

Statutes:

Wyoming Environmental Pesticide Control Act

Regulations:

Chapter 21 – Pesticide Board of Certification

Chapter 28 – Applicator Certification Rules and Regulations

Wyoming Environmental Pesticide Control Act of 1973

35-7-350. Short title.

This act shall be known and may be cited as the "Wyoming Environmental Pesticide Control Act of 1973".

35-7-351. Enforcing agency.

This act shall be administered by the department of agriculture of the state of Wyoming, hereinafter referred to as the "department".

35-7-352. Declaration of purpose.

The legislature hereby finds that pesticides and devices are valuable to our state's agricultural production and to the protection of man and the environment from insects, rodents, weeds, and other forms of life which may be pests, and it is essential to the public health and welfare that they be regulated closely to prevent adverse effects on human life and the environment. The purpose of this act is to regulate, in the public interest, the labeling, distribution, storage, transportation, disposal, use and application of pesticides to control pests. New pesticides are continually being discovered or synthesized which are valuable for the control of pests, and for use as defoliants, desiccants, plant regulators, and related purposes. The dissemination of accurate scientific information as to the proper use or nonuse, of any pesticide, is vital to the public health and welfare and the environment both immediate and future. Therefore, it is deemed necessary to provide for registration of pesticides and devices.

35-7-353. Board of certification.

A board of certification is established consisting of the director of the department of agriculture, and a member of the Wyoming weed and pest council and a University of Wyoming weed or pest specialist to be appointed by the governor. The governor may remove any member he appoints as provided in W.S. 9-1-202.

35-7-354. Definitions.

(a) "Applicator" or "operator" means:

(i) "Certified applicator" means any individual who is certified by the director as being competent with respect to the use and handling of pesticides, or of the use and handling of the pesticide or class of pesticides covered by the individual's certification;

(ii) "Commercial applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is

classified for restricted use for any purpose or on any property other than as provided by paragraph (a)(iii) of this subsection;

(iii) "Private applicator" means any certified applicator who uses or supervises the use of any restricted use pesticide which is restricted to use by certified applicators and only for purposes of producing any agricultural commodity on property owned by him or his employer or under his control or (is applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(b) "Board of agriculture" means that body established by law under W.S. 11-2-102.

(c) "Device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man, or bacteria, virus, or other microorganism on or in living man or other living animals) but does not include equipment used for the application of pesticides when sold separately therefrom.

(d) "Pesticide" means:

(i) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests;

(ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant;

(iii) Any substance or mixture of substances intended to be used as a spray adjuvant;
and

(iv) Any other pesticide product or substance whether general use, restricted use, registered, suspended or cancelled, which by the label or portions thereof clearly show it is used or has been used as a pesticide.

(e) "Restricted use pesticide" means any pesticide product, the label of which states "restricted use" as required for registration by the environmental protection agency under the federal Insecticide, Fungicide and Rodenticide Act of 1972, as amended.

(f) "Dealer" or "distributor" means any person who imports, consigns, distributes, offers to sell or sells, barter or otherwise supplies pesticides in this state. A dealer or distributor may also be a registrant.

(g) "Director" means the director of the department of agriculture or his authorized agent.

(h) "Label" means a display of written, printed or graphic matter upon or affixed to the immediate container of any pesticide, or a reference within such display to other information.

(j) "Official sample" means any sample of a pesticide, degradate or residue taken by and designated as official by the director.

35-7-355. Director to administer and enforce provisions; board of certification to adopt regulations.

The director of the department of agriculture shall administer and enforce the provisions of this act and regulations issued thereunder. The board of certification may issue regulations after a public hearing following due notice to all interested persons in conformance with the provisions of the Wyoming Administrative Procedure Act to carry out the provisions of this act.

Regulations may prescribe methods to be used in the application of pesticides, may prescribe standards for the classification and certification of applicators of pesticides, and may require certification, licensing, payment of reasonable fees for licensing or certification, submission of information, and passing of examinations by applicators of pesticides. Where the board of certification finds that regulations are necessary to carry out the purpose and intent of this act, the regulations may relate to the time, place, manner, methods, materials, and amounts and concentrations, in connection with the application of the pesticide, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the board deems necessary. The department may issue licenses. Notwithstanding the provisions of W.S. 35-7-354(e), the board of agriculture, by regulation, following a hearing and pursuant to the Wyoming Administrative Procedure Act, may declare a specific pesticide or pesticide use a "restricted use pesticide", but only following a recommendation of the board of certification, and a finding of fact, in a public hearing conducted by the board of certification, that unreasonable adverse effects on the environment, including man, pollinating insects, animals, crops, wildlife and lands, other than pests, may reasonably occur. The director of the department of agriculture may allow the registration, licensing, testing, inspection and reporting requirements of this article to be conducted electronically as provided by the Uniform Electronic Transaction Act, W.S. 40-21-101 through 40-21-119 and any applicable federal electronic requirements.

35-7-356. Registration.

(a) Every pesticide or device which is distributed within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the department of agriculture by its manufacturer or formulator subject to the provisions of this act. The registration shall be renewed annually prior to December 31 of each year but not if a pesticide or device is shipped from one plant or warehouse to another plant or warehouse as a constituent part to make a pesticide or device which is registered under the provisions of this act, if the pesticide or device is not sold and if the container thereof is plainly and conspicuously marked "For Experimental Use Only", together with the manufacturer's name and address, or if a written permit has been obtained from the department to sell the specific pesticide or device for experimental purposes subject to restrictions and conditions set forth in the permit.

(b) The applicant for registration shall file a statement with the department which shall include:

(i) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(ii) The name of the pesticide or device;

(iii) Other necessary information required for completion of the department's application for registration form;

(iv) The use classification as provided in the Federal Insecticide, Fungicide, and Rodenticide Act when required by regulations under this act.

(c) The director may require a full description of the tests made and the results thereof upon which the claims are based on any pesticide or device on which restrictions are being considered. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide or device was registered or last registered. The director may prescribe other necessary information by regulation.

(d) Every registrant of pesticides or device shall pay an annual registration fee of seventy-five dollars (\$75.00) each for every product registered. All registrations shall expire on December 31 of each year, following the date of the registration, and may thereupon be renewed for successive periods of twelve (12) months upon payment of the proper fee. Funds collected pursuant to this section shall be deposited in the special natural resource account in the department of agriculture which is hereby created for programs authorized by W.S. 11-5-113 and 11-5-303.

(e) Any registration approved by the director and in effect on December 31 for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until such time as the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provisions of W.S. 35-7-358. Forms for registration shall be mailed to registrants at least thirty (30) days prior to the due date.

(f) If it appears to the director that the composition of the pesticide or device is such as to warrant the proposed claims for it and if the pesticide and its labeling and other material required to be submitted comply with the requirements of this act he shall register the pesticide.

35-7-357. Experimental use permits.

(a) Any person may apply to the director of the department of agriculture for an experimental use permit for a pesticide. The director may issue an experimental use permit if he determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide under this act. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

(b) Use of a pesticide under an experimental use permit shall be under the supervision of the director, and shall be subject to such terms and conditions and be for such period of time as the director may prescribe in the permit.

(c) The director may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

35-7-358. Refusal to register; cancellation; suspension; legal recourse.

(a) If it does not appear to the director of the department of agriculture that the pesticide or device is such as to warrant the proposed claims for it or if the pesticide or device and its labeling and other material required to be submitted do not comply with the provisions of this act or regulations adopted thereunder, he shall notify the applicant of the manner in which the pesticide or device, labeling, or other material required to be submitted fails to comply with the provisions of this act so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of notice, the applicant does not make the required changes the director may refuse to register the pesticide or device. The applicant may request a hearing as provided for in the Wyoming Administrative Procedure Act.

(b) The director, when he determines that the pesticide or device or labeling does not comply with the provisions of the act or the regulations adopted thereunder, may cancel the registration of a pesticide or device after a hearing in accordance with the provisions of the Wyoming Administrative Procedure Act.

(c) The director, when he determines that there is an imminent hazard, may suspend on his own motion, the registration of a pesticide in conformance with the provisions of the Wyoming Administrative Procedure Act.

(d) Any person who will be adversely affected by an order under this section may obtain judicial review in accord with the Wyoming Administrative Procedure Act.

35-7-359. Classification of licenses.

