

HB0248S02 compared with HB0248S01

~~{deleted text}~~ shows text that was in HB0248S01 but was deleted in HB0248S02.

inserted text shows text that was not in HB0248S01 but was inserted into HB0248S02.

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~~{Representative Logan Wilde}~~Senator Scott D. Sandall proposes the following substitute bill:

AGRICULTURE REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Logan Wilde

Senate Sponsor: ~~{~~Scott D. Sandall

LONG TITLE

General Description:

This bill addresses regulation of agriculture related activities.

Highlighted Provisions:

This bill:

- ▶ addresses violation of rules;
- ▶ modifies definition provisions;
- ▶ provides for preventive control for human food regulations;
- ▶ provides the standards for the growing, harvesting, packaging, and holding of produce for human consumption;
- ▶ addresses regulation of fertilizer or soil amendments;
- ▶ modifies requirements for aerial hunting activity;

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▶ addresses brand inspection provisions:

- ▶ provides for the commissioner of agriculture and food to appoint members of the conservation board of supervisors and make changes related to conservation districts;
- ▶ repeals provisions related to the cat and dog community spay and neuter program; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-303, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-2-602, as enacted by Laws of Utah 2018, Chapter 51

4-5-102, as last amended by Laws of Utah 2019, Chapter 32

4-5-103, as last amended by Laws of Utah 2019, Chapter 32

4-5-104, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-13-102, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-13-103, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-13-104, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-13-105, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-13-106, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-13-108, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-13-109, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-23-106, as last amended by Laws of Utah 2019, Chapter 268

4-24-304, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-24-308, as renumbered and amended by Laws of Utah 2017, Chapter 345

17D-3-102, as last amended by Laws of Utah 2017, Chapter 345

17D-3-103, as last amended by Laws of Utah 2018, Chapters 115 and 256

17D-3-203, as last amended by Laws of Utah 2009, Chapter 350

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17D-3-301, as last amended by Laws of Utah 2017, Chapter 70

17D-3-302, as enacted by Laws of Utah 2008, Chapter 360

17D-3-303, as enacted by Laws of Utah 2008, Chapter 360

17D-3-304, as enacted by Laws of Utah 2008, Chapter 360

17D-3-305, as last amended by Laws of Utah 2019, Chapter 255

17D-3-310, as enacted by Laws of Utah 2008, Chapter 360

17D-3-311, as enacted by Laws of Utah 2012, Chapter 103

26-15-1, as last amended by Laws of Utah 2017, Chapter 345

59-10-1304, as last amended by Laws of Utah 2019, Chapter 89

ENACTS:

4-13-110, Utah Code Annotated 1953

REPEALS:

4-13-107, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-40-101, as renumbered and amended by Laws of Utah 2011, Chapter 124

4-40-102, as last amended by Laws of Utah 2017, Chapter 345

17D-3-306, as enacted by Laws of Utah 2008, Chapter 360

17D-3-307, as enacted by Laws of Utah 2008, Chapter 360

17D-3-308, as enacted by Laws of Utah 2008, Chapter 360

17D-3-309, as last amended by Laws of Utah 2011, Chapter 292

59-10-1310, as last amended by Laws of Utah 2012, Chapter 369

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **4-2-303** is amended to read:

4-2-303. Violations unlawful.

It is unlawful for [~~any~~] a person, or the officer or employee of [~~any~~] a person, to willfully violate, disobey, or disregard this title, a rule made under this title, or any notice or order issued under this title.

Section 2. Section **4-2-602** is amended to read:

4-2-602. Local Food Advisory Council created.

(1) There is created the Local Food Advisory Council consisting of up to the following 13 members:

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- (a) one member of the Senate appointed by the president of the Senate;
- (b) two members of the House of Representatives appointed by the speaker of the House of Representatives, each from a different political party;
- (c) the commissioner of the Department of Agriculture and Food, or the commissioner's designee;
- (d) the executive director of the Department of Health, or the executive director's designee;
- (e) two crop direct-to-consumer food producers, appointed by the governor;
- (f) two animal direct-to-consumer food producers, appointed by the governor; and
- (g) the following potential members, appointed by the governor as needed:
 - (i) a direct-to-consumer food producer;
 - (ii) a member of a local agriculture organization;
 - (iii) a food retailer;
 - (iv) a licensed dietician;
 - (v) a county health department representative;
 - (vi) an urban farming representative;
 - (vii) a representative of a business engaged in the processing, packaging, or distribution of food;
 - (viii) an anti-hunger advocate; and
 - (ix) an academic with expertise in agriculture.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the commission.

(c) The cochairs may, with the consent of a majority of the council, appoint additional nonvoting members to the council who shall serve in a voluntary capacity.

(3) In appointing members to the council under Subsections (1)(e) through (g), the governor shall strive to take into account the geographical makeup of the council.

(4) A vacancy on the council [~~resulting from the council~~] shall be filled in the same manner in which the original appointment [~~was~~] is made.

(5) Compensation for a member of the council who is a legislator shall be paid in

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accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(6) Council members who are employees of the state shall receive no additional compensation.

(7) The Department of Agriculture and Food shall provide staff support for the council.

Section 3. Section **4-5-102** is amended to read:

4-5-102. Definitions.

As used in this chapter:

(1) "Advertisement" means a representation, other than by labeling, made to induce the purchase of food.

(2) (a) "Color additive":

(i) means a dye, pigment, or other substance not exempted under the federal act that, when added or applied to a food, is capable of imparting color; and

(ii) includes black, white, and intermediate grays.

(b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or other agricultural chemical that imparts color solely because of the chemical's effect, before or after harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of any plant life.

(3) (a) "Consumer commodity" means a food, as defined by this ~~[act]~~ chapter, or by the federal act.

(b) "Consumer commodity" does not include:

(i) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

(ii) a commodity subject to Title 4, Chapter 16, Utah Seed Act;

(iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

(iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec. 451 et seq.;

(v) a tobacco or tobacco product; or

(vi) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

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(4) "Contaminated" means not securely protected from dust, dirt, or foreign or injurious agents.

(5) (a) "Farm" means an agricultural operation, under management by one entity, that grows or harvests crops.

(b) "Farm" does not include an entity that is exempt under 21 C.F.R. 112.4(a)[;] or 21 C.F.R. 112.5[; ~~or 21 C.F.R. 117.3~~].

(6) "Farmers market" means a market where a producer of a food product sells only a fresh, raw, whole, unprocessed, and unprepared food item directly to the final consumer.

(7) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(8) "Food" means:

(a) an article used for food or drink for human or animal consumption or the components of the article;

(b) chewing gum or chewing gum components; or

(c) a food supplement for special dietary use [~~which~~] that is necessitated because of a physical, physiological, pathological, or other condition.

(9) (a) "Food additive" means a substance, the intended use of which results in the substance becoming a component, or otherwise affecting the characteristics, of a food.

(b) (i) "Food additive" includes a substance or source of radiation intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.

(ii) "Food additive" does not include:

(A) a pesticide chemical in or on a raw agricultural commodity;

(B) a pesticide chemical that is intended for use or is used in the production, storage, or transportation of a raw agricultural commodity; or

(C) a substance used in accordance with a sanction or approval granted pursuant to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.

