

Guide for Determining Administrative Penalties for Animal Health Violations 6 V.S.A. Chapters 63, 102, and 107

6 V.S.A. Section 15 provides that in addition to other penalties provided by law, the Secretary may assess administrative penalties, not to exceed \$5000, for each violation of Title 6 and associated rules.

This Guide is to be used by the Animal Health Section to inform the Section's decisions regarding the amount of administrative penalties for violations of 6 V.S.A. Chapters 63, 102, and 107 and the associated rules.

Types of Violations

1. Import Violations

Importation of livestock into Vermont must comply with the requirements of 6 V.S.A Chapter 107 and the *Rules Regulating the Importation of Domestic Animals, including Livestock and Poultry* (the Rules). Importation of livestock that does not comply with the requirements can introduce diseases that affect humans and/or animals, and that, while common in other parts of the United States, are either absent or at very low levels in Vermont. The requirements are designed to protect against the introduction of diseases and provide for the mitigation of damage should there be a disease outbreak.

The severity of the penalty for not complying with these requirements will take into account the species involved, the origin and destination, and the intended or possible use of the livestock. For example, a collection of bulls from Texas brought to Vermont for dispersal will have a greater risk of introducing disease to Vermont than a single goat from New Hampshire that will be kept as a pet. While some penalty may be warranted in each case, the potential damage of the importation of the bulls into Texas would likely result in much higher penalties.

Disease distribution is variable by year, by season, and by industry, and may not be accurately predicted in advance. Therefore, this guide must be, by necessity, flexible enough to account for the full range of violations.

Violations of the requirements may include failure to obtain or have Certificates of Health Inspection (CVI), Import permits, required disease testing, or official individual ID, and movement from/to a restricted zone.

Minor Violation/First Violation:

Letter of Warning or Notice of Violation

If (1) the Animal Health Section considers the violation to be minor, (2) the Animal Health Section does not have documented communication with the individual informing them of the requirements prior to the individual violating them, or (3) the individual does not hold a license from the Animal Health Section, the Animal Health Section may choose to issue a Letter of Warning OR a Notice of Violation.

First Violation

**Notice of Violation
\$100-500 per count**

If the Animal Health Section can show that it had communication with the individual informing them of the requirements prior to the individual violating them or the individual holds a license from the Animal Health Section, the Animal Health Section may issue a Notice of Violation for a first violation.

Additional multipliers (below) may be applied depending on circumstances.

Repeat Violation (with prior warning of same violation)

**Notice of Violation
\$500-1000 per count**

A new manner of violating the same statutory or Rule requirement previously enforced upon by the Animal Health Section may be considered a repeat violation. For example, if a producer who previously imported livestock without CVI and was sent a Letter of Warning or Notice of Violation by the Animal Health Section imports livestock without official ID, this may be considered a repeat violation.

Additional multipliers (below) may be applied depending on circumstances.

2. Acting without a License Violations

Individuals and businesses that are responsible for the buying and selling of livestock have the greatest capacity to spread disease to novel populations. They are therefore required to obtain a license from the Agency to ensure adequate oversight and record-keeping to decrease the risk of and mitigate the potential impact of an outbreak.

Licenses are required for Livestock Dealers, Livestock Packers, Livestock Transporters, and Pet Shops. As licensees have regular contact with the Agency, including annual inspections, and they are a higher risk business, they are expected to maintain compliance with all statutory and Rule requirements. Therefore, the Animal Health Section may issue a Notice of Violation to a licensee even if it is the licensee's first violation.

First Violation

**Notice of Violation
\$250-500 per count**

Additional multipliers (below) may be applied depending on circumstances.

Repeat Violation (with prior warning of same violation)

**Notice of Violation
\$1000 per count**

A new manner of violating the same statutory or Rule requirement previously enforced upon by the Animal Health Section may be considered a repeat violation. For example, if an individual

had been buying and selling animals and enforced for not having a dealer’s license, but then failed to meet the records requirements, this could be considered a repeated violation.

3. Cervid Facilities Violations

Farming cervids, or domestic deer, is permitted in Vermont. Because these animals pose a unique disease risk to native white-tailed deer and moose, cervid farmers must comply with the *Vermont Rules Governing Captive Cervidae* (the Cervid Rules). The Cervid Rules include requirements regarding standards of inventory records, animal ID, annual inspection, fencing and facilities, disease testing, and more. Cervid farmers must be familiar with the Cervid Rules and be inspected before they bring animals to the property, and therefore are considered to have had prior knowledge of the requirements.

Minor Violation/First Violation

Letter of Warning

If the violation occurs unintentionally, despite the cervid farmer following the Cervid Rules, and is resolved quickly, the Animal Health Section may issue a Letter of Warning for a first offense.