(a) Licenses shall include but are not limited to:

(i) Commercial applicator license;

(ii) Private applicator license.

(b) A commercial applicator shall notify the department of any change of address or change of employment within thirty (30) days of that change.

(c) The director may refuse an application for a reciprocal license for just cause including, but not limited to:

(i) An incomplete or falsified application;

(ii) A prior violation related to pesticides in this state or another state.

(d) The director may immediately suspend a reciprocal license upon discovery of any violation under subsection (c) of this section. The director may reinstate a license suspended under this subsection following a hearing pursuant to the Wyoming Administrative Procedure Act.

35-7-360. Liability for damage; service of process.

(a) Repealed by Laws 1979, ch. 91, 3.

(b) Repealed by Laws 1979, ch. 91, 3.

(c) Nothing in this act shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of this act.

(d) Before the director shall issue a pesticide applicator's license to a nonresident to apply pesticides in this state, each nonresident pesticide applicator shall appoint the director as his attorney to receive services of legal process issued against the pesticide applicator in this state. The appointment, effect of appointment, and procedures for service of process shall be as provided by W.S. 26-3-121 and 26-3-122.

35-7-361. Inspection of equipment.

The director may provide for inspection of any equipment used for application of pesticides and may require repairs or other changes before its further use for pesticide application. A list of requirements that equipment shall meet may be adopted by regulation.

35-7-362. Reciprocal agreement.

The director may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed, or certified, in another state substantially in accordance with the provisions of this act but financial security as provided for in W.S. 35-7-360 or proof of liability insurance shall be submitted by nonresident commercial applicators. The department shall, by rule and regulation, establish criteria for reciprocity including, but not limited to, formal agreements with other states, residency, categories and examination. The director is authorized to adopt additional rules and regulations necessary to implement this section.

35-7-363. Exemptions.

(a) The provision of W.S. 35-7-355 relating to licenses and requirements for their issuance shall not apply to any private applicator applying pesticides for himself or with ground

equipment or manually for his neighbors, except as to specific regulations as to the use of restricted pesticides and certification qualifications for private applicators, if:

(i) He operates farm property or operates and maintains pesticide application equipment primarily for his own use;

(ii) He is not engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and he does not publicly hold himself out as a pesticide applicator.

(b) The word "device" shall not be construed to mean fly swatter, butterfly net, or any mechanical contrivance used to trap or kill insects or rodents.

35-7-364. Discarding and storing of pesticides and pesticide containers.

No person shall discard, transport, or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway in a way harmful to any wildlife therein. The board of certification may promulgate rules and regulations governing the discarding and storing of such pesticides or pesticide containers.

35-7-365. Subpoenas.

The director may issue subpoenas to compel the attendance of witnesses or production of books, documents, and records in the state in any hearing affecting the authority or privilege granted by a license, registration, or permit issued under the provisions of this act.

35-7-366. Penalties.

(a) Any person violating any provision of W.S. 35-7-350 through 35-7-375 or regulation thereunder is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned in the county jail for not more than one (1) year, or both, for the first offense, and upon conviction for a subsequent offense shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned in the county jail for not more than one (1) year, or both. Any offense committed more than three (3) years after a previous conviction shall be considered a first offense.

(b) The director may bring an action to enjoin the violation or threatened violation of any provision or any regulation made pursuant to W.S. 35-7-350 through 35-7-375 in a court of competent jurisdiction of the county in which the violation occurs or is about to occur. The action may be initiated by the attorney general or the district attorney for the county in which the violation has or is about to occur.

(c) No state court shall allow the recovery of damages from administrative action taken if the court finds that there was probable cause for such action.

(d) If the department incurs fees or other expenses to remediate a violation by an applicator, the department may seek restitution from the applicator or the applicator's employer through a court of competent jurisdiction.

35-7-367. Enforcement.

(a) The sampling and examination of pesticides or devices shall be made under the direction of the director for the purpose of determining whether they comply with the requirements of this act. The director is authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to pesticides or devices. If it appears from such examination that a pesticide or device fails to comply with the provisions of this act or regulations adopted thereunder, and the director contemplates instituting criminal proceedings against any person, the director shall cause appropriate notice to be given to such person. Any person so notified shall be given an opportunity within a reasonable time to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter in the opinion of the director, it appears that the provisions of the act or regulations adopted thereunder have been violated by such person, the director shall refer a copy of the results of the analysis or the examination of such pesticide or device to the district attorney for the county in which the violation occurred.

(b) Nothing in this act shall be construed as requiring the director to report minor violations of this act for prosecution or for the institution of condemnation proceedings when he believes that the public interest will be served best by a suitable notice of warning in writing.

(c) For the purpose of carrying out the provisions of this act the director may enter upon any public or private premises at reasonable times, in order:

(i) To have access for the purpose of inspecting any equipment subject to this act and such premises on which the equipment is kept or stored;

(ii) To inspect lands actually or reported to be exposed to pesticides;

(iii) To inspect storage or disposal areas;

(iv) To inspect or investigate complaints of injury to humans or land;

(v) To sample pesticides being applied or to be applied.

(d) If the director is denied access to any land where access was sought for the purposes set forth in this act, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such lands for the stated purposes. The court shall with probable cause upon such application issue the search warrant for the purposes requested.

(e) The director may bring an action to enjoin the violation or threatened violation of any provision of this act or any rule made pursuant to this act in the district court of the county in which such violation occurs or is about to occur.

35-7-368. Cooperation.

The director is authorized to cooperate with and enter into agreements with any other agency of this state, the United States, and any other state or agency thereof for the purpose of carrying out the provisions of this act and securing uniformity of regulation.

35-7-369. Disposition of funds.

All moneys received by the department under the provisions of this act shall be deposited into the treasury of the state to the credit of the general fund, excluding those funds collected pursuant to W.S. 35-7-356(d).

35-7-370. Severability.

If any provision of this act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this act and applicability thereof to other persons and circumstances shall not be affected thereby.

35-7-371. Prior liability.

The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this act becomes effective.

35-7-372. Jurisdiction; repeals.

Jurisdiction in all matters pertaining to the registration, distribution, transportation and disposal of pesticides and devices is by this act vested exclusively in the director and board of certification and all acts and parts of acts inconsistent with this act are hereby expressly repealed.

35-7-373. Registration of aircraft.

(a) Any person engaged in the activity or business of applying pesticides utilizing any type of aircraft shall register each aircraft annually with the Wyoming department of agriculture, on a printed form provided by the department. The registration shall include the following:

- (i) Manufacturer, model and type of aircraft;
- (ii) Identification number assigned to the aircraft;
- (iii) Owner of the aircraft; and
- (iv) User of the aircraft if different from the owner.

(b) The fee authorized by W.S. 11-1-104 shall be charged to each person registering aircraft. Aircraft shall be registered on or before April 1 of each year.

35-7-374. Prohibited acts.

(a) It is unlawful for any person to:

(i) Detach, alter, deface or destroy, in whole or in part, any labeling prior to proper disposal of the pesticide containers;

(ii) Refuse to keep any records as required by the director by regulation or to refuse to allow the inspection of such records by the director during normal working hours;

(iii) Make available for use, or to use, any restricted pesticide classified for restricted use for some or all purposes, except by or under the direct supervision of a certified applicator;

(iv) Use any pesticide in a manner inconsistent with its labeling which means to use any pesticide in a manner not permitted by the labeling, or not authorized by the director under a special local need registration, an experimental use permit or an emergency exemption, provided that this paragraph does not include:

(A) Applying a pesticide at any dosage, concentration or frequency less than that specified on the labeling;

(B) Applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling;

(C) Employing any method of application not prohibited by the labeling; or

(D) Mixing a pesticide or pesticides with a fertilizer when the mixture is not prohibited by the labeling.

(v) To falsify any records required by the director by regulation;

(vi) To falsify any application, examination or affidavit for certification or license;

(vii) Other than certified applicators or persons working under their direct supervision to use restricted use pesticides;

(viii) To use restricted use pesticides inconsistent with the applicator category of certification.

(b) If the director finds that the violation occurred despite the exercise of due care or did not cause significant harm to another person, to health or to the environment, he shall issue a warning in lieu of prosecution.

(c) Except as otherwise provided by the Wyoming Environmental Pesticide Control Act of 1973, no political subdivision of this state shall adopt or enforce any ordinance, resolution, rule or regulation regarding pesticides storage, sale, distribution, notification of use, or use that is

more stringent than the Wyoming Environmental Pesticide Control Act of 1973 or rules promulgated thereunder.

