

The Canadian Environmental Protection Act (CEPA 1999) and Enforcement

A duty to enforce the law

Canadians expect their government to provide laws and regulations in order to protect them and their society, and these laws must be effectively enforced. The Parliament of Canada has ensured that CEPA 1999 is enforced by stipulating the Government of Canada's duty of enforcement directly in the Act.

The role of enforcement under CEPA 1999

When regulations are developed under CEPA 1999, stakeholders provide input and comment at various stages. Compliance is easier when those being regulated understand the purpose of regulations and have input into their creation. Environment Canada promotes compliance through fact sheets, manuals, guidelines and technical assistance.

Enforcement is part of the compliance continuum, and part of the goal in achieving the highest level of environmental quality for all Canadians, a goal stated in the Preamble of CEPA 1999. Usually, the first stage of enforcement is inspection by site visit or review of submitted reports as a means of verifying compliance with the Act and its regulations. An effective approach by Environment Canada in providing opportunities for input to the creation of regulations and in compliance promotion should result in a high rate of compliance. In cases of non-compliance, enforcement officers will investigate. If a violation is confirmed, action will be taken using one or more of the enforcement tools available under CEPA 1999.

Principles of CEPA enforcement

Enforcement of CEPA 1999 follows Environment Canada's Compliance and Enforcement Policy. Enforcement respects the following principles:

- Compliance with CEPA 1999 and its regulations is mandatory;
- CEPA enforcement officers apply the Act in a manner that is fair, predictable and consistent.
- CEPA enforcement officers use rules, sanctions and processes securely founded in law.
- CEPA enforcement officers enforce the Act with an emphasis on preventing harm to the environment.
- CEPA enforcement officers examine every suspected violation of which they have knowledge, and take action consistent with the Compliance and Enforcement Policy.
- CEPA enforcement officers encourage Canadians to report CEPA violations to them.

Powers of enforcement officers

Enforcement officers are peace officers for the purposes of enforcing the Act. They also have powers similar to those contained in many other federal statutes that provide for inspections to verify compliance. These include the right to:

- enter premises;
- open containers and examine contents;
- take samples; and
- conduct tests and measurements, and obtain access to information (including data stored on computers).

Powers of CEPA analysts

CEPA analysts can be chemists, biologists, engineers, forensic accountants, or laboratory personnel. They are entitled to accompany enforcement officers on inspections, and they have the power to enter premises, open containers, take samples, conduct tests and measurements, and gain access to information. However, they may not use enforcement tools such as warnings, directions, tickets, or environmental protection compliance orders.

Enforcement tools

CEPA enforcement officers have the following enforcement tools at their disposal:

- warnings to indicate the existence of a violation, so that the alleged offender can take notice and return to compliance;
- directions that enforcement officers may issue to deal with or to prevent illegal releases of regulated substances;
- tickets for offences such as failure to submit written reports;
- environmental protection compliance orders to put an immediate stop to illegal activity, to prevent a violation from occurring or to require action to be taken;
- Environmental Protection Alternative Measures
- prosecution under the authority of a Crown prosecutor.

The future of enforcement

The CEPA 1999 Compliance and Enforcement Policy guides application of the Act by enforcement officers. The achievement of CEPA's goals of protection of the environment and human health through pollution prevention is dependent in large part on effective enforcement of the Act and its regulations.

Further information:

Internet:

Additional information on the Canadian Environmental Protection Act, 1999 is available on Environment Canada's Green Lane on the Internet at: www.ec.gc.ca/CEPARRegistry

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