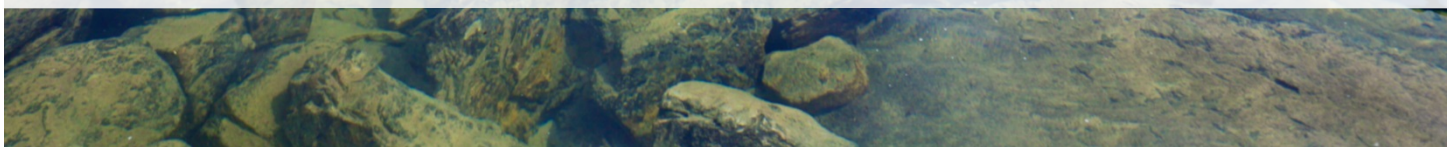




# Compliance and Enforcement Policy for the *Canadian Environmental Assessment Act, 2012*

November 2017



## **Document Information**

### **Notice**

This policy is not a substitute for the *Canadian Environmental Assessment Act, 2012*. In the event of an inconsistency between this document and the *Canadian Environmental Assessment Act, 2012*, the statute prevails.

### **Updates**

This document may be reviewed and updated periodically. To ensure that you have the most up-to-date version, please consult the [Compliance and Enforcement](#) page of the Canadian Environmental Assessment Agency's website.

### **Copyright**

© Her Majesty the Queen in Right of Canada, as represented by the Minister of Environment and Climate Change (2017).

This publication may be reproduced for personal or internal use without permission, provided the source is fully acknowledged. However, multiple copy reproduction of this publication in whole or in part for purposes of redistribution requires the prior written permission from the Canadian Environmental Assessment Agency, Ottawa, Ontario K1A 0H3, or [info@ceaa-acee.gc.ca](mailto:info@ceaa-acee.gc.ca).

Ce document a été publié en français sous le titre : *Politique de conformité et d'application pour la Loi canadienne sur l'évaluation environnementale (2012)*

Alternative formats may be requested by contacting: [info@ceaa-acee.gc.ca](mailto:info@ceaa-acee.gc.ca).

## Table of Contents

Introduction and Purpose .....	4
The Principles and Expectations that Guide Compliance and Enforcement .....	4
The Fundamentals of CEAA 2012 in Relation to Compliance and Enforcement .....	5
Pre-Environmental Assessment .....	6
During the Conduct of the Environmental Assessment.....	6
After Completion of the Environmental Assessment .....	6
How the Agency Raises Awareness and Promotes Compliance with CEAA 2012 .....	7
The Responsibilities of CEAA 2012 Enforcement Officers .....	8
How the Agency Verifies Compliance and Detects Alleged Contraventions .....	9
Coordination with Other Government Authorities .....	9
Powers of CEAA 2012 Enforcement Officers .....	9
How Enforcement Officers Respond to Alleged Contraventions.....	10
Enforcement actions taken in the Event of Alleged Contraventions of CEAA 2012 .....	11
Warnings .....	11
Oral warnings .....	11
Written warnings .....	11
Orders under section 94 of CEAA 2012.....	12
Injunctions under section 96 of CEAA 2012.....	13
Prosecution .....	14
Penalties upon Conviction .....	15
Recovery of costs .....	15
What Enforcement Information the Agency Discloses to the Public .....	16
How the Public Can Ask Questions, Submit a Complaint or Report a Suspected Contravention.....	16

## **Introduction and Purpose**

The Canadian Environmental Assessment Agency (the Agency) is a federal body that is accountable to the Minister of Environment and Climate Change and serves as the centre of expertise for federal environmental assessment. The *Canadian Environmental Assessment Act, 2012* (CEAA 2012) and its regulations establish the legislative basis for federal environmental assessments in most regions of Canada. The Agency is responsible for the administration of CEAA 2012 including promoting, monitoring and facilitating compliance with CEAA 2012.

Proponents of designated projects must meet requirements set out in CEAA 2012 and any decision statement issued by the Minister of Environment and Climate Change. Compliance with CEAA 2012, its regulations, and decision statements is mandatory.

The purpose of this policy is to describe the Agency's approach to compliance with, and enforcement of, CEAA 2012. This policy is intended to promote a consistent and transparent approach to compliance with, and enforcement of, CEAA 2012.

