



Province of Alberta

WATER ACT

# **WATER (OFFENCES AND PENALTIES) REGULATION**

**Alberta Regulation 193/1998**

With amendments up to and including Alberta Regulation 188/2012

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
5<sup>th</sup> Floor, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

### **Copyright and Permission Statement**

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20\_\_.\*

\*The year of first publication of the legal materials is to be completed.

### **Note**

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

(Consolidated up to 188/2012)

**ALBERTA REGULATION 193/98**

**Water Act**

**WATER (OFFENCES AND PENALTIES) REGULATION**

*Table of Contents*

1 Interpretation

**Part 1  
Offences and Penalties**

2 Regulatory offences

3 Due diligence defence

**Part 2  
Administrative Penalty**

4 Applicability of administrative penalty

5 Penalty assessment

6 Payment of penalty

**Part 3  
Expiry, Coming into Force**

7 Expiry

8 Coming into force

Schedule

**Interpretation**

**1(1)** In this Regulation, “Act” means the *Water Act*.

**(2)** The definitions in the *Water (Ministerial) Regulation* apply to this Regulation.

**Part 1  
Offences and Penalties**

**Regulatory offences**

**2(1)** A person who contravenes any of the following provisions of the *Water (Ministerial) Regulation* is guilty of an offence and is liable, in the case of an individual, to a fine of not more than

\$50 000, or in the case of a corporation, to a fine of not more than \$500 000:

- (a) section 4(3);
- (b) section 7(3);
- (c) section 26;
- (d) section 27;
- (e) section 28(1);
- (f) section 29(1);
- (g) section 30(1);
- (h) section 31;
- (i) section 32;
- (j) section 33;
- (k) section 34;
- (l) section 35;
- (m) section 37(3);
- (n) section 38;
- (o) section 39(2) and (3);
- (p) section 41;
- (q) section 42;
- (r) section 43;
- (s) section 67;
- (t) section 68.

**(2)** A person who contravenes a Code of Practice adopted by section 3 or 6 of the Water (Ministerial) Regulation is guilty of an offence and is liable

- (a) in the case of an individual, to a fine of not more than \$50 000, or
- (b) in the case of a corporation, to a fine of not more than \$500 000.

**(3)** An applicant who contravenes section 13 of the *Water (Ministerial) Regulation* or a person who contravenes section 39(4) of the *Water (Ministerial) Regulation* is guilty of an offence and is liable

- (a) in the case of an individual, to a fine of not more than \$250, or
- (b) in the case of a corporation, to a fine of not more than \$1000.

AR 193/98 s2;164/2005

#### **Due diligence defence**

**3** A person shall not be convicted of an offence referred to in section 2(1) or (2) if that person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

## **Part 2 Administrative Penalty**

#### **Applicability of administrative penalty**

**4(1)** An administrative penalty under section 152 of the Act may be imposed in respect of those provisions listed in the Schedule.

**(2)** A notice of administrative penalty must be given in writing and must contain the following information:

- (a) the name of the person required to pay the administrative penalty;
- (b) particulars of the contravention;
- (c) the amount of the administrative penalty and the date by which it must be paid;
- (d) a statement of the right to appeal by notice of appeal to the Environmental Appeal Board under section 115(1)(q) of the Act.

#### **Penalty assessment**

**5(1)** Subject to subsections (2), (3) and (4), the amount of an administrative penalty for each contravention that occurs or continues is the amount set out in the Base Penalty Table but that amount may be increased or decreased by the Director in accordance with subsection (2).

**Base Penalty Table**  
**Type of Contravention**

		Major	Moderate	Minor
<b>Potential for Adverse Effect</b>	Major	\$5000	\$3500	\$2500
	Moderate	3500	2500	1500
	Minor to None	2500	1500	1000

(2) Subject to section 169(3)(f) of the Act, the Director may increase or decrease the amount of the administrative penalty from the amount set out in the Base Penalty Table on considering the following factors:

- (a) the importance to the regulatory scheme of compliance with the provision;
- (b) the degree of wilfulness or negligence in the contravention;
- (c) whether or not there was any mitigation relating to the contravention;
- (d) whether or not steps have been taken to prevent reoccurrence of the contravention;
- (e) whether or not the person who receives the notice of administrative penalty has a history of non-compliance;
- (f) whether or not the person who receives the notice of administrative penalty has derived any economic benefit from the contravention;
- (g) any other factors that, in the opinion of the Director, are relevant.

(3) If a contravention of a provision listed in the Schedule occurs or continues, the person who commits the contravention is liable for an administrative penalty for each day or part of a day on which the contravention occurs or continues.

(4) In accordance with section 169(3)(f) of the Act, the maximum administrative penalty that may be charged in respect of each contravention is \$5000.

**Payment of penalty**

**6** A person who is given a notice of administrative penalty must pay the amount of the penalty within 30 days of the date that the notice was given.

### **Part 3**

## **Expiry, Coming into Force**

**Expiry**

**7** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 1, 2015.

AR 193/98 s7;63/2003;274/2009;188/2012

**Coming into force**

**8** This Regulation comes into force on the date the Act comes into force.

### **Schedule**

#### **Contraventions in Respect of Which an Administrative Penalty may be Imposed**

**1** Offences described in section 142(1)(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r) or (s) of the Act are the provisions in respect of which an administrative penalty may be imposed under section 152 of the Act.

**2** A contravention of a provision referred to in section 2(1) and (2) of this Regulation is a provision in respect of which an administrative penalty may be imposed under section 152 of the Act.



Printed on Recycled Paper 