the permit upon request may result in permit revocation.

(d.) Permit requirements and limitations.

(i.) Predator control district approval. Persons that desire state permits must secure the approval of individual county predator control districts where they wish to hunt, and obtain the required signature(s) from duly elected or authorized predator district board members within those counties. This approval will be submitted to the Department on forms provided for that purpose.

(ii.) Permit areas. Aerial hunting permits may be issued to an applicant by the department for all or any portion of a county, or the entire state, provided that the applicant has obtained respective Predator Board approval in each county.

(iii.) Landowner approvals.

(1.) No person shall aerial hunt over private property without written permission of the owner or person in charge of the property.

(2.) Persons desiring to aerial hunt Federal lands shall obtain written authorization from the appropriate agency prior to any aerial hunting.

(3.) Permittee shall produce written landowner permission upon request of any duly authorized State or Federal law enforcement officer. Failure to produce written permission may result in permit revocation.

(4.) State aerial hunting permits do not supersede or authorize the violation of any applicable trespass laws or regulations.

(iv.) Permits are valid for up to one (1) year, unless revoked, and must be renewed on or before the first Monday in May of each year.

Section 4. Denial of Permits.

(a.) The department will deny any permit request from an applicant who has been found guilty of violating Wyoming Game and Fish laws or any other laws involving trespass, while engaged in aerial hunting, and/or is convicted of violating the Airborne Hunting Act, 16 U.S.C. 742 j-1.

(b.) The Department may deny aerial hunting permits to any applicant who does not provide the required information on the application form.

(c.) Any permit denied under this Section will be for a period of one (1) year from date of conviction for a first offense and five (5) years from date of conviction for each subsequent offense as indicated in Section 4(a).

Section 5. Revocation of Permits.

(a.) The department may revoke any/all permits held by any person who is convicted of any provision of any law, rule, or regulation pertaining to predator control. Prior to revocation, written notice shall be given by certified mail to the applicant. Notice would allow for a hearing, as described in Section 6.

(b.) Any permit revoked under this Section will be for a period of one (1) year from date of conviction for a first offense and five (5) years from date of conviction for each subsequent offense.

Section 6. Right of Appeal.

(a.) Prior to any denial or revocation action being taken on a permit, the affected pilot and/or gunner shall be entitled to a hearing pursuant to the Wyoming Administrative Procedure Act.

(b.) Said hearing shall be at a mutually agreed upon time and place, and shall be held by the Board of Agriculture or their designee.

Section 7. Reports.

(a.) The pilot in command of any aircraft used in aerial hunting activities relating to predator control shall furnish a monthly report to the department in dictating the dates flown, the area (both the county and name of landowner) flown, and the number and species of predators taken.

RABIES PREVENTION IN WILDLIFE
CHAPTER 25

Section 1. **Introduction and Authority.**

(a.) Pursuant to authority as required by W.S. 11-6-304 in the Animal Damage Management Board, the Animal Damage Management Board after consultation with the Livestock Board and the Department of Health, shall promulgate rules pertaining to rabies prevention in wildlife including surveillance, public education, vaccination protocol, post-exposure procedures and quarantines.

(b.) Nothing in these rules shall preempt the Wyoming Game and Fish Commission authority to manage wildlife or determine damage pursuant to any provision in title 23 of the Wyoming Statutes.

Section 2. **Definitions.**

(a) The following definitions apply to these rules.

(i) “Board or ADMB” shall mean the Wyoming Animal Damage Management Board.

(ii) “Domesticated wild animal” means a wild or hybrid animal that is confined or controlled by a human and for which the rabies incubation and viral shed time are unknown.

(iii) “Owner” shall mean legal owner of animal(s), or the owner’s agent, or the person in possession of or caring for such animal(s).

(iv) “Person” shall include an individual, partnership, corporation, joint stock company, or any other association or entity, public or private.

(v) “Pet” means an animal for which there is a licensed Rabies vaccine and which is ordinarily maintained in the home of the owner.

(vi) “Positive Rabies case” means an animal diagnosed as positive for rabies.

(vii) “Rabies specimen” means that part of an animal or an entire animal submitted for rabies examination.

(viii) “Rabies Suspect” means an animal showing signs suggestive of Rabies.

(ix) “Under the supervision of a veterinarian” means that a veterinarian is on the premises and is responsible for the Rabies vaccination.

(x) “Vaccinated” means an animal immunized for Rabies.

(xi) “Veterinarian” means a graduate of an accredited college of veterinary medicine and licensed to practice veterinary medicine in the state in which he practices.

(xii) “Wild animal” means a nonhuman terrestrial mammal or a bat that is wild by nature or feral.

Section 3. **Wyoming Rabies Management Plan**

(a.) In order to meet the intent of the established statutes and regulations, the ADMB shall develop and implement a Wyoming Rabies Management Plan. The plan shall be reviewed annually and should cover areas statutorily defined below:

- (i.) surveillance
- (ii.) public education & prevention
- (iii.) vaccination protocol
- (iv.) post-exposure procedures and quarantines
- (v.) entering into agreements with law enforcement agencies to carry out quarantine provisions

Section 4. **Creation of rabies districts.**

(a.) Pursuant to authority vested to the County Commissioners by virtue of W.S. 11 -31 -212.

(i.) The board of County Commissioners of any county may establish a rabies control district by resolution when in the judgment of the board of County Commissioners and the county health officer a district is necessary. The resolution shall designate the boundaries of the district, which may include any incorporated city or town, and shall identify the district by name.

(ii.) The resolution creating the rabies control district shall be published at least once a week for two (2) successive weeks in a newspaper of general circulation in the county wherein the district is located.

(iii.) The resolution creating rabies districts may address the following:

1. District boundaries.

2. Duration of time for which the district will exist.
3. Protocols for domestic animal/pet vaccination requirements.
4. Law enforcement responsibilities.
5. Enforcement and penalties.
6. District cooperators and lead contact.

(b.) The ADMB shall recognize the creation of a rabies district as the defining factor in initiating a rabies management program as outlined in the Wyoming Rabies Management Plan. The ADMB may enter into a cooperative agreements with the rabies control districts and structure locally supervised management strategies based upon available and cooperative resources.

Section 5. Public education and prevention.

(a.) The ADMB shall within allocated resources, conduct a public education and prevention program as required by statute and outlined in the Wyoming Rabies Management Plan.

Section 6. Relationship with the Livestock Board, Department of Health, and State Veterinary Laboratory

(a.) The ADMB shall consult with the Wyoming Livestock Board, the Wyoming Department of Health and the Wyoming State Veterinary Laboratory in its deliberations regarding the implementation of the Wyoming Rabies Management Plan.

(b.) Wyoming Livestock Board. The Wyoming Livestock Board is responsible for the management of rabies within the domestic livestock/animal industries. Nothing in this article shall preempt the Wyoming Livestock Board authority to manage domestic livestock or animals pursuant to any provision in title 11 of Wyoming Statutes.

(c.) Wyoming Department of Health. The Wyoming Department of Health is responsible for the management of human health issues and diseases. Nothing in this article shall preempt the Wyoming Department of Health authority to manage human health issues and diseases pursuant to any provision in title 35 of Wyoming Statutes.

(d.) Wyoming State Veterinary Laboratory. The Wyoming State Veterinary Laboratory is responsible for the testing and verification of rabies within an animal population. The ADMB may elect to use the services of the Wyoming State Veterinary Laboratory upon the execution of memorandums of understanding. Payments for services rendered shall be negotiated and agreed upon between parties.

Section 7. **Submission of animals for testing.**

(a.) The Wyoming State Veterinary Laboratory establishes the guidelines and protocols for submission of animals for testing. These guidelines and protocols are available from the laboratory.

Section 8. **Vaccination protocols.**

(a) Domestic Animals. All cat and dog owners are encouraged to have their pets kept current on their rabies vaccinations. Municipalities or county governments may require vaccinations. Upon establishment of a rabies district, all cat and dog owners are required to have their pets vaccinated.

Section 9. **Post-exposure procedures and quarantines.**

(a) All human exposures must be reported to the department of health.

(b) All domestic animal exposures must be reported to the livestock board.

(c) Wild Animals. Wild animals, domesticated wild animals, or hybrids for which there is no licensed rabies vaccine, must be euthanized if exposed to a rabid animal.

Section 10. **Animal Importation.**

(a.) No unregulated animal species or animal species defined as predators under W.S. 11-6-302 (ix) shall be imported into the state. Animals imported under permit as sanctioned by the Wyoming Animal Damage Management Board for research or study are exempt from this provision.

Section 11. **Agreements generally.**

(a.) The ADMB may enter into agreements with any person or government agency to carry out the provisions of the Wyoming Animal Damage Management Program.

Section 12. **Enforcement.**

(a.) Local animal control, health and law enforcement agencies in rabies control districts have authority to enforce the provisions established in these rules and the applicable requirements set forth by the rabies control district.

Wyoming Animal Damage Management Board

Chapter 1

**Regulations Governing the Granting of
Predator Management Program Funds**

Section 1. Authority. Pursuant to authority vested in the Wyoming Animal Damage Management Board (ADMB) in W.S. § 11-6-304(d) the following regulations are hereby promulgated and adopted.

Section 2. Purpose of rules. These rules govern the distribution of funding appropriated by the Wyoming state legislature through the ADMB to the county Predator Management Districts (PMD) created by W.S. § 11-6-201.

Section 3. Definitions. For the purpose of this regulation, definitions shall be as set forth in Title 11, Wyoming Statutes and the board also adopts the following definitions:

- (a) “Animal Damage Management Board or ADMB” means the statutorily created board under W.S. § 11-6-303.
- (b) “Annual Report” means the final documentation the district must provide at the end of the state fiscal year (June 30).
- (c) “Assess” means to fix or determine the amount and to impose a tax or other charge on.
- (d) “Audit” means the unbiased examination and evaluation of the records, financial accounts, and financial statements of the district to verify their accuracy. The audit shall be performed in compliance with the State of Wyoming - Department of Audit, W.S. § 9-1-507(a)(iii) and Dept. of Audit Chapter 6 rules for special districts.
- (e) “Budget” means an itemized summary of estimated or intended income and expenditures for a given period. For the purposes of this rule, the budget shall be compiled for the state fiscal year of July 1 – June 30.
- (f) “Capital Equipment” means tangible equipment purchased for long term use by the district. For the purposes of these rules, capital equipment is a single piece of equipment and necessary attachments with a cost of more than \$1,000.00 (one thousand dollars).
- (g) “Collect” means to receive or compel payment of.
- (h) “Commercial Feedlot” means any place, establishment or facility commonly known as a feedlot conducted, operated or managed for profit or nonprofit for livestock producers, feeders or

market agencies, consisting of pens and their appurtenances, in which livestock are received, held, fed, cared for or kept for sale or shipment in commerce.

- (i) “District” means a predator management district created under W.S. § 11-6-201(a).
- (j) “District Board” means the board of directors of a district created under W.S. § 11-6-202.
- (k) “Encumbered Funds” means those funds which have been obligated for use by contract or invoice.
- (l) “Financial Statement” means a compilation of a district’s financial status. Such records shall include a balance sheet (statement of financial position), an income statement (income and expenditure statement), a cash flow statement, and supplementary notes and recorded significant financial management decisions.
- (m) “Grant Application ” means the form and documents with which a request is made for funding. The form will be prescribed and distributed by the ADMB.
- (n) “Management Plan” means a proposed or tentative course of action, including programs or policies stipulating the proposed service and expected benefits.
- (o) “Predacious Bird” means any predatory avian species that is permitted to be taken under either Wyoming law or federal law.
- (p) “Predatory Animal” means coyote, jackrabbit, porcupine, raccoon, red fox, skunk or stray cat; and gray wolf as allowed by law.
- (q) “Standard Budget” means an annual or biennial request for funding from a district that provides for a base level of funding for general operational needs of the district.

Section 4. Applicability of rules. These rules shall only apply to districts that solicit or receive grant funding from the ADMB under the program as outlined in these rules.

- (a) No state funds awarded to a district by the ADMB shall be used to satisfy debt existing prior to the effective date of these rules.

Section 5. Qualifications for funding. To qualify for funding under these rules, the district shall:

- (a) Submit the following to the ADMB:
 - (i) Proof of compliance with W.S. § 11-6-202(a)(v).
 - (ii) Completed grant application on a form prescribed by the ADMB

(iii) Budget

(iv) Management Plan

(v) Financial Statement

(vi) Proof of having assessed and collected all available funds as required by W.S. § 11-6-210(o)

(A) Each district, in accordance with W.S. § 11-6-210(f) shall determine which facilities meet the definition of a commercial feedlot.

(B) Each district shall establish a method by which assessment, billing and collection for goats may be conducted.

(vii) Report stating the accomplishments or actions relative to the prior year's management plan. The requirement shall only pertain to districts that have previously received state funds under these rules.

(b) In addition, the district shall assure that:

(i) It is in compliance with applicable Wyoming statutes; and

(ii) All agreements with the ADMB are current or satisfied.

Section 6. Funding Distribution. Funding shall be applied for and justified through the grant application process as follows:

An initial standard budget of \$50,000.00 shall be awarded by the ADMB to each qualified district whose application has been approved by the ADMB prior to May 1, 2007.

The application must be received by the ADMB prior to April 1, 2007.

Thereafter, the ADMB shall annually establish a standard budget amount that shall be provided to all qualified districts with an application submitted prior to April 1.

(i) Additional funds, including but not limited to operational expenses and capital purchases, may be applied for by the grant application and justified in the management plan and budget.

A maximum of ten percent (10%) of the standard budget may be used to purchase capital equipment.

(i) Additional funds, including but not limited to operational expenses and capital purchases, may be applied for by the grant application and justified in the management plan and budget.

Section 7. Grant Applications. The grant application form shall be developed by the ADMB in accordance with the requirements of this regulation. The ADMB shall make a grant application form available to all districts.

(a) A district requesting grant funds shall submit a new grant application, budget and management plan no later than the date specified on the initial grant application and not later than April 1 of future years.

Section 8. Financial Records. The district shall provide a budget with the grant application. A standardized form will be provided by ADMB.

The budget shall show all proposed income and expenses of the district.

The budget shall be accompanied by the district's current financial statement.

(c) Audit Reports as required by W.S. § 9-1-507(a)(iii) and Chapter 6 rules for special districts shall be submitted to the State Department of Audit and a copy to the ADMB.

Section 9. Management Plan. The district shall include a management plan with the grant application. The management plan shall provide details of the proposed action and the expected results.

The management plan shall address the following, as applicable for the district or funding requested:

Wildlife issues and goals

Livestock issues and goals

Pre- and post-work monitoring

Partnerships and cooperative agreements required to accomplish the management plan.

The criteria shall include but not be limited to the cost of full-time and part-time trappers and the cost of fixed wing aircraft and helicopters, for predator management for livestock and wildlife.

Human health and safety issues.

Section 10. Reporting. The district shall submit an annual report, due to the ADMB, 2219 Carey Avenue, Cheyenne, WY 82002 by no later than July 1st of each year. This report should be relative to the current fiscal year.

The annual report shall contain the following:

Effective 3/31/07

Actions taken.

Identifiable and measurable results.

Grant monies expended.

Current financial statement.

Most recent audit report .

Supplemental reports may be requested by the ADMB on any identified and targeted management or site specific projects, at the time funding is provided to the district to carry out such projects.

Section 11. Loss of eligibility. Any district that does not comply with all provisions of these rules shall not be eligible for additional grant funding until they have documented correction of all compliance deficiencies to the satisfaction of the ADMB. Districts that demonstrate correction of all deficiencies may submit a grant application for funding consideration for the next fiscal year.

Section 12. Authority to determine funding amounts. In all cases, the ADMB retains the authority to allocate funding to qualified districts in the amount determined by the ADMB to carry out the intent of W.S. § 11-6-201.

Section 13. Savings Clause. If any provision of this regulation is held to be illegal or unconstitutional, such a ruling shall not affect the other provisions of this regulation which can be given effect without the illegal or unconstitutional provision; and, to this end, the provisions of this regulation are severable.

Statutes:

**Apiary Registration and
Inspection**

Regulations:

**Chapter 55 – Apiary Registration
Regulations**

APIARY REGISTRATION AND INSPECTION

ARTICLE 1 - GENERAL PROVISIONS

11-7-130. Short title.

This chapter may be cited as the "Wyoming Apiculture Act".

11-7-131. Definitions.

(a) As used in this chapter:

(i) "Apiary" means a place where one (1) or more colonies of bees or one (1) or more hives containing honeycombs or bee combs are kept;

(ii) "Bee diseases" means American or European foulbrood, sacbrood, bee paralysis or other disease or abnormal condition of the egg, larval, pupal or adult stages of bees, including bee parasites and bee pests;

(iii) "Bees" means any stage of the life cycle in the genus *Apis*;

(iv) "Colony" means the bees, hive and all equipment used in connection with the hive;

(v) "Comb" means the brood chamber used by the queen for the protection of brood;

(vi) "Department" means the department of agriculture;

(vii) "Equipment" means hives, supers, frames, veils, gloves or any apparatus, tools, machines or other devices used in the handling and manipulation of bees, honey, wax and hives and includes any container of honey and wax which may be used in an apiary or in transporting bees and their products and apiary supplies;

(viii) "Family unit" means two (2) or more persons living together or residing in the same dwelling, house or other place of residence;

(ix) "General apiary" means any apiary other than a pollination apiary, landowner apiary or hobbyist apiary;

(x) "Hive" means a frame hive, box hive, box, barrel, log gun, skep or other receptacle or container or a part of a container, natural or artificial, which may be used as a domicile for bees;

(xi) "Hobbyist apiary" means an apiary owned by a hobbyist beekeeper;

(xii) "Hobbyist beekeeper" means a person who owns a total of not more than five (5) hives;

(xiii) "Landowner" means the person who has the actual use and exclusive possession of the land upon which a landowner apiary is to be registered, except that a person leasing or renting land for the primary purpose of locating or establishing an apiary thereon is not considered a landowner;

(xiv) "Landowner apiary" means an apiary owned by a landowner as defined in this section;

(xv) "Person" means any individual, association, partnership or corporation;

(xvi) "Pollination apiary" means an apiary operated for pollination of commercial seed, fruit or other commercial agricultural product as provided in W.S. 11-7-203;

(xvii) "Queen apiary" means an apiary or premises in which queen bees are reared or kept for sale or gift;

(xviii) "Bee parasites" means mites, including but not limited to varroa mites and tracheal mites;

(xix) "Bee pests" means insects, including but not limited to small hive beetles and red imported fire ants;

(xx) "General beekeeper" means a person who owns more than five (5) hives and manages and operates the bees and the hives;

(xxi) "Global positioning system or GPS" means a device that provides accuracy in positioning using latitude and longitude coordinates;

(xxii) "Holding yard" means an area where colonies are temporarily placed prior to leaving the state or returning from pollination in another state;

(xxiii) "Spray yard" means a temporary location where colonies are moved prior to any pesticide application in the area of the beekeeper's registered location.

11-7-132. Disposition of fees.

Registration and inspection fees collected under this chapter shall be transmitted by the department to the state treasurer for deposit in the general fund.

11-7-133. Penalties.

Any person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned in the county jail for not more than six (6) months, or both. Each day the violation continues constitutes a separate offense.

ARTICLE 2 - REGISTRATION

11-7-201. Apiary registration; procedure; information; conditions; penalties.

(a) Any person who owns or possesses any class of apiary in this state shall register that apiary with the department before April 1 of each year.

(b) Application for registration shall be made to the department on forms it prescribes and furnishes and shall include:

(i) The applicant's name and address;

(ii) The total number of colonies of bees the beekeeper owns;

(iii) The location of the apiary, setting forth specifically the location by sectional division to the nearest quarter section, the township and range and the latitude and longitude coordinates, or if within the corporate limits of a municipality, the number of the lot and block in the municipality including street address and the latitude and longitude coordinates determined using GPS. All new registrations shall include latitude and longitude coordinates. Effective July 1, 2012, latitude and longitude coordinates shall be required for all apiary registrations;

(iv) The name of the owner, renter or occupant of the land on which the apiary is located and, if the application is for an apiary being registered for the first time, it shall also show that the owner, renter or occupant of the land has consented to the apiary being located on his land;

(v) The date the apiary was first established which shall be included for each location on yearly apiary renewal applications; and

(vi) The class of apiary registration for which application is being made.

(c) Upon receipt of the application and payment of the fees, the department may issue a certificate of registration for an apiary, setting forth:

(i) The name of the owner;

(ii) The specific location of the apiary; and

(iii) The class of apiary authorized.

(d) In issuing certificates of registration for apiaries, if there is a conflict between applicants with respect to location, the department shall give preference to the applicant having the oldest, continuous apiary registration.

(e) Certificates of registration shall not be issued for new apiaries which are within such close proximity to established registered apiaries that there is danger of spread of bee diseases, bee

parasites or bee pests or that the proximity may interfere with the proper feeding and honey flow of established apiaries.

(f) Each apiary registrant shall post in a conspicuous location at or near each apiary he owns legible evidence of registration, including his name and telephone number.

(g) The department shall notify each registrant of his delinquency, if that registrant fails to reregister by April 1 of each year. The notification shall be by certified mail and is sufficient if deposited in a United States post office or mail box at least ten (10) days before May 1 and addressed to the registrant at his last address appearing in the department's apiary registration files. Any apiary registration which has not been received by May 1 of each year is forfeited and all rights under the registration terminate.

(h) Any person who owns or possesses any bees, hives, colonies or beekeeping equipment in this state or who owns or possesses an apiary in this state and who fails or refuses to register that apiary as provided in this chapter is guilty of a misdemeanor and upon conviction thereof is subject to the penalties set forth in W.S. 11-7-133.

(j) Repealed By Laws 2010, Ch. 14, 3.

11-7-202. General apiary registrations.

(a) In order to control, limit and prevent the spread of bee diseases, bee parasites or bee pests among bees, hives and apiaries and to control, limit and prevent interference with proper feeding and honey flow of established apiaries, general apiaries registered to different persons shall be located at least two (2) miles apart, except as otherwise provided in this article. The department shall not register or issue a certificate of registration for any general apiary that is located less than two (2) miles from a general apiary registered to another person, except as otherwise provided in this section.

(b) Any person may register a general apiary that is situated less than two (2) miles from another general apiary he has registered, if the location of the general apiary being applied for is at least two (2) miles from general apiaries registered to other persons.

(c) A general apiary may be registered even though it is less than two (2) miles from any registered pollination apiary, landowner apiary or hobbyist apiary.

(d) A person with an existing apiary that is located less than two (2) miles from an existing general apiary registered to another person may register his apiary as a general apiary under the following conditions:

(i) His apiary is established and registered with the department as a general apiary under the department's rules in effect prior to December 31, 2009; and

(ii) The registration of his apiary has not been forfeited or abandoned.

11-7-203. Pollination apiary registrations.

(a) The department may grant pollination apiary registrations to commercial seed and fruit producers or other commercial agricultural producers under the following conditions:

(i) The applicant must own, lease or rent the land upon which the pollination apiary is to be located and the applicant must use the land for the purpose of growing a commercial seed, fruit or other crop which is dependent upon bees or other insects for pollination;

(ii) The applicant does not own the bees or the hives which are to be placed upon the pollination apiary;

(iii) The only purpose of the apiary is to pollinate a commercial agricultural crop;

(iv) The applicant shall provide the department with all pertinent information necessary to determine if pollination apiaries are needed to pollinate the applicant's crop adequately;

(v) The department may refuse to register a pollination apiary based upon its own investigation of the matter, but if the department approves the application, it shall specify the number of hives and location of pollination apiaries needed for the purpose of pollinating the applicant's commercial agricultural crop adequately; and

(vi) A copy of the pollination contract between the seedgrower and beekeeper shall be sent to the department.

(b) A pollination apiary registration is valid only for the time period the department specifies, and all pollination apiaries shall be removed within two (2) weeks after the end of the bloom period of the crop to be pollinated.

(c) No certificate of registration of a pollination apiary may be leased, assigned or transferred and no person other than the pollination apiary registrant may exercise in any way any rights or privileges authorized by the certificate of registration.

11-7-204. Landowner apiary registrations.

(a) The department may grant landowner apiary registrations under the following conditions:

(i) The applicant shall be a landowner, as defined in W.S. 11-7-131(a)(xiii) and shall own the land upon which the apiary will be located;

(ii) The applicant shall own the bees and the hives that will be placed on the apiary; and

(iii) The applicant shall personally manage and operate the bees and the hives.

(b) No certificate of registration of a landowner apiary shall be leased, assigned or transferred and no person other than the landowner apiary registrant shall exercise in any way any rights or privileges authorized by the certificate of registration.

11-7-205. Hobbyist apiary registrations.

(a) The department may grant hobbyist apiary registrations to hobbyist beekeepers under the following conditions:

(i) The applicant shall not own a total of more than five (5) hives, and all of the hives must be placed on the hobbyist apiary;

(ii) The applicant shall own the bees and the hives and shall personally manage and operate the bees and the hives;

(iii) Only one (1) hobbyist registration is allowed an applicant and only two (2) hobbyist apiary registrations are allowed a family unit; and

(iv) If the department determines that too many hobbyist apiaries are being registered within too close proximity of each other or of other established apiaries so that there is danger of the spread of bee diseases, bee parasites or bee pests among bees or apiaries or that there will be interference with the proper feeding and honey flow of established apiaries, the department may refuse to grant any further hobbyist registrations in the locality and area of the danger.

(b) No certificate of registration of a hobbyist apiary may be leased, assigned or transferred, and no person other than the hobbyist apiary registrant may exercise in any way any rights or privileges authorized by the certificate of registration.

11-7-206. Restrictions on apiary locations.

Pollination apiaries, landowner apiaries and hobbyist apiaries may be located less than two (2) miles from pollination apiaries, landowner apiaries, hobbyist apiaries and general apiaries registered to other persons. General apiaries may be located within two (2) miles of one another only under the provisions of W.S. 11-7-202.

11-7-207. Changing locations; enlarging or selling apiaries.

(a) No owner of an established registered apiary shall change the location of the apiary without first receiving from the department authorization to establish the new apiary. In making the application, the owner shall specify the location of the apiary with the same particularity as in the application for original registration. If the new apiary is not used according to W.S. 11-7-211, the certificate of registration lapses and all rights under the registration terminate. Registrations for new apiaries shall not be issued for greater areas than the applicant can show are reasonably necessary for his needs consistent with good beekeeping practice.

(b) A registered apiary may be sold or transferred to a purchaser subject to applicable provisions of this chapter if all bees and equipment on the apiary are sold to the purchaser.

(c) No person may increase the number of hives on an apiary to exceed the number of hives consistent with good beekeeping practices authorized by his certificate of registration for that apiary, except that a person may increase the number of hives on a general apiary beyond the number authorized by the certificate of registration in order to protect his bees and hives from bears or other predators. A person may also enlarge a general apiary during the spring buildup and in the fall after the end of the honey season in order to gather his bees for shipment out of the state or to winter his bees on that apiary.

11-7-208. New locations; evidence of owner's or manager's permission.

Any person registering a new location for the first time shall have the approval signature of the landowner or manager thereof indicating that the landowner has given permission to place an apiary on his property.

11-7-209. Minimum number of colonies.

All registered bee locations must consist of not less than ten (10) colonies of bees during a minimum of forty-five (45) or more continuous days during any part of normal buildup or honey producing period of the year. This provision does not apply to beekeepers who own a total of less than five (5) colonies of bees registered in only one (1) apiary.

11-7-210. Normal buildup and honey producing season; registration time; voiding registration.

(a) The normal buildup and honey producing season begins on May 1 and continues through September 30.

(b) The regular registration time consists of the months of February through April.

(c) The established way for voiding the registration of an apiary shall be initiated and completed by January 31 during the same registration year that the apiary was not in use.

11-7-211. Forfeit of registration; termination of rights; disposition of equipment.

(a) The registration of an apiary which is not stocked with bees during at least forty-five (45) continuous days of the normal buildup or honey producing season is forfeited and all rights under the certificate of registration terminate.

(b) An apiary not regularly attended in accordance with good beekeeping practice, which comprises a hazard or threat to disease control in the beekeeping industry or which by reason of its physical condition or construction cannot be inspected, may be considered an abandoned apiary and may be seized by the department. Any diseased equipment or equipment which by reason of its physical condition or construction cannot be inspected may be burned, and any

remaining equipment may be sold at public auction. Proceeds, after the cost of the sale is deducted, shall be returned to the former owner or his estate. Before burning or selling any equipment, the department shall give the owner or person in charge a written notice at least five (5) days before the burning or sale. The notice shall be given by certified mail or personal service upon the owner or person in charge of the property. If the owner or person in charge cannot be located, a certified letter sent to the owner's last address registered with the department is sufficient notice under this section.

11-7-212. Registration fees.

(a) Each year before a certificate of registration may be issued for an apiary, the owner or applicant for the certificate shall pay the department a registration fee in the amount authorized by W.S. 11-1-104, with the exception of those apiaries classified as hobbyist apiaries, which will be issued a nonfee certificate of registration.

11-7-213. Holding yard apiary location.

(a) The department may grant a certificate of registration for a temporary holding yard location to provide an area for holding hives prior to and after returning from pollination of a commercial agricultural crop in another state.

(b) A temporary holding yard location shall not be used for planned honey production.

(c) A general beekeeper shall provide the department location information for all temporary holding yard locations by designating the yard name and latitude and longitude coordinates which shall be included on the yearly renewal application and designated with "HY" for holding yard, as the authorized class.

(d) A colony may be held at a temporary holding yard location for not more than two (2) months during the spring and for not more than two (2) months during the fall.

11-7-214. Spray yard apiary location.

(a) The department may grant a certificate of registration for a spray yard apiary location to provide an area for holding hives during pesticide application to allow a safe haven for the health and safety of the bees.

(b) A spray yard apiary location shall not be used for planned honey production.

(c) Any hive shall not be held at a spray yard apiary location for more than sixteen (16) days after any pesticide application and the hive then shall be returned to the registered location.

(d) A general beekeeper shall notify the department or the apiary inspector when hives are moved to spray yard apiary locations.

11-7-215. Variance agreements.

(a) Upon request from a general beekeeper, the department may enter into a variance agreement with the general beekeeper because of drought conditions, crop rotation, conservation reserve program acres or other unforeseen circumstances adverse to a yard location.

(b) Following a thorough investigation of each request under subsection (a) of this section, the department shall determine whether or not to enter into the requested variance agreement. If granted, a variance agreement shall contain an expiration date, after which the bees shall be returned to the original registered location. Failure to return the bees to the original registered apiary location shall cause that registered apiary location to be forfeited.

(c) Signed copies of a variance agreement between a beekeeper and the department shall be on file in the department's Cheyenne office and with the area apiary inspector and the beekeeper.

ARTICLE 3 - INSPECTION AND CERTIFICATION - APIS BEES

11-7-301. Apiaries; powers and duties of the department.

(a) To prevent the spread of bee diseases, bee parasites or bee pests among bees and apiaries, to protect apiaries against depredation by wildlife and to assist law enforcement agencies in an effort to alleviate losses due to theft, the department may:

(i) Order the transfer of colonies of bees from hives or containers which cannot be properly examined for brood or other bee diseases, bee parasites or bee pests to other hives or containers;

(ii) Order disinfection of any bee, beehive, brood comb or any other equipment which is infected or contaminated and burn any infected or contaminated bee, beehive, brood comb or any other equipment if, in its judgment, disinfection will not remove the infection or contamination. Before burning any property, the department shall give the owner or person in charge a written notice at least ten (10) days before the date on which the property will be burned. The notice shall be given by certified mail or personal service upon the owner or person in charge of the property;

(iii) Quarantine any apiary where foulbrood or any contagious or infectious bee diseases, bee parasites or bee pests are present and, during the quarantine, prevent the removal from the apiary of any bees or equipment except under a special permit issued by the department permitting the removal under conditions it prescribes. A person may not sell or offer for sale any apiary, bees or equipment which are under quarantine unless the department issues a permit authorizing the sale or removal. Written notice of quarantine shall be posted by the department, owner or person in charge at the quarantined apiary at a conspicuous place, and a copy shall be personally served or sent by certified mail to the owner of the apiary or person in charge. The quarantine continues in effect until it is ordered removed and a copy of the removal order served in the same manner;

(iv) Inspect any apiary, hives, equipment or premises for the presence of bee diseases, bee parasites or bee pests. Hives belonging to persons owning apiaries within the state shall be inspected for contagious diseases according to schedules established by the department. Apiary inspectors shall establish the date for the inspection of any apiary with the beekeeper. The inspection date shall be agreeable to the inspector and the beekeeper and shall include a total of seven (7) consecutive days upon which the inspection can be undertaken due to weather and unforeseen circumstances. Any beekeeper responsible for an apiary who refuses an inspection on any of the seven (7) agreed upon dates is subject to penalties provided pursuant to W.S. 11-7-133;

(v) Order the hives within an apiary which is not legally registered with the state to be confiscated. The owner of the apiary shall be notified at least seven (7) days prior to the date of confiscation. Notification shall be by certified mail addressed to the last known address of the owner or by personal service upon the owner;

(vi) Promulgate and enforce rules adopted to carry out the purpose of this chapter;

(vii) Enter into agreements with the game and fish commission as necessary to protect bees and hives against wild animals;

(viii) Assist any sheriff, peace officer or district attorney in any county in the discharge of their duties or investigations relating to the apiary industry.

(b) Any owner of bees possessing more than fifty (50) colonies shall furnish one (1) helper to assist the inspector. Apiary inspectors may inspect bee colonies at any time without previous notice.

(c) Any person failing to comply with a rule, order or provision of a quarantine pursuant to this section is subject to penalties provided in W.S. 11-7-133.

11-7-302. Importation of bees, combs or hives.

(a) A beekeeper shall notify the department and request an inspection to be conducted at any specified registered location or holding yard not later than fourteen (14) days after entry of any colony into this state. Following an inspection for colony health, the department may issue an export certificate for any colony imported into Wyoming. An export certificate is valid for one (1) year and allows export from and re-entry into Wyoming at any port of entry.

(b) Bees shipped on combless packages or in packages on new frames and new foundation are not prohibited.

(c) Comb honey in sections intended for human consumption is not prohibited.

(d) All package bees shipped into Wyoming shall be accompanied by an affidavit stating that no honey has been used for food in transit. It is unlawful for anyone shipping queen bees in cages into this state to use any honey for queen cage foods.

(e) If an official Wyoming apiary inspector finds that any bees imported into the state have infectious or contagious diseases within fourteen (14) days after arrival, the apiary inspector shall destroy the diseased bees and equipment.

CHAPTER LV

STATE OF WYOMING APIARY REGISTRATION REGULATIONS

Section 1. Authority. Pursuant to the authority vested in the Department by virtue of W.S. 11-2-202(a)(vi), and W.S. 16-3101 through 16-3-115, the following rules and regulations pertaining to the registration of apiaries are hereby promulgated and adopted.

Section 2. Definitions. Terms used in these regulations are in addition to those set forth in W.S. 11-7-131 1983, as amended. The following terms shall have the meaning stated below:

(a) Apiary location means the geographical location as designated by the legal-land description required for apiary registrations under W.S. 11-7-201(b)(iii).

(b) Disputed location means any apiary location which is contested by one (1) or more beekeepers or the Department.

(c) Registered apiary location means an apiary location that has met all applicable requirements for registration as required by the Wyoming Apiary Law and for which a certificate of registration has been issued.

(d) Unregistered apiary location means a location that has not met all applicable requirements for registration as required by the Wyoming Apiary Law and for which NO certificate of registration has been issued.

Section 3. Apiaries Placed on Unregistered Locations or Within Two (2) Miles of an Existing Registered Apiary.

(a) If any location is disputed, no registration will be issued for the location until a formal hearing is conducted.

(b) Upon receipt of a complaint that an apiary is unregistered or is within two (2) miles of an existing registered apiary, the Department will issue the owner of the apiary, written notice specifying the cause of the complaint. Such notice shall:

(i) Establish a date for a formal hearing, to resolve the matter raised by the complaint.

