



*Greenhouse Gas Industrial
Reporting and Control Act*

GREENHOUSE GAS EMISSION
ADMINISTRATIVE PENALTIES AND
APPEALS REGULATION

B.C. Reg. 248/2015

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Greenhouse Gas Industrial Reporting and Control Act

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PENALTIES AND APPEALS REGULATION**
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PART 1 – ADMINISTRATIVE PENALTIES

Definitions

- 1 In this regulation:

“**Act**” means the *Greenhouse Gas Industrial Reporting and Control Act*;

“**environmental legislation**” means the following enactments:

- (a) the Act and the regulations under the Act;
- (b) the *Environmental Management Act* and the regulations under that Act;
- (c) the *Low Carbon Fuels Act* and the regulations under that Act;
- (d) the *Energy Resource Activities Act* and the regulations under that Act.

[am. B.C. Regs. 187/2023, Sch., s. 12; 24/2024, Sch. 1, s. 1.]

Automatic administrative penalties

- 2 (1) In this section, “**unmet compliance obligation**”, in relation to an operator of a regulated operation for a compliance period, means the amount of the operator’s compliance obligation for the compliance period that is unmet on the day immediately after the compliance obligation deadline, expressed as a dollar amount calculated in accordance with section 6 (3) (b) [*compliance obligation*] of the Act.

- (2) Subject to this section, for the purposes of section 23 (1) [*automatic administrative penalties: failure to meet compliance obligation*] of the Act, the operator of a regulated operation is subject to the monetary administrative penalty calculated in accordance with subsections (3) and (4) of this section if any of the following indicates that the operator has failed to meet the operator's compliance obligation by the compliance obligation deadline:
- (a) a compliance report under section 7 (1) [*compliance reports*] of the Act;
 - (b) a supplementary report under section 7 (3) of the Act, or a corrected report under section 7 (5.1) of the Act, submitted before the compliance obligation deadline;
 - (c) a determination of the director under section 7.1 (1) of the Act made before the compliance obligation deadline.
- (3) The administrative penalty for an operator referred to in subsection (2) of this section is the product obtained when 0.38% of the unmet compliance obligation is multiplied by the number of complete days from the compliance obligation deadline to the day the compliance obligation is paid, compounded daily.
- (4) If an operator makes a partial payment of the compliance obligation after the compliance obligation deadline, the number of days for the purposes of the calculation under subsection (3) in respect of the partial payment ends on the day the partial payment is made.
- (5) The maximum amount of the administrative penalty under subsections (3) and (4) is 3 times the unmet compliance obligation.
- (6) For the purposes of section 23 (1) of the Act, the operator of a regulated operation is subject to the monetary administrative penalty calculated in accordance with subsections (7) and (9) of this section if either of the following indicates that the operator has failed to meet the operator's compliance by the compliance obligation deadline:
- (a) a supplementary report under section 7 (3) of the Act, or a corrected report under section 7 (5.1) of the Act, submitted after the compliance deadline, or
 - (b) a determination of the director under 7.1 (1) of the Act made after the compliance obligation deadline.
- (7) The administrative penalty for an operator in the circumstances referred to in subsection (6) is equal to the interest calculated under subsection (8) on the unmet compliance obligation for the period from the day immediately after the compliance obligation deadline to the day the compliance obligation is paid
- (a) compounded monthly, and
 - (b) calculated on the number of days since the last compounding of interest, or where no compounding has yet occurred, since the day immediately after the compliance obligation deadline.

- (8) For the purposes of subsection (7) the rate of interest is, during each successive 3-month period beginning on January 1, April 1, July 1 and October 1 in each year, 3% above the prime lending rate of the principal banker to the Province on the 15th day of the month immediately preceding the 3-month period.
- (9) If an operator makes a partial payment toward the unmet compliance obligation, the period referred to in subsection (7) for the purposes of the calculation under that subsection in respect of the partial payment ends on the date the partial payment is made.
- (10) Despite subsection (6) and (7), the administrative penalty set out in subsection (3) applies to the following:
- (a) in the case of an unmet compliance obligation that is an additional compliance obligation described in section 6.1 [*greenhouse gas emission correction*] of the Act, any amount of the additional compliance obligation that is not met by the date prescribed by section 41.15 (1) (a) (ii), (b) (ii) or (c) (ii) [*emission correction*] of the Greenhouse Gas Emission Reporting Regulation;
 - (b) in the case of an unmet compliance obligation that is an amount described in section 41.15 (2) (b) (i) or (ii) of the Greenhouse Gas Emission Reporting Regulation, any amount that is not met by the date prescribed by section 41.15 (3) of that regulation.
- (11) For certainty, for the purposes of subsection (10), the administrative penalty set out in subsection (3) applies to the amount of the unmet compliance obligation as if the date referred to in paragraph (a) or (b), as applicable, was the compliance obligation deadline.

