



# Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised November 2016

## 1. General Information

a. Agency/Board Name* <b>Wyoming Game and Fish Department</b>		
b. Agency/Board Address <b>3030 Energy Lane</b>	c. City <b>Casper</b>	d. Zip Code <b>82604</b>
e. Name of Agency Liaison <b>Mike Choma</b>	f. Agency Liaison Telephone Number <b>307-473-3417</b>	
g. Agency Liaison Email Address <b>mike.choma@wyo.gov</b>		
h. Date of Public Notice <b>June 8, 2017</b>	i. Comment Period End Date <b>July 25, 2017</b>	
j. Public Comment URL or Email Address: <b>https://wgfd.wyo.gov/Get-Involved/Public-Meetings</b>		
k. Program <b>Game and Fish Commission - Regulations</b>		

\*  By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

## 2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No.  Yes. Please provide the Enrolled Act Numbers and Years Enacted: **HEA 91 - 2017**

## 3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.  
*Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.*

Chapter Number: <b>40</b>	Chapter Name: <b>Regulation Governing Commercial Game Bird Farms</b>	<input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: <b>60</b>	Chapter Name: <b>Regulation Governing Greater Sage-grouse Raised on Private Game Bird Farms.</b>	<input checked="" type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

**4. Public Comments and Hearing Information**

a. A public hearing on the proposed rules has been scheduled.  No.  Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

**5. Federal Law Requirements**

a. These rules are created/amended/revoked to comply with federal law or regulatory requirements.  No.  Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

**6. State Statutory Requirements**

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):

The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

Not Applicable.

**7. Additional APA Provisions**

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

\_\_\_\_\_ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

\_\_\_\_\_ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

**8. Authorization**

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

## **STATEMENT OF REASONS**

### **CHAPTER 40**

#### **REGULATION GOVERNING COMMERCIAL GAME BIRD FARMS**

House Enrolled Act No. 91 (HEA No. 91) of the Sixty-Fourth Legislature of the State of Wyoming, 2017 General Session created W. S. § 23-5-111 and modified § 23-3-108, § 23-3-116, § 23-5-102, § 23-5-104 and § 23-5-106. HEA No. 91 modified the game bird farm licensing provisions related to the release of game birds.

Wyoming Statutes § 23-5-101 through § 23-5-111 provide statutory authority of the Commission regarding the regulation and licensing of commercial game bird farms. W. S. § 23-5-104(c) has been modified with regard to the number of game birds that shall be released each year on the licenses premises.

Section 1, Authority, has been edited to include the new or modified statutes included in HEA No. 91.

Section 10, Release of Birds, has been modified to reflect the changes to W. S. § 23-5-104.

Minor grammatical and formatting edits have been incorporated to provide additional clarity but do not change the intent of the rules and regulations.

## CHAPTER 40

### REGULATION GOVERNING COMMERCIAL GAME BIRD FARMS

**Section 1. Authority.** This regulation is promulgated under authority of Wyoming Statutes § 23-1-101, § 23-1-103, § 23-1-302, § 23-3-108 through § 23-3-116, § 23-5-101 through § 23-5-111 and § 23-6-111.

**Section 2. Definitions.** Definitions will be as set forth in Title 23, Wyoming Statutes, Commission regulations, and the Commission adopts the following definitions:

(a) “Certificate of Veterinary Inspection” means an official health certificate. It shall be a legible record covering the requirements of the State of Wyoming as listed in Wyoming Game & Fish Commission Regulation Chapter 10, Regulation For Importation, Possession, Confinement, Transportation, Sale And Disposition Of Live Wildlife and as recorded on an official form from the state of origin and approved by the animal health official of the state of origin, or an approved form of the United States Department of Agriculture which shall be issued by an accredited licensed veterinarian. Certificates of veterinary inspection shall be issued to comply in all respects with requirements of the State of Wyoming. The certificate of veterinary inspection shall delineate the total number of game birds covered by the certificate. It shall indicate the health status of the game birds involved, including dates and results of required tests and vaccinations, the mailing addresses of the consignor and consignee, the origin of the game birds, their actual Wyoming destination, and an accurate description including proper taxonomic identification with genus and species names. It shall designate the individual game bird number, or similar individual identification of each game bird.

(b) “Continuous Tract of Land” means one parcel of fee land, except as may be divided by a public road, highway or a railroad right of way, which is either entirely owned by the game bird farm licensee or which is fee land entirely controlled by the applicant by a five (5) year lease or written agreement.

(c) “Game Birds” means live birds and viable eggs of all grouse, partridge, pheasants, quail and migratory game bird species.

(d) “Game Bird Certificate of Origin” means a sworn statement signed by the owner or manager of game birds originating from premises operated by them that said premises are free of infectious, contagious or communicable diseases including, but not limited to, Newcastle Disease, pullorum, avian cholera, avian tuberculosis, duck viral enteritis and west Nile virus, and the premises have been disease free for at least the immediately preceding twelve (12) consecutive months.

(e) “Holding Facility(ies)” or “facility” means the physical structure designed to confine and handle live game birds. The holding facility shall be defined by legal description to the quarter/quarter (1/4 1/4) section where live game birds shall be possessed or confined.

(f) “Legal Fence” means a fence made of steel, concrete or sound wooden posts and three (3) spans of barbed wire not more than fifteen (15) inches or less than ten (10) inches apart, or two (2) spans of barbed wire with a wooden rail on top. Wooden posts shall be at least four (4) inches in diameter. Posts shall be set firmly in the ground at least twenty (20) inches deep, at no greater distance apart than twenty-two (22) feet between the posts or thirty-three (33) feet with at least two (2) iron or wooden stays between the posts. Stays shall be placed equal distance apart from themselves and the post on either side:

A post and board fence made of sound posts not less than four (4) inches in diameter set substantially in the ground not more than ten (10) feet apart, with three (3) boards sold as one (1) inch lumber eight (8) inches wide, and not more than ten (10) inches apart, or four (4) boards sold as one (1) inch lumber six (6) inches wide, not more than eight (8) inches apart, securely fastened with nails or otherwise;

A four (4) pole fence with round poles not less than two (2) inches in diameter at the small end, with either upright or leaning posts not more than sixteen (16) feet apart, and securely fastened with nails, wires or otherwise; or,

All other fences made and constructed of boards, rails, poles, stones, hedge plants or other material which upon evidence is declared to be as strong and well calculated to protect enclosures, and is as effective for resisting breaching stock as those described in this definition shall be considered a lawful fence.

(g) “Office of the Game and Fish Department” means the Wyoming Game and Fish Department, Permitting, Wildlife Division, whose mailing address is 5400 Bishop Boulevard, Cheyenne, Wyoming 82006-0001.

(h) “Posted as a Private Game Bird Farm” means the placement and maintenance of legible signs with the wording Private Game Bird Farm at all entrances, gates or cattle guards on roads entering the licensed game bird farm property.

(i) “Quarantine” means a holding facility constructed to prevent contact between quarantined game birds and any other animals, to prevent escape of quarantined game birds, and to allow humane restraint and handling of quarantined game birds approved in advance by the Office of the Game and Fish Department; or the period of time during which a game bird(s) is confined in a quarantine facility.

(j) “Pre-Entry Quarantine” means a quarantine facility in the state of origin of game birds to be imported. The quarantine facility shall be approved in advance by the Office of the Game and Fish Department or the Department's designated animal health official in the state of origin of game birds to be imported. Usually pre-entry quarantine is on the premises of origin. Pre-entry quarantine is always the last place of confinement immediately before game birds are shipped directly to Wyoming; or, the period of time during which a game bird(s) is confined in a pre-entry quarantine facility.

(k) “Post-entry quarantine” means a quarantine facility in Wyoming approved in advance by the Office of the Game and Fish Department. Usually post-entry quarantine is on the premises of destination. Post-entry quarantine is always the first place of confinement after game birds are shipped directly to Wyoming; or the period of time during which a game bird(s) is confined in a post-entry quarantine facility.

