

Ontario Water Resources Act
Loi sur les ressources en eau de l'Ontario

ONTARIO REGULATION 223/07

ENVIRONMENTAL PENALTIES

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This Regulation is made in English only.

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Purpose

1. The purpose of this Regulation is to provide for the assessment of environmental penalties in a manner that encourages regulated persons to,

(a) take steps to prevent contraventions;

(b) take steps to mitigate the effects of contraventions and to prevent their recurrence;

(c) implement environmental management systems; and

(d) enter into agreements under subsection 106.1 (9) of the Act to take steps for the protection of the natural environment beyond the measures required by an Act of Ontario or Canada, by a regulation or instrument under an Act of Ontario or Canada, or by a public body. O. Reg. 223/07, s. 1.

Interpretation

2. In this Regulation,

“contravention” means a contravention or failure in respect of which a person may be required to pay an environmental penalty under section 106.1 of the Act;

“Director” means a Director appointed in respect of section 106.1 of the Act;

“plant” means an industrial facility and the real property, waste disposal sites and wastewater treatment facilities associated with it;

“public body” means a municipality, local board, conservation authority, ministry, department, board, commission, or agency or official of a provincial or federal government;

“toxic substance” means a substance listed in Table 1 of the Ministry of the Environment publication entitled “Environmental Penalties – Code of Toxic Substances”, as amended from time to time. O. Reg. 223/07, s. 2.

Regulated person

3. (1) For the purposes of clause (a) of the definition of “regulated person” in subsection 1 (1) of the Act, a prescribed class of persons is persons who own or operate a plant that,

(a) is listed in Table 1;

(b) is described in section 3 of Ontario Regulation 560/94 (Effluent Monitoring and Effluent Limits – Metal Mining Sector), made under the Environmental Protection Act, as a plant to which that regulation applies;

(c) discharges sewage, other than storm water, to a surface watercourse or to a sewage works that is privately owned, and,

(i) processes chemicals into organic chemicals, plastics, or synthetic fibres (organic chemical manufacturing sector),

(ii) processes, manufactures, packages or blends inorganic chemicals (inorganic chemical sector),

(iii) mines, excavates, extracts or processes as a product graphite, gypsum, silica (quartzite), salt, talc, nepheline syenite or trap rock (industrial minerals sector),

(iv) mines, excavates, extracts or processes limestone, dolomite, or sandstone on real property, and manufactures products on the real property using the limestone, dolomite, or sandstone (industrial minerals sector),

(v) produces portland clinker, cement, lime or magnesium (industrial minerals sector),

(vi) produces electricity through fossil-fuelled thermal generation, nuclear-powered thermal generation, and plants associated with nuclear plants including heavy water plants and nuclear complex services (electric power generation sector),

(vii) produces newsprint, fine papers, coated papers, paperboard, kraft pulp, linerboard, corrugating medium, kraft paper, tissue, groundwood paper, boxboard, or container board (pulp and paper sector),

(viii) refines crude oil to produce petroleum products (petroleum sector),

(ix) manufactures metallic objects by cooling molten metal in a mould or die (metal casting sector), or

(x) uses iron ore or recycled material to produce steel (iron and steel manufacturing sector); or

(d) is a plant described in clause (c) that has temporarily suspended the operations or the discharge referred to in that clause. O. Reg. 223/07, s. 3 (1).

(2) A plant does not manufacture a product using limestone, dolomite or sandstone for the purpose of subclause (1) (c) (iv) if it engages only in aggregate crushing and screening of those minerals. O. Reg. 223/07, s. 3 (2).

(3) Despite subsection (1), a person who owns or operates a plant described in subsection (1) is not a regulated person during any periods where any of the following circumstances apply to the plant and the person notifies the Director of it in writing:

1. The plant’s sewage works for sewage other than storm water are exempt under clause 53 (6) (a) or (b) of the Act from the prohibition under subsection 53 (1) of the Act.

2. If the plant is listed in Table 1, the person permanently ceases all operations and activities described in clause (1) (c). O. Reg. 223/07, s. 3 (3); O. Reg. 252/11, s. 1.

(4) In this section,

“surface watercourse” means any lake, river, pond, stream, reservoir, swamp, marsh or surface drainage works. O. Reg. 223/07, s. 3 (4).

Contraventions

4. (1) An order under subsection 106.1 (1) of the Act to pay an environmental penalty shall not be issued for any contravention referred to in that subsection except as set out in this Regulation. O. Reg. 223/07, s. 4 (1).

(2) An order under subsection 106.1 (1) of the Act to pay an environmental penalty may only be issued,

(a) to a regulated person; and

(b) for a contravention that,

(i) occurs at a plant described in subsection 3 (1) or relates to the operations of the plant,

(ii) is described in Column 2 of Table 2, if the circumstances, if any, set out in Column 3 of that Table for the contravention, apply, and

(iii) occurs or continues on or after the date specified in Column 4 of Table 2 in respect of the contravention. O. Reg. 223/07, s. 4 (2).

