

Dealing with environmental regulators



Things to know

- Companies carrying on business in Canada are subject to overlapping environmental regulation by all levels of government – federal, provincial/territorial and municipal.
- Each province has environmental protection laws and has a regulator charged with administration and enforcement.
- All jurisdictions generally take a “laddered approach” to enforcement, ranging from voluntary compliance through inspections and education to compulsory tools such as broad order powers, administrative penalties, investigation, charges and prosecution powers.
- Environmental offences in Canada are quasi-criminal “strict liability” charges, potentially subject to significant fines and/or imprisonment.
- Most environmental statutes extend a regulator’s reach to persons in “management or control” of the business and/or property, potentially including current/former owners, current/former landlords/tenants/occupants and current/former directors and officers.
- Directors and officers may be exposed to personal liability, including being named personally in orders and prosecution.
- Depending on the circumstances, bankruptcy or insolvency may not relieve a company from complying with a regulator’s order to deal with contamination.

USEFUL RESOURCES

- [Environment and Climate Change Canada](#)
- [Fisheries and Oceans Canada](#)
- [Transport Canada](#)
- [Ministry of Sustainable Development, Environment and the Fight Against Climate Change](#) (Québec)
- [Ministry of the Environment, Conservation and Parks](#) (Ontario)
- [Ministry of Environment and Parks](#) (Alberta)
- [Ministry of Environment & Climate Change Strategy](#) (British Columbia)
- [Guidance – Inspections](#) (Ontario)
- [Environmental permits](#)
- [Guidance – Occupational health and safety](#) (Ontario Ministry of Labour)
- [Enforcement notifications](#) (Federal)
- [Fisheries Enforcement](#) (Federal)
- [Compliance Policy](#) (Ontario)

Things to do

- Regulators inspecting your premises have broad powers, and you have corresponding statutory obligations. In contrast, regulators investigating potential offences have more limited powers. Know the difference and call your lawyer.
- Implement a robust Environmental Management System, with written procedures, training and follow up, to assist in a due-diligence defence in the event of any investigation or potential charges by a regulator.
- Work with your regulator to achieve compliance, get feedback and develop goodwill and trust. Consider negotiating timing and scope of compliance requirements, in a way that demonstrates that the regulator's perceived risks would still be addressed.

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- [Environmental emergency response](#)
- [Insolvency and Restructuring in Canada](#)



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