(10) (a) "Food establishment" means a grocery store, bakery, candy factory, food processor, bottling plant, sugar factory, cannery, farm, rabbit processor, meat processor, flour mill, cold or dry warehouse storage, or other facility where food products are manufactured,

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canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.

(b) "Food establishment" does not include:

(i) a dairy farm, a dairy plant, or a meat establishment, that is subject to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.; or

(ii) a farmers market.

(11) "Label" means a written, printed, or graphic display on the immediate container of an article of food.

(12) "Labeling" means a label and other written, printed, or graphic display:

(a) on an article of food or the article of food's container or wrapper; or

(b) accompanying the article of food.

(13) "Official compendium" means the official documents or supplements to the:

(a) United States Pharmacopoeia;

(b) National Formulary; or

(c) Homeopathic Pharmacopoeia of the United States.

(14) (a) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of the consumer commodity to retail purchasers.

(b) "Package" does not include:

(i) a package liner;

(ii) a shipping container or wrapping used solely for the transportation of a consumer commodity in bulk or in quantity to a manufacturer, packer, processor, or wholesale or retail distributor; or

(iii) a shipping container or outer wrapping used by a retailer to ship or deliver a consumer commodity to a retail customer, if the container and wrapping bear no printed information relating to the consumer commodity.

(15) (a) "Pesticide" means a substance intended:

(i) to prevent, destroy, repel, or mitigate a pest, as defined under ~~[Subsection]~~ Section 4-14-102[(20)]; or

(ii) for use as a plant regulator, defoliant, or desiccant.

(b) "Pesticide" does not include:

(i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by

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the United States Secretary of Health and Human Services not to be a new animal drug by federal regulation establishing conditions of use of the drug; or

(ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal drug.

(16) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(17) "Produce" means a food that is a:

(a) fruit, vegetable, mix of intact fruits and vegetables, mushroom, sprout from any seed source, peanut, tree nut, or herb; and

(b) raw agricultural commodity.

(18) "Raw agricultural commodity" means a food in the food's raw or natural state, including all fruits that are washed, colored, or otherwise treated in the fruit's unpeeled, natural form [~~prior to~~] before marketing.

(19) "Registration" means the commissioner's issuance of a certificate to a qualified food establishment.

(20) "Sprout" means the shoot of a plant generally harvested when cotyledons are undeveloped or underdeveloped and mature leaves have not emerged.

Section 4. Section **4-5-103** is amended to read:

4-5-103. Adulterated food specified.

(1) A food is adulterated:

(a) if the food bears or contains a poisonous or deleterious substance in a quantity that may ordinarily render the food injurious to health;

(b) if the food bears or contains an added poisonous or added deleterious substance that is unsafe within the meaning of Subsection 4-5-204(1);

(c) except as provided in Subsection (3), if the food:

(i) is a raw agricultural commodity; and

(ii) bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec. 346a;

(d) if the food is, bears, or contains a food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

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(e) if the food consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance;

(f) if the food is otherwise unfit for food;

(g) if the food has been produced, prepared, packed, or held under unsanitary conditions whereby the food may have:

(i) become contaminated with filth; or

(ii) been rendered diseased, unwholesome, or injurious to health;

(h) if the food is, in whole or in part, the product of:

(i) a diseased animal;

(ii) an animal that has died other than by slaughter; or

(iii) an animal that has fed upon the uncooked offal from a slaughterhouse;

(i) if the food's container is composed, in whole or in part, of a poisonous or deleterious substance that may render the contents injurious to health;

(j) if the food [~~has been~~] is intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption in effect pursuant to Section 4-5-204, or 21 U.S.C. Sec. 348;

(k) if the food:

(i) is a meat or meat product; and

(ii) (A) is in a casing, package, or wrapper:

(I) through which a part of the casing, package, or wrapper's contents can be seen; and

(II) that is colored or has markings that are colored, so as to be misleading or deceptive with respect to the color, quality, or kind of food to which the color is applied; or

(B) contains or bears a color additive;

(l) if the food is produce and is in violation of [~~a provision of~~] 21 C.F.R. Part 112;

(m) if a valuable constituent [~~has been~~] is, in whole or in part, omitted or abstracted from a product and a substance [~~has been~~] is substituted wholly or in part;

(n) if damage or inferiority [~~has been~~] is concealed;

(o) if a substance [~~has been~~] is added, mixed, or packed with a product so as to:

(i) increase the product's bulk or weight;

(ii) reduce the product's quality or strength; or

(iii) make the product appear better or of greater value; or

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(p) if the food:

(i) is confectionery; and

(ii) (A) has partially or completely imbedded in the food a nonnutritive object, unless the department determines that the nonnutritive object:

(I) is of practical functional value to the confectionery product; and

(II) would not render the product injurious or hazardous to health;

(B) bears or contains alcohol, other than alcohol derived solely from the use of flavoring extracts, that does not exceed .05% by volume; or

(C) bears or contains a nonnutritive substance, unless:

(I) the nonnutritive substance is a safe nonnutritive substance that is in or on the confectionery for a practical functional purpose in the manufacture, packaging, or storing of the confectionery; and

(II) the use of the nonnutritive substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this chapter.

(2) The department may, for the purpose of avoiding or resolving uncertainty as to the application of Subsection (1)(p)(ii)(C), issue rules allowing or prohibiting the use of a particular nonnutritive substance.

(3) Notwithstanding [~~the provisions of~~] Section 4-5-204, the residue of a pesticide chemical remaining in or on a processed food is not considered unsafe if:

(a) the pesticide chemical is used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under 21 U.S.C. Sec. 346a;

(b) the residue of the pesticide chemical in or on the raw agricultural commodity is removed to the extent possible in good manufacturing practice;

(c) the raw agricultural commodity is subjected to processing such as canning, cooking, freezing, dehydrating, or milling; and

(d) the concentration of the residue in the processed food when ready to eat is no greater than the tolerance prescribed for the raw agricultural commodity.

Section 5. Section **4-5-104** is amended to read:

4-5-104. Authority to make and enforce rules.

(1) The department may adopt rules to efficiently enforce this chapter, and if practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug,

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and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(2) [~~Hearings~~] The department or an officer, agent, or employee designated by the department shall conduct a hearing authorized or required by this chapter [~~shall be conducted by the department or by an officer, agent, or employee designated by the department~~].

(3) (a) Except as provided by Subsection (3)(b), [~~all~~] pesticide chemical regulations [~~and their amendments now or hereafter~~] adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical regulations in this state.

(b) The department may adopt a rule that prescribes tolerance for pesticides in finished foods in this state whether or not in accordance with regulations [~~promulgated~~] made under the federal act.

(4) (a) Except as provided by Subsection (4)(b), [~~all~~] food additive regulations [~~and their amendments now or hereafter~~] adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the food additive regulations in this state.

(b) The department may adopt a rule that prescribes conditions under which a food additive may be used in this state whether or not in accordance with regulations [~~promulgated~~] made under the federal act.

(5) [~~All color~~] Color additive regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the color additive rules in this state.

(6) (a) Except as provided by Subsection (6)(b), [~~all~~] special dietary use regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the special dietary use rules in this state.