[en. B.C. Reg. 24/2024, Sch. 1, s. 2; am. B.C. Reg. 185/2024, Sch. 3, s. 1.]

Imposed administrative penalties – Act

- 2.1** (1) For the purposes of section 25 (1) [*imposed administrative penalties in relation to other matters*] of the Act, the provisions of the Act set out in subsections (2) and (3) of this section are prescribed.
- (2) The maximum administrative penalty that may be imposed for a contravention of the following provisions of the Act is \$1 000 000:
- (a) section 2 [*non-reporting operations*];
 - (b) section 3 (1), (3), (5.2), (7) and (8) [*emission reports*];
 - (c) section 7 (1) to (3), (5.2), (7) and (8) [*compliance reports*];
 - (d) section 22 (5) [*inspection and seizure powers*].
- (3) The maximum administrative penalty that may be imposed for a contravention of section 9 (6) [*emission offset projects*] of the Act is \$100 000.

[en. B.C. Reg. 24/2024, Sch. 1, s. 2.]

**Imposed administrative penalties –
Emission Offset Project Regulation**

- 2.2** (1) For the purposes of section 25 (1) [*imposed administrative penalties in relation to other matters*] of the Act, the provisions of the Emission Offset Project Regulation set out in subsections (2) and (3) of this section are prescribed.
- (2) The maximum administrative penalty that may be imposed for a contravention of the following provisions of the Emission Offset Project Regulation is \$1 000 000:
- (a) section 26 (1) and (3.1) [*monitoring reports*];
 - (b) section 26.1 (2) (a) [*reversal events – retirement of compliance units*].
- (3) The maximum administrative penalty that may be imposed for a contravention of section 27 (1) or (4) [*record retention*] of the Emission Offset Project Regulation is \$100 000.

[en. B.C. Reg. 24/2024, Sch. 1, s. 2.]

**Imposed administrative penalties – Greenhouse
Gas Emission Reporting Regulation**

- 2.3** (1) For the purposes of section 25 (1) [*imposed administrative penalties in relation to other matters*] of the Act, the provisions of the Greenhouse Gas Emission Reporting Regulation set out in subsections (2) and (3) of this section are prescribed.
- (2) The maximum administrative penalty that may be imposed for a contravention of the following provisions of the Greenhouse Gas Emission Reporting Regulation is \$1 000 000:
- (a) section 11 [*registration of potential reporting operations*];
 - (b) section 11.1 [*director may request information*];
 - (c) section 43 [*record retention*].
- (3) The maximum administrative penalty that may be imposed for a contravention of the following provisions of the Greenhouse Gas Emission Reporting Regulation is \$100 000:
- (a) section 9 (2) [*emissions below threshold*];
 - (b) section 11.2 [*registration of reporting operations*];
 - (c) section 11.4 [*change to registration information*];
 - (d) section 4.12 (7) [*notification that ceased to meet eligibility criteria*].

[en. B.C. Reg. 24/2024, Sch. 1, s. 2.]

Notice of intent to impose administrative penalty

- 3** (1) The director must serve a person with a notice of intent to impose an administrative penalty before sending an administrative penalty notice to the person

under section 25 (2) [*imposed administrative penalties in relation to other matters*] of the Act.

- (2) A notice of intent to impose an administrative penalty must set out the following:
 - (a) the name of the person served with the notice;
 - (b) a summary description of the alleged non-compliance, including the provision of the Act the person is alleged to have contravened;
 - (c) the person's right to be provided with an opportunity to be heard under section 4;
 - (d) a preliminary assessment of the amount of monetary administrative penalties that may be imposed or number of compliance units that may be required to be made available for retirement for the specified contravention.
- (3) A notice of intent to impose an administrative penalty must not be served more than 3 years after the later of
 - (a) the date of the non-compliance to which it relates, and
 - (b) if the director issues a certificate described in subsection (4), the date on which the director learned of that non-compliance.
- (4) A certificate purporting to have been issued by the director certifying the date referred to in subsection (3) (b) is proof of that date.

