



Certification Page Regular and Emergency Rules

Revised September 2016

☐ **Emergency Rules** (After completing all of Sections 1 through 3, proceed to Section 5 below)

☒ **Regular Rules**

1. General Information

a. Agency/Board Name Agriculture/Board of Agriculture		
b. Agency/Board Address 2219 Carey Avenue	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Slade Franklin	f. Agency Liaison Telephone Number 307-777-6585	
g. Agency Liaison Email Address slade.franklin@wyo.gov	h. Adoption Date July 11, 2017	
i. Program General Agency, Board or Commission 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: **HEA0079 (1989)**

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: 57	Chapter Name: Weed and Pest Special Management Programs	<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 Repealed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 Repealed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 Repealed
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 Repealed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 Repealed
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 Repealed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 Repealed
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 Repealed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 Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

3. State Government Notice of Intended Rulemaking

- a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **04/07/2017**
- approved as to form by the **Registrar of Rules**; and
 - provided to the **Legislative Service Office** and **Attorney General**:

4. Public Notice of Intended Rulemaking

- a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. ☐ No. ☐ Yes. ☒ N/A
- b. A public hearing was held on the proposed rules. ☒ No. ☐ Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

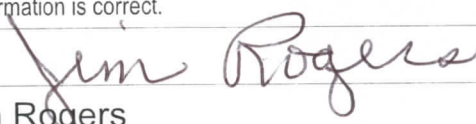
- c. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

5. Final Filing of Rules

- a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**: **July 17, 2017**
- b. Date on which final rules were approved as to form by the **Secretary of State** and sent to the **Legislative Service Office**: **July 17, 2017**
- c. ☒ The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	Jim Rogers
Signatory Title	President
Date of Signature	7/11/2017

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

Statement of Principal Reasons for Adoption of Rules

The Wyoming Board of Agriculture proposes to adopt new rules pursuant to the provisions of Wyo. Stat. § 11-5-303(g)(i).

The proposed new rules and regulations address the implementation of special management programs by County Weed and Pest Control Districts. They are intended to assist local Weed and Pest Control District Board members and staff in interpreting and complying with the current program's statutory requirements.

The Special Management Program, as defined under Wyoming statutes §§ 11-5-301 through 11-5-303, was originally created by Enrolled Act HEA0029 in 1978. However, the law has been amended during various legislative sessions throughout the past 40 years. In 1979, the Wyoming Board of Agriculture adopted rules and regulations (Chapter 49: Leafy Spurge Control Act of 1978) to assist the Wyoming Department of Agriculture and the County Weed and Pest Control Districts with implementation. Due to the extent of the legislative changes since then, Chapter 49 became irrelevant and was repealed in 1995. New rules were drafted in 1995 to match the amended statutes, but were never fully adopted by the Wyoming Board of Agriculture.

The proposed new rules and regulations were created by a Wyoming Weed and Pest Council special committee. They provide clarification and guidance on various questions and uncertainties that have arisen from the statutes over the past several years. The draft rules include clarification on the prioritization of leafy spurge (*Euphorbia esula* L.); contract stipulations and advertisement requirements for new landowner enrollees; and annual reporting and review requirements.

These proposed rules and regulations were approved unanimously by the Wyoming Weed and Pest Council at the November 2nd, 2015 regular meeting. The Wyoming Weed and Pest Council presented the proposed rules and regulations to the Wyoming Board of Agriculture at their August 19th, 2016 public meeting. The Board of Agriculture approved the draft and granted the Department of Agriculture permission to proceed.

Summary of Public Comments

Chapter 57 Weed and Pest Special Management Programs

Comment Period: April 24th, 2017 through June 7th, 2017

1. Comment Submitted:

Josh Shorb <jshorb@parkcountyweeds.org>

April 27, 2017

Slade

The Park County Weed & Pest Control District has reviewed and wholly supports the Chapter 57 proposed changes. The sections has been thoroughly studied and discussed. They are laid out in a straight forward manner and clearly explains exactly how a program needs to operate.

