

Penalty Matrix for Meat Inspection Pursuant to 6 VSA Chapter 204

Minor violations/First violation: Letter of Warning
If the violation occurs unintentionally, or despite the exercise of due care

First violation \$500/count
If the violation occurs intentionally, knowledge of the applicable statutes, the egregiousness of the violation, intent to defraud, intent to distribute adulterated product into intra or interstate commerce, or other penalty multipliers below

Second violation (with prior warning of same offense) w/in 3 year of first violation: \$500/count

Second violation (with prior warning of same offense) w/in 3 year of first violation \$750/count
With penalty multipliers below

Third violation (same offense) w/in 3 year of second violation: \$1000/count

Penalty multipliers:

The following is taken into account when determining the penalties, and may be applied to increase or decrease the penalty per count, regardless of the frequency of violation (limit up to \$1000.00 per count and/or \$25000.00 per penalty):

- The egregiousness of the violation
- Intent to defraud
- Intent to distribute adulterated product into intra or interstate commerce
- The potential or actual impact to public health, safety and welfare
- Time elapsed from previous documented violation
- Mitigating or aggravating circumstances
- The economic benefit gained by the violation
- The financial condition of the violator
- The deterrent effect of the penalty

In addition to the administrative penalties authorized by this section, the secretary may recover the costs of investigation, which shall be credited to a special fund and shall be available to the agency to offset these costs.

Failure to submit a written humane handling plan:

Commercial slaughter facilities issued a license by the agency of agriculture, food and markets shall submit to the secretary or designee within five days of receipt any documentation received from the U.S. Department of Agriculture (USDA) related to violations of the Federal Humane Slaughter Act and rules adopted thereunder. The secretary shall review the documentation submitted under this subdivision for potential action under this chapter or chapter 201 of this title. A failure to submit documentation required under this subdivision shall be a violation of this chapter subject to an administrative penalty under chapter 15 of this title.

Criminal Fines and Imprisonment

Any person that gives, pays, or offers, directly or indirectly, any money or other thing of value to any officer or employee of this state authorized to perform any duties prescribed by this chapter or rules promulgated under this chapter, with intent to influence the officer or employee in the discharge of any duty, shall upon conviction, be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than five years, or both.

Any officer or employee of this state authorized to perform the duties prescribed by this chapter or rules promulgated under this chapter, who accepts any money, gift, or other thing of value from any persons, given with intent to influence his or her official action, or who shall receive or accept from any person engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be subject to the penalties provided in [13 V.S.A. § 1102](#)

Any person that forcibly assaults, resists, or intimidates any inspector, or other person, engaged in the performance of his or her official duties under this chapter or rules promulgated under this chapter, shall be subject to the penalties provided in [13 V.S.A. § 1023](#)

Any person who impedes, interferes, or hinders any inspector, or other person, engaged in the performance of his or her official duties under this chapter or rules promulgated under this chapter, shall be subject to the penalties provided in [13 V.S.A. § 3001](#).

Whoever in the commission of these acts uses a deadly or dangerous weapon, or who purposely or knowingly causes serious bodily injury to an inspector or other person engaged in the performance of his or her official duties under this chapter or rules promulgated under this chapter, shall be subject to the penalties provided in [13 V.S.A. chapter 53](#). Any person engaged in official duties under this chapter or rules promulgated under this chapter shall be considered a law enforcement officer for purposes of determining a penalty under [13 V.S.A. chapter 53](#).

Any person who violates any provision of this chapter, or the rules promulgated under this chapter, for which no other criminal penalty is provided by this chapter shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than \$1,000.00, or both

if the violation involves intent to defraud, or any distribution or attempted distribution of a product that is adulterated except as defined in subdivision (K) of subdivision (1) of section 3302 of this title, the person shall be subject to imprisonment for not more than three years or a fine of not more than \$10,000.00, or both.