Notice of intention to issue penalty

5. (1) Before issuing an order to a regulated person under subsection 106.1 (1) of the Act, the Director shall give the regulated person a written notice of intention to issue the order that includes the following information:

1. A statement of the Director’s intention to issue an order under subsection 106.1 (1) of the Act.

2. The item number in Table 2 of the contravention to which the proposed order will relate.

3. The classification of the contravention as a Type 1, 2 or 3 contravention in accordance with Table 2, the classification of the contravention as a less serious, serious or very serious contravention in accordance with sections 10 to 14, and the cell of Table 3 that corresponds to the classifications.

4. A statement of which factors listed under paragraph 3 of subsection 9 (1) the Director will consider in determining the amount of the gravity component from the range set out in the cell of Table 3 identified under paragraph 3 of this subsection.

5. In the case of a contravention specified in item 1 of Table 2,

i. a description of how the contravention may impair the quality of the water of any waters, and

ii. a statement as to whether the discharge contained a toxic substance.

6. A description of the days or parts of days on which the contravention occurred or continued in respect of which the Director intends to issue the order, where a day is a 24-hour period.

7. If appropriate, the location of the contravention.

8. If the Director is of the opinion that as a result of the contravention, a monetary benefit described in paragraph 1 or 2 of subsection 8 (1) was acquired by the regulated person, the estimated monetary benefit and a summary of how the Director determined the monetary benefit, including the time frame that was used in the estimate.

9. Information about the regulated person's right under section 6 to request a reduction to the amount of the environmental penalty and the grounds on which such a reduction may be requested. O. Reg. 223/07, s. 5 (1).

(2) A notice of intention given under subsection (1) may apply to one or more contraventions. O. Reg. 223/07, s. 5 (2).

(3) The Director may amend a notice of intention after it has been issued by giving the regulated person a written amendment. O. Reg. 223/07, s. 5 (3).

Request for review of penalty

6. (1) A regulated person who receives a notice of intention under subsection 5 (1), or an amendment under subsection 5 (3), may make any one or more of the following requests in writing, within 15 days after the date indicated on the notice of intention or on the amendment, if any, or within such longer period as the Director agrees to in writing:

1. If the notice of intention or amendment includes an estimate of monetary benefit, a request that the Director consider the information included with the request and redetermine the monetary benefit.

2. If the notice of intention or amendment relates to a contravention specified in item 1 of Table 2 and includes a statement that the discharge contained a toxic substance, a request that the Director consider any information included with the request demonstrating that the toxic substance or its concentration did not result from the operation or activities of the plant.

3. A request that the Director consider any information included with the request before determining the gravity component of the penalty under section 9.

4. A request that the Director, after determining the gravity component of the penalty under section 9, grant a reduction to the component in accordance with section 15 on the grounds that the regulated person took steps to prevent the contravention or mitigate its effects.

5. A request that the Director, after determining the gravity component of the penalty under section 9, grant a reduction to the component in accordance with section 16 on the grounds that at the time of the contravention, the regulated person had in place an environmental management system described in section 16. O. Reg. 223/07, s. 6 (1).

(2) If the notice of intention or amendment applies to more than one contravention, a request under subsection (1) may be made in respect of any one or more of the contraventions. O. Reg. 223/07, s. 6 (2).

(3) A request made under subsection (1) shall include the following information:

1. For a request under paragraph 4 of subsection (1), the grounds on which the reduction is requested and a specific description of the steps taken.

2. For a request under paragraph 5 of subsection (1), any document demonstrating that, at the time of the contravention, the regulated person had in place an environmental management system described in section 16.

3. For any request under subsection (1), all information and submissions that the regulated person wants the Director to consider with respect to the request. O. Reg. 223/07, s. 6 (3).

Amount of environmental penalty

7. (1) The amount of the environmental penalty for a contravention is,

$$A + (B - C - D - E)$$

in which,

“A” is the monetary benefit received by the regulated person as a result of the contravention, as determined under section 8,

“B” is the gravity component for the contravention, as determined under section 9,

“C” is the reduction, if any, to the gravity component determined under section 15 (reductions for prevention or mitigation),

“D” is the reduction, if any, to the gravity component determined under section 16 (reduction for environmental management system), and

“E” is the reduction, if any, to the gravity component determined under subsection 17 (2) or (3), as the case may be (reduction for agreement with the Director).

O. Reg. 223/07, s. 7 (1).

(2) If, after determining the environmental penalty for the contravention, the Director determines that the amount of the environmental penalty is, by its magnitude, punitive in nature having regard to all the circumstances, the Director shall reduce the amount of the environmental penalty to an amount that is consistent with promoting internal discipline among regulated persons to comply with the requirements under the Act. O. Reg. 223/07, s. 7 (2).

Monetary benefit

8. (1) The following monetary benefits are prescribed for the purpose of paragraph 3 of subsection 106.1 (17) of the Act:

1. Avoided costs, which are costs that the regulated person avoided incurring by failing to comply with a provision described in Table 2. Avoided costs apply in respect of provisions that must be complied with on or by a certain date and that, once that date has passed, cannot be complied with on a future date.

