

CHAPTER 42

REGULATIONS PERTAINING TO THE WYOMING WEED & PEST CONTROL ACT OF 1973

Section 1. Authority. These regulations are promulgated pursuant to Section 11-69.21 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 are applicable to all sections of the Act except Section 11-69.9.

Section 2. Definitions. For the purpose of carrying out the intent of the Act the following definitions shall be considered as well as those contained in the Act and the Wyoming Administrative Procedure Act.

a. 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.

b. The term "emergency" means those situations which are related to outbreaks of insects, pests, poisonous or injurious plants or any injurious portion thereof or plant diseases of an unforeseen nature.

c. The term "farm products" means all crops, crop products, plants or portion thereof, livestock and livestock products.

d. 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.

e. The term "infested farm products" means farm products which contain insects, pests, weed seed, poisonous or injurious plants or any injurious portion thereof, or plant diseases.

f. The term "designated weed seed" shall mean weed seed from weeds as provided in Section 11-69.3 (j).

g. The term "prevent" means to stop the transfer of insects, pests, weed seed, poisonous or injurious plants or any injurious part thereof or plant diseases.

h. 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 control district.

j. The term "state-wide" shall mean the area contained within the boundaries of the State of Wyoming.

k. The term "landowner" shall mean agricultural tenants or agricultural lessees and owners of easements or rights-of-way on all lands, including federal, state and private.

m. The term "person" means any individual, partnership, association or organized group of persons whether incorporated or not.

n. The term "visible weed seed" shall mean weed seed capable of being seen; apparent; manifest; obvious.

o. The term "agency" shall mean any authority, bureau, board, commission, department, division, officer or employee of the state, county, municipality or other political subdivision of the state, except the state legislature and the judiciary.

p. The term "control" (in addition to its definition under Section 11-69.3 (f) of the Act) shall mean the process or containing and limiting of weed and pest infestations.

q. The term "prevention" shall mean forestalling the contamination of an area by insects, pests, poisonous or injurious plants or any injurious portion thereof or plant diseases.

r. The term "eradication" shall mean the complete elimination of all insects, pests, poisonous or injurious plants or any injurious portion thereof or plant diseases.

Section 3. Amendments to designated list (Section 11-69.3 (j)). The procedures for amending the designated list are as follows:

a. A person may propose an amendment to the designated list which shall be presented in writing to the district board.

b. The district board shall approve or disapprove the proposed amendment by motion at its next regular scheduled meeting.

c. If the district board approves the proposed amendment, the complete file, including the board's motion, shall be presented to the Wyoming Weed and Pest Council.

d. The Wyoming Weed and Pest Council shall approve or disapprove the board's motion at its next regular scheduled meeting and, if approved, shall prepare a joint resolution to be signed by the president and presented to the Wyoming Board of Agriculture. The Wyoming Board of Agriculture shall also be provided the original file and the district board motion.

e. The Wyoming Board of Agriculture 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 Wyoming Board of Agriculture shall co-sign the joint resolution and shall advise the Wyoming Weed and Pest Council and the Secretary of State that the designated list has been amended.

Section 4. Discretionary program participation under Section 11-69.8(p). If the District desires to participate in discretionary programs for the control of weeds and pests not included in the designated list as provided in Section 11-69.8 (p), the procedure set forth in Section 3 shall be applicable except that the weed or pest species shall not be added to the designated list and the Board of Agriculture need not notify the Secretary of State of Wyoming.

Section 5. Notices. Under Section 11-69.12, agricultural lessees or tenants shall be furnished copies of all notices and/or resolutions in the same manner as such notices and/or resolutions must be furnished to landowners.

Section 6. Damages, claims, etc.

a. The provisions of Section 11-69.13 shall be applicable in all respects to agricultural lessees or tenants.

b. Each Weed and Pest District shall be liable for any statutory damages arising out of a quarantine issued by the Commissioner of Agriculture as a result of carrying out its request for a quarantine, and agrees to save the State of Wyoming, and the Wyoming Board of Agriculture and the Commissioner of Agriculture harmless from any and all liability in connection with any claims for damages arising out of a quarantine.

c. The Weed and Pest Control District Board shall conduct all hearings referred to in Section 11-69.13 of the Act.

Section 7. Request for quarantine, general requirements.

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

(1) The area, object or item to be quarantined.

(2) A statement that the person requesting the quarantine has found the lands, object or item to be infested by designated weed(s) and/or pest(s) and that the requesting person has a reasonable belief that infested farm products from those lands, objects or items are liable to spread the weed or pest into other sections to the injury of others.

(3) Infested farm products, object or item to be quarantined.

(4) Inspection and release procedures for the farm products, object or item.

(5) Termination date of the quarantine, if such date is anticipated.

b. The district should have specific requirements in mind when requesting a quarantine and when the requirement is reached in a portion of the quarantined area, that portion of the quarantined area should be released from the quarantine.

Section 8. District-wide quarantines. District-wide quarantines shall be declared when the requesting district has provided the Commissioner of Agriculture with the affidavit referred to in Section 7 with their initial request; and when the district has complied with the provisions of the first paragraph of Section 11-69.19 (b) of the Act.