Note that this policy applies solely to the Agency and not to any other responsible authority under CEAA 2012. The Agency only enforces CEAA 2012 requirements of those designated projects for which it is the responsible authority.

The terms "compliance" and "enforcement" are important for understanding the approach being taken by the Agency. It is therefore useful to make their meanings clear in the context of CEAA 2012.

"Compliance" means the state of conformity with CEAA 2012. The Agency's role in compliance with CEAA 2012 is through two types of activities: promotion and enforcement. Measures to promote compliance include offering education and training opportunities, doing outreach, providing information, and consulting and engaging stakeholders and proponents whose designated projects are subject to CEAA 2012.

"Enforcement" means the verification of compliance with CEAA 2012, to compel compliance or respond to alleged or potential contraventions. Enforcement measures include inspections, investigations and enforcement actions, such as written warnings, orders, injunctions and prosecution.

## **The Principles and Expectations that Guide Compliance and Enforcement**

The following general principles govern the Agency's application of CEAA 2012 with respect to compliance promotion and enforcement:

- The Agency fosters compliance by communicating CEAA 2012 requirements in a clear, transparent manner.
- The Agency is transparent about compliance and enforcement activities by sharing information with the public.

- The Agency applies CEAA 2012 in a manner that is fair, predictable and consistent.
- The Agency undertakes compliance promotion and enforcement activities to prevent adverse environmental effects.
- The Agency examines suspected contraventions of CEAA 2012 of which it has knowledge and takes appropriate action consistent with this Compliance and Enforcement Policy.
- The Agency encourages the reporting of suspected contraventions of CEAA 2012 via email at [compliance.conformite@ceaa-acee.gc.ca](mailto:compliance.conformite@ceaa-acee.gc.ca).

The following are the Agency's expectations of proponents with respect to complying with CEAA 2012. Proponents are expected to:

- comply with the obligations and the prohibitions of CEAA 2012;
- provide input on potential conditions for decision statements when published for public comment;
- seek clarification when unsure about CEAA 2012 requirements;
- monitor their own compliance with all environmental requirements that apply to their designated projects;
- correct any non-compliance that they discover on their own; and
- correct any non-compliance upon discovery by a CEAA 2012 enforcement officer.

### **The Fundamentals of CEAA 2012 in Relation to Compliance and Enforcement**

CEAA 2012 and its regulations establish the legislative basis for federal environmental assessments that take place in most regions of Canada. Environmental assessment is a planning and decision-making tool that is intended to:

- minimize or avoid adverse environmental effects before they occur; and
- incorporate environmental considerations into decision making.

For the purpose of enforcement of CEAA 2012, the Minister of Environment and Climate Change has the power to designate persons or a class of persons under section 89 of CEAA 2012. Those designated persons are referred to as CEAA 2012 enforcement officers.

The Agency enforces CEAA 2012 only for designated projects for which the Agency is a responsible authority. The Canadian Nuclear Safety Commission and the National Energy Board are responsible for enforcing any CEAA 2012 conditions that are included in licenses or certificates that they issue, where applicable.

Enforcement officers base their enforcement actions on the requirements of CEAA 2012, categorized as obligations and prohibitions. These are the things a proponent of a designated project must undertake and must not undertake. The obligations and prohibitions are in place from before an environmental assessment begins, during the conduct of the environmental assessment to after the completion of the environmental assessment. They are described below in relation to each phase of the environmental assessment process.

### **Pre-Environmental Assessment**

The *Regulations Designating Physical Activities* under CEAA 2012 identify the physical activities that constitute the designated projects that may require an environmental assessment. Proponents of a designated project that falls under the Agency's authority must submit to the Agency a project description that contains all of the information prescribed by the *Prescribed Information for the Description of a Designated Project Regulations*. If the Agency is of the opinion that a project description received from a proponent is incomplete or does not contain sufficient details, the Agency may require the proponent to submit an amended description containing the information and details specified by the Agency. Once a complete project description is received, the Agency then determines from the project description whether or not an environmental assessment is required.

The Minister of Environment and Climate Change may, by order, designate a physical activity that is not prescribed in the *Regulations Designating Physical Activities*. In this case, the proponent must provide information in relation to that physical activity, when requested to do so by the Minister.