[am. B.C. Regs. 24/2024, Sch. 1, s. 3; 185/2024, Sch. 3, s. 2.]

Opportunity to be heard

- 4** (1) If a person who is served with notice under section 3 (1) requests in writing, within 30 days after the date of service of the notice, an opportunity to be heard, the director must provide the person with an opportunity to be heard.
- (2) If a person requests an opportunity to be heard in accordance with subsection (1), the director, subject to subsection (3),
 - (a) must conduct a written, electronic or oral hearing, or any combination of them, as the director considers appropriate, and
 - (b) may
 - (i) determine the circumstances and place in which, and the process by which, the hearing is to be conducted, and
 - (ii) specify the form and content of materials to be provided for the hearing and when the materials must be provided.
- (3) If a person fails to appear or provide materials to the director in accordance with subsection (2) (b), the director may proceed without further notice to serve the person with an administrative penalty notice under section 25 (2) [*imposed administrative penalties in relation to other matters*] of the Act.
- (4) Repealed. [B.C. Reg. 24/2024, Sch. 1, s. 4 (b).]

- (5) If, after providing an opportunity to be heard, the director decides not to impose an administrative penalty under section 25 of the Act, the director must give the person written notice of that decision.

[am. B.C. Reg. 24/2024, Sch. 1, s. 4.]

- 5 Repealed. [B.C. Reg. 24/2024, Sch. 1, s. 5.]

Determining amount of administrative penalty under section 25 of Act

- 6 In determining the amount of an administrative penalty under section 25 [*imposed administrative penalties in relation to other matters*] of the Act, the director must consider the following matters, if applicable:

- (a) the history of compliance with the Act, the regulations under the Act and other environmental legislation of
 - (i) the person who contravened the prescribed provision,
 - (ii) if the person who contravened the prescribed provision is an individual, the corporation for which the individual is or was a director, officer or agent, and
 - (iii) if the person who contravened the prescribed provision is a corporation, an individual who is or was a director, officer or agent of the corporation;
- (b) the real or potential adverse effects of the non-compliance;
- (c) whether the non-compliance was deliberate;
- (d) the person's efforts to prevent and correct the non-compliance;
- (e) any economic benefit derived by the person from the non-compliance;
- (f) whether the non-compliance was repeated or continuous;
- (g) any other matter the director considers relevant.

Administrative penalty notice

- 7 In addition to the information required under section 25 (2) [*imposed administrative penalties in relation to other matters*] of the Act, an administrative penalty notice must include all the following information:

- (a) the name of the person served with the notice;
- (b) the date by which the administrative penalty must be satisfied;
- (c) acceptable methods of paying a monetary administrative penalty;
- (d) the address to which a monetary administrative penalty must be sent;
- (e) the person's right to an appeal under Part 5 [*Appeals to Environmental Appeal Board*] of the Act;
- (f) the mailing address of the appeal board.

[am. B.C. Reg. 24/2024, Sch. 1, s. 6.]

Continuing contraventions or failures

- 8** If a contravention of a provision prescribed under section 2.1, 2.2 or 2.3 [*imposed administrative penalties*] of this regulation continues for more than one day, separate administrative penalties, each not exceeding the maximum administrative penalty for the contravention, may be imposed for each day the contravention continues.

[am. B.C. Reg. 24/2024, Sch. 1, s. 7.]

Due date of administrative penalty

- 9** (1) An administrative penalty under section 23 [*automatic administrative penalties: failure to meet compliance obligation*] of the Act must be paid to the government within 30 days after the date the compliance obligation is met.
- (2) An administrative penalty under section 25 [*imposed administrative penalties in relation to other matters*] of the Act must be paid to the government within 30 days after the date the person is subject to the administrative penalty in accordance with section 26 (1) [*when administrative penalty is imposed and must be satisfied*] of the Act.

[am. B.C. Reg. 24/2024, Sch. 1, s. 8.]

Enforcement of administrative penalty

- 10** (1) If all or a portion of an administrative penalty under section 25 of the Act is not paid when it is due, an additional penalty of up to 10% of the outstanding balance may be imposed for each 30-day period that the outstanding balance remains unpaid.

- (2) Repealed. [B.C. Reg. 24/2024, Sch. 1, s. 9 (b).]

[am. B.C. Reg. 24/2024, Sch. 1, s. 9.]