(b) The department may, if [~~it~~] the department finds it necessary to inform purchasers of the value of a food for special dietary use, prescribe special dietary use rules whether or not in accordance with regulations [~~promulgated~~] made under the federal act.

(7) (a) Except as provided by Subsection (7)(b), [~~all~~] regulations adopted under the Fair Packaging and Labeling Act, 15 U.S.C. Sec. 1453 et seq., shall be the rules in this state.

(b) Except as provided by Subsection (7)(c), the department may, if [~~it~~] the department finds it necessary in the interest of consumers, prescribe package and labeling rules for consumer commodities, whether or not in accordance with regulations [~~promulgated~~] made under the federal act.

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(c) The department may not adopt rules that are contrary to the labeling requirements for the net quantity of contents required according to 15 U.S.C. Sec. 1453(a)(4).

(8) (a) Except as provided by Subsection (8)(b), the preventive control for human food regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the preventive controls for the state.

(b) The department may adopt a rule that prescribes preventive controls in this state whether or not in accordance with regulations made under the federal act except that the rule may not be more stringent than the federal law.

(9) (a) Except as provided by Subsection (9)(b), the standards for the growing, harvesting, packaging, and holding of produce for human consumption regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the standards for the state.

(b) The department may adopt a rule that prescribes standards for the growing, harvesting, packaging, and holding of produce for human consumption in this state whether or not in accordance with regulations made under the federal act except that the rule may not be more stringent than the federal law.

~~[(8)]~~ (10) (a) A federal regulation automatically adopted according to this chapter takes effect in this state on the date ~~[it]~~ the federal regulation becomes effective as a federal regulation.

(b) The department shall publish all other proposed rules in publications prescribed by the department.

(c) (i) A person who may be adversely affected by a rule may, within 30 days after a federal regulation is automatically adopted, or within 30 days after publication of any other rule, file with the department, in writing, objections and a request for a hearing.

(ii) The timely filing of substantial objections to a federal regulation automatically adopted stays the effect of the rule.

(d) (i) If no substantial objections are received and no hearing is requested within 30 days after publication of a proposed rule, it shall take effect on a date set by the department.

(ii) The effective date shall be at least 60 days after the time for filing objections has expired.

(e) (i) If timely substantial objections are made to a federal regulation within 30 days

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after [it] the federal regulation is automatically adopted or to a proposed rule within 30 days after [it] the proposed rule is published, the department, after notice, shall conduct a public hearing to receive evidence on the issues raised by the objections.

(ii) [~~Any~~] An interested person or the person's representative may be heard.

(f) (i) The department shall act upon objections by order and shall mail the order to objectors by certified mail as soon after the hearing as practicable.

(ii) The order shall be based on substantial evidence in the record of the hearing.

(g) (i) If the order concerns a proposed rule, [it] the department may withdraw [it] the proposed rule or set an effective date for the rule as published or as modified by the order.

(ii) The effective date shall be at least 60 days after publication of the order.

[~~(9)~~] (11) Whenever a regulation is [~~promulgated~~] made under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the tolerances established by the department under this chapter shall immediately conform to the standards established by the Federal Food and Drug Administration as herein provided and shall remain the same until the department determines that for reasons peculiar to Utah a different rule should apply.

Section 6. Section **4-13-102** is amended to read:

4-13-102. Definitions.

As used in this chapter:

(1) "Adulterated fertilizer" means [~~any commercial~~] a fertilizer or soil amendment that:

(a) contains [an ingredient that renders] a deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with the directions for use on the label[~~;~~or];

(b) has a composition that falls below or differs from that which the composition is purported to possess by the composition's labeling;

(c) contains unwanted crop or weed seed[~~;~~or is inadequately labeled to protect plant life.]; or

(d) exceeds levels of metals permitted by the United States Environmental Protection Agency.

(2) "Beneficial substances or compounds" means a substance or compound other than primary, secondary, and micro plant nutrients that can be demonstrated by scientific research to

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be beneficial to one or more species of plants when applied exogenously.

(3) "Biostimulant" means a product containing naturally-occurring substances and microbes that are used to stimulate plant growth, enhance resistance to plant pests, and reduce abiotic stress.

(4) "Blender" means a person engaged in the business of blending or mixing fertilizer, soil amendments, or both.

~~[(2)]~~ (5) "Brand" means [any] a term, design, or trade mark used in connection with one or several grades of [commercial] fertilizer or soil amendment.

~~[(3) "Commercial fertilizer" means any substance that contains one or more recognized plant nutrients that is used for its plant nutrient content and is designed for use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule of the department.]~~

(6) "Bulk fertilizer" means fertilizer delivered to the purchaser either in solid or liquid state in a non-packaged form to which a label cannot be attached.

(7) "Custom blend" means a fertilizer blended according to specification provided to a blender in a soil test nutrient recommendation or to meet the specific consumer request before blending.

(8) "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed.

(9) "Derivation" means the source from which the guaranteed nutrients are derived.

(10) "Distribute" means to import, consign, manufacture, produce, compound, mix, blend, or to offer for sale, sell, barter, or supply fertilizer or soil amendments in the state.

~~[(4)]~~ (11) "Distributor" means [any] a person who[:] distributes.

~~[(a) imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer;]~~

~~[(b) imports, consigns, manufactures, produces, compounds, sizes, or blends a soil amendment; or]~~

~~[(c) offers for sale, sells, barters, or otherwise supplies commercial fertilizer or a soil amendment in this state.]~~

(12) "Fertilizer" means a substance that contains one or more recognized plant

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nutrients that is used for the substance's plant nutrient content and is designed for use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule.

~~[(5)]~~ (13) "Fertilizer material" means a ~~[commercial]~~ fertilizer that contains ~~[either]~~:

(a) quantities of no more than one of the primary plant nutrients ~~[(nitrogen, phosphoric acid and potash)]~~, nitrogen (N), phosphate (P₂O₅), Potash (K₂O);

(b) ~~[approximately]~~ 85% plant nutrients in the form of a single chemical compound; or

(c) plant or animal residues or by-products, or a natural material deposit that is processed so that its primary plant nutrients have not been materially changed, except through purification and concentration.

~~[(6)]~~ (14) "Grade" means the percentage of total nitrogen, available ~~[phosphorus or phosphoric acid, and soluble potassium or]~~ phosphate and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis~~[, provided,]~~ if that specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash and that fertilizer materials such as bone meal, manures, and similar raw materials may be guaranteed in fractional units.

~~[(7)]~~ (15) (a) "Guaranteed analysis" means the minimum percentage by weight of plant nutrients claimed in the following order and form:

Total ~~[nitrogen]~~ Nitrogen (N) _____ percent

Available ~~[phosphoric acid (P₀)]~~ Phosphate _____ percent

(P₂O₅)

Soluble ~~[potash (K₀)]~~ Potash (K₂O) _____ percent

(b) For unacidulated mineral phosphatic ~~[materials]~~ material and basic slag, bone, tankage, and other organic ~~[phosphate materials, it means the total phosphoric acid]~~ phosphate or degree of fineness may also be guaranteed.

~~[(c) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds per ton, when required by rule.]~~

~~[(d)]~~ (c) (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rule of the department.

