

Meat Inspection Section Guide to Determining Administrative Penalties 6 V.S.A. Chapter 204 & Chapter 201

The Division of Food Safety and Consumer Protection works to maintain and advance an equitable and safe marketplace through fair enforcement of Vermont's laws and rules and technical assistance for the regulated community to foster their success. The Division takes enforcement action when needed and as authorized by Vermont law to ensure there is safe food, disease management, and fair markets.

6 V.S.A. Chapter 204 and Chapter 201 authorizes the Agency of Agriculture, Food and Markets to regulate the slaughter, processing, sale, and distribution in intrastate commerce of meat and poultry products in Vermont. The goals are to protect the health and welfare of consumers by assuring that meat, meat food products, and poultry food products distributed to them are wholesome, unadulterated, and properly marked, labeled, and packaged and ensure humane treatment of livestock. To achieve these goals, the Agency performs routine inspections, surveillance reviews, complaint investigations, and other regulatory activities.

The Meat Inspection Section uses this guide to determine the number of administrative penalties for violations of [6 V.S.A. Chapter 204](#), 6 V.S.A. Chapter 201, and the associated rules. However, the Agency has the discretion to assess the full range of penalties authorized by law for any violation. [6 V.S.A. Section 15](#) provides that in addition to other penalties provided by law, the Agency may assess administrative penalties, not to exceed \$5000, for each violation of Title 6.

In addition to being able to issue penalties for violations of meat inspection laws, the Agency has authority to refuse to allow meat or meat food products, or poultry products, to be offered for sale and to prevent the entry of products into commerce when conditions at an establishment are such that products are adulterated. If the sanitary conditions of a facility are not maintained, the Agency can stop the use of a processing area and equipment or refuse to render inspection afforded and indefinitely withdraw inspection or a license from an establishment, provided the establishment is offered the right to an administrative hearing. The Agency may take a withholding action or impose a suspension, without prior notification if deemed necessary to ensure compliance with the statutes and rules.

The penalties are scaled into four levels based on the public health significance of each potential occurrence and the levels are set forth in the matrix below to promote compliance with the statute and rules, promote public health, and confidence in the industry. The matrix promotes transparency in the Agency's regulatory efforts to protect Vermont consumers and provides notice of anticipated penalty assessments when regulatory standards are not met.

In determining the amount of penalty to be assessed, 6 V.S.A. § 15(b) suggests the Secretary may give consideration 1) the degree of actual and potential impact on public health, safety and welfare resulting from the alleged violations, 2) the presence of any mitigating or aggravating circumstances, 3) whether the violator has been warned or found in violation of the same provisions of law in the past, 4) the economic benefit the violator may have gained, and 5) the deterrent effect of the proposed penalty.

The Meat Inspection Section considers the severity of the violation in determining penalty amounts and categorizes violations as follows:

Severity 1 violations are reserved for cases where harm has been done due to the violation. Examples of Severity 1 violations would be practices by the violator that jeopardized public health that lead to confirmed illnesses. This could include:

- illnesses caused by product contamination;
- failure to properly label product containing allergens;
- Some cases of intentional cruelty of livestock may also be determined to be Severity 1 cases.

Severity 2 violations are cases where noncompliant practices by a violator lead to significant risk for production of adulterated product in the production environment or harmful products being entered into commerce, but do not lead to illness. This could include:

- product contamination or failure to properly label product containing allergens;
- fraudulent practices that result in public health risk or improper monetary gain of over \$1,000 by the violator;
- Some cases of intentional cruelty of livestock may also be determined to be Severity 2 cases.

Severity 3 violations are cases where the violator's noncompliant practices create risk for production of adulterated product in the production environment. This could include:

- failure by the establishment to correct noncompliant deficiencies in the production environment that deal with product handling or product contact surfaces;
- production or offering for sale of product without inspection (when inspection is required) in amounts greater than 500 lbs.;
- negligent fraudulent practices that result in improper monetary gain of under \$1,000 by the violator; and
- some cases of negligent inhumane slaughter, handling, or treatment of livestock may also be determined to be Severity 3 cases.

Severity 4 violations are cases where minor noncompliant practices by a violator create some risk for production of adulterated product in the production environment. This could include:

- failure by the establishment to correct minor noncompliant deficiencies in the production environment that do not involve product handling or product contact surfaces;
- production or offering for sale of product without inspection (when inspection is required) in amounts less than 500 lbs.;
- a fraudulent practice that is not reasonably determined to result in public health risk or improper monetary gain by the violator; and
- a failure to correct noncompliance related to humane slaughter, handling, or treatment of livestock.

The Meat Inspection Section may offer to settle disputed claims when appropriate, through assurances of discontinuances, reduced penalty amounts, or other appropriate lawful means, subject to approval of the Secretary, on a case-by-case basis.

In addition to administrative penalties, the Meat Inspection Section may revoke or suspend an establishment's grant(s) of inspection, license(s), or ability to operate under an exemption.