Josh Shorb

Park County Weed & Pest

1067 Road 13 Powell, WY 82435

(307) 754-4521 W

(307) 202-0133 C

www.parkcountyweeds.org

Response: No response necessary.

2. Comment Submitted:

Erika Edmiston <ewells@tcweed.org>

April 27, 2017

Dear WY Department of Agriculture:

The Teton County Weed and Pest Control District is in support of these rules as drafted.

Regards,

Erika Edmiston

Supervisor: Teton County Weed & Pest District

7575 S. Highway 89

Jackson, WY 83001

307.733.8419

Response: No response necessary.

3. Comment Submitted:

Lindsey Woodward <lwoodward@rtconnect.net>

April 26, 2017

Hot Springs County Weed and Pest supports the Special Management Program's Rules and Regulations. This program makes it possible for us to enact control measures on our most economically and environmentally important species.

Lindsey Woodward, Supervisor
Hot Springs County Weed & Pest
307-864-2278

Response: No response necessary.

4. Comment Submitted:

Travis Osmond <travisosmond@gmail.com>

April 26, 2017

Mr. Franklin,

The Lincoln County Weed & Pest Control District is in full favor of adopting the new rules titled Chapter 57 in the Weed & Pest Special Management Program.

Thank you,

Travis Osmond
Supervisor
Lincoln County Weed & Pest

Response: No response necessary.

5. Comment Submitted:

Quade Schmelzle <RQS76@ccgov.net>

April 26, 2017

The Campbell County Weed and Pest Control District supports the proposed rules to Chapter 57 Weed and Pest Special Management Programs under the current General Agency, Board or Commission Rules program that will provide clarification on the procedural guidelines for implementation of Special Management Programs under Wyoming Statutes §§ 11-5-301 through 11-5-303.

Quade Schmelzle
Supervisor
Campbell County Weed and Pest
PO Box 191 Gillette, WY 82717
307-682-4369

Response: No response necessary.

6. Comment Submitted:

Andrew Litzel <Andrew@crookcountyweeds.com>

April 26, 2017

Slade,

I am just following Sir Rodney The Elder's advice and providing my support of the Special Management Rules and Regulations. I also wanted to thank you for all the hard work you have put into this, and a future thank you for helping us all when everyone is implementing these rules.

Andrew Litzel
Supervisor
Crook County Weed and Pest

Response: No response necessary.

7. Comment Submitted:

Johnson County W&P <jcwp@qwestoffice.net>

April 26, 2017

The Board of Directors for the Johnson County Weed & Pest District supports the proposed Rules and Regulations for Chapter 57 Weed & Pest Special Management Programs in its entirety.

Members: Scott Lutterman, Scott Rogers, Dick Gould, Tyler Benton, Larry Smith

Response: No response necessary.

8. Comment Submitted:

05/07/2017 08:29 3077830580

UINTA CO EXTENSION

PAGE 01/01



Uinta County Weed & Pest District

P.O. Box 825

Evanston, Wyoming 82931-0825

Telephone 307-789-9289

email: uintawp@allwest.net

Supervisor: Chris Aimone

Board Members: Chad Spackman, Weston Maxfield, Russ Heward, Bob Sadlier, Greg Sexton, Adrian Hunolt

June 6, 2017

Dear Board of Agriculture;

Uinta County Weed and Pest District is in support of the Chapter 57 Rules and Regulation for Weed and Pest Special Management Programs. We appreciate the time and consideration of all involved regarding clarification the rules pursuant to W.S. 11-5-303, Article 3, and the Wyoming Administration Procedures Act.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Spackman", is written over a horizontal line.

Chad Spackman
Board Chairman

Response: No response necessary.

Chapter 57

Weed and Pest Special Management Programs

Section 1. Authority. This Rule is promulgated pursuant to Wyoming Statute §§ 11-5-303(g)(i) of the Wyoming Weed and Pest Control Act, Article 3 (W.S. §§ 11-5-301 through -303), and the Wyoming Administrative Procedures Act.

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

(a) “Best management practices” means the optimal methods for the consistently-effective management of weeds or pests. Best management practices may change as new methods are discovered. Best management practices are determined by comparing efficacy to the economical and ecological impacts of the action.