2. Delayed costs, which are costs that the regulated person delayed incurring by delaying compliance with a provision described in Table 2. O. Reg. 223/07, s. 8 (1).

(2) If the Director is of the opinion that a regulated person acquired a monetary benefit described in subsection (1), the Director shall,

(a) determine the time frame during which the regulated person acquired the monetary benefit; and

(b) determine the amount of the monetary benefit in accordance with the Ministry of the Environment publication entitled “Procedure for the Calculation of the Monetary Benefit Component of Environmental Penalties”, as amended from time to time. The document is available at the Ministry’s Public Information Centre and on the Ministry’s website. O. Reg. 223/07, s. 8 (2).

Gravity component

9. (1) The gravity component for the first day on which a contravention occurs is determined as follows:

1. The Director classifies the contravention as a Type 1, 2 or 3 contravention as indicated in Column 5 of Table 2, and as a less serious, serious, or very serious contravention in accordance with sections 10 to 14.
 2. The Director determines the cell of Table 3 that corresponds to the classifications determined under paragraph 1.
 3. The Director determines an amount that is within the range set out in the cell, taking into consideration those of the following factors that were indicated under paragraph 4 of subsection 5 (1) in the notice of intention:
 - i. The history of contraventions, if any, that resulted in convictions of the regulated person under this Act or the Environmental Protection Act or in orders issued to the regulated person under section 106.1 of the Act or section 182.1 of the Environmental Protection Act.
 - ii. Whether the regulated person is a member of the Ministry's Ontario's Environmental Leaders Program at the time of the contravention.
 - iii. The extent of the delay in complying with the requirement that was contravened.
 - iv. Whether the extent of the deviation from the requirement that was contravened is in the lower or upper part of the range for the seriousness classification for the contravention, as set out in sections 10 to 14.
 4. For a contravention specified in item 1 of Table 2, the Director shall multiply the amount determined under paragraph 3 by 1.35 if the discharge contains a toxic substance, unless the information submitted under paragraph 2 of subsection 6 (1) demonstrates that the toxic substance or its concentration did not result from the operations or activities of the plant.
 5. For a contravention specified in item 2 of Table 2, the Director shall multiply the amount determined under paragraph 3 by 1.35, if the contravention relates to a discharge of a material that is a toxic substance. O. Reg. 223/07, s. 9 (1); O. Reg. 252/11, s. 2 (1).
- (2) If a contravention specified in item 1, 2 or 12 of Table 2 occurs on or continues for more than one day, the gravity component for the contravention is the amount obtained by multiplying the amount determined under subsection (1) by the number of days on which the contravention occurs or continues. O. Reg. 223/07, s. 9 (2); O. Reg. 252/11, s. 2 (2).
- (3) If a contravention specified in item 4 or 6 of Table 2 occurs on or continues for more than one day, the gravity component for the contravention is the lesser of the following:
1. \$100,000.
 2. The amount obtained by multiplying the amount determined under subsection (1) by the number of days on which the contravention occurs or continues. O. Reg. 223/07, s. 9 (3); O. Reg. 252/11, s. 2 (3).
- (4) If a contravention specified in item 5, 7 or 8 of Table 2 occurs on or continues for more than one day, the gravity component for the contravention is the lesser of the following:
1. \$60,000.
 2. The sum of the following amounts:
 - i. The amount determined under subsection (1) for the first day of the contravention.
 - ii. 50 per cent of the amount determined under subsection (1) for each of the second to the seventh days on which the contravention occurs or continues.

iii. 25 per cent of the amount determined under subsection (1) for each of the eighth to the 30th days on which the contravention occurs or continues.

iv. 10 per cent of the amount determined under subsection (1) for each of the 31st to the 90th days on which the contravention occurs or continues.

v. 5 per cent of the amount determined under subsection (1) for each of the 91st day to the 180th days on which the contravention occurs or continues.

vi. Nothing, for any days after the 180th day on which the contravention occurs or continues. O. Reg. 223/07, s. 9 (4); O. Reg. 252/11, s. 2 (4).

(5) In this section, a day is a 24-hour period and a contravention occurs on or continues for more than one day if it occurs on or continues for more than one 24-hour period. O. Reg. 223/07, s. 9 (5).

Seriousness of contravention, contravention of s. 30 (1) of the Act

10. (1) The seriousness of a contravention specified in item 1 of Table 2 is classified under this section. O. Reg. 223/07, s. 10 (1).

(2) A contravention is less serious if it is not classified as serious or very serious. O. Reg. 223/07, s. 10 (2).

(3) A contravention is serious if the contravention causes or may cause one or more of the following effects:

1. Localized injury or damage to any animal life.

2. Widespread or long-term interference with the normal conduct of business.

3. Widespread or long-term loss of enjoyment of the normal use of property.

4. Widespread damage to property, other than plant or animal life.

5. Damage to property, other than plant or animal life, such that the property cannot be restored, within a reasonable time, to the condition that existed immediately before the discharge occurred. O. Reg. 223/07, s. 10 (3).

