

Ontario's Environmental Compliance Policy

This compliance policy provides guidance to Ministry of the Environment, Conservation and Parks (ministry) staff on how to approach and exercise discretion when conducting compliance and enforcement activities related to drinking water and the natural environment.

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1. Purpose

The policy includes details on how and when the ministry identifies and responds to incidents that may include known or potential violations, or situations that pose a potential risk to the natural environment or human health, as well as the range of compliance tools the ministry uses. In addition to providing guidance to ministry staff, this policy offers transparency to the public and regulated community on the ministry's approach to compliance and enforcement.

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 afforded to ministry staff 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](#).

Ministry staff follow the province's Regulator's Code of Practice (the Code) when conducting their duties. The Code outlines the government's commitment to be clear about how the government works with the regulated community. At all times, ministry staff will seek to work cooperatively and in a professional manner with responsible person(s) to address either the impacts of a violation and to prevent its reoccurrence or to ensure preventive actions are taken to protect the natural environment and human health.

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.

2. Ministry laws

This compliance policy applies to the administration of the following Acts (referred to collectively as legislation):

- Endangered Species Act, 2007
- Environmental Assessment Act
- Environmental Protection Act
- Nutrient Management Act, 2002
- Ontario Water Resources Act
- Pesticides Act
- Safe Drinking Water Act, 2002

Further information about these Acts and their regulations can be found on the e-laws website.

This policy does not strictly apply to, but may inform, how ministry staff administer other acts for which the ministry is responsible, including the Provincial Parks and Conservation Reserves Act, 2006.

3. Ministry staff

3.1 Provincial officers

A provincial officer is a person designated as such for the purposes of enforcing the legislation. There are generally two types of provincial officers that are empowered to undertake compliance and enforcement actions in the ministry: compliance officers and investigators.

Compliance officers are ministry staff who are provided certain powers under several ministry laws to conduct inspections and assess compliance with environmental and drinking water 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 places, facilities, 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 human health or public safety
- taking compliance and enforcement actions to protect drinking water, the natural environment, and address violations

Investigators conduct investigations to determine if reasonable and probable grounds exist to proceed with charging a person with an offence to initiate prosecution. Investigators do not exercise the same broad powers as compliance officers.

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

3.2 Directors

A Director is a person appointed under the legislation to administer or exercise authority under a particular provision of the statute or regulation. There are certain orders that only Directors can issue, not provincial officers. Similarly, only Directors can issue, amend, suspend or revoke a permission under the legislation.

3.3 Other ministry staff

There are some ministry staff who may not be designated as provincial officers or appointed as Directors. While these staff do not have powers to conduct inspections or issue tickets, orders or penalties, they can perform other tasks such as:

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

4. Compliance approach

The ministry's approach to delivering compliance is based on potential risk to the natural environment and human health. This means that compliance and enforcement efforts are prioritized towards higher-risk incidents and repeat offenders. This approach allows ministry staff to address higher-risk incidents swiftly and supports a level playing field between compliant businesses and those who violate environmental and drinking water requirements. It also reduces unnecessary burden on the individuals and industries that follow Ontario's environmental laws.

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 incidents that involve a known violation or potential risk to the natural environment or human health through a variety of ways, including:

- spill reports, notifications and public reports of emissions
- inspections and audits
- investigations
- information gathering
- information furnished by other agencies
- data and trends analysis

While there are many activities that are carried out in the natural environment, the ministry legislation only governs those activities that are intended to be regulated based on the purposes of each act. The ministry does not respond to incidents that may peripherally engage the natural environment or human health but do not fall within the scope of the legislation.

4.1.1 Spill reports, complaints, and notifications

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

Spills and discharges are required by law to be reported by the responsible person 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 pollutant into the natural environment is available on the [reporting pollution and spills](#) website.

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

- recording information about the incident or spill, including what actions have been taken to contain potential impact to the natural environment or human health, and assessing the ongoing impacts to the natural environment or human health

- ensuring the responsible persons take actions required by law to respond to the incident or spill and track their progress
- coordinating with other agencies such as local police, fire, public health officials, local municipality, or federal government departments when necessary
- dispatching ministry staff to the site of the incident or spill when required

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

4.1.2 Inspections

Inspections are conducted by compliance officers to assess whether persons responsible for activities, facilities or specific equipment are conducting or operating them according to Ontario's laws. A compliance officer will also be considering whether a situation exists that poses a potential risk to the natural environment or human health.

