

Ontario's Environmental Compliance Policy

This policy provides guidance to ministry staff in the selection of the appropriate compliance tools to address violations of certain ministry legislation and/or to ensure preventive actions are taken to protect the environment and human health.

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1. Purpose

We all have a role to play in protecting the things that matter to Ontarians. By working together, we can all be more effective and efficient in achieving positive outcomes for Ontario's people, environment and economy.

This compliance policy explains how the Ministry of the Environment, Conservation and Parks (the "ministry") approaches its environmental compliance activities, including how it identifies known and potential violations, decides what actions to take when there is a violation and the range of compliance tools it uses.

The purpose of this policy is to provide guidance to ministry staff. There may be occasions where ministry staff use their professional discretion while exercising their authority to administer ministry legislation that varies from the contents in this policy. To understand the scope of authority a ministry official has under a law administered by the ministry, please refer to the legislation. A copy of ministry legislation can be viewed on the province's e-laws website at <https://www.ontario.ca/laws/>

2. Ministry laws

This compliance policy applies to the administration of the following Acts.

- *Environmental Assessment Act*
- *Environmental Protection Act*
- *Nutrient Management Act*
- *Ontario Water Resources Act*
- *Pesticides Act*
- *Safe Drinking Water Act, 2002*

Further information about these Acts and their regulations can be found at <https://www.ontario.ca/laws>

This policy does not apply to other Acts the ministry is responsible for administering, including the *Provincial Parks and Conservation Reserves Act, 2006*.

3. Ministry staff

3.1 Provincial Officers

Provincial officers are ministry staff who are provided certain powers under several ministry laws to enforce environmental compliance requirements. Depending on the specific Act, these powers can include:

- asking questions in person, over the phone, or in writing to request information and documentation
- inspecting buildings, vehicles, and vessels
- entering private property without a warrant (except dwellings)
- taking photographs or video recordings
- collecting samples, testing, or taking measurements
- seizing and securing equipment or property
- prohibiting entry to various locations to protect health or public safety
- taking enforcement actions when violations are found

They follow the province's Regulator's Code of Practice (Code) when conducting their duties. The Code outlines the government's commitment to be clear about how the government works with the regulated community.

The Code promotes fair treatment and respect during an inspection, audit, investigation or other regulated activity. In return, the government asks the regulated community to be co-operative and to provide the ministry with complete information in dealings with us. This fair and consistent approach is pivotal to creating a level regulatory playing field for businesses in Ontario.

Anyone who fails to allow a provincial officer to exercise their powers or gives false or misleading information is committing an offence and can be charged.

3.2 Other ministry staff

There are some ministry staff, such as program specialists involved in compliance work who are not designated as provincial officers. While these staff do not have powers to issue tickets, orders, or penalties, they can perform other tasks such as:

- collect information or data
- provide education materials
- respond to inquiries

4. Compliance approach

The ministry's approach to delivering its compliance programs is based on potential risk to the environment and human health. This means that efforts are focused where the potential for risk is highest. By taking this approach, the ministry is more efficient and reduces unnecessary burden on the individuals and industries that try to follow Ontario's laws.

The ministry supports compliant businesses by streamlining compliance activities and adopting a risk-based approach to inspections to prioritize the most important regulatory issues. The ministry is committed to consistency, transparency and evidence-based decision-making that will help businesses meet their regulatory requirements and allow them to focus on creating jobs and staying competitive.

4.1 Identifying known violations and potential risks

The ministry can become aware of a known violation or potential risk to the environment or human health through a variety of ways, including:

- spill reports, complaints and notifications
- inspections and audits
- investigations
- information gathering
- data and trends analysis

4.1.1 Spill reports, complaints and notifications

The province has a 24/7 response system to receive and respond to incidents and spills. This system allows the ministry to ensure that polluters and property owners take prompt action to contain the incident in the short-term and address any risks to the environment and human health.

Spills are required by law to be reported to the ministry's Spills Action Centre, toll-free at 1-800-268-6060. Information on how a member of the public can report a spill of a harmful substance into the environment is available on the [reporting pollution and spills website](#).