35-7-375. Required notification of pesticide application on or within school buildings.

(a) Any commercial applicator licensed under W.S. 35-7-359 or any other person shall provide notification required by this section of the application of any pesticide as defined under W.S. 35-7-354(d) which is applied on or within any building or other real property used by a school district primarily for the education of students, including any property used by the district for student activities or playgrounds. Notice under this subsection shall be provided to the district not less than seventy-two (72) hours prior to application and the district shall further notify students, teachers and staff. All notices distributed under this subsection shall be marked with a distribution date and include information indicating date of application, location of application or treatment area, pest to be controlled, name and type of pesticide to be applied and a contact for additional information. All notices distributed under this subsection shall be retained by the school or school district for two (2) years.

(b) In addition to notice required under subsection (a) of this section, the licensed commercial applicator or other school employee applying pesticides shall post signs on the school building or property stating the date of application, the location of the application or treatment area, the name and type of the pesticide to be applied and a contact for additional information. Upon request, the licensed commercial applicator or other school employee shall provide information on how to obtain additional information on the pesticide. Not less than twelve (12) hours before application of pesticides within school buildings, signs shall be posted at main entrances to school buildings and at the entrances to the specific application area within buildings. If pesticide application is made outdoors to any area adjacent to a school building or on property used by the district for student activities or playgrounds, signs shall be posted immediately adjacent to the treated area and at the entrance to the district property. The signs shall remain posted for seventy-two (72) hours.

(c) Anti-microbial pesticides defined under W.S. 35-7-354(d), such as disinfectants and sanitizers used by school employees for cleaning purposes and insect or rodent bait stations of the type available for home use are exempted from the notification and posting requirements specified in subsections (a) and (b) of this section.

35-7-376. Direct supervision.

(a) As used in this section, unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available within a reasonable time and distance, even though the certified applicator is not physically present at the time and place the pesticide is applied.

(b) All pesticide applications made for hire shall be under the direct supervision of a certified commercial applicator. All applications of restricted use pesticide shall be made under

the direct supervision of a certified applicator. Availability of the certified applicator shall be directly related to the potential hazard of the situation. The certified applicator shall be:

(i) Available by immediate contact through telephone or radio; or

(ii) Physically present on-site when use of the pesticide poses a potentially serious hazard to people or the environment.

(c) As used in this section:

(i) Reasonable time by the supervising applicator to on-site is deemed to be not more than one (1) hour response time;

(ii) Reasonable distance by the supervising applicator to on-site is deemed to be not more than fifty (50) air miles.

CHAPTER 21
BOARD OF CERTIFICATION
FOR WYOMING ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1973
RULES OF PRACTICE & PROCEDURE FOR CONTESTED CASE HEARINGS

Section 1. **Authority.**

(a.) These rules are promulgated as required by the Wyoming Environmental Pesticide Control Act of 1973 (W.S. 35-7-350 through 35-7-376), hereinafter called the Act, and the Wyoming Administrative Procedure Act (W.S. 16-3-101 through 16-3-115) for the purpose of carrying out the intent of the Act and is applicable to all sections of the Act.

Section 2. **Definitions.**

(a.) Board: The Board of Certification established by W.S. 35-7-353.

(b.) Chairman: The Director of the Department of Agriculture.

(c.) Director: Duly appointed Director of the Department of Agriculture.

(d.) Proponent: The Board, or any other person or party who initiates or requests any action or decision, and may include complainant where applicable.

(e.) Contestant: Any person who will be aggrieved or adversely affected by a proposed action of the Board and who requests a hearing before the Board, and may include the opponent or defendant where applicable.

(f.) Party: Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(g.) Person: Any individual, partnership, association or organized group of persons whether incorporated or not.

(h.) Rules of Civil Procedure: Those Wyoming Rules of Civil Procedure in effect at the time of the hearing.

(i.) Hearing Officer: Designated Hearing Officer who shall preside over the hearing.

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

(a.) The Board may initiate any action which may result in a contested case in accordance with the Wyoming Administrative Procedure Act by:

(i.) Giving written notice of proposed action either served personally or by certified mail, return receipt requested, to the person or persons who will be aggrieved or adversely affected thereby, or

(ii.) Causing the publication in proper form, of a copy of the notices,

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

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

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

(i.) The nature of the proposed action.

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

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

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

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

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

Section 4. Hearing Before the Board.

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

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

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

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

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

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

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

(i.) The time, place and nature of the hearing.

(ii.) The legal authority under which the hearing is to be held.

(iii.) The particular rules, bylaws and/or statutes involved.

(iv.) A short and plain statement of the matters asserted.

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

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

Section 5. **Order of Procedure at Hearings.**

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

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

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

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

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

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

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

(h.) Other parties may offer evidence.

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

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

(i.) Proponent

(ii.) Contestant

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

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

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

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

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

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

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

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

Section 6. Applicable Rules of Civil Procedure.

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

Section 7. Attorneys.

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

Section 8. **Intervention.**

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

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

Section 9. **Transcripts.**

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

Section 10. **Decision and Order.**

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

Section 11. **Record.**

(a.) The record in all cases shall include

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

Section 12. **Members of the Board Present.**

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

Section 13. **Appeals.**

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

Section 14. **Transcript in Case of Appeal.**

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

CHAPTER 28

APPLICATOR CERTIFICATION RULES AND REGULATIONS

Section 1. Authority. Pursuant to the authority vested in the Board of Certification by virtue of WS 35-7-355 1977, as amended and WS 16-3-101 through 16-3-115, the following rules and regulations pertaining to the certification and licensing of pesticide applicators are hereby promulgated and adopted.

Section 2. Definitions. Terms used in these regulations are in addition to those set forth in WS 35-7-354 1977, as amended. The following terms shall have the meaning stated below:

(a) Accident means an unexpected, undesirable event, caused by the use of, or presence of a pesticide, that adversely affects man or the environment.

(b) Act means the Wyoming Environmental Pesticide Control Act of 1973.

(c) Agricultural Commodity means any plant, or part thereof, or animal or animal product, produced by a person primarily for sale, consumption, propagation or other use by man or animals.

(d) Applicator means any individual certified in one of the following license classifications:

(i) Commercial Applicator means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified as restricted use for any purpose or on any property other than as provided under the definition of Private Applicator.

Commercial Applicator also means a certified applicator who uses or supervises the use of any pesticide during any commercial application as defined by paragraph (f) of this section.

(ii) Private Applicator means any certified applicator who uses or supervises the use of any restricted use pesticide which is restricted to use by certified applicators and only for purposes of producing any agricultural commodity on property owned by him or his employer or under his control or (is applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(e) Calibration of Equipment means measurement of dispersal or output of application equipment and adjustments of such equipment to control the rate of dispersal, and droplet or particle size of a pesticide dispersed by the equipment.

(f) Commercial Application means the application of any pesticide, (excluding sanitizers/disinfectants), done by contract or hire.

(g) Director means the Director of Agriculture for the State of Wyoming or his designated Department of Agriculture employee.

(h) Common Exposure Route means a likely way (oral, dermal, respiratory) by which a pesticide may reach and/or enter an organism.

(i) Compatibility means that property of a pesticide that permits its use with other chemicals without undesirable results being caused by the combination.

(j) Competent means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and associated responsibility.

(k) Direct Supervision means (unless otherwise prescribed by the labeling) the act or process whereby any application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person and who is available, within a reasonable time and distance, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(l) At a minimum, availability of the certified applicator must be directly related to the hazard of the situation. The certified applicator must be available by immediate contact through telephone or radio, or must be physically present on-site when use of the pesticide poses a potentially serious hazard to people or the environment.

(m) Environment means water, air, land and all plants, man or other animals living therein, and the relationships which exists among them.

(n) Equipment means any equipment or contrivance used to apply pesticides to the environment, but shall not include any pressurized hand-size household apparatus used to apply pesticides.

(o) Forest means a concentration of trees and related vegetation in non-urban areas sparsely inhabited by and infrequently used by humans, characterized by natural terrain and drainage patterns.

(p) General Use Pesticide means any pesticide formulation not classified as restricted use.

(q) Hazard means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.

(q) Host means any plant or animal on or in which another lives for nourishment, development or protection.