(c) If on or before the date set for hearing, the respondent establishes to the satisfaction of the Department that he has:

(i) submitted a proper registration application for the apiary and received approval for that apiary, or

(ii) Moved the apiary to a registered location, or

(iii) Removed the apiary from the state the complaint shall be dismissed.

(d) If the Department receives no response from the respondent, the Department may, following a hearing to establish the matter alleged, issue an order in default.

(e) On the basis of the evidence produced at any hearing, the Department shall make findings of fact and conclusions of law and enter an order thereon. The Department shall give written notice of such order to the respondent and to such other persons as shall have appeared at the hearing and made written request for notice of the order. If the respondent does not comply with the order and make the necessary corrections, the Department will bring an action to enforce its order.

(f) All hearings will be conducted according to the Wyoming Administrative Procedures Act and rules adopted by the Wyoming Department of Agriculture.

Section 4. Penalties.

(a) W.S. 11-7-201(h) provides that failure or refusal to register an apiary as required by statute is a misdemeanor punishable by a fine of not more than five hundred (500) dollars or imprisonment for not more than six (6) months or both. The Department will cooperate with county and district attorneys in the prosecution of offenses under W.S. 11-7-201(h).

Statutes:

Leaf Cutter Bees

Regulations:

**Chapter 50 – Regulations Pertaining to
Leaf Cutter Bees**

ALFALFA LEAF-CUTTER BEE

11-7-401. Definitions.

(a) As used in this act:

(i) "Bee" means any stage in the life cycle of a bee of the species *Megachile rotundata* (F), commonly known as the alfalfa leaf-cutter bee;

(ii) "Certification" means the process of analyzing bees and equipment by the department to determine whether they meet the required health standards;

(iii) "Department" means the department of agriculture;

(iv) "Equipment" means trays, incubators, cell removers, tumblers and other apparatus used in rearing bees excluding nesting materials;

(v) "Nesting materials" means shelters, laminates, polyblocks, drilled boards or any other product which leaf-cutter bees actually use for nesting;

(vi) "Parasite" means an organism living in or on any stage of the alfalfa leaf-cutter bee obtaining nutriment from the body of the bee or nesting material;

(vii) "Pathogen" means an organism, parasite or otherwise, that causes disease in the alfalfa leaf-cutter bee;

(viii) "Wild trap" means to trap bees on property not owned by the trapper;

(ix) "This act" means W.S. 11-7-401 through 11-7-407;

(x) "Sanitization" means any treatment including iodine, heat, chlorine or any other method approved by the department.

11-7-402. Duties and powers of department.

(a) The department shall:

(i) Administer this act;

(ii) By rule or regulation adopt minimum standards for the presence of pathogens and parasites in bees to be certified, imported and possessed or controlled in this state;

(iii) Whenever it has reasonable cause to believe a person is in possession of any diseased or parasitized bee or equipment or otherwise possesses any bee or equipment in violation of this act or rules adopted under this act, order a quarantine of the suspected bees or equipment and

may require any person in possession of such bees to hold them under specified conditions until notified otherwise in writing;

(iv) Release any quarantine or order to hold bees upon a finding that the bees and equipment are possessed in compliance with this act.

(b) The department may:

(i) Enter into agreements with other governmental agencies or private associations in carrying out the provisions of this act;

(ii) Enter upon any public or private premises to inspect and sample bees or equipment that may be diseased or parasitized;

(iii) Quarantine any bees or equipment found to be infected with pathogens or parasites at a level exceeding certification standards;

(iv) Order the sanitization or destruction of any bees or equipment that is infected with parasites or pathogens and that does not meet certification standards.

11-7-403. Annual certification; application; inspection of sample; recertification; fees.

(a) No person shall import, possess or control alfalfa leaf-cutter bees in this state unless the bees are certified annually under this section.

(b) To certify bees, a person shall file a completed application form provided by the department together with the certification and laboratory fees. Certification and laboratory fees shall be established by the department for each pound of bees certified. The applicant must provide at least the following:

(i) Name and place of residence;

(ii) The general location and number of bees to be registered; and

(iii) Other relevant information as required by department regulation.

(c) After receipt of an application for certification, a sample of the total population of bees to be certified shall be selected by the department or its agent in a manner prescribed by the department. The sample shall be inspected for pathogens and parasites. If no pathogens or parasites in excess of certification standards are found, the sample shall be reported within certifiable limits.

(d) When the department receives a completed application form, a certification fee and a report that the sample is within certifiable limits, it shall issue a certificate for the bees.

(e) The department shall specify the date by which any applicant must apply for recertification the following year.

(f) Fees collected under this act shall be deposited into a separate account and expended for administration and enforcement of this act. In administering and enforcing the provisions of this act, the department, by a separately negotiated agreement with another governmental agency or a private association as authorized by W.S. 11-7-402(b)(i), may make the fees available for expenditure by that agency or association. Any such agency or association shall be required to submit an annual budget to the department for its review and approval prior to the expenditure of any funds under this section.

11-7-404. Importation restrictions.

(a) No bee shall be imported into this state except under the provisions of this section.

(b) Prior to the importation of any bee, the importer shall file a completed application form as required under W.S. 11-7-403(b) and arrange a date and time for inspection.

(c) Prior to certification, each bee and associated transport equipment shall be quarantined.

(d) No bee shall be imported except in loose cells or as adults. No bee shall be imported in a drilled board, soda straw or other equipment that prevents adequate inspection of the bee.

(e) A representative sample of the population of bees imported shall be inspected as the basis for certification.

(f) No person shall import used nesting materials.

(g) No bee shall be certified unless all other requirements for certification under W.S. 11-7-403 are met.

(h) Used metal or plastic equipment may be imported with prior written notice to the department. Used equipment shall be sanitized prior to entry into this state and immediately after entry as provided by W.S. 11-7-401(a)(x).

(j) Any person not already owning or having leaf-cutter bees in Wyoming who imports leaf-cutter bees for the first time into an area where no leaf-cutter bees have previously been placed by that person shall meet the standards for unconditional leaf-cutter bee certification established by rules and regulations adopted by the department.

11-7-405. Restrictions on rearing, moving and trapping bees; permits; fees.

(a) No person shall rear any bee in a nesting material from which samples of loose larval cells cannot readily be obtained such as drilled boards or soda straws.

(b) No person shall move any quarantined bee or equipment except by special permit issued by the department.

(c) No person may wild trap or attempt to wild trap bees unless that person has been issued a permit to wild trap in accordance with rules adopted by the department.

(d) The permits under subsections (b) and (c) of this section shall be issued under rules adopted by the department. The department shall by rule establish a reasonable fee for each permit.

11-7-406. Penalty.

Any person who violates this act is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00). Each day a violation of this act continues is a separate offense.

11-7-407. Laboratory authorized; fees for services.

The department may develop and maintain a laboratory at the University of Wyoming agriculture extension center at Powell to provide analytical services required under this act and may authorize the laboratories to provide services to persons possessing bees or equipment by charging a fee equal to the cost of providing those services.

Chapter 50

REGULATIONS PERTAINING TO LEAF-CUTTER BEES

Section 1. Authority. Pursuant to the authority vested in the Department of Agriculture by WYO. STAT. § 11-7-402, the following regulations pertaining to the leaf-cutter bees are hereby promulgated and adopted.

Section 2. Definitions.

- (a) “Area” means the farm or property owned by or leased to the owner of the alfalfa leaf-cutter bees or a seed grower who contracts for bees to pollinate alfalfa.
- (b) “Department” means the Wyoming Department of Agriculture.

Section 3. Standards for Certification. (% to be determined by lab analysis.)

(a) Unconditional Alfalfa Leaf-cutter Bee Certification - Bees that have been officially examined and analyzed and found to contain no more than 10% composite infestation by the parasites listed in Section 3 (c) (i)(A) below; and which contain no infestation by the pathogens listed in Section 3 (c) (i)(B), below.

(b) Restricted Alfalfa Leaf-cutter Bee Certification - Bees that are officially reported as containing composite parasite infestation levels of 10% through 25%, or composite pathogen infestation levels of not more than 10%, shall be designated as being restricted certification.

(c) Quarantined Alfalfa Leaf-cutter Bee Certification - Bees that are officially reported as containing composite parasite infestation levels of more than 25%, or composite pathogen infestation levels of more than 10% shall be designated as being under Quarantined Certification. Alfalfa Leaf-cutter Bees and all associated nesting material and other equipment shall be quarantined and restricted to the landowner’s or bee owner’s area. Quarantined bees and equipment may be used only at the locations they were used when put under Quarantined Certification. Treatment, sterilization, or other methods of recognized control shall be performed by the bee owner before said bees and equipment can be used for pollinating. Quarantined Certification for two successive years shall result in an order for destruction of larvae or removal from the State.

(i) Parasites and Pathogens that the bees are to be specifically examined for are:

(A) Parasites

(I) Minute Chalcid (*Tetrastichus megachi*)

(II) Sapyga wasp (*Sapyga pumila*)

- (III) Canadian Chalcid (*Pteromalus venustus*)
- (IV) Imported Chalcid (*Monodontomerus obscurus*)
- (V) Checkered Flower Beetle (*Trichodes ornatus*)
- (VI) Giant Flower Beetle (*Tribolium brevicornis*)
- (VII) Sunflower Beetle/Longtongues blister beetle (*Nemognatha lutea*)
- (VIII) Driedfruit Moth (*Vitula edmandsae*)
- (IX) Indian Meal Moth (*Plodia interpunctella*)
- (X) Cadelle Beetle (*Tenebriodes mauritanicus*)
- (XI) Blister Beetle (*Epicauta normalis*)

(B) Pathogens

- (I) Alfalfa Leaf-cutter Bee Chalkbrood (*Ascospaera* sp.)

Section 4. Importation and Movement of Leaf-cutter Bees within the State of Wyoming.

(a) Bees imported into Wyoming which meet the standards for Unconditional Alfalfa Leaf-cutter Bee Certification set forth in Section 3 (a) may be moved into any area within the State of Wyoming.

(b) Bees meeting the standards for Restricted Alfalfa Leaf-cutter Bee Certification set forth in Section 3(b) may be moved into any area in which bees designated as being under Restricted Alfalfa Leaf-cutter Bee Certification are located within the State of Wyoming.

(c) Bees meeting the standards for Quarantined Alfalfa Leaf-cutter Bee Certification shall not be moved from the landowner's or bee owner's area within the state as described in Section 3 c. No special permit to move bees or equipment under quarantined Alfalfa Leafcutter Bee Certification will be issued under Wyo. Stat. § 11-7-405(b).

Section 5. Alfalfa Leaf-cutter Bee Sampling Procedure. The following procedures shall be used to sample bees under the bee certification program.

- (a) All bees must be in loose cell state before samples can be taken.

Effective 08/01/2008

(b) A two ounce sample shall be taken from each 20 pounds of bees owned or possessed by a beekeeper. An official sample size shall not consist of less than eight ounces (8 oz.). If the beekeeper owns or possesses more than 400 pounds, then the larvae will be divided into 400 pound lots and official samples shall be obtained from each lot. All official samples shall become the property of the department.

(c) Once the official samples have been obtained, the remaining composite sample shall be left in the possession of the owner of the bees or his designee. The owner has 10 days from date of receipt of certification to contact the department and discuss the original laboratory test results.

(d) All samples shall be collected using a random sampling procedure, i.e. a uniform sample from the top, middle, and bottom within the bee storage containers.

(e) All official samples will be obtained by department personnel in the presence of the owner of the bees or his designee.

(f) All official sample lot numbers must correspond with lot numbers assigned to the beekeepers storage containers.

(g) Sanitization - Wyoming Department of Agriculture personnel shall sanitize or dispose of equipment used in connection with sampling.

Section 6. Fees. All requests for certification shall be made to the department. The required certification fee shall be paid upon sampling.

(a) Importation Certification- All imported bees must be sampled by the department at the buyer's or owner's location within 10 days after importation and only a \$50.00 per sample lab fee will be assessed.

(b) Annual Certification - Any person owning or possessing leaf-cutter bees within Wyoming shall make a request to the Department for certification by February 1 of each year and pay assessment fees at the time of sampling. A lab fee of \$50.00 for each sample shall be assessed on bees sampled before March 1. Any samples received after March 1 will be assessed a \$100.00 lab fee per sample.

(c) A certification fee shall be assessed for all Leaf-cutter Bees examined by the State of Wyoming. The fee, to cover costs of administration and enforcement of the Wyoming Alfalfa Leaf-cutter Bee Act and other related program needs shall not exceed \$.26 per pound.

Section 7. Sale and Termination. All sales of bees shall be reported to the department as follows:

(a) All sales made shall be reported to the department by the bee owner giving name, address and location of the new owner.

(b) The department shall be notified of termination of bee operations.

Section 8. Wild Trapping Permit Procedure. A person intending to engage in wild trapping shall obtain a permit from the department prior to commencing trapping activities. The person applying for a permit shall obtain the signature of the property owner on which the bees are to be wild trapped. Any person keeping bees or nesting materials on property other than their own shall clearly mark the trapping material with his or her correct name, address, phone, location of wild trapping activities (1/4 section, section, township, range), number of bee boxes, and permission of property owners. Wild trapping will only be allowed with new laminated nesting material which must be removed from the state by October 1 of the year in which trapping began or submitted for certification as required under the regulations. A fee of \$10.00 shall be submitted with each application for a wild trapping permit, with the check being made payable to the Wyoming Department of Agriculture. Each trapper is required to have a separate permit for each county in which he traps. New permits are required each season.

Statutes:

Nursery Stock

Regulations:

**Chapter 16 – Nursery Stock
Regulations**

NURSERY STOCK

11-9-101. Definitions.

(a) As used in W.S. 11-9-101 through 11-9-109:

(i) "Nursery" means any ground, place or establishment where nursery stock is grown, offered for sale, sold, distributed or is offered as part of a landscape service;

(ii) "Nursery stock" means:

(A) All field-grown, greenhouse-grown or collected wild stock of woody plants such as fruit, forest, windbreak, shade and ornamental trees, shrubs or vines for fruit production, ornamental or protective plantings and herbaceous perennials used as ornamentals;

(B) All plants, rooted cuttings and plants with roots attached grown from bulbs, corms, tubers, rhizomes or other vegetative parts, whether produced out-of-doors or under glass and whether grown in open ground or in benches, boxes, pots or other containers;

(C) All bulbs, corms, pips, rhizomes, tubers, roots, cuttings, scions, grafts or other vegetative parts of plants; and

(D) All ground cover, including sod, plugs and vegetative mulches and compost.

(iii) "Nursery stock" shall not include prohibited, restricted, regulated or designated noxious weeds;

(iv) "Nursery stock dealers" means any person who obtains nursery stock to be offered for sale or distribution;

(v) "Nursery stock salesman" means any person selling, distributing or soliciting orders for delivery of nursery stock directly to the ultimate consumer from a supply on hand at a location other than a nursery stock dealer's place of business;

(vi) "Injurious insect" means any animal of the phylum Arthropoda known to be injurious to agricultural or horticultural plants;

(vii) "Other pest" means any animal of the phyla Mollusca or Nematoda or parasitic plant, plant parasite or other vector known to be injurious to agricultural or horticultural plants;

(viii) "Plant disease" means any fungi, bacteria, or virus injurious to plants and plant products;

(ix) "Plant inspection or health certificate" means a legal document issued by the department or the plant regulatory agency of another state declaring that the nursery stock being sold or distributed is apparently free of injurious insects, plant diseases, other pests and prohibited, restricted, regulated or designated noxious weeds;

(x) "Vector" means an insect, plant or other organism that transmits an insect, fungus, virus, bacterium or other infection;

(xi) "Designated noxious weed" means as defined in W.S. 11-5-102(a)(xi);

(xii) "Substantially free" means any injurious insect, other pest or plant disease is not locatable in groups or not affecting more than one percent (1%) of the nursery stock.

(b) These definitions do not include cut Christmas trees, cut flowers, seeds, seed potatoes or plant parts grown or offered for consumption as human food or as feed for animals.

(c) Age, when stated on any advertisement, label or sign in connection with the sale or offering for sale or distribution of nursery stock, shall be stated in years from time at which such nursery stock was propagated and each shall indicate the completion in autumn of one (1) seasonal growth period.

11-9-102. License requirements and fees for dealers and salesmen; disposition of fees.

(a) No person shall engage in the business of selling, offering for sale or distributing nursery stock within Wyoming without first obtaining a license from the state department of agriculture. The fee for a license shall be the fee authorized by W.S. 11-1-104.

(b) Upon application for a resident nursery stock dealer license and payment of the required fee, the director, or an authorized inspector shall inspect the premises and stock of the applicant and shall issue the license if the inspection shows the premises and stock to be substantially free or apparently free from injurious insects, plant diseases or other pests and free of prohibited, restricted, regulated or designated noxious weeds.

(c) If the inspection reveals the premises or stock not to be substantially free or apparently free of injurious insects, plant diseases, other pests or prohibited, restricted, regulated or designated noxious weeds, the nursery stock shall be removed or quarantined from sale and a written plan of action to remedy the condition by treatment, control actions or destruction shall be presented to the inspector within one (1) working day. The nursery shall be inspected again within a time agreed upon by the director, or his authorized agent, and the dealer and noted in writing on the plan, but no later than fifteen (15) days after the previous inspection. Upon subsequent inspection the nursery stock shall be substantially free or apparently free from the injurious insects, plant diseases and other pests and free from prohibited, restricted, regulated or designated noxious weeds in order to be released for sale. Failure to comply with this subsection shall subject the dealer to the penalties provided in W.S. 11-9-108 or 11-9-109.

(d) No person shall act as a nursery stock salesman without first securing a license from the state department of agriculture. The fee for a license shall be the fee authorized by W.S. 11-1-104.

(e) No nonresident shall sell, take orders to sell, offer for sale or distribute nursery stock which has been grown outside this state without first securing a license from the department of agriculture. The license fee for each establishment shipping nursery stock into Wyoming shall be the fee authorized by W.S. 11-1-104. No license shall be granted to a nonresident unless the applicant agrees to furnish with each shipment of nursery stock an affidavit stating that the nursery stock to be sold, offered for sale or transported into Wyoming has been inspected by the proper state, district or county officials of the state of origin and found free from injurious insects, plant diseases and prohibited, restricted, regulated or designated noxious weeds.

(f) Licenses granted to nursery stock dealers or salesmen expire on March 31 of each year. All license fees collected shall be deposited in the general fund.

(g) Charitable and educational institutions shall be exempt from licensing requirements imposed by this section.

11-9-103. Right of entry of authorized persons for inspection.

The director, or his authorized agents, during reasonable business hours, may enter upon or into any premises, lands, establishments or places in this state where they suspect that injurious insects, other pests, plant diseases or prohibited, restricted, regulated or designated noxious weeds occur for the purpose of inspecting, controlling or exterminating insects or diseases or otherwise carrying out the provisions of W.S. 11-9-101 through 11-9-109.

11-9-104. Shipping inspection certificate; health certificate; public carriers not to accept stock without affidavit.

(a) Any person receiving directly or indirectly any nursery stock which is not accompanied by a valid shipping inspection certificate shall notify the department of the arrival of such stock, the kinds and amounts of the stock, and the name of the consignor, and shall hold the stock until inspected and released by the department.

(b) Public carriers shall not accept for shipment nursery stock that does not bear a proper affidavit showing apparent freedom from injurious insect, plant diseases, other pests and prohibited, restricted, regulated or designated noxious weeds.

(c) Any person shipping, selling or distributing nursery stock from out of state shall furnish with each shipment of nursery stock a plant inspection or health certificate stating that the nursery stock to be sold, offered for sale or distributed into Wyoming has been inspected and issued a plant inspection or health certificate by the state of origin.

(d) Resident nursery stock dealers shall request an inspection of any nursery stock to be shipped out of Wyoming. An annual inspection shall be sufficient for the purposes of this subsection. The

department shall issue a plant inspection or health certificate after inspection by the department of the premises and nursery stock.

11-9-105. Nursery stock for sale; condition generally.

(a) All nursery stock sold or offered for sale shall be in a sound, healthy condition and shall be stored and displayed under conditions which will maintain its vigor. Nursery stock which is dead or so seriously weakened that it will not grow with normal vigor when given reasonable care shall not be sold or offered for sale.

(b) All nursery stock to be sold, offered for sale or distributed shall be substantially free or apparently free of any injurious insects, plant diseases, other pests or prohibited, restricted, regulated or designated weeds.

11-9-106. Sale of nursery stock; labels required; identification of stock.

(a) All nursery stock offered for sale, sold, distributed or transported in Wyoming shall be labeled plainly and legibly, either by common or botanical names. When grade-size classifications are declared, they must be in compliance with those established by the department.

(b) Nursery stock on display for sale may be labeled by a suitable sign on a block of stock of the same kind and species. In order to properly identify nursery stock being delivered or transported to any purchaser, at least one (1) label bearing the botanical or common name, or both, shall be attached to each separate species or variety, except when delivered to the purchaser on the premises and sold from a block of stock labeled with a suitable sign.

11-9-107. Rules and regulations by director of agriculture; objections.

The director may issue and enforce rules, regulations and definitions to implement the provisions of W.S. 11-9-101 through 11-9-109, subject to the Wyoming Administrative Procedure Act.

11-9-108. Cease and desist orders; quarantine; confiscation; destruction or removal of nursery stock; hearing; final orders; enforcement.

(a) The department is authorized to issue cease and desist orders to any nursery stock dealer, quarantine any place of nursery stock business or order confiscation, destruction or removal from the state, of any nursery stock the department determines poses a serious risk of introducing or spreading injurious insects, plant diseases, other pests or prohibited, restricted, regulated or designated noxious weeds within the state.

(b) All notices and orders required to be served by the department under this article shall be served by certified mail, return receipt requested, to the last known address of the nursery stock dealer or may be served as provided by the Wyoming rules of civil procedure. The notice of an order issued by the department under this article shall include:

(i) A statement of the grounds for issuing the order, including a citation of the statute or rule involved;

(ii) A statement of the supporting facts;

(iii) A statement informing the nursery stock dealer subject to the order of the right to a hearing on the order before the director, right of appeal of any subsequent order in accordance with the Wyoming Administrative Procedure Act and that failure to timely request a hearing shall result in the order becoming final; and

(iv) A copy of the order.

(c) A request for a hearing on a proposed order issued by the department under this article shall be in writing and shall be submitted to the director no later than seven (7) days after receipt of the notice from the department. The director shall hold the hearing not later than fifteen (15) days after receipt of the request for hearing, unless the nursery stock dealer subject to the proposed order requests an extension of time for good cause shown.

(d) A hearing on a proposed order issued under this article shall be a contested case hearing conducted in accordance with the Wyoming Administrative Procedure Act. After the hearing, the director shall issue findings of fact and conclusions of law and a final decision either confirming or dismissing the proposed order. The director shall confirm a proposed order only if the director finds by a preponderance of the evidence that grounds exist under this article for issuing the proposed order. Otherwise, the director shall dismiss the proposed order. If the director confirms a proposed order it shall become a final order.

(e) The department shall serve a final order upon the nursery stock dealer who is the subject of the order. The final order shall take effect upon service and shall remain in effect until the department or a court of competent jurisdiction terminates the final order. The nursery stock dealer who is the subject of the final order may appeal the issuance of the final order in accordance with Wyoming Administrative Procedure Act.

(f) On or after the effective date of a final order under this article, the attorney general, upon request from the department, may apply to the district court of the county in which the nursery is located or the county where the violations of this article occurred, for enforcement of the final order.

11-9-109. Penalty for violation of provisions.

(a) Any person who violates any provision of W.S. 11-9-101 through 11-9-109 or any rule or regulation issued pursuant thereto is guilty of a misdemeanor and shall be fined not more than seven hundred fifty dollars (\$750.00) for each offense, and may have any license issued to them under such statutes suspended or revoked. Each day shall constitute a separate violation.

(b) Any person found guilty of violating any provision of W.S. 11-9-101 through 11-9-109, shall reimburse the state for the cost of any treatments, control actions, quarantine, confiscation,

destruction or removal of any nursery stock from the state resulting from the violation. Amounts collected under this subsection shall be paid to the department of agriculture technical services division account.

CHAPTER 16
NURSERY STOCK REGULATIONS

Section 1. **Authority.**

(a.) These rules are promulgated as required by W.S. 11-9-107 and W.S. 16-3-101 through 16-3-115.

Section 2. **Inspection Certificate Required.**

(a.) For the purpose of interpreting W.S. 11-9-104, whereas shipping inspection certificates are required as a prerequisite to receiving nursery stock from a nursery stock supplier, the shipping certificate shall be construed to include a statement to the effect that any shipments of sod originated from a noxious weed-free field in addition to the information required by W.S. 11-9-102 relative to non-residents.

Section 3. **Exemptions to W.S. 11-9-102.**

(a.) In construing W.S. 11-9-102 pertaining to licenses, any person who grows and who occasionally sells or exchanges house plants such as African violets directly to hobbyists, and who is not engaged in the business of selling or offering for sale such plants as a regular or continuous part of his normal business, shall be exempt from the licensing provisions of this section.

Section 4. **Resident Nursery Stock Dealers License.**

(a.) All resident nursery stock dealers must purchase a resident nursery stock dealers license for the forthcoming year by February 1.

Statutes:

**Buying, Selling and Storing of
Grain**

Regulations:

**Chapter 17 – Regulations for
Handling, Buying, Selling and Storing
of Grain**

BUYING, SELLING AND STORING OF GRAIN

11-11-101. Definitions.

(a) As used in this chapter:

- (i) "Director" means the director of the Wyoming department of agriculture;
- (ii) "Warehouseman" means any person except the grower who handles grain for commercial storage or solicits grain for the purpose of intrastate, interstate or foreign commerce;
- (iii) "Grain" means any variety of beans, wheat, corn, oats, barley, rye, grain sorghum, millet, oil seeds, sunflower, soybean, flax, or seeds of legumes and grasses;
- (iv) To "store" or "warehouse" means any method by which grain owned by another is held for the owner by one not the owner except for the transportation thereof;
- (v) "Stored grain" means grain held or placed in storage in an elevator, grain cleaning plant, grain warehouse or public warehouse of whatever kind by any person not the actual bona fide owner of the grain;
- (vi) "Scale ticket" means a load slip or other evidence of delivery, other than a warehouse receipt, given to the party making delivery by a warehouse licensed under the provisions of this act;
- (vii) "Warehouse" means an elevator, mill, storage bin or building, subterminal grain storage facility, public storage facility or other structure or facility in which grain is received for commercial storage or for the purpose of intrastate, interstate or foreign commerce;
- (viii) "Audit" means an examination of records or financial accounts to determine their accuracy;
- (ix) "Depositor" means any person who is in possession of a commodity and entrusts or delivers the commodity to a warehouse for storage;
- (x) "Inspection" means the physical review or examination of the grain warehouse or storage facility and may include an official audit;
- (xi) "Loss" means the destruction of the commodity due to fire, theft or weather;
- (xii) "Receipt" means a warehouse receipt issued under this act, including an electronic receipt;
- (xiii) "Transportation" means the movement of grain from one (1) point to another;

(xiv) "Verified" means signed and sworn to be accurate before a person authorized to administer oaths.

11-11-102. Applicability.

W.S. 11-11-101 through 11-11-117 do not apply to any person licensed under the laws or regulations of the United States relating to storing and handling grain.

11-11-103. Warehousemen to procure licenses; fee; annual renewal.

Before engaging in business in Wyoming, a warehouseman or any person operating a warehouse shall procure a license from the department of agriculture. The fee under this section for the initial license and for each annual renewal thereof shall be one hundred twenty-five dollars (\$125.00). All licenses shall be issued for the fiscal year, or fraction thereof, ending June 30. No license shall be renewed unless the department finds from the audit required under W.S. 11-11-109 of the warehouse or warehouseman's records that the operations are conducted properly.

11-11-104. Application for license; form; contents; refusal to issue license; appeal; care of agricultural products.

(a) The department shall prescribe forms for application for a warehouseman's or warehouse license. The application shall contain information necessary to inform the department of the qualifications, facilities, experience and financial ability of the applicant to carry on the business of buying, selling, warehousing and storing grain. The department shall require the submission of any tax return, bank statement, financial statement or audit prepared by a public accountant or a certified public accountant and any additional information as required by rules and regulations in order to establish the financial responsibility of the applicant. If a license is refused by the department, appeal may be made to the director. All hearings for appeal shall be conducted in accordance with the Wyoming Administrative Procedure Act.

(b) Each warehouseman shall at all times, including during any period of suspension of his license, exercise such care in regard to stored and nonstorage agricultural commodities in his custody as required under the licensing agreement.

11-11-105. Surety bond required; amount; approval by department; conditions; exception.

(a) Each applicant for a warehouseman's or warehouse license shall post a cash bond, acceptable irrevocable letter of credit or execute and file with the department a good and sufficient surety bond in an amount determined by the department based on the maximum number of hundred weight the warehouseman can store in the warehouses for which the bond is required, but not less than twenty thousand dollars (\$20,000.00). A surety bond shall be executed by a responsible surety company licensed to do business in this state and conditioned upon the faithful performance of the obligation of the warehouseman or person operating a warehouse under the laws of this state and of any additional obligations assumed by him under contract with those who deposit grain with him. All bonds shall be payable to the state for the benefit of any injured party, and shall be in the form and contain additional conditions as the department may

prescribe. No person is required to file a bond who has already posted similar bond with the United States department of agriculture pursuant to the United States Warehouse Act of August 11, 1916, as amended.

(b) Cash bonds, irrevocable letters of credit and surety bonds shall not be released by the department until an audit has been completed and satisfied. The department shall publish a public notice for sixty (60) days prior to any bond being released.

(c) In the event a warehouseman does not renew his license in accordance with W.S. 11-11-103 or suspends normal business operations, the department shall post a public notice in a paper of local distribution for sixty (60) days prior to the closure of the warehouse.

11-11-106. Action on bond for breach of obligations; joinder of parties.

Any person injured by the warehouseman's or warehouse's breach of any obligation provided by law may sue on the bond in his own name in any court of competent jurisdiction to recover the damage sustained by the breach. Where more than one (1) person is injured, the action may be brought in the name of all injured persons by any one or all interested parties, or by the state of Wyoming in their behalf.

11-11-107. Investigation by department; complaint; service; hearing.

The department upon its own motion or upon verified complaint against any warehouseman shall investigate as the department deems necessary, and shall at all times have free and unimpeded access to all facilities or places in which grain is kept, stored, handled or transported. If the department, upon investigation, has reason to believe that any warehouseman is not acting as required by law, or upon the filing of a verified complaint against the warehouseman, the department shall have a complaint or copy of the verified complaint served upon the warehouseman by personal service, service upon a registered agent or by registered mail. If the warehouseman fails to make prompt adjustment or settlement of the charges set forth, to the satisfaction of the department, the department shall give notice of the time and place of a hearing thereon. The hearing shall be held in accordance with the Wyoming Administrative Procedure Act.

11-11-108. Warehouse receipts generally.

All warehouse receipts issued for stored grain shall be in a form prescribed by the department and shall be obtainable only by the warehouseman from the department at cost. Each warehouse receipt issued must show the amount of any cash or the value of any merchandise the warehouseman has advanced on the grain represented by the receipt, but such notation shall not be construed as fixing the date of sale of the grain.

11-11-109. Audit of records; inspection of warehouse.

(a) At least once each year and more often if necessary or if requested by an interested person the department shall inspect each licensed warehouse and shall audit the warehouse records. The

director after conferring with interested industry groups shall fix, assess and collect fees for the inspection of facilities storing farm products. The fees shall not exceed fifty percent (50%) of the cost of the inspection and shall be paid by the person requesting the inspection, if any.

(b) If a warehouseman is delinquent in renewing his license in accordance with W.S. 11-11-103, the department shall initiate an inspection and audit of the warehouse immediately.

11-11-110. Warehouseman's records; generally.

Every licensed warehouseman shall maintain complete records of all grain stored, all grain withdrawn from storage, all warehouse receipts issued and all receipts returned to and cancelled by him. The records shall be available for examination and audit by the department at any reasonable time.

11-11-111. Warehouseman's records; contents; inspection and audit by department; issuance of warehouse receipts.

(a) Every warehouseman shall keep a complete record of all grain handled by him including the following:

(i) Name, address and phone number of the grower and of the owner;

(ii) Date of issuance of receipt;

(iii) Kind, quantity, quality and grade of grain received;

(iv) Agreed purchase price, if purchased;

(v) Agreed commission charged, if consigned;

(vi) Date of sale of consigned grain, to whom sold and price for which sold;

(vii) Date and details of settlement with vendor or consignor;

(viii) Documentation stating the location of the stored commodity. If the commodity is stored in another warehouse, then proof of bonding by that facility shall be included in the records.

(b) The above records shall be open to the confidential inspection of the department or its authorized agents at all times. Upon request of the depositor, every warehouseman shall issue a receipt for all grain received for storage on a form furnished by the department.

11-11-112. Stored grain to be insured; insurance requirements; disaster loss to be reported.

(a) All grain stored shall be insured against loss for full value by an insurance company licensed to do business in this state. A copy of the insurance policy in effect shall be provided to the department at the time of the license application and the audit.

(b) Each warehouseman shall comply fully with the terms of insurance policies or contracts covering their warehouse and all products stored therein, and shall not commit any acts, nor permit others to commit any acts, that might impair or invalidate such insurance.

11-11-113. Grading of grain; notation on warehouse receipt.

All grain accepted for storage shall be graded by the warehouseman or designee according to standards of the United States department of agriculture, and the grade established shall be specified upon the warehouse receipt issued for the grain.

11-11-114. Stored grain to constitute bailment; amount in storage to equal issued storage certificates; exceptions; conversion; seizure.

(a) The storage of grain with a warehouse and the movement of grain by a warehouseman constitutes a bailment and not a sale. Upon return of the scale ticket bearing the name of the bailee or warehouse receipt properly endorsed and payment or tender of all advances and charges, the owner of the scale ticket or warehouse receipt is entitled to, and the warehouseman or person operating a warehouse shall deliver the identical grade and amount of grain placed in storage or transported. Every person operating a warehouse shall maintain at all times in storage, in the state of Wyoming, grain equal in amount and grade to all scale tickets and warehouse receipts issued, unless authorized in writing by holders of scale tickets or warehouse receipts or by the department to move to other storage, and failure to do so is a conversion thereof.

(b) Grain stored with a warehouse is not liable to seizure upon process of a court against the bailee except upon action by the owners of scale tickets or warehouse receipts to enforce the terms of the scale tickets or receipts. In the event of the failure or insolvency of the bailee, the grain shall be first applied as soon as ownership is established and within one hundred twenty (120) days exclusively to the redemption and satisfaction of outstanding scale tickets and warehouse receipts for grain stored or moved with the bailee and grain on hand in a particular warehouse of the bailee shall be first applied to the redemption and satisfaction of the scale tickets or receipts issued by that warehouseman or person operating a warehouse as the bailee.

(c) The department shall, by rule and regulation, require posting of current tariffs.

11-11-115. Disposition of collected funds.

There is created the grain warehouse inspection account. All funds collected by the department shall be deposited in the account created by this section. Interest earned by the account shall be retained in the account. The account is appropriated for use and expenditure by the department for the costs of administering the programs under this article. Itemized vouchers shall be submitted to the department for approval. Upon approval, a warrant for the payment of each

voucher shall be issued by the state auditor for payment from the grain warehouse inspection account.

11-11-116. Revocation and cancellation of license.

Failure of any warehouseman or person operating a warehouse to comply with the provisions of this chapter will render the license of the warehouseman or person operating a warehouse subject to revocation and cancellation by the department.

11-11-117. Prohibited acts; penalties for violations.

(a) Any person who engages in or carries on any grain warehousing business without first having obtained a license, or who continues to engage in or carry on such business after his license has been suspended, revoked or expires is guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. Each day that such unlicensed business is carried on is a separate offense.