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

- those required by law to be inspected
- potential risk to the natural environment or human health
- the need to confirm that previous compliance direction from the ministry has been taken
- cases where a person has had repeated and ongoing challenges meeting compliance requirements
- complaints from the public or local community concerns that could impact the natural environment or human health
- 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:

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

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

Desktop audits

Desktop audits can be completed without ministry staff visiting a facility or place 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 or they are engaged in low-risk activities, or to help the ministry determine where to do on-site inspections.

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

4.1.3 Application for investigation

Environmental Bill of Rights

Ontario residents can request an investigation if they believe that a person has contravened an environmental act, regulation, or instrument (for example: permission or order) by submitting an application for investigation under the Environmental Bill of Rights. All investigation requests are reviewed by ministry staff, who ultimately decide on the appropriate compliance or enforcement action. Learn more at the following website: Environmental Bill of Rights.

Safe Drinking Water Act, 2002

Any Ontario resident can request an investigation if they believe that a person has contravened the *Safe Drinking Water Act, 2002*, or a regulation or instrument under the *Safe Drinking Water Act, 2002*. A resident may submit an application to a Director appointed under the *Safe Drinking Water Act, 2002*, for an investigation of the alleged contravention by the enforcement branch. All investigation requests are reviewed by ministry staff at the enforcement branch who ultimately decide the appropriate compliance or enforcement action. Learn more under Part IV of O. Reg 242/05: Compliance and Enforcement under the *Safe Drinking Water Act, 2002*.

4.1.4 Ministry investigations

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

4.1.5 Information gathering

At times, ministry staff may need to gather information to assess risk, identify potential candidates for audits or inspections, obtain an understanding of the sector or to support policy development. Requests for information may happen in person or by phone, letter, email, surveys, self-assessments, or 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

Ministry staff may review information and data it collects, along with data from other sources, to decide which compliance priorities to focus on. This information includes:

- feedback and reports from the public and regulated entities

- results of monitoring programs, including monitoring conducted by the ministry and others
- trends by specific media and sectors, such as air, drinking water, sewage and waste
- environmental or health issues emerging or occurring in other jurisdictions which may be present or impending in Ontario
- information from other sources, such as the Canadian National Pollutant Release Inventory

4.2 Referral of incidents

Note: this subsection comes into effect on **September 1, 2025**.

In certain situations, the ministry is not the appropriate authority to respond to a report or incident. In these cases, the ministry will help direct the person reporting the incident to the appropriate authority, such as:

- another provincial ministry or agency
- federal government department
- local municipality

For example, low-risk incidents may be referred to another agency for follow up, specifically those causing only the loss of enjoyment of the normal use of property or interference of normal conduct of business, where the intensity, frequency, and duration of the incident do not cause an impact to the natural environment or human health (for example: noise issues related to short term construction or where the incident may be a matter subject to a municipal by-law). Such incidents are classified under “not anticipated” on the environmental and human health consequence axis in the Informed Judgement Matrix (table 1 in section 4.3.1 of this guideline). Refer to Appendix 2 of this policy for examples of low-risk incidents and the identified receiving organization.

When considering whether an incident should be referred to another authority, ministry staff assess the following questions:

1. Is there an existing authority with the mandate, expertise and capacity to respond to the incident?
2. Has it been determined that the incident does not trigger a ministry response? A ministry response is not required if any of the following conditions are met:
 - impacts to human health or the natural environment are not anticipated
 - the incident falls outside of the ministry’s mandate
 - the incident is covered by a written agreement, memorandum of understanding or formal arrangement with another regulatory authority that specifies that the other authority will respond to such an incident

Where the answer to both above-noted questions is ‘yes,’ ministry staff may refer the incident to the appropriate authority.

The ministry will re-evaluate its assessment should a low-risk incident persist long term, become a community-level issue or become linked to health-related impacts. The re-assessment may result in the incident being escalated to a higher consequence level within the environmental and human health consequence axis (table 1 in section 4.3.1 of this policy).

4.3 Determining the appropriate compliance action

When known and potential violations of the law or risks to the natural environment or human health are identified, ministry staff have a range of compliance tools that can be used.

To determine the appropriate compliance tool, ministry staff will first consider the health and environmental consequences associated with the incident, as well as the likelihood of compliance from the facility or responsible person. Together, these considerations form the two axes of the Informed Judgement Matrix below (section 4.3.1).