The proponent must not carry out any part of a designated project that may cause an environmental effect (as defined in subsection 5(1) of CEAA 2012), unless the Agency has decided that an environmental assessment of the designated project is not required.

### **During the Conduct of the Environmental Assessment**

Should the Agency determine during the conduct of the environmental assessment that existing information on the designated projects and its environmental effects is insufficient to advise the Minister of the significance of any adverse environmental effects it can ask for additional information. The proponent must collect information and/or conduct a study that the Agency requires.

The proponent must not do any act or thing in connection with the carrying out of the project, in whole or in part, that may cause an environmental effect (as defined in subsection 5(1) of CEAA 2012), unless a decision statement has been issued and the proponent is in compliance with its conditions.

### **After Completion of the Environmental Assessment**

After taking into account the environmental assessment report in respect of a designated project for which the Agency is the responsible authority, the Minister of Environment and Climate Change determines whether the designated project is likely to cause significant adverse environmental effects, taking into account mitigation measures that the Minister considers appropriate. If it is determined that a designated project is likely to cause significant adverse environmental effects, the Governor in Council

(Cabinet) will decide whether the effects are justified in the circumstances. In the case of significant adverse effects that are justified or in the case that significant adverse effects are unlikely, the Minister of Environment and Climate Change issues a decision statement that sets out the decision and contains conditions with which the proponent must comply. The conditions include mitigation measures, as well as measures to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures.

The proponent must comply with the conditions of the decision statement issued by the Minister of Environment and Climate Change. Compliance with those conditions is a principal requirement of CEAA 2012 towards which most of the Agency's compliance promotion and enforcement efforts are directed.

Every person in a place that is being inspected by a CEAA 2012 enforcement officer and the owner or person in charge of the place must give all reasonable assistance to a CEAA 2012 enforcement officer to carry out the inspection and to exercise their powers or perform their duties and functions.

Any person subject to an order issued under subsection 94(1) of CEAA 2012 must comply with the order. For example, section 94 allows a CEAA 2012 enforcement officer to order a person to stop a contravention.

No person, including the proponent, may obstruct or hinder a CEAA 2012 enforcement officer from exercising their powers or performing their duties and functions under CEAA 2012.

No person, including the proponent, may knowingly make a false or misleading statement, or knowingly provide false or misleading information in connection with any matter under CEAA 2012 to any person who is exercising their powers or performing their duties and functions under CEAA 2012.

### **How the Agency Raises Awareness and Promotes Compliance with CEAA 2012**

The Agency raises awareness of CEAA 2012 requirements by offering education and training opportunities, doing outreach, and providing information. The goal of these activities is to promote compliance, to deter future non-compliance and increase awareness of CEAA 2012 requirements. Accordingly, the Agency undertakes activities such as:

- holding information sessions on CEAA 2012, its provisions and regulations;
- issuing publications, including technical guides for proponents and environmental assessment professionals to assist in conducting environmental assessments that meet CEAA 2012 requirements;
- participating in seminars and conferences to provide information on CEAA 2012;
- communicating with proponents throughout the environmental assessment process to provide information that will support their compliance with CEAA 2012; and

- providing proponents with an opportunity to provide comments on potential conditions to be recommended to the Minister for incorporation in a decision statement.

Compliance promotion is also a part of the Agency's day-to-day business. This includes sharing information about CEAA 2012 during meetings with proponents, federal departments and agencies, provinces, territories, Indigenous governments and Indigenous people, industry, environmental groups and other interested parties.

While the Agency engages with proponents of designated projects subject to CEAA 2012, the responsibility for compliance rests with proponents.

Promotion of compliance with CEAA 2012 is carried out by Agency employees. A large component of compliance promotion is undertaken by environmental assessment experts in regional offices and at headquarters.

Those employees undertaking enforcement activities, due to the nature of their responsibilities for verifying compliance with CEAA 2012 and investigating suspected contraventions, limit their compliance promotion activities to:

- directing proponents and the public to the Agency website which has various sources of information about CEAA 2012; and
- providing copies of CEAA 2012, its accompanying regulations, decision statements and this policy.

