



ENFORCEMENT ACTIVITIES

The Compliance and Enforcement Policy for the *Canadian Environmental Protection Act, 1999* (CEPA 1999) sets out the principles for enforcement of the Act and advises everyone who shares a responsibility for protection of the environment — governments, industry, organized labour, and individuals — as to what is expected of them. It also provides information on what to expect from the officers who enforce CEPA 1999 and its regulations. The policy was developed in co-operation with the Department of Justice.

This fact sheet is part of a series of six that presents various aspects of the Compliance and Enforcement Policy: its principles, the personnel, enforcement activities, officers' responses to violations, court actions, and contact information for Environment Canada's enforcement offices.

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INSPECTION AND INVESTIGATION

Enforcement officers appointed under CEPA 1999 carry out two categories of enforcement activity: inspection and investigation.

The purpose of an **INSPECTION** is to verify compliance with CEPA 1999 and its regulations. To conduct an inspection of premises other than a private dwelling, an enforcement officer must have reasonable grounds to believe that, on the premises that he or she intends to enter and inspect, there are activities, materials, substances, records, books, electronic data, or other documents that are subject to the Act or relevant to its administration.

For inspecting a private dwelling or when an enforcement officer may be refused entry to premises, the officer has to seek an inspection warrant from a justice of the peace. In the inspection warrant, the justice may name any person to accompany the enforcement officer or authorize the use of any power that the justice deems necessary, including the use of force to break locks or force open a locked door, etc.

In the course of an inspection, an enforcement officer may examine substances or products, open and examine receptacles, containers, or packages, and take samples. The officer may also examine books, records or electronic data and make copies of them.

If an enforcement officer discovers a violation during an inspection, the officer may determine that circumstances are exigent — namely, when the delay necessary to obtain a warrant would likely result in danger to the environment or human life or in the loss or destruction of evidence. Under such circumstances, the enforcement officer will begin an investigation immediately and, where necessary, exercise the power to search without a warrant and seize and detain items. In all other circumstances, where the enforcement officer has determined that further investigation is required, this will be done under the authority of a search warrant.





An investigation will be initiated when an enforcement officer has reasonable grounds to believe that an offence has been committed under the Act; or when an individual of at least 18 years of age, resident in Canada, petitions the Minister to investigate an alleged violation of the Act.

INVESTIGATIONS involve gathering, from a variety of sources, evidence and information relevant to suspected violations. There are two instances in which an enforcement officer will conduct an investigation:

- when he or she has reasonable grounds to believe that an offence has been committed under the Act; or
- when an individual of at least 18 years of age, resident in Canada, petitions the Minister to investigate an alleged violation of the Act.

A search is a component of an investigation, and the search power may be used by enforcement officers when fulfilling their duties under CEPA 1999. The only occasion when an enforcement officer will not seek a search warrant is in exigent circumstances, as stated above. During the course of a search with or without a warrant, enforcement officers may seize and detain anything that they reasonably believe was used to commit an offence under the Act, is related to the commission of an offence, or will provide evidence of an offence.

RESPONSES TO ALLEGED VIOLATIONS

Enforcement officers will examine every suspected violation of which they have knowledge. If, after that examination, they determine that there is insufficient evidence to prove the alleged violation or that the alleged violation did not, in fact, occur, they will take no further enforcement action. If they are able to substantiate that a violation took place and there is sufficient evidence to proceed, they will take action consistent with the following criteria:

- **Nature of the alleged violation** (seriousness of the harm, intent of the alleged violator, repeated occurrence, attempt to conceal information or subvert the Act).
- **Effectiveness of the response** to obtain compliance with CEPA 1999, within the shortest possible time and with no further occurrence of violation.
- **Consistency in enforcement** – Enforcement officers will consider how similar situations were handled for responding consistently to alleged violations.

The following responses are available to deal with alleged violations: warnings; tickets; environmental protection compliance orders (EPCOs); directions by enforcement officers; detention orders for ships; Ministerial orders; injunctions; prosecution; environmental protection alternative measures; court orders following conviction; and civil suits by the Crown to recover costs.

While each fact situation will be different, the most important factor in determining an enforcement response is the effectiveness of the response in securing compliance as quickly as possible with no recurrence of violation. Therefore, except in circumstances where prosecution will always be pursued, as described in the Compliance and Enforcement Policy for CEPA 1999, the enforcement officer will give first consideration to an enforcement response among warnings, tickets, EPCOs, directions, detention orders for ships and Ministerial orders. As these do not require a court proceeding, compliance may be restored in a shorter time frame than would be possible through a court prosecution.

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/ele-ale/index.asp

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