



Tell us What you Think

Administrative Penalties
Public Discussion

Spring 2015

Nova Scotia Environment is proposing to make changes to the *Environment Act* and to introduce new regulations that will allow administrative penalties to serve as a tool to increase compliance and strengthen environmental protection.

What are administrative penalties?

Administrative penalties are monetary penalties given to a person or company for doing something that is against the law, or for failing to do something required under the law.

These penalties can be used for a range of offences, such as failing to meet the terms and conditions set out in an approval from Nova Scotia Environment, or the penalty could be applied against the approval holder for failing to meet the requirements of a directive – the must-do instructions from an inspector, such as submitting a report or taking samples of air, soil or water.

Administrative penalties are different from fines because they are administered by government, rather than the court system. They are another tool to ensure people follow the laws that protect the environment and health of Nova Scotians.

NOTE: the new administrative penalties regulations will not create any new obligations for approval holders.

Why now?

In September 2014 during the Speech from the Throne, the government identified a need for a stronger regulatory regime. An administrative penalty program is a proposed option for addition to Nova Scotia Environment's compliance tools – and would bring the department in line with national trends and standards while creating opportunities for greater deterrence.

How would they be applied?

Administrative penalties would be applied to approval holders, or those employed by approval holders, who do not follow the terms and conditions set out by Nova Scotia Environment.

Penalties would apply to certain types of approval holders, based on the risk of causing harm to the environment. Administrative penalties are being considered for these types of approvals

- **industrial** (such as mining, electricity generation, and pulp and paper facilities)
- **asbestos**
- **dangerous goods**
- **municipal** (water and sewage treatment and septage)
- **solid waste**
- **registered public drinking water supplies**
- **approval holders who have failed to comply with a requirement in a directive**

All other approval holders would not be affected by the addition of Administrative Penalties. Activities that are relatively straightforward or are not typically undertaken by a business, such as the construction of a wharf or the installation of an onsite system, would not be impacted.

Not every violation would result in an administrative penalty. Inspectors would consider the seriousness and length of time of the offence and could choose to issue an administrative penalty, a warning, a summary offence ticket, or formal prosecution. It is important to note, NSE would ensure a fair application of administrative penalties through the establishment of consistent criteria in the decision-making process. As is the case with all punitive considerations, inspectors will be required to review their actions with senior enforcement staff when deciding which enforcement/compliance tool to use.

What are the benefits of administrative penalties?

The penalties are another way to address certain offences through the department rather than through the courts. The aim is a more efficient use of resources for all parties. Another benefit is that administrative penalties do not result in a criminal record for the offender, which can have long-term and far-reaching impacts.

How much would the penalties be?

Nova Scotia Environment is looking at a range from \$200 to \$5,000. The amount would be based on the person or company's history of complying with the law and the severity of the non-compliance. For example, the amount for first offences would be less, generally speaking, than those for repeat offenders.

There may be another level of penalties applied on top of this range – a multiplier – that would take into account the length of time or continuation of the offence. Another factor would be whether the person or company made any money from not complying with the terms and conditions.

We are considering reducing the final amount of the administrative penalty to be paid if the recipient remits payment within a few days of receiving the penalty.

What if you didn't pay the fine?

Nova Scotia Environment proposes to amend the Environment Act to allow the Minister to restrict future renewals, new approvals, transfers or amendments involving approvals in cases where the approval holder has chosen not to pay the administrative penalty. The act would also streamline the debt-collection process.

Can an administrative penalty be challenged?

Nova Scotia Environment proposes that administrative penalties could be appealed to the Minister. The notice of administrative penalty would include the steps and timelines for appeals.

Under the current regulations, the cost to initiate an appeal to the Minister is approximately \$108.95, and the Minister must make a decision on the appeal within 60 days.

Your Feedback is Important

At this time the administrative penalty program is a concept in development and may change as a result of your feedback. It is important that we hear from you.

We want to hear from you

We welcome your comments and would especially like to hear

- What you see as the greatest benefit of using administrative penalties
- What you see as the greatest drawback
- How you would change what is being proposed

Please send comments by **June 24, 2015** to

policy1@novascotia.ca -OR-

Nova Scotia Environment, Policy and Planning Branch
REFERENCE: Administrative penalties
1903 Barrington Street, Suite 2085
PO Box 442, Halifax, NS B3J 2P8