### **The Responsibilities of CEAA 2012 Enforcement Officers**

CEAA 2012 enforcement officers are responsible for enforcing CEAA 2012 requirements. They are "designated persons" under section 89 of CEAA 2012. Through this designation, CEAA 2012 enforcement officers can:

- carry out inspections in relation to designated projects to verify compliance with CEAA 2012 and decision statements;
- issue orders directing corrective measures where there is an alleged contravention of CEAA 2012 and/or its accompanying regulations and/or the conditions in a decision statement;
- take other measures to compel compliance, such as issuing orders, directions and prohibitions under section 90 of CEAA 2012, and issuing orders under section 94 of CEAA 2012;
- investigate suspected contraventions; and
- undertake measures to compel compliance through court action, such as injunctions and prosecution.



## **How the Agency Verifies Compliance and Detects Alleged Contraventions**

Inspections are used by CEAA 2012 enforcement officers to verify compliance and/or prevent non-compliance. An inspection can be on-site or off-site.

CEAA 2012 enforcement officers carry out inspections:

- in accordance with the Agency's annual inspection plan;
- as required when information is submitted to the Agency by proponents in accordance with conditions in a decision statement;
- on the basis of information received from the public, Indigenous groups, federal entities and/or provincial entities about a designated project; or
- on the basis of their own information-gathering.

On-site inspections are conducted at the place where the designated project is being carried out, or where a record or anything relating to the designated project is located, such as the office or other premises of the proponent or of a third party. These on-site inspections can be planned and announced or unannounced. Alternatively, off-site inspections are conducted from the office of the CEAA 2012 enforcement officer and include but are not limited to, reviewing reports, implementation schedules and plans submitted by a proponent.

## **Coordination with Other Government Authorities**

Decision statements for designated projects for which the Agency is a responsible authority may contain conditions that are similar or identical to those set out in an authorization, license or other approval issued by another federal authority or provincial body. In such cases, the Agency coordinates, whenever possible, inspections and investigations by CEAA 2012 enforcement officers with the other federal or provincial entity.

## **Powers of CEAA 2012 Enforcement Officers**

CEAA 2012 enforcement officers are responsible for enforcing CEAA 2012 requirements. They are "designated persons" under section 89 of CEAA 2012.

In the course of an on-site inspection, a CEAA 2012 enforcement officer may use their inspection powers pursuant to subsection 90(2) of CEAA 2012 to:

- examine anything at or in the inspection site;
- use any means of communication in the inspection site or cause it to be used;
- use any computer system in the inspection site, or cause it to be used, to examine data contained in or available to it;

- prepare a document, or cause one to be prepared, based on the data;
- use any copying equipment in the inspection site or cause it to be used;
- remove anything from the inspection site for examination or copying;
- take photographs and make recordings or sketches;
- order a person to establish their identity at an inspection site;
- order a person to stop or start an activity;
- order a person to not move or to restrict the movement of objects;
- direct that machinery, vehicles and/or equipment be put into operation or be shut down; and
- control access to all or part of the inspection site.

An investigation occurs where a CEAA 2012 enforcement officer finds an alleged contravention and gathers evidence to confirm whether or not there is a contravention. If, during an inspection, a CEAA 2012 enforcement officer discovers an alleged contravention, they may shift to an investigation and must so inform the proponent or the person in charge of the site where the inspection is being carried out.

### **How Enforcement Officers Respond to Alleged Contraventions**

When CEAA 2012 enforcement officers have reasonable grounds to believe that non-compliance has occurred, various enforcement actions are available to them to restore compliance. Enforcement officers will consider the following:

- **Nature of the alleged contravention**—This includes consideration of the seriousness of the harm or potential harm, the intent of the alleged offender, whether this is a repeated occurrence and whether there are attempts to conceal information or otherwise subvert the objectives and requirements of CEAA 2012.
- **Effectiveness in achieving the desired result with the alleged offender**—The desired result is compliance with CEAA 2012 within the shortest time possible and with no further contravention. Factors to be considered include:
  - the alleged offender's history of compliance with CEAA 2012;
  - the alleged offender's willingness to cooperate with CEAA 2012 enforcement officers;
  - evidence of corrective action already taken by the alleged offender; and
  - the existence of enforcement actions under other statutes by other federal authorities or by provincial, territorial or Indigenous governments as a result of the same activity.