Publication of names

- 11** (1) The minister may publish, including by electronic means, all the following information in respect of a person on whom an administrative penalty has been imposed under section 23 [*automatic administrative penalties: failure to meet compliance obligation*] or 25 [*imposed administrative penalties in relation to other matters*] of the Act:

- (a) the person's legal name;
- (b) the amount of the penalty;
- (c) the provision of the Act with which the person failed to comply;
- (d) the facts relating to the imposition of the penalty.

- (2) Publication under subsection (1) in relation to an administrative penalty under section 25 of the Act may not occur until the person is subject to the administrative penalty in accordance with section 26 (1) [*when administrative penalty is imposed and must be satisfied*] of the Act.

[am. B.C. Reg. 24/2024, Sch. 1, s. 10.]

PART 2 – APPEALS**Appeals to Environmental Appeal Board**

- 12** (1) The following decisions made under the Act are prescribed for the purposes of section 40 (1) (c) *[what decisions may be appealed]* of the Act:
- (a) a determination of the director under section 1 (3) *[what constitutes a facility, industrial operation, reporting operation, regulated operation or part]*;
 - (b) a determination of the director under section 7.1 (1) (a) to (c) *[emission limit, attributable greenhouse gas emissions or excess greenhouse gas emissions]*;
 - (c) a decision of the director under section 8 (1) *[offset units]* to refuse to issue an offset unit;
 - (d) a decision of the director under section 9 (1) *[emission offset projects]* to refuse to accept an emission offset project;
 - (e) a decision of the director under section 12 (1) *[earned credits]* to refuse to issue an earned credit;
 - (f) a decision of the director under section 20 *[suspension or cancellation of compliance units]*;
 - (g) a decision of the director under section 20.1 (2) *[opting in and out]* to refuse to designate an industrial operation as a reporting operation, or as a reporting operation and a regulated operation, as applicable;
 - (h) a decision of the director under section 20.1 (4) to refuse to revoke the designation of an industrial operation as a reporting operation, or as a reporting operation and a regulated operation, as applicable;
 - (i) a decision of the director under section 20.2 (2) *[new entrant]* to refuse to designate an industrial operation or a proposed industrial operation as a new entrant.
- (2) The following decisions made under the Emission Offset Project Regulation are prescribed for the purposes of section 40 (1) (c) of the Act:
- (a) a decision of the director under section 13 (4) (b) *[validation bodies and verification bodies]*;
 - (b) a decision of the director under section 17 (2) *[acceptance of project plan]* to refuse to accept a project plan;
 - (c) a decision of the director under section 23 (2) *[issuance of offset units]* to refuse to issue offset units;
 - (d) a determination of the director under section 26.1 (1) (b) *[reversal events – retirement of compliance units]*.
- (2.1) The following decisions made under the Greenhouse Gas Emission Reporting Regulation are prescribed for the purposes of section 40 (1) (c) of the Act:

- (a) a decision of the director under section 16 (2) (a) or (3) (a) [*choice between direct measurement and mass balance-based methodology*] to refuse to approve a change in methodology;
 - (b) a decision of the director under section 26 (3) (b) [*verification bodies*] to refuse to accept a verification statement;
 - (c) a decision of the director under section 41.5 [*revocation of designation*].
- (2.2) The following decisions made under the BC Carbon Registry Regulation are prescribed for the purposes of section 40 (1) (c) of the Act:
- (a) a decision of the director under section 6 [*general account – other person*] to refuse to authorize a person to establish a holding account in the registry;
 - (b) a decision of the director under section 14 (1), (4) or (5) [*suspension or cancellation of accounts*] to suspend, continue a suspension of or cancel an account holder’s participation in the registry;
 - (c) a decision of the registry administrator under section 18 [*compliance units – account closure or suspension or cancellation of account holder*] to refuse to credit or transfer compliance units.
- (3) After making a decision referred to in any of subsections (1) to (2.2), the director or registry administrator, as applicable, must serve notice of the decision in accordance with section 41 [*notice and service under this Act*] of the Act.
- (4) The following provisions of the *Environmental Management Act* apply in relation to appeals under the Act:
- (a) section 101 [*time limit for commencing appeal*];
 - (b) section 102 (2) [*procedure on appeals*];
 - (c) section 103 [*powers of appeal board in deciding appeal*].
- (5) For the purposes of subsection (4) (a) and (c), a reference to a decision in section 101 or 103 of the *Environmental Management Act* is to be read as a reference to a decision under section 40 (1) of the Act.

[am. B.C. Reg. 24/2024, Sch. 1, s. 11.]