(l) “Special Competitive Game Bird Hunt” means a competitive game bird hunt held on a licensed game bird farm and approved by the Department. The competitive game bird hunt shall include: judges, trainers, dog owners and/or handlers, dogs bred for the hunting of game birds, advertised date(s) and location(s), and a sponsor. Special competitive game bird hunts shall not be approved for more than a three (3) consecutive day time period.

### **Section 3. Application for License.**

(a) Any person desiring to operate a game bird farm shall make application on forms provided by the Department. A map and legal description to the quarter (1/4) section of all fee lands to be included in the game bird farm shall be provided. If fee lands are leased, a copy of the five (5) year lease agreement shall also be included with the application form. The applicant shall provide the name of the genus and species of all game birds to be possessed, bred, propagated, hunted, killed or sold from the lands described in this section. The applicant shall provide how the game birds are to be disposed of (hunted, killed or sold). It shall be a violation of this regulation for the game bird farm licensee to possess, breed, propagate, hunt, kill, sell or otherwise dispose of any species of game birds not listed on the application and approved by the Office of the Game and Fish Department.

(b) A person may request to amend a game bird farm application by submitting a written request to the Game Warden in whose district the game bird farm is located. The amendment shall specify the requested changes to the original Game Bird Farm application. The amendment request shall be reviewed by the Department and approved or denied. If the amendment requests a species of game bird that occurs on the property, the game bird farm applicant shall abide by Section 9 of this regulation.

(c) The operation of a licensed game bird farm shall not be contrary to, or in violation of any State, County or Municipal laws, regulations or private covenants.

### **Section 4. Certificate of Origin.**

(a) Prior to importation of any game bird(s) from any out of state source, a game bird certificate of origin shall be completed and submitted to the Office of the Game and Fish Department. The sworn statement signed by the owner or operator of the out of state source shall verify that game birds are originating from premises free of infectious, contagious or communicable diseases and have been disease free for at least twelve (12) consecutive months immediately preceding importation of the game birds into the State.

## **Section 5. Disease Free Certification.**

(a) The Department shall require a certificate of veterinary inspection for all game birds imported into Wyoming. The game bird farm licensee shall apply to the Department for copies of the inspection procedures to be followed and copies of the requirements of the Department as to the type of disease free certification which shall be furnished. A copy of the certificate of veterinary inspection shall be forwarded immediately to the animal health official of the state of origin for approval and transmittal to the Wyoming State Veterinarian and Office of the Game and Fish Department. A copy shall accompany and be in the possession of the driver or person in possession of game birds shipped into or in any manner transported into Wyoming. The certificate of veterinary inspection shall contain the names and addresses of the consignor and consignee, total number of game birds covered by the certificate, health status of the game birds involved including dates and results of required tests and vaccinations, the origin of the game birds, the Wyoming destination to where the game birds shall be shipped, and an accurate description including proper taxonomic identification with genus and species names of the game birds. A certificate of veterinary inspection shall be valid for ten (10) days immediately following date of inspection and issuance. A certificate of veterinary inspection shall be issued to comply in all respects with the requirements of the State of Wyoming which are found in Commission Regulation Chapter 10, Regulation For Importation, Possession, Confinement, Transportation, Sale And Disposition Of Live Wildlife.

(b) All game birds acquired, propagated, received, purchased, held, released, harvested or sold shall be maintained disease free in accordance with Department requirements. All facilities utilized in the game bird farm shall be maintained so as to prohibit the acquisition, spread or transmittal of diseases. Game birds held in captivity which become diseased shall immediately be destroyed or placed under the professional care of a veterinarian licensed in the State of Wyoming and such incident reported immediately to the Department by the game bird farm licensee. Department personnel may inspect facilities or game birds to insure they meet disease free requirements. If facilities or game birds are found not to meet Department requirements, or if diseased game birds present a threat to the wildlife of the State, the Department may order such action as necessary, including quarantine or destruction of game birds, sterilization of enclosures and facilities, cessation of activities and disposal of the diseased game birds in a manner satisfactory to the Department. The Department may refuse to lift the quarantine or refuse to allow operation of the game bird farm until such time as the facilities or game birds meet disease free requirements. When it is shown the facilities or game birds meet disease free requirements, the Department may lift the quarantine.

**Section 6. Holding Facility(ies).** Before a license is issued to operate a game bird farm, Department personnel shall review the applicant's proposed holding facility(ies) taking into consideration the species applied for, the number of game birds requested, the welfare of the game birds to be possessed, the purpose(s) for which the game birds shall be held and to insure adequate protection for Wyoming's wildlife resources. Holding facilities shall be constructed to meet Department approval prior to importation or possession of live game birds.

**Section 7. Notification and Disposition of Diseased Game Birds.** The licensee or his/her authorized agent shall notify the Department within twenty-four (24) hours of having



reason to believe that game birds held under a license pursuant to this regulation may have been exposed to or contracted a contagious disease or parasite. It shall be a violation of this regulation to remove game birds exposed to or which have contracted a contagious disease or parasite from the holding facility(ies) without prior authorization from the Department.

**Section 8. Identification Requirements.** Before a license is issued to operate a game bird farm, the applicant shall register with the Department the type of identifying leg or wing band to be placed on the game birds. The type of leg or wing band shall depend upon the type and age of the game bird. The Department shall make the final determination as to the suitability of the tag before attachment.

**Section 9. Purchase of Game Birds Occurring on Proposed Game Bird Farm Lands.** Upon the execution of a proper application for a game bird farm license where game birds occur on the lands to be utilized, the applicant shall pay the Department fifteen dollars (\$15.00) for each game bird of the species to be licensed which are determined to be upon the lands initially licensed as a game bird farm. If the same lands have been licensed as a game bird farm within the three (3) previous years by the same person, for the same species of game birds and the lands are determined to be marginal or unsuitable habitat by the Department for that species of game birds, the applicant shall not have to determine the number of game birds, nor pay for those game birds found on the previously licensed lands.

**Section 10. Release of Birds.** Each licensee shall release a minimum of one-hundred (100) game birds of the species approved by the Department each year on the licensed premises. The one hundred (100) game birds shall be released in the twelve (12) consecutive month period commencing April 2 and ending April 1 of the next year. A release shall be substantiated with written records. Licensees who sell, but do not hunt game birds, shall be exempt from the minimum game bird release requirement.

**Section 11. Records.** A licensee shall maintain on the premises of the game bird farm or at his/her residence legible, current, accurate and complete records on forms provided by the Department of the species and the number of game birds received, shipped, purchased, reared, released, disposed of, killed or sold. Records shall include names, addresses of all recipients, purchasers, suppliers and hunters, the license number of all hunters, the date of each transaction and the number and species of game birds reared and released on the game bird farm. Records for special competitive game bird hunts shall include the names and addresses of all participants, and the number and species of all game birds taken during special competitive game bird hunts held on the licensed game bird farms. Records shall be produced upon demand of any Department enforcement officer. All records shall be submitted to the Regional Wildlife Supervisor in their respective Region by April 15 of each year for activities which occurred during the term of the license.

**Section 12. Inspection by Department Personnel.** Any person issued a license under this regulation shall, during the term of the license and for a period of sixty (60) days after expiration of the game bird farm license, allow inspection of records, holding facilities, signing and game birds by Department law enforcement personnel during reasonable hours.

**Section 13. Disposal of Game Birds if License is not Renewed.** Should a licensee fail to renew his/her license for any reason, all game birds held in captivity on the premises shall be disposed of within sixty (60) days after expiration of the game bird farm license. After this sixty (60) day period, all game birds on the premises shall become property of the State and may be disposed of by the Department in the best interest of the Department.

**Section 14. Revocation of License.** Failure to maintain required records, acquire game bird certificate of origin, acquire certificate of veterinary inspection or maintain disease free facilities and game birds is just cause for revocation of a game bird farm license by the Commission. Revocation of a license by the Commission shall be carried out in compliance with Commission Regulation Chapter 27 Rules of Practice Governing Contested Cases Before The Wyoming Game and Fish Commission.

