

Deposited February 27, 2017

effective February 27, 2017

Mines Act

ADMINISTRATIVE PENALTIES (MINES) REGULATION

Note: Check the Cumulative Regulation Bulletin 2015 and 2016 for any non-consolidated amendments to this regulation that may be in effect.

Part 1 — Procedures for Making Determinations

Definition

1 In this regulation, "Act" means the Mines Act.

Assessment of administrative penalty

2 Before the chief inspector imposes an administrative penalty on a person, the chief inspector must consider the following matters, if applicable:

- (a) the gravity and magnitude of the contravention or failure;
- (b) the real or potential adverse effect of the contravention or failure;
- (c) previous contraventions or failures by, administrative penalties imposed on, or orders issued to the following:
 - (i) the person who is the subject of the determination;
 - (ii) if the person is an individual, a corporation for which the individual is or was a director, officer or agent;
 - (iii) if the person is a corporation, an individual who is or was a director, officer or agent of the corporation;
- (d) whether the contravention or failure was repeated or continuous;
- (e) whether the contravention or failure was deliberate;
- (f) any economic benefit derived by the person from the contravention or failure;
- (g) the person's efforts to prevent the contravention or failure;
- (h) the person's efforts to correct the contravention or failure;
- (i) the person's efforts to prevent reoccurrence of the contravention or failure;
- (j) any other factors that, in the opinion of the chief inspector, are relevant.

Enforcement of administrative penalty — permits

3 If a person fails to pay an administrative penalty as required under section 36.4 [due date of penalty] of the Act, the chief inspector may refuse to consider applications made by the person for a permit, or for the amendment of a permit, until the penalty is paid in full.

Part 2 — Administrative Penalties

Prescribed provisions of Act

4 (1) A person who contravenes section 10 (1) [permits], 11.1 [acquisition of a mine], 14 (1) [discrimination], 15 (7) [inspections] or 21 [appointment of manager] of the Act or an order issued under section 10 (8) (a), 14 (3), 15 (4.1) or (5) or 35 (1) [enforcement of Act, regulations code, permit or order] of the Act is liable to an administrative penalty not exceeding \$500 000.

(2) A person who contravenes section 26 [supervision required], 27 [mine plans] or 32 (1) or (2) [occupational health and safety committee] of the Act or an order issued under section 15 (4) (d) of the Act is liable to an administrative penalty not exceeding \$100 000.

(3) A person who contravenes section 30 (1) or (2) [posting of reports and orders] of the Act is liable to an administrative penalty not exceeding \$40 000.

Prescribed provisions of Mines Regulation

5 A person who contravenes section 1 [investigation by inspector] of the Mines Regulation, respecting the obligations of management, is liable to an administrative penalty not exceeding \$500 000.

Prescribed provisions of Workplace Hazardous Materials Information System Regulation (Mines)

6 A person who contravenes section 3 (1) [prohibition] of the Workplace Hazardous Materials Information System Regulation (Mines) is liable to an administrative penalty not exceeding \$500 000.

Prescribed provisions of Health, Safety and Reclamation Code for Mines in British Columbia

7 (1) A person who contravenes section 1.7.1 (1) [manager's responsibility], 1.11.1 [training], 3.4.1 [work in confined spaces], 3.7.1 (1) [Mine Emergency Response Plan], 10.5.1 [construction of tailings and water management facilities], 10.5.2 [Operations, Maintenance and Surveillance (OMS) Manual], 10.5.3 [annual dam safety inspection] or 10.5.4 [dam safety reviews] of the code is liable to an administrative penalty not exceeding \$500 000.

(2) A person who contravenes section 1.12.1 [open pit], 1.12.2 [underground non coal], 1.12.3 [underground coal mine] or 1.12.5 [manager] of the code is liable to an administrative penalty not exceeding \$100 000.

(3) A person who contravenes section 1.11.2 [record of training] of the code is liable to an administrative penalty not exceeding \$40 000.

Part 3 — Appeals

Definition

8 In this Part, "appeal" means an appeal under section 36.7 [appeal] of the Act.

Appeal tribunal

9 For the purposes of section 36.7 of the Act and this Part, the appeal tribunal is the Environmental Appeal Board continued under the Environmental Management Act.

Application of Administrative Tribunals Act to appeal tribunal

10 The following provisions of the Administrative Tribunals Act apply to the appeal tribunal:

- (a) Part 1 [Interpretation and Application];
- (b) Part 2 [Appointments];
- (c) Part 3 [Clustering];
- (d) Part 4 [Practice and Procedure], except the following:
 - (i) section 23 [notice of appeal (exclusive of prescribed fee)];
 - (ii) section 24 [time limit for appeals];
 - (iii) section 25 [appeal does not operate as stay];
 - (iv) section 34 (1) and (2) [power to compel witnesses and order disclosure];
- (e) Part 6 [Costs and Sanctions];
- (f) Part 7 [Decisions];
- (g) Part 8 [Immunities];
- (h) Part 9 [Accountability and Judicial Review] except section 58 [standard of review with privative clause].
[Provisions relevant to the enactment of this regulation: Mines Act, R.S.B.C. 1996, c. 293, section 38]