



FISHERIES ACT

POLLUTION PREVENTION PROVISIONS OF THE *FISHERIES ACT*: ENFORCEMENT BY ENVIRONMENT CANADA

DESCRIPTION

The Minister of Fisheries and Oceans is accountable to Parliament for all sections of the *Fisheries Act*. However, under a 1978 Instruction, Environment Canada administers and enforces those aspects of the Act dealing with the control of pollutants that are harmful to fish when released to fish-bearing waters under section 34 and sections 36 to 42. In this context, Environment Canada works to:

- advance pollution prevention technologies;
- promote the development of preventive solutions; and
- collaborate with other federal departments, the provinces and territories, aboriginal governments and aboriginal people, industry, and the public on issues relating to the pollution provisions of the *Fisheries Act*.

Environment Canada develops, and evaluates the effectiveness of, regulations and other instruments relating to the pollution prevention provisions of the *Fisheries Act*. Also, Environment Canada regularly consults with the Department of Fisheries and Oceans on the development of regulations under section 36(5) of the pollution prevention provisions, as it is the Minister of Fisheries and Oceans who has the responsibility to bring before Cabinet all proposed regulations under the Act.

The main pollution prevention provision is found in section 36(3) of the Act and is commonly referred to as the “general prohibition.” This subsection prohibits the deposit, into fish-bearing waters, of substances that are deleterious or harmful to fish. What constitutes a “harmful substance” can range from the manure of livestock to the effluents of industrial plants or wastewater treatment plants to spills of individual chemicals into Canadian fish-bearing waters. Section 36(5) of the *Fisheries Act* allows the authorization of discharges of deleterious substances in specified quantities or under specified circumstances by means of regulation.

REGULATIONS

Environment Canada, in collaboration with the Department of Fisheries and Oceans, has regulated six industrial sectors under section 36(5) of the *Fisheries Act*: pulp and paper, metal mining, meat/poultry processing, potato processing, chlor-alkali mercury plants, and petroleum refineries. There is also one site-specific regulation, which governs the effluent from a pulp and paper mill at Port Alberni in British Columbia¹ (to be incorporated into the revised Pulp and Paper Effluent Regulations in 2003 or 2004).

The seven regulations that have been promulgated under the *Fisheries Act* are:

- Chlor-Alkali Mercury Liquid Effluent Regulations
- Meat and Poultry Products Plant Liquid Effluent Regulations
- Metal Mining Effluent Regulations
- Petroleum Refinery Liquid Effluent Regulations

Section 36(3) of the Fisheries Act prohibits the deposit, into fish-bearing waters, of substances that are deleterious or harmful to fish.



Environment Canada's fishery inspectors and fishery officers verify compliance during planned inspections and respond to complaints of releases and spills of deleterious substances into fish habitat. They direct or take appropriate action to reestablish compliance.

- Port Alberni Pulp and Paper Effluent Regulations
- Potato Processing Plant Liquid Effluent Regulations
- Pulp and Paper Effluent Regulations

All these regulations define a deleterious substance and set discharge limits. Discharges that exceed those limits are in violation of section 36(3), and charges can be laid by Environment Canada fishery officers or fishery inspectors under that section of the *Fisheries Act*.

ENFORCEMENT PROGRAM

The goal of Environment Canada's enforcement program is compliance with all Acts that the department administers. This includes conducting inspections to verify compliance; providing advice and information in the development/amendments of regulations; investigating suspected violations; publicizing enforcement actions and results to encourage compliance; cooperating with others involved in law enforcement; and working very closely with engineers, biologists, and other scientists to inform the regulated community of its obligations through compliance promotion activities.

When Environment Canada fishery inspectors or fishery officers discover suspected violations, there are various tools at their disposal to help bring suspected offenders into compliance. These tools include warnings, directions, Ministerial orders, injunctions, prosecutions, and, for those found guilty of violating section 36(3) and/or regulations under the *Fisheries Act*, fines and/or court orders.

Every fiscal year, Environment Canada develops a national inspection plan for the legislation that it administers. One component of the annual national inspection plan sets out the national and regional priorities for Environment Canada fishery inspectors and fishery officers to verify compliance with the pollution prevention provisions of the *Fisheries Act*; it identifies the regulations that are in force and the proposed number of inspections to be carried out by each of the five Environment Canada regional offices. Those regional and national priorities for inspections are determined by the risk to the environment; the risk to fish and fish habitat; the coming into force of any new regulations; and work-sharing arrangements under federal-provincial or federal-territorial administrative agreements related to *Fisheries Act* and related regulations.

In addition to the planned inspections, Environment Canada's fishery inspectors and fishery officers also respond to complaints, tips, and referrals and to events such as spills.

¹ Stricter limits were required for the effluent from the Port Alberni pulp and paper mill because of environmental conditions at the site.

FURTHER INFORMATION:

INTERNET:

Additional information on the pollution prevention provisions of the *Fisheries Act* is available on Environment Canada's Green Lane on the Internet at:
www.ec.gc.ca/ele-ale/index.asp

ENVIRONMENT CANADA INQUIRY CENTRE:

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IN PERSON OR BY PHONE AT ONE OF THE FOLLOWING OFFICES OF ENFORCEMENT:

National Capital Region office in Gatineau	(819) 953-1523
Atlantic Region office in Dartmouth	(902) 426-1925
Quebec Region office in Montreal	(514) 283-0181
Ontario Region office in Toronto	(416) 739-5897
Prairie and Northern Region office in Edmonton	(780) 951-8861
Pacific and Yukon Region office in Vancouver	(640) 666-0002

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