(4) A contravention is very serious if the contravention causes or may cause one or more of the following effects:

1. Widespread injury or damage to plant or animal life.

2. Harm or material discomfort to any person.

3. An adverse effect on the health of any person.

4. The impairment of the safety of any person. O. Reg. 223/07, s. 10 (4).

Seriousness of contravention, contravention of discharge limit

11. (1) The seriousness of a contravention specified in item 2 of Table 2 is classified under this section. O. Reg. 223/07, s. 11 (1); O. Reg. 252/11, s. 3 (1).

(2) Where the limit specified in an order requires a discharge to have a pH value,

(a) the contravention is classified as less serious if the discharge deviates from the pH value by less than 0.5;

(b) the contravention is classified as serious if the discharge deviates from the pH value by 0.5 or more but less than 1.0; and

(c) the contravention is classified as very serious if the discharge deviates from the pH value by 1.0 or more. O. Reg. 223/07, s. 11 (2); O. Reg. 252/11, s. 3 (2).

(3) Where the limit specified in an order does not relate to pH,

(a) the contravention is classified as less serious if the limit is exceeded by less than 50 per cent;

(b) the contravention is classified as serious if the limit is exceeded by 50 per cent or more but less than 100 per cent; and

(c) the contravention is classified as very serious if the limit is exceeded by 100 per cent or more. O. Reg. 223/07, s. 11 (3); O. Reg. 252/11, s. 3 (3).

12. Revoked: O. Reg. 252/11, s. 4.

Seriousness of contravention, contravention of settlement agreement

13. (1) For a contravention specified in item 12 of Table 2, the seriousness of the contravention is classified under this section if the provision of the agreement that was contravened required the regulated person to take steps to prevent, eliminate or reduce the discharge of a material into the natural environment beyond those required by an Act of Ontario or Canada, by a regulation or instrument under an Act of Ontario or Canada, or by a public body. O. Reg. 223/07, s. 13 (1).

(2) A contravention is classified as less serious if the regulated person took steps to implement all of the provisions of the agreement mentioned in subsection (1), but not within the time specified in the agreement. O. Reg. 223/07, s. 13 (2).

(3) A contravention is classified as serious if the regulated person took steps to implement the provisions of the agreement mentioned in subsection (1), and those steps had some effect in preventing, eliminating or reducing the discharge of a material into the natural environment. O. Reg. 223/07, s. 13 (3).

(4) A contravention is classified as very serious if the regulated person failed to take any steps to implement the provisions of the agreement mentioned in subsection (1) that would have had some effect in preventing, eliminating or reducing the discharge of a material into the natural environment. O. Reg. 223/07, s. 13 (4).

Seriousness of contravention, other contravention

14. (1) The seriousness of any contravention not specifically mentioned in sections 10 to 13 is classified under this section. O. Reg. 223/07, s. 14 (1).

(2) A contravention is less serious if the contravention does not impair the quality of the water of any waters or interfere with the Ministry's capacity to protect and conserve the natural environment, or have the potential to do either. O. Reg. 223/07, s. 14 (2).

(3) A contravention is serious if the contravention,

(a) interferes with the Ministry's capacity to protect and conserve the natural environment or has the potential to do so; and

(b) does not impair the quality of the water of any waters and does not have the potential to do so. O. Reg. 223/07, s. 14 (3).

(4) A contravention is very serious if the contravention impairs the quality of the water of any waters or has the potential to do so. O. Reg. 223/07, s. 14 (4).

Reductions for prevention or mitigation

15. (1) A regulated person who made a request under paragraph 4 of subsection 6 (1) in respect of a contravention specified in item 1 or 2 of Table 2 is entitled to a reduction to the gravity component in an amount determined by the Director that does not exceed 20 per cent of the gravity component if, before the contravention occurred, the regulated person took one or more of the following steps to prevent it:

1. Analysed in writing the likelihood of the contravention to occur and the potential impacts if it occurred.
2. Developed strategies to prevent the contravention based on the analysis referred to in paragraph 1, and documented the implementation of the strategies.
3. Established monitoring and maintenance programs for structures, equipment and mechanisms at the plant for the purpose of preventing the contravention.
4. Constructed or installed containment structures for the purpose of preventing the contravention.
5. Installed and maintained an alarm system or other notification system to alert operators of the plant when the contravention is imminent, and documented procedures for operating the system.
6. Altered or redesigned industrial processes used at the plant for the purpose of preventing the contravention, or installed equipment for the purpose.
7. Trained personnel in the construction, installation, maintenance or operation of any relevant structures, equipment or mechanisms, and in the implementation of any other measures relating to preventing the contravention. O. Reg. 223/07, s. 15 (1); O. Reg. 252/11, s. 5 (1).

