




INSPECTIONS VS. INVESTIGATIONS



CANECT WATER & WASTEWATER: REGULATION AND COMPLIANCE COURSE
VAUGHAN, ONTARIO APRIL, 2024



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ROLE OF A PROVINCIAL ENVIRONMENTAL OFFICER


- An Environmental Officer (EO) is a Provincial Officer, Provincial Offences Officer and a *Peace Officer* who is granted legal authority under environmental legislation in Ontario, such as:
 - *Ontario Water Resources Act;*
 - *Environmental Protection Act;*
 - *Nutrient Management Act;*
 - *Safe Drinking Water Act...*
- Conduct Inspections to assess compliance
- Respond to spills – Part X EPA Responsibilities
- Work with companies to find solutions to problems
- EO duties performed according to the “Regulators Code of Practice”


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INSPECTION POWERS OF A PROVINCIAL EO




- Inspect
- Require production of records/documents
- Record information
- Take and analyze samples
- Require thing to be operated
- Issue Provincial Officers Orders
- Make inquiries
- Exclude persons
- Stop vehicles
- Remove documents and data for copying
- Secure things or places
- Make excavations
- Request/require assistance of the Police




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INSPECTION POWERS OF AN EO




- An EO may, **without a warrant**:
- Enter:
 - Any part of the natural environment to assess adverse effect
 - Any place where a thing which is regulated by an Act can be found
 - Any place it is believed a contaminant is being/had been/will be discharged into the natural environment
 - Any place it is believed is subject to the Act or regulations or is exempt by a regulation




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INSPECTION POWERS OF AN EO – CON'T



- Any place that is likely to contain documents relating to an activity subject to the Act or regulations or activity exempted by a regulation
- Any place a motor vehicle or beverage container regulated under the Act may be found, to carry out the duties under Part III or IX
- Any ice shelter, abandoned vehicle
- Any place where a permit or plate may be found
- Any place adversely impacted by a spill




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INSPECTION POWERS OF AN EO – CON'T



- It is an **offence** to
 - Issue false statements to an EO
 - Provide false information in a report
 - Interfere with an EO's ability to conduct their duties
- EO's cannot enter a "dwelling"




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WHY MIGHT YOUR FACILITY BE INSPECTED?



- To evaluate compliance with environmental laws or the conditions of an approval (ECA, EASR)
- To conduct a routine/planned site inspection
- In response to a complaint, or a referral from another agency
- A follow-up inspection
- To assess a spill or environmental incident












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HOW TO PREPARE FOR AN INSPECTION

-  Know all aspects of your facility's operation (or bring others that do!)
-  Know what approvals or permits your site has/requires
-  Keep environmental records organized and ready
-  Know what consultants/suppliers/contractors are doing on your behalf
-  Provide accurate answers to the EO (if you don't know, don't guess/find out)
-  If YOU have questions.... ASK!




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COMMON INSPECTION TYPES


- Industrial Sewage
- Permit to Take Water
- Hazardous Waste (Reg.347)
- Air/Noise (Reg. 419)
- Sanitary Sewage
- Water Treatment Plant (drinking water)
- Biosolids



- Properties of Environmental Concern
- Waste Disposal Site (non-haz)
- Pesticides







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WHEN AN EO ARRIVES, THEY WILL..

- Identify themselves
- Ask to speak to the person in charge, facility operator or environmental coordinator
- Explain the purpose of the inspection
- Conduct the Inspection
- Conduct a debrief to discuss key findings





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PROVINCIAL INSPECTIONS (MECP)

WHAT TO EXPECT WHEN BEING INSPECTED BY A PROVINCIAL OFFICER (VIDEO)



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DURING THE INSPECTION



The EO will collect information to evaluate compliance, and make notes to record details of the inspection

The EO may:

- Ask to interview staff
- Review records
- Tour the facility
- Collect samples
- Take photographs
- Copy documents

No Warrant required!




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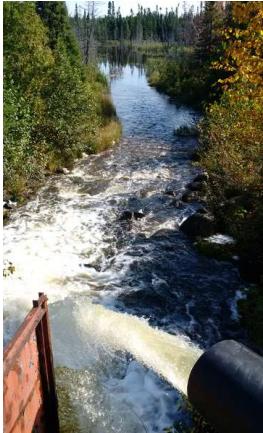
DURING THE INSPECTION CON'T


FOR THE MECP



- Facility operations
- Waste management systems
- Air/noise discharges
- Wastewater discharges
- Pollution control equipment
- Water treatment and distribution systems
- Stormwater/drainage systems

No Warrant required!






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DURING THE INSPECTION CON'T

FOR THE MECP




An EO has the authority to access and copy relevant records, such as:

No Warrant required!



- Process/equipment information
- Operation log books
- Equipment maintenance records
- Environmental reports
- Analytical results or records
- Waste Manifests, etc...





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COMMON VIOLATIONS FOR THE MECP





ECA Limit Exceedances (Air, land, water)

Failure to report spills/exceedances


Permit condition violations (operating, reporting, monitoring, etc...)