If the ministry receives a complaint about a potential risk to the environment or becomes aware that a spill of a harmful substance to the environment has occurred, ministry staff will take various actions, including:

- record information about the incident or spill, what actions have been taken to contain potential harm to the environment or human health, and assess the ongoing environmental and health impacts
- ensure the responsible persons take actions required by law to respond to the incident or spill and track their progress
- coordinate with other agencies such as local public health officials, local municipality, or federal government departments when necessary
- send ministry staff to the site of the incident or spill when required

The ministry also receives notifications of violations or potential risk to the environment or human health from the regulated community. These notification reports include permission exceedances, by-pass and overflow reporting, and opacity exceedances.

In certain situations, the ministry is not the appropriate authority to respond to a complaint. In these cases, the ministry will help direct the person making the complaint to the appropriate authority, such as another provincial ministry or agency, a federal government department or a local municipality.

Incidents where impacts are not directly related to health and/or environment may be referred to another agency for follow up. Examples of incidents that may be referred include complaints related to loss of enjoyment of the normal use of property or interference of business, where the intensity, frequency, duration, and such impacts are not likely to result in a human health impact (e.g. municipality for noise issues related to short term construction).

It is important to highlight that if there is a permission associated with a business or a facility involved in an incident that has established requirements, the ministry will assess and follow up.

4.1.2 Inspections

Inspections are conducted to confirm that people responsible for facilities or specific equipment are operating them according to Ontario's laws.

The facilities or equipment chosen for inspection are based on factors including:

- those required by law to be inspected
- potential risk to the environment and/or human health
- need to confirm that previous compliance direction from the ministry has been taken
- in cases where a business has had repeated and ongoing challenges meeting compliance requirements
- when there have been complaints from the public or local community concerns
- the amount of time since last inspection or other compliance activity
- where no known ministry interaction has happened to date

Inspections can be a combination of:

- program-focused; such as air, drinking water, waste, sewage, and may be scoped to only part of the activities at a facility
- multi-media; includes multiple programs and/or all regulated activities at a facility
- announced; when a facility is contacted by the ministry ahead of time to arrange a date and time for the inspection
- unannounced; when a facility is given no notice that an inspection will be happening

Learn more about [what to expect during an inspection](#).

4.1.3 Audits

An audit is a tool that can be used instead of an inspection, but which also serves to confirm that people responsible for facilities or specific processes are meeting provincial laws.

When conducting an audit, ministry staff contact a responsible person by phone, letter, email, online survey or a combination of these modes of communication to inquire about a regulated activity and may ask for documents to confirm compliance.

Audits can be completed without ministry staff visiting a facility in person and can be an efficient and effective way to assess compliance. This approach can be used when a responsible person has demonstrated a good compliance history and/or they are engaged in low-risk activities, or to help the ministry determine where to do on-site inspections.

4.1.4 Investigations

Known and potential violations can also be identified during a ministry investigation. To learn more about investigations, see section 5.7.

In addition to ministry-initiated investigations, residents of Ontario who believe that a person, company or group is breaking an environmental act, regulation or instrument (e.g. permission or order), can apply for an investigation under the Environmental Bill of Rights, with some conditions. Learn more at the [Environmental Bill of Rights](#).

4.1.5 Information gathering

At times, ministry staff may need to gather information to assess risk, identify potential candidates for audits/inspections, obtain an understanding of the sector and/or to support policy development. Requests for information may happen in-person, by phone, letter, email, surveys, self assessments, or in some combination of these approaches. Depending on the purpose of the request and the information being gathered, it may be mandatory to provide this information to the ministry.

4.1.6 Data and trends analysis

The ministry may review information and data it collects to decide which compliance priorities to focus on. This information includes:

- feedback and complaints from the public
- results of monitoring programs, including monitoring conducted by the ministry and others
- trends in non-compliance by specific media, such as air, water, sewage, and by sectors
- information from other sources, such as the Canadian National Pollutant Release Inventory

4.2 Deciding what action to take

When known and potential violations of the law or risks to the environment or human health are identified, the ministry has a range of compliance tools that can be used. Each situation is unique and is evaluated on a case-by-case basis using an informed judgement matrix (Figure 1).

