



Province of Alberta

WATER ACT

# **WATER (OFFENCES AND PENALTIES) REGULATION**

**Alberta Regulation 193/1998**

With amendments up to and including Alberta Regulation 250/2018

Current as of December 12, 2018

Office Consolidation

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(Consolidated up to 250/2018)

**ALBERTA REGULATION 193/98**

**Water Act**

**WATER (OFFENCES AND PENALTIES) REGULATION**

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**Interpretation**

**1(1)** In this Regulation, “Act” means the *Water Act*.

**(2)** The applicable interpretation provisions in the *Water (Ministerial) Regulation* (AR 205/98) apply with respect to this Regulation.

AR 193/98 s1;250/2018

**Part 1**  
**Offences and Penalties**

**Offences, penalties and administrative penalties**

**2(1)** A person who contravenes any provision (other than that mentioned in subsection (3)) of the Safety Directive or of the Wells Directive or any of the provisions of the *Water (Ministerial) Regulation* (AR 205/98) referred to below in this subsection is guilty of an offence and is liable, in the case of an individual, to a fine of not more than \$50 000 or, in the case of a corporation, to a fine of not more than \$500 000:

- (a) section 4(3);

- (b) section 7(3);
- (c) section 26(3);
- (d) section 29(1) or (2);
- (e) section 30(1) or (2);
- (f) section 31(1), (2) or (3);
- (g) section 32(2), (3) or (4);
- (h) section 33(1), (2) or (3);
- (i) section 34(1) or (2);
- (j) section 34.1(3), (4) or (5);
- (k) section 35(1);
- (l) section 67(1), (2) or (3);
- (m) section 68(1), (2) or (3).

**(2)** A person who contravenes a Code of Practice adopted by section 3 or 6 of the *Water (Ministerial) Regulation* (AR 205/98) is guilty of an offence and is liable

- (a) in the case of an individual, to a fine of not more than \$50 000, or
- (b) in the case of a corporation, to a fine of not more than \$500 000.

**(3)** An applicant who contravenes section 13 of the *Water (Ministerial) Regulation* (AR 205/98) or a person who contravenes a provision of the Safety Directive that is the same or similar in effect to the repealed section 39(4) of the *Water (Ministerial) Regulation* (AR 205/98) is guilty of an offence and is liable

- (a) in the case of an individual, to a fine of not more than \$250, or
- (b) in the case of a corporation, to a fine of not more than \$1000.

AR 193/98 s2;164/2005;250/2018

#### **Due diligence defence**

**3** A person shall not be convicted of an offence referred to in section 2(1) or (2) if that person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

## Part 2 Administrative Penalty

### Applicability of administrative penalty

**4(1)** An administrative penalty under section 152 of the Act may be imposed in respect of those provisions listed in the Schedule.

**(2)** A notice of administrative penalty must be given in writing and must contain the following information:

- (a) the name of the person required to pay the administrative penalty;
- (b) particulars of the contravention;
- (c) the amount of the administrative penalty and the date by which it must be paid;
- (d) a statement of the right to appeal by notice of appeal to the Environmental Appeal Board under section 115(1)(q) of the Act.

### Penalty assessment

**5(1)** Subject to subsections (2) and (3), the amount of an administrative penalty for each contravention that occurs or continues is the amount set out in the Base Penalty Table but that amount may be increased or decreased by the Director in accordance with subsection (2).

**Base Penalty Table  
Type of Contravention**

		Major	Moderate	Minor
<b>Potential for Adverse Effect</b>	Major	\$5000	\$3500	\$2500
	Moderate	3500	2500	1500
	Minor to None	2500	1500	1000

**(2)** Subject to subsection (3), the Director may increase or decrease the amount of the administrative penalty from the amount set out in the Base Penalty Table on considering the following factors:

- (a) the importance to the regulatory scheme of compliance with the provision;
- (b) the degree of wilfulness or negligence in the contravention;

- (c) whether or not there was any mitigation relating to the contravention;
- (d) whether or not steps have been taken to prevent reoccurrence of the contravention;
- (e) whether or not the person who receives the notice of administrative penalty has a history of non-compliance;
- (f) whether or not the person who receives the notice of administrative penalty has derived any economic benefit from the contravention;
- (g) any other factors that, in the opinion of the Director, are relevant.

**(3)** The maximum administrative penalty that may be imposed for the purposes of section 152(1.1)(a) of the Act is \$5000 for each contravention or for each day or part of a day on which the contravention occurs and continues, as the case may be.

**(4)** Repealed AR 250/2018 s4.

AR 193/98 s5;250/2018

#### **Payment of penalty**

**6** A person who is given a notice of administrative penalty must pay the amount of the penalty within 30 days of the date that the notice was given.

**Part 3** Repealed AR 250/2018 s5.

#### **Schedule**

##### **Contraventions in Respect of Which an Administrative Penalty may be Imposed**

**1** The contraventions referred to in section 142(1)(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r) or (s) of the Act are the provisions of the Act in respect of which an administrative penalty may be imposed under section 152 of the Act.

**2** A contravention of a provision referred to in section 2(1) and (2) of this Regulation is a provision in respect of which an administrative penalty may be imposed under section 152 of the Act.

AR 193/98 Sched;250/2018





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