**Section 15. Special Competitive Game Bird Hunts.** The Department, in compliance with statutory and regulatory provisions, may approve special competitive game bird hunts on licensed game bird farms as set forth in this section. Individuals participating in an approved special competitive game bird hunt are not required to obtain a valid Wyoming game bird hunting license prior to taking game birds during an approved special competitive game bird hunt.

(a) Applications for special competitive game bird hunts shall be submitted on a form provided by the Department, to the Game Warden in whose district the game bird farm is located not less than twenty (20) days prior to the special competitive game bird hunt. The application for a special competitive game bird hunt shall include: the applicant's name, address and phone number; the name, address and current year's license number of the licensed game bird farm where the hunt will occur; the name of the sponsor; the date(s) of the hunt; the number and species and source of game birds to be utilized, and the estimated number of participants.

(b) Approved special competitive game bird hunts may be held on any licensed game bird farm throughout the calendar year except as provided in this subsection. To protect natural game bird populations, special competitive game bird hunts may not be approved during the time period April 1 through July 31 of each year on licensed game bird farms where Department personnel document natural reproduction of any game bird species.

(c) Only the species of game bird approved by the Department on the licensed game bird farm may be taken during any special competitive game bird hunt.

(d) Participants may possess game birds taken during a special competitive game bird hunt provided each participant possessing game birds has in possession a receipt issued by the permit holder providing the name of the person receiving the game birds, the number and species of game birds in possession and the date the birds were possessed.

WYOMING GAME AND FISH COMMISSION

Keith Culver, President

Dated: August 23, 2017

**WYOMING GAME AND FISH COMMISSION**

**CHAPTER 40**

**REGULATION GOVERNING COMMERCIAL GAME BIRD FARMS**

**Section 1. Authority.** This regulation is promulgated under authority of ~~W.S.~~ Wyoming Statutes § 23-1-101, § 23-1-103, ~~W.S.~~ § 23-1-302, ~~W.S.~~ § 23-3-108 through § 23-3-116, § 23-5-101, ~~W.S.~~ § 23-5-102, ~~W.S.~~ § 23-5-103, ~~W.S.~~ § 23-5-104, ~~W.S.~~ § 23-5-105, ~~W.S.~~ § 23-5-106, ~~W.S.~~ § 23-5-107, ~~W.S.~~ § 23-5-108, ~~W.S.~~ § 23-5-110 through § 23-5-111 and ~~W.S.~~ § 23-6-111.

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All other fences made and constructed of boards, rails, poles, stones, hedge plants or other material which upon evidence is declared to be as strong and well calculated to protect enclosures, and is as effective for resisting breaching stock as those described in this definition shall be considered a lawful fence.

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(i) “Quarantine” means a holding facility constructed to prevent contact between quarantined game birds and any other animals, to prevent escape of quarantined game birds, and to allow humane restraint and handling of quarantined game birds approved in advance by the Office of the Game and Fish Department; or the period of time during which a game bird(s) is confined in a quarantine facility.

(j) “Pre-Entry Quarantine” means a quarantine facility in the state of origin of game birds to be imported. The quarantine facility shall be approved in advance by the Office of the Game and Fish Department or the Department's designated animal health official in the state of origin of game birds to be imported. Usually pre-entry quarantine is on the premises of origin. Pre-entry quarantine is always the last place of confinement immediately before game birds are

shipped directly to Wyoming; or, the period of time during which a game bird(s) is confined in a pre-entry quarantine facility.

(k) "Post-entry quarantine" means a quarantine facility in Wyoming approved in advance by the Office of the Game and Fish Department. Usually post-entry quarantine is on the premises of destination. Post-entry quarantine is always the first place of confinement after game birds are shipped directly to Wyoming; or the period of time during which a game bird(s) is confined in a post-entry quarantine facility.

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### **Section 3. Application for License.**

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(b) A person may request to amend a game bird farm application by submitting a written request to the Game Warden in whose district the game bird farm is located. The amendment shall specify the requested changes to the original Game Bird Farm application. The amendment request shall be reviewed by the Department and approved or denied. If the amendment requests a species of game bird that occurs on the property, the game bird farm applicant shall abide by Section 9 of this regulation.

(c) The operation of a licensed game bird farm shall not be contrary to, or in violation of any State, County or Municipal laws, regulations or private covenants.

### **Section 4. Certificate of Origin.**

(a) Prior to importation of any game bird(s) from any out of state source, a game bird certificate of origin shall be completed and submitted to the Office of the Game and Fish Department. The sworn statement signed by the owner or operator of the out of state source shall verify that game birds are originating from premises free of infectious, contagious or communicable diseases and have been disease free for at least twelve (12) consecutive months immediately preceding importation of the game birds into the State.

## **Section 5. Disease Free Certification.**

(a) The Department shall require a certificate of veterinary inspection for all game birds imported into Wyoming. The game bird farm licensee shall apply to the Department for copies of the inspection procedures to be followed and copies of the requirements of the Department as to the type of disease free certification which shall be furnished. A copy of the certificate of veterinary inspection shall be forwarded immediately to the animal health official of the state of origin for approval and transmittal to the Wyoming State Veterinarian and Office of the Game and Fish Department. A copy shall accompany and be in the possession of the driver or person in possession of game birds shipped into or in any manner transported into Wyoming. The certificate of veterinary inspection shall contain the names and addresses of the consignor and consignee, total number of game birds covered by the certificate, health status of the game birds involved including dates and results of required tests and vaccinations, the origin of the game birds, the Wyoming destination to where the game birds shall be shipped, and an accurate description including proper taxonomic identification with genus and species names of the game birds. A certificate of veterinary inspection shall be valid for ten (10) days immediately following date of inspection and issuance. A certificate of veterinary inspection shall be issued to comply in all respects with the requirements of the State of Wyoming which are found in Commission Regulation Chapter 10, Regulation For Importation, Possession, Confinement, Transportation, Sale And Disposition Of Live Wildlife.

(b) All game birds acquired, propagated, received, purchased, held, released, harvested or sold shall be maintained disease free in accordance with Department requirements. All facilities utilized in the game bird farm shall be maintained so as to prohibit the acquisition, spread or transmittal of diseases. Game birds held in captivity which become diseased shall immediately be destroyed or placed under the professional care of a veterinarian licensed in the State of Wyoming and such incident reported immediately to the Department by the game bird farm licensee. Department personnel may inspect facilities or game birds to insure they meet disease free requirements. If facilities or game birds are found not to meet Department requirements, or if diseased game birds present a threat to the wildlife of the State, the Department may order such action as necessary, including quarantine or destruction of game birds, sterilization of enclosures and facilities, cessation of activities and disposal of the diseased game birds in a manner satisfactory to the Department. The Department may refuse to lift the quarantine or refuse to allow operation of the game bird farm until such time as the facilities or game birds meet disease free requirements. When it is shown the facilities or game birds meet disease free requirements, the Department may lift the quarantine.

**Section 6. Holding Facility(ies).** Before a license is issued to operate a game bird farm, Department personnel shall review the applicant's proposed holding facility(ies) taking into consideration the species applied for, the number of game birds requested, the welfare of the game birds to be possessed, the purpose(s) for which the game birds shall be held and to insure adequate protection for Wyoming's wildlife resources. Holding facilities shall be constructed to meet Department approval prior to importation or possession of live game birds.

**Section 7. Notification and Disposition of Diseased Game Birds.** The licensee or his/her authorized agent shall notify the Department within twenty-four (24) hours of having reason to believe that game birds held under a license pursuant to this regulation may have been exposed to or contracted a contagious disease or parasite. It shall be a violation of this regulation to remove game birds exposed to or which have contracted a contagious disease or parasite from the holding facility(ies) without prior authorization from the Department.