Section 9. State-wide quarantines. The procedure for declaring a state-wide quarantine shall be as follows:

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 farm products, domestic animals or other objects, 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 by two-thirds majority within forty-eight hours after the request has been properly filed.

c. If the district board approves the request, the Board of Agriculture must be provided with a copy of the request and of the board minutes indicating that a two-thirds majority had approved the request.

d. The request forwarded to the Board of Agriculture shall contain information set forth in Section 7 a (1) and (3) of these rules.

e. Upon initial review of the person's request and the district board's approval, the Wyoming Board of Agriculture may immediately instruct the Commissioner of Agriculture to declare a quarantine for ten (10) days.

f. The Wyoming Board of Agriculture shall hold a hearing within ten (10) days of the receipt of such request and approval or declaration of temporary quarantine to determine if the Commissioner of Agriculture shall declare a quarantine.

g. If the Board of Agriculture determines that the Commissioner of Agriculture shall declare a quarantine, he will be provided with the original quarantine request, a copy of the Board's approval, a copy of the Board of Agriculture motion to declare a quarantine and a hearing transcript.

Section 10. Individual quarantines.

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 hearing before the district board. Such hearing, unless relinquished in writing, shall be held not less than ten (10) days nor more than twenty (20) days from date of such notice. At such hearing the district board shall determine by resolution if a quarantine should be declared on such lands by the Commissioner of Agriculture.

b. If a district board determines that a quarantine should be declared by the Commissioner of Agriculture, the board shall forward a request containing the information set forth in Section 7 of these rules, a certified copy of the board's resolution adopted by a two-thirds majority of the board requesting such quarantine, and a copy of the hearing transcript, if the same was transcribed, to the Commissioner of Agriculture who shall declare the quarantine.

Section 11. Quarantine of movement of infested farm products.

a. If the district or its agent has a reasonable belief that infested farm products that are being transported are liable to spread the visible weed or pest into other sections to the injury of others, it may cause the vehicle containing such products to be detained, and its cargo inspected, providing the vehicle has not already been inspected by another Wyoming Weed and Pest District and found free of infested farm products.

b. Upon completion of inspection of the cargo, if the agent and/or supervisor does not find infested farm products he shall give the person in possession of the vehicle a certificate showing he has not found infested farm products 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; or, if the agent and/or supervisor finds infested farm products, he will inform the owner of the farm products and the person in possession of the vehicle of his findings.

c. Inspection of infested farm products.

(1) If the cargo contains infested farm products, the agent and/or supervisor shall instruct the person in charge of the vehicle that the following options are available to him.

(a) Return the cargo to its point of origin;

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

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

(d) Destroy the infested farm products in a manner that destroys the infesting agent.

(2) The district or its agent shall give notice to the person in possession of said vehicle of his right to a hearing within twenty-four (24) hours before the district board.

In the event the person does not comply with options as specified in Section 11 c (a), (b), (c) or (d), the agent and/or supervisor shall instruct the person and/or owner to either appear at a hearing before the district board or sign a statement relinquishing the rights to a hearing before the board. At such hearing, the person and/or owner so cited and detained may appear in person or by counsel.

(3) In the event the hearing is relinquished, the district board or its agent shall forward such waiver or a duplicate thereof with the information provided for in Section 7 a (1) and (3) to the Commissioner of Agriculture, who upon receipt thereof shall declare the quarantine forthwith.

d. The procedures outlined in Section 11 may be followed in the district-wide quarantine, section-of-the-state quarantine, state-wide quarantine.

e. In the event a hearing is held if the district board determines a quarantine should be declared it shall adopt a resolution by two-thirds majority to that effect and forward the same, together with the information provided for in Section 7 a (1) and (3) to the Commissioner of Agriculture who shall declare the quarantine.

Section 12. Section of the state quarantine.

a. In the event several districts desire a section of the state to be quarantined, they shall provide the Board of Agriculture with the documents referred to in Section 7 of these regulations. Those documents and written request from the district boards involved shall be provided to the Board of Agriculture with one letter of transmittal signed by the chairman of each district board and the combined district boards may request the Commissioner of Agriculture to declare a temporary quarantine for ten (10) days and he shall thereupon declare a temporary quarantine.

b. The district boards shall hold a hearing, said hearing to be held within the said ten (10) days, notice thereof to be published in a newspaper of general circulation in the area of the state to be quarantined. At such hearing the district boards shall determine if the Commissioner of Agriculture should declare a quarantine. If the district boards determine the Commissioner of Agriculture should declare a quarantine, they shall provide the Commissioner with the original quarantine request, the individual board requests, the consolidated request, copies of the findings, conclusions and the

final requests of the board and copies of the hearing transcripts, and upon receipt of the same the Commissioner shall declare such quarantine.

c. In the event the district boards do not concur, those districts which do concur will transmit all documents to the Board of Agriculture, by letter signed by all concurring district board chairmen. Upon receipt of such letter and documents, the Board of Agriculture shall convene a hearing within ten (10) days to determine if the Commissioner shall be instructed to declare a quarantine. Copies of all documents will be provided to the Commissioner of Agriculture.

Section 13. Administrative Procedure Act. All hearings shall be held in compliance with the Wyoming Administrative Procedure Act.

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