The Informed Judgement Matrix assists ministry staff to determine the appropriate compliance category within the matrix. Each compliance category includes a recommended set of compliance tools. Compliance categories range from I to IV, with Category I recommending voluntary compliance tools such as compliance promotion and notices of violation, and Category IV recommending mandatory compliance tools such as referral for investigation and permission suspension or revocation.

For each incident, ministry staff will also review any other case-specific considerations that may apply (section 4.3.2). Following a compliance action, ministry staff will monitor the outcome and take further action as needed (section 4.3.3). Overall, the Informed Judgement Matrix enables firm and swift action to be taken in response to any incident that could result in significant human health or environmental consequences.

Compliance tools may be used separately or in combination. Ministry staff can escalate the compliance response if it is found that violators are not taking appropriate actions or if there is an increased risk of impacts to the natural environment or human health. This approach ensures that the necessary measures are taken to remedy the violation or to address the risk to the natural environment or human health.

4.3.1 Informed Judgement Matrix

Informed Judgement Matrix	Human Health and Environmental Consequence	<u>Compliance Category I</u> Recommend: Compliance promotion, notice of violation, inspection report, compliance plan
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Likelihood of compliance	1. Not Anticipated	2. Low	3. Moderate	4. High	5. Critical	
A. Demonstrated Willingness & Good Compliance History	I	I	II	III	IV	<u>Compliance Category II</u> Recommend: Same as Category I with the addition of tickets, administrative penalties, , and orders.
B. Demonstrated Willingness & No or Some History of Non-Compliance	I	II	II	III	IV	<u>Compliance Category III</u> Recommend: Orders, administrative penalties, consider recommendation for investigation, consider recommendation for permission amendment or suspension
C. Willingness to Achieve Compliance is Uncertain	II	II	III	III	IV	<u>Compliance Category IV</u> Recommend: Orders, administrative penalties, recommendation for investigation, consider recommendation for permission suspension or revocation
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	

Human health and environmental consequence axis

When using the Informed Judgement Matrix, ministry staff will evaluate the environmental and human health consequences (impact) axis first. The consequences scale ranges from “not anticipated” to “critical.” When assessing the consequences, ministry staff will consider relevant ministry legislation, standards and guidelines. Should additional guidance be needed in determining what the consequences of an incident may be, ministry staff may rely on the advice of ministry subject matter specialists, health professionals (local medical officer of health) or other experts.

For incidents that are specific to human health concerns (excluding impacts to the natural environment), if ministry staff, based on the information provided and any applicable ministry standards or guidelines, cannot determine that the alleged incident is likely to cause any health impact, the impacted individual may be asked to provide confirmation from a health professional (for example: Medical Officer of Health, Public Health Inspector or family doctor) that their health is being affected by the alleged pollution source.

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

Table 1: Human health and environmental consequence axis

Category	Consequence level	Criteria
1	Not anticipated	<ul style="list-style-type: none">• Incidents that do not result, or have the potential to result in any impacts to the natural environment or human health; or• Incidents that are not directly related to human health or environment, such as loss of enjoyment of the normal use of property or interference with the normal conduct of business,
2	Low	<ul style="list-style-type: none">• Incidents that result, or have the potential to result in a minor, temporary impact to the natural environment or minor, temporary threat to human health, or
3	Medium	<ul style="list-style-type: none">• Incidents that result, or have the potential to result in a moderate, temporary impact to the natural environment or moderate, temporary threat to human health
4	High	<ul style="list-style-type: none">• Incidents that result or have the potential to result in significant impact to the natural environment or significant threat to human health (may be temporary or permanent)
5	Critical	<ul style="list-style-type: none">• Incidents that result, or have the potential to result in significant or permanent damage to the natural environment; or• Incidents that result, or have the potential to result in a human health impact that is severe in effect, meaning an impact resulting in hospitalization or long-term human health impacts

Likelihood of compliance

Once the environmental or human health consequence has been determined, ministry staff will then evaluate and determine the likelihood of compliance. Ministry staff consider 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 that owns 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 2: Likelihood of compliance