**Section 8. Identification Requirements.** Before a license is issued to operate a game bird farm, the applicant shall register with the Department the type of identifying leg or wing band to be placed on the game birds. The type of leg or wing band shall depend upon the type and age of the game bird. The Department shall make the final determination as to the suitability of the tag before attachment.

**Section 9. Purchase of Game Birds Occurring on Proposed Game Bird Farm Lands.** Upon the execution of a proper application for a game bird farm license where game birds occur on the lands to be utilized, the applicant shall pay the Department fifteen dollars (\$15.00) for each game bird of the species to be licensed which are determined to be upon the lands initially licensed as a game bird farm. If the same lands have been licensed as a game bird farm within the three (3) previous years by the same person, for the same species of game birds and the lands are determined to be marginal or unsuitable habitat by the Department for that species of game birds, the applicant shall not have to determine the number of game birds, nor pay for those game birds found on the previously licensed lands.

**Section 10. Release of Birds.** Each licensee shall release a minimum of one-hundred (100) game birds of the species approved by the Department each year on the licensed premises. The one hundred (100) game birds ~~of each species~~ shall be released in the twelve (12) consecutive month period commencing April 2 and ending April 1 of the next year. A release shall be substantiated with written records. Licensees who sell, but do not hunt game birds, shall be exempt from the minimum game bird release requirement.

**Section 11. Records.** A licensee shall maintain on the premises of the game bird farm or at his/her residence legible, current, accurate and complete records on forms provided by the Department of the species and the number of game birds received, shipped, purchased, reared, released, disposed of, killed or sold. Records shall include names, addresses of all recipients, purchasers, suppliers and hunters, the license number of all hunters, the date of each transaction and the number and species of game birds reared and released on the game bird farm. Records for special competitive game bird hunts shall include the names and addresses of all participants, and the number and species of all game birds taken during special competitive game bird hunts held on the licensed game bird farms. Records shall be produced upon demand of any Department enforcement officer. All records shall be submitted to the Regional Wildlife Supervisor in their respective Region by April 15 of each year for activities which occurred during the term of the license.

**Section 12. Inspection by Department Personnel.** Any person issued a license under this regulation shall, during the term of the license and for a period of sixty (60) days after

expiration of the game bird farm license, allow inspection of records, holding facilities, signing and game birds by Department law enforcement personnel during reasonable hours.

**Section 13. Disposal of Game Birds if License is not Renewed.** Should a licensee fail to renew his/her license for any reason, all game birds held in captivity on the premises shall be disposed of within sixty (60) days after expiration of the game bird farm license. After this sixty (60) day period, all game birds on the premises shall become property of the State and may be disposed of by the Department in the best interest of the Department.

**Section 14. Revocation of License.** Failure to maintain required records, acquire game bird certificate of origin, acquire certificate of veterinary inspection or maintain disease free facilities and game birds is just cause for revocation of a game bird farm license by the Commission. Revocation of a license by the Commission shall be carried out in compliance with Commission Regulation Chapter 27 Rules of Practice Governing Contested Cases Before The Wyoming Game and Fish Commission.

**Section 15. Special Competitive Game Bird Hunts.** The Department, in compliance with statutory and regulatory provisions, may approve special competitive game bird hunts on licensed game bird farms as set forth in this section. Individuals participating in an approved special competitive game bird hunt are not required to obtain a valid Wyoming game bird hunting license prior to taking game birds during an approved special competitive game bird hunt.

(a) Applications for special competitive game bird hunts shall be submitted on a form provided by the Department, to the Game Warden in whose district the game bird farm is located not less than twenty (20) days prior to the special competitive game bird hunt. The application for a special competitive game bird hunt shall include: the applicant's name, address and phone number; the name, address and current year's license number of the licensed game bird farm where the hunt will occur; the name of the sponsor; the date(s) of the hunt; the number and species and source of game birds to be utilized, and the estimated number of participants.

(b) Approved special competitive game bird hunts may be held on any licensed game bird farm throughout the calendar year except as provided in this subsection. To protect natural game bird populations, special competitive game bird hunts may not be approved during the time period April 1 through July 31 of each year on licensed game bird farms where Department personnel document natural reproduction of any game bird species.

(c) Only the species of game bird approved by the Department on the licensed game bird farm may be taken during any special competitive game bird hunt.

(d) Participants may possess game birds taken during a special competitive game bird hunt provided each participant possessing game birds has in possession a receipt issued by the permit holder providing the name of the person receiving the game birds, the number and species of game birds in possession and the date the birds were possessed.

WYOMING GAME AND FISH COMMISSION



~~Mike Healy~~Keith Culver, President

Dated: ~~January 22, 2014~~August 23, 2017

## **STATEMENT OF REASONS**

### **CHAPTER 60**

#### **REGULATION GOVERNING GREATER SAGE-GROUSE RAISED ON PRIVATE GAME BIRD FARMS**

House Enrolled Act No. 91 (HEA No. 91) of the Sixty-Fourth Legislature of the State of Wyoming 2017 General Session created W. S. § 23-5-111 and modified W. S. § 23-3-108, § 23-3-116, § 23-5-102, § 23-5-104 and § 23-5-106. HEA No. 91 modified the game bird farm licensing provisions relating to the release of game birds; provided for certification of game bird farms to allow breeding, propagation, handling, taking, rearing and release of Greater Sage-grouse; authorizes gathering of Greater Sage-grouse eggs by certified game bird farms; specifies requirements for certification; directs and empowers the Commission to undergo rule making to administer statutory provisions; provides a time limitation on certification and for disposition of Greater Sage-grouse held at the expiration or revocation of certification; and provides for an effective date.

Chapter 60, Regulation Governing Greater Sage-Grouse Raised on Private Game Bird Farms is a new regulation. All Sections included in this regulation are new.

Section 1, Authority, lists all Wyoming Statutes that govern Greater Sage-grouse being raised on private game bird farms.

Section 2, Regulation, identifies the effective dates and purpose of this regulation, and also indicates that game bird farms certified under this regulation are also governed by Commission Regulation Chapter 40, Regulation Governing Commercial Game Bird Farms.

Section 3, Definitions, indicates that definitions will be set forth in Title 23, Wyoming Statutes, Commission Regulations and other specific definitions relative to this regulation.

Section 4, Application for Game Bird Farm Licensee Sage Grouse Certification, provides an applicant with procedures and the process to apply for certification to operate a sage grouse private game bird farm.

Section 5, Identification Requirements, addresses methods to identify individual sage grouse prior to release of any sage grouse.

Section 6, Disease Free Certification, addresses a licensee's enclosure, hatching facility and privately held sage grouse disease testing and reporting requirements. If facilities or sage grouse are found not to be disease free, or if diseased sage grouse present a threat to the wildlife of the state as determined by the Department, the Department may require additional disease or parasite testing or order such action as necessary, including quarantine or destruction of sage grouse, sterilization of enclosures and facilities, cessation of activities and disposal of the diseased sage grouse in a manner

satisfactory to the Department. Sage grouse scheduled for release shall be quarantined in a separate holding pen for a minimum of thirty (30) consecutive days prior to their release.

Section 7, Sage Grouse Enclosure, identifies the minimum standards for a sage grouse holding facility and differentiates between sage grouse not being held to maintain a captive breeding population and sage grouse adults being held to maintain a captive breeding population.

Section 8, Acquiring Sage Grouse for Captive Rearing, provides for limitations and procedures to acquire sage grouse eggs from the wild in Wyoming. The number of sage grouse eggs that may be collected, specific egg collection sites and other requirements will be indicated on a licensee's Certification issued by the Department on an annual basis. A complete suspension of sage grouse egg collection may be mandated by the Department.

Section 9, Release of Sage Grouse. The release of sage grouse, and release methods, shall only be permitted through coordination with the Department and may be restricted to protect wild populations of sage grouse.

Section 10, Escape of Captive Sage Grouse, addresses the liability of a licensee for any captive sage grouse that escape from an enclosure and reporting requirements upon discovery of escaped sage grouse.

Section 11, Records, requires a licensee to maintain specific records and to provide those records to the Department on an annual basis.

