



**Environment  
Canada**

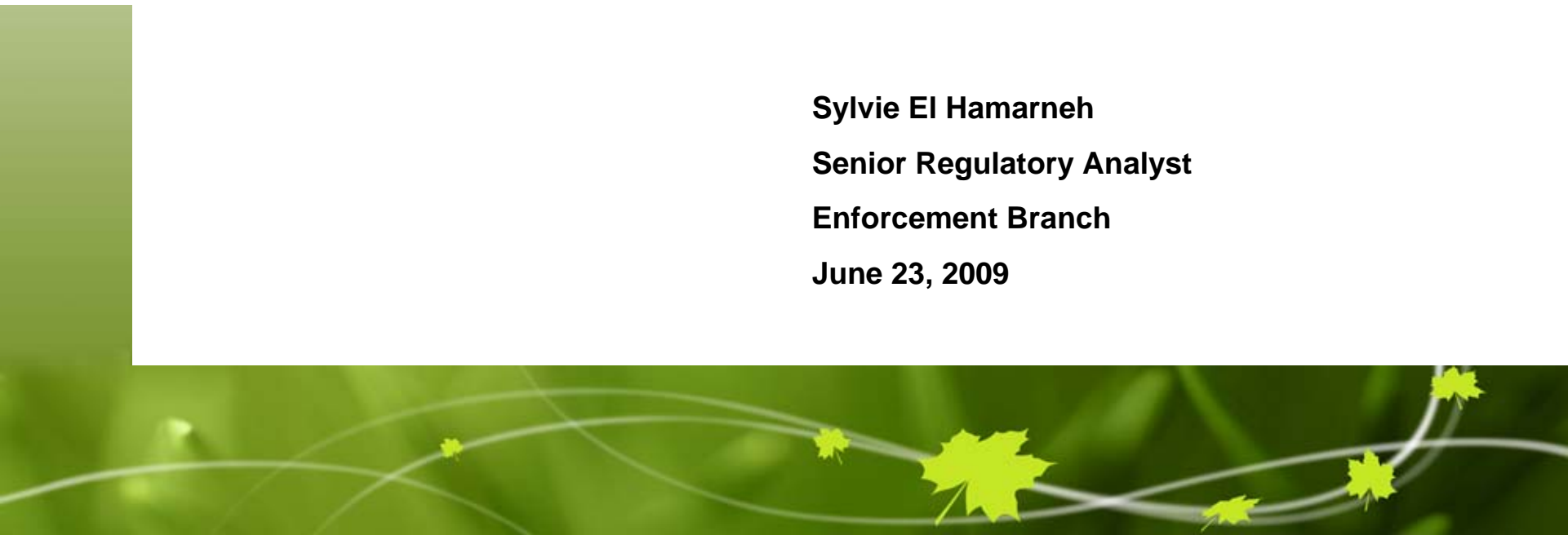
**Environnement  
Canada**

**Canada**

# **Environment Canada's Enforcement Branch Organization, Role and Responsibilities**

**Presentation to the  
Renewable Fuels Industry Technical Advisory Group**

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June 23, 2009**



# EC Enforcement - Mission

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- Mission:

To enforce the legislation administered by EC in order to protect the environment, biodiversity, wildlife and health of Canadians.

# Background

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- In June 2005, Environment Canada took steps to reorganize its enforcement functions by creating the Enforcement Branch (headed by a Chief Enforcement Officer) and obtaining supplementary funding to hire and train enforcement officers.
- To enforce both environmental and wildlife protection laws, Environment Canada has close to 300 designated enforcement officers located in offices across the country.



# Enforcement Branch in NCR

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- **Environmental Enforcement Directorate**
  - Environmental Enforcement Division (Inspections, Investigations and Intelligence)
- **Enforcement Services Directorate**
  - Regulatory Analysis Division
  - Operational Policies Division
  - Learning and Development Division
- **Wildlife Enforcement Directorate**
  - Wildlife Enforcement Division (Inspections, Investigations and Intelligence)
- **Strategic Policy, Planning and Coordination Directorate**
  - Strategic Policy Division
  - Engagement and Coordination Division
  - Planning and Reporting Division

# Enforcement Branch Legislative Mandate

	Legislative Responsibilities
<p><b>Environmental Enforcement Directorate</b></p>	<ul style="list-style-type: none"> <li>▪ <b><i>Canadian Environmental Protection Act, 1999</i></b> and 46 associated regulations</li> <li>▪ <b>Pollution prevention provisions of the <i>Fisheries Act</i></b> and six associated regulations</li> <li>▪ <b><i>Antarctic Environmental Protection Act</i></b></li> <li>▪ <b><i>International River Improvements Act</i></b></li> </ul>
<p><b>Wildlife Enforcement Directorate</b></p>	<ul style="list-style-type: none"> <li>▪ <b><i>Canada Wildlife Act</i></b></li> <li>▪ <b><i>Migratory Birds Convention Act, 1994</i></b></li> <li>▪ <b><i>Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act</i></b></li> <li>▪ <b><i>Species at Risk Act</i></b></li> </ul>