(b) Any warehouseman or person operating a warehouse who converts to his own use or that of another, any grain stored or accepted for storage of the value of one thousand dollars (\$1,000.00) or more, is guilty of a felony and shall be fined not less than five hundred dollars (\$500.00) for each day of violation and imprisoned for not to exceed fourteen (14) years. If the value of the grain converted is less than one thousand dollars (\$1,000.00), the warehouseman or person operating a warehouse is guilty of a misdemeanor and shall be fined not to exceed five hundred dollars (\$500.00) or imprisoned not to exceed six (6) months, or both.

11-11-118. Perjury.

Any affirmation under this chapter shall be given under penalty of perjury.

11-11-119. Cease and desist orders; warehousemen; notice; opportunity for hearing.

(a) After notice and opportunity for hearing, the department shall issue a final cease and desist order to a warehouseman if the warehouseman or any officer, director, employee or agent of the warehouse is violating any state statute or rule relating to warehouses or warehousemen.

(b) Before issuing a final cease and desist order, the department shall serve notice of intent to issue the order upon the warehouseman. The notice shall be in writing and shall contain the information required by W.S. 11-11-121(a). The proposed order shall direct the warehouseman to discontinue the violations of law, rule or regulation.

(c) The warehouseman may request a hearing on the proposed order before the director in accordance with W.S. 11-11-121(b). If the warehouseman does not request a hearing in writing within the prescribed time period, the proposed order shall become a final cease and desist order and the department shall serve the final order upon the warehouseman.

11-11-120. Temporary cease and desist order; warehousemen; service.

(a) If the department believes the actions of a warehouseman or of any officer, director, employee or agent of the warehouse pose an immediate threat to the safety and soundness of the warehouse or to the interests of the depositors or creditors of the warehouse, the department shall issue a temporary cease and desist order to the warehouseman or officer, director, employee or agent of the warehouse pending final action on the proposed cease and desist order issued pursuant to W.S. 11-11-119(a).

(b) The temporary order shall be in writing and shall be served upon the warehouseman. The temporary order shall take effect upon service and shall remain in effect until the director issues the final cease and desist order, the department dismisses the proposed cease and desist order or a court of competent jurisdiction dismisses the proposed cease and desist order after hearing.

(c) On or after the effective date of the temporary order, the attorney general, upon request from the department, may apply to the district court for the county in which the warehouse is located for enforcement of the temporary order. If the warehouseman operates warehouses in two (2) or more counties, the request may be made in any county where the warehouseman operates a warehouse. The application for enforcement shall be given precedence over other cases pending in court and shall in every way be expedited.

(d) The warehouseman, officer, director, employee or agent to whom a temporary cease and desist order is issued may apply to the district court for the county in which the warehouse is located for a stay of the temporary cease and desist order. The application for stay shall be given precedence over other civil cases pending in court and shall be expedited. The court shall grant the stay only if the warehouseman, officer, director, employee or agent shows he will be irreparably harmed unless the stay issues and there is substantial likelihood he will prevail on the merits.

11-11-121. Procedures for enforcement actions; service of notice; content of orders; contested case proceedings; appeal.

(a) All notices and orders required to be served by the department under this article shall be served by certified mail return receipt requested to the last known address of the warehouseman or may be served as provided by the Wyoming Rules of Civil Procedure. Notice of a proposed order issued by the department under this article shall include:

(i) A statement of the grounds for issuing the proposed order, including a citation to the statute or rule involved;

(ii) A statement of the facts in support of the allegations;

(iii) A statement informing the warehouseman subject to the proposed order of the right to a hearing on the order before the director, right of appeal of any subsequent order in accordance with the Wyoming Administrative Procedure Act and that failure to timely request a hearing will result in the order becoming final; and

(iv) A copy of the proposed order.

(b) A request for hearing on a proposed order issued by the department under this article shall be in writing and shall be submitted to the director no later than seven (7) days after receipt of the notice of intent from the department. The director shall hold the hearing no later than fifteen (15) days after receipt of the request for hearing, unless the warehouseman subject to the proposed order requests an extension of time for good cause shown.

(c) A hearing on a proposed order issued under this article shall be a contested case hearing conducted in accordance with the Wyoming Administrative Procedure Act. After the hearing, the director shall issue findings of fact and conclusions of law and a final decision either confirming or dismissing a proposed order. The director shall confirm a proposed order only if the director finds by a preponderance of the evidence that grounds exist under this article for issuing the order. Otherwise, the director shall dismiss the proposed order. If the director confirms a proposed order it shall become a final order.

(d) The department shall serve a final order under this article upon the warehouseman who is the subject of the order. The final order shall take effect upon service and shall remain in effect until the department or the court terminates the final order. The warehouseman who is the subject of the order may appeal the issuance of a final order in accordance with the Wyoming Administrative Procedure Act.

(e) On or after the effective date of a final order under this article, the attorney general, upon request from the department, may apply to the district court of the county in which the warehouse is located for enforcement of the final order. The application for enforcement shall be given precedence over other cases pending in court and shall in every way be expedited.

Chapter 17

REGULATIONS FOR HANDLING, BUYING, SELLING AND STORING GRAIN

Section 1. **Authority.** Pursuant to the authority vested in the Department of Agriculture by W.S. 11-11-101 through 11-11-121 - (Buying, Selling and Storing of Grain) and W.S. 16-3-101 through 16-3-115) (Wyoming Administrative Procedure Act), the following regulations are hereby promulgated and adopted.

Section 2. **Statement of Purpose.** The purpose of these regulations is to establish standards for the construction and operation of warehouses; and procedures for Department inspections and audits of warehouses and warehousemen.

Section 3. **Definitions.**

(a) “Cash sale” means payment to the producer by the warehouse contemporaneously with the transfer of grain to the warehouse.

(b) “Credit-sale contract” means an agreement in writing whereby the producer transfers a specific quantity of grain to a warehouse or broker with a price or payment to the producer by the warehouse or broker to be made at a later date or on the occurrence of a specific event expressed in the agreement.

(c) “Department” means the Wyoming Department of Agriculture.

(d) “Deposit for service” means deposit of grain by a person for cleaning, processing, reconditioning or the rendering of other similar services by a warehouse, but does not include either a cash sale, credit-sale or open storage.

(e) “License” means an official document issued by the Department to an applicant who has paid all applicable fees and meets all requirements to entitle the holder to legally operate as a warehouse or warehouseman in the State of Wyoming.

(f) “Open storage” means the deposit of grain by the producer for a period of time with the subsequent disposition of the same or like, kind and grade of grain or a fungible substitute.

(g) “Seed cleaning establishment” means any facility operating under Chapter 26 seed cleaning establishment rules.

(h) Terms defined in W.S. 11-11-101 shall have the same meaning when used in these regulations.

Section 4. Licensing.

(a) Information required for licensing. Applicants for a grain warehouse license shall provide the Department with all information as described within the grain warehouse licensing forms.

(b) Trucking companies. Trucking companies that handle grain for commercial storage or solicit grain for commerce are warehouses and shall be licensed as such in accordance with W.S. 11-11-101 through 11-11-121.

(c) Seed cleaning establishments. Seed cleaning establishments holding grower owned grain or seed in storage for future sale shall be licensed in accordance with W.S. 11-11-103. Seed cleaning establishments who take in grain or seed for cleaning only without storage agreements, and which hold the seed for less than four (4) business days, are exempt from warehouse licensing.

(d) Posting of license. Upon receipt, the warehouse or warehouseman shall post the license, renewal, extension or modification in a conspicuous place in each place of business and in any other places the Department may determine.

(e) Return of suspended or terminated license. Any license issued to a warehouse or warehouseman which has lapsed or been suspended, revoked or canceled by the Department shall immediately be returned to the Department. The license shall be returned to the warehouse or warehouseman to whom it was originally issued at the expiration of any period of suspension and shall be posted as required by Section 4 Subsection (d) of these regulations.

(f) Suspension due to neglect. If inspection or other information indicates that the commodities in storage are deteriorating due to neglect of the warehouse or warehouseman the Department may issue a temporary cease and desist order in accordance with W.S. 11-11-120.

(g) Loss of license. Upon receipt of satisfactory proof of the loss or destruction of a license issued to a warehouse or warehouseman, the Department may issue a duplicate license using the same number.

Section 5. Warehouse Receipts.

(a) Warehouse receipts generally. All negotiable warehouse receipts issued for stored grain shall be obtained from the Department of Agriculture. Approved pre-numbered scale tickets may be honored by the issuing warehouse in lieu of negotiable warehouse receipts. To be honored as an approved receipt, a scale ticket shall contain the following warehouse information:

Effective October 17, 2007

name
address
city
state
zip code;

and, the name of the depositor or person to whom the scale ticket is issued, the kind of grain, the grade, gross weight, tare weight and net weight. In addition, the scale ticket shall plainly show the amount of cash or value of merchandise the warehouseman has advanced on the grain represented on the scale ticket and shall be signed by the warehouseman or his authorized representative.

(b) Receipt procurement. Uniform warehouse receipts shall be furnished by the Department to the warehouse at cost. Orders for receipts shall be submitted at least fifteen (15) days prior to the time they are needed. The number required shall be submitted with the order.

Section 6. **Receipts**

(a) Negotiable warehouse receipts. Every warehouse or warehouseman shall issue a negotiable warehouse receipt when requested by the depositor.

(b) Nonnegotiable warehouse receipts. Nonnegotiable warehouse receipts which contain the information required for warehouse receipts are sufficient for all purposes. Copies of all nonnegotiable warehouse receipts shall be retained for five (5) years by the issuing warehouse or warehouseman.

(c) Lost warehouse receipt. In order to issue a warehouse receipt replacing one that has been lost or destroyed or to cancel an outstanding warehouse receipt that has been lost or destroyed, the licensed warehouse or warehouseman shall require the following from the depositor or other applicant:

(i) An affidavit stating that the depositor is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and an explanation of how the original receipt was lost or destroyed; and

(ii) A bond of double the market value of the grain represented by the lost or destroyed receipt. The market value shall be determined at the time the bond is submitted. Warehouse receipts issued in lieu of lost or destroyed receipts shall duplicate the original and bear a statement that it is issued in lieu of the lost or destroyed receipt. A replacement warehouse receipt shall clearly state that it is a replacement receipt, the number of the original receipt and the license number of the warehouse or warehouseman which issued the original receipt.

Section 7. Condition of warehouses-generally.

(a) Inspection. All warehouses shall be subject to inspection by the Department or its designated agent. The inspection reports shall be retained on file at the Department of Agriculture.

(i) Warehouse shall be of sound construction and in good repair.

(ii) Warehouse shall not be subject to undue fire or other hazards, such as floods.

(iii) Warehouse shall have adequate firefighting equipment for fighting flash fires. Products which are flammable shall not be stored in the areas of the warehouse that are licensed for storage.

(iv) Warehouse shall be constructed to prevent access by rodents, birds, etc.

(b) Sanitation of Warehouse. All facilities and grain stored shall be kept in a sanitary condition which conforms to the food and drug laws of the State of Wyoming.

(i) Warehouse shall be provided with an adequate insect and rodent control program.

(c) Warehouse size. Warehouse shall be of adequate size for storing the grain received. The routine practice of storing depositor grain outside on the ground or in unapproved facilities is a reason for revoking a license. A warehouse needing outside storage on the ground shall petition the Department for permission. If the Department gives permission for outside storage on the ground, the bonding amount shall be equivalent to that for flat storage as per Section 10 of this chapter.

(d) Warehouse equipment. The warehouse shall be equipped with all equipment required for handling, weighing, caring for and properly storing all grain received.

(e) Licensed warehouse areas. The portion of the warehouse designated and approved for storing grain shall not be used for any other purpose which may create a safety hazard that is not incidental to grain storage and handling.

(f) Warehouse drawings. A copy of the blueprint or a scale drawing of the warehouse giving correct dimensions of bins, rooms, etc., shall be available to the Department .

Section 8. **Records.**

(a) Warehouse receipts. All warehouse receipts, cancelled or outstanding, shall be filed in numerical order. Cancelled warehouse receipts shall be retained for five (5) years. Original receipts shall accompany all cancelled receipts.

(b) Scale tickets. All scale tickets dealing with the movement of grain are to be filed in numerical or alphabetical order and maintained for three (3) years from date of issuance. Scale tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered and one (1) copy of each ticket shall be maintained in numerical or alphabetical order. All scale tickets shall show the quantity delivered, the ownership, the date of delivery or receipt and the type, class and grade of the grain.

(c) Depositor ledger or settlement sheet. Each page shall show depositor name, telephone number, mailing address, city, state and zip code. Separate pages shall be maintained for each individual account and grain. Depositor ledger or settlement sheet shall show each individual transaction, whether in or out, by date, type of grain, volume, and price of grain. The last transaction on a depositor ledger or settlement sheet shall indicate the actual position of the account. Zeros shall be used to indicate a zero balance.

(d) Financial ability. All licensed grain warehouses shall have net assets equal to at least twenty cents (\$.20) a bushel for the maximum number of bushels the warehouse can accommodate. All licensed warehouses, which are bonded according to the price of dry beans, shall have net assets equal to at least forty cents (\$.40) a hundredweight for the maximum number of hundredweight the warehouse can accommodate.

(i) All licensed warehouses and warehousemen shall submit their year end financial statements to the Department within 120 days of the warehouse or warehouseman's fiscal year end.

(e) Office records. All warehouses and warehousemen shall maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and load outs and shall include the following:

(i) A daily position record showing the total quantity of each kind and class of grain received, loaded out, the amount remaining in storage and the warehouseman's total storage obligation for each kind and class of grain at the close of each business day.

(ii) Receipts and tickets in the warehouse or warehouseman's possession which have not been issued.

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(iii) Receipts and tickets issued, returned to and cancelled by the warehouse or warehouseman.

(iv) Insurance documentation. A copy of the current insurance policy in effect for the licensed warehouse or warehouseman.

(v) Electronic records. If any electronic records are maintained outside of the State of Wyoming, the Department shall be allowed to examine them at any reasonable time and place as determined by the Department, and may require any records to be made available within the State of Wyoming during normal business hours.

Section 9. **Capacity Changes.**

(a) Notification of change. The Department of Agriculture shall be notified of any increase or decrease in the storage capacity of a warehouse. Notice of completion of additional storage capacity shall be provided to the Department of Agriculture before usage.

Section 10. **Bonds.**

(a) Effective dates. All bonds shall be secured by the warehouse or warehouseman and shall remain in effect at all times the warehouse or warehouseman is licensed and until released by the Department.

(b) Acceptable forms. The following bonds are acceptable:

(i) A cash bond in the form of a certificate of deposit, assigned to the State of Wyoming; or

(ii) An acceptable irrevocable letter of credit issued and guaranteed by a federally insured financial institution; or

(iii) A surety bond issued by a surety company properly licensed and insured to do business in the state.

(c) Computation of bond amount.

(i) The amount of bond for grain to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the simple average price per bushel on July 1 of the previous year and March 1 of the current year or the nearest open market day(s) at Kansas City, Missouri, less freight charges. Formula is six percent (6%) of price per bushel times warehouse capacity for upright storage and twelve percent (12%) of price per bushel times warehouse capacity for flat storage. All capacities shall be determined by the Department.

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Example: Upright storage
Capacity 100,000 bushels
Kansas City Price/Bushel on July 1, 2004 = \$3.18
Kansas City Price/Bushel on March 1, 2005 = \$3.26
Average = \$3.22
 $6\% \times \$3.22 = .1932 \times 100,000 \text{ bushels} = \$19,320.00$
Bond for next year for upright storage: \$19,320.00

Flat Storage
Capacity 25,000 bushels
Kansas City Price/Bushel on July 1, 2004 = \$3.18
Kansas City Price/Bushel on March 1, 2005 = \$3.26
Average = \$3.22
 $12\% \times \$3.22 = .3864 \times 25,000 \text{ bushels} = \$9,660.00$
Bond for next year for flat storage: \$9,660.00

Total warehouse bond for next licensing period: \$28,980.00

(ii) The amount of bond for beans to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the price per hundredweight on January 15 of the current year or the nearest open market day, at Denver, Colorado, less freight charges. Formula is six percent (6%) of price per hundredweight times total warehouse capacity. All capacities shall be determined by the Department.

Example: Capacity 100,000 hundredweight
Denver, Co. price/hundredweight, January 15, 2005 = \$22.75
 $6\% \times \$22.75 = \$1.3650 \times 100,000 \text{ hundredweight} = \$136,500.00$
Total warehouse bond for next licensing period: \$136,500.00

(iii) The amount of bond for grass seed to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the price per pound of each particular species or the nearest like species using the simple average of the previous calendar years redistribution prices at the Bureau of Land management Regional Seed Warehouse in Boise, Idaho. Formula is five percent (5%) of price per pound times total warehouse capacity. All capacities shall be determined by the Department.

Example: Capacity 500,000 pounds
BLM Warehouse redistribution species price/lb on May 3, 2006=\$4.57
BLM Warehouse redistribution species price/lb on July 16, 2006=\$4.34
BLM Warehouse redistribution species price/lb on August 23, 2006=\$3.87
Average=\$4.26
 $5\% \times \$4.26 = .21 \times 500,000 \text{ pounds} = \$105,000.00$
Bond for next licensing period: \$105,000.00

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(iv) The minimum bond for all grain warehouses shall be twenty thousand dollars (\$20,000).

(d) Determination of grain stored. The principal grain stored, to be used for computation of bond, shall be determined by the Department.

(e) Sharing of information. The Department may share inspection reports, audits and any information on a warehouse, with a financial institution which has issued an irrevocable letter of credit, if the warehouse or warehouseman has consented in writing to release the information.

Section 11. Inspection and Audit.

(a) Departmental rights. The Department may access all warehouses and associated facilities during normal business hours to carry out the provisions of this chapter and W.S. 11-11-101 through W.S. 11-11-121.

(i) If, through inspection and audit, the Department determines that it is necessary to issue a temporary cease and desist order pursuant to W.S. 11-11-120, the Department may take all necessary actions to protect the grains stored by the warehouse or warehouseman.

(b) Shortages. If inspection and audit determine that the warehouse or warehouseman is short in grain, the warehouse or warehouseman shall replace the shortage with like grain of the same grade within two (2) business days and shall provide proof of replacement to the Department.

(c) Inspection and audit practices. The Department shall use those practices which are commonly accepted by the American Association of Warehouse Control Officials (AAWCO) during the course of inspection and audit.

Section 12. Posting of tariffs.

(a) Warehouses. All licensed warehouses and warehousemen that store or handle grain shall have current tariffs posted at all times.

(b) Precedence. Contracts or other separately negotiated written agreements between the warehouse or warehouseman and the depositor shall take precedence over posted tariffs.

Statutes:

Seeds

Regulations:

**Chapter 51 – Regulations Pertaining to
Seed Law**

SEEDS

11-12-101. Definitions.

(a) Repealed By Laws 2007, Ch. 8, 4.

(b) As used in this act:

(i) "Controlling the pollination" means to use a method of hybridization which will produce pure seed which is at least seventy-five percent (75%) hybrid seed;

(ii) "Dormant" means viable seed, excluding hard seed, which fails to germinate when provided the specific germination conditions for the kind of seed in question;

(iii) "Germination" means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions. For the purposes of this act, "germination" may also mean the percentage of seed determined viable by a tetrazolium test for species identified in the rules for testing, or for species for which there are no rules for testing;

(iv) "Hard seed" means seed which remains hard at the end of the prescribed test period because it has not absorbed water due to an impermeable seed coat;

(v) "Hybrid" as applied to kinds or varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

(A) Two (2) or more inbred lines;

(B) One (1) inbred or a single cross with an open pollinated variety; or

(C) Two (2) selected clones, seed lines, varieties or species.

(vi) "Inert matter" means all matter that is not a seed, including broken seeds, sterile florets, chaff, fungus bodies and stones;

(vii) "Kind" means one (1) or more related species or subspecies which singly or collectively is known by one (1) common name, including but not limited to, soybean, flax, barley and wheat;

(viii) "Labeling" means the display or displays of written, printed or graphic matter upon or attached to the container of seed or accompanying and pertaining to any seed whether sold in bulk or in containers, including invoices;

(ix) "Lot" means the number or other identification that relates to records pertaining to the known quantity of seed;

(x) "Origin" means the state, District of Columbia, Puerto Rico or possession of the United States, or the foreign country or designated portion thereof, where the seed was grown;

(xi) "Pure seed" means seed exclusive of inert matter and all other seed not of the seed being offered for sale;

(xii) "Rules for testing" means procedures specified by the Association of Official Seed Analysts for conducting seed analysis;

(xiii) "Seed" means the propagative part of a plant normally capable of germination to produce a new plant, including ovules, tubers and bulbs. "Seed" also includes the following as defined for the purposes of this act:

(A) "Agricultural seeds" means any agronomic crop seeds or seeds of species as defined in W.S. 11-1-101;

(B) "Flower seed" means seeds of herbaceous plants grown for their blooms, ornamental foliage or other ornamental parts and commonly known and sold under the name of flower seeds in this state;

(C) "Tree seed" means seeds of woody plants commonly known and sold as tree and shrub seeds in this state; or

(D) "Vegetable seed" means the seeds of those crops that are or may be grown in gardens or truck farms and are generally known and sold under the name of vegetable seeds in this state.

(xiv) "Total viable" means:

(A) Germination plus dormant seed plus hard seed; or

(B) Viable as determined by a tetrazolium test for species identified in the rules for testing, or for species for which there are no rules for testing.

(xv) "Treated seed" means any seed that has been treated with chemicals that are harmful to humans, livestock or other vertebrate animals;

(xvi) "Variety" means a subdivision of a kind which is characterized by growth, plant, fruit, seed or other characters by which it can be differentiated from other sorts of the same kind, including but not limited to, C2243 wheat and Manchu soybeans;

(xvii) "Weeds" includes the following as defined for purposes of this act:

(A) "Prohibited noxious weeds" means the seeds of any species for which the department by rule has established zero (0) tolerance;

(B) "Restricted noxious weeds" means any species for which the department by rule has established an allowable tolerance;

(C) "Regulated weeds" means seed, other than prohibited noxious weeds or restricted noxious weeds, of any species for which the department by rule has established a limitation of amount per pound in a seed lot.

(xviii) "This act" means W.S. 11-12-101 through 11-12-124.

11-12-102. Exceptions to applicability.

(a) This act does not apply to any person who:

(i) Has seeds in storage for conditioning or cleaning and the intended use of the seed is not planting;

(ii) Is a resident grower of seed who sells his seed to a seed dealer who is licensed pursuant to this act;

(iii) Repealed By Laws 2006, Chapter 114, 2.

(b) Any resident grower who sells or offers for sale any agricultural, vegetable, flower or tree seeds grown only by him and sold or offered for sale at the headquarters of his operations directly to grower planters of the seed and not for resale is exempt from the licensing provisions under W.S. 11-12-103.

11-12-103. Licensing.

(a) Any person who sells or offers for sale or distribution in Wyoming any seeds shall obtain a license from the department. The license shall expire annually on March 31. Application for the license shall include the name and address of the person to whom the license is to be issued and the location of the place or places of business of the applicant. The application shall be accompanied by the license fee authorized by W.S. 11-1-104 for each place of business selling seeds in packets, packages or bulk of ten (10) pounds or more. This subsection shall not apply to any person licensed in accordance with W.S. 11-11-103.

(b) Any person who conditions grain or seed for hire in Wyoming shall obtain a license from the department. The license shall expire annually on March 31. Application for the license shall include the name and address of the person to whom the license is to be issued and the location of the place or places of business of the applicant. The application shall be accompanied by the license fee which shall be the same as the fee established for a seed dealer license. This subsection shall not apply to any person licensed in accordance with W.S. 11-11-103.

(c) Charitable and educational institutions shall be exempt from licensing requirements imposed by this section.

11-12-104. Restrictions on the sale of weed seeds; allowed tolerance for other noxious weeds; rulemaking.

(a) No person shall sell or offer for sale or distribution in Wyoming seed which contains any prohibited noxious weed seeds. The department, by rule and regulation, may establish a list of prohibited noxious weeds, restricted noxious weeds and regulated weeds and establish tolerances for restricted noxious weeds and regulated weeds.

(b) Repealed By Laws 2007, Ch. 8, 4.

(c) Repealed By Laws 2007, Ch. 8, 4.

(d) Any seed which contains any prohibited noxious weed seeds or exceeds the tolerance established on restricted noxious weed seeds or regulated weed seeds shall be removed from sale in Wyoming and impounded by the director and shall be released only for the following purposes:

(i) For complete destruction;

(ii) For removal outside of the state;

(iii) To be conditioned to the point that no prohibited noxious weeds are present and to the point that the tolerance established on restricted noxious weeds and regulated weeds is not exceeded;

(iv) For processing in such a way as to make the weed seeds harmless and sold as feed; or

(v) For burial in an approved landfill.

11-12-105. Labeling of packages required; contents; exception.

(a) Each lot of seed which is sold or offered for sale in Wyoming, shall be legibly labeled in English upon the exterior of the container with a written or printed label. The label shall show:

(i) The commonly accepted name of the kind of seed. If seeds are mixed, the kind of each seed making up five percent (5%) or more of the mixture shall be stated separately;

(ii) The full name and address of the person selling, offering or distributing the seeds for sale;

(iii) The percentage of pure seed, crop seed (not to be added to pure seed), inert matter, common weed seeds by weight, germination, hard seed and the month and year of the germination test;

(iv) The origin of the seed;

(v) Lot number or other lot identification;

(vi) Name and number of each kind of restricted noxious weed seeds per pound; and

(vii) The words "poisonous treated" shall appear in bold print if the seeds have been treated with chemicals which are toxic or poisonous to either humans, livestock or other vertebrate animals.

(b) When seeds are sold or offered for sale in bulk, the label required by subsection (a) of this section shall be conspicuously displayed on the container of each lot of bulk seed. A printed or written statement bearing the required labeling information shall be taken from the bulk seed container label in the presence of the purchaser and given to the purchaser upon request.

(c) This section does not apply to flower, tree, garden or vegetable seeds labeled to comply with the requirements of the United States department of agriculture by authority of the Federal Seed Act.

11-12-106. Lawn grass seed.

Lawn grass seed mixtures offered for sale in Wyoming shall comply with all requirements of this act, and in addition shall contain at least fifty percent (50%) of perennial permanent type lawn grass seed that is adapted to local growing conditions, such as Kentucky blue grass (*Poa pratensis*), bent grass (*Agrostis* species) or fescue (*Festuca* species).

11-12-107. Weed seeds.

No person shall sell in the retail trade in this state, any seed which contains two percent (2%) or more of weed seeds by weight.

11-12-108. Screenings to be specially labeled and free from noxious weed seeds; seizure and destruction; grain cleaning establishments.

Screenings of any seeds or grains which are offered for sale by any person shall be legibly labeled as such and not sold as seeds. They shall be free of prohibited noxious weed seeds and shall not exceed the tolerance established on restricted noxious weed seed. Screenings found to contain weed seeds in violation of this section are subject to seizure by the director of the department of agriculture. Screenings are subject to the provisions of W.S. 11-12-104(d).

11-12-109. Failure to label or false labeling of seeds.

It is unlawful for any person to sell or offer for sale or to deliver within Wyoming any seeds which are misbranded or are not labeled in accordance with the requirements of W.S. 11-12-103 through 11-12-108, or if the seed is falsely labeled in any respect, subject to such tolerance as established by the board.

11-12-110. Importation of seeds.

It is unlawful for any person to transport or cause to be transported into Wyoming any seed without meeting the requirements of this act.

11-12-111. Repealed by Laws 1983, ch. 169, 4.

11-12-112. Director to enforce provisions; power of director to examine seeds; exception; purchase of samples.

The director shall enforce this act. The director or his agents shall have free access at all reasonable hours upon and into any premises or structures where seed is stored or offered for sale, except federally sealed granaries or warehouses, to examine any seeds and, upon tendering payment therefor at the current value, may take from any person a sample or samples of the seeds.

11-12-113. Rulemaking.

(a) The board shall promulgate, adopt and publish rules and regulations in accordance with the Wyoming Administrative Procedure Act for the purpose of carrying out this act.

(b) Except as otherwise provided for in this act, no ordinance or regulation of any political subdivision may prohibit or in any way attempt to regulate any matter relating to the registration, labeling, sale, storage, transportation, distribution, notification of use or use of seeds, if any ordinance, law or regulation of the political subdivision is in conflict of this chapter.

11-12-114. Seed and grain cleaning establishments; certificates of approval; lists thereof.

The board shall establish standards and other requirements whereby seed and grain cleaning establishments may be issued a certificate of approval. A list of approved establishments for cleaning seeds and grain shall be maintained by the director.

11-12-115. State seed analyst; seed laboratory.

(a) The department shall operate a state seed laboratory through a memorandum of understanding with the University of Wyoming. The terms and conditions of the memorandum of understanding shall include the designation and compensation of a state seed analyst.

(b) A state laboratory operated for the purposes of seed analysis shall be located in Park County.

11-12-116. Analysis of seeds.

(a) Any person may have his seed analyzed by the state seed analyst by paying transportation charges to the laboratory and a fee.

(b) All samples submitted for analysis shall be taken in accordance with the current regulations of sampling set forth by the United States department of agriculture by authority of the Federal Seed Act.

(c) Seed testing shall be done in accordance with the current association of official seed analysts' rules for testing seed.

(d) The state seed analyst may provide a list of recommended fees for seed testing and services to the seed laboratory advisory group.

(e) The seed laboratory advisory group shall review the state seed analyst's list and provide their recommendation for testing and service fees to the board.

(f) Fees for testing and services shall become effective upon approval by the board. The board may set testing and service fees at different levels for in-state and out-of-state samples.

(g) The state seed analyst, upon approval by the board, may enter into a separately negotiated contract with a government entity to provide testing and services at approximate cost.

11-12-117. Disposition of collected funds.

All funds collected from seed analyses shall be deposited in the general fund.

11-12-118. Duty of district or county and prosecuting attorney to prosecute reported violations.

Any district or county and prosecuting attorney to whom the director of the department of agriculture reports any violation of this act shall cause appropriate proceedings to be commenced and prosecuted in the proper courts without delay.

11-12-119. Seed certification service; authority to make rules; fees; disposition thereof.

The seed certification service of the college of agriculture of the University of Wyoming may engage in the certification of varieties of seeds and propagating materials, and make such rules and regulations with respect to certification and varieties eligible for certification as necessary to insure the production of certified seed of high quality. The seed certification service may charge reasonable fees for conducting the certification program, and shall use the funds received to defray the cost of conducting the certification program.

11-12-120. False labeling of seeds; prohibited.

It is unlawful for any person to attach or cause to be attached to any container of seeds or propagating materials, for the purpose of certifying the contents, any label or tag describing the contents as certified seed or propagating material, except labels or tags which are issued by the seed certification service of the college of agriculture, University of Wyoming, for the purpose of certification.

11-12-121. False labeling of seeds; false labeling as prima facie evidence of violation.

Any label or tag prohibited by W.S. 11-12-120 found attached to any container of seed or propagating material is prima facie evidence of a violation of W.S. 11-12-120 by the person falsely labeling or tagging the container.

11-12-122. Quarantine.

(a) The board, in compliance with this act, may promulgate rules and regulations to establish a quarantine against movement of seed containing prohibited noxious weed seed and restricted noxious weed seed which exceeds the tolerance established and may enter into an agreement with law enforcement agencies to carry out the quarantine provisions.

(b) Repealed By Laws 2007, Ch. 8, 4.

(c) Repealed By Laws 2007, Ch. 8, 4.

(d) All seed shipments through the state shall be covered in a prescribed manner so as not to allow the dissemination of noxious weed seed.

11-12-123. Seed laboratory advisory group created; composition; appointment; officers; vacancy; meetings; quorum.

(a) There is created a seed laboratory advisory group which shall be comprised of the following:

(i) Voting members shall be:

(A) One (1) member of the board, appointed by the chairman of the board;

(B) One (1) member representing organizations whose primary goal is improved seed production, appointed by the board;

(C) Two (2) members representing the Wyoming seed industry, appointed by the board;

(D) Two (2) members who are certified or contract seed growers, appointed by the board;

(E) One (1) member who is a person interested in seed quality, appointed by the board.

(ii) Nonvoting members shall be:

(A) The director of the Wyoming department of agriculture or his designee;

(B) The University of Wyoming experiment station director;

(C) The head of the University of Wyoming college of agriculture plant science department or his designee;

(D) The Wyoming seed certification service manager, who shall serve as the seed laboratory advisory group secretary;

(E) The state seed analyst.

(b) All voting members shall serve terms of three (3) years. A member may serve for more than one (1) term.

(c) The chairman and the vice-chairman shall serve terms of two (2) years with the vice-chairman succeeding the chairman. The chairman and vice-chairman shall be elected by a majority of the voting members at the annual meeting. In the event that the chairman is not able to complete his term, the vice-chairman shall complete that term in addition to serving the succeeding term. In the event the vice-chairman is unable to complete his term, an election of a new chairman and vice-chairman shall take place at the next annual meeting.

(d) In the event of a vacancy on the seed laboratory advisory group, the board shall appoint a new member to complete the term of the vacating member.

(e) One (1) regular meeting shall be held annually in conjunction with a Wyoming crop improvement industry meeting, as called by the chairman or as called by a majority of the voting members.

(f) A majority of the voting members shall constitute a quorum.

11-12-124. Seed laboratory advisory group duties.

(a) The seed laboratory advisory group shall:

(i) Maintain a policy of operation manual, which shall be reviewed by seed laboratory advisory group members at the annual meeting, and shall contain the policies and operational procedures of the seed laboratory advisory group;

(ii) Serve in an advisory role to aid the state seed analyst, the University of Wyoming, the Wyoming department of agriculture and the board in the management of the seed laboratory;

(iii) Annually review the price list for seed testing and services provided by the laboratory;

(iv) Recommend to the board as necessary, any changes to the price list or other fees of the laboratory;

(v) Review the annual seed laboratory report;

(vi) Recommend to the board as necessary, any major capital purchases needed by the laboratory;

(vii) Recommend to the board as necessary, the use of new technologies or other seed testing needs as they occur;

(viii) Provide support as necessary to seed laboratory customers;

Wyoming and the region more effectively.

11-12-125. Penalties; director authorized to investigate and file complaint.

(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), or imprisoned for not more than six (6) months, or both for each offense. Each day shall constitute a separate violation.

(b) The director is authorized to investigate alleged violations and to file a complaint with the proper district or county and prosecuting attorney for the prosecution of violations.

(c) Any person found guilty of violating any provision of W.S. 11-12-101 through 11-12-124, shall reimburse the state for the cost of any control actions, treatments, quarantine, confiscation, destruction or removal of any seed from the state resulting from the violation. Amounts collected under this subsection shall be paid to the department of agriculture technical services division account.

CHAPTER 51 REGULATIONS PERTAINING TO SEED LAW

Section 1. Authority. Pursuant to authority vested in the Department of Agriculture by W.S. 11-12-104(a) and the Board of Agriculture by virtue of W.S. 11-12-113 and W.S. 16-3-101 through 16-3-115 the following regulations are hereby promulgated and adopted.

Section 2. Purpose of rules. These rules pertain to the establishment of the prohibited noxious, restricted noxious and regulated weed species in the state of Wyoming, and establishing a tolerance for those species. These rules also include seed cleaning establishment requirements, recognition of 7 CFR Section 201-Federal Seed Act Regulations and the repeal of Chapter 26, Regulations Pertaining to Seeds & Seed Cleaning Establishments and Chapter 56, Regulations Pertaining to the Pricing of Seed Analysis.

Section 3. Definitions.

- a) “Board” means the Board of Agriculture.
- b) “Department” means the Wyoming Department of Agriculture.
- c) “Large seeded crops” means crops with seeds the size of winter wheat or larger.
- d) “Prohibited” means none allowed.
- e) “Restricted” means there is an established allowable tolerance.
- f) “Regulated” means there is an established tolerance specific to the issue.
- g) “Seed Cleaning Establishments” means any entity that processes grain to be seed for establishing a crop.
- h) “Small seeded crops” means crops with seeds smaller than winter wheat.