(2) A regulated person who made a request under paragraph 4 of subsection 6 (1) in respect of a contravention specified in item 1 or 2 of Table 2 is entitled to a reduction to the gravity component in an amount determined by the Director that does not exceed 10 per cent of the gravity component, if the regulated person took one or more of the following steps to mitigate the effects of the contravention:

1. Before the contravention occurred, the regulated person,
 - i. installed and maintained an alarm system or other notification system to alert operators of the plant when the contravention occurs,
 - ii. developed and implemented written procedures to ensure that, in the event the contravention occurred, appropriate personnel, equipment and material would be available at the plant to respond to the contravention,
 - iii. if the contravention is specified in item 2 of Table 2, developed and implemented written procedures specifying steps to be taken to identify the contravention and to ensure an appropriate response is taken if the contravention occurs,
 - iv. developed written procedures specifying steps to be taken by personnel when responding to the contravention, or
 - v. trained personnel in the construction, installation, maintenance or operation of any relevant structures, equipment or mechanisms, and in the implementation of any other measures relating to mitigating the effects of the contravention.
2. After the contravention occurred, the regulated person,

- i. promptly deployed appropriate personnel, equipment and material at the plant to respond to the contravention in such a manner as to prevent, eliminate or ameliorate any impairment to the quality of water of any waters to the extent possible,
- ii. established on-site and off-site monitoring and sampling to minimize risk to the environment and human health,
- iii. conducted an analysis to determine the cause of the contravention, or
- iv. if the contravention is specified in item 2 of Table 2, revised the steps described in subsection (1) to better prevent the contravention from occurring again. O. Reg. 223/07, s. 15 (2); O. Reg. 252/11, s. 5 (2-4).

(3) A regulated person who made a request under paragraph 4 of subsection 6 (1) in respect of a contravention specified in items 4 to 12 of Table 2 is entitled to a reduction to the gravity component in an amount determined by the Director that does not exceed 30 per cent of the gravity component, if the regulated person took one or more steps to prevent the contravention or to mitigate its effects. O. Reg. 223/07, s. 15 (3).

(4) When the Director makes a determination under subsection (1), (2) or (3) as to the amount of the reduction to grant, he or she may consider, in addition to the steps set out in those subsections, any other steps that the regulated person took to prevent or reduce the risk of a contravention occurring or to mitigate its effects. O. Reg. 223/07, s. 15 (4).

Reduction for environmental management system

16. The Director shall grant a reduction to the gravity component equal to 5 per cent of the gravity component if, at the time of the contravention, the regulated person had in place an environmental management system for the plant that was audited within three years before the contravention, and the audit confirmed one of the following:

1. That at the time of the audit,

i. the environmental management system was certified as meeting the standard set out in the document entitled “Environmental management systems – Requirements with guidance for use” and designated as CAN/CSA-ISO 14001:04, published by the Canadian Standards Association, as amended from time to time, by an environmental management systems registrar that has been accredited by,

A. the Standards Council of Canada, or

B. an accreditation body outside of Canada that is a signatory to the International Accreditation Forum Multilateral Recognition Arrangement, and

ii. the certification is recorded in a registry maintained by the registrar.

2. That at the time of the audit, the environmental management system was determined to be compliant with the standard set out in the document referred to in paragraph 1 by a person who,

i. is not an employee at the plant or a contractor who routinely works at the plant,

ii. audits according to a code of practice that conforms with the document entitled “Guidelines for quality and/or environmental management systems auditing” and designated as CSA/ISO 19011:2003, published by the Canadian Standards Association, as amended from time to time, and

iii. is certified by,

A. an auditing certification body that has been accredited by the Standards Council of Canada, including the Canadian Environmental Certification Approvals Board, or

B. a body outside of Canada that is a signatory to the International Accreditation Forum Multilateral Recognition Arrangement.

3. That at the time of the audit, the environmental management system was verified as meeting the requirements set out in the document entitled “Ethic and Codes of Practice of Responsible Care Commitment Package”, published by the Canadian Chemical Producers’ Association, as amended from time to time, by a person authorized by the Canadian Chemical Producers’ Association to audit environmental management systems. O. Reg. 223/07, s. 16.

Reduction for agreement with the Director

17. (1) In this section,

“B”, “C”, “D” and “E” have the same meanings as in subsection 7 (1);

“F” is $0.75 \times (B - C - D)$. O. Reg. 223/07, s. 17 (1).

(2) If a regulated person enters into an agreement described in subsection (4) in respect of a contravention specified in item 5, 7 or 8 of Table 2, the Director may grant a reduction to the gravity component that is less than or equal to the following amount:

$B - C - D$

O. Reg. 223/07, s. 17 (2); O. Reg. 252/11, s. 6 (1).

(3) If a regulated person enters into an agreement described in subsection (4) in respect of any other contravention, the Director may grant a reduction to the gravity component that is less than or equal to the following amount:

$0.75 \times (B - C - D)$

O. Reg. 223/07, s. 17 (3).

(4) An agreement referred to in subsections (2) and (3) is an agreement with the Director under subsection 106.1 (9) of the Act that requires the regulated person to take steps to prevent, eliminate or reduce the discharge of a material into the natural environment beyond those required by an Act of Ontario or Canada, by a regulation or instrument under an Act of Ontario or Canada, or by a public body. O. Reg. 223/07, s. 17 (4).