Category	Criteria
A	Demonstrated willingness: <ul style="list-style-type: none">• good compliance history• 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 resolve the non-compliance and aims to prevent recurrence
B	Likely willingness: <ul style="list-style-type: none">• No compliance history or some non-compliance history• 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 resolve 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	Willingness to achieve compliance is uncertain <ul style="list-style-type: none">• Responsible person has a questionable awareness• Unclear if responsible person will comply or take corrective action• Responsible person has non-compliance history and despite addressing past non-compliances shows a continued lack of due care and attention

D	Unwillingness to comply or to take corrective actions <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 • aware of the requirements but continues to stall or otherwise delay taking corrective actions or put in place measures to prevent reoccurrence (for example: delayed maintaining or installing equipment) • Non-compliance history that was not addressed within reasonable timelines
E	Willful violation of ministry regulatory requirement <ul style="list-style-type: none"> • Ongoing non-compliance despite mandatory ministry direction (for example: non-compliance with ministry order); • Result of gross negligence or deliberate actions by a responsible person; or • Knowingly provides false information or actively tries to hinder a ministry staff in carrying out their duties • Interferes with a ministry inspection • Non-compliance history that was not addressed

4.3.2 Case-Specific Considerations

While ignorance of the law is no excuse for any responsible person, when it comes to determining an appropriate compliance category and response to an incident, ministry staff may assume a level of legal knowledge depending on the size or sophistication of the responsible person. A facility run by a large corporation should be assumed to know the legal requirements under ministry legislation that apply to the facility and should not have to be reminded of their legal obligations by ministry staff.

The situation may be different for responsible persons who are small businesses or individuals who may lack a detailed understanding of ministry legislation. When dealing with such persons, especially where the incident is a first occurrence of its kind, it may be appropriate for ministry staff to take a compliance assistance approach by educating the responsible person about their legal obligations, rather than using a mandatory compliance response.

Examples of questions where case-by-case circumstances may influence the final decision in selecting an appropriate compliance category and response include:

1. Is there public concern about the incident?
2. Would education and outreach be more effective to assist the person in understanding, managing, and complying with ministry legislation, than issuing an order or prosecuting?

3. When responding to an incident, is there a need to promote specific deterrence to the responsible party or general deterrence to the regulated community at large?

It is not expected that ministry staff answer each of these questions in making their decision. If no case-specific considerations such as these are applicable (meaning the lack of applicability supports a conclusion that taking further steps would not be in the public interest), the determination of the compliance category and the response may be based using the Informed Judgment Matrix exclusively.

4.3.3 Monitoring & Follow-Up

Follow-up and ongoing monitoring are an important part of effective compliance. If compliance has not been achieved within specified timelines, ministry staff should consider escalating the compliance response to resolve the incident, especially if the responsible person continues to violate or ignore a notice of violation, inspection report, compliance plan or order, or if there is an increased risk of impacts to the natural environment or human health.

5. Compliance and enforcement tools

For incidents with not anticipated or low impacts to human health or the natural environment (Compliance Category I), this policy recommends that ministry staff consider a voluntary compliance response. Generally, a voluntary compliance tool relies on a person's voluntary actions to respond to the incident, whereas a mandatory compliance tool is one where the law is used to compel a person to respond to an incident.

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

Voluntary Compliance Tools

5.1 Compliance promotion

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

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

5.2 Notices of violation

A notice of violation (also known as a warning) is used when a provincial officer finds that a violation has happened and advises the responsible person, in writing. A notice of violation is intended to document specific violations and describe actions to be taken by the responsible person to achieve compliance or prevent the continuation or repetition of the violation. Any requested actions will usually specify a deadline by when these actions should be completed. The failure to carry out these requested actions may result in additional compliance or enforcement actions being taken.

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 plans

A compliance plan is a written document prepared by a responsible person that sets out 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 or preventive measures that will be taken to protect the natural environment or human health. Ministry staff may request that a responsible person prepare and submit a compliance plan within a specified period in response to an incident or inspection. Since a compliance plan is undertaken by the person voluntarily, the failure to carry out a plan is not an offence.

Ministry staff may provide feedback to the responsible person as they develop their compliance plan, either indicating that it is acceptable or requesting that the responsible person take specific actions or provide information 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 or policies
- collecting samples and providing laboratory analysis implementing preventive measures
- providing a remedial action plan prepared by a qualified person

The failure of a responsible person to provide a compliance plan by the specified time, or if ministry staff have reason to believe that the plan has not or will not be implemented, may result in additional compliance or enforcement actions being taken.