Section 4. Prohibited noxious weeds.

Black henbane *Hyoscyamus niger* L.
Black knapweed *Centaurea nigra* L.
Bladder campion *Silene vulgaris* (Moench) Garcke
Camelthorn *Alhagi maurorum* Medik.
Canadian thistle (Cirsium arvense) *Cirsium arvense* (L.) Scop.
Common burdock (Arctium minus) *Arctium minus* (Hill) Bernh.
Common crupina *Crupina vulgaris* Cass.
Dalmation toadflax *Linaria dalmatica* (L.) Mill.
Diffuse knapweed *Centaurea diffusa* Lam.
Dodder *Cuscuta* species
Dyers woad *Isatis tinctoria* L.
Field bindweed *Convolvulus arvensis* L.
Field sandbur *Cenchrus incertus* M.A. Curtis

Halogeton *Halogeton glomeratus* (M. Bieb.) C.A. Mey
Hound's tongue *Cynoglossum officinale* L.
Jointed goatgrass *Aegilops cylindrica* Host
Leafy Spurge *Euphorbia esula* L.
Longspine (mat) sandbur *Cenchrus longispinus* (Hack.) Fernald
Meadow knapweed *Centaurea moncktonii* C.E. Britton
Medusa-head *Taeniatherum caput-medusae* (L.) Nevski
Musk thistle *Carduus nutans* L.
Orange hawkweed *Hieracium aurantiacum* L.
Oxeye daisy *Leucanthemum vulgare* Lam.
Perennial pepperweed *Lepidium latifolium* L.
Perennial sow thistle *Sonchus arvensis* L.
Plumeless thistle *Carduus acanthoides* L.
Poison-hemlock *Conium maculatum* L.
Puncturevine *Tribulus terrestris* L.
Purple loosestrife *Lythrum salicaria* L. and *Lythrum virgatum* L.
Purple starthistle *Centaurea calcitrapa* L.
Quackgrass *Elytrigia repens* (L.) Desv. ex Nevski
Rush skeletonweed *Chondrilla juncea* L.
Russian knapweed *Acroptilon repens* (L.) DC.
Russian olive *Elaeagnus angustifolia* L.
Salt-cedar *Tamarix* spp.
Scotch thistle *Onopordum acanthium* L.
Serrated tussock *Nassella trichotoma* (Nees) Hack. ex Arechav.
Skeleton-leaf bursage *Ambrosia tomentosa* Nutt.
Spotted knapweed *Centaurea stoebe* L. *subsp. micranthos* (Gugler) Hayek
Squarrose knapweed *Centaurea virgata* Lam. *subsp. squarrosa* (Boiss.) Gugler
St. Johnswort *Hypericum* spp.
Swainson-pea *Sphaerophysa salsula* (Pall.) DC.
Tansy *Tanacetum vulgare* L.
Tansy ragwort *Jacobaea vulgaris* Gaertn.
Vipers bugloss *Echium vulgare* and *Echium plantagineum* L.
Whitetop *Lepidium draba* L. *ssp. draba*
Wild proso millet *Panicum miliaceum* L. *ssp. ruderale* (Kitag.) Tzvelev
Yellow starthistle *Centaurea solstitialis* L.
Yellow toadflax *Linaria vulgaris* Mill.

Section 5. Restricted Noxious Weeds. The tolerance for restricted noxious weeds, unless otherwise stated, shall be fifty (50) seeds per pound in small seeded crops and five (5) seeds per pound in large seeded crops.

Blue Lettuce *Lactuca tatarica* (L.) C.A. Mey *subsp. pulchella* (Pursh)
Buckhorn plaintain *Plantago lanceolata* L.
Curly dock *Rumex crispus* L.
Japanese knotweed *Polygonum cuspidatum* Siebold and Zucc.

Perennial ragweed *Ambrosia psilostachya* DC.
Povertyweed *Iva axillaris* Pursh
Sulphur cinquefoil *Potentilla recta* L.
Venice mallow *Hibiscus trionum* L.
Wild licorice *Glycyrrhiza lepidota* (Nutt.) Pursh
Wild mustard *Synapsis arvensis* L. *ssp arvensis*
Wild oat *Avena fatua* L.

Section 6. Regulated weeds. The tolerance for regulated weeds is specified for each species as shown below. These species are not considered to be prohibited or restricted noxious weeds.

Cheat *Bromus secalinus* L. – Tolerance shall be 1,200 seeds per pound.
Downy brome *Bromus tectorum* L. – Tolerance shall be 1,200 seeds per pound.
Feral rye *Secale cereale* L. - Tolerance shall be none (0) in small grains other than rye.
Japanese brome *Bromus japonicus* Thunb. - Tolerance shall be 1,200 seeds per pound.
Ripgut brome *Bromus rigidus* Roth – Tolerance shall be 1,200 seeds per pound.

Section 7. Amendments and changes to Prohibited, Restricted and Regulated weed lists and considerations for such actions.

- a) The procedures for amending or changing the Prohibited, Restricted and Regulated weed lists are as follows:
- i) A person may propose an amendment or change to the lists, which shall be presented in writing to the State Seed Analyst.
 - ii) The State Seed Analyst shall present the proposed amendment or change to the Seed Lab Advisory Group. The State Seed Analyst with the Seed Lab Advisory Group shall approve or disapprove the proposed amendment or change by motion at the next regular scheduled meeting of the Seed Lab Advisory Group or at a special Seed Lab Advisory Group meeting, and if approved, shall forward the recommendation for change to the Department and the Board.
 - iii) The Board shall consider the recommended change at its next scheduled meeting, and if approved, recommend the Department institute the process to change the regulations.
 - iv) The following may be considered in the decision to include a weed on the Prohibited, Restricted or Regulated weed lists.
 - v) Invasiveness
 - vi) Economic harm to ranching, farming or general public
 - vii) Impact on native species, including plants and wildlife
 - viii) Poisonous to grazers
 - ix) Other relevant factors.

Section 8. Seed Cleaning Establishments.

- a) To be licensed as a certified seed cleaner, seed cleaning establishments must meet the requirements set forth below.

i) The approval status of all certified conditioners will be reviewed annually by the Wyoming Seed Certification Service. All approved plants are subject to inspection during normal business hours.

ii) A certified conditioner must have a designated person in charge of each facility and handling of certified seed. The designated person must be trained and have experience in handling, sampling and labeling of certified seed.

iii) All seed conditioning plants, including all seed handling equipment, will be thoroughly cleaned between each seed lot to prevent contamination or varietal mixture.

iv) All seed cleaning establishments must keep complete and accurate records showing identity, origin, every process, and every movement of each lot of seed from the time of receipt until delivery. These records must be maintained for 7 (seven) years.

v) Federal and state seed laws and Wyoming certification standards must be complied with in the production, cleaning, labeling, sampling, shipment and sale of certified seed.

vi) All seed conditioners will properly contain weed seed to prevent spread and proliferation of weeds.

vii) One-Time Cleaning--If no approved seed conditioning plant is located within one-hundred fifty miles (150 miles) hauling distance of a seed grower, a non-approved plant may be approved on a one-time basis only to clean that lot of seed for that particular grower. A thorough inspection must be conducted by the Seed Certification Service and inspection fee paid before that lot of seed may be cleaned.

viii) Conditioners must comply with all appropriate regulations and standards outlined in the Wyoming Certified Seed Handbook with respect to conditioning specific crops. The Wyoming Certified Seed Handbook as revised in February 2007 is adopted, but does not include any later amendments or editions. Copies are available for public inspection and may be purchased at cost from the Wyoming Seed Certification Service, 747 Road 9, Powell, Wyoming 82435; or the Wyoming Department of Agriculture, 2219 Carey Avenue, Cheyenne, WY 82002.

b) All seed cleaning establishments shall adhere to the Wyoming seed law and these regulations.

Section 9. Adoption of Federal Seed Act Regulations, 7 CFR 201.38 through 201.76.

The Federal Seed Act Regulations , 7 CFR 201.38 through 201.76 currently in effect and not including any later amendments or editions are adopted. Copies are available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture, 2219 Carey Avenue, Cheyenne, WY 82002 and may also be inspected at the United States Department of Agriculture, Animal Plant Health Inspection Service, Plant Protection and Quarantine, 5353 Yellowstone Road, Suite 208, Cheyenne, WY 82002; the Wyoming Seed Certification Service or the University of Wyoming Agriculture Experiment Station, both located at 747 Road 9, Powell, WY 82345.

Section 10. Repeal of Chapter 26 and 56 Pertaining to The Seed Law. Chapter 26, Regulations Pertaining To Seeds & Seed Cleaning Establishments and Chapter 56, Regulations Pertaining to the Pricing of Seed Analysis are hereby repealed.

Statutes:

Commercial Feed

Regulations:

None

COMMERCIAL FEED

11-13-101. Short title.

This act may be cited as the "Wyoming Commercial Feed Law."

11-13-102. Definitions; exemptions.

(a) As used in this act:

(i) "Association of America Feed Control Officials (AAFCO)" means officials of any state, dominion, federal or other governmental agency in North America, and employees thereof charged with the responsibility of enforcing laws regulating the production, labeling, distribution or sale of animal feeds;

(ii) "Association of Official Analytical Chemists (AOAC)" means government and industry officials charged with developing analytical methods and the collaborative testing of those methods, validating data and accepting or rejecting those methods for use;

(iii) "Brand name" means any word, name, symbol, device or any combination thereof identifying the commercial feed of a distributor or registrant and distinguishing it from that of others;

(iv) "Commercial feed" means all liquid or solid materials or combination of materials, including custom formula feed, medicated feed and mineral feed, which are distributed or intended for distribution for use as feed or for mixing in feed for animals other than man except the following:

(A) Unmixed seed, whole or processed, made directly from the entire seed, or unmixed or unprocessed whole seeds;

(B) Raw meat, hay, straw, stover, silage, cobs, husks, hulls and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed with other materials, and are not adulterated within the meaning of W.S. 11-13-106(c)(ii).

(v) "Contract feeder" means a person who as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby the commercial feed is supplied, furnished or otherwise provided to the person and whereby the person's remuneration is determined all or in part by feed consumption, mortality, profits or amount or quality of product;

(vi) "Custom formula feed" means commercial feed which consists of a mixture of commercial feeds or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser;

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

(viii) "Director" means the director of the department of agriculture;

(ix) "Distribute" means to offer for sale, sell, exchange or barter commercial feed or to supply, furnish or otherwise provide commercial feed;

(x) "Distributor" means any person who distributes;

(xi) "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body;

(xii) "Feed" means commercial feed, pet food and specialty pet food;

(xiii) "Feed ingredient" means each of the constituent materials making up a commercial feed;

(xiv) "Label" means a display of written, printed or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed or custom formula feed is distributed;

(xv) "Labeling" means all labels and other written, printed or graphic matter upon a commercial feed, any of its containers or wrappers, or accompanying such commercial feed;

(xvi) "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution;

(xvii) "Medicated feed" means any commercial feed which contains drug ingredients intended for the cure, mitigation, treatment or prevention of diseases of animals, or which contains drug ingredients intended to affect the structure or any function of the body of animals;

(xviii) "Mineral feed or mixture" means a commercial feed designed or intended to supply primarily mineral elements or inorganic nutrients;

(xix) "Official sample" means any sample of feed taken by and designated as official by the director or his agent;

(xx) "Percent" or "percentage" means percentage by weight;

(xxi) "Pet" means any domesticated animal normally maintained in or near the household of the owner thereof;

(xxii) "Pet food" means any commercial feed prepared and distributed for consumption by pets;

(xxiii) "Product name" means the name of the commercial feed which identifies it as to kind, class or specific use;

(xxiv) "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles;

(xxv) "Specialty pet food" means any commercial feed prepared and distributed for consumption by a specialty pet;

(xxvi) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois;

(xxvii) "This act" means W.S. 11-13-101 through 11-13-110.

(b) The names and definitions for commercial feeds shall be the official definition of feed ingredients adopted by the Association of American Feed Control Officials (AAFCO) and the director, except as he designates otherwise in specific cases, or as specified in this section.

(c) The terms used in reference to commercial feeds shall be the official feed terms adopted by the Association of American Feed Control Officials and the director, except as he designates otherwise in specific cases or as specified in this section.

(d) Individual chemical compounds and substances are hereby declared exempt from the definition of "commercial feed" under the provisions of this act. The director may exempt a product from the provisions of this act if he finds that the product meets the following criteria:

(i) There is an adopted Association of American Feed Control Officials definition for the product;

(ii) The product is either generally recognized as safe or is not covered by a specific food and drug administration regulation;

(iii) The product is either a natural occurring product of relatively uniform chemical composition or is manufactured to meet the Association of American Feed Control Officials definition of the product;

(iv) The use of the product in the feed industry constitutes a minor portion of its total industrial use;

(v) Small quantities of additives, which are intended to impart special desirable characteristics shall be permitted; and

(vi) There is no need or problem of control of this product.

(e) Nothing in this act shall apply to any contract feeder as defined by this act.

11-13-103. Labels.

(a) Every lot, package or parcel of commercial feed sold, offered for sale or distributed within this state shall have a tag or label affixed in a conspicuous place on the outside, containing a legible printed statement clearly and truly certifying:

(i) The product name and the brand name, if any, under which the commercial feed is distributed;

(ii) A purpose statement which shall contain the specific species and animal class for which the feed is intended. The manufacturer shall have flexibility in describing in more specific common language the defined animal class, specie and purpose while being consistent with the category of animal class, which may include but not be limited to the weight range, sex or ages of the animals for which the feed is manufactured. The purpose statement may be excluded from the label if the product name includes a description of the species and animal class for which the product is intended;

(iii) The guaranteed analysis stated in such terms that will advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods. The guaranteed analysis shall contain the following information:

(A) The minimum percent of crude protein;

(B) The percent of added approved synthetic nitrogen sources reported as protein, for ruminant feeding only;

(C) The minimum percent of crude fat;

(D) The maximum percent of crude fiber;

(E) The vitamin content as listed;

(F) The month and year of preparation or lot number, all legibly printed;

(G) The maximum percent of water in the case of liquid commercial feeds;

and

(H) Other substances or elements, determinable by laboratory methods, guaranteed by permission of the director.

(iv) The common or usual name of each ingredient used in the manufacture of commercial feed. The name of each ingredient shall be defined in the official publication of the Association of American Feed Control Officials, common or usual name, or one (1) approved by the director. The use of a collective term for a group of ingredients which perform a similar function shall be permitted. Collective terms for grouping of feed ingredients as defined in the

official definitions of feed ingredients published in the official publication of the Association of American Feed Control Officials in lieu of the individual ingredients may be used provided that:

(A) When a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label; and

(B) The manufacturer shall provide the department, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into this state.

(v) Directions for use and any warning or precaution statements;

(vi) The name and principal address of the manufacturer or person responsible for distributing the commercial feed;

(vii) The net weight of the contents of the package, lot or parcel stated in the required avoirdupois;

(viii) For medicated feeds:

(A) The word "medicated" shall appear directly below the product name;

(B) The guaranteed analysis of the drug or medication used, expressed in terms respective to the type of drug or medication used; and

(C) A claim statement shall be included in the labeling.

(b) A custom formula feed shall be accompanied by a label, invoice, delivery slip or other shipping document and be supplied to the purchaser at the time of delivery bearing the following information:

(i) Name and address of the manufacturer;

(ii) Name and address of the purchaser;

(iii) Date of sale or delivery;

(iv) The custom formula feed name, product name and brand name, if any, and number of pounds of each registered commercial feed used in the mixture and the name and number of pounds of each other feed ingredient added;

(v) The net weight of the contents of the package, lot or parcel, stated in the required avoirdupois; and

(vi) The directions for use and any precautionary statements for all custom formula feeds containing drugs and for such other feeds as necessary for their safe and effective

use. Any custom formula feeds containing drugs or medications shall also be provided as outlined in subsection (a) of this section with a claim statement and the guaranteed analysis of the drug or medication used, expressed in terms respective to the type of drug or medication used. Should any custom formula feed be distributed to any other person than the final purchaser for whom the feed was made, it shall be considered a commercial feed and shall meet all labeling and registration requirements of a commercial feed as outlined in this act.

(c) Every lot, package or parcel of mineral mixtures sold, offered for sale or distributed as commercial feed within this state shall have a tag or label affixed in a conspicuous place on the outside containing a legible printed statement truly certifying:

(i) The net weight of the contents of the package, lot or parcel stated in the required avoirdupois;

(ii) The product name and brand name, if any, under which the mineral mixture is distributed;

(iii) The name and principal mailing address of the manufacturer or person responsible for distributing the mineral mixture;

(iv) The minimum and maximum percent of calcium (Ca) subject to the following limitations:

(A) The maximum percent of calcium shall not exceed by more than twenty percent (20%) the minimum percent of calcium unless the minimum percent of calcium is five percent (5%) or less, in which case the maximum percent of calcium may exceed the minimum by one percent (1%) of calcium; and

(B) Where limestone is used as a source of calcium in livestock minerals sold in Wyoming, no limestone shall be used which contains less than ninety percent (90%) of calcium carbonate (CaCO₃).

(v) The minimum percent of phosphorus (P);

(vi) The minimum percent of iodine (I);

(vii) The maximum percent of sodium chloride (NaCl);

(viii) The specific generic name of each ingredient used in its manufacture.

(d) The crude protein, crude fat, crude fiber, vitamins and minerals shall be determined by the methods in force at the time by the Association of Official Analytical Chemists.

11-13-104. Powers and duties of director generally.

(a) The director shall enforce the provisions of this chapter and may prescribe the form of tags, stamps or labels to be used to show that the registration has been properly filed. The director may prescribe and enforce rules and regulations relating to the sale of commercial feed he deems necessary and may adopt such standards and definitions to carry into effect the full intent and meaning of the law.

(b) The director may refuse to register any commercial feed under a name, brand or trademark which would tend to mislead or deceive as to the materials of which it is composed, or when the specific name of each ingredient used in its manufacture is not stated except for those feeds that utilize collective terms in the labeling. He may refuse registration of any application not in compliance with the law and may cancel any registration subsequently found not to be in compliance with the law. No registration shall be refused or cancelled until the registrant has been given opportunity to be heard before the director and to amend his application in order to bring it into compliance.

(c) An applicant may appeal the refusal to register a product in accordance with the Wyoming Administrative Procedure Act.

11-13-105. Registration; fees; disposition thereof.

(a) Each commercial feed except custom formula feeds shall be registered before being distributed in this state. The application for registration shall be submitted on forms furnished by the director, and if the director requests, shall also be accompanied by a label or other printed matter describing the product. Upon approval by the director or his agent, a copy of the registration shall be furnished to the applicant. All registrations are effective from the date of approval and expire on December 31 each year. The director may permit on the registration the alternative listing of ingredients of comparable feed value, but the label for each package shall state the specific ingredients in the package except for those feeds which utilize collective terms in the labeling.

(b) A distributor is not required to register any brand of commercial feed which is already registered under this act by another person.

(c) Changes in the chemical or ingredient composition of a registered commercial feed may be permitted if there is satisfactory evidence that such changes do not result in lowering the feed value of the product for the purpose for which designed.

(d) Each application for registration shall be accompanied with a twenty dollar (\$20.00) registration fee per mixture or formula. The registration fee shall be deposited in the state general fund.

11-13-106. Right of access to establishments and information relating to manufacturing; sampling and analysis.

(a) The director or his agent shall have access during normal business hours to establishments or facilities in which commercial feed is manufactured, transported or held for distribution, and to information relating to manufacture, transportation or distribution of the feed for purposes of sampling and inspection.

(b) The methods of sampling and analysis shall be those adopted by the director from the Association of Official Analytical Chemists. In cases not covered by such methods, or in cases where methods are available in which improved applicability has been demonstrated, the director may adopt such appropriate methods from other sources. The director, in determining whether a commercial feed is deficient in any component, shall be guided solely by the official sample analyzed in accordance with the methods so adopted. A deficiency in an official sample of commercial feed resulting from nonuniformity during packaging is deemed to be a deficiency for the purposes of this act. For purposes of this act, the results of official analysis shall be final, unless it is determined by the director that a resample is warranted. If a distributor or registrant requests a resample of a commercial feed based upon the director's findings of a deficiency, all costs associated with the resampling and analysis shall be borne by the distributor or registrant. If the results of the resampling establish the result of the first analysis was invalid, the department shall bear the costs associated with the resampling. Any requests for a resample to the director shall be made in writing.

(c) When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the director to the distributor and the purchaser. The following shall apply:

(i) A commercial feed shall be deemed to be misbranded if:

(A) Its labeling is false or misleading in any particular;

(B) It is distributed under the name of another commercial feed;

(C) It is not labeled as required in W.S. 11-13-103;

(D) It purports to be or is represented as a commercial feed or if it purports to contain or is represented as containing a commercial feed unless such feed conforms to the definition outlined by the official publication of the Association of American Feed Control Officials, except as the director designates otherwise in specific cases;

(E) Any word, statement or other information required by or under the authority of this act does not appear conspicuously on the label, and in such terms that the ordinary person under customary conditions of purchase and use would not understand;

(F) The commercial feed is short weight. All provisions for enforcement of items found to be short weight shall be administered by the department under W.S. 40-10-117 through 40-10-136 of the Wyoming weights and measures law.

(ii) A commercial feed shall be deemed to be adulterated if:

(A) It bears or contains any poisonous or deleterious substance which may render it injurious to health, but in case the substance is not an added substance, such commercial feeds shall not be considered adulterated under this subsection if the quantity of such substance does not ordinarily render it injurious to health;

(B) It contains an unapproved food and drug administration drug, medication or animal remedy;

(C) Any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor;

(D) It contains any prohibited noxious weed seeds or exceeds the tolerance established on restricted noxious weed seeds pursuant to W.S. 11-12-104 or exceeds two percent (2%) of viable common weed seeds by weight.

11-13-107. Warning to distributor; seizure and order of disposition; application for release.

(a) When the director or his authorized agents find that an article is unregistered, mislabeled or misbranded, adulterated or that it does not conform to its label guarantee, he may issue a written statement warning the distributor that the article is considered to be in violation of the law. This statement is a warning only, to the distributor that if the article is distributed further the director may bring proceedings. If the distributor or manufacturer heeds the warning and corrects the violation within the time allowed by the director, no further action will be taken.

(b) Any lot of commercial feed not in compliance with requirements of law and regulations is subject to seizure on complaint of the director to a court of competent jurisdiction in the area in which the commercial feed is located. If the court finds the commercial feed in violation and orders the condemnation of the feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state. In no instance shall the disposition of the commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the feed or for permission to process or relabel the feed to bring it into compliance with the law.

11-13-108. Prohibited acts; penalty; additional sanctions.

(a) It is unlawful for any person to:

(i) Sell or distribute in this state any commercial feed without having attached or furnished such stamps, labels or tags as required by law;

(ii) Impede, prevent or attempt to prevent the director or his agent in the performance of his lawful duties;

(iii) Sell, offer for sale or distribute in this state any commercial feed without complying with the requirements of law;

(iv) Sell or distribute in this state any commercial feed which contains a smaller percentage of crude protein or crude fat or a larger percentage of crude fiber than is certified to be contained therein;

(v) Fail to properly state the specific name of each ingredient used in its manufacture except for those feeds which utilize collective terms in the labeling; or

(vi) Sell or distribute in this state any commercial feed which has not been registered with the department as required by this act.

(b) Any person who violates any of the provisions of this section shall be fined not more than one hundred dollars (\$100.00) for the first violation and not less than one hundred dollars (\$100.00) for each subsequent violation.

(c) In addition to the penalty provided in subsection (b) of this section, the distribution of any commercial feed mixed or adulterated with any substance injurious to livestock or pets is subject to seizure, condemnation and sale as the court may direct, the proceeds from such sale to be deposited in the state general fund. The court may in its discretion release the feed seized when the requirements of law have been complied with, and upon payment of all costs and expenses incurred by the state in any proceedings connected with the seizure.

11-13-109. Promulgation of rules and regulations.

The director is authorized to promulgate such rules and regulations for commercial feeds as may be necessary for the efficient enforcement of this act. Procedures for promulgation shall be those outlined in the Wyoming Administrative Procedure Act.

11-13-110. Cooperation with other entities.

The director may cooperate with and enter into agreements with governmental agencies of this state, other states and agencies of the federal government in order to carry out the purpose and provisions of this act.

Statutes:

Fertilizer

Regulations:

None

FERTILIZER

11-14-101. Short title.

This act shall be known as the "Wyoming Fertilizer Law of 2009."

11-14-102. Administration of provisions.

This act shall be administered by the state department of agriculture, hereinafter referred to as the department.

11-14-103. Definitions.

(a) As used in this act:

(i) "Brand" means a term, design or trademark used in connection with one (1) or several grades of commercial fertilizer;

(ii) "Bulk fertilizer" means a commercial fertilizer distributed in a nonpackaged form;

(iii) "Commercial fertilizer" means any substance containing one (1) or more recognized plant nutrients used for its nutrient content and designed for use or claimed to have value in promoting plant growth;

(iv) "Deficient" means the amount of nutrient found by analysis less than that guaranteed which may result from a lack of nutrient ingredients or from lack of uniformity;

(v) "Department" means the Wyoming department of agriculture;

(vi) "Director" means the director of the department of agriculture;

(vii) "Distributor" means any person who imports, consigns, distributes, manufactures, produces, compounds, formulates, mixes, blends or applies commercial fertilizer, soil conditioner or soil amendment or who offers for sale, sells, barter or otherwise supplies commercial fertilizers, soil amendments or soil conditioners in this state. The distributor may also be the registrant;

(viii) "Grade" means the percentage of total nitrogen, available phosphorus or phosphate, and soluble potassium or soluble potash stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis, and fertilizer materials, bone meal, manures and similar raw materials which may be guaranteed in fractional units;

(ix) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

(A) Total nitrogen (N)----- percent

Available phosphate (P₂O₅)----- percent

Soluble potash (K₂O)----- percent;

(B) For unacidulated mineral phosphatic materials and basic slag, both total and available phosphate and the degree of fineness, and for bone, tankage and other organic phosphatic materials, total phosphate;

(C) Additional plant nutrients when mentioned or claimed on the label, container or advertising material, shall be registered and guaranteed, and guarantees shall be made on the percentage elemental basis with sources of the elements shown. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accord with the methods and regulations prescribed by the department;

(D) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of one hundred (100) pounds per ton.

(x) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of fertilizer, soil conditioner or soil amendment;

(xi) "Label" means the display of all written, printed or graphic matter upon the container or statement accompanying a commercial fertilizer, soil amendment or soil conditioner;

(xii) "Labeling" means all written, printed or graphic matter upon or accompanying any commercial fertilizer, or advertisements, brochures, posters and television or radio announcements used in promoting the sale of commercial fertilizers, soil amendments or soil conditioners;

(xiii) "Mixed fertilizer" means a commercial fertilizer containing any combination or mixture of fertilizer materials;

(xiv) "Official sample" means any sample of fertilizer, soil conditioner or soil amendment taken by the director;

(xv) "Percent" or "percentage" means the percentage by weight;

(xvi) "Person" means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not;

(xvii) "Primary nutrient" means the plant nutrients nitrogen (N), available phosphate (P₂O₅) or soluble potash (K₂O);

(xviii) "Registrant" means the person who registers commercial fertilizers, soil amendments or soil conditioners under the provisions of this act. The registrant may also be the distributor;

(xix) "Sell" or "sale" means exchange of ownership or transfer of custody;

(xx) "Soil amendment" or "soil conditioner" means any material which improves the physical or chemical soil characteristics and is manufactured and sold for such purposes but which is not added for its plant food content;

(xxi) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries;

(xxii) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois;

(xxiii) "Organic fertilizer" means a material containing carbon and one (1) or more elements other than hydrogen and oxygen essential for plant growth, and allowed for use under the Organic Foods Production Act of 1990, as promulgated by the United States department of agriculture "National List of Allowed and Prohibited Substances" rule;

(xxiv) "Secondary or micro plant nutrients" means nutrients other than the primary nutrients that are essential for the normal growth of plants and that may need to be added to the growth medium. Secondary plant nutrients shall include calcium, magnesium and sulfur. Micro plant nutrients shall include boron, chlorine, cobalt, copper, iron, manganese, molybdenum, nickel, sodium and zinc;

(xxv) "This act" means W.S. 11-14-101 through 11-14-118.

11-14-104. Registration of fertilizer, soil conditioner and soil amendments; applications; fees; disposition thereof; exceptions.

(a) Each brand and grade of commercial fertilizer shall be registered with the department before being distributed in this state. The application for registration shall be submitted on forms furnished by the department and shall include the following information:

(i) The brand and grade;

(ii) The guaranteed analysis;

(iii) The name and address of the registrant or the distributor;

(iv) The sources from which the nitrogen, phosphorus or phosphate and potassium are derived;

(v) Additional plant nutrients, when claimed, the percentage guaranteed and the sources, provided, the minimum percentages which will be accepted for registration are those recognized by the Association of American Plant Food Control Officials.

(b) Each soil conditioner and soil amendment shall be registered with the department before being distributed in this state. The application for registration shall be submitted on forms furnished by the department and shall include the following information:

(i) The brand;

(ii) Guaranteed analysis on label;

(iii) The name and address of the registrant or the distributor.

(c) A registration fee of seventy-five dollars (\$75.00) shall accompany each separate formula of brand and grade of fertilizer, soil conditioner or soil amendment to be registered. The registration expires on December 31 next following the date of application and shall be renewed annually. All registration fees collected shall be deposited in the state general fund and may be appropriated by the legislature for programs authorized by W.S. 11-2-202(a)(v), 11-14-101 through 11-14-116 and 11-16-105(a)(v).

(d) A distributor or registrant is not required to register any commercial fertilizer, specialty fertilizer, soil conditioner or soil amendment which is already registered under this act by another person if the label does not differ in any respect.

(e) A distributor or registrant is not required to register each grade of commercial fertilizer, soil conditioner or soil amendment formulated according to specifications furnished by a consumer prior to preparation.

11-14-105. Label requirements.

(a) Any commercial fertilizer, soil amendment or soil conditioner distributed in this state in containers shall have affixed to the container a label setting forth in clearly legible and conspicuous form the information required by W.S. 11-14-104(a) and (b), the month and year of preparation or lot number, and shall show the net weight stated in both metric units and avoirdupois. In case of bulk shipments, this information in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery.

(b) A commercial fertilizer, soil conditioner or soil amendment formulated according to specifications furnished by a consumer prior to mixing shall be labeled to show the net weight stated in both metric units and avoirdupois, guaranteed analysis and the name and address of the registrant or the distributor.

11-14-106. Repealed by Laws 1993, ch. 147, 2.

11-14-107. Sampling of fertilizer, soil amendment or soil conditioner.

(a) The director or his designee shall sample, inspect, make analyses of and test commercial fertilizers, soil conditioners and soil amendments distributed within this state at any time and place and to the extent he deems necessary to determine whether they are in compliance with this act. The director or his designee may enter upon any premises or carriers during regular business hours to have access to commercial fertilizers, soil amendments or soil conditioners subject to the provisions of this act and to the records relating to their distribution.

(b) The methods of sampling analysis shall be those adopted by the Association of Official Analytical Chemists (AOAC). In cases not covered by such methods, or in cases where methods are available in which improved applicability has been demonstrated, the department may adopt such appropriate methods from other sources.

(c) The department in determining whether any commercial fertilizer is deficient in plant food shall be guided solely by the official sample obtained and analyzed as provided for in subsection (b) of this section.

(d) Official samples establishing a penalty for nutrient deficiency shall be retained for a minimum of ninety (90) days from issuance of a deficiency report. A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.

(e) For purposes of this act, the results of official analysis shall be final, unless it is determined by the director that a resample is warranted. Should a distributor or registrant request a resample of a fertilizer based upon the director's findings of a deficiency, all costs associated with the resampling and analysis shall be borne by the distributor or registrant. If results of the resampling establish the results of first analysis were invalid, the department shall bear the costs associated with the resampling.

11-14-108. Reimbursement of purchaser of deficient fertilizer.

When a fertilizer is deficient in any element beyond recognized investigational allowances, the distributor or registrant must reimburse the purchaser of the fertilizer an amount equal to double the current market value of the fertilizer as determined by the state chemical and bacteriological laboratory.

11-14-109. Misbranded or adulterated fertilizer, soil conditioner or soil amendment; distribution of unregistered fertilizer.

(a) No person shall distribute misbranded fertilizer, soil conditioners or soil amendments. A commercial fertilizer, soil conditioner or soil amendment is misbranded if:

(i) Its labeling is false or misleading in any particular way, including being labeled organic fertilizer, when its use is not allowed pursuant to the United States department of agriculture "National List of Allowed and Prohibited Substances" rule;

(ii) It is distributed under the name of another fertilizer, soil conditioner or soil amendment;

(iii) It is not labeled as required in W.S. 11-14-105 and in accordance with regulations prescribed under this act.

(b) No person shall distribute an adulterated fertilizer, soil conditioner or soil amendment. A commercial fertilizer, soil conditioner or soil amendment is adulterated if:

(i) It contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life are not shown upon the label;

(ii) Its composition falls below or differs from that which it is purported to possess by its labeling;

(iii) It contains unwanted crop seed or weed seed; or

(iv) A commercial fertilizer that contains guaranteed amounts of phosphates or micronutrients, contains metals in amounts greater than the levels of metals established by the following table:

Metal	ppm per 1% P ₂ O ₅	ppm per 1% micronutrients
Arsenic	13	112
Cadmium	10	83
Cobalt	3,100	23,000*
Lead	61	463
Mercury	1	6
Molybdenum	42	300*
Nickel	250	1,900
Selenium	26	180
Zinc	420	2,900*

(* only applies when not guaranteed)

The table shall be used according to the following three (3) situations:

(A) For fertilizers with a phosphate guarantee, but no micronutrient guarantee, multiply the percent guaranteed P₂O₅ in the product by the values in the table to obtain the maximum allowable concentration of each metal. The minimum value for P₂O₅ utilized as a multiplier shall be six (6.0);

(B) For fertilizers with one (1) or more micronutrient guarantee, but no phosphate guarantee, multiply the sum of the guaranteed percentages of all micronutrients in the

product by the value in the appropriate column in the table to obtain the maximum allowable concentration (in parts per million, or ppm) of each metal. The minimum value for micronutrients utilized as a multiplier shall be one (1);

(C) For fertilizers with both a phosphate and a micronutrient guarantee, multiply the guaranteed percent P₂O₅ by the value in the appropriate column. The minimum value for P₂O₅ utilized as a multiplier shall be one (1). Then, multiply the sum of the guaranteed percentages of the micronutrients by the value in the appropriate column. The minimum value for micronutrients utilized as a multiplier shall be one (1). Then, utilize the higher of the two (2) resulting values as the maximum allowable concentration (ppm) of each metal.

(c) No person shall distribute unregistered fertilizers, soil conditioners or soil amendments.

(d) No person shall distribute fertilizers, soil conditioners or soil amendments that are short weight. All provisions for enforcement of items found to be short weight shall be administered by the department under W.S. 40-10-117 through 40-10-136 of the weights and measures law.

(e) Any penalties resulting from violations of these heavy metal standards shall accrue to the registrant of the material that violates the heavy metal standard.

11-14-110. Repealed by Laws 1995, ch. 46, 3.

11-14-111. Rules and regulations.

The director may prescribe and enforce rules and regulations relating to investigational allowances, definitions, records and the distribution of commercial fertilizers, soil conditioners and soil amendments as necessary to carry out the provisions of this act.

11-14-112. Refusal, suspension or cancellation of registration; hold orders; release.