Section 12, Inspection by Department Personnel, allows for inspection of records, enclosures, hatching facilities, live sage grouse and sage grouse eggs by Department law enforcement personnel during reasonable hours.

Section 13, Suspension, Revocation or Non-Renewal of Certification, indicates that failure to comply with provisions of this Chapter or Wyoming Statutes governing game bird farms, or to maintain a captive breeding population of sage grouse is just cause for suspension, revocation or non-renewal of a licensee's certification in conjunction with Chapter 27, Rules of Practice Governing Contested Cases before the Wyoming Game and Fish Commission.

Section 14, Disposal of Sage Grouse if Certification is not Renewed or has been Suspended or Revoked, provides for a time period after expiration, suspension or revocation of a certification when all sage grouse remaining on the premises shall become property of the Department and shall be disposed of by the Department in the best interest of the Department.

## CHAPTER 60

### REGULATION GOVERNING GREATER SAGE-GROUSE RAISED ON PRIVATE GAME BIRD FARMS

**Section 1. Authority.** This regulation is promulgated under authority of Wyoming Statutes § 23-1-101, § 23-1-103, § 23-1-302, § 23-3-108, § 23-3-116, §§ 23-5-101 through 23-5-111 and § 23-6-111.

**Section 2. Regulation.** The Wyoming Game and Fish Commission hereby adopts the following regulation governing Greater Sage-grouse raised on licensed and certified game bird farms. This regulation shall remain in effect until modified or repealed by the Commission and all certifications issued under this regulation shall expire on December 31, 2022. The purpose of this regulation is to certify game bird farm licensees to possess, propagate, breed, raise, sell, release and take Greater Sage-grouse within the boundaries of a game bird farm, and to collect Greater Sage-grouse eggs for the purpose of establishing a captive breeding population. Game bird farms certified under this regulation are also governed by Commission regulation Chapter 40, Regulation Governing Commercial Game Bird Farms.

**Section 3. Definitions.** For the purpose of this regulation, definitions will be as set forth in Title 23, Wyoming Statutes, Commission regulations and the Commission also adopts the following definitions:

(a) “Captive Breeding Population” means live captive sage grouse in the possession of a licensee with the proper certification, where the licensee has documented captive reproductive success through natural breeding or artificial insemination practices and has successfully raised sage grouse chicks from captive sage grouse hens living entirely within an enclosure, that are self-sustaining and do not require any additional wild sage grouse to be added to or supplemented into the flock for any purpose.

(b) “Certificate of Compliance” or “Certification” means a written approval by the Department to a game bird farm licensee that authorizes the licensees to possess, propagate, breed, raise, sell, gather eggs and release live greater sage grouse and to take greater sage grouse within the boundaries of their game bird farm.

(c) “Collection Area” means a geographic area as determined by the Department and specified on a Certificate of Compliance, where sage grouse nest sites may be disturbed by a licensee for the sole purpose of collecting sage grouse eggs.

(d) “Coordination with the Department” means the game bird licensee shall contact the Department representative listed on their Certificate of Compliance to receive authorization at least ten (10) business days prior to any release of sage grouse within the state and outside of the boundaries of a game bird farm, or to release sage grouse where wild sage grouse exist within the boundaries of an existing game bird farm, or collection of any sage grouse eggs. A Department representative may observe and direct any release of sage grouse or collection of any sage grouse eggs.

(e) “Enclosure” means a holding facility designed to confine and physically separate captive sage grouse from other game birds, domestic animals, domesticated animals and livestock, and to handle live greater sage grouse. The holding facility shall be defined by legal description to the quarter/quarter (1/4-1/4) section where live sage grouse shall be possessed or confined.

(f) “Hatching Facility” means a commercially produced incubator and hatcher capable of monitoring and maintaining environmental conditions necessary to successfully hatch sage grouse eggs.

(g) “Professional Wildlife Biologist” means an individual named by an applicant on their certification application who has a professional wildlife background in the management of Greater Sage-grouse and is knowledgeable of the species’ habitats, who has been approved by the Department and is listed on a licensee’s Certificate of Compliance.

(h) “Sage Grouse” means live birds and viable eggs of all Greater Sage-grouse (*Centrocercus urophasianus*).

(i) “Successfully Raised” means documented evidence, as required by the Department, that a licensee has demonstrated an ability to hatch game bird eggs or brood chicks, raise juvenile game birds to breeding age and achieve reproduction of game birds through either natural or artificial insemination.

(j) “Vegetation Consistent with the Needs of Sage Grouse” means the presence of one (1) or more species/subspecies of appropriate sage brush, forbs and grasses suitable to sage grouse and in sufficient quantity to meet the needs of captive sage grouse and any offspring. Sage brush, forbs and grasses shall be maintained and replaced as necessary to provide food, cover and suitable dust control.

#### **Section 4. Application for Game Bird Farm Licensee Sage Grouse Certification.**

(a) Any game bird farm licensee desiring certification to operate a sage grouse private game bird farm shall make application on forms provided by the Department. A Certificate of Compliance shall be received prior to taking possession of any sage grouse.

(b) Applications for a Certificate of Compliance shall be submitted annually on a form provided by the Department to the permitting officer during regular business hours from November 1 through December 31 for the following calendar year. If the deadline date occurs on a date when the Department has been closed to mail delivery (weekends, holiday, etc.), applications shall be accepted until 5:00 p.m. mountain time zone on the next business day.

(c) Only complete applications received by the permitting officer during the application period shall be accepted. Applicants shall be notified by the Department by January 15 of Certification approval or denial, and by March 15 of specific egg collection allocation limits and the geographic areas where sage grouse eggs may be collected.

(d) The Department shall provide annual Certification to no more than five (5) licensed game bird farms to collect sage grouse eggs from the wild. If more than five (5) licensed game bird farms apply for annual Certification, the Department shall conduct a random drawing to determine which applicants shall receive Certification.

**Section 5. Identification Requirements.** Before release of any sage grouse, the Department and licensee shall determine a specific method to identify individual birds. The type of identification shall depend upon the age of the sage grouse. The Department shall make the final determination as to the suitability of the identification method.

**Section 6. Disease Free Certification.**

(a) All sage grouse possessed under a Certification of Compliance shall be maintained disease free in accordance with Department requirements and applicable Commission regulations. All facilities utilized in the game bird farm shall be maintained so as to prohibit the acquisition, spread or transmittal of diseases and parasites. Upon the discovery or exposure of any captive sage grouse to any contagious disease, the licensee shall immediately place such affected sage grouse under the professional care of a veterinarian licensed in the State of Wyoming and such incident shall be reported within twenty-four (24) hours to a Department representative listed on the licensee's Certificate of Compliance, their local game warden or regional office by the game bird farm licensee or their designee.

(b) All sage grouse enclosures and hatching facilities shall be cleaned and sanitized prior to placing any sage grouse in these facilities.

(i) The licensee shall provide written documentation to the Department that the enclosure and hatching facilities have been cleaned and sanitized annually, including a description of the methods used to clean and sanitize the facilities, prior to the issuance of a Certificate of Compliance.

(ii) The licensee shall designate and utilize a Department approved method of sanitization and decontamination for all persons entering or exiting a sage grouse enclosure or hatching facility to reduce the transmission of disease.

(c) The licensee shall submit an annual National Poultry Improvement Plan (NPIP) certificate to the Department prior to renewal of their certification.

(d) The licensee shall provide to the Department an annual avian influenza free certification from a veterinarian licensed in the state of Wyoming for their sage grouse enclosure and hatching facility prior to renewal of their certification.

(e) All sage grouse scheduled for release shall test negative within thirty (30) days prior to release for *Mycoplasma gallisepticum*, *M. synoviae*, *M. meleagridis*, avian influenza, *Salmonella pullorum* (Pullorum Disease) and *S. gallinarum* (Fowl Typhoid).

(f) The licensee shall maintain an active parasite monitoring program as approved by the Department and manage or treat sage grouse as needed to maintain low parasite burdens.

