



# Administrative Penalties

## FACTS AT YOUR FINGERTIPS

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Administrative Penalties are an enforcement tool used as part of the Alberta Environment Compliance Assurance and Enforcement Program to address non-compliance with the Alberta *Environmental Protection and Enhancement Act* and the *Water Act*.

Administrative penalties are monetary fines issued for minor contraventions with low environmental impact, such as submitting a required report after a specific deadline

### ASSESSING AN ADMINISTRATIVE PENALTY

To assess an Administrative Penalty, first the base penalty is calculated using the following table:

		Variation from Regulatory Requirement		
		Major	Moderate	Minor
Potential for Adverse Effect	Major	\$5,000	\$3,500	\$2,500
	Moderate	\$3,500	\$2,500	\$1,500
	Minor	\$2,500	\$1,500	\$1,000

The variation from what was required (columns) and the potential for adverse effect (rows) are each classified as minor, moderate or major. The base penalty is then determined by matching up these factors in the grid.

### Variation from Regulatory Requirements

The potential variations range from minor to major:

- **Minor** contraventions include violating an administrative requirement such as submitting a required report late.
- **Moderate** contraventions include failing to perform a specific task such as conducting a stack survey.
- **Major** offences include exceeding an environmental limit.

### Potential for Adverse Effect

The potential adverse effects range from minor to major:

- **Minor** potential adverse effects include paper offences such as submitting a required report late.
- **Major** potential adverse effect is more serious in nature, however, may not actually cause an adverse effect. If the actual effect is serious, an administrative penalty will not be the enforcement tool chosen.

The potential for adverse effect accounts for not only the actual environmental effect that occurred, but also what could have resulted from the contravention.

### Other Considerations

In addition to the base penalty, Alberta Environment considers the following factors to determine the size of the penalty:

- The seriousness of contravention
- Degree of negligence
- Mitigation measures taken
- Steps taken to prevent reoccurrence
- Enforcement history
- Economic benefit resulting from contravention
- Any other factors considers relevant

This allows flexibility to ensure the penalty is fair and reasonable. It also ensures that any factors that are relevant to the specific case are considered.

Each factor may influence the penalty by increasing or decreasing the base penalty by increments of \$500, although multiple increments can be imposed.

These factors are tallied together to reach an overall increase or decrease to the base penalty. If there is more than one contravention, the adjustment is applied once to the total base penalty of all contraventions, not to each individual contravention.

### PRELIMINARY PENALTY ASSESSMENT

The penalty resulting at the end of these steps is the preliminary penalty assessment.

In total, the penalty assessment cannot exceed \$5,000 per contravention per day. However, the entirety of any economic benefit gained by the party as a result of the contravention(s) may be recovered by the administrative penalty, regardless of the amount.

For some types of contravention, each day, or even a portion of a day, that the contravention continues may be a new contravention, such as exceeding an hourly release limit on an ongoing basis.

### NEXT STEPS

Once the preliminary penalty assessment is calculated, Alberta Environment notifies the party by telephone and sends them a preliminary penalty assessment letter that describes the facts of the contravention and how the proposed penalty was calculated.

Alberta Environment also arranges a meeting with the party to review the assessment and the facts on which it is based. At the meeting, the party may present relevant information relating to the incident or assessment. Alberta Environment will consider the information, then make a final assessment of the administrative penalty.

If Alberta Environment determines that an administrative penalty is appropriate, a Notice of Administrative Penalty will be sent to the party, which must be paid within 30 days.

### APPEALS

An Administrative Penalty can be appealed to the Environmental Appeals Board (EAB), an independent tribunal established to hear appeals of certain Alberta Environment decisions made under the *Environmental Protection and Enhancement Act*. For more information on the EAB, visit [www.gov.ab.ca/eab](http://www.gov.ab.ca/eab).

### FOR MORE INFORMATION

For more information about Administrative Penalties, call the regional office nearest you.

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