(r) Label means the written, printed or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(s) Labeling means the label and all other written, printed or graphic matter:

(i) accompanying the pesticide or device at any time; or

(ii) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency; the United States Department of Agriculture and Interior; the Department of Health, Education and Welfare; state experiment stations; state agricultural colleges; and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

(t) Land means all land and water areas, including air space, and all plants, animals, structures, buildings and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(u) Licensed Pesticide Dealer means any person who makes available for use any restricted use pesticide, or who offers to make available for use any restricted use pesticide.

(v) Make Available For Use means to distribute, sell, ship, deliver for shipment, or receive and (having so received) deliver for use by any person. However, the term shall not include transactions solely between persons who are pesticide producers, registrants, wholesalers, or retail dealers acting only in those capacities.

(w) Minor Crops Grown for Seed means alfalfa grown for seed, turf grasses grown for seed, forage grasses grown for seed, trefoils grown for seed, vetch grown for seed, clovers grown for seed, miscellaneous vegetables grown for seed, miscellaneous legumes grown for seed, miscellaneous Brassica sp. grown for seed, sunflowers grown for seed and miscellaneous tree and shrub sp. grown for seed.

(x) Non-Target Organism means a plant or animal other than the one against which the pesticide is applied.

(y) Ornamental means trees, shrubs and other plantings in and around habitations generally, but not necessarily located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

(z) Persistence means that period of time a pesticide and its biologically active metabolites remain in the environment.

(aa) Person means any individual, partnership, association, corporation or any organized group of persons whether incorporated or not.

(bb) Pest means any insect, snail, slug, rodent, predator, nematode, fungi, weed or other form of terrestrial or aquatic plant, or animal life, or virus, bacteria, or other micro-organisms (except viruses, bacteria, or other micro-organisms in or on living man or other living animals) which the board of certification declares to be a pest.

(cc) Protective Equipment means clothing or any other material or devices that shield against unintended exposure to pesticides.

(dd) Regulated Pest means a specific organism considered to be a pest requiring regulatory restrictions, regulations, or control procedures in order to protect the host, man and/or his environment.

(ee) Restricted-Use Pesticide means any pesticide product, the label of which states "restricted use" as required for registration by the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act of 1972, as amended.

(ff) Susceptibility means the degree to which an organism is affected by a pesticide at a particular level of exposure.

(gg) Toxicity means the property of a pesticide to cause any adverse physiological effects.

Section 3. Licensing Requirements for Commercial Applicators.

(a) Any person making a commercial application of any pesticide, will be required to obtain a commercial applicators license, prior to any such commercial application of a pesticide.

Section 4. Certification Categories for Commercial Applicators.

(a) Procedure. Certification categories for Commercial Applicators using or supervising the use of any pesticide are identified below:

(b) Categories:

(i) Cat. 901 Agricultural Pest Control

(A) Weed Control. This subcategory includes commercial applicators using or supervising the use of any pesticide for weed control in production of agricultural crops, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, feed grains, forage, vegetables, small fruits, as well as on grasslands and non-crop agricultural lands.

(B) Insect Control. This subcategory includes commercial applicators using or supervising the use of any pesticide for insect control in production of agricultural crops, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, feed grains, forage, vegetables, small fruits, as well as on grasslands and non-crop agricultural lands.

(C) Disease Control. This subcategory includes commercial applicators using or supervising the use of any pesticide for disease control in production of agricultural crops, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, feed grains, forage, vegetables, small fruits, as well as on grasslands and non-crop agricultural lands.

(D) Animal. This subcategory includes commercial applicators using or supervising the use of any pesticide on animals, including but not limited to, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry and livestock, and to places on or in which animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large scale use of pesticides are included in this category.

(E) Rodent Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control rodents in production of agricultural crops, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, feed grains, forage, vegetables, small fruits, as well as on grasslands and non-crop agricultural lands.

(F) Chemigation. This subcategory includes commercial applicators using or supervising the use of any pesticide through an irrigation system. Certification in this subcategory requires concurrent certification in one or more applicable subcategories under category 901, Agricultural Pest Control.

(ii) Cat. 902 Forest Pest Control. This category includes commercial applicators using or supervising the use of any pesticide in forests, forest nurseries, and forest seed producing areas.

(iii) Cat. 903 Ornamental and Turf Pest Control.

(A) Weed Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control weeds in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(B) Insect Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control insects in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(C) Disease Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control plant disease in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(D) reserved

(E) Rodent Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control rodents in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(iv) Cat. 904 Seed Treatments. This category includes commercial applicators using or supervising the use of any pesticide on seed.

(v) Cat. 905 Aquatic Pest Control. This category includes commercial applicators using or supervising the use of any pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in category 908 below.

(vi) Cat. 906 Right-of-Way Pest Control. This category includes commercial applicators using or supervising the use of any pesticide in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas.

(vii) Cat. 907 Industrial, Institutional, Structural and Health Related Pest Control. This category includes commercial applicators using or supervising the use of any pesticide, in, on or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments/sites including warehouses and grain elevators and any other structures and/or adjacent areas, public or private, and for the protection of stored, processed or manufactured products.

(A)-(F) reserved

(G) Fumigation. This subcategory includes commercial applicators using or supervising the use of pesticides, in gaseous form, within enclosed gas tight spaces (tents, structures, vehicles or vessels), for a wide range of commodities and conditions.

(H) Bird Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control pest birds.

(viii) Cat. 908 Public Health Pest Control. This category includes state, federal or other governmental employees using or supervising the use of any pesticide in public health programs for the management and control of pests having medical and public health importance.

(ix) Cat. 909 Regulatory Pest Control. This category includes state, federal or other governmental employees who use or supervise the use of any pesticide in the control of regulated pests.

(A)-(D) reserved

(E) Rodent Control. This subcategory includes state, federal or other governmental employees who use or supervise the use of any pesticide to control rodents.

(F)-(G) reserved

(H) Bird Control. This subcategory includes state, federal or other governmental employees who use or supervise the use of any pesticide to control pest birds.

(I) Vertebrate Pest Control. This subcategory includes state, federal or other governmental employees who use or supervise the use of any pesticide for the control of vertebrate pests.

(J) M-44. This subcategory includes state, federal or other governmental employees who use m-44 devices to control coyotes.

(K) Livestock Protection Collar. This subcategory includes state, federal or other governmental employees who use LP Collars on sheep to control coyotes.

(x) Cat. 910 Demonstration and Research Pest Control. This category includes: individuals who demonstrate to the public the proper use and techniques of application of any pesticide or supervise such demonstration, and persons conducting field research with pesticides, and in doing so, use or supervise the use of any pesticide. Included in the first group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products and/or making crop/pest control recommendations, and those individuals demonstrating methods used in public programs.

The second group includes: state, federal, commercial and other persons conducting field research on or utilizing any pesticide.

(xi) Cat. 911 Specific Use Pest Control. This category includes commercial applicators who use or supervise the use of any pesticide which the board of certification determines does not adequately fit in any of the above (10) major categories.

(A)-(K) reserved

(L) Wood Preservatives and/or Wood Treatment. This subcategory includes commercial applicators who use or supervise the use of any pesticide, at treating plants and saw mills, for preservative treatment of wood by pressure, dipping, soaking, and diffusion processes to produce a commodity for sale and/or installation. This subcategory also includes the handling and topical application and injection of wood preservatives, for operations such as ground line pole treatment, waterproofing, millwork cutoffs, or supplemental field treatment.

(M) Non-Government M-44. This subcategory includes commercial applicators who ARE NOT government employees, who use the M-44 device for the control of coyotes.

(N) Non-Government Livestock Protection Collar. This subcategory includes commercial applicators who are not government employees, who use the LP Collar for the control of coyotes.

(O) Mosquito Control. This subcategory includes commercial applicators using or supervising the use of any pesticide to control mosquitos.

(P) Sewer Line Root Control. This subcategory includes commercial applicators using or supervising the use of any pesticide (including Metam Sodium or Dichlobenil) for sewer line root control.

(xii) Cat. 912 Aerial Application. This category includes commercial applicators using or supervising the use of any pesticide applied by fixed or rotary wing aircraft. In addition to certification in this category, certification is also required in one or more of the other categories listed under paragraph (b) of this section appropriate to the type of application being performed.

Section 5. Standards for Certification of Commercial Applicators.