The response taken is proportionate to the level of risk and the facility's likelihood of meeting ministry compliance. The ministry can escalate the response if it is found that violators are not taking appropriate actions.

Firm and swift action is taken in response to any incident that could result in significant health and/or environmental consequences.

For minor violations, the ministry uses tools such as warnings, tickets, letters, notice of violation, inspection reports and compliance promotion. For known and potential violations of a more serious nature, the ministry can take the steps of issuing an order, administrative monetary penalty, and/or investigating the incident.

Compliance tools may be used separately or in combination. This approach ensures that the necessary measures are taken to remedy the violation or to address the risk to the environment or human health.

4.2.1 Informed judgement matrix

The informed judgement matrix (IJM) is a decision matrix that helps guide a provincial officer in selecting an appropriate compliance tool to address non-compliance or potential non-compliance. The provincial officer will evaluate the actual or potential environmental and/or health consequence and then will assess the likelihood of achieving compliance. Based on this assessment, the provincial officer will use the IJM to help guide what tool to use. The IJM and selected tools are continually re-evaluated while addressing a compliance issue. When warranted, ministry staff will escalate the approach and tools applied to achieve compliance.

There may be circumstances where the provincial officer will determine the need to vary from the recommended compliance tool in the IJM based on a program-specific requirement or specific criteria.

Some programs have specific requirements such as legal requirements, specialized inspection protocols and procedures. In these cases, ministry staff follow program-specific requirements.

The ministry will follow up and assess the incident(s) where the activity is directly regulated (e.g. through a permission and/or regulation). Low-risk incidents related to noise and odour that are not directly regulated by the ministry will be referred to a more appropriate level of government (e.g. municipality) or agency.

Figure 1: Informed Judgement Matrix (IJM)

Informed Judgement Matrix		Health and Environmental Consequence				
		1. Not anticipated	2. Low	3. Moderate	4. High	5. Critical
Likelihood of Compliance	A. Demonstrated Willingness AND Good Compliance History	I	I	II	III	IV
	B. Demonstrated Willingness AND No or Some Compliance History	I	II	II	III	IV
	C. Willingness to achieve is uncertain	II	II	III	III	IV
	D. Unwillingness to comply or to take corrective actions	II	III	III	IV	IV
	E. Wilful violation of ministry regulatory requirement	III	IV	IV	IV	IV

Table 1: Compliance categories and recommended tools

Colour of Category	Compliance Category
I	Compliance Category I Recommend: Compliance promotion, notice of violation, letter, inspection report, compliance plan
II	Compliance Category II Recommend: Same as Category 1 with the addition of tickets, administrative monetary penalty, and orders.
III	Compliance Category III Recommend: Orders, administrative monetary penalty, consider referral for investigation, consider referral for permission amendment or suspension
IV	Compliance Category IV Recommend: Orders, administrative monetary penalty, referral for investigation, consider referral for permission suspension or revocation

Health and environmental consequence axis

When using the matrix, the provincial officer will evaluate the environment and health consequences (impact) axis first. The consequences scale ranges from “not anticipated” to “critical”. When assessing the consequences, the provincial officer will consider relevant ministry standards and guidelines. Should additional guidance be needed in determining what the consequences of an incident may be, the provincial officer can seek the advice of ministry subject matter experts, health professionals (local medical officer of health) or other experts.

For incidents that are specific to human health concerns (excluding environmental impacts), if the provincial officer, based on the information provided and ministry standards or guidelines, cannot determine that the alleged source of pollution is likely to cause any health impact, the individual may be asked to provide confirmation from a health professional (e.g., Medical Officer of Health, Public Health Inspector and/or family doctor) that their health is being affected by the alleged pollution source.

The descriptions of the environmental and health categories are contained in the table below.