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(ii) The guarantees for such other nutrients shall be expressed in the form of the element.

(iii) The sources of such other nutrients, such as oxides, salt, chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label.

(iv) Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department.

(v) Any plant nutrients or other substances or compounds guaranteed are subject to inspection and analysis in accord with the methods and rules prescribed by the department.

~~[(8)]~~ (16) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of ~~[commercial]~~ fertilizer or soil amendment.

~~[(9)]~~ (17) "Label" means the display of ~~[all]~~ the written, printed, or graphic matter upon the immediate container or statement accompanying a ~~[commercial]~~ fertilizer or soil amendment.

~~[(10)]~~ (18) "Labeling" means ~~[all]~~ the written, printed, or graphic matter upon or accompanying ~~[any commercial]~~ fertilizer or soil amendment, or advertisements, brochures, posters, television and radio announcements used in promoting the sale of ~~[such commercial]~~ fertilizers or soil amendments.

(19) "Lot" means a definite quantity identified by a combination of numbers, letters, characters, or amount represented by a weight certificate from which every part is uniform within recognized tolerances from which the distributor can be determined.

(20) "Micro plant nutrient" means boron, chlorine, cobalt, copper, iron, manganese, molybdenum, nickel, sodium, and zinc.

~~[(11)]~~ (21) "Mixed fertilizer" means a ~~[commercial]~~ fertilizer containing any combination or mixture of fertilizer materials.

(22) "Nonplant food ingredient" means a substance or compound other than the primary, secondary, or micro nutrients.

~~[(12)]~~ (23) "Official sample" means ~~[any]~~ a sample of ~~[commercial]~~ fertilizer or soil amendment taken by the department and designated as "official."

(24) "Other ingredients" means the non-soil amending ingredients present in soil

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amendments.

~~[(13)]~~ (25) "Percent" or "percentage" means the percentage by weight.

(26) "Plant amendment" means a substance applied to plants or seeds that is intended to improve growth, yield, product quality, reproduction, flavor, or other favorable characteristics of plants except fertilizer, soil amendments, agricultural liming materials, animal and vegetable manure, pesticides, or plant regulators.

(27) "Primary nutrient" includes total nitrogen, available phosphate, and soluble potash.

~~[(14)]~~ (28) "Registrant" means ~~[any]~~ a person who registers a ~~[commercial]~~ fertilizer or a soil amendment under ~~[the provisions of]~~ this chapter.

~~[(15)(a)]~~ "Soil amendment" means ~~any substance that is intended to improve the physical characteristics of soil.~~

~~[(b)]~~ "Soil amendment" does not include ~~any commercial fertilizer, agriculture liming materials, unmanipulated animal manure, unmanipulated vegetable manure, pesticides, or other material exempt by rule of the department.~~

(29) "Secondary nutrient" includes calcium, magnesium, and sulfur.

(30) "Slow release fertilizer" means a fertilizer in a form that releases, or converts to a plant-available form, plant nutrients at a slower rate relative to an appropriate reference soluble product.

(31) "Soil amending ingredient" means a substance that will improve the physical, chemical, biochemical, biological, or other characteristics of the soil.

(32) "Soil amendment" means a substance or a mixture of substances that is intended to improve the physical, chemical, biochemical, biological, or other characteristics of the soil, except fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, or pesticides.

~~[(16)]~~ (33) "Specialty fertilizer" means ~~[any commercial]~~ fertilizer distributed primarily for non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

~~[(17)]~~ (34) "Ton" means a net weight of 2,000 pounds avoirdupois.

Section 7. Section **4-13-103** is amended to read:

4-13-103. Distribution of fertilizer or soil amendment -- Registration required --

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Application -- Fees -- Expiration -- Renewal -- Exemptions specified -- Blenders and mixers.

(1) (a) ~~[Each]~~ A brand and grade of ~~[commercial]~~ fertilizer or soil amendment shall be registered in the name of the person whose name appears upon the label before being distributed in this state.

(b) The application for registration shall be submitted to the department on a form prescribed and furnished by ~~[it]~~ the department, and shall be accompanied by a fee determined by the department pursuant to Subsection 4-2-103(2) for each brand and grade.

(c) Upon approval by the department, a copy of the registration shall be furnished to the applicant.

(d) (i) ~~[Each]~~ A registration expires at midnight on December 31 of the year in which issued.

(ii) ~~[Each]~~ A registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

(iii) ~~[Each]~~ A renewal fee shall be paid on or before December 31 of each year.

~~[(2) The application for registration shall include the following information:]~~

~~[(a) the net weight;]~~

~~[(b) the brand and grade;]~~

~~[(c) the guaranteed analysis;]~~

~~[(d) the name and address of the registrant; and]~~

~~[(e) any other information as the department may prescribe by rule.]~~

~~[(3)]~~ (2) A distributor is not required to register ~~[any commercial fertilizer which]~~ fertilizer that has been registered by another person under this chapter if the label does not differ in any respect.

~~[(4)]~~ (3) (a) A ~~[distributor]~~ blender is not required to register each grade of ~~[commercial]~~ fertilizer or soil amendment formulated according to specifications provided by a consumer before mixing, but is required to:

(i) ~~[register]~~ license the name under which the business of blending or mixing is conducted;

(ii) pay an annual blenders license fee determined by the department pursuant to

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Subsection 4-2-103(2); and

(iii) label the ~~[mixed]~~ fertilizer or soil amendment as provided in Section 4-13-104.

(b) (i) A blenders license ~~[shall expire]~~ expires at midnight on December 31 of the year in which ~~[it]~~ the license is issued.

(ii) A blenders license is renewable for a period of one year upon the payment of an annual license renewal fee in an amount equal to the current applicable original blenders license fee.

(iii) ~~[Each]~~ A renewal fee shall be paid on or before December 31 of each year.

~~[(5)]~~ (4) (a) A tonnage fee shall be assessed on fertilizer and soil amendment products sold in the state.

(b) The fee shall be ~~[(i)]~~ determined by the department pursuant to Subsection 4-2-103(2) ~~[, and]~~.

~~[(ii) paid by the manufacturer or distributor on a schedule specified by rule.]~~

(c) When more than one person is involved in the distribution of a fertilizer or soil amendment, the final person who has the fertilizer or soil amendment registered and distributed to a non-registrant or consumer is responsible for reporting the tonnage and paying the tonnage fee, unless the report and payment is made by a prior distributor of the fertilizer or soil amendment.

(d) The tonnage report shall be submitted on a form provided by the department on or before December 31 annually covering shipments made during the preceding 12-month period from November 1 to October 31.

~~[(e)]~~ (e) Revenue generated by the fee shall be deposited ~~[in]~~ into the General Fund as dedicated credits to be used by the department for education and research about and promotion of proper fertilizer and soil amendment distribution, handling, and use.

Section 8. Section **4-13-104** is amended to read:

4-13-104. Labeling requirements for fertilizer and soil amendments specified.