(a) A registration may be refused, suspended or cancelled for any formula of fertilizer, soil conditioner or soil amendment as herein provided, upon evidence that the product is misbranded or adulterated. A hold order may be issued to the owner or custodian of any lot of fertilizer, soil conditioner or soil amendment to stop sale, use or removal and to hold at a designated place when the director finds the product is being offered for sale in violation of this act, until the law has been complied with and the product is released in writing by the director or the violation has been otherwise legally disposed of by a court of competent jurisdiction.

(b) No person shall make any false or misleading representation with regard to any fertilizer, soil conditioner or soil amendment sold, offered or exposed for sale by the person in this state, either as principal or agent. No person shall use any false, misleading or deceptive brand or grade in connection therewith. The penalties provided by subsection (a) of this section shall apply to any violation of this subsection.

11-14-113. Seizure and disposition of fertilizer found to be in violation; right to application for release.

Any lot of commercial fertilizer, soil conditioner or soil amendment not in compliance with this act is subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which the commercial fertilizer, soil conditioner or soil amendment is located. If the court finds the commercial fertilizer, soil conditioner or soil amendment to be in violation of this act and orders the condemnation of the commercial fertilizer, soil conditioner or soil amendment, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the state, but in no instance shall the disposition of the commercial fertilizer, soil conditioner or soil amendment be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial fertilizer to bring it into compliance with this act.

11-14-114. Notice of violation; hearing; penalty; duty of district attorney; injunctions.

(a) If examination of any commercial fertilizer, soil conditioner or soil amendment indicates that this act or the rules and regulations issued thereunder have been violated, the director shall give notice of the violations and an opportunity for a hearing to the registrant or distributor. If it appears after the hearing that this act or rules and regulations issued thereunder have been violated, the director may certify the facts to the proper district attorney.

(b) Any person convicted of violating this act or the rules and regulations issued thereunder is guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) for each offense, or the director may apply to the district court for the purpose of preventing further violation.

(c) The director is not required to report for prosecution or for the institution of seizure proceedings minor violations when he believes that the public interests will be best served by a suitable notice of warning in writing.

(d) Each district attorney to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Violations of this act may be enjoined by proceedings brought by the district attorney of the proper county, or by the attorney general, regardless of whether criminal proceedings have been instituted, provided the director has entered a finding pursuant to this act.

(e) The director may apply for and the court may grant a temporary or permanent injunction, without bond, restraining any person from violating or continuing to violate this act or any rule or regulation promulgated under the act notwithstanding the existence of other remedies at law.

11-14-115. Action for damages to crops; evidence.

(a) Nothing in this act shall preclude the right of a purchaser to bring an action for any damages to crops, land or livestock by reason of misbranded, adulterated or deficient fertilizer, soil conditioner or soil amendment.

(b) The department shall, upon demand, make all results of samplings, inspections and laboratory analyses available to any purchaser of fertilizer, soil conditioner or soil amendment.

(c) In a civil action for damages against any distributor or manufacturer of any misbranded or deficient fertilizer, soil conditioner or soil amendment, all results of the department samplings, inspections or laboratory analyses shall be competent evidence before any court where such civil action is pending.

(d) The results of a criminal action for violation of this act is competent evidence in any civil action for misbranding or deficiency of any fertilizer, soil conditioner or soil amendment.

11-14-116. Sales between importers, manufacturers or manipulators excepted from provisions.

Nothing in this act shall restrict or avoid sales or exchanges of commercial fertilizers, soil conditioners or soil amendments to each other by importers, manufacturers or manipulators who mix fertilizer materials for sale, or prevent the free and unrestricted shipment of commercial fertilizers, soil conditioners or soil amendments to manufacturers or manipulators who have registered their brands as required by this act.

11-14-117. Cooperation with other entities.

The department may cooperate with and enter into agreement with governmental agencies of this state, other states, agencies of the federal government and any nongovernmental entity in order to carry out the purpose and provisions of this act.

11-14-118. Registration of ammonium nitrate.

2009 Wyoming Session Laws, Chapter 92, provides this section is effective on and after July 1, 2009 only upon certification of the governor to the secretary of state that the United States department of homeland security has published final federal rules under H.R. 2764, Subtitle J, Secure Handling of Ammonium Nitrate or its successor. As of the date of the publication of the 2009 Wyoming statutes no such certification had been made.

(a) Any person who possesses ammonium nitrate or regulated ammonium nitrate materials shall be registered with the department. The registration application shall be on a form approved by the director in consultation with and upon the recommendation of the director of the office of homeland security. The director shall charge an annual registration fee not to exceed fifty dollars (\$50.00). Nothing in this section shall require the registration of any person who produces, sells or purchases ammonium nitrate exclusively for use in the production of an explosive under a license or permit issued under chapter 40 of title 18, U.S.C.

(b) Ammonium nitrate and regulated ammonium nitrate materials shall be secured to provide reasonable protection against vandalism, theft or other unauthorized use. Reasonable protection may include, but not be limited to, ensuring that storage facilities are fenced and locked when unattended, and inspected daily for signs of attempted entry or vandalism to any storage facility.

The director in consultation with or upon the recommendation of the director of the office of homeland security, may recommend other security measures. The director shall work in consultation with or upon the recommendation of the director of the office of homeland security to provide information to ammonium nitrate users on appropriate security measures.

(c) A distributor shall record the date of sale and quantity sold, the valid state or federal driver's license number, the current physical address and telephone number for the purchaser of ammonium nitrate or regulated ammonium nitrate materials. If the purchaser obtains physical possession of ammonium nitrate or regulated ammonium nitrate material, the distributor shall obtain the registrant's registration number as a condition of completing the sale. A registrant, if not a distributor, shall record the date of application. All sale and application records shall be retained by each registrant for a period of not less than two (2) years.

(d) Registrants shall comply with all federal and state requirements regarding the dissemination of any information, providing the director and the director of the office of homeland security access to the records.

(e) For the purposes of this section:

(i) "Ammonium nitrate" means chiefly the ammonium salt of nitric acid. Ammonium nitrate shall not contain less than thirty-three percent (33%) nitrogen, one-half (1/2) of which is the ammonium form and one-half (1/2) of which is the nitrate form;

(ii) "Regulated ammonium nitrate materials" means regulated ammonium nitrate material fertilizer products which have been determined by the director in consultation with and upon the recommendation of the director of the office of homeland security to warrant regulation based on the potential explosive capacity of the fertilizer material determined by the ammonium nitrate content.

Statutes:

**Grading and Shipment of
Potatoes**

Regulations:

None

GRADING AND SHIPMENT OF POTATOES

11-15-101. Grades, classifications and standards.

In order to make the grading and classification of potatoes uniform throughout the United States, the director shall adopt by rule and grades, standards and classifications for potatoes lawfully established by the United States department of agriculture.

11-15-102. Definitions.

(a) As used in this act:

- (i) "Carlot" or "carload" means any railroad car, truck or trailer, regardless of size;
- (ii) "This act" means W.S. 11-15-101 through 11-15-112;
- (iii) "Director" means the director of the department of agriculture.

11-15-103. Sorting and grading.

Carlot shipments of potatoes originating in Wyoming shall be sorted and graded at point of origin upon request of a majority of the potato growers from the county making shipments from any shipping points within the county as designated by the director.

11-15-104. Director to appoint inspectors; term.

This act shall be enforced by qualified inspectors appointed by the director and licensed by the United States department of agriculture. They shall keep their licenses current and in good standing at all times when employed by the director. They shall serve at the pleasure of the director.

11-15-105. Conformity to applicable standards required; inspection; certificate, use thereof as evidence.

(a) No person shall pack, offer, consign or sell in carload lots any potatoes loaded within the state which do not conform to applicable standards, subject to such variations therefrom as provided by regulations adopted in accordance with this act, unless such potatoes are specifically described, or plainly marked, in accordance with regulations to indicate they are ungraded or unclassified.

(b) Whenever grades, standards or classification have been established for potatoes, it is unlawful for any shipper to ship carload lots of potatoes without being inspected by an authorized inspector. The inspector shall issue a certificate of inspection showing grade, standard or other classification. The certificate shall be issued in duplicate, one (1) copy shall be attached to bill of lading and one (1) copy shall be issued to the shipper.

(c) A certificate of the grade or other classification of potatoes, when not reversed or modified, shall be accepted in any court of this state as prima facie evidence of the true grade or classification of the potatoes at the time of grading or classification.

11-15-106. Reports of inspections required.

The director shall make reports to the United States department of agriculture on July 1 each year.

11-15-107. Director to promulgate regulations; board approval required.

Subject to approval of the board of agriculture, the director may promulgate regulations necessary to carry out the provisions of this act. The regulations shall conform as nearly as practicable to any act of congress or standards legally adopted by any federal agency relating to the marketing of farm products.

11-15-108. Director engaging in potato business prohibited.

The director is prohibited from engaging in the business of buying, selling or commission dealing in potatoes.

11-15-109. Inspection upon request of interested party; issuance of certificate; fees.

The director, upon request of any interested party, may furnish a licensed inspector to inspect any lot of potatoes within the state whether the potatoes originated in Wyoming or elsewhere, and may issue a federal or state certificate showing grade, quality and condition of such potatoes which will be receivable as prima facie evidence in any court in Wyoming. This provision includes storage, inspection and less than carload lots. For this inspection the department shall be paid by the party asking for inspection the fees established by the board of agriculture, not to exceed actual costs of inspection and all traveling expenses to and from the place of inspection.

11-15-110. Reinspection on request; cost.

Any interested party may demand a reinspection at point of origin if the grade established by the licensed inspector is not satisfactory. The reinspection may be made by an inspector authorized by the director or by an inspector of the United States department of agriculture. The reinspection shall be made at the expense of the party requesting the service.

11-15-111. Inspection fees; exception; when inspection not required; consent of director; certification of certain shipments.

A fee established by the board of agriculture not to exceed actual costs of inspection shall be paid on all shipments of potatoes inspected within the district except those designated for manufacturing purposes on which no fee shall be charged. With the consent of the director, potatoes for seed stock may be moved to storage within the state without inspection. When potatoes are shipped without inspection within the state the shipper shall not be provided with a

certificate. Other shipments of seed stock must conform to the requirements of grade no. 1 except with regard to size, and the certificate must contain a statement designating variety, trueness to type and percent defects with regard to disease and other blemishes.

11-15-112. Prohibited acts; penalties.

Whoever removes any inspection certificate before a car is entirely unloaded, or whoever except an authorized inspector alters any inspection certificate, or whoever without using reasonable diligence to secure inspection fails or neglects to have potatoes inspected before shipping, or whoever hinders, molests or attempts to influence any inspector in the performance of his duties, or whoever violates this act is guilty of a misdemeanor and shall be fined for each violation not exceeding five hundred dollars (\$500.00) and the costs of the prosecution, or shall be imprisoned not exceeding six (6) months, or both. Any inspector who fails or neglects to perform the duties imposed by this act shall suffer the penalty herein provided.

Statutes:

Animal Remedies

Regulations:

None

ANIMAL REMEDIES

11-17-201. Short title.

This article is known and may be cited as the "Wyoming Animal Remedies Act."

11-17-202. Definitions; exemptions.

(a) As used in this article:

(i) "Advertisement" means any representation, other than on the label, disseminated in any manner or by any means, relating to animal remedies as defined in this article;

(ii) "Animal" means any animate being, which is not human, endowed with the power of voluntary action;

(iii) "Animal remedy" means any drug, combination of drugs, proprietary medicine, biological product and combinations of drugs and other ingredients, other than for food or cosmetic purposes, which is prepared or compounded for animal use, except as exempted by the director;

(iv) "Antimicrobial resistance" means the result of microbes changing in ways that reduce or eliminate the effectiveness of drugs, chemicals or other agents intended to cure or prevent infections;

(v) "Brand name" means any word, name, symbol or device, or any combination thereof, identifying the animal remedy of a distributor or registrant and distinguishing it from that of others;

(vi) "Department" means the Wyoming department of agriculture;

(vii) "Director" means the director of the Wyoming department of agriculture;

(viii) "Distribute" means to offer for sale, sell, exchange or barter any animal remedy;

(ix) "Distributor" means any person who distributes animal remedies;

(x) "Dosage form" means an animal remedy prepared in tablets, pills, capsules, ampules, boluses or other units suitable for administration as an animal remedy;

(xi) "Drug" means an animal remedy:

(A) Recognized in the official United States pharmacopoeia, the official United States homeopathic pharmacopoeia, the official national formulary, or any supplement to any of these publications;

(B) Recognized by the United States food and drug administration;

(C) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals;

(D) Prepared for external or internal use in the mitigation of parasites in or on animals;

(E) Intended to affect the structure or any function of the body of animals;

(F) Intended for use as a component of any combined animal remedy specified in subparagraphs (A) through (E) of this paragraph.

(xii) "Drug" does not include a device or its components, parts or accessories;

(xiii) "Label" means a display of written, printed or graphic matter upon or affixed to the immediate container of any animal remedy;

(xiv) "Labeling" means any label and other written, printed or graphic matter upon an animal remedy and any of its containers or wrappers accompanying the animal remedy. "Labeling" also includes any advertisement or brochure promoting the animal remedy including but not limited to television, internet, other electronic medium or pamphlets;

(xv) "Medicated feed" means commercial or custom feed which contains drug ingredients intended for the cure, mitigation, treatment or prevention of diseases of animals or which contains drug ingredients intended to affect the structure or any function of the body of animals;

(xvi) "Official sample" means any sample of an animal remedy taken by and designated as official by the director or his agent;

(xvii) "Product name" means the name of the animal remedy which identifies it as to kind, class or specific use;

(xviii) "Registrant" means the person who registers animal remedies under the provisions of this article. The registrant may also be the distributor;

(xix) "This act" means W.S. 11-17-201 through 11-17-209.

(b) Nothing in this article shall apply to:

(i) A medicated feed;

(ii) A product registered with the department and recognized as a pesticide;

(iii) Any animal remedy intended solely for investigational, experimental or laboratory use by qualified persons, provided the animal remedy is plainly labeled "for investigational use only";

(iv) Any person licensed to practice veterinary medicine in Wyoming, when acting within the scope of that license.

11-17-203. Powers and duties of the director; promulgation of rules; interagency cooperation.

(a) The director shall enforce the provisions of this article and may prescribe the form of tags, stamps or labels to be used to show that the registration has been properly filed.

(b) The director may refuse to register any application not in compliance with this article and may cancel any registration subsequently found not to be in compliance with the law. No registration shall be refused or cancelled until the registrant has been given an opportunity to be heard before the director and to amend his application in order to bring the application into compliance.

(c) The director may sample any animal remedy as he deems necessary.

(d) The director shall conduct any investigation he deems necessary to enforce this article.

(e) The director may refuse the registration of any animal remedy if available facts indicate that the product proposed is of negligible or no value for correcting, alleviating or mitigating animal injuries or diseases for which it is intended, or the director may suspend or revoke any use for flagrant violation of this article.

(f) The director may determine whether a manufacturer or distributor shall be registered under the commercial feed or an animal remedy law.

(g) The director shall cause animal remedies, which are found or believed not to comply with this article to be withheld from sale pending compliance with this article.

(h) Whenever the director or his authorized agent finds or has reasonable cause to believe an animal remedy is adulterated or misbranded under any provision of W.S. 11-17-207(d), he shall affix to the animal remedy a tag or other appropriate marking, giving notice that the animal remedy is, or is suspected of being, adulterated or misbranded and has been detained and warning all persons not to dispose of the animal remedy in any manner until permission is given by the director or the court. Any animal remedy suspected of being adulterated or misbranded may be removed from display by the manufacturer or vendor, but shall be left on the premises. No person shall dispose of a detained animal remedy in violation of this section.

(j) If an animal remedy detained pursuant to subsection (g) or (h) of this section is found, after examination and analysis, to be adulterated or misbranded, the director may petition the judge of any court of competent jurisdiction in whose jurisdiction the animal remedy is detained for an

order to condemn the animal remedy. If the director finds that the detained animal remedy is not adulterated or misbranded he shall remove the tag or marking.

(k) The director may promulgate rules and regulations for animal remedies necessary for the efficient enforcement of this article. Procedures for promulgation shall be those outlined in the Wyoming Administrative Procedure Act.

(m) The director may cooperate with and enter into agreements with other Wyoming agencies including the state veterinarian, other states and agencies of the federal government in order to carry out the purpose and provisions of this article.

11-17-204. Registration; fees; audit.

(a) Any manufacturer of animal remedies, except the United States department of agriculture, shall register each product before distribution in Wyoming. The application for registration shall be submitted on forms furnished by the director and shall be accompanied by a label or other printed matter describing the product. Upon approval by the director or his agent, a copy of the registration shall be furnished to the applicant. All registrations are effective from the date of approval and expire on December 31 each year.

(b) Every registrant of animal remedies shall pay a registration fee of twenty dollars (\$20.00) per product.

(c) An applicant may appeal the denial of a registration in accordance with the Wyoming administrative Procedure Act.

(d) The department may conduct a product compliance audit to assure compliance of this article. The audit shall consist of label and registration reviews. A registrant may appeal any negative audit in accordance with the Wyoming Administrative Procedure Act.

11-17-205. Labeling.

(a) Any animal remedy distributed in Wyoming shall be accompanied by a legible label bearing the following information:

(i) The name and principal address of the manufacturer or person responsible for placing the animal remedy on the market;

(ii) The name, brand or trade-mark under which the animal remedy is sold;

(iii) An accurate statement of the minimum net contents of the package, lot or parcel, the contents stated by weight in the case of solids, by volume in the case of liquids, and by both count and weight or volume per dose in the case of dosage forms;

(iv) The common or usual name and quantity of each active ingredient;

(v) Adequate directions for use;

(vi) Adequate warnings against use in conditions, whether pathological or normal, where its use may be dangerous to the health of animals, or against unsafe dosage, methods or duration of methods, administration, or application, in such manner and form, as are necessary for the protection of animals.

(b) Any word, statement or other information appearing on the label shall also appear on the outside container or wrapper, if any, of the retail package of the animal remedy or shall be easily legible through the outside container or wrapper of the animal remedy.

11-17-206. Professional supervision required for preparation and packaging of remedies.

(a) No person shall compound, manufacture, make, produce, pack, package or prepare within Wyoming any animal remedy to be offered for sale or distribution unless the compounding, manufacture, making, producing, packaging, packing or preparing is done with adequate equipment under the supervision of a licensed veterinarian, a graduate chemist, a licensed pharmacist, a licensed physician or some other person as may be approved by the director after an investigation and a determination by the director that he is qualified by scientific or technical training or by experience to perform the duties of supervision as may be necessary to protect animal health and public safety.

(b) No person shall make a claim that an animal remedy is antimicrobial resistant without verification and support documentation of the American Veterinary Medical Association.

11-17-207. Right of access to establishments and information relating to manufacturing; sampling and analysis.

(a) The director or his agent shall have access during normal business hours to any establishment or facility in which an animal remedy is manufactured, transported or held for distribution and to information relating to the manufacture, transportation and distribution of the animal remedy for purposes of sampling and inspection.

(b) Any method of sampling and analysis shall be as approved by the director from current established methods. In any case not covered by an approved method, or in any case where methods are available in which improved applicability has been demonstrated, the director may approve the appropriate methods from other sources. The director, in determining whether an animal remedy is deficient in any component, shall be guided solely by the official sample analyzed in accordance with approved methods. For purposes of this article, the results of official analysis shall be final, unless it is determined by the director that a resample is warranted. If a distributor or registrant requests a resample of an animal remedy based upon the director's findings of a deficiency, all costs associated with the resampling and analysis shall be borne by the distributor or registrant. If the results of the resampling establish the result of the first analysis was invalid, the department shall bear the costs associated with the resampling. Any requests for a resample to the director shall be made in writing.

(c) The director shall make or cause to be made under his direction, analysis and examinations of samples of animal remedies furnished to him by the director to determine whether the animal remedy sampled conforms with this article and shall certify the results of the examinations to the director.

(d) When the inspection and analysis of an official sample indicates an animal remedy has been adulterated or misbranded, the results of analysis shall be forwarded by the director to the distributor and the purchaser.

(e) Any animal remedy that is manufactured and distributed under registration from and under the supervision of the United States department of agriculture, and in compliance with the regulations of that department shall not be considered adulterated or misbranded.

(f) An animal remedy shall be deemed to be misbranded under the following circumstances:

(i) It is not properly labeled;

(ii) It is not labeled as required in W.S. 11-17-205 and in regulations promulgated under this article;

(iii) If the label is false or misleading;

(iv) If the information required on the label is not conspicuous and clear and if any word, statement or other information required to appear on the label is not prominently placed conspicuously on the label, as compared with other words, statements, designs or devices in the labeling and in such terms, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(v) It is distributed under the name of another animal remedy;

(vi) If the recommended dosage is dangerous to the health of animals when used in the dosage or with the frequency or duration prescribed, recommended or suggested in the labeling of the animal remedy.

(g) An animal remedy shall be deemed to be adulterated if:

(i) It consists in whole or in part of any filthy, putrid or decomposed substance;

(ii) It bears or contains any poisonous or deleterious substance which may render it injurious to health under customary or usual use;

(iii) Its container is composed of any injurious or deleterious substance which may render the animal remedy injurious to health;

(iv) It was prepared, packed or held under unsanitary conditions where the animal remedy may have become contaminated with filth or where the animal remedy may have been rendered injurious to animal health;

(v) Its composition, purity, strength or quality falls below or differs from that which it is purported or is represented to possess by its labeling. The director shall allow a reasonable tolerance from such representation as is in accordance with good manufacturing practices.

(h) No person shall forge, counterfeit, simulate or falsely represent or without proper authority use, any mark, stamp, tag, label or other identification device required by W.S. 11-17-205.

(j) No person shall alter, mutilate, destroy, obliterate or remove any part of the labeling of any animal remedy if the act results in the animal remedy being misbranded, or do any other act, while the animal remedy is being held for sale, which results in the misbranding of the animal remedy.

(k) All provisions for enforcement of animal remedies found to be short weight shall be administered by the department under W.S. 40-10-117 through 40-10-136 of the Wyoming weights and measures law.

11-17-208. Warning to distributor; seizure and order of disposition; application for release; hearing.

(a) When the director or his authorized agent finds that an animal remedy is mislabeled, misbranded or adulterated, or that it does not conform to its label guarantee, he may issue a written statement warning the distributor or registrant that the animal remedy is considered to be in violation of the law. This statement is a warning only to the distributor or registrant that if the animal remedy is distributed further the director may pursue further action. If the distributor, registrant or manufacturer heeds the warning and corrects the violation within the time allowed by the director, no further action shall be taken.

(b) If it appears that any manufacturer, distributor, registrant or any other person responsible for animal remedies has not corrected the reason for the warning in subsection (a) of this section or has violated this article, the director shall cause notice to be given to the manufacturer, distributor, registrant or person that a hearing will be had at a date and place named in the notice. The director or his authorized agent shall hold a hearing in accordance with the Wyoming Administrative Procedure Act. If the manufacturer, distributor, registrant or person fails to appear at the time and place designated in the notice, the director or his authorized agent shall conduct the hearing as though the manufacturer, distributor, registrant or person were present. If it is established by the hearing to the satisfaction of the director that prosecution is warranted the director shall provide to the Wyoming attorney general:

(i) A certification of the facts;

(ii) An official report of the result of the hearing; and

(iii) A copy of the analysis or other examination which bears on the case.

(c) Any lot of an animal remedy not in compliance with requirements of laws or regulations is subject to seizure on complaint of the director to a court of competent jurisdiction in the county in which the animal remedy is located. If the court finds the animal remedy in violation and orders the condemnation of the animal remedy, it shall be disposed of in any manner consistent with the quality of the animal remedy and the laws of Wyoming. In no instance shall the disposition of the animal remedy be ordered by the court without first giving the manufacturer, distributor or registrant an opportunity to apply to the court for release of the animal remedy or for permission to process or relabel the animal remedy to bring it into compliance with the law.

11-17-209. Prohibited acts; penalty; additional sanctions.

(a) It is unlawful for any person to:

(i) Sell or distribute in Wyoming any animal remedy without having attached or furnished such stamps, labels or tags as required by this article;

(ii) Impede, prevent or attempt to prevent the director or his agent in the performance of his lawful duties;

(iii) Sell, offer for sale or distribute in Wyoming any animal remedy without complying with therequirements of this article;

(iv) Sell or distribute in Wyoming any animal remedy when the manufacturer or distributor is not registered with the department as required by this article;

(v) Manufacture, sell, deliver, hold or offer for sale any animal remedy that is adulterated or misbranded;

(vi) Give a guaranty which is false, except a person who relied on a guaranty to the same effect signed by, and containing the name and address of the person from whom he received the animal remedy in good faith;

(vii) Disseminate any advertisement which is false or misleading in any respect, but no person or medium for the dissemination of any advertisement, except the manufacturer, packer, distributor, or seller of the animal remedy to which a false advertisement relates, is subject to the penalties for violations of this article, by reason of the dissemination by him of the false advertisement, unless he refused, on the request of the director to furnish the name and address of the manufacturer, packer, distributor, seller or advertising agency which caused him to disseminate the advertisement;

(viii) Sell or offer to sell any biological product that has not been kept in refrigeration under conditions prescribed by the rules and regulations promulgated and adopted by the director.

(b) Any person violating any provision of W.S. 11-17-201 through 11-17-209 or rules or regulations thereunder is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned in the county jail for not more than one (1) year, or both, for the first offense, and upon conviction for a subsequent offense shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned in the county jail for not more than one (1) year, or both. Any offense committed more than three (3) years after a previous conviction shall be considered a first offense.

(c) In addition to the penalty provided in subsection (b) of this section, the distribution of any animal remedy mixed or adulterated with any substance injurious to animals is subject to seizure and condemnation as the court may direct. The court may in its discretion release the animal remedy seized when the requirements of law have been complied with, and upon payment of all costs and expenses incurred by the state in any proceedings connected with the seizure.

Section 2. W.S. 11-17-101 through 11-17-108 are repealed.

Statutes:

**Wildlife / Livestock Disease
Research Partnership**

Regulations:

None

WILDLIFE/LIVESTOCK DISEASE RESEARCH PARTNERSHIP

11-19-601. Findings; purposes.

(a) The interaction of livestock and wildlife may lead to mutual or shared diseases. Some of these diseases may have the potential to adversely affect Wyoming's livestock producers and influence the management of Wyoming's free-ranging wildlife. Research into these diseases may provide strategies or solutions that benefit Wyoming's livestock industries and wildlife resources.

(b) The purpose of the Wyoming wildlife/livestock disease research partnership is to utilize existing personnel and facilities of the state, to identify funding sources, to enhance wildlife and livestock disease research in the state, and to understand, manage, control and preempt potentially mutual or shared diseases that may impact wildlife, livestock or humans.

11-19-602. Wyoming wildlife/livestock disease research partnership board created; membership; duties; purposes.

(a) There is created the wildlife/livestock disease research partnership board within the department. The board shall consist of the following members or their designees:

- (i) The director of the department;
- (ii) The director of the Wyoming game and fish department;
- (iii) The vice-president for research at the University of Wyoming;
- (iv) The director of the Wyoming state veterinary laboratory; and
- (v) The state veterinarian.

(b) The board shall:

(i) Accept funding from all sources, including federal, state and local governments and private donations to carry out the purposes of this article;

(ii) Leverage funds received to match other funds that may be available to the board;

(iii) Deposit funds received into the account created by W.S. 11-19-603. No funds may be withdrawn or otherwise expended without the specific consent of at least three (3) members of the board;

(iv) Accept, review and prioritize research proposals submitted to the board;

(v) Seek support for programs and projects consistent with the purposes of the board;

(vi) Allocate funds for research which serve the goals of understanding, managing, controlling or preempting potentially mutual or shared diseases that impact wild and domestic animals or humans in the state.

(c) In approving research requests for funding, the board shall first consider any requests for funding from the Wyoming game and fish department, the University of Wyoming, the Wyoming department of agriculture and the Wyoming livestock board. After consideration of requests from those state agencies, the board may consider requests from other entities.

(d) All research projects requesting funding from the board shall be submitted to the board in a form and manner specified by the board. The approval of not less than three (3) members of the board shall be required prior to funding of a project with funds received under this section.

11-19-603. Account created.

There is created a wildlife/livestock disease research partnership account. Funds from this account shall be used only for purposes specified in W.S. 11-19-602. Any interest earned on the account shall remain within the account.

Statutes:

Commodity Certification

Regulations:

None

COMMODITY CERTIFICATION PROGRAM

11-43-101. Commodity certification programs; rules and regulations; fee collection.

(a) Upon request of a producer or processor, the director of the department of agriculture may develop standards of certification for any commodities produced or processed in Wyoming whether raw or value-added in order to promote special attributes of a particular commodity. The use of certification standards by any producer or processor will be on a voluntary basis. Development of standards shall be done in compliance with the Wyoming Administrative Procedure Act. Standards of certification shall be in harmony with and not supersede existing laws and regulations. Fees, not exceeding the cost of administering the program, may be collected from participating producers and processors on an annual basis and shall be deposited in the general fund.

(b) The director may suspend or revoke a certification granted under this act [11-43-101 and 11-43-102] if the recipient of the certification fails to meet all of the requirements adopted by rules and regulations.

11-43-102. Unauthorized use of certification prohibited; penalty.

The use of any labeling, advertising or promotional material which falsely claims that a commodity or any product is certified or approved by the Wyoming department of agriculture is prohibited. Any person who violates this section is guilty of a misdemeanor.

Statutes:

Pest Control Compact

Regulations:

None

PEST CONTROL COMPACT

11-46-101. Compact enacted and entered into.

The "Pest Control Compact" is enacted into law and entered into with all other jurisdictions legally joining therein, in the form substantially as follows:

PEST CONTROL COMPACT

Article I

Findings

The party states find that:

(a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately one hundred thirty seven billion dollars (\$137,000,000,000.00) from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an insurance fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

Article II

Definitions

(a) As used in this compact, unless the context clearly requires a different construction:

(i) "State" means a state, territory or possession of the United States, the District of Columbia and the commonwealth of Puerto Rico;

(ii) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states;

(iii) "Responding state" means a state requested to undertake or intensify the measures referred to in paragraph (ii) of this article;

(iv) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value;

(v) "Insurance fund" means the pest control insurance fund established pursuant to this compact;

(vi) "Governing board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact; and

(vii) "Executive committee" means the committee established pursuant to article V(e) of this compact.

Article III

The Insurance Fund

There is hereby established the "pest control insurance fund" for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The insurance fund shall contain monies appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the insurance fund shall not accept any donation or grant whose terms are inconsistent with any provisions of this compact.

Article IV

The Insurance Fund, Internal Operations and Management

(a) The insurance fund shall be administered by a governing board and executive committee as hereinafter provided. The actions of the governing board and executive committee pursuant to this compact shall be deemed the actions of the insurance fund.

(b) The members of the governing board shall be entitled to one (1) vote each on such board. No action of the governing board shall be binding unless taken at a meeting at which a

majority of the total number of votes on the governing board are cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

(c) The insurance fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

(d) The governing board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not serve successive terms. The governing board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the governing board. The governing board shall make provision for the bonding of such of the officers and employees of the insurance fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there is not an executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the insurance fund.

(f) The insurance fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, corporation or limited liability company.

(g) The insurance fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, corporation or limited liability company, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the governing board pursuant to this subsection or services borrowed pursuant to subsection (f) of this article shall be reported in the annual report of the insurance fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and identity of the donor or lender.

(h) The governing board shall adopt bylaws for the conduct of the business of the insurance fund and shall have the power to amend and rescind these bylaws. The insurance fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(j) The insurance fund annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. The insurance fund may make such additional reports as it may deem desirable.

(k) In addition to the powers and duties specifically authorized and imposed, the insurance fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

Article V

Compact and Insurance Fund Administration

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

- (i) Assist in the coordination of activities pursuant to the compact in his state; and
- (ii) Represent his state on the governing board of the insurance fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefore within the federal government, the United States may be represented on the governing board of the insurance fund by not to exceed three (3) representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the governing board or on the executive committee thereof.

(c) The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the insurance fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of monies from the insurance fund. Additional meetings of the governing board shall be held on call of the chairman, the executive committee or a majority of the membership of the governing board.

(d) At such times as it may be meeting, the governing board shall pass upon applications for assistance from the insurance fund and authorize disbursements therefrom. When the governing board is not in session, the executive committee thereof shall act as agent of the governing board, with full authority to act for it in passing upon such applications.

(e) The executive committee shall be composed of the chairman of the governing board and four (4) additional members of the governing board chosen by it so that there shall be one (1) member representing each of four (4) geographic groupings of party states. The governing board shall make such geographic groupings. If there is representation of the United States on the governing board, one (1) such representative may meet with the executive committee. The chairman of the governing board shall be chairman of the executive committee. No action of the executive committee shall be binding unless taken at a meeting at which at least four (4) members of such committee are present and vote in favor thereof. Necessary expenses of each of the five (5) members of the executive committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the governing board, shall be charges against the insurance fund.

Article VI

Assistance and Reimbursement

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

(i) The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact;

(ii) The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the insurance fund for eradication or control measures to be taken by one (1) or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use monies made available from the insurance fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the insurance fund, a requesting state shall submit the following in writing:

(i) A detailed statement of the circumstances which occasion the request for the invoking of the compact;

(ii) Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state;

(iii) A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefore, in connection with the eradication, control or prevention of introduction of the pest concerned;

(iv) Proof that the expenditures being made or budgeted as detailed in paragraph (iii) of this subsection do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in paragraph (iii) of this subsection constitutes a normal level of pest control activity;

(v) A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of monies from the insurance fund in one (1) year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time;

(vi) Such other information as the governing board may require consistent with the provisions of this compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the insurance fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by subsection (c) of this article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board or the executive committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the governing board or executive committee, with respect to an application, together with the reasons therefore shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the executive committee shall upon notice in writing given within twenty (20) days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the governing board. Determinations of the executive committee shall be reviewable only by the governing board at one (1) of its regular meetings, or at a special meeting held in such manner as the governing board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive monies from the insurance fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the insurance fund. The governing board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and payment thereof.

(h) Before authorizing the expenditure of monies from the insurance fund pursuant to an application of a requesting state, the insurance fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(j) The insurance fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation

between and among the insurance fund, cooperating federal agencies, states and any other entities concerned.

Article VII

Advisory and Technical Committees

The governing board may establish advisory and technical committees composed of state, local and federal officials, and private persons to advise it with respect to any one (1) or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations upon request of the governing board or executive committee. An advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the insurance fund being considered by such board or committee and the board or committee may receive and consider the same; provided that any participant in a meeting of the governing board or executive committee held pursuant to article VI(d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the governing board or executive committee makes its disposition of the application.

Article VIII

Relations with Nonparty Jurisdictions

(a) A party state may make application for assistance from the insurance fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state except as provided in this article.

(b) At or in connection with any meeting of the governing board or executive committee held pursuant to article VI(d) of this compact a nonparty state shall be entitled to appear, participate and receive information only to such extent as the governing board or executive committee may provide. A nonparty state shall not be entitled to review of any determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The governing board or executive committee may set any conditions which it deems appropriate with respect to the expenditure of monies from the insurance fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.

Article IX

Finance

(a) The insurance fund shall submit to the executive head or designated officer or officers of each party state a budget for the insurance fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriation shall be apportioned among the party states as follows: one tenth (1/10) of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the insurance fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the insurance fund shall be maintained in two (2) accounts to be designated respectively as the "operating account" and the "claims account". The operating account shall consist only of those assets necessary for the administration of the insurance fund during the next ensuing two (2) year period. The claims account shall contain all monies not included in the operating account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the insurance fund for a period of three (3) years. At any time when the claims account has reached its maximum limit or would reach its maximum limit by the addition of monies requested for appropriation by the party states, the governing board shall reduce its budget request on a pro rata basis in such manner as to keep the claims account within such maximum limit. Any monies in the claims account by virtue of conditional donations, grants or gifts shall be included in calculations made pursuant to this subsection only to the extent that such monies are available to meet demands arising out of claims.

