Virginia Department of Agriculture and Consumer Services
Division of Consumer Protection
Office of Pesticide Services

Administrative Procedure for Processing Violations for Assessment of Civil Penalties and Action on Certificates, Licenses, and Registrations (Eff. July 21, 2016)[1]

Decision-Maker	Activity
Enforcement Supervisor or Pesticide Team Leader	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 possible violation of assigned statutes or regulations occurred. For routine inspections, in which no possible violation was found, close case and update appropriate Enforcement Case Review & Actions database. For for-cause investigations in which no possible violation was found, close case and update appropriate Enforcement Case Review & Actions database. Forward to Compliance Manager. If possible violation occurred, update appropriate Enforcement Case Review & Actions database and forward record to Compliance Manager.
Compliance Manager	Review record received from the Enforcement Supervisor or Pesticide Team Leader to ensure it contains proper documentation to substantiate possible violation(s); contact the Enforcement Supervisor, or, if the Enforcement Supervisor is not available, the investigator or inspector if additional information is needed. If conditions do not warrant compliance action, close case and update appropriate Enforcement Case Review & Actions database. For a for-cause investigation in which no violation was found, send results of investigation to complainant. If conditions substantiate a possible violation(s), issue a Notice of Alleged Violation notifying the respondent of the conditions found and the opportunity to provide any additional relevant facts including facts that demonstrate good faith efforts to achieve compliance within 30 calendar days of receipt of the Notice of Alleged Violation. Upon consideration of any additional relevant facts submitted by the respondent, but no sooner than 30 calendar days after respondent's receipt of the Notice of Alleged Violation: If conditions found no longer substantiate a violation: For routine inspections, if no violation is found, close case and

[1]Replaces version dated May 14, 2015

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	update appropriate Enforcement Case Review & Actions database. For for-cause investigations in which no violation is found, close case and update appropriate Enforcement Case Review & Actions database. Send results of the investigation to the complainant. If conditions continue to substantiate a violation: If violative conditions do not warrant a civil penalty, send a Letter of Caution or Notice of Violation to respondent. Include notification that the violation can be appealed in an informal fact-finding conference authorized by § 2.2-4019 of the Code of Virginia (the Code); inform respondent that request for an informal fact-finding conference must be made in writing to the Program Manager within 15 calendar days of receipt of Letter of Caution or Notice of Violation. If case resulted from a for-cause investigation, send results of investigation to complainant. Update appropriate Enforcement Case Review & Actions database. If violative conditions warrant a civil penalty, issue a Notice of Violation calculating the amount of penalty in accordance with civil penalty decision matrix. If case resulted from for-cause investigation, send results of investigation to complainant. Update appropriate Enforcement Case Review & Actions database. **If Civil Penalty is $2,500 or less,** mail Notice of Violation and civil penalty assessment to respondent along with payment statement and notification that the fact of the violation or the civil penalty can be appealed in an informal fact-finding conference authorized by § 2.2-4019 of the Code; inform respondent that request for an informal fact-finding conference must be made in writing to the Program Manager within 15 calendar days of receipt of Notice of Violation; update appropriate Enforcement Case Review & Actions database. **If Civil Penalty is greater than $2,500,** forward to Program Manager for review and approval. **If denial, suspension, revocation, or modification of a license, certificate, or registration is involved** alone or in conjunction with a civil penalty, forward to Program Manager for review and approval. At the discretion of the Compliance Manager, the civil penalty assessment may be prepared in the form of a Consent Agreement.
Program Manager	**If Civil Penalty greater than $2,500 is approved,** return to Compliance Manager for mailing to respondent. **If Civil Penalty greater than $2,500 is NOT approved,** return to Compliance Manager for reassessment of penalty.

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	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 Manager for mailing to respondent. 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 Manager for reassessment.
Compliance Manager	Mail Notice of Violation and civil penalty assessment with payment statement to respondent; include notification that the fact of the violation or the civil penalty can be appealed in an informal fact-finding conference authorized by § 2.2-4019 of the Code; inform respondent that request for informal fact-finding conference must be made in writing to the Program Manager within 15 calendar days of receipt of Notice of Violation; update appropriate Enforcement Case Review & Actions database. Issue Notice of Intent notifying respondent of intent to deny, suspend, revoke or modify license, certificate or registration and the opportunity for a formal hearing authorized by § 2.2-4020 of the Code; notify respondent that request for a formal hearing must be made in writing to the Program Manager within 15 calendar days after receipt of the Notice of Intent. If action is **NOT approved,** reassess and resubmit action for approval or close case; update appropriate Enforcement Case Review & Actions database.
Program Manager	Upon receipt of properly filed written request for **an informal fact-finding conference**, appoint a Conference Officer; instruct Compliance Manager to schedule the informal fact-finding conference.
Compliance Manager	Upon instruction from Program Manager, schedule an informal fact-finding conference with Conference Officer appointed by Program Manager; notify respondent and investigator or inspector of the location, date, and time of informal fact-finding conference; update appropriate Enforcement Case Review & Actions database.
Conference Officer	Hold informal fact-finding conference 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 informal fact-finding conference in a **formal hearing** authorized by §2.2-4020 of the Code; notify respondent that request for a formal hearing must be made in writing to the Program Manager within 15 calendar days after receipt of Conference Officer decision.
Program Manager	Upon receipt of properly filed written request for a **formal hearing**, arrange for a Court-appointed attorney to act as Hearing Officer; arrange location of **formal hearing**; arrange for a Court Reporter; notify investigator or inspector; update

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	the appropriate Enforcement Case Review & Actions database.
Hearing Officer	Hold **formal hearing** 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.
Program Manager	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.
Board	Consider recommendations from **formal hearing**; 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.
Compliance Manager	Update appropriate Enforcement Case Review & Actions database.

Approved by Board of Agriculture and Consumer Services 7/20/2016