(1) A container of fertilizer distributed in this state shall bear a label in clearly legible and conspicuous form setting forth the:

(a) brand name and grade;

(b) guaranteed analysis, except that:

(i) sources of nutrients, when shown on the label, shall be listed below the completed

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guaranteed analysis in order of predominance;

(ii) guarantees of zeros may not be made and may not appear in statement except in nutrient guarantee breakdowns; and

(iii) if chemical forms of nitrogen are claimed or required, the form shall be shown, but no implied order of the forms of nitrogen is intended;

(c) derivation statement of guaranteed nutrients, nonplant food ingredients, and beneficial substances or compounds if present;

(d) directions for use when applicable;

(e) caution or warning statement when applicable;

(f) name and address of the registrant or the manufacturer, if different from the registrant;

(g) net weight or volume; and

(h) lot number.

[(1)] (2) [Each] A container of specialty [commercial] fertilizer distributed in this state shall bear a label in clear, legible, and conspicuous form setting forth the information specified in Subsections (1)(a) through (h).

[(a) its net weight;]

[(b) brand and grade;]

[(c) guaranteed analysis;]

[(d) the name and address of the registrant; and]

[(e) the lot number.]

[(2)(a) Each bulk shipment of commercial fertilizer distributed in this state shall be accompanied by a printed or written statement setting forth the information specified in Subsections (1)(a) through (e).]

[(b) The statement shall be delivered to the purchaser at the time the bulk fertilizer is delivered.]

[(3) Each sale of packaged mixed fertilizer shall be labeled, or labeling furnished the consumer, to show its net weight, guaranteed analysis, lot number, and the name and address of the distributor.]

[(4)(a) Each container of soil amendment shall conform to the requirements of Subsection (1), and if distributed in bulk, with Subsection (2).]

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~~[(b) The name or chemical designation and content of the soil amending ingredient or any other information prescribed by rule of the department shall appear whether distributed in a container or in bulk.]~~

(3) A shipment of custom blend fertilizer shall be accompanied by a printed or written statement setting forth the:

- (a) information specified in Subsections (1)(a) through (c);
- (b) name and address of the licensed blender;
- (c) net weight or volume; and
- (d) lot number.

(4) A shipment of fertilizer material shall be accompanied by a printed or written statement setting forth the:

- (a) information specified in Subsections (1)(a) through (c);
- (b) name and address of the registrant if different from the supplier or shipper;
- (c) net weight or volume; and
- (d) lot number.

(5) The grade is not required on a fertilizer label when no primary nutrients are claimed or are less than one percent.

(6) Additional nutrient guarantees may not be an extension of the grade statement and shall be a separate line or include terms such as "plus," "with," or "including."

(7) A soil amendment distributed in the state shall bear a label in clearly legible and conspicuous form setting forth the:

- (a) brand name;
- (b) guaranteed analysis, which includes:
 - (i) nonplant food ingredients separated out by soil amending ingredients and other total ingredients, in that order, by percentages; and
 - (ii) nonsoil amending ingredients separating out beneficial substances and beneficial compounds, in that order, by percentage or acceptable units;
- (c) purpose of product;
- (d) direction for application;
- (e) caution or warning statement when applicable;
- (f) name and address of registrant; and

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(g) net weight or volume.

(8) The department may require proof of claims made, usefulness, and value of the soil amendments.

(9) For evidence of proof the department may rely on experimental data, evaluations, or advice supplied from such sources as the director of the Agricultural Experiment Station. The experimental design shall be related to state conditions for which the product is intended.

(10) Information or a statement may not appear on a package, label, delivery slip, or advertising matter that is false or misleading to the purchaser as to the use, value, quality, analysis, type, or composition of the soil amendment.

(11) A fertilizer is misbranded if:

(a) the fertilizer's labeling is false or misleading in any particular;

(b) the fertilizer is distributed under the name of another fertilizer product;

(c) the fertilizer is not labeled as required; or

(d) the fertilizer purports to be or is represented as fertilizer, or is represented as containing a plant nutrient fertilizer that does not conform with the definition of identity or any commonly accepted definitions of official fertilizer terms.

Section 9. Section **4-13-105** is amended to read:

4-13-105. Enforcement -- Inspection and samples authorized -- Methods for sampling and analysis prescribed -- Warrants.

(1) The department shall periodically sample, inspect, analyze, and test [commercial] fertilizers and soil amendments distributed within this state to determine if they comply with this chapter.

~~[(2) Methods of analysis and sampling shall be in accordance with those adopted by the department from sources such as the Association of Official Analytical Chemists Journal.]~~

(2) (a) The methods of sampling and analysis shall be those adopted by the AOAC International.

(b) In a case not covered by the methods adopted under Subsection (2)(a), or in a case when a method is available in which improved applicability has been demonstrated, the department may adopt appropriate methods from other sources.

(3) In determining whether a [commercial] fertilizer or soil amendment is deficient, the department shall be guided solely by the official sample.

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(4) (a) The department [~~is authorized to~~] may enter any public or private premises or carriers during regular business hours [~~in order~~] to have access to [~~commercial~~] fertilizers or soil amendments and records relating to the distribution of fertilizers and soil amendments subject to this chapter.

(b) If admittance is refused, the department may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

(5) The department shall distribute the results of an official sample.

(6) The department shall retain an official sample for a minimum of 90 days from the issuance of a report.

Section 10. Section ~~4-13-106~~ is amended to read:

4-13-106. Distribution of fertilizers not complying with labeling requirements prohibited -- Penalty assessed -- Court action to vacate or amend finding authorized.

(1) [~~No~~] A person [~~shall~~] may not distribute in this state a [~~commercial~~] fertilizer, fertilizer material, soil amendment, or specialty fertilizer if the official sample thereof establishes that the [~~commercial~~] fertilizer, fertilizer material, soil amendment, or specialty fertilizer is deficient in the nutrients or ingredients guaranteed on the label by an amount exceeding the values established by rule [~~or if the overall index value of the official sample is below the level established by rule~~].

~~[(2) If an official sample, after analysis, demonstrates the guaranteed analysis is deficient in one or more of its primary plant foods (NPK) beyond the investigational allowance prescribed by rule, or if the over-all index value of the official sample is below the level established by rule, a penalty of three times the commercial value of the deficiency or deficiencies of the lot represented by the official sample may be assessed against the registrant.]~~

~~[(3) All penalties assessed under this section shall be paid to the department within three months after notice from the department.]~~

(2) The department shall evaluate and take administrative action the department prescribes for a deficiency beyond the investigational allowances established by the department.

~~[(4)]~~ (3) [~~Any~~] A registrant aggrieved by the finding of an official sample deficiency

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may file a complaint with a court of competent jurisdiction to vacate or amend the finding of the department.

Section 11. Section **4-13-108** is amended to read:

4-13-108. Denial, suspension, or revocation authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Costs.

(1) The department may deny, revoke, or suspend the license for a blender or the registration of [any] a brand of [commercial] fertilizer or soil amendment~~[, or refuse to register any brand of commercial fertilizer or soil amendment]~~ upon satisfactory evidence that the licensee or registrant has used fraudulent or deceptive practices in licensure, registration, or distribution in this state.

(2) (a) The department may issue a "stop sale, use, or removal order" to the owner or person in possession of any designated lot of [commercial] fertilizer or soil amendment ~~[which it]~~ that the department finds or has reason to believe is being offered or exposed for sale in violation of this chapter.

(b) The order shall be in writing and [no commercial] fertilizer or soil amendment subject to ~~[it shall]~~ the order may not be moved or offered or exposed for sale, except upon the subsequent written release of the department.