Table 2: Environmental and Human Health consequence axis

Category	Consequence Level	Criteria
1	Not Anticipated	<ul style="list-style-type: none"> • Incidents that do not result/potential to result in any environmental or health impacts; and/or • Incidents that are not directly related to health and/or environment, such as loss of enjoyment of the normal use of property or interference with the normal conduct of business, where the intensity, frequency, duration, and impacts, do not result in a human health consequence; and/or • Administrative incidents that do not result/potential to result in any environmental or health impacts
2	Low	<ul style="list-style-type: none"> • Incidents that result/potential to result in a minor, temporary impact to the environment or minor, temporary threat to human health; and/or • Actual or potential localized impacts to property, animal or plant life and the impacts to animal life in the natural environment are not lethal
3	Medium	<ul style="list-style-type: none"> • Incidents that result/potential to result in a moderate, temporary impact to the environment or moderate, temporary threat to human health
4	High	<ul style="list-style-type: none"> • Incidents that result/ has potential to result in significant impact to the environment or significant threat to human health (may be temporary or permanent)
5	Critical	<ul style="list-style-type: none"> • Incidents that result/potential to result in significant and/or permanent damage to the environment and /or • Incidents that result/potential to result in a human health impact that is severe in effect, i.e. resulting in hospitalization and/or long-term human health consequences

Likelihood of compliance axis

Once the environment and/or health consequence has been determined, the provincial officer will then evaluate and determine the likelihood of compliance. The provincial officer considers several factors including the time and effort taken to address the violation, willingness to achieve compliance and compliance history. Generally, compliance history is assessed on an individual or facility basis. However, a responsible person or corporation that has several facilities, places of operation or operates mobile operations may have compliance history assessed on an enterprise-wide basis.

A description of the likelihood of compliance categories are contained in the table below.

Table 3: Likelihood of compliance

Category	Criteria
A	<p>Demonstrated willingness: Good compliance history</p> <ul style="list-style-type: none"> • Good compliance history and; • Responsible person is cooperative • Promptly responds to correct non-compliance and progress on corrective measures are completed within reasonable timelines • Actions taken by the responsible person effectively resolved the non-compliance and aims to prevent recurrence
B	<p>Demonstrated willingness: No compliance history or some non-compliance history</p> <ul style="list-style-type: none"> • No compliance history or some non-compliance history and; • Responsible person has a cooperative attitude; • Promptly responds to correct non-compliance and progress on corrective measures are completed within reasonable timelines; • Actions taken by the responsible person effectively resolved the non-compliance and aims to prevent recurrence • A responsible person who demonstrates little understanding of the rules but is cooperative and shows an interest in being compliant.
C	<p>Willingness to achieve compliance is uncertain</p> <ul style="list-style-type: none"> • Responsible person has a questionable awareness • Unclear if responsible person will comply or take corrective action • Responsible person that has addressed past non-compliances but shows a continued lack of due care and attention
D	<p>Unwillingness to comply or to take corrective actions</p> <ul style="list-style-type: none"> • Uncooperative or argumentative • Reluctance or other indication that corrective actions will be slow or insufficient • Responsible person does not acknowledge the known or potential violations or indicate corrective actions that will be taken • Is aware of the requirements but continues to stall or otherwise delay taking corrective actions or put in place measures to prevent reoccurrence (e.g. delayed maintaining or installing equipment)
E	<p>Wilful violation of ministry regulatory requirement</p> <ul style="list-style-type: none"> • Ongoing non-compliance despite mandatory ministry direction (e.g. non-compliance with ministry order); • Result of gross negligence and/or deliberate actions by a responsible person; and/or • Knowingly provides false information or actively tries to hinder a ministry staff in carrying out their duties • Interferes with a ministry inspection

5. Compliance tools

Here are some of the most commonly used compliance tools to address known and potential violations or risks to the environment and human health.

5.1 Compliance promotion

Compliance promotion tools are designed to help responsible people be aware of, understand, and comply with Ontario's laws. These promotion tools may include:

- education, guidance and information
- working with sectors and/or associations to communicate compliance findings and encourage improvements to a sector's environmental performance

5.2 Notice of violation and letters

A notice of violation or letter is used when a provincial officer finds that a violation has happened and advises the responsible person, either verbally or in writing. A notice of violation or letter is intended to raise awareness and understanding of a legal requirement and encourage future compliance by the responsible person. It may also set out what actions the responsible person should take to achieve compliance and usually gives a deadline by when these actions should be completed.

