



September 6, 2019

Ms. Luisa Turano, Sr. Policy Advisor
& Ms. Darquise Lalonde, Sr. Policy Specialist
Natural Resources and Environment
Crown and Indigenous Relations and Northern Affairs

Email: luisa.turano@canada.ca
darquise.lalonde@canada.ca

Dear Ms. Turano and Ms. Lalonde,

RE: Draft Administrative Monetary Penalties Regulations

Thank you for the opportunity to comment on the draft proposed Administrative Monetary Penalties (AMPs) Regulations (Regulations) under the *Territorial Lands Act* (TLA), which applies in Nunavut and the NWT on lands that are administered by the Crown. Attached are comments and recommendations from the Land and Water Boards (Boards) of the Mackenzie Valley (please see Table 1).

Although these comments pertain to the draft proposed AMPs Regulations under the TLA, the Boards wish to re-iterate that we believe it is more legally appropriate that the Minister be the review body for Part 3 violations under the AMPs Regulations under the *Mackenzie Valley Resource Management Act* (MVRMA). The Boards note that the Minister is the review body for similar violations in Nunavut. Again, the Boards understand that this issue cannot be addressed by the Regulations, but it should be considered when the MVRMA is next amended, as it is critical to ensuring the regulatory system operates effectively.

Should you have any questions about our comments, please contact Angela Plautz at (867) 766-7461 or aplautz@mvlwb.com.

Sincerely,

Mavis Cli-Michaud
Chair
Mackenzie Valley Land and Water Board

Joseph Mackenzie
Chair
Wek'èezhii Land and Water Board

Elizabeth Wright
Chair
Gwich'in Land and Water Board

Larry Wallace
Chair
Sahtu Land and Water Board

Attachment: Table 1

Table 1. The Land and Water Boards’ Comments and Recommendations on the draft proposed Administrative Monetary Penalties (AMPs) Regulations (Regulations) under the *Territorial Lands Act* (TLA)

Section of Draft #1	Land and Water Boards’ Comments and Recommendations
8 Review	<p>Evidence and Submissions during the Review Process</p> <p>The Boards would like to re-iterate the importance of making the Boards’ and the Ministerial review processes as consistent as possible to minimize confusion and to ensure that they are robust, fair, and transparent.</p> <p>We recommend that Crown and Indigenous Relations and Northern Affairs (CIRNAC) re-consider its policy decision to limit Ministerial reviews to written exercises and remove subsection 8(3), which eliminates the Minister’s ability to hear oral evidence. The Boards’ ability to hear oral evidence and the Minister’s proposed inability to do so is a distinct, negative difference between the two review processes.</p>
Schedule 1, Part 1	<p>The Boards had recommended that obstructing, hindering, and providing false and misleading information should be moved to Category 3 from Category 2, given the impact on the administration of justice. In the draft Regulations, they are still Category 2 based on CIRNAC’s discussions with enforcement teams in Nunavut and the NWT. The Boards understand that an AMP is one of the many enforcement tools that the Inspectors can use, and in these types of cases, most of them will most likely warrant a prosecution.</p>
Schedule 1, Part 2	<p>It is not clear why <i>Fail to deposit the required security with the Minister before beginning a land use operation</i> is a Category 3 violation in the draft proposed AMPs Regulations under the TLA, but it is a Category 2 violation in the draft proposed AMPs Regulations under the MVRMA. The Category should be identical for the same type of violation across the AMPs Regulations.</p> <p>The “he” in <i>Fail to give an inspector the assistance and information he may reasonably require in carrying out their duties</i> should be changed to “they”.</p>