(c) Before a release is issued, the department may require the owner or person in possession of the "stopped" lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.

(3) (a) The department ~~[is authorized]~~ may seek in a court of competent jurisdiction ~~[to seek]~~ an order of seizure or condemnation of ~~[any fertilizer which]~~ any fertilizer that violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction, to prevent violation of this chapter.

(b) ~~[No]~~ A bond ~~[shall]~~ may not be required of the department in any injunctive proceeding under this section.

(4) If condemnation is ordered, the fertilizer or soil amendment shall be disposed of as the court directs~~[; provided, that in no event shall it],~~ except that the court may not order condemnation without giving the claimant of the fertilizer or soil amendment an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the product into conformance, or to remove ~~[it]~~ the fertilizer or soil amendment from the state.

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(5) If the court orders condemnation of the [commercial] fertilizer or soil amendment, court costs, fees, storage, and other expenses shall be awarded against the claimant of the fertilizer or soil amendment.

Section 12. Section **4-13-109** is amended to read:

4-13-109. Sales or exchanges of fertilizers or soil amendments between manufacturers, importers, or manipulators permitted.

[Nothing in this] This chapter [shall] ~~may not~~ be construed to restrict or avoid sales or exchanges of [commercial] fertilizers or soil amendments to each other by importers, manufacturers, or manipulators who mix fertilizer or soil amendment materials for sale or as preventing the free and unrestricted shipment of [commercial] fertilizer or soil amendments to manufacturers or manipulators who have registered their brands as required by this chapter.

Section 13. Section **4-13-110** is enacted to read:

4-13-110. Department may make and enforce rules -- Cooperation with state and federal agencies authorized.

(1) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and enforce the rules to administer and enforce this chapter.

(b) The department shall by rule adopt the official terms, tables, definitions, and statements adopted by the Association of American Plant Food Control officials and published in the official publications of that organization.

(2) The department may enter into agreements with other agencies of the state, other states, and agencies of the federal government to administer and enforce this chapter.

(3) The department may use the following terms in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to the extent that the department is authorized to make rules by a provision other than this Subsection (3):

- (a) biostimulant;
- (b) bulk fertilizer;
- (c) plant amendment;
- (d) secondary nutrient; and
- (e) slow release fertilizer.

Section 14. Section **4-23-106** is amended to read:

4-23-106. Department to issue licenses and permits -- Department to issue

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aircraft use permits -- Aerial hunting.

(1) The department is responsible for the issuance of permits and licenses for the purposes of the federal Fish and Wildlife Act of 1956.

(2) A private person may not use ~~[any]~~ an aircraft for the prevention of damage without first obtaining a use permit from the department.

(3) The department may issue an annual permit for aerial hunting to a private person for the protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, if the person shows that the person or the person's designated pilot, along with the aircraft to be used in the aerial hunting, are licensed and qualified in accordance with the requirements of the department set by rule.

(4) The department may predicate the issuance or retention of a permit for aerial hunting upon the permittee's full and prompt disclosure of information as the department may request for submission pursuant to rules made by the department.

(5) The department shall collect an annual fee, set in accordance with Section 63J-1-504, from a person who has an aircraft for which a permit is issued or renewed under this section.

(6) Aerial hunting activity under a permit issued by the department is restricted to:

(a) (i) private lands that are owned or managed by the permittee;

(ii) state grazing allotments where the permittee is permitted by the state or the State Institutional Trust Lands Administration to graze livestock; or

(iii) federal grazing allotments where the permittee is permitted by the United States Bureau of Land Management or United States Forest Service to graze livestock; and

(b) only during the time period ~~[: (i) for purposes of Subsection (6)(a)(ii) or (iii), that under an active permit the permittee may graze or run livestock on the land, and (ii)]~~ for which the private land owner has provided written permission for the aerial hunting.

(7) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to carry out the purpose of this section.

(8) The issuance of an aerial hunting permit or license under this section does not authorize the holder to use aircraft to hunt, pursue, shoot, wound, kill, trap, capture, or collect protected wildlife, as defined in Section 23-13-2, unless also authorized by the Division of Wildlife Resources under Section 23-20-12.

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Section 15. Section 4-24-304 is amended to read:

4-24-304. Brand inspection required before slaughter -- Exceptions.

(1) Except as provided in ~~[Subsection]~~ Subsections (2) and (3), a brand inspection is required before any cattle, calves, horses, domesticated elk, or mules are slaughtered.

(2) (a) A person may slaughter cattle, calves, horses, or mules for that person's own use without a brand inspection if the requirements of Section 4-32-106 are met.

(b) The department may authorize a custom exempt slaughter facility or a farm custom slaughter licensee to verify ownership of cattle, calves, horses, or mules before slaughter for the owner's use.

(c) A custom exempt slaughter facility or farm custom slaughter licensee authorized by the department, shall verify ownership of cattle, calves, horses, or mules before slaughter for the owner's use.

(d) If the department has reason to believe that a licensee or registrant is or has engaged in conduct that violates this chapter, the department shall issue a notice of agency action pursuant to Section 4-1-106.

(3) The department may authorize a state or department employee to verify ownership of cattle or calves at a licensed meat establishment before slaughter, if there is no change in ownership of the cattle or calves.

Section 16. Section 4-24-308 is amended to read:

4-24-308. Brand inspection fees.

(1) The department with the approval of the Livestock Brand Board may set and collect a fee for the:

(a) issuance of any certificate of brand inspection[-];

(b) verification of ownership at a custom exempt slaughter facility before slaughter for the owner's use;

(c) verification of ownership by a farm custom slaughter licensee before slaughter for the owner's use; or

(d) verification of ownership by a state or department employee at a meat establishment where there is no transfer of ownership.

(2) Brand inspection fees incurred for the inspection of such animals at a livestock market may be withheld by the market and paid from the proceeds derived from their sale.

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(3) The fee shall be determined by the department pursuant to Subsection 4-2-103(2).

Section ~~{15}~~17. Section **17D-3-102** is amended to read:

17D-3-102. Definitions.

As used in this chapter:

(1) "Commission" means the Conservation Commission, created in Section 4-18-104.

(2) "Commissioner" means the commissioner of the department.

~~[(2)]~~ (3) "Conservation district" means a limited purpose local government entity, as described in Section 17D-3-103, that operates under, is subject to, and has the powers set forth in this chapter.

~~[(3)]~~ (4) "Department" means the Department of Agriculture and Food, created in Section 4-2-102.

Section ~~{16}~~18. Section **17D-3-103** is amended to read:

17D-3-103. Conservation district status, authority, and duties.

(1) A conservation district created under this chapter:

- (a) is a body corporate and politic;
- (b) is a political subdivision of the state; and
- (c) may sue and be sued.

