

Environmental Fines And Penalties: Enforcement Trends For The Natural Resource Sector



Environmental laws impose strict obligations to prevent, report, and control discharges and releases, appropriately manage and dispose of waste, and protect wildlife. Regulators who believe that environmental laws have been violated can pursue a wide range of enforcement action, including issuing regulatory orders, administrative monetary penalties (AMPs), and prosecuting alleged offences in quasi-criminal and criminal proceedings.

Environmental regulators across Canada are increasing the frequency and severity of enforcement actions, seeking higher fines and relying more on AMPs in lieu of prosecutions to secure quicker results, which has the added consequence of minimizing procedural protections for defendants such as statutory rights of appeal. These recent trends are summarized below, with a particular focus on implications for mining companies and other resource extractive sectors.

1. Prosecutions: Higher Stakes and Higher Fines

Environmental laws empower specified officers to ensure compliance and enforce those laws. If an officer has

reasonable and probable grounds to believe that environmental laws have been violated, the officer is entitled to conduct an investigation to gather information to support a prosecution. Following this process, the Crown lays charges against the individual.

Provincial environmental prosecutions are quasi-criminal proceedings. They function like a criminal trial but are classified as “strict liability offences.” This requires the Crown to demonstrate that all elements of the offence have occurred beyond a reasonable doubt. The Crown does not have to demonstrate that the defendant intended to commit the offence. Once the Crown meets this threshold, the burden shifts to the defendant to establish due diligence (or one of a few other limited defences).

If a conviction is secured, the likely consequence is a fine, and in some cases, jail time for individual defendants. However, because they are quasi-criminal, there is no “criminal record.”

On the other hand, most federal environmental prosecutions are criminal proceedings that tend to carry severe fines and, if a conviction is secured, will result in a criminal record. A criminal record can result in consequences including, among other things, barring a defendant from participating in public procurement projects or other reputational harm.

To highlight the severity, federal convictions under the *Fisheries Act* for depositing a “deleterious substance” into waters frequented by fish include the following convictions in the last five years:

Year	Fine	Summary
2025	\$2 million	A mine in Quebec experienced a treatment system failure, which led to various instances of untreated effluent to be released into the environment. The proponent also failed to take samples at times set out in the <i>Metal and Diamond Mining Effluent Regulations</i> .
2024	\$1 million	A maintenance shutdown at an Alberta pulp and paper mill led to a failure of the mill's effluent treatment system and the release of over 30 million litres of effluent into the Peace River.
2024	\$2.5 million	An offshore oil field in Newfoundland and Labrador experienced a failure of the subsea flowline connector, resulting in the release of 250,000 litres of crude oil into the environment. Migratory birds were observed to have been impacted by the release.
2023	\$2.2 million	A BC mine operator experienced a spill of 2.5 million litres of low pH effluent into the Columbia River, caused by a leak of an acidic solution and compounded by operational errors. The operator was charged and found guilty in concurrent federal and provincial proceedings.
2023	\$1 million	A pulp and paper mill experienced a leak from a pipe that released 23,000 litres of black liquor, a toxic by-product of the manufacturing process, into the mill effluent treatment system. A subsequent investigation revealed an unrelated incident in which close to 181 million litres of acutely lethal effluent had been released into the Saskatchewan River. The company was ordered to conduct an independent environmental audit to avoid future releases.

Year	Fine	Summary
2022	\$2.8 million	A drilling contractor carrying out horizontal direction boring operations in Surrey, BC caused a released of drilling fluid and sediment, leading to the death of 533 dead fish.
2022	\$15 million	A dike rupture at a Quebec mining complex led to an investigation by Environment and Climate Change Canada that also uncovered additional releases of toxic substances into water. The investigation identified that one of the mine operators had also withheld effluent monitoring test results showing additional releases of toxic substances. Both companies were found guilty of a total of 98 charges under the <i>Fisheries Act</i> and <i>Metal Mining Effluent Regulations</i> .
2021	\$1.5 million	Chlorinated water from a fire suppression system at an oil storage terminal in Alberta leaked over the course of three days into an unnamed creek that flowed into the North Saskatchewan River. Two companies were convicted and were also ordered to present on the danger of chlorinated water.
2021	\$60 million	In the largest sentence ever imposed by a court under the <i>Fisheries Act</i> , it was found that a BC coal mine operator deposited coal mine waste rock leachate that accumulated in fish and adversely affected the quality of fish habitat. The operator was also issued a direction to prevent future discharges.

2. AMPs: Faster, Broader, and Increasing

in Size

Environmental laws generally treat AMPs as an “abatement” tool that is intended to deter non-compliance through the payment of a prescribed penalty, consisting of a small base penalty amount and a variable penalty to account for any economic benefit that the defendant was alleged to have incurred.

Many legislative schemes treat AMPs as “absolute liability instruments,” precluding or significantly limiting the defences available and providing them with limited opportunities to challenge the order. For example, AMPs under Ontario’s *Environmental Protection Act*, currently known as Environmental Penalties, are issued by a provincial officer, who must first issue a notice of intent to issue an Environmental Penalty. The defendant has a certain period of time to provide the provincial officer with additional information and submissions as to why the Environmental Penalty should not be issued or should be reduced. A defendant may then appeal an issued Environmental Penalty to the Ontario Land Tribunal.

In theory, an AMP is intended to offer a simpler and more expedient means to ensure compliance. Defendants have limited defences available to them, disincentivizing challenges. Unfortunately, several recent AMPs in western Canadian provinces demonstrate that regulators are frequently seeking higher penalty amounts:

Year	Penalty	Summary
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2025	\$3.63 Million	BC's Ministry of Environment issued seven AMPs to a mine operator for failing to comply with effluent treatment requirements in the operator's permits. These failures lead to multiple releases of effluent containing elevated concentrations of metals and other substances. BC's Ministry of Environment initially issued a total penalty of \$25 million. After receiving submissions from the operator, the regulator reduced the penalty to \$3.63 million.
2024	\$9.925 Million	A quarry operator buried waste and debris in a pit and carried out various activities that did not comply with Alberta's Code of Practice for Pits. When an Alberta provincial officer inspected the pit, the operator failed to comply with the inspector's requests. The base penalty amount was approximately \$78,500, with the remaining \$9,846,135 assessed as an alleged economic benefit. The AMP is under appeal before the Alberta Environmental Appeals Board.
2024	\$2.557 Million	A gas and oilfield operator sublet their lands to a third party without the written consent of Alberta's regulator and received financial compensation for this sublease. The base penalty amount was \$45,000, with an additional proceeds assessment of \$2,512,500.00.

3. What These Trends Mean For You

Aggressive enforcement action by regulators will result in more points of contact. In the natural resource sector, regulators typically assign a dedicated team of inspectors to perform quarterly or more frequent inspections to determine compliance with all environmental laws. If the inspector has reason to believe that a contravention has occurred, the

inspector could issue various orders or AMPs against the business. The inspector could also refer the matter for an investigation, giving rise to charges under environmental laws. The regulator could also pursue joint enforcement actions with other regulators, or even simultaneous or sequential action for different purposes. For example, many environmental laws permit an AMP to be issued either before a prosecution occurs or at the same time as a prosecution.

Defending against enforcement action requires a proactive and concerted effort. Environmental counsel can assist your business by reviewing and identifying enhancements to environmental policies and procedures, helping the company understand its legal obligations and rights when an officer arrives at the facility.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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