

## **R58. Agriculture and Food, Animal Industry.**

### **R58-19. Compliance Procedures.**

#### **R58-19-1. Authority.**

This rule is promulgated by the Division of Animal Industry (Division), within the Department of Agriculture and Food (Department) under authority of Subsection 4-2-103(1)(j).

#### **R58-19-2. Definition of Terms.**

(1) An Emergency Order means a written action by the Division, which is issued to a person, as a result of information that is known by the Division, which identifies 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.

Emergency orders include: "quarantine", "seized", "Utah Inspection and Condemned", "sealed", "reject", "retain", "denatured", "detained", and "suspect", and 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 4-32-109, 4-32-118, 4-32-119, 4-31-116, 4-39-107, and 9 CFR-III 303.1 through 381.207.

(2) A Citation means a lawful notice, issued by the division, which is intended to immediately remedy a violation of agricultural statutes or rules by a person, business, operator, etc. 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.

#### **R58-19-3. 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 may be issued to secure the well-being, safety, or removal of danger to state citizens.

(2) Orders are intended to protect the public from unlawful agricultural and food products and services.

(3) When an emergency order is justified, and conditions warrant immediate action by the Division, it shall:

(a) Promptly issue a written order that includes the following information:

(i) 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, limited liability company, etc., and the name and title or position of the person in the business or organization to whom the order is given.

(ii) a brief statement of findings of fact as determined by the division,

(iii) references to statutes or administrative rules violated,

(iv) the reasons for issuance of the emergency order,

(v) the signature of the agency representative, and

(vi) a space or line for the signature of the person. A signature is not required if the person refuses.

(4) This order shall be written and no product, condition, or service subject to the order shall be released, except upon the subsequent written release by the department.

#### **R58-19-4. Citation.**

(1) The Commissioner or person designated by the Commissioner, may enforce this rule by the issuance of a citation for violation, in order to secure subsequent payments of fines or the imposition of penalties:

(a) The citation will include the following information:

(i) 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, limited liability company, etc., and the name and title or position of the person in the business or organization to whom the order is given;

(ii) references to the statutes or rules violated;

(iii) a brief statement to the findings of fact as determined by the division;

(iv) a penalty or fine amount;

(v) the signature of the agency representative;

(vi) a space or line for the signature of the person, although a signature is not required if the person refuses; and

(vii) a statement to the effect that a person is allowed to request an administrative hearing if the person feels that a citation was not warranted.

(2) Fine or penalty amounts will be set by the department or the division, under the direction of the Commissioner, for amounts up to \$5,000 per violation, or if the citation involves a criminal proceeding, the person may be found guilty of a class B misdemeanor.

(3) In accordance with Section 4-2-304, fine or penalty amounts shall be determined according to the approved department fee schedule.

#### **R58-19-5. Request for Hearing.**

When any order or citation, as defined above, 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 the provisions of Section 4-1-104.

**KEY: agricultural law**

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