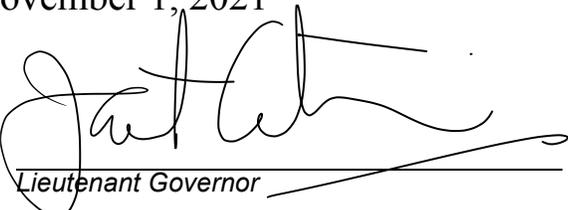


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 596

, Approved and Ordered November 1, 2021



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 Administrative Penalties (*Fuel Price Transparency Act*) Regulation set out in the attached Schedule is made.



Minister of Energy, Mines and Low Carbon Innovation



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: *Fuel Price Transparency Act*, S.B.C. 2019, c. 46, s. 23 (2) and (3)

Other: O.C. 123/2020

R10516824

SCHEDULE

ADMINISTRATIVE PENALTIES (*FUEL PRICE TRANSPARENCY ACT*) REGULATION

Definitions

1 In this regulation:

“Act” means the *Fuel Price Transparency Act*;

“contravention or other action” means

- (a) a contravention of a provision listed in section 12 (1) (a) to (f) [*administrative penalties*] of the Act,
- (b) the provision of false or misleading information or records in a submission under the Act or to an inspector conducting an inspection under the Act, or
- (c) the making of a false statement under section 5 (3) (b) [*periodic submissions*], 6 (3) (b) [*requested submissions*] or 7 (3) (b) [*supplementary submissions*] of the Act.

Notice of intent to impose administrative penalty

- 2 (1) Before imposing an administrative penalty on a person under section 12 of the Act, the administrator must serve the person with a notice of intent to impose an administrative penalty.
- (2) A notice of intent under subsection (1) must set out the following:
- (a) the name of the person served with the notice;
 - (b) the alleged contravention or other action for which the penalty may be imposed;
 - (c) the opportunity, under section 3, for the person to make representations in respect of the alleged contravention or other action;
 - (d) a preliminary assessment of the amount of the administrative penalty that may be imposed.
- (3) A notice of intent is deemed to have been served under subsection (1) if it is served in accordance with section 22 [*service under this Act*] of the Act.

Opportunity to make representations

- 3 (1) A person who is served with a notice of intent under section 2 and wishes to make representations must make a request, in writing, to the administrator within 30 days after the date the notice of intent is served.
- (2) If a person makes a request in accordance with subsection (1), the administrator must conduct a hearing before imposing an administrative penalty on the person.
- (3) If, after giving an opportunity to make representations, the administrator does not impose an administrative penalty in respect of an alleged contravention or other action by a person, the administrator must give written notice to the person that the person is not required to pay an administrative penalty.

Determining amount of administrative penalty

- 4 In determining the amount of an administrative penalty to impose on a person, the administrator must consider the following:
- (a) the person's history of compliance with the Act, including whether and how often the person has previously
 - (i) contravened any of sections 5 to 8 of the Act;
 - (ii) provided false or misleading information or records in a submission under the Act or to an inspector conducting an inspection under the Act,
 - (iii) made a false statement under section 5 (3) (b) [*periodic submissions*], 6 (3) (b) [*requested submissions*] or 7 (3) (b) [*supplementary submissions*] of the Act;
 - (b) any previous administrative penalties imposed on
 - (i) the person,
 - (ii) if the person is an individual, a corporation of which the individual is or was an employee, officer, director or agent,
 - (iii) if the person is a corporation, an employee, officer, director or agent of the corporation;
 - (c) whether the contravention or other action was repeated or continuous;
 - (d) whether the contravention or other action was deliberate;
 - (e) the gravity and magnitude of the contravention or other action;
 - (f) the person's efforts to prevent or correct the contravention or other action;
 - (g) in the case of an audit under section 10 [*audits*] of the Act or an inspection under section 11 (7) or (8) [*inspections*] of the Act, the degree and quality of the person's cooperation;
 - (h) any undue hardship that might arise from the amount of the penalty;
 - (i) any other matter the administrator considers relevant.

Maximum penalty amount

- 5 The maximum amount of an administrative penalty that may be imposed under section 12 (1) [*administrative penalties*] of the Act for each contravention or other action is \$100 000.

Correction of notice

- 6 (1) Within 15 days after a notice is served under section 12 (2) of the Act, the administrator may correct
- (a) a typographical, an arithmetical or another similar error in the notice, or
 - (b) an obvious error or omission in the notice.
- (2) The administrator must serve the corrected notice on the person who is the subject of the notice.
- (3) A corrected notice is deemed to have been served if it is served in accordance with section 22 [*service under this Act*] of the Act.

- (4) A correction under subsection (1) does not take effect until the date on which the corrected notice is served under subsection (2).

Payment of penalty

- 7 (1) A person on whom an administrative penalty is imposed under section 12 (1) [*administrative penalties*] of the Act must pay the administrative penalty to the government within 30 days after being served with the notice under section 12 (2).
- (2) A person on whom a corrected notice is served under section 6 (2) must pay the administrative penalty to the government within 30 days after the corrected notice is served.

Limitation period

- 8 A notice of intent under section 2 may not be served more than 3 years after the date on which evidence of the alleged contravention or other action first came to the knowledge of the administrator.