



RESPONSES TO ALLEGED VIOLATIONS OF CEPA 1999

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.

To deal with alleged violations of CEPA 1999, 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.

RESPONSES TAKEN BY THE ENFORCEMENT OFFICERS

The following responses are available to an enforcement officer to deal with alleged violations of CEPA 1999 and its regulations: warnings, directions, tickets, environmental protection compliance orders (EPCOs), detention orders for ships, and Ministerial orders. The following court actions are also available: injunctions, prosecution, environmental protection alternative measures agreements, court orders following conviction, and civil suits by the Crown to recover costs.

While each 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.

TICKETS are available for offences under CEPA 1999 when there is minimal threat to the environment or to human life or health, and when the offences are designated as ticketable by a regulation developed under the federal *Contraventions Act*. In such cases, enforcement officers will always issue a ticket, unless they have determined that, in accordance with the criteria of this policy, a warning is the appropriate response. In cases where an alleged ticketable offence continues for more than one day, enforcement officers are able to issue a ticket for every day that the alleged offence continues.





If the same offender commits the same violation under a different situation, this is an indication that issuance of a ticket by the enforcement officer was not effective in restoring compliance. Under those circumstances, the enforcement officer will issue an EPCO, or consider prosecution for the alleged offence, both of which are described in the policy.

WARNINGS will be issued by enforcement officers when they believe that a violation of the Act is continuing or has occurred and when the degree of harm or potential harm to the environment or to human life or health appears to be minimal; when the suspected violator has a good history of compliance with CEPA 1999; and when the suspected violator has made reasonable efforts to remedy or mitigate the consequences of the alleged offence. Warnings will always be given in writing. When necessary, however, enforcement officers may initially give a warning orally. This is to be followed as soon as possible by a written warning.

DIRECTIONS IN THE EVENT OF RELEASES can be issued by the enforcement officer when there is a release or the likelihood of a release, of a substance in contravention of regulations under CEPA 1999. The direction can:

- prevent the release if it has not already occurred;
- remedy any dangerous condition; or
- reduce any danger to the environment or to human life or health.

Failure to comply with a direction by an enforcement officer will lead to prosecution of the individual, company, or government entity for this failure. Also, the enforcement officer is empowered under the Act to take action himself or herself or to hire qualified persons to take the necessary measures.

ENVIRONMENTAL PROTECTION COMPLIANCE ORDERS (EPCOs) can be issued by an enforcement officer in order to prevent a violation from occurring or to stop or correct one that is occurring or continuing over a period of time. It is possible to issue compliance orders to deal with any offence under CEPA 1999.

Examples of instances where an enforcement officer may use an EPCO are:

- the alleged offender did not return to compliance following a warning or ticket previously issued for the particular offence;
- an officer issued a direction to deal with a release of a substance in excess of regulated limits, but the circumstances that resulted in the earlier release continue;
- improper containers are being used for storage of a toxic substance, or proper containers are being used, but they are not labelled as required;
- an individual, company or government entity that was required to prepare and implement a pollution prevention plan or an environmental emergency plan failed to do so.



The EPCO will direct the alleged violator to take the measures required to return to compliance. The order imposes no financial or other penalty. Failure to comply with the EPCO is an offence for which prosecution will be undertaken.

DETENTION ORDERS FOR SHIPS can be issued by the enforcement officer when: the officer has reasonable grounds to believe that the owner or master of a ship has committed an offence under the Act; the ship was used in connection with the commission of the violation; there is a risk of flight by the ship or of loss or destruction of evidence; or when off-loading of the cargo that is suspected to be in violation of the Act would require detention of the ship for a period of days.

Also, before issuing such a detention order, the enforcement officer will ensure that the action is in accordance with international and Canadian maritime law.

MINISTERIAL ORDERS can be given under CEPA 1999 for two types of alleged violation:

- an order to prohibit activities involving substances new to Canadian commerce until expiry of their assessment period; and
- an order compelling the recall, from the marketplace, of a substance, a nutrient, a fuel, or a vehicle.

Failure to comply with a Ministerial order will lead to prosecution of the individual, company, or government entity.



To deal with alleged violations, enforcement officers may issue: warnings; tickets; environmental protection compliance orders (EPCOs); directions in the event of a release; detention orders for ships; and Ministerial orders, which do not require court proceedings.

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

ENVIRONMENT CANADA INQUIRY CENTRE:

351 St. Joseph Boulevard, Hull, Quebec K1A 0H3

Telephone: (819) 997-2800 Toll-free: 1 800 668-6767
Fax: (819) 953-2225 E-mail: enviroinfo@ec.gc.ca