- **Consistency in enforcement**—CEAA 2012 enforcement officers intend to achieve consistency in their enforcement actions. Accordingly, CEAA 2012 enforcement officers consider how similar situations were handled when deciding what enforcement action to take.

While each situation of alleged contravention of CEAA 2012 is different, the most important factor in determining an enforcement action is its effectiveness in securing compliance as quickly as possible with no further contravention.

### **Enforcement actions taken in the Event of Alleged Contraventions of CEAA 2012**

When CEAA 2012 enforcement officers have reasonable grounds to believe that a contravention has occurred, various enforcement actions are available to restore compliance.

#### **Warnings**

Warnings are a type of enforcement action used when an enforcement officer wants to draw an offence to the attention of the offender and provide notice that a repeat of the offence may attract more serious sanctions. A warning is not a conviction or a finding of guilt. CEAA 2012 enforcement officers can issue two types of warnings:

#### **Oral warnings**

Enforcement officers may give oral warnings for alleged offences or violations under CEAA 2012:

- for which there is no, or minimal, negative effect on the environment; or
- for which correction within a short time frame is possible and the alleged offender is willing to undertake immediate action to restore their compliance.

An oral warning will form part of the enforcement officer's inspection report and will include the enforcement officer's description of what steps the alleged offender or violator took to restore their compliance following the oral warning.

#### **Written warnings**

Written warnings are used to inform an alleged offender or violator about an incident of alleged non-compliance. The warning states the section of CEAA 2012 for which there is an alleged contravention and includes the facts of the alleged offence or violation (for example, alleged non-compliance with a condition of the Minister's decision statement, the number or other identifier for the condition, and the aspects or parts of the condition not complied with).

Written warnings cannot compel a return to compliance. As is the case for oral warnings, written warnings are used by CEAA 2012 enforcement officers only where there is minimal or no harm to the environment. They do not contain measures directing an alleged offender or violator to return to

compliance. Written warnings are intended to encourage an alleged offender or violator to come into compliance and to deter that person from future contraventions.

When issuing a written warning, the CEAA 2012 enforcement officer will make the recipient of the warning aware of the opportunity to be heard. In the case of a written warning, “being heard” involves the opportunity for the alleged offender or violator to provide comments to an enforcement officer in writing. Response is a choice; the alleged offender or violator is not compelled to respond.

A written warning sets out the manner in which additional information or comments may be submitted by the alleged offender or violator for consideration by the CEAA 2012 enforcement officer. The time limit given that person to provide comments is generally up to 10 days following the issuance of the written warning.

The alleged offender or violator may, for example:

- disagree with the facts of the alleged offence or violation, as presented by the enforcement officer in the written warning;
- claim faulty identification of the provision of CEAA 2012 or of the condition of the decision statement with which the enforcement officer claims there is non-compliance; and/or
- claim that they have returned to compliance and request that the written warning be withdrawn.

After consideration of any comments received, the enforcement officer may confirm, amend or revoke the written warning. The enforcement officer’s decision will be provided in writing to the person subject to the warning. All comments by the alleged offender or violator, plus any supporting documents submitted, and the actions of the enforcement officer following those comments become part of the Agency’s files and will be posted to the Canadian Environmental Assessment Registry.

### **Orders under section 94 of CEAA 2012**

Section 94 orders are used by enforcement officers when they believe on reasonable grounds that there is a contravention of CEAA 2012. Under section 94, an order may, among other things, order a person to stop doing something that is in contravention of CEAA 2012, cause it to be stopped, or take any measure that is necessary to comply with CEAA 2012 or mitigate the effects of non-compliance. The order must be in writing and must include the reasons for the order and the time and manner in which it must be carried out. In stipulating the “manner” in which the order must be carried out, the enforcement officer may require the offender or violator to carry out measures in a specific order, specify how the activity is to be stopped, for what period of time and under what circumstances the activities may resume, coupled with reporting to the enforcement officer on the completion of each measure.

In urgent situations, where an enforcement officer judges it necessary, the enforcement officer may order the offender or violator to take immediate measures or in a short period of time following the issuance of an order.