Mandatory Compliance Tools

5.5 Orders

An order requires a responsible person to take actions to correct a violation or to address a risk to the natural environment or human health. Orders include requirements that certain actions must be taken or that a person refrains from certain activities to address a violation or a specified impact to the natural environment or human health. Failure to comply with a requirement of an order is an offence under ministry legislation.

Other considerations about orders include:

- Requirements of an order may be changed if ministry staff determine it is appropriate to do so and amends the order accordingly. Responsible persons may request that the requirements of an order be altered but should provide ministry staff with reasons and supporting information. For example, compliance dates can be adjusted if ministry staff agree that time to comply with an order is appropriate given the circumstances.
- Financial hardship should not be considered in a decision to issue an order. Ministry staff might take the financial impact of complying with an order into consideration when developing the compliance schedule and what actions are required.

5.5.1 Deciding to whom an order is issued

Human health and environmental protection are the first and foremost considerations that guide the issuance of orders. Ministry staff consider only the relevant factors and circumstances specified in authorizing provisions and aligned with the purposes of the governing legislation.

Ministry staff may issue an order to a person, which is defined in the statutes to mean an individual, a corporation or a municipality.

Generally, ministry staff issue orders to all responsible persons who satisfy the legal grounds for issuing the order. However, an order may be issued to a subset of such persons where it is expedient to do so, including where the person responsible for the situation is clearly identified. Further orders may be subsequently issued to other persons who satisfy the legal grounds for issuing the order at any time, including if the initial order is not complied with. An order may be issued to prior owners or responsible persons who previously had management and control of a property or undertaking. The ministry will generally seek to include those persons who had some connection to the property or undertaking at the time when the environmental concern was present or occurring. If a person's involvement with the property or undertaking predates the environmental concern, ministry staff generally would not issue the order to that person.

When issuing an order to multiple responsible persons, ministry staff do not generally apportion or allocate liability between the responsible persons or determine who is at fault. Responsible persons included in the order are jointly and severally liable to comply with the legal requirements. The responsible persons can negotiate matters of fault and who is liable amongst themselves or pursue this issue in an appropriate forum, including the civil courts, if necessary.

Ministry staff may consider not including a responsible person in an order, even when it has the authority to do so. Ministry staff may make this decision if 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, ministry staff 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 include situations where the responsible person is 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 persons who may be involved in an incident. As the protection of the natural environment and human health is paramount, ministry staff may decide to issue the order to a subset of potential responsible persons. Examples include situations involving insolvencies and complex corporate relationships or business arrangements. The responsible persons can pursue others involved independently in another forum should they desire.

An order is typically issued to the current owner of a property or undertaking, as the owner will generally benefit from the actions being taken, as required by the order. Prior to acquiring an interest in a property, the onus is on persons to satisfy themselves as to the state of the property. The fact that a person acquired an interest in a property without prior notice of its environmental condition is irrelevant to the purposes of ministry legislation.

5.5.2 Provincial officer's orders

Provincial officer's orders are typically used to address contraventions or to prevent or eliminate impacts to the natural environment or human health when there is reason to believe:

- the responsible person will not respond to a voluntary approach
- there is a history of non-compliance with ministry requirements
- the environmental or human health impacts are significant and require an immediate response

When a provincial officer's order is issued, except under the *Endangered Species Act, 2007*, the person receiving the order may request review by a designated ministry Director (normally a district manager of the local ministry office). A Director may confirm, alter or revoke a provincial officer's order. If the responsible person is dissatisfied with the Director's review, or if a Director's review is not available under the act through which the order was issued, they may appeal the decision to the Ontario Land Tribunal.

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

5.5.3 Director's orders

A Director may also issue certain orders of their own initiative, such as in high profile or complex situations where the responsible person is a previous owner or person in management or control of a facility or property.

The person receiving a Director's order may appeal it directly to the Ontario Land Tribunal within certain timelines in some, but not all, cases.

Some types of Director's orders are required to be posted on the Environmental Registry of Ontario.

5.6 Administrative penalties

An administrative penalty is a financial penalty that can be issued to a person for non-compliance with specified requirements of an act, regulation, or instrument under an act, including permissions. Unlike prosecutions, where the penalty can only be imposed by a court following a conviction, an administrative penalty is a compliance tool that can be imposed by a ministry Director. The issuance of an administrative penalty is not a form of prosecution. There is no court appearance, trial, or conviction associated with an administrative penalty.