Any person who violates this chapter or any rule adopted by the secretary under this chapter shall be liable for a civil penalty not to exceed \$1,000.00 for each violation. A civil penalty may be imposed by the Washington superior court, or by any other superior court. The superior court shall consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation in assessing a civil penalty

Protocol for Humane Handling Violations at Federal Establishments licensed in Vermont

6 V.S.A. (j) Commercial slaughter facilities issued a license by the agency of agriculture, food and markets shall submit to the secretary or designee within five days of receipt any documentation received from the U.S. Department of Agriculture (USDA) related to violations of the Federal Humane Slaughter Act and rules adopted thereunder. The secretary shall review the documentation submitted under this subdivision for potential action under this chapter or chapter 201 of this title. A failure to submit documentation required under this subdivision shall be a violation of this chapter subject to an administrative penalty under chapter 15 of this title.

(See Computation of Time Attached)

Humane Handling Fines:

A person who violates section 3132 of this title shall be guilty of a misdemeanor and shall be fined upon conviction not more than \$ \$1,000.00 for the first violation, not more than \$5,000.00 for the second violation, and not more than \$10,000.00 per violation for the third and any subsequent violations, or imprisoned not more than two years, or both. In addition to the penalties provided in this subsection, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the superior court for the county in which such slaughterer, packer, or stockyard operator resides, or where such violations occur. The secretary may refer a violation of section 3132 of this title to the attorney general or the state's attorney for criminal prosecution.

Steps are to be carried out by the Head of Service or the Chief of Meat Inspection, in consultation with the Division Director

Establishment is issued a Non-compliance Report related to Humane Handling

- 1) Verify notification of State of VT within the allotted time period. See Statute for failure related to this.
- 2) Review NR to determine circumstances and type of violation.
- 3) Review plant's corrective actions if available.
- 4) Based on the nature of the violation, the plant's compliance history, and the proffered corrective actions, the following may be required:
 - a. verification of implementation of corrective actions and further preventative measures from plant.
 - b. update of written humane handling plan if needed

Establishment is issued a Notice of Suspension (NOS) for humane handling violation

- 1) Verify notification of State of VT within the allotted time period. See Statute for failure related to this.

- 2) Review NOS and other documentation submitted to determine circumstances and type of violation, and possibly the root cause of the violation.
- 3) If an Abeyance to the NOS has already been issued by FSIS, review the Abeyance, documentation, and the verification plan.
- 4) Determine if any documentation from the establishment seems to be missing. If so, see number 1 above.
- 5) Based on the nature of the violation, the plant's compliance history, and the proffered corrective actions, determination if a site visit by VAAFM (Compliance/Chief of Inspection) is warranted to verify regulatory compliance.
- 6) If a site visit occurs:
 - a. Review findings during the site visit
 - b. verification of implementation of corrective actions and further preventative measures from plant.
 - c. Make a recommendation to the Secretary of Agriculture based on the facts of the Suspension, humane handling compliance history and the proffered corrective actions,
 - d. update of written humane handling plan if needed

Computation of Time (from legal counsel)

Don't count weekends and holidays when the prescribed period is less than 11 days.

Also, never count the day which triggers the time period or requires the thing to be done. 1 VSA 138 and VRCP 6(a).

If the statute just says "days" and doesn't specify business days, then we follow the Vermont Rule of Civil Procedures (VRCP 6(a)). There is an extra 3 calendar days allowed if the triggering event is required to be sent by regular mail.

Rule 6. Time

(a) **Computation.** In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a State or federal legal holiday, or, when the act to be done is the filing of a document in court, a day on which weather or other conditions have made the office of the clerk inaccessible or the court's electronic filing system is unavailable, in which event the period runs until the end of the next day which is not one of the aforementioned days. Intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation, when the period of time prescribed or allowed, not including any calendar days added in accordance with subdivision (e) of this rule, is less than 11 days.

(e) **Additional Time After Service Under Rule 5(b)(2) or (3)[BY MAIL].** Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a

notice or other document upon the party and the notice or document is served upon the party under Rule 5(b)(2) or (3), **three calendar days shall be added** to the prescribed period after that period has been computed pursuant to subdivision (a) of this rule unless the notice or other document is served by the court or unless a document served other than by electronic means is received by the party on the date of service.