(a) Determination of Competency. Competence in the use and handling of pesticides shall be determined on the basis of written examination and as appropriate, performance testing, based upon standards set forth below. Such examinations and testing shall include the general standards applicable to all categories; the additional standards specifically identified for each category-subcategory (if any) in which a commercial applicator is to be classified; and, as appropriate, any special standards established pursuant to Section 11 of these regulations.

(b) General standards of competency for all categories of certified commercial applicators.

(i) All commercial applicators shall demonstrate, by examination, practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems and situations; appropriate to the particular category or subcategory of the applicators' certification and the following areas of competency:

(A) Label and Labeling Comprehension.

(I) The general format and terminology of pesticide labels and labeling, including all written, printed or graphic matter associated with the product;

(II) The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;

(III) Classification of the product, general or restricted use.

(IV) Necessity for use consistent with the label.

(B) Safety.

(I) Pesticide toxicity and hazard to man, including all common exposure routes (dermal, inhalation and ingestion).

(II) Common types and causes of pesticide accidents;

(III) Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;

(IV) Need for and use of protective clothing and equipment;

(V) Symptoms of pesticide poisoning;

(VI) First aid and other procedures to be followed in case of a pesticide accident;
and

(VII) Proper identification, storage, transport, handling, mixing and disposal methods for pesticides, disposal of pesticide containers, including precaution to be taken to prevent children from having access to pesticides and pesticide containers.

(C) Environment. The potential environmental consequence of the use and misuse of pesticides as may be influenced by:

(I) Weather and other climatic conditions;

(II) Types of terrain, soil and other substrate;

(III) Groundwater aquifer vulnerability;

- (IV) Presence of fish, wildlife and non-target organisms;
 - (V) Presence of endangered species; and
 - (VI) Drainage patterns.
- (D) Pests.
 - (I) Common features of pest organisms and characteristics of damage needed for pest recognition;
 - (II) Recognition of relevant pests; and
 - (III) Pest development and biology as it may be relevant to problem identification and control.
- (E) Pesticides.
 - (I) Types of pesticides;
 - (II) Types of formulations;
 - (III) Compatibility, synergism, persistence and animal and plant toxicity to the formulations;
 - (IV) Hazards and residues associated with use;
 - (V) Factors which influence effectiveness or lead to such problems as resistance to pesticides; and
 - (VI) Dilution procedures.
- (F) Equipment.
 - (I) Types of application equipment and advantages and limitations of each type; and
 - (II) Uses, maintenance and calibration.
- (G) Application Techniques.

(I) Methods of procedure used to apply various formulations of pesticides, solutions and gases, together with a knowledge of which technique of application to use in a given situation;

(II) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and

(III) Prevention of drift and pesticide loss into the environment.

(H) Laws and Regulations.

(I) Applicable state and federal laws and regulations; and

(II) Worker Protection Standards as they apply to farms, forests, nurseries and greenhouses.

(c) Specific standards of competency for each category and/or subcategory. Commercial applicators when certifying in a specific category, shall be particularly qualified in that category as elaborated below:

(i) Cat. 901 Agricultural Pest Control.

(A) Weed Control. Applicators must demonstrate, by examination, practical knowledge of the crops grown and the specific weeds of those crops on which they may be using pesticides. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, restricted entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of pesticides in agricultural areas.

(B) Insect Control. Applicators must demonstrate, by examination, practical knowledge of the crops grown and the specific insects of those crops on which they may be using pesticides. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, restricted entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of pesticides in agricultural areas.

(C) Disease Control. Applicators must demonstrate, by examination, practical knowledge of the crops grown and the specific diseases of those crops on which they may be using pesticides. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, restricted entry intervals, phytotoxicity and potential for environmental contamination, non-target injury and community problems resulting from the use of pesticides in agricultural areas.

(D) Animal. Applicators applying pesticides directly to animals must demonstrate, by examination, practical knowledge of such animals and their associated pests. A practical knowledge is also

required concerning specific pesticide toxicity and potential residue, since host animals will frequently be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation, application techniques, ages of animals, stress and extent of treatment.

(E) Rodent Control. Applicators shall demonstrate, by examination, practical knowledge of detrimental rodents found in agricultural situations, the potential impact on the environment of pesticides used in rodent control programs, and knowledge of factors influencing introduction, spread and population dynamics of relevant pests. In addition, use requires particular ability that relates to integrated knowledge of the locale, target species and damage patterns caused by the target species.

(F) Chemigation. Applicators shall demonstrate practical knowledge of equipment associated with chemigation, including calibration techniques and use of anti-back flow/check valves to prevent contamination of water supplies. They shall demonstrate knowledge of labeling requirements of products registered for chemigation, including posting requirements. Further, they shall demonstrate knowledge of appropriate use of personal protective equipment associated with this type of application.

(ii) Cat. 902 Forest Pest Control. Applicators shall demonstrate, by examination, practical knowledge of the types of forest, forest nurseries and seed production in Wyoming and the pests involved. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. The applicator must demonstrate, by examination, practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects of wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

(iii) Cat. 903 Ornamental and Turf Pest Control.

(A) Weed Control. Applicators shall demonstrate, by examination, practical knowledge of pesticide problems associated with weed control in the production and maintenance of ornamental trees, shrubs, plantings and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this subcategory must demonstrate, by examination, practical knowledge of application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

(B) Insect Control. Applicators shall demonstrate, by examination, practical knowledge of problems associated with insect control in the production and maintenance of ornamental trees, shrubs, plantings and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift and persistence beyond the extended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this subcategory must demonstrate,

by examination, practical knowledge of application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

(C) Disease Control. Applicators shall demonstrate, by examination, practical knowledge of pesticide problems associated with disease control in the production and maintenance of ornamental trees, shrubs, plantings and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitation to application activities, applicators in this subcategory must demonstrate, by examination, practical knowledge of application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

(D) reserved

(E) Rodent Control. Applicators shall demonstrate, by examination, practical knowledge of detrimental rodents found in ornamental and turf situations, the potential impact of the environment on pesticides used in rodent control programs, and knowledge of factors influencing introduction, spread and population dynamics of relevant pests. In addition, use requires particular ability that relates to integrated knowledge of the locale, target species and damage patterns caused by the target species.

(iv) Cat. 904 Seed Treatment. Applicators shall demonstrate, by examination, practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents which influence pesticide binding and may effect germination. They must demonstrate, by examination, practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seed.

(v) Cat. 905 Aquatic Pest Control. Applicators shall demonstrate, by examination, practical knowledge of the secondary effects which can be avoided by proper application rates, correct formulations and correct application of pesticides used in this category. They shall demonstrate, by examination, practical knowledge of various water use situations and the potential of downstream effects. Further, they must have a practical knowledge concerning pesticide effects on plants, fish, birds, beneficial insects, and other organisms which may or may not be present in aquatic environments. These applicators shall demonstrate, by examination, practical knowledge of the principles of limited area application.

(vi) Cat. 906 Right-of-Way Pest Control. Applicators shall demonstrate, by examination, practical knowledge of a wide variety of environments since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate, by examination, practical knowledge of problems of runoff, drift and excess foliage destruction and ability to recognize target organisms. They shall also demonstrate, by examination, practical knowledge of the nature of herbicides and the need for containment

of these pesticides within the right-of-way area, and the impact of their application activities on the adjacent areas and communities.

(vii) Cat. 907 Industrial, Institutional, Structural and Health Related Pest Control. Applicators must demonstrate, by examination, a practical knowledge of a wide variety of pests including their life cycles, types of formulations appropriate for their control and methods of application that avoid contamination of food, damage and contamination of habitation, and exposure of people and pets. Since human exposure is a potential problem, applicators must demonstrate, by examination, practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. Because health related pest control may involve outdoor applications, applicators must also demonstrate, by examination, practical knowledge of environmental conditions, particularly related to this activity.

(A)-(F) Reserved

(G) Fumigation. Applicators shall demonstrate practical knowledge of conditions requiring the application of fumigants, and selection of the most appropriate fumigation methods to use. They shall demonstrate knowledge of equipment used in fumigation, such as application, monitoring, testing, calculating, and personal protective devices. Applicators shall demonstrate ability to release, distribute and maintain the correct fumigant concentrations for the product/structure being fumigated, under differing conditions. They shall also have knowledge of the hazards involved with the use of fumigants, including requirements for properly ventilating enclosed spaces after application.

