

**STATE OF VERMONT**  
**AGENCY OF NATURAL RESOURCES**  
**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**CHAPTER 25 - ENVIRONMENTAL CITATIONS**

**Effective date: July 13, 2020**

**§ 25-101. Authority**

This rule is adopted by the Secretary of the Agency of Natural Resources pursuant to the authority granted in 10 V.S.A. § 8019 that authorizes the Secretary to adopt rules for the issuance of civil complaints.

**§ 25-102. Definitions**

As used in this rule:

- (1) "ANR" means the Agency of Natural Resources.
- (2) "Citation" means a civil citation pursuant to 10 V.S.A. § 8019.
- (3) "Permit" means any permit, license, certification or transitional operational authority issued under any of the statutes specified in Section 8003 of Title 10, including air pollution orders issued under chapter 23 of Title 10.
- (4) "Person" means any individual; partnership; company; corporation; association; joint venture; trust; municipality; the state of Vermont or any agency, department or subdivision of the state, any federal agency, or any other legal or commercial entity.
- (5) "Prohibited Act" means acts which are prohibited by any statute, rule or regulation enforced by ANR.
- (6) "Recordkeeping" means the compilation and retention of records as required by any statute, rule, regulation, or permit enforced by ANR.
- (7) "Reporting" means the duty to report information required by any statute, rule, regulation, or permit enforced by ANR.
- (8) "Respondent" means a person who has been issued a citation.
- (9) "Secretary" means the Secretary of the Agency of Natural Resources or a duly authorized representative.
- (10) "Violation" means any noncompliance with any category of statute, rule, regulation, or permit listed in Table 1 of this rule.
- (11) "Waiver" or "Waiver penalty" means the penalty to be paid by the respondent if the citation is not contested.

### **25-103. Purpose**

It is the purpose of these rules to establish the use of citations as a tool to address environmental violations under the jurisdiction of the Secretary. Further, this rule sets out the minimum, maximum and waiver penalty amounts for each violation for which a citation may be issued.

### **§ 25-104. Applicability**

These rules apply to any citation issued pursuant to 10 V.S.A. § 8019 for any category of violation listed in Table 1 of this rule.

Table 1 applies only to a citation issued pursuant to 10 V.S.A. § 8019 and is not applicable to calculations for any other penalty.

### **§ 25-105. Eligible violations and penalties**

- (a) A schedule of categories of violations for which a citation may be issued and associated penalties is attached as Table 1. Each listed violation category shall be enforceable as prescribed in 10 V.S.A. § 8019.
- (b) The maximum penalty for a single violation is established in Table 1 of this rule. In no case may a penalty for a single violation exceed \$3000 per respondent, excluding court fees. The maximum penalty shall be applied when a default judgment is entered.
- (c) The minimum penalty for a single violation is established in Table 1 of this rule. In no case may a penalty for a single violation be less than the minimum amount established by this rule, excluding court fees.
- (d) The waiver penalty for a single violation is established in Table 1 of this rule.
- (e) More than one respondent may be issued a citation for the same violation if multiple respondents are responsible and/or liable for the violation.
- (f) Where a respondent fails to conduct recordkeeping or reporting, there shall be a rebuttable presumption that the respondent failed to conduct the activity which was to be recorded and/or reported.

### **§ 25-106. Form of citations**

Citations issued under this rule shall be in the form approved by the court administrator.

### **§ 25-107. Service of citations**

Citations may be served in accordance with Rule 4 of the Vermont Rules of Civil Procedure, or by any person authorized by the Secretary, or by first-class mail.

### **§ 25-108. Effect of citation**

- (a) A citation issued under this section shall preclude the Secretary from seeking an additional monetary penalty for the violation specified in the citation when any one of the following occurs:
  - (1) The waiver penalty is paid.
  - (2) Judgment is entered after trial or appeal.
  - (3) A default judgment is entered.

- (b) Notwithstanding this preclusion, the Secretary:
  - (1) may issue additional citations or initiate an enforcement action under chapter 201, including a monetary penalty, when a violation is continuing or is repeated; and
  - (2) may also bring an enforcement action to obtain injunctive relief or remediation, and if such an action is brought the Secretary may recover the costs of bringing the additional action and the amount of any economic benefit the respondent obtained as a result of the underlying violation.

**§ 25-109. Administration of the citation program**

- (a) The Secretary shall be responsible for the implementation and operation of the program established by this rule. The implementation and operation of this rule may be delegated by the Secretary.
- (b) The Secretary shall maintain a list of names of ANR staff authorized to issue citations and the violations for which they are authorized to issue citations.
- (c) The Secretary shall adopt guidelines for the implementation of this rule by ANR staff. At a minimum, these guidelines shall include:
  - (1) The training required before individual staff are authorized to issue citations.
  - (2) The mechanics of drafting and issuing a citation.
  - (3) The internal review process that shall take place prior to the issuance of any citation. This internal review process shall include the approval of a supervisor prior to any citation being issued.
  - (4) The internal review process that shall take place prior to any citation being amended or dismissed.

**§25-110. Appeal**

An appeal of a decision from a contested citation shall be to the Superior Court Environmental Division. The appeal shall be conducted as an on the record review.

**§ 25-111. Severability**

The provisions of any section of these rules are severable. If any provision of these rules is found invalid by a court, or if any application of these rules to any person or circumstance is found invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**Table 1: Citation Schedule**

| <b>MINIMUM</b> | <b>FULL/MAXIMUM</b> | <b>WAIVER</b> | <b>Category</b>  |
|----------------|---------------------|---------------|--|
| \$250          | \$1,000             | \$500         | Statute, Permit, or Rule Violation – Recordkeeping and Reporting               |
| \$750          | \$2,000             | \$1,000       | Statute, Permit, or Rule Violation -<br>Other than Recordkeeping and Reporting |
| \$1,250        | \$3,000             | \$1,500       | Permit not obtained or Prohibited Acts   |