Violation	Vermont Meat and Poultry Inspection Laws Section(s)	Vermont Adopted Rules and Regulations Section(s)	Table Level	First Offense (Within a 3-year period)	Second Offense (Within a 3-year period)	Third Offense (Within a 3-year period)
Adulteration	Defined 3302 (1)					
Performing an act that causes a product to become adulterated. Product contains a substance that renders it unsound, unhealthy, unwholesome, or otherwise unfit for human food.	3308(a)(1) 3308 (a)(3) 3302(1)(f) 3302(1)(g)		If Associated With Confirmed Illness: L - I	Up to \$5,000 + possible suspension	Up to \$7,50 + possible suspension	Up to \$10,000 + possible suspension
			If Associated With Proven Harmful Product in Commerce but no confirmed illness: L - II	Up to \$2,500	Up to \$5,000 + possible suspension	\$7,500 + possible suspension
			All Other: L - III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension
Product is prepared, packed, or held under insanitary conditions.	3308 (a)(1) 3308 (a)(3) 3302(1)(g)	9 CFR 416	If Associated With Proven Harmful Product in Commerce but no confirmed illness: L - II	Up to \$2,500	Up to \$5,000 + possible suspension	Up to \$7,500 + possible suspension
			All Other: L - III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension
Adulterated product is offered for sale	3308(a)(2)(B)		If Associated With Confirmed Illness: L - I	\$5,000 + possible suspension	Up to \$7,50 + possible suspension	Up to \$10,000 + possible suspension
			If Associated With Proven Harmful Product in Commerce but no confirmed illness: L - II	Up to \$2,500	Up to \$5,000 + possible suspension	Up to \$7,500 + possible suspension
			All Other: L - III	Up to \$500	Up to \$1,000	Up to \$2,500 + possible suspension
Economic adulterated – Misleading packaging or labeling. Offer For sale.	3308 (a)(3) 3308(a)(2)(B)		If over \$1000: L-II	Up to \$ 2,500	Up to \$5,000	Up to \$7,500 + possible suspension
			If under \$1000: L - III	Up to \$500	Up to \$1,000	Up to \$2,500 + possible Suspension
			If incidental L-IV	NOW Issued	Up to \$500	Up to \$1,000 + possible suspension

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Adulteration	Defined 3302 (1)					
Economic adulteration – Misleading packing, net weight, or added substance to make product appear better or of greater value than it is.	3308 (a)(3) 3308(a)(2)(B) 3302(1)(K)		If over \$1000: L-II	Up to \$1,000 per container	Up to \$2,500 per container	Up to \$5000 + possible suspension
			If under \$1000: L - III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension

Violation	Vermont Meat and Poultry Inspection Laws Section(s)	Vermont Adopted Rules and Regulations Section(s)	Table Level	First Offense (Within a 3-year period)	Second Offense (Within a 3-year period)	Third Offense (Within a 3-year period)
Misbranding	Defined 3302(25)					
Incomplete labeling	3308 (a)(1)		L-IV	NOW	Up to \$100 per container	Up to \$500 per container + possible suspension
False or Misleading Labeling, Inaccurate or Incomplete Ingredients Statement	3308 (a)(1) 3302(25)(A)		If over \$1000: L-II	Up to \$1,000 per container	Up to \$25,00per container	Up to \$5,000 + possible suspension
			If under \$1000: L - III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension
			If incidental L-IV	NOW	Up to \$500 per container	Up to \$1,000 + possible suspension
Product offered for sale/sold with no labeling.	3308(a)(2)(1) 3302(25)(I)		If over \$1000: L-II	Up to \$1,000 per container	Up to \$25,00per container	Up to \$5,000 + possible suspension
			If under \$1000: L - III	Up to \$1,251	Up to \$2,500 per container	Up to \$3,750 + possible suspension
			If incidental L-IV	NOW	Up to \$100 per container	Up to \$500 per container + possible suspension
Livestock carcass stamp/label illegible.	3308(a)(1)		L-IV	NOW	Up to \$100 per container/carcass/part	Up to \$500 per container/carcass/part + possible suspension
Performing an act that causes a product to become misbranded.	3308(a)(3)		If over \$1000: L-II	Up to \$1,000 per container	Up to \$25,00per container	Up to \$5,000 + possible suspension
			If under \$1000: L - III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension
			If incidental L-IV	NOW	Up to \$100 per container	Up to \$500 per container + possible suspension
Purports to be or is represented as a food for which a standard of identity or composition has been prescribed but does not meet standard.	3308(a)(1) 3302(25)(G) 3302(25)(H)		If over \$1000: L-II	Up to \$1,000 per container	Up to \$25,00per container	Up to \$5,000 + possible suspension
			If under \$1000: L - III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension

			If incidental L-IV	NOW	Up to \$100 per container	Up to \$500 per container + possible suspension
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Violation	Vermont Meat and Poultry Inspection Laws Section(s)	Vermont Adopted Rules and Regulations Section(s)	Table Level	First Offense (Within a 3 year period)	Second Offense (Within a 3 year period)	Third Offense (Within a 3 year period)
Articles not intended for human consumption	3310					
In Commerce (Lungs, Eviscerates, 4-D, Etc)	3310 (b) 3310(c)		L-III	Up to \$500 per container	Up to \$1,000	Up to \$2,500 + possible suspension
Failure to denature	3310(b)		L-IV	NOW	Up to \$100	Up to \$500 + possible suspension
Records	3304					
Incomplete records of business transactions or custom exempt operations.	3304 (7)	9 CFR 320.1	L-IV	NOW	Up to \$100 per container	Up to \$500 per container + possible suspension
No records of business transactions or custom exempt operations.	3304 (7)	9 CFR 320.1	L-IV	NOW	Up to \$100 per container	Up to \$500 per container + possible suspension
Failure to submit copy of humane handling violation from USDA within 5 days	3306(j)		L-IV	NOW	Up to \$100	Up to \$500
Failure to adhere to a submitted written humane handling plan or GCP plan	3306(i)		L-IV	NOW	suspend, revoke, or condition any commercial slaughter facility license	suspend, revoke, or condition any commercial slaughter facility license
Protection Of Official Device, Mark; False Certificate or statement	3309					
Using the official mark without department's authorization.	3309		If public health risk or if Over \$1000: L-II	Up to \$1,000 per container	Up to \$25,00per container	Up to \$5,000 + possible suspension
			If no public health risk and under \$1000: L - III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension

			If incidental L-IV	NOW	Up to \$100 per container	Up to \$500 per container + possible suspension
Knowingly represent an article as inspected in passed when it has not been.	3309 (6)		L-III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension
Knowingly represent an article as exempted when it has not been.	3309 (6)		L-III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension
Falsification of certificate or statement	3309 (5)		L-III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension
Knowingly represent an article as inspected in passed when it has not been.	3309 (6)		L-III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension

Violation	Vermont Meat and Poultry Inspection Laws Section	Vermont Adopted Rules and Regulations Section(s)	Table Level	First Offense (Within a 3 year period)	Second Offense (Within a 3 year period)	Third Offense (Within a 3 year period)
Sale, Receipt, Transportation Of Meat or Poultry Not In Compliance With Chapter	3308					
Offering for sale uninspected meat, meat food product, or poultry food product.	3308(a)(2)(c)	9 CFR 302.1 9 CFR 381.6	Over 500 lbs. L-III	Up to \$500 per container	Up to \$1,000 per container	Up to \$2,500 + possible suspension
			Under 500 lbs. L-IV	NOW	Up to \$100 per container	Up to \$500 per container + possible suspension
Slaughter or Processing Not In Compliance With Chapter	3308					
Slaughtering livestock or poultry without a grant of inspection or licensed under an exemption.	3308(a)(1)	9 CFR 302.1 9 CFR 381.6	L-III	Up to \$500	Up to \$1,000	Up to \$2,500 + possible suspension
Processing of livestock carcass, meat, meat food product or poultry food product without a grant of inspection; facility not in compliance	3308(a)(1)	9 CFR 302.1 9 CFR 381.6 9 CFR 416	L-III	Up to \$500	Up to \$1,000	Up to \$2,500 + possible suspension
Operating Without a Valid License	3306 3310 (d)					
Offering for sale prepackaged meat as retail vendor or wholesale distributor, storage of meat or poultry public warehouse Without a license	3306 3310 (d)		L-IV	NOW	Up to \$250	Up to \$500 + possible suspension
Operating a custom or retail exempt meat processing facility without a license	3306 3310 (d)		L-III	Up to \$500	Up to \$1,000	Up to \$2,500 + possible suspension

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Inhumane Slaughter, Handling, or Treatment of Animals	§3132 §3134		Intentional cruelty to livestock: L I/II	Up to \$1000 + possible referral for criminal penalty + possible injunction	Up to \$5,000 + possible suspension + possible referral for criminal penalty + possible injunction	Up to \$10000 +/- possible up to 2 years imprisonment + possible suspension + possible injunction + possible referral for criminal penalty
			Negligent inhumane slaughter, handling, or treatment of livestock: L - III	Up to \$500	Up to \$1,000	Up to \$2,000 + possible suspension
			Failure to correct noncompliance related to humane slaughter, handling, or treatment of livestock: L - IV	Up to \$100	Up to \$250	Up to \$500 + possible suspension

[6 V.S.A. Section 15\(b\)](#)

For each of the penalties 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:

- 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

[6 V.S.A. Section 15\(c\)](#)

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. In no event shall the maximum amount of the penalty assessed under 6 V.S.A. Section 15(c) exceed \$50,000.

[6 V.S.A. Section 15\(d\)](#)

In addition to the administrative penalties, the Agency may recover **the costs of investigation or testing**, which shall be credited to a special fund and shall be available to the Agency to offset these costs.