5.3 Inspection reports

An inspection report is issued by a provincial officer after an inspection and provides details on the provincial officer's observations, findings and any known and potential violations identified during the inspection. Similar to a notice of violation, the inspection report may provide details on what actions the responsible person needs to take to address any known and potential violations and a timeframe for completing these actions.

5.4 Compliance plan

A compliance plan is a written submission provided by a responsible person that typically includes the details of the actions that they will take to address an identified violation(s) within a specified timeline and how they will prevent future reoccurrence. It may be initiated in response to an incident or inspection.

A provincial officer may provide feedback to the responsible person as they develop their compliance plan. The provincial officer may require the responsible person to take specific actions or provide documentation to verify that the violation has been addressed, such as:

- timing on when the responsible person will report back to the ministry on their progress and how this information will be provided

- hiring a qualified environmental consultant or licensed engineering practitioner
- how they plan to update their operational procedures/policies
- providing sample laboratory analysis
- implementing preventative measures
- providing a remedial action plan prepared by a qualified person

5.5 Orders

An order requires a responsible person to deal with a violation or other types of incidents. It can include that actions be taken or that a person refrains from doing something toward resolving the incident or to address a specified harm to the environment and/or human health. Failure to comply with most types of orders is an offence.

Other considerations about orders include:

- They may be changed if necessary. For example, if a responsible person or company requires more time to comply with an order and the reasons and purpose for the time extension are supported
- the ministry does not consider financial hardship in its decision whether to issue an order. It might take the financial impact of an order into consideration when developing the compliance schedule and what actions are required. See more information in [Guideline F-14, Economic Analyses of Control Documents on Private Sector Enterprises and Municipal Projects.](#)

5.5.1 Deciding who is issued an order

Human health and environmental protection are the first and foremost considerations that guide the issuance of orders. The ministry considers only those relevant factors and circumstances as set out in authorizing provisions of the governing legislation.

The ministry may issue an order to either individuals or a corporation.

Generally, the ministry issues an order to all persons who satisfy the legal grounds for issuing the order. Where an order may be issued to prior owners or responsible people who previously had management and control of a property or undertaking, the ministry will generally seek to name those persons who had some connection to the property or undertaking at the time when the environmental concern that is the basis for issuing the order was present or occurring. If a person's involvement with the property or undertaking predates the environmental concern – the ministry would generally not name the person in the order.

When issuing an order to multiple responsible people, the ministry does not generally apportion or allocate liability between the responsible people or determine who is at fault. Responsible people included in the order are jointly and severally liable to comply with the legal requirements. The responsible people can negotiate matters of fault and who is liable among themselves or take legal action if necessary.

The ministry may consider not including a responsible person in an order, even when it has the authority to do so. The ministry may make this decision if it is satisfied that the environmental and human health concerns will otherwise be addressed.

Although individual officers or directors of a corporation exercise management and control of the corporation's activities, the ministry may decide not to issue an order to officers and directors where doing so is consistent with the purposes of the governing statute. Exceptions to this approach would include situations of a closely-held corporation, where there are previous orders which have not been complied with or when a corporation is or may imminently become insolvent.

In some cases, it may be impractical for the ministry to determine or locate all responsible people who may be involved in a situation. As the protection of the environment and human health is paramount, the ministry may decide to issue the order to a subset of potential responsible people. Examples include situations involving insolvencies and complex corporate relationships or business arrangements. The responsible people can pursue others involved independently should they desire.

An order is typically issued to the current owner of a property or undertaking so that notice of the order may be registered on title if necessary and to ensure that the ministry has the legal authority to recover costs if it needs to carry out the work itself. This is true even in cases where the current owner may have been unaware of pre-existing environmental issues or concerns.

5.5.2 Provincial Officer Orders

Provincial officer orders are typically used to address or prevent environmental or human health impacts from occurring when there is reason to believe the responsible person will not respond to a voluntary approach and/or has a history of non-compliance with ministry requirements.

When a provincial officer order is issued, the person receiving the order may request that it be reviewed by a designated ministry director (normally a district manager of the local ministry office). A director may confirm, alter or revoke a provincial officer order. If the responsible person is dissatisfied with the director's review, they may appeal the decision to the Environmental Review Tribunal.