(5) If the agreement described in subsection (4) is in respect of a contravention specified in item 5, 7 or 8 of Table 2, the agreement is deemed to include a provision stating that the regulated person will spend on the implementation of the steps described in the agreement,

(a) an amount equal to $(3 \times E)$, if E is less than or equal to F; or

(b) an amount equal to $(3 \times F) + [5 \times (E - F)]$, if E is greater than F. O. Reg. 223/07, s. 17 (5); O. Reg. 252/11, s. 6 (2).

(6) If the agreement described in subsection (4) is in respect of any other contravention, the agreement is deemed to include a provision stating that the regulated person will spend on the implementation of the steps described in the agreement, an amount equal to $(3 \times E)$. O. Reg. 223/07, s. 17 (6).

Transition

18. Despite the revocation of items 3, 9, 10 and 11 of Table 2 of the Regulation, those items as they read immediately before the day subsection 2 (79) of Schedule 7 to the Open for Business Act, 2010 came into force continue to apply to a contravention that occurred before that day. O. Reg. 252/11, s. 7.

TABLE 1
PLANTS

Item

Column 1

Column 2

Column 3

Sector

Plant

Location

1.

Electric Power Generation
Atikokan Generating Station
Atikokan

2.

Electric Power Generation
Bruce Bulk Steam System
Tiverton

3.

Electric Power Generation
Bruce Nuclear Generating Station – A
Tiverton

4.

Electric Power Generation
Bruce Nuclear Generating Station – B
Tiverton

5.

Electric Power Generation
Bruce Nuclear Power Development Service –A & B
Tiverton

6.

Electric Power Generation
CM Greenfield Power Corp, as General Partner on behalf of Greenfield Energy Centre L.P., Greenfield
Energy Centre
St. Clair Township

7.

Electric Power Generation
Darlington Nuclear Generating Station
Darlington

8.

Electric Power Generation

Lambton Generating Station
Courtright

9.

Electric Power Generation
Lennox Generating Station
Bath

10.

Electric Power Generation
Nanticoke Generating Station
Nanticoke

11.

Electric Power Generation
Pickering Nuclear Generating Station – A & B
Pickering

12.

Electric Power Generation
Thunder Bay Generating Station
Thunder Bay

13.

Electric Power Generation
TransAlta Energy Corporation, North and South Powerhouse Blocks and Power Island
Sarnia

14.

Industrial Minerals
Carmeuse Lime (Canada) – Centre Plant
Beachville

15.

Industrial Minerals
Carmeuse Lime (Canada) – East Plant
Beachville

16.

Industrial Minerals
Carmeuse Lime (Canada) – West Plant
Ingersoll

17.

Industrial Minerals
Carmeuse Lime (Dundas)
Dundas

18.

Industrial Minerals
CGC Inc.
Hagersville

19.

Industrial Minerals
Drain Bros. Excavating Limited

Havelock

20.

Industrial Minerals
Dynatec Corporation
Madoc

21.

Industrial Minerals
Essroc Canada Inc.
Picton

22.

Industrial Minerals
Georgia-Pacific
Caledonia

23.

Industrial Minerals
Lafarge Canada Inc.
Woodstock

24.

Industrial Minerals
Lafarge Canada Inc.
Bath

25.

Industrial Minerals
Luzenac Inc.
Timmins

26.

Industrial Minerals
Sifto Canada Inc. (Evaporator Plant)
Goderich

27.

Industrial Minerals
St. Lawrence Cement Inc.
Mississauga

28.

Industrial Minerals
St. Marys Cement Inc.
Bowmanville

29.

Industrial Minerals
St. Marys Cement Inc.
St. Marys

30.

Industrial Minerals
The Canadian Salt Company Ltd. – Evaporator Plant
Windsor

31.
Industrial Minerals
The Canadian Salt Company Ltd. – Ojibway Mine
Windsor

32.
Industrial Minerals
Timminco Limited
Haley

33.
Industrial Minerals
Unimin Canada Limited
Badgeley Island

34.
Industrial Minerals
Unimin Canada Limited
Blue Mountain

35.
Industrial Minerals
Unimin Canada Limited
Nephton

36.
Inorganic Chemical
Air Liquide Canada Inc. (Courtright)
St. Clair Township

37.
Inorganic Chemical
Air Products Canada Ltd.
Sarnia

38.
Inorganic Chemical
Cabot Canada Ltd.
Sarnia

39.
Inorganic Chemical
Columbian Chemicals Canada Ltd.
Hamilton

40.
Inorganic Chemical
Cytec Canada Inc.
Niagara Falls

41.
Inorganic Chemical
Dyno Nobel Canada Inc.
North Bay

42.
Inorganic Chemical
Dyno Nobel Nitrogen Inc.
Maitland
43.
Inorganic Chemical
Honeywell ASCA Inc. Plant
Amherstburg
44.
Inorganic Chemical
Nitrous Oxide of Canada Limited
Maitland
45.
Inorganic Chemical
Nu-gro Technologies Inc.
Courtright
46.
Inorganic Chemical
Praxair Canada Inc.
Maitland
47.
Inorganic Chemical
Praxair Canada Inc.
Mooretown
48.
Inorganic Chemical
Praxair Canada Inc.
Sault Ste. Marie
49.
Inorganic Chemical
Praxair Canada Inc., Carbon Dioxide Gas Purification Facility
St. Clair Township
50.
Inorganic Chemical
Praxair Canada Inc., Sarnia Air Separation Plant
Sarnia
51.
Inorganic Chemical
Saint-Gobain Ceramic Materials Canada Inc.
Niagara Falls
52.
Inorganic Chemical
Sulco Chemicals Limited
Elmira
- 53.