(2) (a) A conservation district may:

(i) survey, investigate, and research soil erosion, floodwater, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;

(ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;

(iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;

(iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;

(v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;

(vi) enter into a contract in the name of the conservation district;

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(vii) receive money from:

(A) a federal or state agency;

(B) a county, municipality, or other political subdivision of the state; or

(C) a private source;

(viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:

(A) the observance of particular methods of cultivation;

(B) the use of specific crop programs and tillage practices;

(C) the avoidance of tilling and cultivating highly erosive areas where erosion may not be adequately controlled if cultivated;

(D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other structures; and

(E) the development or restoration, or both, of range or forest lands or other natural resources, whether in private, state, or federal ownership;

(ix) plan watershed and flood control projects in cooperation with local, state, and federal authorities, and coordinate flood control projects in the state;

(x) make recommendations for county and municipal land use authorities within the conservation district to consider with respect to land use applications and other development proposals;

(xi) employ clerical and other staff personnel, including legal staff, subject to available [~~funds~~] money; and

(xii) perform any other act that the board of supervisors considers necessary or convenient for the efficient and effective administration of the conservation district.

(b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to the consent of:

(i) the land occupier or owner; and

(ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103, the director of the School and Institutional Trust Lands Administration, in accordance with Sections 53C-1-102 and 53C-1-303.

(c) (i) [~~Each~~] A recommendation under Subsection (2)(a)(viii) shall be uniform throughout the conservation district or, if the board of supervisors classifies land under

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Subsection (2)(c)(ii), throughout each land classification.

(ii) The board of supervisors may uniformly classify land within the conservation district with respect to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or other relevant factors.

(3) (a) ~~[Each]~~ A conservation district shall annually submit to the commission, no later than the date that the commission prescribes:

- (i) a copy of the minutes of each conservation district meeting;
- (ii) a copy of the conservation district's annual work plan; and
- (iii) an accounting of the conservation district's financial affairs, as provided in

Subsection (3)(b).

(b) The accounting required under Subsection (3)(a)(iii) shall:

- (i) be prepared by a disinterested person; and
- (ii) show the conservation district's debits and credits, including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand.

(4) (a) ~~[Each]~~ A conservation district shall register and maintain the conservation district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A conservation district that fails to comply with Subsection (4)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section ~~{17}~~19. Section **17D-3-203** is amended to read:

17D-3-203. Considerations in determining whether to approve conservation district creation, consolidation, division, or dissolution -- Denial or approval -- Notice and plat to lieutenant governor -- Recording requirements -- Prohibition against considering similar creation, consolidation, division, or dissolution if previously denied.

(1) In determining whether to approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, the commission shall consider:

- (a) the demonstrated necessity and administrative practicality of the creation, consolidation, division, or dissolution;
- (b) the topography of and soil compositions and prevailing land use practices within the area of the proposed or existing conservation district or districts;

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(c) the hydrologic unit code of the watershed in which the area of the proposed or existing conservation district or districts is located;

(d) the relationship of the area of the proposed or existing conservation district or districts to existing watersheds and agricultural regions; and

(e) the sentiment expressed by persons within the area of the proposed or existing conservation district or districts with respect to the proposed creation, consolidation, division, or dissolution.

(2) After holding a public hearing as required under Subsection 17D-3-201(2)(b) and considering the factors listed in Subsection (1), the commission shall:

(a) (i) disapprove the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, [~~as the case may be,~~] if the commission determines that creation, consolidation, division, or dissolution is not necessary or administratively practical; or

(ii) approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, [~~as the case may be,~~] if the commission determines that creation, consolidation, division, or dissolution is necessary and administratively practical; and

(b) set forth in writing the reasons for the commission's action.

(3) (a) If the commission approves the creation, consolidation, division, or dissolution, the commission shall:

(i) deliver to the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5:

(A) if the conservation district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

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(Bb) certificate of boundary action; and

(Cc) except in the case of dissolution, approved final local entity plat; and

(II) a certified copy of the document that the commission adopted approving the boundary action; or

(B) if the conservation district is or, in the case of a dissolution, was located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the document that the commission adopted approving the boundary action; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the document that the commission adopted approving the boundary action.

(b) Upon the lieutenant governor's issuance of the certificate of creation, consolidation, division, or dissolution under Section 67-1a-6.5, [~~as the case may be,~~] the conservation district is created and incorporated, consolidated, divided, or dissolved, respectively.

(4) If the commission disapproves a creation, consolidation, division, or dissolution under Subsection (2)(a)(i), the commission may not, for six months following the denial, consider a similar proposal to create, divide, or dissolve the conservation district or to consolidate the conservation districts, as the case may be.

Section ~~18~~20. Section **17D-3-301** is amended to read:

17D-3-301. Board of supervisors -- Number -- Term -- Chair and officers -- Quorum -- Compensation.

(1) [~~Each~~] A board of supervisors shall govern a conservation district [~~shall be governed by a board of supervisors~~].

(2) [~~(a)~~] The board of supervisors of a conservation district consists of five members [~~elected~~] appointed as provided in this part, at least three of whom shall be private agricultural land operators.

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~~[(b) If the board of supervisors divides the conservation district into watershed voting areas under Section 17D-3-308, at least one member of the board of supervisors shall reside within each watershed voting area.]~~

(3) (a) ~~[The]~~ Subject to Subsection (3)(c), the term of office of ~~[each]~~ a member of a board of supervisors is four years.

(b) Notwithstanding Subsection (3)(a), if multiple conservation districts are consolidated or a single conservation district divided or dissolved under Part 2, Creation, Consolidation, Division, and Dissolution of Conservation Districts:

(i) the term of each member of the board of supervisors of the consolidated conservation districts or the divided or dissolved conservation district terminates immediately upon consolidation, division, or dissolution; and

(ii) (A) ~~the [commission shall hold an election]~~ commissioner shall appoint a new board of supervisors, as provided in this part, ~~[for all board of supervisors members of]~~ for the consolidated conservation district or divided conservation districts, as the case may be; and

(B) subject to Subsection (3)(c), the term of [the two candidates receiving the highest number of votes at an election under Subsection (3)(b)(ii)(A) shall be four years, and the term of the three candidates receiving the next highest number of votes shall be two years] office of a member of the board of supervisors appointed is four years.

(c) Notwithstanding the other provisions of this Subsection (3), the commissioner may, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) The board of supervisors shall elect a chair from among their number for a term of one year, and may elect other officers from among their number that the board considers necessary.

(5) A majority of the board of supervisors constitutes a quorum for the transaction of board business, and action by a majority of a quorum present at a meeting of the board constitutes action of the board.

(6) For performing official duties, ~~[each]~~ a member of the board of supervisors of a conservation district shall receive:

(a) per diem and travel expenses in accordance with Section 11-55-103; and

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(b) actual and necessary expenses as determined by the department.

Section ~~{19}~~21. Section **17D-3-302** is amended to read:

17D-3-302. Board of supervisors members to be appointed -- Candidates nominated by nominating committee -- Candidate qualifications -- Nomination committee.

(1) As provided in this part, ~~[each]~~ the commissioner shall appoint a member of a board of supervisors of a conservation district ~~[shall be elected at large within the conservation district]~~ from candidates nominated by ~~[(a)]~~ a nominating committee consisting of:

~~[(i)]~~ (a) the chair of the commission or council of the county in which the conservation district is located;

~~[(ii)]~~ (b) the chair of the USDA Farm Service Agency Committee of the county in which the conservation district is located;

~~[(iii)]~~ ~~(A)~~ (c) (i) the chair of the board of supervisors of the conservation district; or

~~[(B)]~~ (ii) the chair's designee, if the chair wishes to be a candidate for ~~[reelection;]~~ reappointment; and

~~[(iv)]~~ (d) the agricultural extension service designated representative of the county in which the conservation district is located~~[-or]~~.