Provincial officer orders and related director orders are not required to be posted on the Environmental Registry of Ontario.

5.5.3 Director Orders

A director order may be considered in some cases, such as in complex cases which involve previous owners or operators of a facility or property.

The person receiving a director order may appeal it to the Environmental Review Tribunal within certain timelines in some, but not all, cases.

Some types of director orders are required to be posted on the [Environmental Registry of Ontario](#).

5.6 Administrative Monetary Penalty

An administrative monetary penalty (AMP) is a financial penalty for committing a violation. Unlike prosecutions, where the penalty can only be imposed by a court following a conviction, an administrative monetary penalty can be imposed by the ministry. The issuance of an AMP is not a form of prosecution that results in a conviction.

The ministry's use of administrative monetary penalties is currently limited to environmental penalties.

5.6.1 Environmental penalty

An environmental penalty may be issued to a responsible person for specific types of air, land or water violations at specified facilities owned or operated by the person covered under the environmental penalty regulations.

The ministry will let the responsible person know that it intends to issue an environmental penalty in advance. This advance notice offers an opportunity to request a reduction to the penalty amount and to provide additional information for consideration, such as what preventive steps or mitigative actions were taken.

A responsible person may appeal an environmental penalty to the [Environmental Review Tribunal](#).

A responsible person who receives an environmental penalty can also be prosecuted for the same violation. Prosecution, as outlined in section 5.7, can help deter serious incidents and repeat offenders. If a responsible person is convicted for the same violation where an environmental penalty has already been issued, the court may consider the payment of a penalty when imposing a sentence.

Money collected from environmental penalties is directed to the [Ontario Community Environment Fund](#) and is used to fund environmental projects.

Further information on environmental penalties, including how they are calculated and issued is available in the "[Guideline for Implementing Environmental Penalties \(Ontario Regulations 222/07 and 223/07\)](#)".

5.7 Investigations and prosecution

An investigation is conducted to determine if reasonable and probable grounds exist to proceed with charging a person. A referral for an investigation is typically related to more serious violations or repeat offenses.

A prosecution is an enforcement response to a violation that involves Ontario courts. The use of this tool is meant to be punitive and can result in a conviction.

5.7.1 Tickets and summons

Part I of the Provincial Offences Act (POA) allows for the issuance of offence notices, also known as POA tickets, and summons by provincial officers. Tickets and summons can be used in situations where use of an AMP has not been authorized. When issuing a ticket, a provincial officer must use prescribed wording and set fines that have been established for tickets.

Serving a ticket on a responsible person and then filing it with the provincial court initiates a prosecution. The provincial officer has seven days after serving a ticket to file it with the court.

The person to whom the ticket is issued may choose to:

- plead guilty and pay the fine out of court
- plead guilty with an explanation
- plead not guilty and defend themselves in court

A summons can be issued that requires a responsible person to appear in court. This tool is generally used for offences for which there are no set fines, AMPs, or where the offence has happened before. Unlike tickets, the responsible person is not provided the option of pleading guilty and paying the fine out of court. Once a summons is issued, both the responsible person and the Crown must appear before the court.

5.7.2 Investigations and laying charges

The ministry will initiate an investigation where the seriousness of a case warrants this action. Part III of the *Provincial Offences Act (POA)* allows the ministry to lay charges for violations.

Ministry investigators determine if there is enough evidence to lay charges by considering:

- the severity of the violation
- whether the violation:
 - appears deliberate
 - is repeated or ongoing
- whether the offender:
 - appears negligent
 - demonstrates a negative attitude towards compliance
 - disregards warnings issued by the ministry
- past compliance history
- if charges might encourage others to meet legal requirements

Crown prosecutors determine if the evidence gathered through the investigation supports a reasonable prospect of securing a conviction and whether a prosecution would be in the public interest.

When investigating and prosecuting offences, the ministry ensures:

- everyone is entitled to equal protection and benefit before and under the law
- enforcement is administered in an even-handed, non-discriminatory and fair manner which advances and protects the public interest

There may be situations where the ministry will continue to work with the responsible person to correct violations at the same time as an investigation is being conducted, a prosecution is ongoing, and subsequently upon conviction.