(d) The insurance fund shall not pledge the credit of any party state. The insurance fund may meet any of its obligations in whole or in part with monies available to it under article IV(g) of this compact, provided that the governing board takes specific action setting aside such monies prior to incurring any obligation to be met in whole or in part in such manner. Except where the insurance fund makes use of monies available to it under article IV(g) hereof, the insurance fund shall not incur any obligation prior to the allotment of monies by the party states adequate to meet the same.

(e) The insurance fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the insurance fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the insurance fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the insurance fund.

(f) The accounts of the insurance fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the insurance fund.

Article X

Entry into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any five (5) or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two (2) years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article XI

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

11-46-102. Cooperation with pest control insurance fund.

Consistent with law and within available appropriations, the departments, agencies and officers of Wyoming may cooperate with the insurance fund established by the Pest Control Compact.

11-46-103. Filing of compact.

Pursuant to article IV(h) of the compact, copies of bylaws and amendments thereto shall be filed with the Wyoming department of agriculture.

11-46-104. Compact administrator.

The compact administrator for Wyoming shall be the director of the Wyoming department of agriculture.

11-46-105. Applications for assistance.

Within the meaning of article VI(b) or VIII(a) of the compact, a request or application for assistance from the insurance fund may be made by the compact administrator for Wyoming, whenever in his judgment the conditions qualifying Wyoming for such assistance exist and it would be in the best interest of Wyoming to make such request.

11-46-106. Disposition of money from compact insurance fund.

Funds received by the department, agency or officer to defray costs or as reimbursement under the compact shall be paid to the state treasurer for deposit to the state account from which it was expended or, if expenditure from a specific account cannot be determined, deposited to the general fund.

11-46-107. "Executive head" defined.

As used in the Pest Control Compact, with reference to Wyoming, "executive head" means the governor.

Statutes:

Wyoming Environmental Pesticide Control Act

Regulations:

Chapter 21 – Pesticide Board of Certification

Chapter 28 – Applicator Certification Rules and Regulations

Wyoming Environmental Pesticide Control Act of 1973

35-7-350. Short title.

This act shall be known and may be cited as the "Wyoming Environmental Pesticide Control Act of 1973".

35-7-351. Enforcing agency.

This act shall be administered by the department of agriculture of the state of Wyoming, hereinafter referred to as the "department".

35-7-352. Declaration of purpose.

The legislature hereby finds that pesticides and devices are valuable to our state's agricultural production and to the protection of man and the environment from insects, rodents, weeds, and other forms of life which may be pests, and it is essential to the public health and welfare that they be regulated closely to prevent adverse effects on human life and the environment. The purpose of this act is to regulate, in the public interest, the labeling, distribution, storage, transportation, disposal, use and application of pesticides to control pests. New pesticides are continually being discovered or synthesized which are valuable for the control of pests, and for use as defoliant, desiccant, plant regulators, and related purposes. The dissemination of accurate scientific information as to the proper use or nonuse, of any pesticide, is vital to the public health and welfare and the environment both immediate and future. Therefore, it is deemed necessary to provide for registration of pesticides and devices.

35-7-353. Board of certification.

A board of certification is established consisting of the director of the department of agriculture, and a member of the Wyoming weed and pest council and a University of Wyoming weed or pest specialist to be appointed by the governor. The governor may remove any member he appoints as provided in W.S. 9-1-202.

35-7-354. Definitions.

(a) "Applicator" or "operator" means:

(i) "Certified applicator" means any individual who is certified by the director as being competent with respect to the use and handling of pesticides, or of the use and handling of the pesticide or class of pesticides covered by the individual's certification;

(ii) "Commercial applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (a)(iii) of this subsection;

(iii) "Private applicator" means any certified applicator who uses or supervises the use of any restricted use pesticide which is restricted to use by certified applicators and only for purposes of producing any agricultural commodity on property owned by him or his employer or under his control or (is applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(b) "Board of agriculture" means that body established by law under W.S. 11-2-102.

(c) "Device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man, or bacteria, virus, or other microorganism on or in living man or other living animals) but does not include equipment used for the application of pesticides when sold separately therefrom.

(d) "Pesticide" means:

(i) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests;

(ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and

(iii) Any substance or mixture of substances intended to be used as a spray adjuvant.

(e) "Restricted use pesticide" means any pesticide product, the label of which states "restricted use" as required for registration by the environmental protection agency under the federal Insecticide, Fungicide and Rodenticide Act of 1972, as amended.

35-7-355. Director to administer and enforce provisions; board of certification to adopt regulations.

The director of the department of agriculture shall administer and enforce the provisions of this act and regulations issued thereunder. The board of certification may issue regulations after a public hearing following due notice to all interested persons in conformance with the provisions of the Wyoming Administrative Procedure Act to carry out the provisions of this act.

Regulations may prescribe methods to be used in the application of pesticides, may prescribe standards for the classification and certification of applicators of pesticides, and may require certification, licensing, payment of reasonable fees for licensing or certification, submission of information, and passing of examinations by applicators of pesticides. Where the board of certification finds that regulations are necessary to carry out the purpose and intent of this act, the regulations may relate to the time, place, manner, methods, materials, and amounts and concentrations, in connection with the application of the pesticide, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the board deems necessary. The department may issue licenses. Notwithstanding the provisions of W.S. 35-7-354(e), the board of agriculture, by regulation, following a hearing and pursuant to the Wyoming Administrative Procedure Act, may declare a

specific pesticide or pesticide use a "restricted use pesticide", but only following a recommendation of the board of certification, and a finding of fact, in a public hearing conducted by the board of certification, that unreasonable adverse effects on the environment, including man, pollinating insects, animals, crops, wildlife and lands, other than pests, may reasonably occur. The director of the department of agriculture may allow the registration, licensing, testing, inspection and reporting requirements of this article to be conducted electronically as provided by the Uniform Electronic Transaction Act, W.S. 40-21-101 through 40-21-119 and any applicable federal electronic requirements.

35-7-356. Registration.

(a) Every pesticide or device which is distributed within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the department of agriculture by its manufacturer or formulator subject to the provisions of this act. The registration shall be renewed annually prior to December 31 of each year but not if a pesticide or device is shipped from one plant or warehouse to another plant or warehouse as a constituent part to make a pesticide or device which is registered under the provisions of this act, if the pesticide or device is not sold and if the container thereof is plainly and conspicuously marked "For Experimental Use Only", together with the manufacturer's name and address, or if a written permit has been obtained from the department to sell the specific pesticide or device for experimental purposes subject to restrictions and conditions set forth in the permit.

(b) The applicant for registration shall file a statement with the department which shall include:

(i) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(ii) The name of the pesticide or device;

(iii) Other necessary information required for completion of the department's application for registration form;

(iv) The use classification as provided in the Federal Insecticide, Fungicide, and Rodenticide Act when required by regulations under this act.

(c) The director may require a full description of the tests made and the results thereof upon which the claims are based on any pesticide or device on which restrictions are being considered. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide or device was registered or last registered. The director may prescribe other necessary information by regulation.

(d) Every registrant of pesticides or device shall pay an annual registration fee of seventy-five dollars (\$75.00) each for every product registered. All registrations shall expire on December 31 of each year, following the date of the registration, and may thereupon be renewed for successive periods of twelve (12) months upon payment of the proper fee. Funds collected pursuant to this

section shall be deposited in the special natural resource account in the department of agriculture which is hereby created for programs authorized by W.S. 11-5-113 and 11-5-303.

(e) Any registration approved by the director and in effect on December 31 for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until such time as the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provisions of W.S. 35-7-358. Forms for registration shall be mailed to registrants at least thirty (30) days prior to the due date.

(f) If it appears to the director that the composition of the pesticide or device is such as to warrant the proposed claims for it and if the pesticide and its labeling and other material required to be submitted comply with the requirements of this act he shall register the pesticide.

35-7-357. Experimental use permits.

(a) Any person may apply to the director of the department of agriculture for an experimental use permit for a pesticide. The director may issue an experimental use permit if he determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide under this act. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

(b) Use of a pesticide under an experimental use permit shall be under the supervision of the director, and shall be subject to such terms and conditions and be for such period of time as the director may prescribe in the permit.

(c) The director may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

35-7-358. Refusal to register; cancellation; suspension; legal recourse.

(a) If it does not appear to the director of the department of agriculture that the pesticide or device is such as to warrant the proposed claims for it or if the pesticide or device and its labeling and other material required to be submitted do not comply with the provisions of this act or regulations adopted thereunder, he shall notify the applicant of the manner in which the pesticide or device, labeling, or other material required to be submitted fails to comply with the provisions of this act so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of notice, the applicant does not make the required changes the director may refuse to register the pesticide or device. The applicant may request a hearing as provided for in the Wyoming Administrative Procedure Act.

(b) The director, when he determines that the pesticide or device or labeling does not comply with the provisions of the act or the regulations adopted thereunder, may cancel the registration of a pesticide or device after a hearing in accordance with the provisions of the Wyoming Administrative Procedure Act.

(c) The director, when he determines that there is an imminent hazard, may suspend on his own motion, the registration of a pesticide in conformance with the provisions of the Wyoming Administrative Procedure Act.

(d) Any person who will be adversely affected by an order under this section may obtain judicial review in accord with the Wyoming Administrative Procedure Act.

35-7-359. Classification of licenses.

(a) Licenses shall include but are not limited to:

(i) Commercial applicator license;

(ii) Private applicator license.

35-7-360. Liability for damage; service of process.

(a) Repealed by Laws 1979, ch. 91, 3.

(b) Repealed by Laws 1979, ch. 91, 3.

(c) Nothing in this act shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of this act.

(d) Before the director shall issue a pesticide applicator's license to a nonresident to apply pesticides in this state, each nonresident pesticide applicator shall appoint the director as his attorney to receive services of legal process issued against the pesticide applicator in this state. The appointment, effect of appointment, and procedures for service of process shall be as provided by W.S. 26-3-121 and 26-3-122.

35-7-361. Inspection of equipment.

The director may provide for inspection of any equipment used for application of pesticides and may require repairs or other changes before its further use for pesticide application. A list of requirements that equipment shall meet may be adopted by regulation.

35-7-362. Reciprocal agreement.

The director may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed, or certified, in another state substantially in accordance with the provisions of this act but financial security as provided for in W.S. 35-7-360 shall be submitted by nonresident commercial applicators.

35-7-363. Exemptions.

(a) The provision of W.S. 35-7-355 relating to licenses and requirements for their issuance shall not apply to any private applicator applying pesticides for himself or with ground equipment or manually for his neighbors, except as to specific regulations as to the use of restricted pesticides and certification qualifications for private applicators, if:

(i) He operates farm property or operates and maintains pesticide application equipment primarily for his own use;

(ii) He is not engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and he does not publicly hold himself out as a pesticide applicator.

(b) The word "device" shall not be construed to mean fly swatter, butterfly net, or any mechanical contrivance used to trap or kill insects or rodents.

35-7-364. Discarding and storing of pesticides and pesticide containers.

No person shall discard, transport, or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway in a way harmful to any wildlife therein. The board of certification may promulgate rules and regulations governing the discarding and storing of such pesticides or pesticide containers.

35-7-365. Subpoenas.

The director may issue subpoenas to compel the attendance of witnesses or production of books, documents, and records in the state in any hearing affecting the authority or privilege granted by a license, registration, or permit issued under the provisions of this act.

35-7-366. Penalties.

(a) Any person violating any provision of W.S. 35-7-350 through 35-7-375 or regulation thereunder is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned in the county jail for not more than one (1) year, or both, for the first offense, and upon conviction for a subsequent offense shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned in the county jail for not more than one (1) year, or both. Any offense committed more than three (3) years after a previous conviction shall be considered a first offense.

(b) The director may bring an action to enjoin the violation or threatened violation of any provision or any regulation made pursuant to W.S. 35-7-350 through 35-7-375 in a court of competent jurisdiction of the county in which the violation occurs or is about to occur. The action may be initiated by the attorney general or the district attorney for the county in which the violation has or is about to occur.

(c) No state court shall allow the recovery of damages from administrative action taken if the court finds that there was probable cause for such action.

35-7-367. Enforcement.

(a) The sampling and examination of pesticides or devices shall be made under the direction of the director for the purpose of determining whether they comply with the requirements of this act. The director is authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to pesticides or devices. If it appears from such examination that a pesticide or device fails to comply with the provisions of this act or regulations adopted thereunder, and the director contemplates instituting criminal proceedings against any person, the director shall cause appropriate notice to be given to such person. Any person so notified shall be given an opportunity within a reasonable time to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter in the opinion of the director, it appears that the provisions of the act or regulations adopted thereunder have been violated by such person, the director shall refer a copy of the results of the analysis or the examination of such pesticide or device to the district attorney for the county in which the violation occurred.

(b) Nothing in this act shall be construed as requiring the director to report minor violations of this act for prosecution or for the institution of condemnation proceedings when he believes that the public interest will be served best by a suitable notice of warning in writing.

(c) For the purpose of carrying out the provisions of this act the director may enter upon any public or private premises at reasonable times, in order:

(i) To have access for the purpose of inspecting any equipment subject to this act and such premises on which the equipment is kept or stored;

(ii) To inspect lands actually or reported to be exposed to pesticides;

(iii) To inspect storage or disposal areas;

(iv) To inspect or investigate complaints of injury to humans or land;

(v) To sample pesticides being applied or to be applied.

(d) If the director is denied access to any land where access was sought for the purposes set forth in this act, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such lands for the stated purposes. The court shall with probable cause upon such application issue the search warrant for the purposes requested.

(e) The director may bring an action to enjoin the violation or threatened violation of any provision of this act or any rule made pursuant to this act in the district court of the county in which such violation occurs or is about to occur.

35-7-368. Cooperation.

The director is authorized to cooperate with and enter into agreements with any other agency of this state, the United States, and any other state or agency thereof for the purpose of carrying out the provisions of this act and securing uniformity of regulation.

35-7-369. Disposition of funds.

All moneys received by the department under the provisions of this act shall be deposited into the treasury of the state to the credit of the general fund, excluding those funds collected pursuant to W.S. 35-7-356(d).

35-7-370. Severability.

If any provision of this act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this act and applicability thereof to other persons and circumstances shall not be affected thereby.

35-7-371. Prior liability.

The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this act becomes effective.

35-7-372. Jurisdiction; repeals.

Jurisdiction in all matters pertaining to the registration, distribution, transportation and disposal of pesticides and devices is by this act vested exclusively in the director and board of certification and all acts and parts of acts inconsistent with this act are hereby expressly repealed.

35-7-373. Registration of aircraft.

(a) Any person engaged in the activity or business of applying pesticides utilizing any type of aircraft shall register each aircraft annually with the Wyoming department of agriculture, on a printed form provided by the department. The registration shall include the following:

- (i) Manufacturer, model and type of aircraft;
- (ii) Identification number assigned to the aircraft;
- (iii) Owner of the aircraft; and
- (iv) User of the aircraft if different from the owner.

(b) The fee authorized by W.S. 11-1-104 shall be charged to each person registering aircraft. Aircraft shall be registered on or before April 1 of each year.

35-7-374. Prohibited acts.

(a) It is unlawful for any person to:

(i) Detach, alter, deface or destroy, in whole or in part, any labeling prior to proper disposal of the pesticide containers;

(ii) Refuse to keep any records as required by the director by regulation or to refuse to allow the inspection of such records by the director during normal working hours;

(iii) Make available for use, or to use, any restricted pesticide classified for restricted use for some or all purposes, except by or under the direct supervision of a certified applicator;

(iv) Use any registered pesticide in a manner inconsistent with its labeling which means to use any registered pesticide in a manner not permitted by the labeling, or not authorized by the director under a special local need registration, an experimental use permit or an emergency exemption, provided that this paragraph does not include:

(A) Applying a pesticide at any dosage, concentration or frequency less than that specified on the labeling;

(B) Applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling;

(C) Employing any method of application not prohibited by the labeling; or

(D) Mixing a pesticide or pesticides with a fertilizer when the mixture is not prohibited by the labeling.

(v) To falsify any records required by the director by regulation;

(vi) To falsify any application, examination or affidavit for certification or license;

(vii) Other than certified applicators or persons working under their direct supervision to use restricted use pesticides;

(viii) To use restricted use pesticides inconsistent with the applicator category of certification.

(b) If the director finds that the violation occurred despite the exercise of due care or did not cause significant harm to another person, to health or to the environment, he shall issue a warning in lieu of prosecution.

35-7-375. Required notification of pesticide application on or within school buildings.

(a) Any commercial applicator licensed under W.S. 35-7-359 or any other person shall provide notification required by this section of the application of any pesticide as defined under W.S. 35-7-354(d) which is applied on or within any building or other real property used by a school district primarily for the education of students, including any property used by the district for student activities or playgrounds. Notice under this subsection shall be provided to the district not less than seventy-two (72) hours prior to application and the district shall further notify students, teachers and staff. All notices distributed under this subsection shall be marked with a distribution date and include information indicating date of application, location of application or treatment area, pest to be controlled, name and type of pesticide to be applied and a contact for additional information. All notices distributed under this subsection shall be retained by the school or school district for two (2) years.

(b) In addition to notice required under subsection (a) of this section, the licensed commercial applicator or other school employee applying pesticides shall post signs on the school building or property stating the date of application, the location of the application or treatment area, the name and type of the pesticide to be applied and a contact for additional information. Upon request, the licensed commercial applicator or other school employee shall provide information on how to obtain additional information on the pesticide. Not less than twelve (12) hours before application of pesticides within school buildings, signs shall be posted at main entrances to school buildings and at the entrances to the specific application area within buildings. If pesticide application is made outdoors to any area adjacent to a school building or on property used by the district for student activities or playgrounds, signs shall be posted immediately adjacent to the treated area and at the entrance to the district property. The signs shall remain posted for seventy-two (72) hours.

(c) Anti-microbial pesticides defined under W.S. 35-7-354(d), such as disinfectants and sanitizers used by school employees for cleaning purposes and insect or rodent bait stations of the type available for home use are exempted from the notification and posting requirements specified in subsections (a) and (b) of this section.

CHAPTER 21
BOARD OF CERTIFICATION
FOR WYOMING ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1973
RULES OF PRACTICE & PROCEDURE FOR CONTESTED CASE HEARINGS

Section 1. **Authority.**

(a.) These rules are promulgated as required by the Wyoming Environmental Pesticide Control Act of 1973 (W.S. 35-7-350 through 35-7-376), hereinafter called the Act, and the Wyoming Administrative Procedure Act (W.S. 16-3-101 through 16-3-115) for the purpose of carrying out the intent of the Act and is applicable to all sections of the Act.

Section 2. **Definitions.**

(a.) Board: The Board of Certification established by W.S. 35-7-353.

(b.) Chairman: The Director of the Department of Agriculture.

(c.) Director: Duly appointed Director of the Department of Agriculture.

(d.) Proponent: The Board, or any other person or party who initiates or requests any action or decision, and may include complainant where applicable.

(e.) Contestant: Any person who will be aggrieved or adversely affected by a proposed action of the Board and who requests a hearing before the Board, and may include the opponent or defendant where applicable.

(f.) Party: Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(g.) Person: Any individual, partnership, association or organized group of persons whether incorporated or not.

(h.) Rules of Civil Procedure: Those Wyoming Rules of Civil Procedure in effect at the time of the hearing.

(i.) Hearing Officer: Designated Hearing Officer who shall preside over the hearing.

Section 3. **Notice of Proposed Action by the Board.**

(a.) The Board may initiate any action which may result in a contested case in accordance with the Wyoming Administrative Procedure Act by:

(i.) Giving written notice of proposed action either served personally or by certified mail, return receipt requested, to the person or persons who will be aggrieved or adversely affected thereby, or

(ii.) Causing the publication in proper form, of a copy of the notices,

(1.) Said publication to be made in three newspapers of general circulation in the state.

(2.) Said publication to appear at least once a week for three consecutive weeks prior to the commencement of the action, the last publication to appear at least five days prior to the action.

(b.) A notice of proposed action by the Board shall include a statement of:

(i.) The nature of the proposed action.

(ii.) The particular rules, regulations, bylaws, and/or statutes which are involved.

(iii.) A short, plain statement of the matters asserted.

(iv.) The fact that a hearing may be requested within twenty days after the date of the mailing of the notice; and that if a hearing is not requested, the proposed action shall automatically take effect at the expiration of the twenty day period.

(c.) If a person makes a request for a hearing pursuant to this section, the request shall contain the information required by Section 4b.

(d.) Upon receipt of a request for hearing, the Board shall give the person making the request written notice by certified mail, return receipt requested, of the time, place and nature of the hearing as well as the legal authority under which the hearing is being held.

Section 4. **Hearing Before the Board.**

(a.) Any person aggrieved or adversely affected in fact by the Board's action or decision, or who will be aggrieved or adversely affected in fact by the recommendation, may within twenty days after the date of the mailing of the notice of the action or decision or recommendation, request a hearing before the Board.

(b.) The request for hearing shall be directed to and served upon the Hearing Officer of the Board or the Director of the Department of Agriculture and shall show:

(i.) A request for hearing before the Board.

(ii.) The decision, or recommendation upon which a hearing is requested.

(iii.) A statement in ordinary, but concise, language of the reason for requesting a hearing.

(iv.) The address of the person making the request and the name and address of his attorney, if any.

(c.) Upon receipt of a request for hearing, the Board shall give the person making the request written notice of:

(i.) The time, place and nature of the hearing.

(ii.) The legal authority under which the hearing is to be held.

(iii.) The particular rules, bylaws and/or statutes involved.

(iv.) A short and plain statement of the matters asserted.

(v.) The written notice shall be served by mail addressed to the person making the request or his attorney.

(d.) The hearing shall be conducted as a contested case hearing.

Section 5. Order of Procedure at Hearings.

(a.) As nearly as may be, hearings shall be conducted in accordance with the following order of procedure.

(b.) The Hearing Officer shall announce that the Board is open to transact business and call by docket number and title the case to be heard.

(c.) The proponent will be allowed an opening statement to briefly explain its position to the Board and outline the evidence it proposes to offer, together with the purpose thereof.

(d.) The contestant will be allowed an opening statement.

(e.) Any additional parties will be allowed an opening statement.

(f.) The proponent's evidence will be heard. Witnesses may be cross-examined by the contestant or his attorney, by members of the Board and the Hearing Officer. The proponent's offered exhibits will be marked by letters of the alphabet, beginning with **AA@**.

(g.) The evidence of the contestant will be heard and exhibits of such will be marked with numbers, beginning with the number A1". The proponent or his attorney, each member of the Board, and the attorney for the Hearing Officer, shall have the right to cross-examine all witnesses presented on behalf of the contestant.

(h.) Other parties may offer evidence.

(i.) The Hearing Officer may, in his discretion, allow evidence to be offered out of order, as herein prescribed.

(j.) Closing statements will be made in the following sequence:

(i.) Proponent

(ii.) Contestant

(iii.) Proponent-s rebuttal if the Hearing Officer feels it is necessary.

(k.) The time for oral argument may be limited by the Hearing Officer.

(l.) The Hearing Officer may recess the hearing as required.

(m.) After all interested parties have been offered an opportunity to be heard, the Hearing Officer shall declare the evidence closed and excuse all witnesses.

(n.) The Hearing Officer may, at his discretion or the Board-s request, allow or require parties to tender written briefs, and the time for filing such briefs shall be set by the Hearing Officer.

(o.) The Board may, at its discretion, appoint a designated Hearing Officer, who will the preside as Hearing Officer during the course of such hearing; such designated Hearing Officer shall be an attorney licensed to practice law in the State of Wyoming.

(p.) The designated Hearing Officer shall, for purposes of that hearing, have all powers provided in W.S. 16-3-112(b).

(q.) The Hearing Officer may declare that the matter is taken under advisement and that the decision and order of the Board will be announced at a later date.

Section 6. Applicable Rules of Civil Procedure.

(a.) The Wyoming Rules of Civil Procedure shall apply in all hearings before the Board.

Section 7. Attorneys.

(a.) The filing of a pleading or other appearance by an attorney constitutes his appearance for the party for whom made. The Board must be notified in writing of his withdrawal from any matter. Any person appearing before the Board at a hearing in representative capacity shall be precluded from examining or cross-examining any witness, unless such person shall be an attorney licensed to practice law in the State of Wyoming, or a non-resident attorney associated with a Wyoming attorney.

Section 8. **Intervention.**

(a.) Any person interested in obtaining relief sought by a proponent or otherwise interested in the determination of a proceeding pending before the Board, may petition for leave to intervene in such proceeding prior to or at the time it is called for hearing, but not thereafter except for good cause shown. The petition shall set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and if affirmative relief is sought, the same should conform to the requirements for a formal complaint. Leave will not be granted except on allegations reasonable pertinent to the issue already presented and which do not unduly broaden them.

If leave is granted, the petitioner becomes an intervener and a party to the proceeding with the right to have notice of, and appear at the taking of testimony, to produce and cross-examine witnesses, and to be heard on the argument of the case.

Section 9. **Transcripts.**

(a.) Oral proceedings or any part thereof shall be transcribed on request of any party upon payment of the cost thereof. In case of an appeal to the District Court, the party appealing shall secure and file a transcript of the testimony and other evidence offered at the time of the hearing with the Board, which transcripts shall be verified by the oath of the reporter or transcribed as true and correct transcripts of the testimony and other evidence in the hearing. The cost of making the transcript shall be paid by the party prosecuting such appeal. The complete record on appeal, including the transcript of testimony, shall be verified by the clerk.

Section 10. **Decision and Order.**

(a.) The Board shall make a written decision and order in all cases, which decisions shall contain findings of fact and conclusions of law based exclusively on the evidence admitted at the hearing and matters officially noticed. The decision and order of the Board shall be placed in the record of the case which shall be retained by the board.

Section 11. **Record.**

(a.) The record in all cases shall include

- (i.) All formal and informal notices
- (ii.) Evidence received or considered including matters officially noticed
- (iii.) Questions and offers of proof, objections and rulings thereon.
- (iv.) Any proposed findings and objections thereto.
- (v.) The decision and order of the Board.

Section 12. Members of the Board Present.

(a.) No member of the Board shall vote upon a decision of the Board unless he shall have been present at the hearing or has read the transcript of the proceedings. A decision by a majority of the members of the Board voting shall be the decision of the Board.

Section 13. Appeals.

(a.) Appeals from decisions of the Board are governed by the Wyoming Administrative Procedures Act and the Wyoming Rules of Appellate Procedure.

Section 14. Transcript in Case of Appeal.

(a.) In case of an appeal to the District Court as above provided, the party appealing shall secure and file with the Court a transcript of the testimony and all other evidence offered at the hearing, which transcript must be verified by the oath of the reporter who took the testimony as a true and correct transcript of the testimony and other evidence in the case. The compensation of the reporter for making the transcript of the testimony and all other costs involved in such appeal shall be borne by the party prosecuting such appeal.

CHAPTER 28

APPLICATOR CERTIFICATION RULES AND REGULATIONS

Section 1. Authority. Pursuant to the authority vested in the Board of Certification by virtue of WS 35-7-355 1977, as amended and WS 16-3-101 through 16-3-115, the following rules and regulations pertaining to the certification and licensing of pesticide applicators are hereby promulgated and adopted.

Section 2. Definitions. Terms used in these regulations are in addition to those set forth in WS 35-7-354 1977, as amended. The following terms shall have the meaning stated below:

(a) Accident means an unexpected, undesirable event, caused by the use of, or presence of a pesticide, that adversely affects man or the environment.

(b) Act means the Wyoming Environmental Pesticide Control Act of 1973.

(c) Agricultural Commodity means any plant, or part thereof, or animal or animal product, produced by a person primarily for sale, consumption, propagation or other use by man or animals.

(d) Applicator means any individual certified in one of the following license classifications:

(i) Commercial Applicator means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified as restricted use for any purpose or on any property other than as provided under the definition of Private Applicator.

Commercial Applicator also means a certified applicator who uses or supervises the use of any pesticide during any commercial application as defined by paragraph (f) of this section.

(ii) Private Applicator means any certified applicator who uses or supervises the use of any restricted use pesticide which is restricted to use by certified applicators and only for purposes of producing any agricultural commodity on property owned by him or his employer or under his control or (is applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(e) Calibration of Equipment means measurement of dispersal or output of application equipment and adjustments of such equipment to control the rate of dispersal, and droplet or particle size of a pesticide dispersed by the equipment.

(f) Commercial Application means the application of any pesticide, (excluding sanitizers/disinfectants), done by contract or hire.

(g) Director means the Director of Agriculture for the State of Wyoming or his designated Department of Agriculture employee.

(h) Common Exposure Route means a likely way (oral, dermal, respiratory) by which a pesticide may reach and/or enter an organism.

(i) Compatibility means that property of a pesticide that permits its use with other chemicals without undesirable results being caused by the combination.

(j) Competent means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and associated responsibility.

(k) Direct Supervision means (unless otherwise prescribed by the labeling) the act or process whereby any application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person and who is available, within a reasonable time and distance, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(i) At a minimum, availability of the certified applicator must be directly related to the hazard of the situation. The certified applicator must be available by immediate contact through telephone or radio, or must be physically present on-site when use of the pesticide poses a potentially serious hazard to people or the environment.

(l) Environment means water, air, land and all plants, man or other animals living therein, and the relationships which exists among them.

(m) Equipment means any equipment or contrivance used to apply pesticides to the environment, but shall not include any pressurized hand-size household apparatus used to apply pesticides.

(n) Forest means a concentration of trees and related vegetation in non-urban areas sparsely inhabited by and infrequently used by humans, characterized by natural terrain and drainage patterns.

(o) General Use Pesticide means any pesticide formulation not classified as restricted use.

(p) Hazard means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.

(q) Host means any plant or animal on or in which another lives for nourishment, development or protection.

(r) Label means the written, printed or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(s) Labeling means the label and all other written, printed or graphic matter:

(i) accompanying the pesticide or device at any time; or

(ii) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency; the United States Department of Agriculture and Interior; the Department of Health, Education and Welfare; state experiment stations; state agricultural colleges; and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

(t) Land means all land and water areas, including air space, and all plants, animals, structures, buildings and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(u) Licensed Pesticide Dealer means any person who makes available for use any restricted use pesticide, or who offers to make available for use any restricted use pesticide.

(v) Make Available For Use means to distribute, sell, ship, deliver for shipment, or receive and (having so received) deliver for use by any person. However, the term shall not include transactions solely between persons who are pesticide producers, registrants, wholesalers, or retail dealers acting only in those capacities.

(w) Minor Crops Grown for Seed means alfalfa grown for seed, turf grasses grown for seed, forage grasses grown for seed, trefoils grown for seed, vetch grown for seed, clovers grown for seed, miscellaneous vegetables grown for seed, miscellaneous legumes grown for seed, miscellaneous Brassica sp. grown for seed, sunflowers grown for seed and miscellaneous tree and shrub sp. grown for seed.

(x) Non-Target Organism means a plant or animal other than the one against which the pesticide is applied.

(y) Ornamental means trees, shrubs and other plantings in and around habitations generally, but not necessarily located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

(z) Persistence means that period of time a pesticide and its biologically active metabolites remain in the environment.

(aa) Person means any individual, partnership, association, corporation or any organized group of persons whether incorporated or not.

(bb) Pest means any insect, snail, slug, rodent, predator, nematode, fungi, weed or other form of terrestrial or aquatic plant, or animal life, or virus, bacteria, or other micro-organisms (except viruses, bacteria, or other micro-organisms in or on living man or other living animals) which the board of certification declares to be a pest.

(cc) Protective Equipment means clothing or any other material or devices that shield against unintended exposure to pesticides.

(dd) Regulated Pest means a specific organism considered to be a pest requiring regulatory restrictions, regulations, or control procedures in order to protect the host, man and/or his environment.

(ee) Restricted-Use Pesticide means any pesticide product, the label of which states "restricted use" as required for registration by the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act of 1972, as amended.

(ff) Susceptibility means the degree to which an organism is affected by a pesticide at a particular level of exposure.

(gg) Toxicity means the property of a pesticide to cause any adverse physiological effects.

Section 3. Licensing Requirements for Commercial Applicators.

(a) Any person making a commercial application of any pesticide, will be required to obtain a commercial applicators license, prior to any such commercial application of a pesticide.

Section 4. Certification Categories for Commercial Applicators.

(a) Procedure. Certification categories for Commercial Applicators using or supervising the use of any pesticide are identified below:

(b) Categories:

(i) Cat. 901 Agricultural Pest Control

(A) Weed Control. This subcategory includes commercial applicators using or supervising the use of any pesticide for weed control in production of agricultural crops, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, feed grains, forage, vegetables, small fruits, as well as on grasslands and non-crop agricultural lands.

(B) Insect Control. This subcategory includes commercial applicators using or supervising the use of any pesticide for insect control in production of agricultural crops, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, feed grains, forage, vegetables, small fruits, as well as on grasslands and non-crop agricultural lands.

(C) Disease Control. This subcategory includes commercial applicators using or supervising the use of any pesticide for disease control in production of agricultural crops, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, feed grains, forage, vegetables, small fruits, as well as on grasslands and non-crop agricultural lands.

(D) Animal. This subcategory includes commercial applicators using or supervising the use of any pesticide on animals, including but not limited to, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry and livestock, and to places on or in which animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large scale use of pesticides are included in this category.

(E) Rodent Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control rodents in production of agricultural crops, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, feed grains, forage, vegetables, small fruits, as well as on grasslands and non-crop agricultural lands.

(F) Chemigation. This subcategory includes commercial applicators using or supervising the use of any pesticide through an irrigation system. Certification in this subcategory requires concurrent certification in one or more applicable subcategories under category 901, Agricultural Pest Control.

(ii) Cat. 902 Forest Pest Control. This category includes commercial applicators using or supervising the use of any pesticide in forests, forest nurseries, and forest seed producing areas.

(iii) Cat. 903 Ornamental and Turf Pest Control.

(A) Weed Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control weeds in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(B) Insect Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control insects in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(C) Disease Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control plant disease in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(D) reserved

(E) Rodent Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control rodents in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(iv) Cat. 904 Seed Treatments. This category includes commercial applicators using or supervising the use of any pesticide on seed.

(v) Cat. 905 Aquatic Pest Control. This category includes commercial applicators using or supervising the use of any pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in category 908 below.

(vi) Cat. 906 Right-of-Way Pest Control. This category includes commercial applicators using or supervising the use of any pesticide in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas.

(vii) Cat. 907 Industrial, Institutional, Structural and Health Related Pest Control. This category includes commercial applicators using or supervising the use of any pesticide, in, on or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments/sites including warehouses and grain elevators and any other structures and/or adjacent areas, public or private, and for the protection of stored, processed or manufactured products.

(A)-(F) reserved

(G) Fumigation. This subcategory includes commercial applicators using or supervising the use of pesticides, in gaseous form, within enclosed gas tight spaces (tents, structures, vehicles or vessels), for a wide range of commodities and conditions.

(H) Bird Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control pest birds.

(viii) Cat. 908 Public Health Pest Control. This category includes state, federal or other governmental employees using or supervising the use of any pesticide in public health programs for the management and control of pests having medical and public health importance.

(ix) Cat. 909 Regulatory Pest Control. This category includes state, federal or other governmental employees who use or supervise the use of any pesticide in the control of regulated pests.

(A)-(D) reserved

(E) Rodent Control. This subcategory includes state, federal or other governmental employees who use or supervise the use of any pesticide to control rodents.

(F)-(G) reserved

(H) Bird Control. This subcategory includes state, federal or other governmental employees who use or supervise the use of any pesticide to control pest birds.

(I) Vertebrate Pest Control. This subcategory includes state, federal or other governmental employees who use or supervise the use of any pesticide for the control of vertebrate pests.

(J) M-44. This subcategory includes state, federal or other governmental employees who use m-44 devices to control coyotes.

(K) Livestock Protection Collar. This subcategory includes state, federal or other governmental employees who use LP Collars on sheep to control coyotes.