Any person to whom an order is given, must comply with that order. Should the offender or violator be dissatisfied with the decision to issue an order, with the measures imposed by the order or with the timeline set out in the order for completion of the measures, they may apply to the Federal Court of Canada for judicial review of the order. An application to the Federal Court does not suspend an order issued under section 94 of CEAA 2012. To secure a suspension, the person making application to the Federal Court for judicial review must, at the same time, request suspension.

### **Injunctions under section 96 of CEAA 2012**

Injunctions are court orders. They are administrative in nature, and do not impose a punishment, such as a fine. Under CEAA 2012, injunctions impose an obligation on a person that has done, is about to do, or is likely to do anything that is considered an offence under section 99 of CEAA 2012. A section 96 injunction can stop an action or order one to take place. Hence, the person subject to the injunction may be ordered by the court to:

- (a)** refrain from doing an act that, in the court's opinion, may constitute or be directed toward the commission of the offence; or
- (b)** do an act that, in the opinion of the court, may prevent the commission of the offence.

Examples of actions that an injunction can stop are:

- carrying out part of a designated project that may cause an environmental effect (as defined in subsection 5(1) of CEAA 2012) before the Agency has determined whether or not an environmental assessment is required;
- carrying out part of a designated project that may cause an environmental effect (as defined in subsection 5(1) of CEAA 2012) before the Minister has issued a decision statement for that project; or
- failing to comply with an order under section 94 of CEAA 2012, as such failure constitutes an offence.

The following are examples of actions that an injunction can compel, in order to prevent an offence:

- carrying out measures to prevent erosion as required in the Minister's decision statement, when failure to carry out those measures may result in harm to the current use, by indigenous people, of fish that they have traditionally harvested for ceremonial purposes; or
- installing, by a proponent, in vehicles they use at the site of a designated project, equipment and materials required as a condition of the Minister's decision statement, in order to counter the negative environmental effects of a chemical spill, explosion or other like incident.

An enforcement officer does not have direct access to the injunction power in section 96 of CEAA 2012. The Agency will recommend usage of the injunction power to the Minister of Environment and Climate

Change. Under subsection 96(2), the Minister is obliged to give 48 hours' notice of his or her application for an injunction to any person that will be subject to the injunction. Subsection 96(2) does allow the court to set aside the requirement for 48 hours' notice, if the delay to give notice would not be in the public interest.

The Agency may recommend that the Minister name an enforcement officer in the injunction as having authority to inspect the person and/or the premises identified in that injunction to verify their compliance with the injunction. To verify compliance with an injunction, enforcement officers use authorities granted to them under ss.90(1) and (2) of CEAA 2012.

If the party named in the injunction does not comply with it, the Minister may return to court to seek:

- a contempt of court ruling;
- a penalty, such as a fine or imprisonment, that the court may see fit to impose in its contempt of court ruling; or
- instruction by the court for the concerned person to comply with the injunction within the time stated in the injunction or, if the original time period is expired, within a time limit set by the court in its instruction.

### **Prosecution**

CEAA 2012 enforcement officers rely on Crown prosecutors of the Public Prosecution Service of Canada to prosecute alleged offences when, for example:

- the alleged offence has resulted in adverse environmental effects;
- a CEAA 2012 enforcement officer has been obstructed or hindered from exercising their powers or performing their duties and functions under CEAA 2012;
- an alleged offender knowingly makes a false or misleading statement or knowingly provides false or misleading information to a person exercising their powers or performing their duties and functions under CEAA 2012; or
- an alleged offender fails to comply with a section 94 order.

Bearing in mind the circumstances of an alleged offence, the alleged offender's compliance history and current conduct, enforcement officers may use non-court measures – namely, oral or written warnings, and section 94 orders to restore a proponent's compliance.

Prosecution may nonetheless be necessary in the case of an alleged offence of CEAA 2012. If a prosecution is successful, the Crown prosecutor may seek a court order to punish or deter the alleged offender from future non-compliance. The CEAA 2012 enforcement officer provides support to a Crown prosecutor in the form of information, affidavits and/or additional testimony when the prosecutor seeks a court order. A court order may be sought to accomplish various ends such as compelling the convicted

offender to adjust their practices in relation to the designated project to avoid or reduce environmental harm in the future or requiring that person to provide funds for research. The Crown prosecutor can have an enforcement officer named in the court order, so that the officer can inspect to verify the convicted offender's compliance with the order, using powers under ss.90(1) and (2) of CEAA 2012.