Ministry legislation utilizes the term environmental penalty for its administrative penalty framework. An environmental penalty may be issued to a responsible person for specific types of air, land or water violations at industrial facilities within specific sectors and landfilling sites with an approved capacity of 40,000 m³ or more, as prescribed within the environmental penalty regulations under the *Environmental Protection Act* and *Ontario Water Resources Act*. Environmental penalties are not available as a compliance tool for any of the other acts to which this compliance policy applies.

Ministry staff will let the responsible person know of the intention to issue an environmental penalty in advance through a notice of intention. 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 Ontario Land 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 to be a mitigating factor when imposing a sentence.

Money collected from environmental penalties is directed to the Ontario Community Environment Fund and is used to provide financial support to community projects that improve the environment in the region(s) where the violation(s) occurred.

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 prosecutions

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

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 administrative penalty 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 to a responsible person and then filing it with the provincial court initiates a prosecution. A ticket or summons can be issued at the time of the offence or no later than 30 days after the date of the offence.

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 or when there is a history of previous non-compliance. 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 prosecutor must appear before the court.

5.7.2 Investigations and laying charges

A ministry investigator will initiate an investigation where the seriousness of an incident, in accordance with the Informed Judgment Matrix, warrants this action. Part III of the Provincial Offences Act (POA) allows the ministry to lay charges for violations, which initiates a prosecution before the court.

Ministry investigators determine whether to proceed with an investigation and 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 deter others from violating legal requirements
- whether enforcement action is necessary to maintain the integrity of the regulatory process
- whether failure to pursue enforcement action would tend to bring the law into disrepute

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 a fair manner which advances and protects the public interest

There may be situations where compliance officers will continue to work with the responsible person to correct violations:

- while an investigation is being conducted
- during prosecution
- subsequently upon conviction

5.8 Using permissions to achieve compliance

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 (ECAs), 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 on the [permissions page](#) on Ontario.ca.

5.8.1 Amending, refusing, suspending or revoking permissions

A Director can amend a permission, if needed, to protect the natural environment or human health based on local conditions or as a compliance tool.

In serious circumstances, a Director may determine that it is consistent with the purposes of the legislation to refuse, amend, suspend or revoke a permission, or suspend or revoke a registration.

Circumstances can include:

- concerns that the natural environment or human health will be seriously impacted
- the responsible person has a very poor compliance history with the ministry
- evidence that the person is not complying or will likely not comply with ministry laws

Refusing, suspending or revoking a permission is often a compliance tool of last resort. The decision may be appealed to the Ontario Land Tribunal.

6.0 Compliance information

The ministry is transparent about its compliance activities and shares information in different ways.

The public can access data about compliance and enforcement activities through: .

- Court bulletins on convictions
- Drinking water quality and enforcement
- Environmental penalty annual report
- Environmental occurrences and spills
- Environmental compliance reports

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 of Ontario about changes to, or new, environmental:

- acts
- regulations
- policies
- instruments (for example: permissions and some Director's orders)

Some people and facilities outside of the ministry are required to make compliance information available to the public by legislation, ministry issued permissions or an order. 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 with questions about compliance information. Staff can be located by searching INFO-GO and the ministry district locator.

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, orders 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 (EBR) provides the public with an opportunity to participate in decisions that could impact Ontario’s air, water, land and wildlife through the Environmental Registry of Ontario. 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 legislation set out in section 2 of this policy.

Instrument: a document of legal effect issued under an act and includes a permission (for example: 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).

Natural environment: the air, land, water, animals, plants and other organisms, or any combination or part thereof, of the Province of Ontario.

Ontario Land Tribunal (OLT): the Ontario Land Tribunal (OLT) is an independent and impartial tribunal established by provincial legislation. Amongst other things, the OLT 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 the legislation listed in section 2 of this policy.

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 type of incident. 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 instead of 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, in addition to regulations, provide 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 Agribusiness is currently responsible for issuing permissions. Permissions are also sometimes referred to as “authorizing documents.”

Provincial officer: a person designated in writing by the minister under a statute for the purposes of enforcing it.

Responsible person/persons: a person or persons who is/are bound by a provision of a statute or 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 likelihood and severity of the actual or potential environmental or human health consequences.

