



Integrated Pest Management Act
ADMINISTRATIVE PENALTIES
(*INTEGRATED PEST MANAGEMENT ACT*)
REGULATION
B.C. Reg. 134/2014

Deposited and effective June 23, 2014
Last amended July 17, 2023 by B.C. Reg. 188/2023

Consolidated Regulations of British Columbia
This is an unofficial consolidation.

B.C. Reg. 134/2014 (O.C. 425/2014), deposited and effective June 23, 2014, is made under the *Integrated Pest Management Act*, S.B.C. 2003, c. 58, s. 37 (2).

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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Integrated Pest Management Act

**ADMINISTRATIVE PENALTIES (*INTEGRATED PEST
MANAGEMENT ACT*) REGULATION**

B.C. Reg. 134/2014

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PART 1 – PROCEDURES FOR MAKING DETERMINATIONS

Definitions

- 1** In this regulation:

“**Act**” means the *Integrated Pest Management Act*;

“**contravention or failure**” means

- (a) a contravention of a prescribed provision of the Act or the regulations,
- (b) a failure to comply with an order under the Act, or
- (c) a failure to comply with a requirement of a licence, certificate or permit issued, or a pesticide use notice given, under the Act;

“**determination**” means a determination for the purposes of section 23 (1) of the Act.

Notice respecting administrative penalty

- 2** (1) If the administrator intends to make a determination in respect of an alleged contravention or failure by a person, the administrator must, before making the determination, give notice in writing to the person.
- (2) The notice under subsection (1) must
- (a) include
 - (i) the name of the person who is the subject of the notice,

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- (ii) a description of the circumstances that gave rise to the alleged contravention or failure,
 - (iii) the person's right to make representations under section 3, and
 - (iv) a preliminary assessment of the amount of the administrative penalty, and
- (b) identify
 - (i) the prescribed provision of the Act or the regulations the person is alleged to have contravened,
 - (ii) the order the person is alleged to have failed to comply with, or
 - (iii) the requirement of a licence, certificate, permit or pesticide use notice the person is alleged to have failed to comply with.

Opportunity to make representations

- 3** (1) Before making a determination in respect of an alleged contravention or failure by a person, the administrator must provide the person with an opportunity to make representations in respect of the alleged contravention or failure.
- (2) A person wishing to make representations under subsection (1) must make a request, in writing, to the administrator within 30 days after the date the person receives the notice under section 2.
- (3) Subject to subsection (4), if a person makes a request in accordance with subsection (2), the administrator
- (a) must conduct a written, electronic or oral hearing, or any combination of them, as the administrator, in the administrator's sole discretion, considers appropriate, and
 - (b) may
 - (i) determine the circumstances and place in which, and the process by which, the hearing may be conducted, and
 - (ii) specify the form and content of materials to be provided for the hearing, and the date the materials must be provided.
- (4) If a person does not provide materials to the administrator in accordance with subsection (3) (b) (ii), the administrator is not required to conduct a hearing.
- (5) If, after giving an opportunity to make representations, the administrator does not make a determination in respect of an alleged contravention or failure by a person, the administrator must give notice to the person that the person is not required to pay an administrative penalty.

[am. B.C. Reg. 76/2022, ss. 3 and 4.]

Determinations

- 4** A determination must be in a form that includes all of the following:
- (a) the reasons for the decision;

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- (b) the name of the person who is liable for the administrative penalty;
- (c) the contravention or failure in relation to which the administrative penalty is imposed;
- (d) the amount of the administrative penalty;
- (e) when the administrative penalty must be paid;
- (f) the person's right to an appeal under section 14 of the Act;
- (g) the address of the appeal board.

Correction of determination

- 5** (1) Within 15 days after the date a determination is made, the administrator who made the determination may amend the determination to
- (a) correct a typographical, an arithmetical or another similar error, and
 - (b) correct an obvious error or omission.
- (2) The discretion given to the administrator under subsection (1) is exercisable with or without a hearing and
- (a) on the initiative of the administrator who made the determination, or
 - (b) at the request of the person who is the subject of the determination.
- (3) If the administrator corrects a determination under subsection (1),
- (a) the administrator must give notice in writing to the person who is the subject of the determination, and
 - (b) the correction does not take effect until the date the person receives notice of the correction under paragraph (a).

Absolute liability

- 6** A requirement that a person pay an administrative penalty applies even if the person exercised due diligence to prevent the contravention or failure in relation to which the administrative penalty is imposed.

Assessment of administrative penalty

- 7** (1) In establishing the amount of an administrative penalty in a particular case, the administrator 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;

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- (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 administrator, 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.

Date administrative penalty must be paid

- 8** A person who is the subject of a determination must pay the administrative penalty within 30 days after the later of
- (a) the date the determination is served on the person,
 - (b) if, under section 5 of this regulation, the determination was corrected, the date the person receives notice of the correction, or
 - (c) if, under section 14 of the Act, the person appeals the imposition of an administrative penalty,
 - (i) the date the person receives a copy of the order or decision of the appeal board, if the appeal board confirms or varies the administrative penalty, or
 - (ii) the date a new determination is served on the person, if the appeal board sends the matter back, with directions, to the administrator who made the determination.

Consolidated revenue fund

- 9** All revenue derived from administrative penalties must be paid into the consolidated revenue fund.

Limitation period

- 10** A notice under section 2 may not be served more than 3 years after the later of
- (a) the date the alleged contravention or failure to which the notice relates occurred, or
 - (b) the date evidence of the alleged contravention or failure first came to the knowledge of the administrator.

PART 2 – PRESCRIBED PROVISIONS**Prescribed provisions of Act**

- 11** (1) A person who contravenes section 3 (1) (a) of the Act is liable to an administrative penalty not exceeding \$75 000.
- (2) A person who contravenes section 3 (1) (b) or (c) or (2), 4 (1), 5 (1), (2) or (3), 6 (1), 7 (1) or 12 of the Act is liable to an administrative penalty not exceeding \$40 000.
- (3) A person who contravenes section 7 (6), 11 (3), (4) or (5), 17 (4), 19 (3) or 21 of the Act is liable to an administrative penalty not exceeding \$10 000.
- (4) A person who fails to comply with an order under the Act is liable to an administrative penalty not exceeding \$40 000.
- (5) A person who fails to comply with a requirement of a licence, certificate or permit issued, or a pesticide use notice given, under the Act is liable to an administrative penalty not exceeding \$40 000, unless the requirement the person failed to comply with is also a prescribed provision of the Act or the regulations that is subject to a different maximum administrative penalty.

[am. B.C. Reg. 164/2020, s. 1.]

**Prescribed provisions of Integrated
Pest Management Regulation**

- 12** (1) A person who contravenes section 33.1 (2), 59.1, 59.2 (1), 59.3, 70 or 72 (1) (a) of the Integrated Pest Management Regulation is liable to an administrative penalty not exceeding \$40 000.
- (2) A person who contravenes section 31, 33.1 (3), 34 (1), 35, 36, 37, 38, 39 (1), 40, 41 (1), (2), (5) or (6), 42 (1), (2), (5) or (6), 48 (b), 49 (1) (c), 54 (d), 57 (1) (d), 59 (2), 59.2 (2), 65 (1), 66, 72 (1) (c), 75 (2) or 83 (1) or (2) (b) of the Integrated Pest Management Regulation is liable to an administrative penalty not exceeding \$10 000.

[am. B.C. Regs. 164/2020, s. 2; 188/2023, Sch. 2.]