(x) Cat. 910 Demonstration and Research Pest Control. This category includes: individuals who demonstrate to the public the proper use and techniques of application of any pesticide or supervise such demonstration, and persons conducting field research with pesticides, and in doing so, use or supervise the use of any pesticide. Included in the first group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products and/or making crop/pest control recommendations, and those individuals demonstrating methods used in public programs.

The second group includes: state, federal, commercial and other persons conducting field research on or utilizing any pesticide.

(xi) Cat. 911 Specific Use Pest Control. This category includes commercial applicators who use or supervise the use of any pesticide which the board of certification determines does not adequately fit in any of the above (10) major categories.

(A)-(K) reserved

(L) Wood Preservatives and/or Wood Treatment. This subcategory includes commercial applicators who use or supervise the use of any pesticide, at treating plants and saw mills, for preservative treatment of wood by pressure, dipping, soaking, and diffusion processes to produce a commodity for sale and/or installation. This subcategory also includes the handling and topical application and injection of wood preservatives, for operations such as ground line pole treatment, waterproofing, millwork cutoffs, or supplemental field treatment.

(M) Non-Government M-44. This subcategory includes commercial applicators who ARE NOT government employees, who use the M-44 device for the control of coyotes.

(N) Non-Government Livestock Protection Collar. This subcategory includes commercial applicators who are not government employees, who use the LP Collar for the control of coyotes.

(O) Mosquito Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control mosquitos.

(P) Sewer Line Root Control. This subcategory includes commercial applicators using or supervising the use of any pesticide (including Metam Sodium or Dichlobenil) for sewer line root control.

(xii) Cat. 912 Aerial Application. This category includes commercial applicators using or supervising the use of any pesticide applied by fixed or rotary wing aircraft. In addition to certification in this category, certification is also required in one or more of the other categories listed under paragraph (b) of this section appropriate to the type of application being performed.

Section 5. Standards for Certification of Commercial Applicators.

(a) Determination of Competency. Competence in the use and handling of pesticides shall be determined on the basis of written examination and as appropriate, performance testing, based upon standards set forth below. Such examinations and testing shall include the general standards applicable to all categories: the additional standards specifically identified for each category-subcategory (if any) in which a commercial applicator is to be classified; and, as appropriate, any special standards established pursuant to Section 11 of these regulations.

(b) General standards of competency for all categories of certified commercial applicators.

(i) All commercial applicators shall demonstrate, by examination, practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems and situations; appropriate to the particular category or subcategory of the applicators' certification and the following areas of competency:

(A) Label and Labeling Comprehension.

(I) The general format and terminology of pesticide labels and labeling, including all written, printed or graphic matter associated with the product;

(II) The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;

(III) Classification of the product, general or restricted use.

(IV) Necessity for use consistent with the label.

(B) Safety.

(I) Pesticide toxicity and hazard to man, including all common exposure routes (dermal, inhalation and ingestion).

(II) Common types and causes of pesticide accidents;

(III) Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;

(IV) Need for and use of protective clothing and equipment;

(V) Symptoms of pesticide poisoning;

(VI) First aid and other procedures to be followed in case of a pesticide accident;
and

(VII) Proper identification, storage, transport, handling, mixing and disposal methods for pesticides, disposal of pesticide containers, including precaution to be taken to prevent children from having access to pesticides and pesticide containers.

(C) Environment. The potential environmental consequence of the use and misuse of pesticides as may be influenced by:

(I) Weather and other climatic conditions;

(II) Types of terrain, soil and other substrate;

(III) Groundwater aquifer vulnerability;

- (IV) Presence of fish, wildlife and non-target organisms;
 - (V) Presence of endangered species; and
 - (VI) Drainage patterns.
- (D) Pests.
- (I) Common features of pest organisms and characteristics of damage needed for pest recognition;
 - (II) Recognition of relevant pests; and
 - (III) Pest development and biology as it may be relevant to problem identification and control.
- (E) Pesticides.
- (I) Types of pesticides;
 - (II) Types of formulations;
 - (III) Compatibility, synergism, persistence and animal and plant toxicity to the formulations;
 - (IV) Hazards and residues associated with use;
 - (V) Factors which influence effectiveness or lead to such problems as resistance to pesticides; and
 - (VI) Dilution procedures.
- (F) Equipment.
- (I) Types of application equipment and advantages and limitations of each type; and
 - (II) Uses, maintenance and calibration.
- (G) Application Techniques.

(I) Methods of procedure used to apply various formulations of pesticides, solutions and gases, together with a knowledge of which technique of application to use in a given situation;

(II) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and

(III) Prevention of drift and pesticide loss into the environment.

(H) Laws and Regulations.

(I) Applicable state and federal laws and regulations; and

(II) Worker Protection Standards as they apply to farms, forests, nurseries and greenhouses.

(c) Specific standards of competency for each category and/or subcategory. Commercial applicators when certifying in a specific category, shall be particularly qualified in that category as elaborated below:

(i) Cat. 901 Agricultural Pest Control.

(A) Weed Control. Applicators must demonstrate, by examination, practical knowledge of the crops grown and the specific weeds of those crops on which they may be using pesticides. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, restricted entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of pesticides in agricultural areas.

(B) Insect Control. Applicators must demonstrate, by examination, practical knowledge of the crops grown and the specific insects of those crops on which they may be using pesticides. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, restricted entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of pesticides in agricultural areas.

(C) Disease Control. Applicators must demonstrate, by examination, practical knowledge of the crops grown and the specific diseases of those crops on which they may be using pesticides. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, restricted entry intervals, phytotoxicity and potential for environmental contamination, non-target injury and community problems resulting from the use of pesticides in agricultural areas.

(D) Animal. Applicators applying pesticides directly to animals must demonstrate, by examination, practical knowledge of such animals and their associated pests. A practical knowledge is also

required concerning specific pesticide toxicity and potential residue, since host animals will frequently be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation, application techniques, ages of animals, stress and extent of treatment.

(E) Rodent Control. Applicators shall demonstrate, by examination, practical knowledge of detrimental rodents found in agricultural situations, the potential impact on the environment of pesticides used in rodent control programs, and knowledge of factors influencing introduction, spread and population dynamics of relevant pests. In addition, use requires particular ability that relates to integrated knowledge of the locale, target species and damage patterns caused by the target species.

(F) Chemigation. Applicators shall demonstrate practical knowledge of equipment associated with chemigation, including calibration techniques and use of anti-back flow/check valves to prevent contamination of water supplies. They shall demonstrate knowledge of labeling requirements of products registered for chemigation, including posting requirements. Further, they shall demonstrate knowledge of appropriate use of personal protective equipment associated with this type of application.

(ii) Cat. 902 Forest Pest Control. Applicators shall demonstrate, by examination, practical knowledge of the types of forest, forest nurseries and seed production in Wyoming and the pests involved. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. The applicator must demonstrate, by examination, practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects of wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

(iii) Cat. 903 Ornamental and Turf Pest Control.

(A) Weed Control. Applicators shall demonstrate, by examination, practical knowledge of pesticide problems associated with weed control in the production and maintenance of ornamental trees, shrubs, plantings and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this subcategory must demonstrate, by examination, practical knowledge of application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

(B) Insect Control. Applicators shall demonstrate, by examination, practical knowledge of problems associated with insect control in the production and maintenance of ornamental trees, shrubs, plantings and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift and persistence beyond the extended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this subcategory must demonstrate,

by examination, practical knowledge of application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

(C) Disease Control. Applicators shall demonstrate, by examination, practical knowledge of pesticide problems associated with disease control in the production and maintenance of ornamental trees, shrubs, plantings and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitation to application activities, applicators in this subcategory must demonstrate, by examination, practical knowledge of application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

(D) reserved

(E) Rodent Control. Applicators shall demonstrate, by examination, practical knowledge of detrimental rodents found in ornamental and turf situations, the potential impact of the environment on pesticides used in rodent control programs, and knowledge of factors influencing introduction, spread and population dynamics of relevant pests. In addition, use requires particular ability that relates to integrated knowledge of the locale, target species and damage patterns caused by the target species.

(iv) Cat. 904 Seed Treatment. Applicators shall demonstrate, by examination, practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents which influence pesticide binding and may effect germination. They must demonstrate, by examination, practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seed.

(v) Cat. 905 Aquatic Pest Control. Applicators shall demonstrate, by examination, practical knowledge of the secondary effects which can be avoided by proper application rates, correct formulations and correct application of pesticides used in this category. They shall demonstrate, by examination, practical knowledge of various water use situations and the potential of downstream effects. Further, they must have a practical knowledge concerning pesticide effects on plants, fish, birds, beneficial insects, and other organisms which may or may not be present in aquatic environments. These applicators shall demonstrate, by examination, practical knowledge of the principles of limited area application.

(vi) Cat. 906 Right-of-Way Pest Control. Applicators shall demonstrate, by examination, practical knowledge of a wide variety of environments since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate, by examination, practical knowledge of problems of runoff, drift and excess foliage destruction and ability to recognize target organisms. They shall also demonstrate, by examination, practical knowledge of the nature of herbicides and the need for containment

of these pesticides within the right-of-way area, and the impact of their application activities on the adjacent areas and communities.

(vii) Cat. 907 Industrial, Institutional, Structural and Health Related Pest Control. Applicators must demonstrate, by examination, a practical knowledge of a wide variety of pests including their life cycles, types of formulations appropriate for their control and methods of application that avoid contamination of food, damage and contamination of habitation, and exposure of people and pets. Since human exposure is a potential problem, applicators must demonstrate, by examination, practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. Because health related pest control may involve outdoor applications, applicators must also demonstrate, by examination, practical knowledge of environmental conditions, particularly related to this activity.

(A)-(F) Reserved

(G) Fumigation. Applicators shall demonstrate practical knowledge of conditions requiring the application of fumigants, and selection of the most appropriate fumigation methods to use. They shall demonstrate knowledge of equipment used in fumigation, such as application, monitoring, testing, calculating, and personal protective devices. Applicators shall demonstrate ability to release, distribute and maintain the correct fumigant concentrations for the product/structure being fumigated, under differing conditions. They shall also have knowledge of the hazards involved with the use of fumigants, including requirements for properly ventilating enclosed spaces after application.

(H) Bird Control. Applicators shall demonstrate practical knowledge of protected and unprotected pest birds and conditions conducive to bird problems. They shall demonstrate knowledge of all applicable laws and regulations protecting birds and the actions required in order to control protected pest species. Applicators shall demonstrate knowledge of bird control methods and the hazards involved with pesticide usage, especially secondary poisoning of non-target organisms.

(viii) Cat. 908 Public Health Pest Control. Applicators shall demonstrate, by examination, practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests are involved, and it is essential they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have a practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal and drainage. This category does not include control of vertebrate pests which are disease vectors. (Vertebrate disease vectors are included in paragraph (c)(ix)(H) of this section)

(ix) Cat. 909 Regulatory Pest Control. Applicators shall demonstrate, by examination, practical knowledge of regulated weeds, insects and diseases, and the potential impact to the environment

of pesticides used in control programs. They shall demonstrate, by examination, knowledge of factors influencing introduction, spread and population dynamics on relevant pests.

(A)-(D) reserved

(E) Rodent Control. Applicators shall demonstrate practical knowledge of detrimental rodents, the potential impact on the environment of pesticides used in rodent control programs and knowledge of factors influencing the introduction, spread and population dynamics of relevant pests. In addition, applicators shall demonstrate integrated knowledge of the locale, target species and damage patterns caused by the target species.

(F)-(G) reserved

(H) Bird Control. Applicators shall demonstrate practical knowledge as indicated under paragraph (c)(vii)(G) of this Section.

(I) Vertebrate Pest Control. Applicators shall demonstrate, by examination, practical knowledge of regulated vertebrate pests (excluding birds) and, the potential impact on the environment of pesticides used in control programs. They shall demonstrate, by examination, knowledge of factors influencing introduction, spread and population dynamics of relevant pests. In addition, use requires particular ability that relates to integrated knowledge of the locale, target species and damage patterns caused by the target species.

(J) M-44. Applicators shall demonstrate practical knowledge on the use of the M-44 device to control coyotes, including the history of the M-44 device, toxic effects of sodium cyanide, first aid for cyanide poisoning, M-44 parts and their use, preparation of the M-44 for use, setting the M-44, the use of baits and attractants, selecting M-44 use sites, EPA use restrictions, and all reporting and record keeping requirements pertaining to the use of M-44's. Applicators shall also demonstrate knowledge of basic coyote information, characteristics of predatory species, and use of alternative methods for predator control. Certification in this subcategory shall require separate and specific training, examination and certification.

(K) Livestock Protection Collars. Applicators shall demonstrate practical knowledge on the use of the Livestock Protection Collar to control coyotes, including criteria for applicators, specific certification requirements for applicators, monitoring protocols and labeling and the use of the technical bulletin on the LP Collar. Applicators shall also demonstrate knowledge of procedures for evaluating predation on livestock and wildlife, and all reporting and record keeping requirements pertaining to the use of the LP Collar. Certification in this subcategory shall require separate and specific training, examination and certification.

(x) Cat. 910 Demonstration and Research Pest Control. Applicators demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstrations, and practical knowledge of problems, pest and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide - organism interactions and the importance of integrating pesticide use with other control methods. In addition, they shall meet the specific standards required for categories 901 through 909 of this section as they may be applicable to their particular activity.

Persons conducting field research or method improvement work with pesticides should know the general standards under paragraph (b) of this section. In addition, they shall meet the specific standards required for categories 901 through 909 of this section, applicable to their particular activity, or alternatively, to meet the more inclusive requirements listed under "demonstration".

(xi) Cat. 911 Specific Use Pest Control. Applicators shall demonstrate, by examination, practical knowledge of the specific pest to be controlled, and the potential impact on the environment of the specific pesticide to be used. The applicator shall also demonstrate, by examination, practical knowledge concerning all pertinent factors influencing application methods, hazards to the applicator and the public, and any other factors which the Board of Certification deems of importance for the specific pesticide. The Board of Certification will develop the examination only after consulting with the manufacturer of the specific restricted-use pesticide. Because of the unusual nature of these specific pesticides, neither the Board of Certification, the Wyoming Department of Agriculture, nor the University of Wyoming will be required or expected to provide training for applicators prior to the examination. Notwithstanding the provisions under Section 6(k) dealing with training for re-certification, the board of certification is not required to approve training courses for re-certification, and the board of certification may require the applicator to be re-examined to maintain certification.

(A)-(K) reserved

(L) Wood Preservation. Applicators shall demonstrate practical knowledge of conditions for which preservative treatment of wood is used. Applicators shall demonstrate a knowledge of all laws specific to the use of wood preservatives, the health and environmental hazards associated with wood treating procedures, and the need for informing purchasers of precautions for handling, use, and disposal of treated wood products. They shall demonstrate knowledge of all applicable treating and testing equipment, structural wood destroying organisms, conditions conducive to infestation and shall demonstrate knowledge and ability to select, calibrate and use appropriate control procedures.

(M) Non-Government M-44. Applicators shall demonstrate practical knowledge as indicated under paragraph (c)(ix)(i) of this section.

(N) Non-Government Livestock Protection Collar. Applicators shall demonstrate practical knowledge as indicated under paragraph (c)(ix)(J) of this section.

(O) Mosquito Control. Applicators shall demonstrate practical knowledge of appropriate life cycles and habitats of mosquito populations which form the basis of a control strategy. Applicators shall have practical knowledge of a great variety of environments ranging from exterior water sources to those conditions found in buildings and also have knowledge of non-chemical control methods such as sanitation, waste disposal and drainage.

(P) Sewer Line Root Control. Applicators shall demonstrate by practical knowledge of various technical aspects of sewer line root control, with emphasis on the safe use and application of chemical products, especially those which contain metam sodium, a restricted-use pesticide.

(xiii)Cat. 912 Aerial application. Applicators shall demonstrate practical knowledge of aerial equipment calibration and maintenance and the avoidance of problems associated with aerial application, such as drift and non-target injury. In addition, applicators will demonstrate knowledge appropriate to the type of aerial application being performed through their additional certification in one or more of the categories listed under paragraph (c) of this section.

(d) The above standards do not apply to the following persons for purposes of these regulations:

(i) Persons conducting research in a laboratory, involving pesticides; and

(ii) Doctors of Medicine and Doctors of Veterinary Medicine applying drugs or medication during the course of their normal practice and who do not publicly represent themselves as pesticide applicators.

Section 6. Certification of Commercial Applicators

(a) Each applicant requiring examination or re-examination for any reason, shall be required to take the examination at a time and place to be specified by and under the direction of the Director of Agriculture in accordance with the conditions and provisions herein. Applications to be provided by the department.

(b) New applicants, upon successful completion of examination(s), shall submit with the application for licensing, a fee, payable to the Wyoming Department of Agriculture. All fees submitted shall be non-refundable.

(i) Commercial Applicator - \$25.00 License fee.

(c) Applicants, upon meeting re-certification requirements shall submit with the application for licensing, a fee payable to the Wyoming Department of Agriculture. All fees submitted shall be non-refundable.

(i) Commercial Applicator - \$25.00 Renewal fee.

(d) Employees of governmental entities are exempted from paying the fees, when the license is used in the performance of their official duties.

(e) Applicants for examination or re-examination may be tested at the Cheyenne office of the Wyoming Department of Agriculture during regular office hours at any time convenient to both the applicant and the department. Applicants may also be tested at other locations, at the convenience of the applicant, the department or the proctor designated by the department.

(f) Applicants for examination or re-examination shall be required to obtain a minimum score of seventy (70) percent on the general examination and in all specific categories or sub-categories in which they are tested, in order to qualify for a commercial applicators license.

(g) Applicants shall be notified in writing of the results of any examination as soon as possible, but in no case shall it exceed thirty (30) days.

(h) Failure to receive a passing score on any examination shall require that the applicant be re-examined only in that category which he failed.

(i) Any applicant who fails to obtain a passing score on two (2) successive examination attempts will be required to attend a training program for new applicators approved by the Director prior to taking any examination a third time.

(j) Applicants who have been examined and found qualified for certification as a commercial applicator shall be issued a license in the appropriate categories or sub-categories, provided that all other requirements for certification have been fully complied with. The license for commercial applicators shall be issued for that portion of the calendar year in which the license is issued or reviewed plus twenty-five (25) months and shall expire on January 31 of the appropriate year.

(k) The Board of Certification shall allow commercial applicators to become re-certified by one of the following methods:

(i) Accumulate 24 hours of approved training during the valid years of the applicators license.

(ii) Attend the annual re-certification short course.

(iii) Re-examination in all applicable categories.

Any extenuating circumstances may be submitted to the board of certification for review.

(l) Any applicator who has had his license suspended shall, prior to re-instatement, be required to re-take all applicable examinations and achieve a passing grade before operations may be resumed, and shall be considered on probation for a period of one (1) year thereafter. Any violation of the Wyoming Environmental Pesticide Control Act of 1973 or Chapter XXVIII, Applicator Certification Rules and Regulations, during the period of probation shall be cause for immediate revocation of license for up to three (3) years.

(m) The Wyoming Pesticide Board of Certification shall in all cases adhere to the Wyoming Administrative Procedures Act when revoking, canceling or suspending any commercial or general applicators license.

(n) Non-resident applicators who meet Wyoming certification requirements and present proper documentation (applicator license and letter of verification), may be considered certified in Wyoming and may be issued a license in the appropriate category. However, reciprocal certification will be extended only to applicants from those states that accept Wyoming certification for reciprocity.

Section 7. Standards for Supervision of Non-Certified Applicators by Certified Private and Commercial Applicators.

(a) At a minimum, availability of the certified applicator must be directly related to the hazard of the situation. For all applications conducted by non-certified person(s), the certified applicator must be available by immediate contact through telephone or radio. In addition, the certified applicator must be physically present on-site when use of the pesticide poses a potentially serious hazard to people or the environment.

(b) When required by the pesticide product label, the certified applicator shall be physically present on-site at all times during the application.

(c) Evidence that adequate supervision is being exercised shall include, but not be limited to:

(i) Verifiable (written) instruction to the competent person,

(ii) Detailed guidance for applying the pesticide properly.

(iii) A copy of the appropriate pesticide product label and Material Safety Data Sheet (MSDS).

- (iv) The certified applicator being physically on-site within a reasonable period of time.

Section 8. Certification Categories for Private Applicators

(a) Procedure. Certification categories for applicators (other than commercial) using or supervising the use of restricted use pesticides are identified below:

(b) Categories:

(i) Cat. 01001 General Certification. This category includes private applicators using or supervising the use of restricted use pesticides in the production of agricultural commodities, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, forage, vegetables, small fruits, as well as grasslands and non-crop agricultural lands. This category also includes private applicators using or supervising the use of restricted use pesticides on animals and to places on or in which animals are confined.

(ii) Cat. 01002 Product Specific. This category includes private applicators who use or supervise the use of a "single" restricted use pesticide or a restricted use pesticide which the Board of Certification determines does not adequately fit in any of the other private applicator categories, (i.e., wood treatment products).

(iii) Cat. 01003 M-44(Sodium Cyanide). This category includes private applicators using the M-44 device for the purpose of controlling coyotes.

(iv) Cat. 01004 Livestock Protection Collar. This category includes private applicators using the LP Collar for the purpose of controlling coyotes.

(v) Cat. 01005 Chemigation. This category includes private applicators using or supervising the application of restricted use pesticides through an irrigation system. Certification in this category requires concurrent certification in Category 01001.

Section 9. Standards for Certification of Private Applicators

(a) Determination of Competency. Competence in the use and handling of restricted-use pesticides by a private applicator will be determined by procedures set forth below. As a minimum requirement for certification, a private applicator must show that he possesses a practical knowledge of the pest problems and pest control practices associated with his agricultural operation; proper storage, use, handling and disposal of the pesticide and containers and his related legal responsibility.

(b) General standards of competency for all categories of certified private applicators.

- (i) Recognize common pests to be controlled and damage caused by them.
 - (ii) Read and understand the label and labeling information, including the common name of the pesticide(s) being used, the crop, animal or site to which the pesticide is being applied, pest(s) to be controlled, timing and methods of application, safety precautions, any harvest, grazing or restricted entry restriction(s), and any specific disposal procedures.
 - (iii) Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentrations of pesticide to be used under particular circumstances, taking into account such factors as area to be covered, speed at which application equipment will be operated, and the quantity of product dispersed in a given period of operation.
 - (iv) Recognize local environmental situations that must be considered during application in order to avoid any possible contamination.
 - (v) Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.
- (c) Specific standards of competency for each category of certification. Private applicators, when certifying in a specific category, shall be particularly qualified in that category as elaborated below:
- (i) Cat. 01001 General Certification. Applicators shall demonstrate practical knowledge of agricultural commodities, and the specific weeds, insects and diseases of those agricultural commodities on which they may use restricted use pesticides. Practical knowledge is required concerning relevant soil and water problems, pre-harvest intervals, restricted entry intervals, phytotoxicity, and potential for environmental contamination and non-target injury. Applicators shall also demonstrate practical knowledge of animals and their associated pests, and pesticide toxicity and residue potential.
 - (ii) Cat. 01002 Product Specific. Applicators shall demonstrate practical knowledge of the specific pest to be controlled and the potential impact on the environment of the specific pesticide being used. The applicator must also demonstrate practical knowledge concerning pertinent factors influencing application methods, hazards to the applicator and the public and any other factors which the Board of Certification deems of importance for the specific pesticide.
 - (iii) Cat. 01003 M-44(Sodium Cyanide). Applicators shall demonstrate practical knowledge on the use of the M-44 device to control coyotes, including the history of the M-44 device, toxic effects of sodium cyanide, first aid for cyanide poisoning, M-44 parts and their use, preparation of the M-44 for use, setting the M-44, the use of baits and attractants, selecting M-44 use sites, EPA use restrictions and all reporting and record keeping requirements pertaining to the use of M-44's. Applicators shall also demonstrate knowledge of basic coyote information, characteristics of predatory species and use of alternative methods for predator control. Certification in this category shall require separate and specific training, examination and certification.

(iv) Cat. 01004 Livestock Protection Collar. Applicators shall demonstrate practical knowledge on the use of the LP Collar to control coyotes, including criteria for applicators, specific certification requirements for applicators, monitoring protocols and labeling and the use of the technical bulletin on the LP Collar. Applicators shall also demonstrate knowledge of procedures for evaluating predation on livestock and wildlife and all reporting and record keeping requirements pertaining to the use of the LP Collar. Certification in this category shall require separate and specific training, examination and certification.

(v) Cat. 01005 Chemigation. Applicators shall demonstrate practical knowledge of equipment associated with chemigation, including calibration techniques and use of an anti-back flow/check valve to prevent contamination of water supplies. They shall demonstrate knowledge of labeling requirements of products registered for chemigation, including posting requirements. Further, they shall demonstrate knowledge of the appropriate use of personal protective equipment associated with this type of application.

Section 10. Certification of Private Applicators

(a) Each applicant may be required to take an examination under the direction of the Director of Agriculture in accordance with the conditions and provisions specified herein. The requirements for an examination may be fulfilled by satisfactorily completing one of the following:

- (i) A training course approved by the Board of Certification,
- (ii) A program instruction workbook, or
- (iii) A written or oral examination.

(A) Applicants shall be required to obtain a passing grade of seventy (70) percent on each section or category of the examination under which they wish to qualify.

(B) Applicants shall be notified in writing of the results of any examination within thirty (30) days.

(C) Such competence of each private applicator shall be indicated through the issuance, by the Department of Agriculture, of a private applicator's license, based upon the standards set forth in Section 9, which ensures the private applicator is competent to use the restricted-use pesticide under limitations of applicable state laws and regulations.

(D) Applicants who have been examined and found qualified as private applicators shall be issued an appropriate license. License shall be valid for such condition as stated on the applicators license. The license for the private applicator shall be issued for the portion of the calendar year in which

the license is issued or reviewed plus fifty-two (52) months and shall expire on April 30 of the appropriate year. The Board of Certification shall require private certified applicators to attend a re-certification course approved by the Board once every five (5) years, complete a program instruction workbook, or be re-examined to maintain certification. The license shall be a non-fee license.

(E) In the event a person, at the time of testing for certification is unable to read a label, the issuing authority will administer a private applicator "single product" examination orally, and the applicant, if approved, shall be certified only for use of that product.

(F) Any private applicator who has had their license suspended shall, prior to reinstatement, be required to take a written examination and receive a passing grade before operations may be resumed, and shall be considered on probation for a period of one (1) year thereafter. Any violations during the period of probation shall be cause for immediate revocation of license for up to three (3) years.

(G) The Wyoming Pesticide Board of Certification shall in all cases adhere to the Wyoming Administrative Procedures Act when revoking, canceling or suspending any private applicator license.

Section 11. Pesticide(s) Subject to Other Restrictions as Provided by the Board of Certification

(a) When it is determined that standards for the certification of private applicators, or commercial applicators must be more stringent than the standards in Section 5 or Section 9 and additional special identification is necessary for an individual using a highly toxic pesticide or applying a pesticide which has been demonstrated to be particularly hazardous to the environment, the standards for the applicator shall include, in addition to their category standards, an especially high degree of knowledge concerning the compound's action, its limitations and the areas in which it is to be applied.

(b) When it is determined by the Board of Certification that unreasonable adverse effects on the environment may reasonably occur, and following a hearing pursuant to the Wyoming Administrative Procedures Act, the Board may restrict the time, place, manner, materials, amounts and concentrations used in connection with the application of a pesticide, or may prohibit use of pesticides in designated areas during specified periods of time. The restrictions and/or prohibitions shall encompass all reasonable factors which the Board deems necessary.

Section 12. Use of Pesticides Under Special Registration for Production of Minor Crops Grown for Seed.

(a) This section applies to pesticide products registered under Section 18 and/or Section 24(c) of FIFRA, and used in the production of minor crops grown for seed as defined in Section 2, paragraph (w) of these regulations.

(b) The use of these pesticide products is not permitted on fields producing feed for livestock and no portion of the treated field, including but not limited to, seed, seed screenings, hay forage or stubble, may be used for human food or animal feed.

(c) The current year's treated seed crop shall not be used or distributed for animal feed purposes, including but not limited to, hay, green chop, pellets, meal, whole seed, cracked seed, seed screenings, roots, bulbs, leaves, chaff or stubble; nor can grazing take place on the current year's treated seed crops.

(d) Screenings or other crop by-products shall not enter feed channels by distribution and/or direct use. All seed screenings and/or crop by-products that were treated with a pesticide registered for minor crop seed production must be immediately removed from the feed market, and disposed of in such a manner that they cannot be distributed or used for feed or food purposes. The seed conditioner shall keep records of all minor crop seed screenings and their disposal (site, method, amount and type of material, date of shipment) and shall furnish these records to the department upon request.

(e) Treated minor crop seed shall not be used or distributed for human food.

(f) All crop seed treated with any pesticide registered for use in minor crop seed production only, shall be tagged at the processing plant and such tag shall state NOT FOR HUMAN CONSUMPTION AND/OR ANIMAL FEED. It shall be the grower's responsibility to notify the processing plant(s) of any seed crop(s) treated with pesticide(s) registered for use in minor crop seed production only.

(g) All usage, in addition to the requirements of this rule, shall be in compliance with the label of the pesticide registered for use in seed production only.

Section 13. Licensed Pesticide Dealer

(a) Any person who makes available for use a restricted-use pesticide as defined in W.S. 34-7-354(e) to certified or non-certified persons shall register, for the purpose of licensing, the principal business name and address by which the dealer operates and the business name and address of each branch dealership with the Wyoming Department of Agriculture on an annual basis.

(b) Persons requiring a pesticide dealers license shall submit with the license application, a \$25.00 fee for each dealer establishment, payable to the Wyoming Department of Agriculture. No establishment shall be required to pay more than \$100.00 in WDA license fees. (Reference W.S. 11-1-104 (a)).

(c) Pesticide dealer license(s) will be issued by the department to the applicant for each establishment. Licenses to be renewed by April 1 of each year.

Section 14. Reports and Records

(a) Licensed pesticide dealers shall maintain and retain accurate and legible records of all sales of restricted use pesticides for a period of two (2) years.

(b) Dealers shall maintain office records of all sales of restricted-use pesticides to certified applicators at each dealership. Records shall include:

- (i) Date of sale
- (ii) Name and address of purchaser
- (iii) Applicator license number
- (iv) Category(s) of certification
- (v) License expiration date
- (vi) Type of pesticide, brand name and EPA registration number
- (vii) Total amount of product purchased

(c) When a restricted-use pesticide is made available for use to a NON-CERTIFIED PERSON for use by a certified applicator, dealers shall maintain office records as required under paragraph (b) of this section.

Dealers shall also be required to obtain documentation from the certified applicator, authorizing the non-certified person to act on their behalf, plus the name and address of the non-certified person to whom the restricted use pesticide is made available and the type of document from which the name and address was obtained.

(d) Certified commercial applicators who are involved in the commercial application of pesticides shall maintain office records giving such information with respect to:

- (i) Name & address of person for whom the application was made, and if applicable, who purchased the pesticide(s).
- (ii) Location of the pesticide application
- (iii) Commodity/site treated
- (iv) Pest controlled

- (v) Pesticide applied:
 - (A) Brand name of product
 - (B) EPA registration number
 - (C) Total amount of pesticide used
 - (D) Rate of application
 - (E) Method of application
- (vi) Date and time of application
- (vii) Weather conditions: (time of application)
 - (A) Temperature
 - (B) Wind direction and velocity

(e) Such records shall be open for inspection at any time during business hours, by the Director of Agriculture or his designated department employee.

(f) Commercial applicators shall maintain and retain accurate and legible records of all pesticides applied during commercial applications, for a period of two (2) years.

Section 15. Required Practices for Commercial Applicators and Private Applicators.

(a) Certified commercial applicators and private applicators shall notify the department of any change of business address within seven (7) days.

(b) Certified commercial applicators making a commercial application, shall prior to application, inform the customer of the following items:

- (i) Pesticide(s) applied
- (ii) Possible residue hazards
- (iii) Any restricted entry periods
- (iv) Any waiting periods prior to harvest

- (v) Application date(s) and time(s)
 - (vi) Post-application label safety precautions
 - (vii) Other applicable label requirements (e.g. posting, Worker Protection Standards)
- (c) Commercial applicators making commercial applications shall maintain and retain accurate and legible records of the information required under paragraph (b) of this section, for a period of two (2) years.

Section 16. Storage and Disposal of Pesticides and Pesticide Containers.

(a) All certified pesticide applicators shall store all pesticide concentrates and dilute mixtures using methods which are reasonably calculated to prevent the contamination of other products by means of volatilization, leakage, breakage or other causes, and which are reasonably calculated to avoid the creation of an unreasonable risk of harm to persons, property, domestic/wild animals, or the environment.

(b) Pesticide storage areas shall be kept clean and orderly, and pesticide containers shall be positioned so that they are not exposed to unreasonable risk of damage to the containers or their labels.

(c) Pesticides and pesticide containers shall be covered or otherwise protected from the elements, in a manner which is reasonably calculated to minimize the risk of damage to labels, and to avoid the creation of an unreasonable risk of harm to persons, property or domestic/wild animals.

(d) Until such time as the department promulgates specific rules and regulations governing the storage and disposal of pesticides and pesticide containers, the RECOMMENDED procedures detailed in 40 CFR, part 165 promulgated by the Administrator, U.S. EPA, shall be the recommended procedures for Wyoming. The department shall make copies of these procedures available to any person needing guidance for proper storage and disposal of pesticides and pesticide containers.

(e) All 1080 Livestock Protection Collars and M-44 Sodium Cyanide capsules shall be stored and transported in the original metal container, or comparable unit, and shall be locked at all times, except when collars or capsules are actually being removed or replaced. In addition, when in transit, the metal storage container(s) shall be placed inside a leak-proof, impact-resistant container which shall also be locked and secured. All containers shall be placarded with appropriate warning labels, indicating the presence of toxic chemicals within.

Section 17. Penalties. Any person who violates any provision of these Applicator Certification Rules and Regulations shall, in addition to those administrative sanctions provided for below, remain subject to those criminal sanctions provided for by W.S. 35-7-366, 1977, as amended (or any other appropriate Wyoming statutes). Any violation of these rules and regulations may be deemed as sufficient cause and

may result in the denial, revocation or suspension of any license, or permit issued pursuant to this act, after a hearing as prescribed in the Wyoming Administrative Procedures Act.

Statutes:

Weights & Measures

Regulations:

**Chapter 18 – Weights & Measures,
Metrology Laboratory and Registered
Service Technicians**

**Chapter 30 – User Requirements for
Weights & Measures Devices**

WEIGHTS AND MEASURES

40-10-117. Definitions.

(a) Repealed By Laws 2009, Ch. 191, 2.