(g) Department personnel shall inspect a licensee's enclosure, hatchery facility and sage grouse a minimum of one (1) time per year to insure they are disease free.

(h) If facilities or sage grouse are found not to be disease free, or if diseased sage grouse present a threat to the wildlife of the state as determined by the Department, the Department may require additional disease or parasite testing or order such action as necessary, including quarantine or destruction of sage grouse, sterilization of enclosures and facilities, cessation of activities and disposal of the diseased sage grouse in a manner satisfactory to the Department. The Department may refuse to lift the quarantine or refuse to allow the operation of the game bird farm until such time as the facilities and sage grouse meet disease free requirements. When it is shown the facilities and sage grouse meet disease free requirements, the Department may lift the quarantine.

(i) Sage grouse scheduled for release shall be held in a separate holding pen for a minimum of thirty (30) consecutive days prior to their release. Any sage grouse mortality from those held for release during this thirty (30) day period shall immediately be reported to the Department and sent for necropsy to the Wyoming State Veterinary Laboratory at the expense of the licensee. Copies of the necropsy results from the Wyoming State Veterinary Laboratory shall be provided to the Department by the licensee within five (5) calendar days from the date of the report. In such cases, written permission from the Department shall be required prior to release of any remaining sage grouse.

#### **Section 7. Sage Grouse Enclosure.**

(a) Before a certification is issued to a licensee, Department personnel shall review the applicant's proposed enclosure taking into consideration the number of sage grouse requested, the welfare of the sage grouse to be possessed, the purpose(s) for which the sage grouse shall be held and to insure adequate protection for Wyoming's wildlife resources. Sage grouse enclosures shall be constructed to meet Department approval prior to possession of live sage grouse.

(b) Holding facilities for sage grouse shall be physically separate from holding facilities utilized for other species of game birds, domestic animals, domesticated animals or livestock. Sage grouse holding facilities shall be constructed to include a minimum one hundred (100) foot unoccupied buffer zone around the enclosure to avoid physical contact between other species of game birds, domestic birds or livestock to diminish the transmission of aerosolized pathogens.

(c) Holding facilities for hatch year sage grouse and any adult sage grouse not used to maintain a captive breeding population shall provide a minimum of one hundred thirty square feet (130 ft. <sup>2</sup>) per bird held. Holding facilities for adult sage grouse used to maintain a captive breeding population shall provide a minimum of five hundred square feet (500 ft. <sup>2</sup>) per hen. Enclosures shall include vegetation consistent with the needs of sage grouse, sources of visual

obstruction, small shelters, cover and sub-pens that enable complete separation of the sexes during certain times of year.

### **Section 8. Acquiring Sage Grouse for Captive Rearing.**

(a) Sage grouse shall not be imported into Wyoming for the purpose of propagation on game bird farms.

(b) A maximum of two hundred fifty (250) sage grouse eggs may be collected during a calendar year by a licensee as annually determined and authorized by the Department.

(c) The Department may supervise the collection of sage grouse eggs to assure minimal impact to nesting sage grouse. If the Department determines there is an unacceptable impact to nesting sage grouse, the Department shall not allow the licensee to collect additional sage grouse eggs.

(d) No person shall collect sage grouse eggs on private land without first obtaining written permission from the landowner, lessee or person in charge of the property.

(e) Hatching sage grouse eggs shall be done in a hatching facility. Surrogate hatching of sage grouse eggs using domestic or domesticated animals shall not be permitted.

(f) Additional limitations may be imposed upon sage grouse egg collection as stipulated on the certification, or a complete suspension of sage grouse egg collection may be mandated immediately upon notification as determined by the Department.

(g) A licensee desiring to collect sage grouse eggs shall annually obtain a Certification from the Department which shall, at a minimum, identify:

(i) Designated sage grouse egg collection areas;

(ii) Authorized methods of egg collection;

(iii) Techniques that shall be used to minimize disturbance to nesting and breeding sage grouse;

(iv) The maximum number of nests where a licensee may collect sage grouse eggs in each authorized egg collection area;

(v) Sage grouse egg collection shall only take place for up to twenty (20) days from April through May as determined by the Department;

(vi) A licensee shall spend no more than one (1) day collecting sage grouse eggs in each assigned collection area;



(vii) The time of day for sage grouse egg collection shall be determined by the Department in conjunction with the approved methods of egg collection;

(viii) The use of pointing breed dogs shall be permitted for locating sage grouse nest sites and egg collection;

(ix) A licensee shall collect all sage grouse eggs from each individual sage grouse nest utilized for egg collection;

(x) All sage grouse eggs that are damaged or destroyed during the collection process, including eggs damaged in a nest due to a fleeing hen, shall count toward a licensee's maximum authorized egg collection total for the year;

(xi) Measures that shall be followed to provide necessary protection to the viability of sage grouse eggs collected.

**Section 9. Release of Sage Grouse.** Release of sage grouse and release methods shall only be permitted through coordination with the Department. The Commission may restrict areas of the state from sage grouse release to protect wild populations of sage grouse.

#### **Section 10. Escape of Captive Sage Grouse.**

(a) As a condition of receiving a certification, the licensee shall agree to be solely responsible for all costs, expenses and damages suffered as a result of possessing sage grouse, but not limited to quarantine or total or partial depopulation on account of contagious diseases or parasites; or costs and expenses associated with the capture of or destruction of escaped sage grouse.

(b) The licensee or an authorized agent of the licensee shall notify the Department within twenty-four (24) hours of discovery that captive sage grouse have escaped. If the Department discovers the escape, it shall notify the licensee or their authorized agent within twenty-four (24) hours. If escaped sage grouse are not recovered by the licensee or their agent within forty-eight (48) hours following discovery of the escape or notification by the Department, the Department may at its discretion take the escaped sage grouse.

(c) It is a violation of this regulation to release, abandon or to allow escape of any captive sage grouse without prior written authorization from the Department, except as may be provided by Wyoming Statutes. All captive sage grouse released or abandoned without written authorization from the Department may be taken by Department personnel.

#### **Section 11. Records.**

(a) A licensee shall maintain on the premises of the game bird farm or at his residence legible, current, accurate and complete records on forms provided by the Department of the number of sage grouse received, shipped, purchased, reared, released, disposed of, killed or sold. Records shall include names and addresses of all recipients, purchasers, suppliers and

hunters, the license number of all hunters, the date of each transaction and the number of sage grouse reared and released on the sage grouse private game bird farm. Records shall include disease testing and disease free certification results by date and individual bird. Records shall be produced upon demand by any Department law enforcement officer during reasonable hours. The licensee shall submit all records to the regional wildlife supervisor in their respective region by April 15 of each year for activities that occurred during the term of the certification.

(b) A licensee shall also report the number of nest sites where sage grouse eggs were collected, GPS coordinates of all individual nest sites located, the number of eggs in each nest used for collection, the number of eggs collected, number of eggs damaged or destroyed during the collection process, dates of egg collection, detailed records of all individual sage grouse hatched or produced in captivity, dates of released sage grouse and all sage grouse deaths.

**Section 12. Inspection by Department Personnel.** Any person issued a certification under this regulation shall, during the term of the certification and for a period of sixty (60) days after expiration of the sage grouse bird farm certification, allow inspection of sage grouse records, enclosures, hatching facilities, live sage grouse and sage grouse eggs by Department law enforcement personnel during reasonable hours.

**Section 13. Suspension, Revocation or Non-Renewal of Certification.** Failure to comply with provisions of this Chapter or Wyoming Statutes governing game bird farms or to maintain a captive breeding population is just cause for the suspension, revocation or non-renewal of a certification. The suspension, revocation or non-renewal of a certification by the Department shall be carried out in compliance with Chapter 27, Rules of Practice Governing Contested Cases before the Wyoming Game and Fish Commission.

