

# ***The Canadian Environmental Protection Act, 1999* and Enforcement**

## **A duty to enforce the law**

Canadians expect their government to create and enforce laws and regulations that will protect them and their society. The Parliament of Canada has ensured the effective enforcement of the *Canadian Environmental Protection Act, 1999* (CEPA 1999) by stipulating the Government of Canada's duty of enforcement within the Act itself.

## **The role of enforcement under CEPA 1999**

Enforcement secures compliance with the requirements of the CEPA 1999 and its regulations. Effective enforcement is integral to achieving the highest level of environmental quality for all Canadians, a goal stated in the preamble to the Act.

Usually, the first stage of enforcement is inspection by site visit or by reviewing submitted reports to verify compliance with the Act and its regulations. In the case of suspected violations, enforcement officers will use the tools available under CEPA 1999 — including sampling, tests and measurements, investigations, orders by the Minister of the Environment, injunctions and prosecutions. Environment Canada also promotes compliance through fact sheets, manuals, guidelines and technical assistance.

When regulations are developed under CEPA 1999, stakeholders provide input at various stages. Providing opportunities for stakeholder participation results in a higher rate of compliance because those being regulated understand the purpose of regulations and have contributed to their creation. In addition, the quality and effectiveness of regulations is also improved with stakeholder input.

## **Principles of enforcement of CEPA 1999**

The enforcement of CEPA 1999 follows Environment Canada's Compliance and Enforcement Policy for the Act and respects the following principles:

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

- enforcement officers encourage Canadians to report violations of the Act to them.

## **Powers of enforcement officers**

Enforcement officers have all the powers of 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. Their inspection powers include the right to:

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

## **Powers of analysts under the Act**

Under CEPA 1999, the Minister of the Environment has the authority to designate individuals to act as analysts for the purpose of any or all parts of the Act. Typically, these individuals have expertise that will assist enforcement officers in conducting inspections or investigations under CEPA 1999. As analysts, they have the power to enter premises, open containers, take samples, conduct tests and measurements, and gain access to information when accompanied by an enforcement officer. Their powers, however, are limited and do not include the authority to use enforcement tools such as warnings, directions, tickets, or environmental protection compliance orders.

## **Enforcement tools**

Enforcement officers have the following enforcement tools at their disposal:

- warnings of a suspected violation, so that the offender can take notice and return to compliance;
- directions that may be issued to deal with or prevent illegal releases of regulated substances;
- tickets for offences such as failure to submit written reports;
- ministerial orders for dealing with new substances as well as recalling from the marketplace substances or products that contravene CEPA 1999 or its regulations (nutrients, fuels, vehicles, or engines whose emissions are regulated under CEPA 1999);
- 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;
- injunctions to stop or prevent a violation from occurring;
- prosecution under the authority of a Crown Prosecutor; and
- environmental protection alternative measures to divert an accused from the formal court prosecution process.

## **The future of enforcement**

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

## **Further information**

### **Internet:**

[www.ec.gc.ca/ceparegistry](http://www.ec.gc.ca/ceparegistry).

### **Inquiry Centre:**

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