Spill: means a discharge of a pollutant (a) into the natural environment, (b) from or out of a structure, vehicle or other container, that is abnormal in quality or quantity given the circumstances of the discharge, and (c) which is reportable to the Spills Action Centre (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: a contravention of a provision of applicable ministry legislation, including acts and regulations, a permission or an order.

Appendix 2: Referral Guide for Public Reference

Please note: the list of low-risk incidents included in this referral guide is non-exhaustive and intended to be used for informational purposes only.

Source	Report Type	Refer to Response Agency	Examples
Agriculture	Noise, odour, dust	Ministry of Agriculture, Food and Agribusiness Agricultural Information Contact Centre	Complaints of noise, odours, dust, flies, from agricultural activities
Asbestos suspected in old buildings Excludes concerns regarding the management of asbestos waste (Reg. 347), which shall be reported to the ministry	Waste or garbage	Ministry of Labour, Training and Skills Development for worker safety concerns Municipal by-law enforcement re: building permit	Complaints of suspected asbestos in old buildings
Commercial/Service Retail Outlets, including Restaurants and Food Trucks	Air (odour, dust and smoke)	Municipality or local authority	Bakeries, fast food, grease bins, cigarette smoke, smokehouses, diesel generators, butchers, abattoirs, festivals or special events, other
Commercial/Service Retail Outlets, including Restaurants	Noise	Municipality or local authority	HVAC, traffic, machinery, dog kennels, other
Construction, Maintenance or Demolition	Air (odour, dust and smoke)	Municipality or local authority, Ministry of Labour, Training and Skills Development (only relating to worker health and safety), Ministry of Transportation or Metrolinx (only relating to	Construction vehicles, dust/mud track out, asbestos concerns, dust, smoke, stucco application, stone cutting, complaints of offsite dust generated from neighbour's construction activities, welding, roof tar, paving, blasting (road authority), other

Source	Report Type	Refer to Response Agency	Examples
		Ministry of Transportation or Metrolinx projects) Municipal by-law enforcement (under building permit or site plan approvals)	
Construction, Maintenance or Demolition	Noise	Municipality or local authority Ministry of Transportation or Metrolinx (only relating to Ministry of Transportation or Metrolinx projects)	Vehicles, cranes, drilling, blasting, excavation, other
Domestic Animals	Noise, odours	Municipality or local authority	Animals at a residential property
Drainage and Rain Runoff, residential private property	Water	Municipality or local authority	
Drainage and Flooding stemming from creeks, rivers, dams, etc.	Water	Ministry of Natural Resources, Conservation Authority	
Festivals and Special Events	Noise	Municipality or local authority	Fireworks, fairs, music events
Racetracks	Noise	Municipality or local authority	Horse racetracks
Residential Odours or Smoke	Odours	Municipality or local authority	Barbeques, woodstoves, outdoor fire pits, smokehouses, burning brush/wood/leaves

Source	Report Type	Refer to Response Agency	Examples
Residential Noise	Noise	Municipality or local authority	Barking dogs, animals, air conditioners, leaf blowers, gun ranges, swimming pool pumps
<p>Sewers (Storm or Sanitary) and Small Sewage Systems</p> <p>Excludes illegal dumping and discharges that are likely to cause impairment and adverse effect, which shall be reported to the ministry</p>	Water	Municipality	<p>All discharges to non-combined storm sewers where there is a municipal by-law</p> <p>All discharges to sanitary</p> <p>Small Sewage Systems - less than 10,000 litres daily design capacity</p>
Smoke from prescribed or planned burns and forest fires	Air quality	<p>Ministry of Natural Resources,</p> <p>Conservation Authority in a conservation area,</p> <p>Municipal fire department</p>	Forest Fire or planned forest burns
Snow removal or snow dumping	Noise	Municipality or local authority	Noise from snow removal equipment
Vehicles	Noise, dust	<p>Municipality,</p> <p>Ministry of Transportation,</p> <p>Operating authority,</p> <p>Canada Transportation Agency (for noise and vibrations from trains)</p>	Motorcycles, Trucks, Trains, Highway

Source	Report Type	Refer to Response Agency	Examples
<p>Vehicles</p> <p>Excludes spills of more than 100 litres of fluid, spills that enter or are likely to enter water, and spills that cause or are likely to cause adverse effects that cannot be readily remediated, which shall be reported to the ministry</p>	Other	Municipality	All (drips from oil spraying/rust protection, drips from vehicles anywhere on the ground)