

CHAPTER 5  
WEED AND PEST CONTROL  
ARTICLE 1  
IN GENERAL

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

- (a) This act may be cited as the "Wyoming Weed and Pest Control Act 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(xiii) Repealed by Laws 1993, ch. 191, § 4.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 one thousand five hundred dollars (\$1,500.00);

(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.**

The district board may establish rates and engage in the application of agricultural pesticides for weed and pest control. 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).

**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.**

Effective July 1, 1990, 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 [ §§ 11-5-301 through 11-5-303 ], 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.