(H) Bird Control. Applicators shall demonstrate practical knowledge of protected and unprotected pest birds and conditions conducive to bird problems. They shall demonstrate knowledge of all applicable laws and regulations protecting birds and the actions required in order to control protected pest species. Applicators shall demonstrate knowledge of bird control methods and the hazards involved with pesticide usage, especially secondary poisoning of non-target organisms.

(viii) Cat. 908 Public Health Pest Control. Applicators shall demonstrate, by examination, practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests are involved, and it is essential they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have a practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal and drainage. This category does not include control of vertebrate pests which are disease vectors. (Vertebrate disease vectors are included in paragraph (c)(ix)(H) of this section)

(ix) Cat. 909 Regulatory Pest Control. Applicators shall demonstrate, by examination, practical knowledge of regulated weeds, insects and diseases, and the potential impact to the environment

of pesticides used in control programs. They shall demonstrate, by examination, knowledge of factors influencing introduction, spread and population dynamics on relevant pests.

(A)-(D) reserved

(E) Rodent Control. Applicators shall demonstrate practical knowledge of detrimental rodents, the potential impact on the environment of pesticides used in rodent control programs and knowledge of factors influencing the introduction, spread and population dynamics of relevant pests. In addition, applicators shall demonstrate integrated knowledge of the locale, target species and damage patterns caused by the target species.

(F)-(G) reserved

(H) Bird Control. Applicators shall demonstrate practical knowledge as indicated under paragraph (c)(vii)(G) of this Section.

(I) Vertebrate Pest Control. Applicators shall demonstrate, by examination, practical knowledge of regulated vertebrate pests (excluding birds) and, the potential impact on the environment of pesticides used in control programs. They shall demonstrate, by examination, knowledge of factors influencing introduction, spread and population dynamics of relevant pests. In addition, use requires particular ability that relates to integrated knowledge of the locale, target species and damage patterns caused by the target species.

(J) M-44. Applicators shall demonstrate practical knowledge on the use of the M-44 device to control coyotes, including the history of the M-44 device, toxic effects of sodium cyanide, first aid for cyanide poisoning, M-44 parts and their use, preparation of the M-44 for use, setting the M-44, the use of baits and attractants, selecting M-44 use sites, EPA use restrictions, and all reporting and record keeping requirements pertaining to the use of M-44's. Applicators shall also demonstrate knowledge of basic coyote information, characteristics of predatory species, and use of alternative methods for predator control. Certification in this subcategory shall require separate and specific training, examination and certification.

(K) Livestock Protection Collars. Applicators shall demonstrate practical knowledge on the use of the Livestock Protection Collar to control coyotes, including criteria for applicators, specific certification requirements for applicators, monitoring protocols and labeling and the use of the technical bulletin on the LP Collar. Applicators shall also demonstrate knowledge of procedures for evaluating predation on livestock and wildlife, and all reporting and record keeping requirements pertaining to the use of the LP Collar. Certification in this subcategory shall require separate and specific training, examination and certification.

(x) Cat. 910 Demonstration and Research Pest Control. Applicators demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstrations, and practical knowledge of problems, pest and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide - organism interactions and the importance of integrating pesticide use with other control methods. In addition, they shall meet the specific standards required for categories 901 through 909 of this section as they may be applicable to their particular activity.

Persons conducting field research or method improvement work with pesticides should know the general standards under paragraph (b) of this section. In addition, they shall meet the specific standards required for categories 901 through 909 of this section, applicable to their particular activity, or alternatively, to meet the more inclusive requirements listed under "demonstration".

(xi) Cat. 911 Specific Use Pest Control. Applicators shall demonstrate, by examination, practical knowledge of the specific pest to be controlled, and the potential impact on the environment of the specific pesticide to be used. The applicator shall also demonstrate, by examination, practical knowledge concerning all pertinent factors influencing application methods, hazards to the applicator and the public, and any other factors which the Board of Certification deems of importance for the specific pesticide. The Board of Certification will develop the examination only after consulting with the manufacturer of the specific restricted-use pesticide. Because of the unusual nature of these specific pesticides, neither the Board of Certification, the Wyoming Department of Agriculture, nor the University of Wyoming will be required or expected to provide training for applicators prior to the examination. Notwithstanding the provisions under Section 6(k) dealing with training for re-certification, the board of certification is not required to approve training courses for re-certification, and the board of certification may require the applicator to be re-examined to maintain certification.

(A)-(K) reserved

(L) Wood Preservation. Applicators shall demonstrate practical knowledge of conditions for which preservative treatment of wood is used. Applicators shall demonstrate a knowledge of all laws specific to the use of wood preservatives, the health and environmental hazards associated with wood treating procedures, and the need for informing purchasers of precautions for handling, use, and disposal of treated wood products. They shall demonstrate knowledge of all applicable treating and testing equipment, structural wood destroying organisms, conditions conducive to infestation and shall demonstrate knowledge and ability to select, calibrate and use appropriate control procedures.

(M) Non-Government M-44. Applicators shall demonstrate practical knowledge as indicated under paragraph (c)(ix)(i) of this section.

(N) Non-Government Livestock Protection Collar. Applicators shall demonstrate practical knowledge as indicated under paragraph (c)(ix)(J) of this section.

(O) Mosquito Control. Applicators shall demonstrate practical knowledge of appropriate life cycles and habitats of mosquito populations which form the basis of a control strategy. Applicators shall have practical knowledge of a great variety of environments ranging from exterior water sources to those conditions found in buildings and also have knowledge of non-chemical control methods such as sanitation, waste disposal and drainage.

(P) Sewer Line Root Control. Applicators shall demonstrate by practical knowledge of various technical aspects of sewer line root control, with emphasis on the safe use and application of chemical products, especially those which contain metam sodium, a restricted-use pesticide.

(xiii)Cat. 912 Aerial application. Applicators shall demonstrate practical knowledge of aerial equipment calibration and maintenance and the avoidance of problems associated with aerial application, such as drift and non-target injury. In addition, applicators will demonstrate knowledge appropriate to the type of aerial application being performed through their additional certification in one or more of the categories listed under paragraph (c) of this section.

(d) The above standards do not apply to the following persons for purposes of these regulations:

(i) Persons conducting research in a laboratory, involving pesticides; and

(ii) Doctors of Medicine and Doctors of Veterinary Medicine applying drugs or medication during the course of their normal practice and who do not publicly represent themselves as pesticide applicators.

Section 6. Certification of Commercial Applicators

(a) Each applicant requiring examination or re-examination for any reason, shall be required to take the examination at a time and place to be specified by and under the direction of the Director of Agriculture in accordance with the conditions and provisions herein. Applications to be provided by the department.

(b) New applicants, upon successful completion of examination(s), shall submit with the application for licensing, a fee, payable to the Wyoming Department of Agriculture. All fees submitted shall be non-refundable.

(i) Commercial Applicator - \$25.00 License fee.

(c) Applicants, upon meeting re-certification requirements shall submit with the application for licensing, a fee payable to the Wyoming Department of Agriculture. All fees submitted shall be non-refundable.

(i) Commercial Applicator - \$25.00 Renewal fee.

(d) Employees of governmental entities are exempted from paying the fees, when the license is used in the performance of their official duties.

(e) Applicants for examination or re-examination may be tested at the Cheyenne office of the Wyoming Department of Agriculture during regular office hours at any time convenient to both the applicant and the department. Applicants may also be tested at other locations, at the convenience of the applicant, the department or the proctor designated by the department.

(f) Applicants for examination or re-examination shall be required to obtain a minimum score of seventy (70) percent on the general examination and in all specific categories or sub-categories in which they are tested, in order to qualify for a commercial applicators license.

(g) Applicants shall be notified in writing of the results of any examination as soon as possible, but in no case shall it exceed thirty (30) days.

(h) Failure to receive a passing score on any examination shall require that the applicant be re-examined only in that category which he failed.

(i) Any applicant who fails to obtain a passing score on two (2) successive examination attempts will be required to attend a training program for new applicators approved by the Director prior to taking any examination a third time.

(j) Applicants who have been examined and found qualified for certification as a commercial applicator shall be issued a license in the appropriate categories or sub-categories, provided that all other requirements for certification have been fully complied with. The license for commercial applicators shall be issued for that portion of the calendar year in which the license is issued or reviewed plus twenty-five (25) months and shall expire on January 31 of the appropriate year.

