

**Dairy Section Guide to Determining Administrative Penalties and Exclusion
6 V.S.A Chapter 151 and 152**

| Violation Type: | Repeat inspection failure* | Refusal to allow or impeding an inspection ** | 2 out of 4 *** | 3 out of 5 *** | Drug Residue Violations**** | Drug Testing and Residue Violations ***** | Bulk Milk Collection |
|---------------------------|---|--|---|---|---|--|-----------------------------|
| Responsible Party: | Grade A Farmer & Raw Milk Producer | Grade A Farmer & Raw Milk Producer | Grade A Farmer, Raw Milk Producer, & Processor | Grade A Farmer, Raw Milk Producer, & Processor | Grade A Farmer & Raw Milk Producer | Processor | Hauler |
| First Violation | \$500 | \$500 | - | Cannot ship or sell milk until source is found, corrected, and passes inspection with Dairy Section | - | \$500 | \$250 |
| Second Violation | \$1,000 | \$1,000 | \$250 | \$500 and cannot ship or sell milk for 5 days | \$500 | | \$500 |
| Third Violation | Cannot ship or sell milk for 7 days | Cannot ship or sell milk for 10 days | \$500 | \$1000 and cannot ship or sell milk for 7 days | \$1,000 | | \$1,000 |

* Administrative penalty amount is per inspection item and begins after non-compliance with a pre-hearing compliance meeting agreement within 12 months of the pre-hearing compliance meeting. Timeframe to maintain compliance after a pre-hearing compliance meeting is 12 months.

** Administrative penalty is in addition to the immediate exclusion of product from the market (cannot ship or sell) until a hearing is conducted and the completion and passing of an inspection occurs. 6 V.S.A. Section 2744(d).

*** Administrative penalty is based on a 12-month period of repeat high counts.

**** Administrative penalty is in addition to milk or product having to be dumped until clearing sample, and after third violation within 12-month period, under 6 V.S.A. Section 2744a a hearing will occur to determine if the producer will be allowed to continue to ship milk.

***** Violation is for not reporting testing results or not running required tests. A 6 V.S.A. Section 2705 hearing will be scheduled after first violation in a 12-month period for potential revocation of Milk Handlers License. For details on Milk Handler License holders see 6 V.S.A. Section 2721. Handlers' licenses.

Other reasons for an Immediate Exclusion from the Market under 6 V.S.A. Section 2744 due to being an Imminent Public Health Threat:

- Adulteration of milk and/or milk products.
- Failure noted in pasteurization process in records or notes or inadequate pasteurization. All product is on hold or recalled based on the found problem and pending an investigation.
- Direct contamination of milk
- Milk not being cooled on the first milking in a bulk tank due to not enough milk going into the tank to be agitated.
- Milking or processing conditions that are unsanitary and serve as a public health threat.

Additional Multipliers

For each of the penalty amounts listed above, the Dairy Section 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 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.