

**Virginia Department of Agriculture and Consumer Services**  
**Division of Consumer Protection**

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**Administrative Procedure for Processing Violations for Assessment of  
Civil Penalties and Action on Certificates, Licenses, and Registrations**

(Approved by Board of Agriculture and Consumer Services August 7, 2012)

<b>Decision-Maker</b>	<b>Activity</b>
<i>Enforcement or Field Supervisor</i>	<p>Review reports, photographs, laboratory analysis reports, sample results, and other supporting documentation to ensure record of inspection, investigation, monitoring, or observation is complete, clearly written, and the findings are well-documented; contact investigator or inspector if additional information is needed; determine if a <u>possible</u> violation of assigned statutes or regulations occurred.</p> <p>For routine inspections, if no violation was found, close case and update appropriate Enforcement Case Review &amp; Actions database.</p> <p>For a complaint investigation in which no violation was found, close case and update appropriate Enforcement Case Review &amp; Actions database. Forward to Compliance Officer.</p> <p>If possible violation occurred, update appropriate Enforcement Case Review &amp; Actions database and forward record to Compliance Officer.</p>
<i>Compliance Officer</i>	<p>Review record received from the Enforcement Supervisor or Field Supervisor to ensure it contains proper documentation to substantiate possible violation(s); contact investigator or inspector if additional information is needed.</p> <p>If conditions do not warrant compliance action, close case and update appropriate Enforcement Case Review &amp; Actions database.</p> <p>For a complaint investigation in which no violation was found, send results of investigation to complainant.</p> <p>If violative conditions do not warrant a civil penalty, send a Letter of Caution to respondent. If case resulted from complaint investigation, send results of investigation to complainant. Update appropriate Enforcement Case Review &amp; Actions database.</p> <p>If violative conditions warrant a civil penalty, calculate amount of penalty in accordance with applicable penalty matrix. If case resulted from complaint investigation, send results of investigation to complainant.</p>

Decision-Maker	Activity
<p><i>Compliance Officer (cont'd)</i></p>	<p><b>If Civil Penalty is \$2,500 or less</b>, mail Notice of Violation and civil penalty assessment to respondent along with payment statement and notification that the civil penalty can be appealed in a fact-finding conference authorized by § 2.2-4019 of the Code of Virginia (the Code); inform respondent that request for fact-finding conference must be made in writing to the Commissioner within 15 calendar days of receipt of Notice of Violation; update appropriate Enforcement Case Review &amp; Actions database.</p> <p><b>If Civil Penalty is greater than \$2,500</b>, forward to Program Manager for review and approval.</p> <p><b>If denial, suspension, revocation, or modification of a license, certificate, or registration is involved</b> alone or in conjunction with a civil penalty, forward to Program Manager for review and approval.</p> <p>At the discretion of the Compliance Officer, the civil penalty assessment may be prepared in the form of a Consent Agreement.</p>
<p><i>Program Manager</i></p>	<p><b>If Civil Penalty greater than \$2,500 is approved</b>, return to Compliance Officer for mailing to respondent.</p> <p><b>If Civil Penalty greater than \$2,500 is NOT approved</b>, return to Compliance Officer for reassessment of penalty.</p> <p>If denial, suspension, revocation, or modification of a license, certificate, or registration is involved alone or in conjunction with a civil penalty and is approved, return to Compliance Officer for mailing to respondent.</p> <p>If denial, suspension, revocation, or modification of a license, certificate, or registration is involved alone or in conjunction with a civil penalty and is NOT approved, return to Compliance Officer for reassessment.</p>
<p><i>Compliance Officer</i></p>	<p>Mail Notice of Violation and civil penalty assessment with payment statement to respondent; include notification that the civil penalty can be appealed in a fact-finding conference authorized by § 2.2-4019 of the Code; inform respondent that request for fact-finding conference must be made in writing to the Commissioner within 15 calendar days of receipt of Notice of Violation; update appropriate Enforcement Case Review &amp; Actions database.</p> <p>If action is <b>NOT approved</b>, reassess and resubmit action for approval or close case; update appropriate Enforcement Case Review &amp; Actions database.</p>
<p><i>Commissioner</i></p>	<p>Upon receipt of properly filed written request for <b>Fact-Finding Conference</b>, appoint a Conference Officer; instruct Compliance Officer to schedule the Fact-Finding Conference.</p>

<b>Decision-Maker</b>	<b>Activity</b>
<i>Compliance Officer</i>	Upon instruction from Commissioner, schedule Fact-Finding Conference with Conference Officer appointed by Commissioner; notify respondent and investigator or inspector of the location, date, and time of Fact-Finding Conference; update appropriate Enforcement Case Review & Actions database.
<i>Conference Officer</i>	Hold <b>Fact-Finding Conference</b> to consider all relevant information on case; Conference Officer may affirm, raise, lower, or abate a penalty, or may negotiate a settlement based on new information; notify the respondent of decision in writing.  Notify respondent of right to appeal the decision of Fact-Finding Conference in a <b>Formal Hearing</b> authorized by §2.2-4020 of the Code; notify respondent that request for a Formal Hearing must be made in writing to the Commissioner within 15 calendar days after receipt of Conference Officer decision.
<i>Commissioner</i>	Upon receipt of properly filed written request for a <b>Formal Hearing</b> , request appropriate Program Manager to arrange for a Hearing Officer.
<i>Program Manager</i>	Upon instruction from Commissioner, arrange for a Court-appointed attorney to act as Hearing Officer; arrange location of <b>Formal Hearing</b> ; arrange for a Court Reporter; notify investigator or inspector; cause the update of the appropriate Enforcement Case Review & Actions database.
<i>Hearing Officer</i>	Hold <b>Formal Hearing</b> to hear relevant information about case; consider the facts of all violations identified in the case; evaluate the civil penalty and/or the denial, suspension, revocation, or modification of a license, certificate, or registration; Hearing Officer may recommend affirming, raising, lowering, or abating a penalty, or may recommend another outcome; transmit findings and recommendations to the Board and the respondent within 30 days of the Formal Hearing; inform respondent of their right under § 2.2-4021(A) to address the Board.
<i>Program Manager</i>	Notify respondent in writing of the date and time of the meeting during which the Board will consider the recommendations of the Hearing Officer; notify respondent of their right under § 2.2-4021(A) to address the Board.
<i>Board</i>	Consider recommendations from <b>Formal Hearing</b> ; provide opportunity for final arguments from VDACS and respondent; render decision; inform respondent that decision can be appealed to Circuit Court for judicial review; instruct VDACS staff to notify respondent in writing of the Board's decision within 30 days of such decision, including notification of right to appeal to Circuit Court; instruct VDACS staff to send transcripts and all case materials to appropriate program for filing.
<i>Compliance Officer</i>	Update appropriate Enforcement Case Review & Actions database.