



Environment
Canada

Environnement
Canada

Canada



Environment Canada's Regulations of Interest to the Energy Sector

NEIA presentation

**St. John's
March 11, 2014**

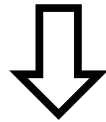


Environmental Regulations

1. Need for Environmental Protection
2. Legal Context of Environmental Regulations
3. Risk Management & Compliance Promotion
4. Risk Management Instruments
5. Canada: World Class Regulator

1. Need for Environmental Protection

- Problem
 - Human activities impact the Environment & People
 - Some impacts can be negative!
 - **Mitigation** is preferable to Remediation or Adaptation



- Solution
 - Avoid problems up front!
 - **Risk Management** approach to mitigate impacts
 - Keep your friends close...

2. Legal Context

- Governments can require mitigation!
 - Federal
 - Provincial/Territorial
 - Municipal
 - First Nations
- Federal jurisdiction arises from:
 - Federal House
 - Precedence
 - Transboundary
 - by Agreement

Legal Context (cont.)

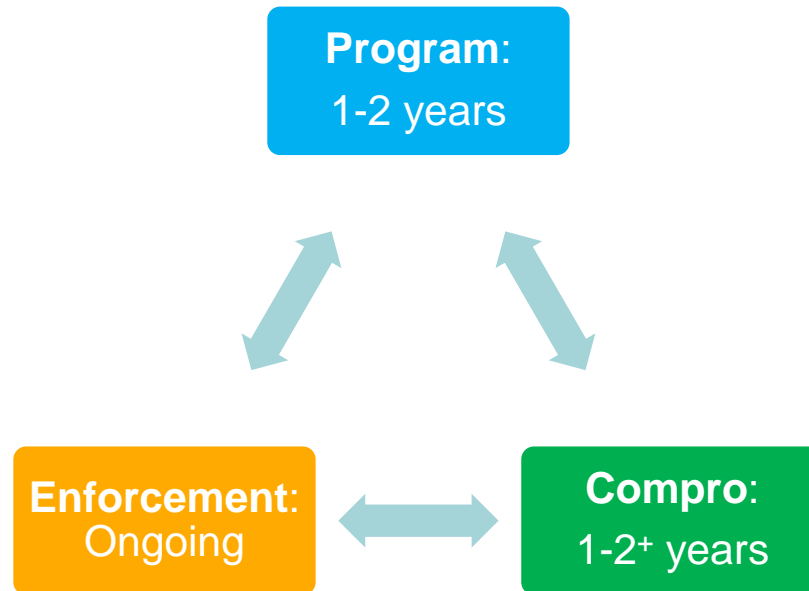
- Environment Canada:
 - Established in 1971 (post Arrow oil spill)
 - Evolving Science Based Mandate:
 - Weather, Climatology and Climate Change
 - Air and Water quality (toxic chemicals)
 - Nature (plants and animals)
 - Administers many Environmental Risk Management Instruments

Legal Context (cont.)

- Environment Canada administers:
 - [Antarctic Environmental Protection Act](#)
 - [Canadian Environmental Protection Act, 1999](#)
 - s. 46 & s. 71 Information Gathering
 - ~55 regulations + 9 proposed, all administered by EC
 - [Migratory Birds Convention Act, 1994](#)
 - [Species at Risk Act](#)
 - [Fisheries Act](#)
 - s. 36(3) Deposit of a deleterious substance
 - ~35 regulations, 7 administered by EC
 - ...

3. Risk Management

- Risk Management approach
 - **Program:** Consult with stakeholders re “Instrument”
 - **Compro:** Market the Instrument to the “Subjectee”
 - **Enforcement:** Verify Subjectees’ compliance



Program: 1- 2 years

- Environment Canada Expertise:
 - Oil, Gas and Alternative Energy
 - Transportation
 - Electricity and Combustion
 - Contaminated Sites
 - Environmental Effects Monitoring
 - Environmental Emergencies...
- Consult with:
 - Rights Holders
 - Stakeholders
 - Public

Enforcement: Ongoing

- Inspection program to verify compliance
 - Based on environmental risk and probability of non-compliance
- Investigations
 - Conducted when an Enforcement Officer has reasonable grounds to believe a violation has occurred
 - Inspection
 - Intelligence
 - a complaint is received by Environment Canada

Responses to Alleged Violations

No Formal Court Action

- Warnings
- Directions by Enforcement Officers
- Ministerial Orders
- Tickets
- Environmental protection compliance orders (cease & desist)

Court Action

- Injunctions
- Prosecution
- Court orders upon conviction
- Civil suit for recovery of costs

Fines (and Penalties)

New Fine Scheme under the Environmental Enforcement Act					
Offender	Type of Offence	Summary		Indictment	
		Minimum	Maximum	Minimum	Maximum
Individuals	Most serious offences	\$5 000	\$300 000	\$15 000	\$1 M
	Other offences	N/A	\$25 000	N/A	\$100 000
Small Corporations & Ships under 7500 tonnes	Most serious offences	\$25 000	\$2 M	\$75 000	\$4 M
	Other offences	N/A	\$50 000	N/A	\$250 000
Corporations & Ships over 7500 tonnes	Most serious offences	\$100 000	\$4 M	\$500 000	\$6 M
	Other offences	N/A	\$250 000	N/A	\$500 000

All fines doubled for second and subsequent offences.