(b) “Prioritize” means the identification, control, and management of all known infestations of a species within a District’s boundaries through the use of best management practices.

(c) “Prior notification” means giving a landowner notice of intent at least 5 (five) days in advance of accessing the property. Prior notification may be provided by written or oral communication.

(d) “Written Consent” means a binding agreement that is signed digitally or on paper.

Section 3. Implementing a Special Management Program

(a) A District Board may implement a Special Management Program; Leafy spurge (*Euphorbia esula*) shall be prioritized as one (1) of the two (2) species allowed in the program.

(i) By resolution, a District Board may prioritize Leafy spurge (*Euphorbia esula*) under W.S. §§ 11-5-105(a)(i).

(ii) If a District Board prioritizes Leafy spurge under W.S. §§ 11-5-105(a)(i) they may implement a special management program on an additional weed or pest, not to exceed a total of two (2) species.

(b) To establish potential management zones the District Board shall request the District Supervisor, or his designee, complete an inventory of the potential species being considered on lands within the district to determine the scope of infestation.

(c) The District Supervisor shall issue a report with findings that addresses:

- (i) A map showing the scope of the infestation.
- (ii) Estimated infestation levels.
- (iii) Land use practices by landowner(s).
- (iv) Any non-target species of concern.
- (v) Any other relevant information.
- (vi) Options for management criteria.

(d) The District Board shall prepare a resolution, to be considered at a regularly scheduled Business Meeting, which proposes to implement a Special Management Program. The resolution shall include:

(i) One (1) or more defined management zones within the District for each individual species.

- (ii) Species profile.
- (iii) Scientific name and common name.
- (iv) Reasons for concern to the District.

(e) Upon approval of the District Board's resolution, the District Supervisor, or designee, shall contact the landowners within the management zone to obtain consent for participation and formation of the management zone.

(i) A management zone may only be formed with the written consent of a majority of the landowners in the management zone, but may contain as few as one landowner.

(f) At least 10 (ten) days before a special management program's final approval, the District Board shall publish notice describing the program in at least 1 (one) newspaper of general circulation within the county. Notice shall include the following information:

- (i) Targeted weed(s) and/or pest.
- (ii) General description of the special management program.

- (iii) Participating landowner or corporate name(s).
- (iv) Approximate annual cost of the special management program including all cooperators.
- (g) At the District Boards next scheduled meeting, the district supervisor shall notify the District Board of the special management programs implementation.

Section 4. Landowner Cooperative Agreements

(a) After the District Supervisors' final approval of the program, the District Board and landowner(s) within a management zone shall enter into a cooperative agreement, not to exceed 5 (five) years in duration, which shall include:

- (i) A map of geographic area of the participating landowner included in the management zone.

- (ii) District options for materials and methods.

- (iii) The best management practices for the management zone.

- (iv) Long-term and short-term treatment protocols considering all available best management practices.

- (v) Estimated annual District costs and Landowner costs.

- (vi) Prior notification procedures and provisions for access to the enrolled property.

- (vii) Provisions for contract revisions or cancellations by either the District or the Landowner(s).

(b) The contract shall be reviewed and revised as needed at the end of the fifth year.

(c) The landowner may request mediation to handle any grievances with the cooperative agreement.

(d) The District Board shall maintain a copy of the contract for a minimum of two (2) years after its expiration or termination date.

(e) The District Board shall maintain records of district costs and approximated acres treated per landowner for a minimum of two (2) years after the contract's expiration or termination date.

Section 5. Budget.

(a) The District Board shall budget the necessary funds, as allowed by W.S. §§ 11-5-303(e), to carry out the special management program.

(b) The District Board shall budget for all costs associated with the administration and implementation of the program.

(c) The District Board shall use a budget process as defined by the Uniform Municipal Fiscal Procedures Act.

(d) Funding may be used for research purposes if such research is directly related to the species identified in the District Board resolution and would be directly applicable to management efforts within the district.

Section 6. Methods.