**Section 14. Disposal of Sage Grouse if Certification is not Renewed or has been Suspended or Revoked.** Should a licensee fail to renew their sage grouse certification or their certification is suspended or revoked, all sage grouse held in captivity on the premises shall be disposed of within sixty (60) days after expiration, suspension or revocation of the game bird farm certification. Disposal shall be in accordance with this Chapter. After this sixty (60) day period, all sage grouse on the premises shall become property of the Department and shall be disposed of by the Department in the best interest of the Department.

WYOMING GAME AND FISH COMMISSION

Keith Culver, President

Dated: August 23, 2017

## CHAPTER 60

### REGULATION GOVERNING GREATER SAGE-GROUSE RAISED ON PRIVATE GAME BIRD FARMS

**Section 1. Authority.** This regulation is promulgated under authority of Wyoming Statutes § 23-1-101, § 23-1-103, § 23-1-302, § 23-3-108, § 23-3-116, §§ 23-5-101 through 23-5-111 and § 23-6-111.

**Section 2. Regulation.** The Wyoming Game and Fish Commission hereby adopts the following regulation governing Greater Sage-grouse raised on licensed and certified game bird farms. This regulation shall remain in effect until modified or repealed by the Commission and all certifications issued under this regulation shall expire on December 31, 2022. The purpose of this regulation is to certify game bird farm licensees to possess, propagate, breed, raise, sell, release and take Greater Sage-grouse within the boundaries of a game bird farm, and to collect Greater Sage-grouse eggs for the purpose of establishing a captive breeding population. Game bird farms certified under this regulation are also governed by Commission regulation Chapter 40, Regulation Governing Commercial Game Bird Farms.

**Section 3. Definitions.** For the purpose of this regulation, definitions will be as set forth in Title 23, Wyoming Statutes, Commission regulations and the Commission also adopts the following definitions:

(a) “Captive Breeding Population” means live captive sage grouse in the possession of a licensee with the proper certification, where the licensee has documented captive reproductive success through natural breeding or artificial insemination practices and has successfully raised sage grouse chicks from captive sage grouse hens living entirely within an enclosure, that are self-sustaining and do not require any additional wild sage grouse to be added to or supplemented into the flock for any purpose.

(b) “Certificate of Compliance” or “Certification” means a written approval by the Department to a game bird farm licensee that authorizes the licensees to possess, propagate, breed, raise, sell, gather eggs and release live greater sage grouse and to take greater sage grouse within the boundaries of their game bird farm.

(c) “Collection Area” means a geographic area as determined by the Department and specified on a Certificate of Compliance, where sage grouse nest sites may be disturbed by a licensee for the sole purpose of collecting sage grouse eggs.

(d) “Coordination with the Department” means the game bird licensee shall contact the Department representative listed on their Certificate of Compliance to receive authorization at least ten (10) business days prior to any release of sage grouse within the state and outside of the boundaries of a game bird farm, or to release sage grouse where wild sage grouse exist within the boundaries of an existing game bird farm, or collection of any sage grouse eggs. A Department representative may observe and direct any release of sage grouse or collection of any sage grouse eggs.

(e) “Enclosure” means a holding facility designed to confine and physically separate captive sage grouse from other game birds, domestic animals, domesticated animals and livestock, and to handle live greater sage grouse. The holding facility shall be defined by legal description to the quarter/quarter (1/4-1/4) section where live sage grouse shall be possessed or confined.

(f) “Hatching Facility” means a commercially produced incubator and hatcher capable of monitoring and maintaining environmental conditions necessary to successfully hatch sage grouse eggs.

(g) “Professional Wildlife Biologist” means an individual named by an applicant on their certification application who has a professional wildlife background in the management of Greater Sage-grouse and is knowledgeable of the species’ habitats, who has been approved by the Department and is listed on a licensee’s Certificate of Compliance.

(h) “Sage Grouse” means live birds and viable eggs of all Greater Sage-grouse (Centrocercus urophasianus).

(i) “Successfully Raised” means documented evidence, as required by the Department, that a licensee has demonstrated an ability to hatch game bird eggs or brood chicks, raise juvenile game birds to breeding age and achieve reproduction of game birds through either natural or artificial insemination.

(j) “Vegetation Consistent with the Needs of Sage Grouse” means the presence of one (1) or more species/subspecies of appropriate sage brush, forbs and grasses suitable to sage grouse and in sufficient quantity to meet the needs of captive sage grouse and any offspring. Sage brush, forbs and grasses shall be maintained and replaced as necessary to provide food, cover and suitable dust control.

#### **Section 4. Application for Game Bird Farm Licensee Sage Grouse Certification.**

(a) Any game bird farm licensee desiring certification to operate a sage grouse private game bird farm shall make application on forms provided by the Department. A Certificate of Compliance shall be received prior to taking possession of any sage grouse.

(b) Applications for a Certificate of Compliance shall be submitted annually on a form provided by the Department to the permitting officer during regular business hours from November 1 through December 31 for the following calendar year. If the deadline date occurs on a date when the Department has been closed to mail delivery (weekends, holiday, etc.), applications shall be accepted until 5:00 p.m. mountain time zone on the next business day.

(c) Only complete applications received by the permitting officer during the application period shall be accepted. Applicants shall be notified by the Department by January 15 of Certification approval or denial, and by March 15 of specific egg collection allocation limits and the geographic areas where sage grouse eggs may be collected.

(d) The Department shall provide annual Certification to no more than five (5) licensed game bird farms to collect sage grouse eggs from the wild. If more than five (5) licensed game bird farms apply for annual Certification, the Department shall conduct a random drawing to determine which applicants shall receive Certification.

**Section 5. Identification Requirements.** Before release of any sage grouse, the Department and licensee shall determine a specific method to identify individual birds. The type of identification shall depend upon the age of the sage grouse. The Department shall make the final determination as to the suitability of the identification method.

**Section 6. Disease Free Certification.**

(a) All sage grouse possessed under a Certification of Compliance shall be maintained disease free in accordance with Department requirements and applicable Commission regulations. All facilities utilized in the game bird farm shall be maintained so as to prohibit the acquisition, spread or transmittal of diseases and parasites. Upon the discovery or exposure of any captive sage grouse to any contagious disease, the licensee shall immediately place such affected sage grouse under the professional care of a veterinarian licensed in the State of Wyoming and such incident shall be reported within twenty-four (24) hours to a Department representative listed on the licensee's Certificate of Compliance, their local game warden or regional office by the game bird farm licensee or their designee.

(b) All sage grouse enclosures and hatching facilities shall be cleaned and sanitized prior to placing any sage grouse in these facilities.

(i) The licensee shall provide written documentation to the Department that the enclosure and hatching facilities have been cleaned and sanitized annually, including a description of the methods used to clean and sanitize the facilities, prior to the issuance of a Certificate of Compliance.

(ii) The licensee shall designate and utilize a Department approved method of sanitization and decontamination for all persons entering or exiting a sage grouse enclosure or hatching facility to reduce the transmission of disease.

(c) The licensee shall submit an annual National Poultry Improvement Plan (NPIP) certificate to the Department prior to renewal of their certification.

(d) The licensee shall provide to the Department an annual avian influenza free certification from a veterinarian licensed in the state of Wyoming for their sage grouse enclosure and hatching facility prior to renewal of their certification.

(e) All sage grouse scheduled for release shall test negative within thirty (30) days prior to release for Mycoplasma gallisepticum, M. synoviae, M. meleagridis, avian influenza, Salmonella pullorum (Pullorum Disease) and S. gallinarum (Fowl Typhoid).

(f) The licensee shall maintain an active parasite monitoring program as approved by the Department and manage or treat sage grouse as needed to maintain low parasite burdens.

(g) Department personnel shall inspect a licensee's enclosure, hatchery facility and sage grouse a minimum of one (1) time per year to insure they are disease free.

