

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 138



, Approved and Ordered March 26, 2020



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the attached Administrative Penalties (*Environmental Assessment Act*) Regulation is made.

Minister of Environment and Climate Change Strategy Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Environmental Assessment Act*, S.B.C. 2018, c. 51, s. 77 (2) (d)

Other: _____

R10324027

ADMINISTRATIVE PENALTIES (*ENVIRONMENTAL ASSESSMENT ACT*) REGULATION

Definition

- 1 In this regulation, “Act” means the *Environmental Assessment Act*.

Assessment of administrative penalty

- 2 (1) In establishing the amount of an administrative penalty in a particular case, the chief executive assessment officer must consider the following matters, if applicable:
- (a) the nature of the contravention or failure;
 - (b) the real or potential adverse effect of the contravention or failure;
 - (c) any 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) whether the person exercised due diligence to prevent the contravention or failure;
 - (h) the person’s efforts to correct the contravention or failure;
 - (i) the person’s efforts to prevent recurrence of the contravention or failure;
 - (j) any other factors that, in the opinion of the chief executive assessment officer, are relevant.
- (2) If a contravention or failure continues for more than one day, separate administrative penalties, each not exceeding the applicable maximum administrative penalty, may be imposed for each day the contravention or failure continues.

Administrative penalty notice

- 3 A determination served under section 60 (1) of the Act must include the following:
- (a) the name of the person or corporation that is liable for the administrative penalty;
 - (b) the contravention or failure in relation to which the administrative penalty is imposed;
 - (c) the amount of the administrative penalty;
 - (d) an explanation of when and how the administrative penalty is to be paid.

Date administrative penalty must be paid

- 4** A person who is the subject of a determination must pay the administrative penalty within 30 days after the date the determination is served on the person.

Prescribed provisions of Act

- 5**
- (1) A person who contravenes section 6 (1) of the Act is liable to an administrative penalty not exceeding \$750 000.
 - (2) A person who fails to comply with section 6 (2) of the Act or a condition of an environmental assessment certificate is liable to an administrative penalty not exceeding \$250 000.
 - (3) A person who fails to comply with section 34 (5) of the Act or a requirement of an order made under the Act is liable to an administrative penalty not exceeding \$100 000.
 - (4) A person who fails to comply with section 10 (3), 30 or 49 (5) or (6) of the Act or who makes a statement or omits to make a statement as described in section 60 (1) (c) of the Act is liable to an administrative penalty not exceeding \$50 000.
 - (5) A person who fails to comply with section 10 (1) of the Act is liable to an administrative penalty not exceeding \$2 000.