(a) The District may engage in the application of pesticides and/or may have application equipment available to supplement commercial and private applicators.

(b) The program shall adhere to W.S. §§ 11-5-105(a)(vi).

(c) The District Board may consider the labor and equipment expenses incurred by a landowner when deciding reasonable cost-sharing of treatment.

(d) If any other entity or Government agency cost-shares on any acre of treatment related to the special management program, the landowner shall inform the District Board of such cost-sharing and the amount provided prior to approval of any contractual agreement.

Section 7. Special Management Program Maintenance.

(a) New Landowner participation:

(i) The District may enter into a cooperative agreement as set forth in Section 4 with new landowners desiring to join an established Special Management Program within the District.

(A) If new landowner participation does not alter the District's current advertised budget, then the District shall include the new landowner names or corporate names within the annually published proposed budget summary as required by W.S. §§ 16-4-109(a). This notice shall specify the targeted weed(s) and or pest.

(ii) If the estimated cost for new landowners participation will alter the District's approved budget, the District Board shall have a vote to add the new landowner(s),

and if approved, shall follow the proper budget amendment process. The budget amendment advertisement shall include the name or corporate name of the new participating landowner(s), and shall specify the targeted weed(s) and or pest.

Section 8. Annual Program Review

(a) The District Board shall annually review the Special Management Program:

(i) The District Supervisor shall annually prepare a report of the special management program for the District Board by December 31st. The report shall include:

(ii) Landowner names

(iii) Agency participation

(iv) Cost of product(s) supplied

(v) Application costs

(vi) Acres treated

(vii) Acres covered

(viii) District, cooperator and total cost

(ix) Brief assessment of the program's overall successes and setbacks for the year.

(x) This report shall be available upon request by any member of the public.

(b) The District shall keep on file a copy of all public notices for the Special Management Program for the duration of the Program.

Chapter 57

Weed and Pest Special Management Programs

Section 1. **Authority.** This Rule is promulgated pursuant to Wyoming Statute §§ 11-5-303(g)(i) of the Wyoming Weed and Pest Control Act, Article 3 (W.S. §§ 11-5-301 through -303), and the Wyoming Administrative Procedures Act.

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

(a) “Best management practices” means the optimal methods for the consistently-effective management of weeds or pests. Best management practices may change as new methods are discovered. Best management practices are determined by comparing efficacy to the economical and ecological impacts of the action.

(b) “Prioritize” means the identification, control, and management of all known infestations of a species within a District’s boundaries through the use of best management practices.

(c) “Prior notification” means giving a landowner notice of intent at least 5 (five) days in advance of accessing the property. Prior notification may be provided by written or oral communication.

(d) “Written Consent” means a binding agreement that is signed digitally or on paper.

Section 3. **Implementing a Special Management Program**

(a) A District Board may implement a Special Management Program; Leafy spurge (*Euphorbia esula*) shall be prioritized as one (1) of the two (2) species allowed in the program.

(i) By resolution, a District Board may prioritize Leafy spurge (*Euphorbia esula*) under W.S. §§ 11-5-105(a)(i).

(ii) If a District Board prioritizes Leafy spurge under W.S. §§ 11-5-105(a)(i) they may implement a special management program on an additional weed or pest, not to exceed a total of two (2) species.

(b) To establish potential management zones the District Board shall request the District Supervisor, or his designee, complete an inventory of the potential species being considered on lands within the district to determine the scope of infestation.

(c) The District Supervisor shall issue a report with findings that addresses:

- (i) A map showing the scope of the infestation.
- (ii) Estimated infestation levels.
- (iii) Land use practices by landowner(s).
- (iv) Any non-target species of concern.
- (v) Any other relevant information.
- (vi) Options for management criteria.

(d) The District Board shall prepare a resolution, to be considered at a regularly scheduled Business Meeting, which proposes to implement a Special Management Program. The resolution shall include:

(i) One (1) or more defined management zones within the District for each individual species.

- (ii) Species profile.
- (iii) Scientific name and common name.
- (iv) Reasons for concern to the District.