(h) If facilities or sage grouse are found not to be disease free, or if diseased sage grouse present a threat to the wildlife of the state as determined by the Department, the Department may require additional disease or parasite testing or order such action as necessary, including quarantine or destruction of sage grouse, sterilization of enclosures and facilities, cessation of activities and disposal of the diseased sage grouse in a manner satisfactory to the Department. The Department may refuse to lift the quarantine or refuse to allow the operation of the game bird farm until such time as the facilities and sage grouse meet disease free requirements. When it is shown the facilities and sage grouse meet disease free requirements, the Department may lift the quarantine.

(i) Sage grouse scheduled for release shall be held in a separate holding pen for a minimum of thirty (30) consecutive days prior to their release. Any sage grouse mortality from those held for release during this thirty (30) day period shall immediately be reported to the Department and sent for necropsy to the Wyoming State Veterinary Laboratory at the expense of the licensee. Copies of the necropsy results from the Wyoming State Veterinary Laboratory shall be provided to the Department by the licensee within five (5) calendar days from the date of the report. In such cases, written permission from the Department shall be required prior to release of any remaining sage grouse.

### **Section 7. Sage Grouse Enclosure.**

(a) Before a certification is issued to a licensee, Department personnel shall review the applicant's proposed enclosure taking into consideration the number of sage grouse requested, the welfare of the sage grouse to be possessed, the purpose(s) for which the sage grouse shall be held and to insure adequate protection for Wyoming's wildlife resources. Sage grouse enclosures shall be constructed to meet Department approval prior to possession of live sage grouse.

(b) Holding facilities for sage grouse shall be physically separate from holding facilities utilized for other species of game birds, domestic animals, domesticated animals or livestock. Sage grouse holding facilities shall be constructed to include a minimum one hundred (100) foot unoccupied buffer zone around the enclosure to avoid physical contact between other species of game birds, domestic birds or livestock to diminish the transmission of aerosolized pathogens.

(c) Holding facilities for hatch year sage grouse and any adult sage grouse not used to maintain a captive breeding population shall provide a minimum of one hundred thirty square feet (130 ft. <sup>2</sup>) per bird held. Holding facilities for adult sage grouse used to maintain a captive breeding population shall provide a minimum of five hundred square feet (500 ft. <sup>2</sup>) per hen. Enclosures shall include vegetation consistent with the needs of sage grouse, sources of visual

obstruction, small shelters, cover and sub-pens that enable complete separation of the sexes during certain times of year.

**Section 8. Acquiring Sage Grouse for Captive Rearing.**

(a) Sage grouse shall not be imported into Wyoming for the purpose of propagation on game bird farms.

(b) A maximum of two hundred fifty (250) sage grouse eggs may be collected during a calendar year by a licensee as annually determined and authorized by the Department.

(c) The Department may supervise the collection of sage grouse eggs to assure minimal impact to nesting sage grouse. If the Department determines there is an unacceptable impact to nesting sage grouse, the Department shall not allow the licensee to collect additional sage grouse eggs.

(d) No person shall collect sage grouse eggs on private land without first obtaining written permission from the landowner, lessee or person in charge of the property.

(e) Hatching sage grouse eggs shall be done in a hatching facility. Surrogate hatching of sage grouse eggs using domestic or domesticated animals shall not be permitted.

(f) Additional limitations may be imposed upon sage grouse egg collection as stipulated on the certification, or a complete suspension of sage grouse egg collection may be mandated immediately upon notification as determined by the Department.

(g) A licensee desiring to collect sage grouse eggs shall annually obtain a Certification from the Department which shall, at a minimum, identify:

(i) Designated sage grouse egg collection areas;

(ii) Authorized methods of egg collection;

(iii) Techniques that shall be used to minimize disturbance to nesting and breeding sage grouse;

(iv) The maximum number of nests where a licensee may collect sage grouse eggs in each authorized egg collection area;

(v) Sage grouse egg collection shall only take place for up to twenty (20) days from April through May as determined by the Department;

(vi) A licensee shall spend no more than one (1) day collecting sage grouse eggs in each assigned collection area;

(vii) The time of day for sage grouse egg collection shall be determined by the Department in conjunction with the approved methods of egg collection;

(viii) The use of pointing breed dogs shall be permitted for locating sage grouse nest sites and egg collection;

(ix) A licensee shall collect all sage grouse eggs from each individual sage grouse nest utilized for egg collection;

(x) All sage grouse eggs that are damaged or destroyed during the collection process, including eggs damaged in a nest due to a fleeing hen, shall count toward a licensee's maximum authorized egg collection total for the year;

(xi) Measures that shall be followed to provide necessary protection to the viability of sage grouse eggs collected.

**Section 9. Release of Sage Grouse.** Release of sage grouse and release methods shall only be permitted through coordination with the Department. The Commission may restrict areas of the state from sage grouse release to protect wild populations of sage grouse.

**Section 10. Escape of Captive Sage Grouse.**

(a) As a condition of receiving a certification, the licensee shall agree to be solely responsible for all costs, expenses and damages suffered as a result of possessing sage grouse, but not limited to quarantine or total or partial depopulation on account of contagious diseases or parasites; or costs and expenses associated with the capture of or destruction of escaped sage grouse.

(b) The licensee or an authorized agent of the licensee shall notify the Department within twenty-four (24) hours of discovery that captive sage grouse have escaped. If the Department discovers the escape, it shall notify the licensee or their authorized agent within twenty-four (24) hours. If escaped sage grouse are not recovered by the licensee or their agent within forty-eight (48) hours following discovery of the escape or notification by the Department, the Department may at its discretion take the escaped sage grouse.

(c) It is a violation of this regulation to release, abandon or to allow escape of any captive sage grouse without prior written authorization from the Department, except as may be provided by Wyoming Statutes. All captive sage grouse released or abandoned without written authorization from the Department may be taken by Department personnel.

**Section 11. Records.**

(a) A licensee shall maintain on the premises of the game bird farm or at his residence legible, current, accurate and complete records on forms provided by the Department of the number of sage grouse received, shipped, purchased, reared, released, disposed of, killed



or sold. Records shall include names and addresses of all recipients, purchasers, suppliers and hunters, the license number of all hunters, the date of each transaction and the number of sage grouse reared and released on the sage grouse private game bird farm. Records shall include disease testing and disease free certification results by date and individual bird. Records shall be produced upon demand by any Department law enforcement officer during reasonable hours. The licensee shall submit all records to the regional wildlife supervisor in their respective region by April 15 of each year for activities that occurred during the term of the certification.

(b) A licensee shall also report the number of nest sites where sage grouse eggs were collected, GPS coordinates of all individual nest sites located, the number of eggs in each nest used for collection, the number of eggs collected, number of eggs damaged or destroyed during the collection process, dates of egg collection, detailed records of all individual sage grouse hatched or produced in captivity, dates of released sage grouse and all sage grouse deaths.

**Section 12. Inspection by Department Personnel.** Any person issued a certification under this regulation shall, during the term of the certification and for a period of sixty (60) days after expiration of the sage grouse bird farm certification, allow inspection of sage grouse records, enclosures, hatching facilities, live sage grouse and sage grouse eggs by Department law enforcement personnel during reasonable hours.

**Section 13. Suspension, Revocation or Non-Renewal of Certification.** Failure to comply with provisions of this Chapter or Wyoming Statutes governing game bird farms or to maintain a captive breeding population is just cause for the suspension, revocation or non-renewal of a certification. The suspension, revocation or non-renewal of a certification by the Department shall be carried out in compliance with Chapter 27, Rules of Practice Governing Contested Cases before the Wyoming Game and Fish Commission.

**Section 14. Disposal of Sage Grouse if Certification is not Renewed or has been Suspended or Revoked.** Should a licensee fail to renew their sage grouse certification or their certification is suspended or revoked, all sage grouse held in captivity on the premises shall be disposed of within sixty (60) days after expiration, suspension or revocation of the game bird farm certification. Disposal shall be in accordance with this Chapter. After this sixty (60) day period, all sage grouse on the premises shall become property of the Department and shall be disposed of by the Department in the best interest of the Department.

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WYOMING GAME AND FISH COMMISSION

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Keith Culver, President

Dated: August 23, 2017

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