# Policy Context: EC Enforcement Policies

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- To guide enforcement officers in the fair, predictable and consistent application of the law, a series of departmental compliance and enforcement policies are used:
  - Compliance and Enforcement Policy *for the Canadian Environment Protection Act, 1999*
  - Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act*
  - Compliance and Enforcement Policy for Wildlife Legislation
  - Compliance and Enforcement Policy *for the Species at Risk Act* (draft)

# Policy Context: EC Enforcement Policies

## (cont'd)

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- While there are four distinct policies, they share the following core principles:
  - Compliance with the Acts and regulations is mandatory;
  - EOs will apply the Acts in a fair, predictable and consistent manner;
  - EOs will administer the Acts with an emphasis on the protection of biodiversity, prevention of damage to the environment and/or risks to health;
  - EOs will examine every suspected violation of which they have knowledge and take action consistent with policy;
  - The public is encouraged to report suspected violations.



# Annual Enforcement Priorities

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- Environment Canada's (EC) Enforcement Branch (EB) uses a consultation process to determine its annual enforcement priorities.
- Through the National Enforcement Plan processes, EC regulatory partners (i.e., risk managers for regulations) are engaged to identify regulations, sectors and geographic areas requiring priority enforcement attention.
- Every year, submissions are provided to EB where risk managers provide justification, via a number of established criteria, why their regulations should be an enforcement priority.



# Annual Enforcement Priorities (cont'd)

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- Examples of criteria are:
  - the level of risk posed to the environment and/or human health
  - compliance history
  - the coming into force of new risk management instruments or amendments to current regulations
  - federal/provincial/territorial and international commitments
  - government priorities
  - scale and goal of the regulations and size of the regulated community
- At the end of the consultation process, a plan is created (approved by EC senior management) outlining where the EB will focus enforcement activities in a given fiscal year.

# Operational Context: Enforcement Activities

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- **Inspections**
  - Verify compliance with Acts and associated regulations.
- **Investigations**
  - An inspection becomes an investigation when there are reasonable grounds to believe a violation has been committed. Evidence relevant to a suspected violation is gathered. An investigation can also be triggered by intelligence reports or public complaints/requests.



# Operational Context: Enforcement Activities

## (cont'd)

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- **Intelligence**

- On-going information collection and analysis of compliance activities and emerging non-compliance issues within regulated sectors. Preparation of intelligence summaries for internal purposes and sharing of information with national and international partners, as needed.



# Inspection Powers (of EOs under CEPA 1999)

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- Enter, open receptacles, take samples.
- Conduct tests and measurements.
- Have access to information, including electronic data.
- Seek inspection warrants for private dwelling-place or non-dwelling:
  - to which entry has been refused; or
  - that have been found locked or abandoned.
- Stop conveyances.
- Redirect ships to Canadian waters or ports for inspection.
- Seizure during an inspection.

# Investigation Powers (of EOs under CEPA 1999)

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- Search with or without a search warrant (latter under exigent circumstances).
- Seizure under the authority of a search warrant or without a warrant (latter under exigent circumstances).
- Redirect ships to Canadian waters or ports for investigation (for foreign ship, permission of Attorney General of Canada is necessary and must be in the Exclusive Economic Zone).



# Peace Officer Powers (of EOs under CEPA 1999)

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- Examples of peace officer powers:
  - Authority to seek general warrant under the Criminal Code
  - Authority to do searches at and around the perimeter of a property
  - Authority to mark items for tracking
  - Authority to search in anticipation of a violation
  - Authority to seek warrant for electronic surveillance
  - Authority to arrest with or without warrant

# Operational Context: Enforcement Actions

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- Where an EO determines, based on available evidence, that a violation either has taken place or is imminent, an enforcement action may be warranted.
- In selecting an appropriate enforcement measure, EOs consider the following criteria outlined in the compliance and enforcement policies:
  - Nature of the violation: seriousness of harm, intent of the violator, compliance history, etc.
  - Effectiveness of the measure in achieving the desired result: general result sought is compliance within the shortest time with no further occurrence
  - Consistency in enforcement: consistency, so similar situations are dealt with in a similar fashion

# Operational Context: Enforcement Measures

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- The following list includes measures available to address violations:
  - Warnings
  - Tickets
  - Directions/Directives
  - Ministerial orders
  - Prohibition orders involving new substances
  - Recall orders
  - Detention orders for Ships
  - Environmental protection compliance orders
  - Laying of charges



# Collaboration with the Public Prosecution Service of Canada

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- Once a charge has been laid, the file lead is transferred to the Public Prosecution Service of Canada, but the EO remains involved with the file by:
  - Providing testimony in court proceedings
  - Providing advice to Crown Counsel in negotiating an Environmental protection alternative measure with violators in situations where it is in the public interest to pursue alternatives to court trials
  - Recommending appropriate penalties and court orders upon conviction



# Additional Information

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- **For more information on the Enforcement Branch:**
  - [www.ec.gc.ca/alef-ewe](http://www.ec.gc.ca/alef-ewe)
- **For more information on the CEPA 1999 compliance and enforcement policy:**
  - [www.ec.gc.ca/CEPAREgistry/documents/policies/candepolicy/toc.cfm](http://www.ec.gc.ca/CEPAREgistry/documents/policies/candepolicy/toc.cfm)