(b) As used in this chapter:

(i) "Accreditation" means a formal recognition by the national institute of standards and technology, as a laboratory that is competent to carry out specific tests or calibrations or types of tests or calibrations;

(ii) "Calibration" means a set of operations which establishes, under specified conditions, the relationship between values indicated by a measuring instrument or measuring system or values represented by a material measure, to the corresponding known values of a measurement;

(iii) "Commerce" means the buying and selling of goods;

(iv) "Commercial weighing and measuring equipment" means weighing and measuring devices commercially used or employed to establish the size, quantity, extent, area or measurements of goods purchased, offered or submitted for sale, hire or award, or in computing a basic charge or payment for services;

(v) "Condemned for repairs" means a weight or measure found to be incorrect and which, following policies set forth by the director, can be repaired. Weights or measures which are condemned for repair shall be marked as such and be sealed so that the weight or measure cannot be used and is made inoperable until all appropriate repairs are completed;

(vi) "Confiscation and seizure" means that an incorrect weight or measure is taken into custody by the department following procedures and policies set forth by the director. Weights or measures which are confiscated shall be marked as such and if possible shall be removed from the premises to the direct custody of the department;

(vii) "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this act;

(viii) "Department" means the department of agriculture;

(ix) "Director" means the director of the department of agriculture or his duly authorized representative;

(x) "Field standard" means a physical standard that meets specifications and tolerances in the National Institute of Standards and Technology Handbook 105-series standards,

is traceable to the reference or working standards through comparisons or using acceptable laboratory procedures as adopted by the National Conference on Weights and Measures and published in the United States Department of Commerce National Institute of Standards and Technology Handbook 143, "State Weights and Measures Laboratories Program Handbook," and is used in conjunction with commercial weighing and measuring equipment. All field standards may be defined by rule and regulation and shall be verified upon their initial receipt and as often thereafter as deemed necessary by the director;

(xi) "International system of units" means the modernized metric system as established in 1960 by the general conference on weights and measures as interpreted or modified for the United States by the secretary of commerce;

(xii) "Mass" means the same as "weight";

(xiii) "Net weight" means the weight of a commodity excluding any materials, substances or items not considered to be part of the commodity. Materials, substances or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments and coupons, except that packaging materials may be considered to be part of services such as shipping;

(xiv) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale;

(xv) "Physical standard" means weights and measures that are traceable to the United States prototype standards supplied by the federal government, including, but not limited to, standards adopted by the United States department of the interior, bureau of land management applicable to onshore oil and gas leases, the United States federal energy regulatory commission, the United States department of transportation, the state of Wyoming public service commission, or approved as being satisfactory by the National Institute of Standards and Technology. Physical standards shall be the state reference and working standards for weights and measures and shall be maintained in such calibration as prescribed by the National Institute of Standards and Technology as demonstrated through laboratory accreditation or recognition;

(xvi) "Primary standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived;

(xvii) "Random weight package" means a package that is one of a lot, shipment or delivery of packages of the same commodity with no fixed pattern of weights;

(xviii) "Recognition" means a formal recognition by the National Institute of Standards and Technology weights and measures division that a laboratory has demonstrated the ability to provide traceable measurement results and is competent to carry out specific tests or calibrations or specific types of tests or calibrations;

(xix) "Reference standard" means:

(A) A standard, generally of the highest metrological quality available at a given location, from which measurements made at that location are derived; or

(B) The physical standards of the state that serve as the legal reference from which all other standards for weights and measures within that state are derived.

(xx) "Registered service person" means an individual who for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device, and who is registered with the director;

(xxi) "Reject" means a weight or measure found to be incorrect, and following policies set forth by the director may be used until repaired. A weight or measure which is rejected shall be marked as such, and may be used for the period of time specified pursuant to rule and regulation;

(xxii) "Sale from bulk" means a sale of commodities in which the quantity is determined at the time of sale;

(xxiii) "Secondary standards" means the physical standards that are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and regulations;

(xxiv) "Standard package" means a package that is one of a lot, shipment or delivery of packages of the same commodity with identical net contents declarations, such as, one (1) liter bottles or twelve (12) fluid ounce cans of carbonated soda, five hundred (500) gram or five (5) pound bags of sugar, one hundred (100) meter or three hundred (300) foot packages of rope;

(xxv) "Traceability" means the result of a measurement or the value of a standard which can be verified as correct when compared with a national or international standard;

(xxvi) "Uncertainty" means a parameter associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the measurement;

(xxvii) "Verification" means the formal evaluation of a standard or device against the specifications and tolerances for determining conformance;

(xxviii) "Weight" as used in connection with any commodity or service means net weight. When a commodity is sold by drained weight, the term means net drained weight. When used in this chapter, "weight" and "mass" have the same meaning;

(xxix) "Weight and measure" means weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance or accessory associated with such instruments or devices;

(xxx) "Working standard" means:

(A) A standard that is usually calibrated against a reference standard and is used routinely to calibrate or check material measures, measuring instruments or reference materials; or

(B) The physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures and used in the enforcement of weights and measures laws and regulations.

(xxxix) "This act" or "this chapter" means W.S. 40-10-117 through 40-10-136.

40-10-118. Recognized systems.

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one (1) or both of these systems shall be used for all commercial purposes in the state. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the United States Department of Commerce National Institute of Standards and Technology are recognized and shall govern weighing and measuring equipment and transactions in the state.

40-10-119. Physical standards.

Weights and measures that are traceable to the United States prototype standards supplied by the federal government, or approved by the United States Department of Commerce National Institute of Standards and Technology, shall be the state primary standards of weights and measures, and shall be maintained in such calibration as prescribed by the United States Department of Commerce National Institute of Standards and Technology or demonstrated through laboratory accreditation or recognition. Field standards may be prescribed by the director and shall be verified upon their initial receipt, and as specified by rule and regulation.

40-10-120. Technical requirements for weighing and measuring devices.

(a) The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering and other weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the United States Department of Commerce National Institute of Standards and Technology Handbook 44, "Specification, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," shall apply to weighing and measuring devices in this state, and may be amended by rule or regulation.

(b) The Uniform Regulation for National Type Evaluation as adopted by the National Conference on Weights and Measures and published in the United States Department of Commerce National Institute of Standards and Technology Handbook 130, "Uniform Laws and

Regulations," are adopted and shall apply to type evaluation in this state, and may be amended by rule or regulation.

40-10-121. Department of agriculture duties and powers.

(a) The department of agriculture shall perform the following functions:

(i) Assure that weights and measures in commercial service within the state are suitable for their intended use, properly installed and accurate, and are so maintained by their owner or user;

(ii) Prevent unfair or deceptive dealing by weight or measure in any commodity or service advertised, packaged, sold or purchased within this state;

(iii) Promote uniformity, to the extent practicable and desirable, between weights and measures requirements of this state and those of other states and federal agencies.

(b) Unless requested by the operator of the weighing or measuring equipment, the department shall have no authority over weights and measures used in activities subject to the authority of the United States department of the interior associated with on shore oil and gas, the United States federal energy regulatory commission, the Wyoming public service commission associated with pipelines and utilities or the Wyoming oil and gas conservation commission.

(c) Except as otherwise required by law, rule, regulation or third party agreement, the department shall have no authority over weights and measures used pursuant to a written agreement between the parties using the weighing device.

40-10-122. Powers and duties of the director.

(a) The director shall:

(i) Maintain traceability of the state standards to the national standards established by the United States Department of Commerce National Institute of Standards and Technology as demonstrated through laboratory recognition or accreditation;

(ii) Enforce the provisions of this act;

(iii) Issue reasonable rules and regulations for the enforcement of this act;

(iv) Grant exemptions from the provisions of this act or any regulations promulgated pursuant thereto when appropriate for the maintenance of good commercial practices within the state;

(v) Conduct investigations to ensure compliance with this act and the rules and regulations promulgated pursuant to this act;

(vi) Delegate authority to appropriate personnel as required for the proper administration and enforcement of this act;

(vii) Inspect and test in a timely manner, weights and measures kept, offered or exposed for sale;

(viii) Promulgate rules and regulations regarding inspecting and testing weights and measures used commercially, to ascertain if they are correct:

(A) In determining the weight, measure or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure or count; or

(B) In computing the basic charge or payment for services rendered on the basis of weight, measure or count.

(ix) Approve for use and mark weights and measures found to be correct, reject and mark as rejected, condemn and mark as condemned and make inoperable weights and measures found to be incorrect. Rejected weights and measures shall be condemned and made inoperable if not corrected within the time specified or if used in a manner not specifically authorized;

(x) Weigh, measure or inspect packaged commodities kept, offered or exposed for sale, sold or in the process of delivery to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this act or rules and regulations promulgated pursuant to this act. In carrying out the provisions of this paragraph, the director shall employ recognized sampling procedures adopted by National Conference on Weights and Measures and published in the United States Department of Commerce National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods;"

(xi) Prescribe, by rule and regulation, the appropriate term, unit of weight or unit of measure to be used, whenever an existing practice of declaring the quantity by weight, measure, numerical count, time or combination thereof, does not facilitate value comparisons by consumers or may lead to consumer confusion;

(xii) Allow reasonable variations from the stated quantity of contents, to allow for loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce;

(xiii) Establish labeling requirements, requirements for the presentation of cost-per-unit information, establish standards of weight, measure, count and fill for any packaged commodity and establish requirements for open dating information;

(xiv) Verify the field standards for weights and measures used by any jurisdiction or registered service person operating within Wyoming before being put into service, and as often thereafter as deemed necessary by the director, and approve the same when found to be correct;

(xv) Provide for registration of persons qualified by training and experience to install, service and repair weighing or measuring devices;

(xvi) Provide that only persons who are registered are authorized to place in service devices which have been rejected or condemned and repaired or newly installed devices, whether new or used, until an official inspection by an authorized inspector is made;

(xvii) Provide for the training of weights and measures personnel and establish minimum training and performance requirements, for all weights and measures personnel, including county, municipal, state or registered servicepersons;

(xviii) Verify advertised prices, price representations and point-of-sale systems, as necessary to determine:

(A) The accuracy of prices and computations and proper use of the equipment; and

(B) The accuracy of prices printed or recalled from a database in systems utilizing scanning or coding means in lieu of manual entry. In carrying out the provisions of this paragraph, the director shall:

(I) Employ recognized procedures, as adopted by the National Conference on Weights and Measures and published in the United States Department of Commerce National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations, Examination Procedures for Price Verification"; and

(II) Conduct inspections and investigations to ensure compliance.

(xix) Establish fees for testing and inspection, which may include actual hourly cost plus mileage for any inspections requested other than the routine inspection. The hourly cost shall be as determined by the director and the mileage cost shall be as provided by W.S. 9-3-103;

(xx) Establish reasonable laboratory fees for testing, inspection and calibration of standards or weight and measuring devices.

(b) The director may allow the licensing, testing, inspection and reporting requirements of this chapter to be conducted electronically as provided by the Uniform Electronic Transaction Act, W.S. 40-21-101 through 40-21-119 and any applicable federal electronic requirements.

40-10-123. Special enforcement powers.

(a) When necessary for the enforcement of this act or rules and regulations promulgated pursuant to this act, the director is:

(i) Authorized to enter any commercial premises open to the public during normal business hours. If the premises are not open to the public, he shall obtain consent before making entry, or obtain a search warrant;

(ii) Empowered to issue stop-use, hold and removal orders with respect to any weights and measures commercially used or any packaged commodities or bulk commodities kept, offered or exposed for sale; and

(iii) Empowered to seize, as evidence, any incorrect or unapproved weight, measure, package or commodity found to be used, retained, offered or exposed for sale or sold in violation of the provisions of this act or rules and regulations promulgated pursuant to this act;

(iv) Authorized to report the results of investigations and inspections to the owner or person in charge by hand delivering, mailing or sending electronically.

40-10-124. Powers and duties of local officials.

Any weights and measures official appointed for a county or city shall have the duties and powers enumerated in this act, excepting those duties reserved to the state by law or regulation. These powers and duties shall extend to their respective jurisdictions, except that the jurisdiction of a county official shall not extend to any city for which a weights and measures official has been appointed. No requirement set forth by local agencies may be less stringent than or conflict with the requirements of the state.

40-10-125. Misrepresentation of quantity or pricing.

(a) No person shall:

(i) Sell, offer or expose for sale less than the quantity represented;

(ii) Take more than the represented quantity when he furnishes the weight or measure by means of which the quantity is determined; or

(iii) Represent the quantity in any manner tending to mislead or deceive another person.

(b) No person shall misrepresent the price of any commodity offered, exposed or advertised for sale by weight, measure or count, nor represent the price in any matter tending to mislead or in any way deceive another person.

40-10-126. Method of sale.

(a) Except as otherwise provided by the director, or by firmly established trade custom and practice:

(i) Commodities in liquid form shall be sold by liquid measure or by weight; and

(ii) Commodities not in liquid form shall be sold by weight, by measure or by count.

(b) The method of sale shall provide accurate and adequate quantity information that permits the buyer to make price and quantity comparisons.

40-10-127. Sale of gasoline and distillates on other than gross volume basis unlawful; exception; "sale" defined.

(a) Except as provided in subsection (b) of this section, the sale of gasoline and distillates, excluding liquified petroleum gas, on a temperature corrected basis or on any basis other than the gross volume of gasoline or distillate actually delivered is unlawful. Any contract in violation of this section shall be unenforceable to the extent of the violation.

(b) Sellers of motor fuel within this state shall offer to prospective purchasers the option to buy the product either by gross gallons or on the assumption that the temperature of the product is sixty degrees Fahrenheit (60 F) or the centigrade equivalent. This purchaser option may be exercised only on an annual basis and applied only to single deliveries of seven thousand five hundred (7,500) gallons or more or the metric equivalent. Any adjustments to volumes during the temperature compensation process shall be made in accordance with the standards set by the American Society of Testing Materials.

(c) For purposes of this act, "sale" does not include the exchange of gasoline or distillate between refiners or transporters of petroleum or petroleum products.

40-10-128. Sale from bulk.

(a) Except when the parties agree in advance that a delivery ticket is not required, all bulk sales in which the buyer and seller are not both present to witness the measurement shall be accompanied by a delivery ticket containing the following information:

(i) The name and address of the buyer and seller;

(ii) The date delivered;

(iii) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity, such as when temperature compensated sales are made;

(iv) The identity of the product in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale; and

(v) The count of individually wrapped packages, for commodities purchased from bulk, but delivered in packages;

(vi) The unit price, unless all parties agree the unit price is not required.

40-10-129. Information required on packages.

(a) Except as otherwise provided in this act or by rule or regulation promulgated pursuant to this act, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain and conspicuous declaration of:

(i) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container;

(ii) The quantity of contents in terms of weight, measure or count; and

(iii) The name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale, or sold in any place other than on the premises where packed.

40-10-130. Declarations of unit price on random weight packages.

In addition to the declarations required by W.S. 40-10-128, any package in a lot containing random weights of the same commodity shall include on the outside of the package a plain and conspicuous declaration of the price per pound or kilogram and the total selling price of the package, at the time it is offered or exposed for sale at retail.

40-10-131. Advertising packages for sale.

Whenever a packaged commodity is advertised with the retail price stated, there shall be a conspicuous declaration of quantity on the package.

40-10-132. Prohibited acts.

(a) No person shall:

(i) Use or possess any incorrect weight or measure for use in commerce;

(ii) Sell or offer for sale any incorrect weight or measure for use in commerce;

(iii) Remove any tag, seal or mark from any weight or measure or weighing or measuring device, without specific written authorization from the proper authority;

(iv) Hinder or obstruct any weights and measures official in the performance of his duties;

(v) Use or possess any weight, measure, weighing or measuring device that for use in commerce has not been tested and certified as correct by the department or a registered service person;

(vi) Place any weight, measure, weighing or measuring device into commercial service without having a current certificate of registration as a registered service person; or

(vii) Violate any provision of this act or rules or regulations promulgated under this act.

40-10-133. Criminal penalties.

Any person who commits any of the acts enumerated in W.S. 40-10-132 is guilty of a misdemeanor, and upon a first conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than three (3) months, or both. Upon a subsequent conviction within any five (5) year period, he shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than seven hundred fifty dollars (\$750.00) or by imprisonment for up to six (6) months, or both.

40-10-134. Restraining order and injunction.

The director is authorized to apply to any court of competent jurisdiction for a restraining order, or a temporary or permanent injunction, restraining any person from violating any provision of this act.

40-10-135. Presumptive evidence.

Whenever there shall exist a weight or measure or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that the weight or measure or weighing or measuring device is regularly used in commerce.

40-10-136. License required; fee.

(a) Every person who owns or is responsible for a weight, measure, weighing or measuring device regulated by this act shall obtain an annual license for each establishment on or before April 1 from the department and pay a fee as provided in this subsection. The fees

collected by the department under this section shall be deposited in the general fund. Fees shall be set by the department as follows:

(i) Not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00) for establishments with no more than five (5) devices;

(ii) Not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for establishments with more than five (5) and less than eleven (11) devices;

(iii) Not more than seventy-five dollars (\$75.00) for establishments with eleven (11) or more devices.

(b) The director shall define premise and inspection locations, including physical addresses and circumstances for special events.

(c) For purposes of this section, "establishment" means a place of business under one (1) management at one (1) physical location.



Chapter 18

WEIGHTS & MEASURES, METROLOGY LABORATORY AND REGISTERED SERVICE TECHNICIANS

Section 1. Authority. Pursuant to the authority provided by WYO. STAT. ANN. §§ 40-10-117 through 40-10-136, the Wyoming Department of Agriculture hereby promulgates and adopts the following regulations.

Section 2. Definitions.

- (a) "The act" means Wyoming Statutes §§ 40-10-117 through 40-10-136.
- (b) "Department" means the Wyoming Department of Agriculture.
- (c) "Director" means the Director of the Wyoming Department of Agriculture.
- (d) "Establishment" means a place of business at a single physical location.
- (e) "Mobile establishment" means a transportable establishment which does not remain in a single physical location.
- (f) "NIST" means the National Institute of Standards and Technology.
- (g) "Premise and inspection location" means the physical location of an establishment or device that is unique by address and may be different than the address of record for management.
- (h) "Point-of-sale system" means any combination of a cash register or other devices, or system, such as a scanner, capable of recovering stored information related to the price or computing the price of any individual item which is sold or offered for sale at retail.
- (i) "Special event" means a farmer's market; a local community event; a fair, exposition, or trade show; or other venues open to the public for specified limited periods of time.

Section 3. Technical requirements for weighing and measuring devices, uniform regulation for national type evaluation, and checking the net contents of packaged goods.

(a) The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering and other weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the 2009 Edition of the United States Department of Commerce National Institute of Standards and Technology Handbook 44, "Specification, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," are adopted and shall apply to weighing and measuring devices in Wyoming.

(i) These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of

Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(b) The Uniform Regulation for National Type Evaluation as adopted by the National Conference on Weights and Measures and published in the 2009 Edition of the United States Department of Commerce National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," is adopted and shall apply to type evaluation in Wyoming.

(i) These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(c) Recognized weighing, measuring, inspection, and sampling procedures, adopted by National Conference on Weights and Measures and published in the Fourth Edition 2005 of the United States Department of Commerce National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," are adopted and shall apply to package check weighing in Wyoming.

(i) These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(d) The Department shall review the version of the above handbooks annually printed by the United States Department of Commerce National Institute of Standards and Technology and determine if this section of the rules should be amended to adopt the current version.

Section 4. Exemptions.

(a) The following are deemed appropriate to the maintenance of good commercial practices within Wyoming and exempt from the provisions of the act and these regulations.

(i) Ticket printers on vehicle tank meters. Reference: National Institute of Standards Handbook - 44 Section 3.1 Vehicle Tank Meter (VTM) code (*Ticket Printer required*).

(A) This exemption applies to meters mounted on vehicle tanks such as those used for the measurement and delivery of petroleum products; agri-chemical liquids such as fertilizers, feeds, pesticides, and defoliant; and water delivered in bulk.

(B) This exemption DOES NOT apply to the following:

(1) Devices used for dispensing Liquefied Petroleum Gases, Liquid Anhydrous Ammonia, or other liquids which do not remain in a liquid state at atmospheric pressures and temperatures.

(2) Devices used solely for dispensing a product if the amount dispensed does not affect cost to the customer.

(3) Vehicle tanks used as measures.

(4) Mass flow meters.

(ii) All delivery systems are subject to WYO. STAT. ANN. § 40-10-128;

(iii) The delivery ticket may be printed using a mechanical ticket printer on the meter, or may be handwritten in clear hand script if the system does not have a ticket printer.

(iv) All recorded representations shall show the following minimum information:

- (A) The total volume of the delivery;
- (B) The unit price;
- (C) The total computed price;
- (D) The product identity by name; and
- (E) The name, address, and phone number of the distributor.

(v) The Department will address all complaints on a case by case basis, and apply appropriate sanctions which may include, but not be limited to, revoking the exemption and requiring the immediate installation of mechanical or electronic ticket printers.

Section 5. Inspection and testing of weights and measures used commercially.

(a) Weighing and measuring devices shall be inspected and tested according to the following:

(i) Inspections in response to consumer complaints and requests for inspection shall be conducted as soon as practical following receipt.

(ii) The following establishments and devices or programs shall be inspected and tested annually:

- (A) Large Capacity Scales;
- (B) Mineral System Scales;
- (C) Livestock Scales;
- (D) Vehicle Tank Meters;
- (E) Liquefied Petroleum Gas Meters; and
- (F) Refined Fuel Loading Rack Meters.
- (G) Grain Moisture Meters

(iii) The following establishments and devices or programs shall be inspected and tested every three (3) years or more often as determined by a risk based system.

- (A) Small Capacity Scales;
- (B) Medium Capacity Scales;
- (C) Gas Pumps & Liquid Measuring Devices;
- (D) Package Check Weighing; and
- (E) Price Verification.

(1) The following parameters are established to determine the risk based system interval of inspection and testing:

(a) The Department will review the records of inspection and testing annually to determine the violation history and determine inspection intervals based on a 3 year average.

(b) The establishments and devices with a violation history falling within the upper 1/3 of all violations shall be inspected annually.

(c) The establishments and devices with a violation history falling within the middle 1/3 of all violations shall be inspected biennially.

(d) The establishments and devices with a violation history falling within the bottom 1/3 of all violations shall be inspected triennially.

(b) Exceptions:

(i) The Department shall exercise no authority over weights and measures used pursuant to a written agreement between the parties using the weighing device.

(A) For a weighing device to be exempt from this section, parties must agree in writing to the use of the weighing device. Appendix A to these rules shows an example of a written agreement. Copies of the signed and dated written agreements shall be retained by the seller for a minimum of 2 years.

(c) No exception is granted to any device for transactions which are deemed to be in commerce in accordance with the United States Department of Agriculture, Packers and Stockyards Act, 1921." (7 U.S.C. 181) and the Regulations Under the Packers and Stockyards Act (9 CFR PART 201).

(ii) Standards shall be inspected and tested by the Department in the Weights & Measures Laboratory, 1510 E. 5th Street, Cheyenne, WY as follows:

(A) Standards in possession and use by agencies of the state shall be inspected and tested annually.

(C) Registered service technicians shall have their standards inspected and tested biennially by the Department, and will receive certification upon payment of the laboratory fees established in these regulations.

(D) All standards that are new, recently purchased, or have been damaged must not be used prior to inspection, testing, and approval by the Department.

(E) Exceptions.

1. Standards in possession and use by service technicians and that have been inspected and tested biennially by another recognized state laboratory or an NIST accredited private laboratory are acceptable for use in Wyoming and exempt from this section.

2. Standards which are self-contained, such as coal mine hopper weights, shall be inspected and tested by the Department at a minimum of once every five (5) years.

Section 6. Registered Service Technicians.

(a) Registration of Weighing & Measuring Device Service Technicians.

(i) For the benefit of and as a convenience to the users, manufactures and distributors of weighing and measuring devices in the State of Wyoming, and those persons installing, servicing and repairing such instruments, the Department will accept applications for registration of persons qualified to install, service and repair weighing and measuring devices.

(b) Certification of Registered Service Persons / Technicians

(i) Certification shall be based on the following:

(A) Applicants must pass both a general written exam and a specialized exam in each area in which they will be doing service work;

(B) Applicants must provide evidence that they have received qualified training and appropriate experience;

(C) Applicants must provide evidence that they have the equipment required to repair and place devices into service.

(ii) Applicants shall successfully pass the general examination and the exam for each area in which they will be conducting service work with a 70% or better score. Each applicant requiring examination or re-examination shall be required to take the examination at a time and place specified by and under the direction of the Director in accordance with the conditions and provisions herein. Applicants may be certified in more than one area.

(A) Applicants shall be provided notification of the results of any examination within thirty (30) days. Failure to receive a passing score on any examination shall require that the applicant be re-examined only in categories which he failed. Re-examination shall be completed within thirty (30) days of the receipt of notification of the examination results.

(B) Any applicant who fails to obtain a passing score on two (2) successive examination attempts is required to attend a training program for new service technicians approved by the Director prior to taking any examination a third time. Documentation of additional training must be provided to the Department prior to a third or subsequent attempt to pass an exam.

(iii) Upon meeting certification requirements, applicants shall submit an application for licensing and a fee payable to the Wyoming Department of Agriculture. All fees submitted shall be non-refundable and deposited into the state general fund.

(A) The fee for Registered Service Person / Technician Certification is \$25.00.

(B) Examination fees are \$40.00 per examination.

(C) Employees of governmental entities are exempted from paying the fees, when the license is used in the performance of their official duties.

(iv) Registered Service Technician registrations expire March 31 of each year and may be renewed on an annual basis. Any registrations not renewed by March 31 are null and void and the former holder shall meet all requirements required to obtain an original registration.

(v) Applicants who have been examined and found qualified for certification as a registered service person / technician shall be issued a license in the appropriate categories or sub categories, provided that all other requirements for certification have been fully complied with.

(vi) The Department shall allow registered service technicians to become re-certified by completion of any of the following during the valid term of their license:

(A) Attending the annual or otherwise scheduled re-certification short course;

(B) Re-examination in all applicable categories;

(C) Attendance at any National Institute of Standards and Technology, company, or other authorized training that provides a minimum of two (2) hours of classroom instruction, seminar attendance, professional study; or

(D) Completion and documentation of any relevant online coursework.

(vii) Any registered serviceperson / technician who has had his license suspended shall, prior to re-instatement, be required to take all applicable examinations and achieved a passing grade before operations may be resumed, and shall be considered on probation for a period of one (1) year thereafter.

(viii) The Department shall in all cases adhere to the Wyoming Administrative Procedures Act when revoking, canceling or suspending any registered service technician license.

(ix) A certificate of registration shall be issued to any person satisfactorily passing examination and having adequate equipment to properly service and test weighing and measuring devices. The testing equipment used by a registered service technician shall be submitted to the Department for approval upon its request.

(c) A holder of a certificate of registration has authority to:

(i) Remove rejected tags and / or condemn tags placed on weighing and measuring devices by authorized weights and measures officials.

(ii) Place devices which have been previously rejected or condemned and repaired and newly installed devices (including new and used devices) in service pending an official inspection by an authorized inspector.

(A) All registered service technicians, shall use a standard Placing in Service Report approved by the Department. The registered service technician shall execute the Placing in Service Report for all devices they repair or adjust if it affects the accuracy of the device and for all devices which are newly installed (including new and used devices). A rejected or condemn tag removed from a device shall be attached to the original Placing in Service Report, and both shall be mailed to the Department of Agriculture, 2219 Carey Avenue, Cheyenne, Wyoming, 82002, within 24 hours of placing the device in service. Copies shall be left with the user of the device and the registered service technician. A device placed in service by a registered service technician shall meet all specifications, tolerances and technical requirements specified in WYO. STAT. ANN. § 40-10-120.

(iii) Each registered service technician shall have a thorough knowledge of all laws, specifications, tolerances, rules, and regulations pertaining to the weighing and measuring devices they are registered to service. A registered service technician shall not remove a reject or condemn tag or issue a Placing in Service Report unless the device meets all legal requirements.

Section 7. Testing and Inspection Fees.

(a) The Department will charge testing and inspection fees based on the following criteria:

(i) Establishments and device owners will receive one routine inspection and one follow-up inspection, if needed, at no charge.

(ii) Establishments and device owners will be charged testing and inspection fees based on the following:

(A) When 3 or more visits are made to the same location, whether by request of the device owner or manager or by repeat rejection or condemnation of the device.

(B) When arrangements have been made and the device owner or manager has been duly notified of the date and approximate time for an inspection, and the device owner or manager fails to accommodate the inspection at the specified time and place.

(iii) Testing and inspection fees are:

(A) \$20.00 per hour while in transit to and from an establishment or device site.

(B) \$30.00 per hour at the establishment or device site.

(C) Mileage in accordance with Wyo. Stat. § Ann. 9-3-103.

Section 8. Laboratory Fees.

(a) Standards will be inspected, tested and calibrated by the Department in the Weights & Measures Laboratory, 1510 E. 5th Street, Cheyenne, WY under the schedule shown in subsection (d) of this section:

(i) Requests for expedited or rush laboratory services will be charged \$50.00 in addition to the fee in subsection (d) of this section.

(ii) State of Wyoming agencies are exempt from this fee.

(b) Equipment shall be cleaned, painted, or otherwise serviced and ready for inspection, testing, and calibration upon receipt by the laboratory. \$75.00 per hour and reasonable cost for material and supplies will be charged for cleaning, painting or other services provided by the Department.

(c) Standards shall be inspected, tested and calibrated in accordance with the laboratory specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering and other weighing and measuring devices as adopted by the National Conference on Weights and Measures and published by the United States Department of Commerce National Institute of Standards and Technology in Handbook 105 and Handbook 145. Both handbooks are available at <http://ts.nist.gov/WeightsAndMeasures/pubs.cfm>.

(d) The Wyoming Department of Agriculture Weights and Measures Metrology Laboratory participates with NIST in a comprehensive measurement assurance program and has demonstrated measurement proficiency through training and round robin participation.

(i) The processes used are identified as follows:

(A) SOP 4 = Double Substitution. Used for precision weights. Yields value and uncertainty;

(B) SOP5 = 3-1 Substitution. Used for precision weights where lower uncertainties are needed;

(C) SOP8 = Modified substitution. (tolerance testing) Used for Class F standards.

Mass Calibration		
Process Used		
SOP 4		
Weight	Fee for In-State Customers	Fee for Out of State Customers
0-3kg / 0-5 lb	\$10.00 each	\$20.00 each
>3kg / > 5 lb	\$25.00 each	\$50.00 each
Process Used		
SOP 5		
Weight	Fee for In-State Customers	Fee for Out of State Customers
0-3kg / 0-5 lb	\$20.00 each	\$40.00 each
>3kg / >5 lb	\$75.00 each	\$150.00 each
Process Used		
SOP 8		
Weight	Fee for In-State Customers	Fee for Out of State Customers
0-3kg / 0-9 lb	\$10.00 each	\$20.00 each
<4kg / 10 lb – 100 lb	\$15.00 each	\$30.00 each
500 lb – 3000 lb	\$25.00 each	\$50.00 each
Weight Carts	\$100.00 each	\$200.00 each

Volume Calibration		
Measure	Fee for In-State Customers	Fee for Out of State Customers
0-100 Gallon Prover	\$200.00 each	\$400.00 each
>100 Gallon Prover	\$300.00 each	\$600.00 each
5 Gallon Test Measure	\$25.00 each	\$50.00 each
Volume Flasks	\$50.00/hour	\$100.00/hour

Length Calibration		
Measure	Fee for In-State Customers	Fee for Out of State Customers
Length	\$50.00/hour	\$100.00/hour

Section 9. Establishment License Fees.

(a) Every person who owns or is responsible for a weight, measure, weighing or measuring device shall obtain an annual license for each establishment on or before April 1 from the Department and pay fees as provided in this subsection. The fees collected by the Department under this section shall be deposited in the general fund.

(i) Twenty-five dollars (\$25.00) for establishments with no more than five (5) devices;

(ii) Fifty dollars (\$50.00) for establishments with more than five (5) and fewer than eleven (11) devices;

(iii) Seventy-five dollars (\$75.00) for establishments with eleven (11) or more devices.

(iv) For special events, twenty-five dollars (\$25.00) per individual vendor shall be charged annually. A special events license is valid for the duration of the event, whether a day, week or month. The weight, measure, or device used at special events must meet the requirements in Wyoming Statutes.

(A) In lieu of individual vendor licenses, a single event management may purchase an establishment license to cover all vendors. The event management is responsible for the weight, measure, or devices used under their license which must meet the requirements in Wyoming Statutes.

(v) Exemptions.

(A) State of Wyoming agencies are exempt from the licensing fee.

(B) Pharmacy scales inspected and tested by the Wyoming State Board of Pharmacy are exempt from the licensing fee.

(C) A Point-of-Sale system which is entirely independent from any weighing or measuring device is exempt from the licensing fee.

Section 10. Repeal Chapters.

(a) The following Chapters of Department of Agriculture rules are hereby repealed:

(i) Chapter 15 – Checkweighing Prepackaged Commodities Regulations

(ii) Chapter XX – Regulations for Registration of Weighing & Measuring Device Service Technicians

(b) The following Chapter of Department of Agriculture rules are hereby superceded:

(i) Chapter XVIII – Specifications, Tolerances & Testing Procedures for Weighing Devices

APPENDIX A

Example Written Agreement between parties

EXAMPLE WRITTEN AGREEMENT BETWEEN PARTIES

WYO. STAT. § 40-10-121(c) Except as otherwise required by law, rule, regulation or third party agreement, the Department shall have no authority over weights and measures used pursuant to a written agreement between the parties using the weighing device.

The parties signed hereto, agree that the weighing device used to determine the weight of _____ on this date _____ has not been certified by the State of Wyoming, Department of Agriculture, or duly placed in service by a Registered Service Technician; AND the use of the weighing device by the parties is not regulated by the United States Department of Agriculture, Packers and Stockyards Act, 1921.” (7 U.S.C. 181) and the Regulations Under the Packers and Stockyards Act (9 CFR PART 201).

Seller:

Ranch or Business Name

Address

City, State, Zip

Phone, E-mail

Buyer:

Ranch or Business Name

Address

City, State, Zip

Phone, E-mail

Seller Signature

Buyer Signature

Date

Date

**RULES AND REGULATIONS
WYOMING DEPARTMENT OF AGRICULTURE
USER REQUIREMENTS FOR WEIGHTS AND MEASURES DEVICES**

CHAPTER 30

Section 1. Authority. Pursuant to the authority vested in the Director of Agriculture, in accordance with W.S. 40-10-122, the following regulations are hereby promulgated.

Section 2. Definitions. Terms used in these regulations are in addition to those set forth in W.S. 40-10-117. The following terms shall have the meaning stated below.

(a) Indicating Element; means an element incorporated in a weighing or measuring device by means of which its performance relative to quantity or money value is "read" from the device itself as, for example, an index-and-graduated-scale combination, a weighbeam-and-poise combination, a digital indicator, and the like.

(b) Livestock Scale; means a scale equipped with stock racks and gates and adapted to weighing livestock standing on the scale platform (load-receiving element).

(c) Load Receiving Element; means that element of a scale that is designed to receive the load to be weighed; for example, platform, deck, rail hopper, platter, plate or scoop.

(d) Scale Approach; means an area adjacent to the load-receiving element on either end of the scale, which provides access to the scale.

(e) Scale Division; means the value of the displayed scale division (value of [d]), expressed in units of mass, which is the smallest subdivision of the scale for analog indication or the difference between two consecutively indicated or printed values for digital indication or printing.

(f) User Requirement; means a requirement dealing with the selection, installation, use, or maintenance of a weighing or measuring device. User requirements are directed primarily to the users of devices.

(g) Vehicle Scale; means a scale adapted to weighing highway, farm, or other large industrial vehicles (except railroad freight cars).

(h) Weighing Element; means that portion of a scale that supports the load-receiving element and transmits to the indicating element a signal or force resulting from the load applied to the load-receiving element.

Section 3. User Requirements.

(a) Scale Divisions.

(i) Livestock Scales shall have a minimum scale division no greater than five (5) pounds.

(b) Environmental Protection.

(i) The indicating elements of a livestock scale and/or a large capacity vehicle scale, shall be enclosed in a house or structure of similar design that will prevent wind, moisture and other factors of weather from affecting the performance of the indicating element. Digital indicating elements may be excluded from this requirement, at the discretion of and upon written consent of the Wyoming Department of Agriculture.

(ii) The weighing elements of a livestock scale and/or large capacity vehicle scale, shall be enclosed, sheltered and protected from the direct effects of wind, moisture and other weather factors.

(c) Scale Approaches.

(i) All entry areas to livestock scales shall ensure ease of access to the scale approach.

(ii) On a livestock scale, there shall be a straight approach as follows:

(A) Any approach adjacent to the load-receiving element shall be of a width at least the width of the load-receiving element.

(B) Any approach adjacent to the load-receiving element shall be constructed of concrete or similar durable material and shall be designed to ensure easy movement of the proper amount of test equipment onto and off the load receiving element.