As an alternative to prosecution, a Crown prosecutor may negotiate and put in place an alternative measures agreement with the alleged offender. The offender must meet eligibility requirements that are found in section 717 of the *Criminal Code*. Factors and circumstances that can influence a Crown prosecutor's decision of whether to use alternative measures are contained in Part 3.8 of the [Public Prosecution Service of Canada Deskbook](#). Compliance with an alternative measures agreement brings an alleged offender into compliance and avoids the formal court prosecution process.

### **Penalties upon Conviction**

If prosecution of an alleged offence of CEAA 2012 leads to an accused person pleading guilty or being found guilty at the conclusion of their trial, fines are the only penalty provided for in CEAA 2012.

The fines under CEAA 2012 are as follows:

- Under subsection 99(1), for having caused adverse environmental effects in contravention of section 6—a fine of up to \$200,000 for a first offence and a fine of up to \$400,000 for any subsequent offence. Every day that an alleged offence continues constitutes a separate contravention. Hence, each day can be prosecuted and fined as such.
- Under subsection 99(2), for failing to comply with a section 94 order—a fine of up to \$200,000 for a first offence and a fine of up to \$400,000 for any subsequent offence. Every day that an alleged offence continues constitutes a separate contravention. Hence, each day can be prosecuted and fined as such.
- Under subsection 99(3), for having obstructed or hindered a CEAA 2012 enforcement officer from exercising their powers or performing their duties and functions under CEAA 2012—a fine of up to \$100,000 for a first offence and a fine of up to \$300,000 for any subsequent offence.
- Under section 100, for having knowingly made a false or misleading statement or knowingly provided false or misleading information to a person exercising their powers or performing their duties and functions under CEAA 2012—a fine of up to \$300,000.

### **Recovery of costs**

Under section 95 of CEAA 2012, if a person subject to an order issued by a CEAA 2012 enforcement officer under section 94 does not comply with the order within the deadline stipulated in it, the enforcement officer can take the necessary steps to carry out the measures required. This action by the enforcement officer under section 95 may be at the expense of the alleged offender or violator. However, there may be cases where a person fails or refuses to pay despite section 95 of CEAA 2012,

the Agency will take steps to recoup any monies that were spent to achieve the measures set out in the section 94 order.

### **What Enforcement Information the Agency Discloses to the Public**

The Agency makes public the following information on its website in order to promote accessibility and accountability while respecting the principles and requirements of the *Access to Information* and *Privacy Acts*:

- annual summary of numbers of on-site and off-site inspections conducted by enforcement officers during a given fiscal year;
- summary of inspection reports prepared by enforcement officers;
- information submitted to the Agency from a proponent that is required by conditions in decision statements (e.g. implementation schedules, annual reports and plans);
- written warnings issued by enforcement officers and any documentation received from proponents in response to written warnings;
- section 94 orders issued by enforcement officers and any documentation received from proponents related to those orders;
- applications, by the Minister of Environment and Climate Change, for an injunction under section 96 and the result of those requests (whether the injunction is granted or refused by the court), including any conditions imposed on the person in or by the injunction;
- charges laid in a prosecution and the result (whether there is a plea of guilty, a conviction or a finding of not guilty), and, in the case of a plea of guilty or a conviction, the amount of any fine and the subject matter of any court order imposed on the convicted offender; and
- Any other documents that, in the view of the Agency, would be in the public interest to disclose through the Canadian Environmental Assessment Registry.

The Agency includes the name of the proponent and the related designated project in the information posted on the Agency's website.

Information regarding enforcement actions is also made publicly available at [Enforcement Actions](#) on the Agency's website.

### **How the Public Can Ask Questions, Submit a Complaint or Report a Suspected Contravention**

For any inquiries related to compliance and enforcement, or to report a suspected contravention of CEAA 2012, please send an email to [compliance.conformite@ceaa-acee.gc.ca](mailto:compliance.conformite@ceaa-acee.gc.ca).



When you provide the Agency with a tip about a suspected offence or with any other information related to the enforcement of CEAA 2012, you can ask that your identity remain confidential. The Agency will take all reasonable measures to protect your personal information.