

Agricultural Products Section Guide to Determining Administrative Penalties

6 V.S.A. Chapters 23, 27, 32, and 33

This Guide is to be used by the Agricultural Products Section to determine the amount of administrative penalties for violations of 6 V.S.A. Chapters 23, 27, 32, and 33 and the associated regulations. However, the Agency retains discretion to assess the full range of penalties authorized by statute or regulation for any violation.

Did the Violation Result in Adulterated Product?¹	Does the Responsible Party have a History of Non-Compliance?²	Recommended Penalty
No	No	None
	Yes, first repeat violation	Up to \$500 per violation ³
	Yes, second repeat violation	Up to \$750 per violation ³
	Yes, third and greater repeat violation	Up to \$1,000 per violation ³
Yes	No	Up to \$1000 per violation ³
	Yes, repeat violation	

¹ “Adulterated product” is a product that is adulterated within the meaning of [18 V.S.A. Section 4059](#). An example of an adulterated product is a product produced, prepared, packed, or held under unsanitary conditions in which it may have become contaminated with filth or in which it may have been rendered unwholesome, or injurious to health.

² The Responsible Party’s history of noncompliance should be considered when assessing an administrative penalty. A progressive enforcement approach should be taken when violations are found during consecutive inspections.

³ Each inspection lot that fails inspection should be considered a single violation for the purpose of determining an administrative penalty.

Additional Multipliers

For each of the penalty amounts listed above, the Agency may decrease or increase the penalty amount per violation up to \$5,000 with the maximum amount of penalty not to exceed \$50,000 based upon these additional multipliers:

- the actual or potential impact on 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

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 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.