5.8 Permissions

The ministry uses permissions to help protect the natural environment and human health. The purpose of a permission is to set out the requirements for how certain activities should be conducted.

There are many types of permissions including environmental compliance approvals (ECA), licences, permits, approvals and registrations on the environmental activity and sector registry (EASR). Depending on the type of permission, a responsible person may have to apply to or register with the ministry and receive the permission before engaging in an activity.

Further information related to permissions can be found at <https://www.ontario.ca/page/environmental-permissions>.

5.8.1 Amending, refusing, suspending or revoking permissions

A director can amend a permission, if needed, to protect the environment and/or human health based on local conditions or when the permission needs to be updated to reflect current conditions at a facility.

In serious circumstances, a director may determine that it is in the public interest to refuse, suspend or, revoke, a permission or suspend or revoke a registration.

Circumstances can include:

- concerns that the environment and/or human health will be seriously harmed
- the responsible person has a poor compliance history with the ministry
- evidence that the person applying for the permission is incompetent, dishonest or is not or will likely not comply with ministry laws

Often refusing, suspending or revoking a permission is a compliance tool of last resort. In most circumstances, the decision may be appealed to the Environmental Review Tribunal.

5.8.2 Consultation on permissions and orders

Some permissions, such as environmental compliance approvals, and some director orders, are posted on the [Environmental Registry of Ontario](#) to give the public an opportunity to provide comments.

In some circumstances, public notification on the [Environmental Registry of Ontario](#) is not required. Examples would be in the case of an emergency or where there has already been public participation that is considered equivalent to an environmental registry posting.

Indigenous communities are notified of proposed orders and permissions according to provincial protocols.

The ministry ensures that it assesses and fulfills any consultation obligations with Indigenous communities under the Crown's duty to consult that may be triggered by proposed orders and permissions.

6.0 Compliance Information

The ministry wants to be transparent about its compliance activities and share information in the following ways.

The public can access data about compliance and enforcement activities on the [Ontario Data Catalogue](#). Available data includes information on administrative monetary penalties, convictions and orders, as well as events such as an exceedance of a provincial health-based standard or a spill of a hazardous substance.

Key compliance and enforcement datasets include:

- [Environmental penalty annual report](#)
- [Environmental occurrences and spills](#)
- [Environmental compliance reports](#)
- [Drinking water quality and enforcement](#)

Check the data catalogue regularly as new and updated datasets may be added over time.

The ministry produces the following written reports that include updates on compliance activities:

- [Chief Drinking Water Inspector Annual Report](#)
- [Minister's Annual Report on Drinking Water](#)

The ministry posts information on the [Environmental Registry](#) about changes to or new environmental:

- acts
- regulations
- policies
- instruments (e.g. permissions and some director orders)

Some people and facilities outside of the ministry are required to make compliance information available to the public by legislation, permission or orders. This type of information includes posted notices, making information available on a website or on site. Examples include posted drinking water test results and the requirement for some municipalities to post sewage bypass information.

Ministry staff are available to help you with questions about compliance information. Staff can be located by searching the [ministry district locator](#).

Additionally, through a federal-provincial agreement, the ministry acts as a one-window for reporting of environmental occurrences in Ontario on behalf of Environment and Climate Change Canada and Fisheries and Oceans Canada.

Appendix 1: Definitions

Compliance: A state achieved when a person who is bound by a provision of an Act, Regulation, order or permission acts in accordance with applicable provisions of ministry legislation, regulations, and any order or permissions. Compliance with an order may include scope of work as well as timeframes for completing the required scope of work. The term “abatement” is sometimes used when referring to “compliance”.

Director: A person appointed as a director in writing by the Minister under a statute or regulation for the purposes of administering a particular provision of a statute or regulation.

Enforcement: Prosecuting alleged violators for the purpose of punishing wrongdoing and deterring further non-compliance. Prosecutions are commenced and conducted under the *Provincial Offences Act* (POA) and may include the issuance of a Certificate of Offence (ticket) or summons under Parts I and III of the *POA*.