(k) The Board of Certification shall allow commercial applicators to become re-certified by one of the following methods:

(i) Accumulate 24 hours of approved training during the valid years of the applicators license.

(ii) Attend the annual re-certification short course.

(iii) Re-examination in all applicable categories.

Any extenuating circumstances may be submitted to the board of certification for review.

(l) Any applicator who has had his license suspended shall, prior to re-instatement, be required to re-take all applicable examinations and achieve a passing grade before operations may be resumed, and shall be considered on probation for a period of one (1) year thereafter. Any violation of the Wyoming Environmental Pesticide Control Act of 1973 or Chapter XXVIII, Applicator Certification Rules and Regulations, during the period of probation shall be cause for immediate revocation of license for up to three (3) years.

(m) The Wyoming Pesticide Board of Certification shall in all cases adhere to the Wyoming Administrative Procedures Act when revoking, canceling or suspending any commercial or general applicators license.

(n) Non-resident applicators who meet Wyoming certification requirements and present proper documentation (applicator license and letter of verification), may be considered certified in Wyoming and may be issued a license in the appropriate category. However, reciprocal certification will be extended only to applicants from those states that accept Wyoming certification for reciprocity.

Section 7. Standards for Supervision of Non-Certified Applicators by Certified Private and Commercial Applicators.

(a) At a minimum, availability of the certified applicator must be directly related to the hazard of the situation. For all applications conducted by non-certified person(s), the certified applicator must be available by immediate contact through telephone or radio. In addition, the certified applicator must be physically present on-site when use of the pesticide poses a potentially serious hazard to people or the environment.

(b) When required by the pesticide product label, the certified applicator shall be physically present on-site at all times during the application.

(c) Evidence that adequate supervision is being exercised shall include, but not be limited to:

(i) Verifiable (written) instruction to the competent person,

(ii) Detailed guidance for applying the pesticide properly.

(iii) A copy of the appropriate pesticide product label and Material Safety Data Sheet (MSDS).

- (iv) The certified applicator being physically on-site within a reasonable period of time.

Section 8. Certification Categories for Private Applicators

(a) Procedure. Certification categories for applicators (other than commercial) using or supervising the use of restricted use pesticides are identified below:

(b) Categories:

(i) Cat. 01001 General Certification. This category includes private applicators using or supervising the use of restricted use pesticides in the production of agricultural commodities, including but not limited to, sugar beets, corn, beans, alfalfa, potatoes, small grains, forage, vegetables, small fruits, as well as grasslands and non-crop agricultural lands. This category also includes private applicators using or supervising the use of restricted use pesticides on animals and to places on or in which animals are confined.

(ii) Cat. 01002 Product Specific. This category includes private applicators who use or supervise the use of a "single" restricted use pesticide or a restricted use pesticide which the Board of Certification determines does not adequately fit in any of the other private applicator categories, (i.e., wood treatment products).

(iii) Cat. 01003 M-44(Sodium Cyanide). This category includes private applicators using the M-44 device for the purpose of controlling coyotes.

(iv) Cat. 01004 Livestock Protection Collar. This category includes private applicators using the LP Collar for the purpose of controlling coyotes.

(v) Cat. 01005 Chemigation. This category includes private applicators using or supervising the application of restricted use pesticides through an irrigation system. Certification in this category requires concurrent certification in Category 01001.

Section 9. Standards for Certification of Private Applicators

(a) Determination of Competency. Competence in the use and handling of restricted-use pesticides by a private applicator will be determined by procedures set forth below. As a minimum requirement for certification, a private applicator must show that he possesses a practical knowledge of the pest problems and pest control practices associated with his agricultural operation; proper storage, use, handling and disposal of the pesticide and containers and his related legal responsibility.

(b) General standards of competency for all categories of certified private applicators.

- (i) Recognize common pests to be controlled and damage caused by them.
 - (ii) Read and understand the label and labeling information, including the common name of the pesticide(s) being used, the crop, animal or site to which the pesticide is being applied, pest(s) to be controlled, timing and methods of application, safety precautions, any harvest, grazing or restricted entry restriction(s), and any specific disposal procedures.
 - (iii) Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentrations of pesticide to be used under particular circumstances, taking into account such factors as area to be covered, speed at which application equipment will be operated, and the quantity of product dispersed in a given period of operation.
 - (iv) Recognize local environmental situations that must be considered during application in order to avoid any possible contamination.
 - (v) Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.
- (c) Specific standards of competency for each category of certification. Private applicators, when certifying in a specific category, shall be particularly qualified in that category as elaborated below:
- (i) Cat. 01001 General Certification. Applicators shall demonstrate practical knowledge of agricultural commodities, and the specific weeds, insects and diseases of those agricultural commodities on which they may use restricted use pesticides. Practical knowledge is required concerning relevant soil and water problems, pre-harvest intervals, restricted entry intervals, phytotoxicity, and potential for environmental contamination and non-target injury. Applicators shall also demonstrate practical knowledge of animals and their associated pests, and pesticide toxicity and residue potential.
 - (ii) Cat. 01002 Product Specific. Applicators shall demonstrate practical knowledge of the specific pest to be controlled and the potential impact on the environment of the specific pesticide being used. The applicator must also demonstrate practical knowledge concerning pertinent factors influencing application methods, hazards to the applicator and the public and any other factors which the Board of Certification deems of importance for the specific pesticide.
 - (iii) Cat. 01003 M-44(Sodium Cyanide). Applicators shall demonstrate practical knowledge on the use of the M-44 device to control coyotes, including the history of the M-44 device, toxic effects of sodium cyanide, first aid for cyanide poisoning, M-44 parts and their use, preparation of the M-44 for use, setting the M-44, the use of baits and attractants, selecting M-44 use sites, EPA use restrictions and all reporting and record keeping requirements pertaining to the use of M-44's. Applicators shall also demonstrate knowledge of basic coyote information, characteristics of predatory species and use of alternative methods for predator control. Certification in this category shall require separate and specific training, examination and certification.

(iv) Cat. 01004 Livestock Protection Collar. Applicators shall demonstrate practical knowledge on the use of the LP Collar to control coyotes, including criteria for applicators, specific certification requirements for applicators, monitoring protocols and labeling and the use of the technical bulletin on the LP Collar. Applicators shall also demonstrate knowledge of procedures for evaluating predation on livestock and wildlife and all reporting and record keeping requirements pertaining to the use of the LP Collar. Certification in this category shall require separate and specific training, examination and certification.

(v) Cat. 01005 Chemigation. Applicators shall demonstrate practical knowledge of equipment associated with chemigation, including calibration techniques and use of an anti-back flow/check valve to prevent contamination of water supplies. They shall demonstrate knowledge of labeling requirements of products registered for chemigation, including posting requirements. Further, they shall demonstrate knowledge of the appropriate use of personal protective equipment associated with this type of application.

Section 10. Certification of Private Applicators

(a) Each applicant may be required to take an examination under the direction of the Director of Agriculture in accordance with the conditions and provisions specified herein. The requirements for an examination may be fulfilled by satisfactorily completing one of the following:

- (i) A training course approved by the Board of Certification,
- (ii) A program instruction workbook, or
- (iii) A written or oral examination.

(A) Applicants shall be required to obtain a passing grade of seventy (70) percent on each section or category of the examination under which they wish to qualify.

(B) Applicants shall be notified in writing of the results of any examination within thirty (30) days.

(C) Such competence of each private applicator shall be indicated through the issuance, by the Department of Agriculture, of a private applicator's license, based upon the standards set forth in Section 9, which ensures the private applicator is competent to use the restricted-use pesticide under limitations of applicable state laws and regulations.

(D) Applicants who have been examined and found qualified as private applicators shall be issued an appropriate license. License shall be valid for such condition as stated on the applicators license. The license for the private applicator shall be issued for the portion of the calendar year in which

the license is issued or reviewed plus fifty-two (52) months and shall expire on April 30 of the appropriate year. The Board of Certification shall require private certified applicators to attend a re-certification course approved by the Board once every five (5) years, complete a program instruction workbook, or be re-examined to maintain certification. The license shall be a non-fee license.

(E) In the event a person, at the time of testing for certification is unable to read a label, the issuing authority will administer a private applicator "single product" examination orally, and the applicant, if approved, shall be certified only for use of that product.

