

## **R70. Agriculture and Food, Regulatory Services.**

### **R70-201. Compliance Procedures.**

#### **R70-201-1. Purpose and Authority.**

- (1) This rule is promulgated under the authority of Subsection 4-2-103(1)(i).
- (2) This rule establishes the Regulatory Services Division's use of emergency orders, the issuing of citations, and requests for a hearing.

#### **R70-201-2. Definition of Terms.**

- (1) "Citation" means a lawful notice, issued by the division, intended to immediately remedy a violation of agricultural statutes or rules by a person, business, or operator. Pursuant to Section 4-2-304, a citation may include a penalty assessment, or provide for a fine to take effect within a stated time period.
- (2) "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food.
- (3) "Department" means the Utah Department of Agriculture and Food.
- (4) "Division" means the Division of Regulatory Services within the Utah Department of Agriculture and Food.
- (5) "Emergency Order" means a written action by the division, issued to a person, as a result of information that is known by the division, identifying an immediate and significant danger to the public's health, animal health, safety or welfare, and warrants prompt action pursuant to Section 63G-4-502.
  - (a) Emergency orders include "quarantine," "seized," "Utah Inspection and Condemned," "sealed," "reject," "retain," "denatured," "detained," and "suspect."
  - (b) Emergency orders may be issued when division action is warranted to stop the sale of a product, or halt an immediate condition or service from occurring, pursuant to Sections 4-3-205, 4-3-403, 4-5-202, 4-9-110, 4-9-111, 4-10-112 4-33-108, and Subsection 4-5-105(1)(a).

#### **R70-201-3. Emergency Order.**

- (1) The division may issue an emergency order when it determines that there is an immediate and significant danger to public health, animal health, safety or welfare, to secure the well-being, safety, or removal of danger to state citizens. Emergency orders are intended to protect the public from unlawful agricultural and food products and services.
- (2) When an emergency order is justified, and conditions warrant immediate action by the division, the division shall promptly issue a written order that includes the following information:
  - (a) name, street address, city, state, zip-code, phone-number, and title or position of the person being given the order, or name, street address, city, state, zip-code, phone-number of the business, organization, corporation, firm, or limited liability company, and the name and title or position of the person in the business or organization to whom the order is given;
  - (b) a brief statement of findings of fact as determined by the division;
  - (c) references to statutes or administrative rules violated;
  - (d) the reasons for issuance of the emergency order;
  - (e) the signature of the agency representative; and
  - (f) a space or line for the signature of the person, although a signature is not required if the person refuses.
- (3) This order shall be written and no product, condition, or service subject to the order shall be released, except upon written release by the department.

#### **R70-201-4. Citation.**

- (1) The commissioner or commissioner's designee, may enforce this rule by issuing the person a citation for violation, in order to secure subsequent payment of fines or the imposition of penalties.
- (2) The citation shall include:
  - (a) name, street address, city, state, zip-code, phone-number, and title or position of the individual being given the order, or name, street address, city, state, zip-code, phone-number of the entity, which includes business, organization, corporation, firm, or limited liability company, and the name and title or position of the individual in the entity to whom the order is given;
  - (b) references to the statutes or rules violated;
  - (c) a brief statement to the findings of fact as determined by the division;
  - (d) a penalty or fine amount;
  - (e) the signature of the division representative;
  - (f) a space or line for the signature of the individual, although a signature is not needed if the individual refuses to sign;and
  - (g) a statement explaining that a person is allowed to request an administrative hearing under Sections 4-1-104 and 63G-4-201 if the person believes that a citation was not warranted.
- (3) The fine or penalty amount will be set by the department or the division, under the direction of the commissioner, for up to \$5,000 per violation.
- (4) If the citation involves a criminal proceeding, the individual may be found guilty of a class B misdemeanor.
- (5) In accordance with Section 4-2-304, fine or penalty amounts shall be \$500 to \$5,000 per violation depending on the level of the violation and any adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.
  - (a) If the citation is not paid within 15 days, the penalty or fine shall be two times the citation amount.

- (b) If the citation is not paid within 30 days, the penalty or fine shall be four times the citation amount.
- (c) The total penalty or fine per violation shall not exceed \$5,000.

**R70-201-5. Request for Hearing.**

When any order or citation, as defined in Subsection R70-201-2(1), is issued, the person being charged with the violation may elect to file, within allowable time limits, a request for the department to schedule an informal administrative hearing in accordance with Section 4-1-104.

**KEY: agricultural law**

**Date of Last Change: August 1, 2022**

**Notice of Continuation: December 28, 2021**

**Authorizing, and Implemented or Interpreted Law: 4-2-103(l)(i)**