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901:12-2-01 Civil Penalties.

(A) “Minor violations” include actions that violate division 901:12 of the administrative code that occur due to neglect or unintentional acts of substandard practices which do not:

- (1) place the animal's life in imminent peril; or,
- (2) cause protracted disfigurement; or,
- (3) cause protracted impairment of health; or,
- (4) cause protracted loss or impairment of the function of a limb or bodily organ.

(B) “Major violations” are actions that violate division 901:12 of the administrative code which:

- (1) place an animal's life in imminent peril; or,
- (2) cause protracted disfigurement; or,
- (3) cause protracted impairment of health; or,
- (4) cause protracted loss or impairment of the function of a limb or bodily organ.

Major violations also include violations of 901:12 of the administrative code that occur due to reckless or intentional acts which result in unjustifiable infliction of pain.

(C) Nothing in the rules adopted in division 901:12 of the administrative code shall be construed to prevent a licensed veterinarian, or other person acting under the veterinarian's supervision, from meeting the standards set forth in Chapter 4741 of the Revised Code or rules promulgated thereunder.

(D) Notice of Violation

(1) Where the Ohio department of agriculture (department) determines that the owner of the livestock and a person who has current custody or responsibility of the livestock, (the responsible party) has committed a violation of the standards created by the livestock care board, the department shall inform the person having immediate custody of or responsibility for the livestock of the provisions violated.

(2) The initial notification may be in person, by telephone, fax, or email.

(3) If the initial notice is not in writing, the investigating authority shall, within three business days of the finding that the violation has occurred, serve on the responsible party or mail to the responsible party's last known address, a written notification of the findings of the inspection, of the standard of statutes violated or other acts of cruelty.

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(4) If the violation can be corrected, the written notice will also include the corrective measures which must be taken to achieve compliance, including the amount of time allowed to take corrective measures.

(E) If the responsible party, after receiving notice of violation under this section, fails to cure the violation within the time specified in the written notice, the responsible party may be assessed for a subsequent violation for each day the violation remains uncured.

(F) Penalties for Minor Violations

The department may assess a civil penalty up to five hundred dollars for the first minor offense and up to one thousand dollars for each subsequent minor offense that is committed within 60 months of the previous minor violation.

(G) Penalties for Major Violations

(1) The department may assess a civil penalty of one thousand dollars up to five thousand dollars for the first major violation. The department may assess a civil penalty of five thousand dollars up to ten thousand dollars for each subsequent major violation that is committed within 60 months of the previous major violation.

(2) Where the department determines that the responsible party has committed a major violation of this rule, in addition to the penalty assessed in paragraph (G)(1) of this rule, the department may assist the actions of state and local agencies and nongovernmental organizations to provide proper care for the animal including, but not limited to:

(a) feeding and watering; or,

(b) providing medical care; or,

(c) actions necessary to take possession of the livestock; or,

(d) euthanasia and disposal.

(H) For the purposes of determining the civil penalties in (F) and (G) of this rule, a violation affecting more than one animal may be considered as one offense.

(I) In addition to the civil penalty assessed, the department may assess an additional amount to recover the cost to the department to investigate a matter if the investigation results in a final adjudication that a violation has occurred. Calculation of the cost shall include:

(1) The average salary of all employees directly involved in the investigations;

(2) Average fringe benefits rate for all employees directly involved in the investigation;

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(3) Duplicating and copying costs;

(4) Direct and indirect costs including all laboratory analysis.

(J) In addition to all other penalties assessed, the department may assess the responsible party the costs for the care of livestock incurred under paragraph (G)(2) of this rule.

(K) Costs recovered under (I) and (J) shall be deposited to the livestock care standards fund.

(L) For any notice of violation issued under this rule the hearing requirements of Section 119.06 of the Revised Code are applicable.