~~[(b) petition under Section 17D-3-304.]~~

(2) The commissioner may remove an individual from the nominating committee upon the request of the group the individual represents.

~~[(2)]~~ (3) ~~[Each candidate for election]~~ A candidate for appointment to the board of supervisors of a conservation district shall be:

(a) at least 18 years of age; and

(b) a resident within the conservation district.

Section ~~{20}~~22. Section **17D-3-303** is amended to read:

17D-3-303. Nominating committee nomination of candidates for appointment to the board of supervisors.

The nominating committee under Subsection 17D-3-302(1)~~[(a)]~~ shall:

(1) nominate for ~~[each]~~ a conservation district ~~[election]~~ a slate of candidates for ~~[election]~~ appointment to the board of supervisors of the conservation district equal or greater in number to ~~[at least one more than]~~ the number of board of supervisors members to be

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[elected] appointed; and

(2) submit the names of candidates to the [~~commission~~] commissioner no later than the date set by the commission as the close of nominations.

Section ~~{21}~~23. Section **17D-3-304** is amended to read:

17D-3-304. Petition to nominate candidates for appointment to the board of supervisors.

(1) [A] In addition to the procedure in Section 17D-3-302, a person may be nominated to be a candidate for [election] appointment as a member of a board of supervisors of a conservation district by a petition filed with the [~~commission~~] department no later than the date set by the commission as the close of nominations.

(2) [~~Each~~] A petition under Subsection (1) shall~~[(a)]~~ state:

[~~(i)~~] (a) the candidate's name;

[~~(ii)~~] (b) that the candidate is at least 18 years of age; [~~and~~]

[~~(iii)~~] (c) that the candidate for appointment is a resident of the conservation district for which the [~~election~~] nomination for candidacy is to be held; and

[~~(b)~~] (d) contain the [~~signatures of at least six persons who reside and are registered voters within the conservation district, and (c) list the name, address, and voting precinct number of each person who signs the petition.~~] notarized signature of the candidate.

(3) The department shall forward a petition received under this section to the nominating committee for consideration under Sections 17D-3-302 and 17D-3-303.

Section ~~{22}~~24. Section **17D-3-305** is amended to read:

17D-3-305. Setting the date of nomination of the board of supervisors -- Notice requirements.

(1) The commission shall set the date of the [~~election~~] nomination of members of the board of supervisors of a conservation district.

(2) The commission shall publish notice of the [~~election~~] nomination day described in Subsection (1):

(a) (i) in a newspaper of general circulation within the conservation district at least once, no later than four weeks before the day of the [~~election~~] nomination; or

(ii) if there is no newspaper of general circulation in the conservation district, at least four weeks before the [~~day of the election~~] nomination day, by posting one notice, and at least

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one additional notice per 2,000 population of the conservation district, in places within the conservation district that are most likely to give notice to the [~~voters~~] residents in the conservation district; [~~or~~]

~~[(iii) at least four weeks before the day of the election, by mailing notice to each registered voter in the conservation district;]~~

(b) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the [~~election~~] nomination;

(c) in accordance with Section 45-1-101, for four weeks before the day of the [~~election~~] nomination; and

(d) if the conservation district has a website, on the conservation district's website for four weeks before the day of the [~~election~~] nomination.

(3) The [~~date set for an election under Subsection (1) may not be~~] commissioner shall appoint the board of members by no later than six weeks after the date set by the commission for the close of nominations.

(4) The notice required under Subsection (2) shall [~~-(a)-~~] state:

~~[(+)]~~ (a) the nomination date [~~of the election~~]; and

~~[(ii) the names of all candidates; and]~~

~~[(iii) that a ballot request form for the election may be obtained from the commission office or from any other place that the commission designates; and]~~

~~[(b) specify the address of the commission office or other place where a ballot request form may be obtained.]~~

(b) the number of open board member positions for the conservation district.

Section ~~{23}~~25. Section **17D-3-310** is amended to read:

17D-3-310. Vacancies in the board of supervisors.

If a vacancy occurs in the office of board of supervisors member, the remaining members of the board of supervisors shall [~~appoint a person~~] nominate an individual to the commissioner to appoint to fill the vacancy, to serve the remainder of the unexpired term of the member creating the vacancy.

Section ~~{24}~~26. Section **17D-3-311** is amended to read:

17D-3-311. Training for board members.

(1) A member of a board of supervisors shall, within one year after [~~taking office~~]

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appointment, complete the training described in Subsection (2).

(2) The state auditor shall, with the assistance of the commission and an association that represents conservation districts, develop a training curriculum for a member of the board of supervisors and conduct the training.

Section ~~{25}~~27. Section **26-15-1** is amended to read:

26-15-1. Definitions.

As used in this chapter:

(1) (a) "Food handler" means any person working part-time or full-time in a food service establishment who:

(i) moves food or food containers, prepares, stores, or serves food;

(ii) comes in contact with any food, utensil, tableware or equipment; or

(iii) washes the same. [~~The term also~~]

(b) "Food handler" includes:

(i) owners, supervisors, and management persons, and any other person working in a food-service establishment[~~-. The term also includes any~~]; or

(ii) an operator or person;

(A) employed by one who handles food dispensed through vending machines; [~~or~~]

(B) who comes into contact with food contact surfaces or containers, equipment, utensils, or packaging materials used in connection with vending machine operations; or

(C) who otherwise services or maintains one or more vending machines.

[~~(b)~~] (c) "Food handler" does not include a producer of food products selling food at a farmers market as defined in [~~Subsection~~] Section 4-5-102[~~(5)~~].

(2) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the public health or well being of the people within the state.

(3) "Vector" means any organism, such as insects or rodents, that transmits a pathogen that can affect public health.

Section ~~{26}~~28. Section **59-10-1304** is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

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(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than \$30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

~~[(iv) the contribution provided for in Section 59-10-1310;]~~

~~[(v)]~~ (iv) the contribution provided for in Section 59-10-1315;

~~[(vi)]~~ (v) the contribution provided for in Section 59-10-1318;

~~[(vii)]~~ (vi) the contribution provided for in Section 59-10-1319; or

~~[(viii)]~~ (vii) the contribution provided for in Section 59-10-1320.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after making the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new

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list in accordance with this Subsection (3).

Section ~~{27}~~29. Repealer.

This bill repeals:

Section **4-13-107, Department to publish commercial values applied to components of commercial fertilizer.**

Section **4-40-101, Title.**

Section **4-40-102, Cat and Dog Community Spay and Neuter Program Restricted Account -- Interest -- Use of contributions and interest.**

Section **17D-3-306, Eligibility to vote in an election for board of supervisors members.**

Section **17D-3-307, Supervisor's election mailing list.**

Section **17D-3-308, Watershed voting areas.**

Section **17D-3-309, Election of board of supervisors members -- Ballots -- Commission duties regarding elections -- Election expenses.**

Section **59-10-1310, Contribution to Cat and Dog Community Spay and Neuter Program Restricted Account.**