Inorganic Chemical
Terra International (Canada) Ltd.
Courtright

54.
Inorganic Chemical
Washington Mills Electro Minerals Corp.
Niagara Falls

55.
Inorganic Chemical
Washington Mills Limited
Niagara Falls

56.
Iron & Steel
Algoma Steel Ltd.
Sault Ste. Marie

57.
Iron & Steel
Algoma Tubes Inc.
Sault Ste. Marie

58.
Iron & Steel
Dofasco
Hamilton

59.
Iron & Steel
Gerdau Ameristeel Corporation
Whitby

60.
Iron & Steel
Hamilton Steel GP Inc.
Hamilton

61.
Iron & Steel
Heico 2004 Member Inc.
L'Orignal

62.
Iron & Steel
Lake Erie Steel
Nanticoke

63.
Metal Casting
Kubota Metal Corp., Fahramet Division
Orillia

64.
Metal Casting

Magellan Aerospace Corporation
Haley

65.
Organic Chemical
Basell Canada Inc.
St. Clair Township

66.
Organic Chemical
BP Canada Energy Company
Sarnia

67.
Organic Chemical
Canada Commercial Services L.P.
Maitland

68.
Organic Chemical
Canada Commercial Services L.P.
St. Clair Township

69.
Organic Chemical
Chemtura Canada Co.
Elmira

70.
Organic Chemical
Chinook Group Limited
Sombra

71.
Organic Chemical
Dow Chemical Canada Inc., LaSalle Rd.
St. Clair Township

72.
Organic Chemical
Dow Chemical Canada Inc., Sarnia Site
Sarnia

73.
Organic Chemical
Durez Canada Company Ltd.
Fort Erie

74.
Organic Chemical
Ethyl Canada Inc., Sarnia Plant
St. Clair Township

75.
Organic Chemical
GE Plastics Canada Ltd.

Cobourg

76.

Organic Chemical
Goodyear Canada Inc.
Bowmanville

77.

Organic Chemical
Imperial Oil Chemicals Division
Sarnia

78.

Organic Chemical
Invista Canada Company – Kingston Site
Kingston

79.

Organic Chemical
Invista Canada Company – Maitland Site
Maitland

80.

Organic Chemical
Invista Canada Company – Millhaven Site
Millhaven

81.

Organic Chemical
Lanxess Inc.
Sarnia

82.

Organic Chemical
Liqui-Box Canada Inc.
Whitby

83.

Organic Chemical
Morbern Inc.
Cornwall

84.

Organic Chemical
NOVA Chemicals (Canada) Ltd., Moore Site
Moore Township

85.

Organic Chemical
NOVA Chemicals (Canada) Ltd., St. Clair River Site
St. Clair Township

86.

Organic Chemical
NOVA Chemicals (Canada) Ltd., Styrene II Site
Sarnia

87.
Organic Chemical
OxyVinyls Canada Inc.
Niagara Falls
88.
Organic Chemical
RohMax Canada – Morrisburg Plant
Morrisburg
89.
Organic Chemical
Royal Polymers Ltd.
Sarnia
90.
Organic Chemical
Stepan Canada Inc., Longford Mills
Longford Mills
91.
Organic Chemical
Suncor Energy Products Inc.
St. Clair Township
92.
Petroleum
Imperial Oil Ltd., Nanticoke Refinery
Nanticoke
93.
Petroleum
Imperial Oil Ltd., Sarnia Refinery
Sarnia
94.
Petroleum
NOVA Chemicals (Canada) Ltd., Corunna Site.
St. Clair Township
95.
Petroleum
Petro-Canada Products Lubricants Centre
Mississauga
96.
Petroleum
Shell Canada Ltd.
Sarnia
97.
Petroleum
Suncor Energy Products Inc.
Sarnia

98.
Pulp & Paper
Abitibi-Consolidated Company of Canada, Fort Frances Division
Fort Frances

99.
Pulp & Paper
Abitibi-Consolidated, Fort William Business Unit
Thunder Bay

100.
Pulp & Paper
Abitibi-Consolidated, Iroquois Falls Division
Iroquois Falls

101.
Pulp & Paper
Abitibi-Consolidated, Thorold Division
Thorold

102.
Pulp & Paper
Bowater Pulp and Paper Canada Ltd.
Thunder Bay

103.
Pulp & Paper
Domtar
Espanola

104.
Pulp & Paper
Georgia-Pacific Canada Inc.
Thorold

105.
Pulp & Paper
Interlake Acquisition Corporation Inc.
St. Catharines

106.
Pulp & Paper
Marathon Pulp
Marathon

107.
Pulp & Paper
Neenah Paper Company of Canada
Terrace Bay

108.
Pulp & Paper
Norampac Inc., Containerboard Division, Red Rock
Red Rock

109.