(F) Any private applicator who has had their license suspended shall, prior to reinstatement, be required to take a written examination and receive a passing grade before operations may be resumed, and shall be considered on probation for a period of one (1) year thereafter. Any violations during the period of probation shall be cause for immediate revocation of license for up to three (3) years.

(G) The Wyoming Pesticide Board of Certification shall in all cases adhere to the Wyoming Administrative Procedures Act when revoking, canceling or suspending any private applicator license.

Section 11. Pesticide(s) Subject to Other Restrictions as Provided by the Board of Certification

(a) When it is determined that standards for the certification of private applicators, or commercial applicators must be more stringent than the standards in Section 5 or Section 9 and additional special identification is necessary for an individual using a highly toxic pesticide or applying a pesticide which has been demonstrated to be particularly hazardous to the environment, the standards for the applicator shall include, in addition to their category standards, an especially high degree of knowledge concerning the compound's action, its limitations and the areas in which it is to be applied.

(b) When it is determined by the Board of Certification that unreasonable adverse effects on the environment may reasonably occur, and following a hearing pursuant to the Wyoming Administrative Procedures Act, the Board may restrict the time, place, manner, materials, amounts and concentrations used in connection with the application of a pesticide, or may prohibit use of pesticides in designated areas during specified periods of time. The restrictions and/or prohibitions shall encompass all reasonable factors which the Board deems necessary.

Section 12. Use of Pesticides Under Special Registration for Production of Minor Crops Grown for Seed.

(a) This section applies to pesticide products registered under Section 18 and/or Section 24(c) of FIFRA, and used in the production of minor crops grown for seed as defined in Section 2, paragraph (w) of these regulations.

(b) The use of these pesticide products is not permitted on fields producing feed for livestock and no portion of the treated field, including but not limited to, seed, seed screenings, hay forage or stubble, may be used for human food or animal feed.

(c) The current year's treated seed crop shall not be used or distributed for animal feed purposes, including but not limited to, hay, green chop, pellets, meal, whole seed, cracked seed, seed screenings, roots, bulbs, leaves, chaff or stubble; nor can grazing take place on the current year's treated seed crops.

(d) Screenings or other crop by-products shall not enter feed channels by distribution and/or direct use. All seed screenings and/or crop by-products that were treated with a pesticide registered for minor crop seed production must be immediately removed from the feed market, and disposed of in such a manner that they cannot be distributed or used for feed or food purposes. The seed conditioner shall keep records of all minor crop seed screenings and their disposal (site, method, amount and type of material, date of shipment) and shall furnish these records to the department upon request.

(e) Treated minor crop seed shall not be used or distributed for human food.

(f) All crop seed treated with any pesticide registered for use in minor crop seed production only, shall be tagged at the processing plant and such tag shall state NOT FOR HUMAN CONSUMPTION AND/OR ANIMAL FEED. It shall be the grower's responsibility to notify the processing plant(s) of any seed crop(s) treated with pesticide(s) registered for use in minor crop seed production only.

(g) All usage, in addition to the requirements of this rule, shall be in compliance with the label of the pesticide registered for use in seed production only.

Section 13. Licensed Pesticide Dealer

(a) Any person who makes available for use a restricted-use pesticide as defined in W.S. 34-7-354(e) to certified or non-certified persons shall register, for the purpose of licensing, the principal business name and address by which the dealer operates and the business name and address of each branch dealership with the Wyoming Department of Agriculture on an annual basis.

(b) Persons requiring a pesticide dealers license shall submit with the license application, a \$25.00 fee for each dealer establishment, payable to the Wyoming Department of Agriculture. No establishment shall be required to pay more than \$100.00 in WDA license fees. (Reference W.S. 11-1-104 (a)).

(c) Pesticide dealer license(s) will be issued by the department to the applicant for each establishment. Licenses to be renewed by April 1 of each year.

Section 14. Reports and Records

(a) Licensed pesticide dealers shall maintain and retain accurate and legible records of all sales of restricted use pesticides for a period of two (2) years.

(b) Dealers shall maintain office records of all sales of restricted-use pesticides to certified applicators at each dealership. Records shall include:

- (i) Date of sale
- (ii) Name and address of purchaser
- (iii) Applicator license number
- (iv) Category(s) of certification
- (v) License expiration date
- (vi) Type of pesticide, brand name and EPA registration number
- (vii) Total amount of product purchased

(c) When a restricted-use pesticide is made available for use to a NON-CERTIFIED PERSON for use by a certified applicator, dealers shall maintain office records as required under paragraph (b) of this section.

Dealers shall also be required to obtain documentation from the certified applicator, authorizing the non-certified person to act on their behalf, plus the name and address of the non-certified person to whom the restricted use pesticide is made available and the type of document from which the name and address was obtained.

(d) Certified commercial applicators who are involved in the commercial application of pesticides shall maintain office records giving such information with respect to:

- (i) Name & address of person for whom the application was made, and if applicable, who purchased the pesticide(s).
- (ii) Location of the pesticide application
- (iii) Commodity/site treated
- (iv) Pest controlled

- (v) Pesticide applied:
 - (A) Brand name of product
 - (B) EPA registration number
 - (C) Total amount of pesticide used
 - (D) Rate of application
 - (E) Method of application
- (vi) Date and time of application
- (vii) Weather conditions: (time of application)
 - (A) Temperature
 - (B) Wind direction and velocity

(e) Such records shall be open for inspection at any time during business hours, by the Director of Agriculture or his designated department employee.

(f) Commercial applicators shall maintain and retain accurate and legible records of all pesticides applied during commercial applications, for a period of two (2) years.

Section 15. Required Practices for Commercial Applicators and Private Applicators.

(a) Certified commercial applicators and private applicators shall notify the department of any change of business address within seven (7) days.

(b) Certified commercial applicators making a commercial application, shall prior to application, inform the customer of the following items:

- (i) Pesticide(s) applied
- (ii) Possible residue hazards
- (iii) Any restricted entry periods
- (iv) Any waiting periods prior to harvest

- (v) Application date(s) and time(s)
 - (vi) Post-application label safety precautions
 - (vii) Other applicable label requirements (e.g. posting, Worker Protection Standards)
- (c) Commercial applicators making commercial applications shall maintain and retain accurate and legible records of the information required under paragraph(b) of this section, for a period of two (2) years.

Section 16. Storage and Disposal of Pesticides and Pesticide Containers.

(a) All certified pesticide applicators shall store all pesticide concentrates and dilute mixtures using methods which are reasonably calculated to prevent the contamination of other products by means of volatilization, leakage, breakage or other causes, and which are reasonably calculated to avoid the creation of an unreasonable risk of harm to persons, property, domestic/wild animals, or the environment.

(b) Pesticide storage areas shall be kept clean and orderly, and pesticide containers shall be positioned so that they are not exposed to unreasonable risk of damage to the containers or their labels.

(c) Pesticides and pesticide containers shall be covered or otherwise protected from the elements, in a manner which is reasonably calculated to minimize the risk of damage to labels, and to avoid the creation of an unreasonable risk of harm to persons, property or domestic/wild animals.

(d) Until such time as the department promulgates specific rules and regulations governing the storage and disposal of pesticides and pesticide containers, the RECOMMENDED procedures detailed in 40 CFR, part 165 promulgated by the Administrator, U.S. EPA, shall be the recommended procedures for Wyoming. The department shall make copies of these procedures available to any person needing guidance for proper storage and disposal of pesticides and pesticide containers.

(e) All 1080 Livestock Protection Collars and M-44 Sodium Cyanide capsules shall be stored and transported in the original metal container, or comparable unit, and shall be locked at all times, except when collars or capsules are actually being removed or replaced. In addition, when in transit, the metal storage container(s) shall be placed inside a leak-proof, impact-resistant container which shall also be locked and secured. All containers shall be placarded with appropriate warning labels, indicating the presence of toxic chemicals within.

Section 17. Penalties. Any person who violates any provision of these Applicator Certification Rules and Regulations shall, in addition to those administrative sanctions provided for below, remain subject to those criminal sanctions provided for by W.S. 35-7-366, 1977, as amended (or any other appropriate Wyoming statutes). Any violation of these rules and regulations may be deemed as sufficient cause and

may result in the denial, revocation or suspension of any license, or permit issued pursuant to this act, after a hearing as prescribed in the Wyoming Administrative Procedures Act.