Environmental Bill of Rights (EBR): The *Environmental Bill of Rights, 1993* provides the public with an opportunity to participate in decisions that could impact Ontario’s air, water, land and wildlife. The EBR only applies to certain ministries. For some of these ministries, only certain parts of the EBR apply. The EBR and corresponding regulations require that ministries may be asked to consult on specific acts, policies, regulations or instruments (for example, approvals, permits, licences and orders). The Office of the Auditor General of Ontario is responsible for reporting on the operation of the EBR.

Environmental compliance: For the purpose of this compliance policy, the term “environmental compliance” means compliance with the statutes set out in section 2 of this policy.

Environmental Review Tribunal (ERT): The Environmental Review Tribunal (ERT) is an independent and impartial tribunal established by provincial legislation. Amongst other things, the ERT holds public hearings on appeals arising from, decisions regarding the issuance, alteration, revocation, cancellation or closure of an order, approval, licence, permit, registration or account under *Clean Water Act, 2006*, *Environmental Protection Act*, *Nutrient Management Act, 2002*, *Ontario Water Resources Act*, *Pesticides Act*, *Resource Recovery and Circular Economy Act, 2016*, *Safe Drinking Water Act, 2002*, *Toxics Reduction Act, 2009*, and *Waste Diversion Transition Act, 2016*.

Under the authority of the EBR, the ERT holds hearings to decide whether to grant a person’s application for leave (that is, grant permission) to appeal certain types of decisions made by a person appointed as a director under the *Environmental Protection Act*, *Ontario Water Resources Act*, *Pesticides Act* and the *Safe Drinking Water Act, 2002*.

The ERT holds public hearings to assess the merits of an undertaking that will have an impact on the environment. The ERT hears applications under the *Environmental Assessment Act*, the *Environmental Protection Act*, and the *Ontario Water Resources Act*.

Incident: An event or occurrence that has the potential to result in an adverse impact on the environment or human health.

Instrument: a document of legal effect issued under an Act and includes a permission (e.g. permit, licence, approval, authorization, direction) or order issued under an Act, but does not include a regulation.

Ministry: The Ministry of the Environment, Conservation and Parks (MECP), unless the text specifically indicates otherwise. Formally known as the Ministry of the Environment and Climate Change (MOECC), The Ministry of the Environment and Energy (MOEE) and the Ministry of the Environment (MOE).

Order: An “order” includes a direction, report, notice or other instrument issued under ministry legislation to require a person to deal with a violation or other types of incidents. Ministry legislation authorizes provincial officers, directors, the minister or a court to issue orders. The issuance of an order is one of the primary mandatory compliance tools available to the ministry to respond to an incident, because it imposes legal obligations on the person as opposed to allowing the person to deal with the incident voluntarily. Under ministry legislation, the failure to comply with most types of order is an offence. The term “control document” is sometimes used when referring to an “order”.

Permission: A permission is a document that a responsible person is required to obtain under ministry legislation before engaging in an activity and authorizes the activity. A responsible person must have an environmental permission from the ministry if they release contaminants into the air, land or water, or stores, transports or disposes of waste. These legally enforceable documents or regulations provides rules for the way activities are carried out or how a facility or undertaking is established or operated. In the case of the *Nutrient Management Act* (NMA), where administration of the Act is split, the ministry of Agriculture, Food and Rural Affairs is currently responsible for issuing permissions. Permissions are also sometimes referred to as “authorizing documents”.

Responsible person/people: A person/people who is/are bound by a provision of an Act, Regulation, order or permission and who has/have violated the provision; or to whom an order or permission may be or has been issued.

Risk: For the purpose of this policy, risk considers the severity of the actual or potential environment or human health consequences.

Spill: Means a *Discharge* (a) into the natural environment, (b) from or out of a structure, vehicle or other container, that is abnormal in quality or quantity in light of all the circumstances of the *Discharge*, and (c) which is reportable to the SAC in line with section 91(1) and 92(1) of the *EPA* and *Ontario Regulation 675/98 Classification and Exemptions of Spills and Reporting of Discharges*, made under the *EPA*.

Violation: Any failure to comply with a provision of applicable Ministry of the Environment legislation, including Acts and Regulations; a permission; or, an order.