Regulatory requirement violations

Missed Reporting deadlines

Legislative violations (s.53 OWRA)

Preventive measures (may cause adverse)




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INSPECTION VS. INVESTIGATION FOR THE MECP




Inspection


- Environmental Officer
- There to **HELP** with compliance
- Does not need a search warrant
- No legal counsel required




Investigation

- Investigations and Enforcement Branch
- **NOT** there to help – but to penalize
- Needs a **Search Warrant** to seize document
- Legal counsel recommended





I'M FROM THE GOVERNMENT
And I'm Here To "HELP"




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INSPECTION VS. INVESTIGATION

FOR THE MECP




Inspection 


- Audits/examinations
- Education/outreach
- Tests
- Inquiries
- Monitoring
- Sampling




VS

Investigation 

- Interviews
- Searches
- Seizures
- Detainment
- Surveillance
- Issuing Warrants
- Forensic Analysis






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INSPECTION VS. INVESTIGATION


FOR THE MECP




Inspection 

- **Purpose:** to determine compliance with applicable rules and regulations
- Not about laying charges
- Enforcement action or IEB referral when non-compliance is found

VS

Investigation 

- **Purpose:** to determine if the possibility for penal liability exists
- About gathering evidence to determine if reasonable and probable grounds exist
- If so → **charges laid**




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INSPECTION VS. ENFORCEMENT



Things to ASK the officer:

- Are you here collecting evidence for the purposes of a prosecution?
- Are you here for an inspection or for the purposes of an investigation
- Record responses

- Develop procedures for interacting with provincial officers
- TRAIN all personnel that may be required to interact with EOs or IEB or other inspectors/investigators
 - Security guards
 - Gatehouse personnel




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ABATEMENT VS. ENFORCEMENT


FOR THE MECP






Abatement


- Actions taken to achieve compliance including education and outreach, warnings and the issuance of orders






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”)

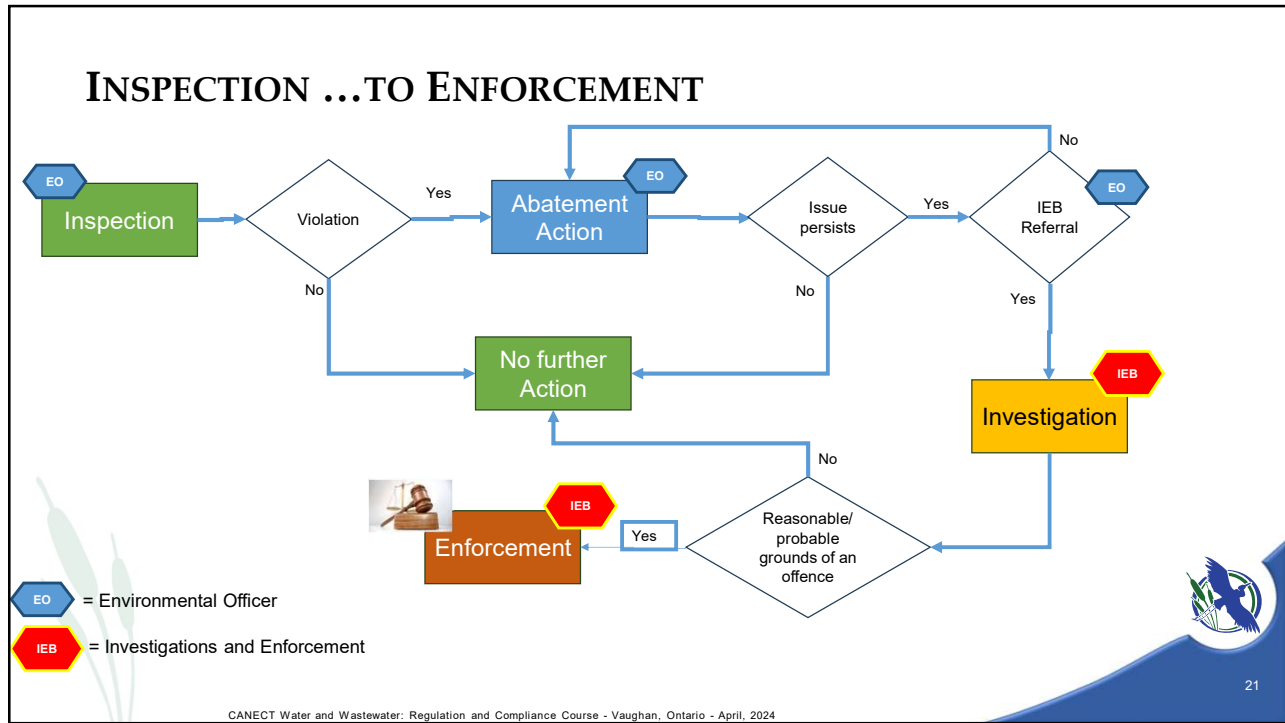




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ENFORCEMENT

MORE TO COME...

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BLUE HERON
ENVIRONMENTAL

QUESTIONS?

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