Pulp & Paper
Norampac Inc., Containerboard Division, Trenton
Trenton

110.
Pulp & Paper
Sonoco Canada Corporation
Quinte West City

111.
Pulp & Paper
St. Marys Paper
Sault Ste. Marie

112.
Pulp & Paper
Strathcona Paper Company
Napanee

113.
Pulp & Paper
Tembec Industries, Pulp Group, Smooth Rock Falls Division
Smooth Rock Falls

114.
Pulp & Paper
Tembec Industries, Pulp Group, Spruce Falls Division
Kapuskasing

115.
Pulp & Paper
Weyerhaeuser Canada Ltd.
Dryden

O. Reg. 223/07, Table 1.

TABLE 2
CONTRAVENTIONS

Item

Column 1

Column 2

Column 3

Column 4

Column 5

Column 6

Provision of the Act

Description of the contravention

Circumstances

First date on which an environmental penalty may be ordered for the contravention

Type of contravention

Section of this Regulation that specifies the type of consequence

1.
Subclause 106.1 (1) (a) (i)
Contravention of subsection 30 (1) of the Act (creates offence to discharge or cause or permit the discharge of any material of any kind into or in any waters or on any shore or bank thereof or into or in any place that may impair the quality of the water of any waters).

N/A

August 1, 2007

Type 3

10

2.
Subclause 106.1 (1) (a) (iii)
Contravention of a provision of an order, notice, direction, requirement or report under the Act that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment.

N/A

August 1, 2007

Type 1

11

3.
Revoked: O. Reg. 252/11, s. 8 (1).

4.
Subclause 106.1 (1) (b) (i)
Contravention of a provision of the Act or the regulations other than a provision referred to in clause 106.1 (1) (a) of the Act.

The contravention is of subsection 30 (2) of the Act.

August 1, 2007

Type 2

14

5.
Subclause 106.1 (1) (b) (i)
Contravention of a provision of the Act or the regulations other than a provision referred to in subclause 106.1 (1) (a) (i) or (ii) of the Act.

The contravention is of subsection 53 (1) of the Act.

December 1, 2008

Type 2

14

6.
Subclause 106.1 (1) (b) (ii)
Contravention of a provision of an order or direction under the Act, other than an order under section 84 of the Act, an order of a court or a provision of an order or direction referred to in subclause 106.1 (1) (a) (iii) of the Act.

The provision of the order or direction requires the regulated person to report a failure to comply with another provision of the order or direction that has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment.

August 1, 2007

Type 1

14

7.

Subclause 106.1 (1) (b) (ii)

Contravention of a provision of an order under the Act, other than an order under section 84 of the Act, an order of a court or a provision referred to in subclause 106.1 (1) (a) (iii) of the Act.

1. The contravention is of a provision of an order or direction issued under section 16, 16.1, 16.2, 31, 32, 61, 91 or 92 of the Act.

2. In the case of an order issued under section 16 of the Act, the order is issued in response to a contravention specified in this Table.

3. The provision of the order or direction that was contravened relates to,

i. preventing, reducing or alleviating any impairment of the quality of water or the effects of any impairment of the quality of the water, or

ii. the construction, installation or modification of any thing.

December 1, 2008

Type 2

14

8.

Subclause 106.1 (1) (b) (ii)

Contravention of a provision of an order under the Act, other than an order under section 84 of the Act, an order of a court or a provision referred to in subclause 106.1 (1) (a) (iii) of the Act.

1. The contravention is of a provision of an order or direction issued under section 16, 16.1, 16.2, 31, 32, 61, 91 or 92 of the Act.

2. In the case of an order issued under section 16 of the Act, the order is issued in response to a contravention specified in this Table.

3. The provision of the order or direction that was contravened is not a provision of an order or direction described in item 2, 6 or 7 of this Table.

December 1, 2008

Type 1

14

9.-11.

Revoked: O. Reg. 252/11, s. 8 (3).

12.

Subclause 106.1 (1) (b) (iv)

Contravention of a provision of an agreement under subsection 106.1 (9) of the Act.

N/A

August 1, 2007

Type 2

13, 14

O. Reg. 223/07, Table 2; O. Reg. 252/11, s. 8.

TABLE 3

GRAVITY COMPONENT

Type of Contravention

Type 1
Type 2
Type 3

Type of Consequence

Less Serious
\$1,000 - \$2,500
\$10,000 - \$15,000
\$15,000 - \$25,000

Serious

\$2,500 - \$5,000
\$20,000 - \$30,000
\$30,000 - \$50,000

Very Serious

\$5,000 - \$10,000
\$40,000 - \$60,000
\$60,000 - \$100,000

O. Reg. 223/07, Table 3.

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