Due Diligence & Reasonable Care

- In determining enforcement and/or court action against those liable for an offence...
 - **Reasonable Care** taken to prevent the commission of the offence will be considered
- How is reasonable care exercised?
 - Policy and procedures in place
 - Proper equipment
 - Personnel are trained (certified)
 - Communication

Compro: 1- 2+ years

- Compliance means conformity with the law
 - Objective is to secure compliance
 - via Compliance Promotion and Enforcement
- Compliance Promotion measures include:
 - Consultation with affected parties
 - Communication and publication of information
- Compro done on an Instrument basis
 - Materials and marketing are instrument specific!

Risk Management Instruments

- Risk Management may be:
 - Provision within an Act
 - Instrument under an Act
 - Regulations - legislative power conferred on the Executive Branch
 - Orders - instructions, decisions or directions given by the Minister
 - Permits - written authorization from the Minister
 - Plans:
 - Pollution Prevention (P2) plans;
 - Environmental Emergency (E2) plans;
 - Virtual Elimination (VE) plans;
 - plans for reducing or phasing out hazardous waste

Canada Gazette

- Official newspaper of the Government of Canada



- [Part I : Notices and Proposed Regulations](#)
- [Part II : Official Regulations](#)
- [Part III : Acts of Parliament](#)

Canada Gazette: Part III

Vol. 35, No. 2

Canada Gazette

Part III

OTTAWA, THURSDAY, AUGUST 30, 2012

Statutes of Canada, 2012

Chapters 7 to 20

Acts assented to from 6 April, 2012
to 29 June, 2012



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Gazette du Canada

Partie III

OTTAWA, LE JEUDI 30 AOÛT 2012

Lois du Canada (2012)

Chapitres 7 à 20

Lois sanctionnées du 6 avril 2012
au 29 juin 2012



CG III – Act Amendment

- New Acts, plus amendments to existing Acts
 - Dated Acts retain same date after consolidation!
 - Fisheries Act, R.S.C., 1985, c. F-14
 - Consolidated subject to Bill C-38, Division 5 (2012)
- ↓
- Fisheries Act, R.S.C., 1985, c. F-14
- Department of Justice updates on regular basis!

Act Consolidation



CANADA

CONSOLIDATION

Fisheries Act

R.S.C., 1985, c. F-14

Current to February 6, 2014

Last amended on November 25, 2013

Published by the Minister of Justice at the following address:
<http://laws-lois.justice.gc.ca>

CODIFICATION

Loi sur les pêches

L.R.C. (1985), ch. F-14

À jour au 6 février 2014

Dernière modification le 25 novembre 2013

Publié par le ministre de la Justice à l'adresse suivante :
<http://lois-laws.justice.gc.ca>



CG II – Reg. Amendment

- New Regulations, plus amendments to existing regs.
- Dated Regulations retain same date after consolidation!
 - Federal Halocarbon Regulations, 2003, SOR/2003-289
 - Consolidated subject to SOR/2009-221 (2009)
↓
 - Federal Halocarbon Regulations, 2003, SOR/2003-289
- Department of Justice updates on regular basis!

Regulation Consolidation



CANADA

CONSOLIDATION

Federal Halocarbon Regulations, 2003

SOR/2003-289

Current to February 6, 2014

Last amended on July 30, 2009

Published by the Minister of Justice at the following address:
<http://laws-lois.justice.gc.ca>

CODIFICATION

Règlement fédéral sur les halocarbures (2003)

DORS/2003-289

À jour au 6 février 2014

Dernière modification le 30 juillet 2009

Publié par le ministre de la Justice à l'adresse suivante :
<http://lois-laws.justice.gc.ca>



Resources

- Department of Justice
<http://laws-lois.justice.gc.ca/eng/regulations/>
- Environment Canada
 - Compro materials on CEPA Registry
<http://ec.gc.ca/lcpe-cepa/eng/regulations/default.cfm?n=9E7794D4-1>
- Canada Gazette
<http://www.gazette.gc.ca/gazette/home-accueil-eng.php>



4. Risk Management Instruments

- Fisheries Act
 - Environment Canada only:
 - s. 36(3) Deposit of a deleterious substance
- Canadian Environmental Protection Act, 1999
 - Environment Canada all regs.:
 - Storage Tanks, Halocarbons, Disposal at Sea, ...
- Canadian Environmental Assessment Act, 2012
 - Responsible Authority:
 - National Energy Board
 - Canadian Nuclear Safety Commission
 - CEAA

5. Canada: World Class Regulator

- **World Class Regulator Criteria:**
 - Making evidence-based decisions
 - Effectiveness
 - Efficiency
 - Transparency
 - Adaptability

World Class Regulator Action Plan

- Enhancing data collection and information gathering
- Improving instrument selection
- Increasing transparency and strengthening communication of decisions
- Enhancing performance measurement activities
- Streamlining and minimizing regulatory amendments
- Support government-wide actions

Red Tape Reduction Action Plan

- Reducing burden on business:
 - "One-for-One" Rule
 - Small business lens
- Making it easier to do business with regulators:
 - Interpretation policies
- Improving service and predictability:
 - Service standards
 - Forward planning
 - Annual Scorecard Report

[The 2012–2013 Scorecard Report](#)

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