

Rule 45. Rules for Administrative Citations and Penalties, Stop Work Orders and Debarment

45.5560. Failure to Insure; Stop-Work Order.

45.5570. If an employer fails to comply with the requirements of 21 V.S.A. § 687 after investigation by the Commissioner, the Commissioner shall issue an emergency stop-work order to the employer. Additionally, an employer that fails to secure Workers' Compensation coverage after being ordered in writing to do so by the Commissioner shall be assessed an administrative penalty of up to \$250.00 for every day the employer fails to obtain coverage after being ordered to do so, and may also be assessed an administrative penalty of up to \$250.00 per employee for every day that the employer has failed to secure the ordered Workers' Compensation coverage.

45.5571. The stop-work order shall clearly state the name of the employer, the penalties for violating the order, the process for having the order rescinded, and the method to appeal the order.

45.5572. A stop-work order may be appealed pursuant to VRCR 75.

45.5580. Debarment; Violation of Stop-Work Order.

45.5590. In addition to the penalties listed in Rule 45.5570 above, the Commissioner shall prohibit an employer that has been issued a stop-work order pursuant to 21 V.S.A. § 692(b) from contracting, directly or indirectly, with the State or any of its subdivisions, for up to three years.

45.5591. Prior to issuing any debarment penalty, the Commissioner shall consult with the Commissioner of Buildings and General Services and the Secretary of Transportation, or other agencies as appropriate. The consultation may occur informally provided that a written or electronic record of that consultation naming the employer involved, a description of the violation(s), the proposed debarment period, and any response received from the Commissioner of Buildings and General Services or the Secretary of Transportation is maintained. The debarment shall be ordered if no objection is raised by the Department or Agency consulted within five business days of receiving notice of the proposed debarment. If an objection is raised, the Commissioner shall consider it, but in his or her discretion may order the debarment nevertheless.

45.5592. An administrative determination shall be issued to advise the employer of the debarment period and the employer's appeal rights.

45.5593. In establishing a debarment period under this section, the Commissioner may consider any **relevant mitigating factors**, including the employer's good faith or excusable neglect, or the impact of debarment on public health and safety.

45.5594. An initial violation shall result in a debarment period of one year, prior to consideration of any mitigating factors.

45.5595. A second violation occurring within three years from the previous violation shall result in a debarment period of two years, prior to consideration of any mitigating factors.

45.5596. A third or subsequent violation occurring within three years from the most recent violation shall result in a debarment period of three years, prior to consideration of any mitigating factors.

45.5597. Notwithstanding any mitigating factors, the debarment period shall not be less than the period during which the employer was in violation of 21 V.S.A. § 687.

Full text of the Administrative Penalty Rules may be found at:

<http://labor.vermont.gov/wordpress/wp-content/uploads/Rule45Adopted.pdf>