(e) Upon approval of the District Board's resolution, the District Supervisor, or designee, shall contact the landowners within the management zone to obtain consent for participation and formation of the management zone.

(i) A management zone may only be formed with the written consent of a majority of the landowners in the management zone, but may contain as few as one landowner.

(f) At least 10 (ten) days before a special management program's final approval, the District Board shall publish notice describing the program in at least 1 (one) newspaper of general circulation within the county. Notice shall include the following information:

- (i) Targeted weed(s) and/or pest.
- (ii) General description of the special management program.

(iii) Participating landowner or corporate name(s).

(iv) Approximate annual cost of the special management program including all cooperators.

(g) At the District Boards next scheduled meeting, the district supervisor shall notify the District Board of the special management programs implementation.

Section 4. Landowner Cooperative Agreements

(a) After the District Supervisors' final approval of the program, the District Board and landowner(s) within a management zone shall enter into a cooperative agreement, not to exceed 5 (five) years in duration, which shall include:

(i) A map of geographic area of the participating landowner included in the management zone.

(ii) District options for materials and methods.

(iii) The best management practices for the management zone.

(iv) Long-term and short-term treatment protocols considering all available best management practices.

(v) Estimated annual District costs and Landowner costs.

(vi) Prior notification procedures and provisions for access to the enrolled property.

(vii) Provisions for contract revisions or cancellations by either the District or the Landowner(s).

(b) The contract shall be reviewed and revised as needed at the end of the fifth year.

(c) The landowner may request mediation to handle any grievances with the cooperative agreement.

(d) The District Board shall maintain a copy of the contract for a minimum of two (2) years after its expiration or termination date.

(e) The District Board shall maintain records of district costs and approximated acres treated per landowner for a minimum of two (2) years after the contract's expiration or termination date.

Section 5. Budget.

(a) The District Board shall budget the necessary funds, as allowed by W.S. §§ 11-5-303(e), to carry out the special management program.

(b) The District Board shall budget for all costs associated with the administration and implementation of the program.

(c) The District Board shall use a budget process as defined by the Uniform Municipal Fiscal Procedures Act.

(d) Funding may be used for research purposes if such research is directly related to the species identified in the District Board resolution and would be directly applicable to management efforts within the district.

Section 6. Methods.

(a) The District may engage in the application of pesticides and/or may have application equipment available to supplement commercial and private applicators.

(b) The program shall adhere to W.S. §§ 11-5-105(a)(vi).

(c) The District Board may consider the labor and equipment expenses incurred by a landowner when deciding reasonable cost-sharing of treatment.

(d) If any other entity or Government agency cost-shares on any acre of treatment related to the special management program, the landowner shall inform the District Board of such cost-sharing and the amount provided prior to approval of any contractual agreement.

Section 7. Special Management Program Maintenance.

(a) New Landowner participation:

(i) The District may enter into a cooperative agreement as set forth in Section 4 with new landowners desiring to join an established Special Management Program within the District.

(A) If new landowner participation does not alter the District's current advertised budget, then the District shall include the new landowner names or corporate names within the annually published proposed budget summary as required by W.S. §§ 16-4-109(a) . This notice shall specify the targeted weed(s) and or pest.

(ii) If the estimated cost for new landowners participation will alter the District's approved budget, the District Board shall have a vote to add the new landowner(s),

and if approved, shall follow the proper budget amendment process. The budget amendment advertisement shall include the name or corporate name of the new participating landowner(s), and shall specify the targeted weed(s) and or pest.

Section 8. Annual Program Review

(a) The District Board shall annually review the Special Management Program:

(i) The District Supervisor shall annually prepare a report of the special management program for the District Board by December 31st. The report shall include:

(ii) Landowner names

(iii) Agency participation

(iv) Cost of product(s) supplied

(v) Application costs

(vi) Acres treated

(vii) Acres covered

(viii) District, cooperator and total cost

(ix) Brief assessment of the program's overall successes and setbacks for the year.

(x) This report shall be available upon request by any member of the public.

(b) The District shall keep on file a copy of all public notices for the Special Management Program for the duration of the Program.