Additional multipliers (below) may be applied depending on circumstances.

First Violation

Notice of Violation \$100-500 per count

Given the risk to native deer and moose, the Animal Health Section may consider a first violation to be significant enough to warrant penalty.

Additional multipliers (below) may be applied depending on circumstances.

Repeat Violation (with prior warning of same violation)

Notice of Violation \$500-1000 per count

A new manner of violating the Cervid Rules previously enforced may be counted as a repeat violation. For example, if a premises had received notification of failure to maintain adequate fencing, and then had a violation of inventory accounting, this could be considered a repeated violation.

Additional multipliers (below) may be applied depending on circumstances.

4. Quarantine Violations

An essential step in preventing and controlling the spread of disease is to regulate the movement of animals and products during a disease threat or outbreak. Containing a potential disease in a single location protects public and livestock health and decreases the impact across the state or region. Quarantines can be used in the face of a known contagious disease, when exposures have occurred, or when the disease status is unknown but at risk. Routine examples for use of a quarantine

include after a disease is confirmed through diagnostic testing, when there are concerning disease signs but no test results yet, or when animals have been imported from areas of concern without proper testing.

Violating a quarantine order places all people and animals that come in contact at potential risk. When a quarantine is in place, the Animal Health Section communicates and explains verbally and provides in writing the restrictions associated with that quarantine. The Animal Health Section considers any quarantine violation a severe violation because of the high level of risk associated with that action and because there is significant written and verbal communication with the animal owner, allowing for thorough understanding of the order. Instances where quarantine violations result in the spread of contagious disease may also be referred by the Section for criminal prosecution and may result in the imposition of criminal penalties and imprisonment, in addition to the administrative penalties referenced below.

First Violation

**Notice of Violation
\$500-1000 per count**

Quarantines may also cover additional livestock and animal derived products. Removal of these from a quarantine will also be evaluated for impact and severity based on multipliers below.

Additional multipliers (below) may be applied depending on circumstances.

Repeat Violation

**Notice of Violation
\$1000 per count**

Note that these violations may also be referred for criminal prosecution and can potentially result in criminal penalties up to \$5,000 or imprisonment of not more than six months, or both.

Any Violation Resulting in Disease Spread

**Notice of Violation
\$1000 per count**

Note that these violations may also be referred for criminal prosecution and can potentially result in criminal penalties up to \$15,000 or imprisonment of not more than two years, or both.

5. Intrastate Movement Animal Identification Violations

Animal Disease Traceability (ADT) is a system of tracking livestock from birth until death. In the event of an infectious disease outbreak, tracing where livestock has been and who they have been in contact with (humans or other livestock) is critical for identifying the scope of disease and limiting its spread. The faster and more accurately animal movements are tracked, the easier the disease will be to control and the less impact it will have on animal/public health and Vermont's economy. Vermont requires that all livestock be identified with official ID before they leave the farm of origin for any reason.

Minor Violation/First Violation**Letter of Warning**

If the violation occurs unintentionally, or despite the exercise of due care.

Exception: If the Animal Health Section can show that it had communication with the individual informing them of the requirements prior to the individual violating them or the individual holds a license from the Animal Health Section, the Animal Health Section may issue a Notice of Violation for a first violation.

First Violation**Notice of Violation
\$100-500 per count**

If the Animal Health Section can show that it had communication with the individual informing them of the requirements prior to the individual violating them or the individual holds a license from the Animal Health Section, the Animal Health Section may issue a Notice of Violation for a first violation.

Additional multipliers (below) may be applied depending on circumstances.

Repeat Violation (with prior warning of same offense)**Notice of Violation
\$500-1000 per count**

Additional multipliers (below) may be applied depending on circumstances.

Additional Multipliers

For each of the penalty amounts listed above, the Animal Health Section may decrease or increase the penalty amount per violation up to \$5000 with the maximum amount of penalty not to exceed \$50,000 based upon these additional multipliers:

- the actual or potential impact on livestock health, public health, safety and welfare
- the presence of mitigating or aggravating circumstances
- whether the violator has been warned or found in violation of the same provisions of law in the past
- the economic benefit gained by the violation
- the deterrent effect of the penalty
- the financial condition of the violator
- the time elapsed from previous documented violation
- the license status of the violator
- the documented prior knowledge of the violator regarding the requirement that has been violated
- the egregiousness of the violation
- the intent of the violator to defraud
- the violator's knowledge of disqualifying disease status

Continuance of Violation

Each violation may be a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed to be a separate and distinct offense. 6 V.S.A. Section 15.

Costs

In addition to the administrative penalties authorized by this section, VAAFMM may recover the costs of investigation or disease testing, which shall be credited to a special fund and shall be available to VAAFMM to offset these costs. 6 V.S.A. Section 15.