



# ***ENFORCEMENT & COMPLIANCE POLICY*** **FOR THE ENVIRONMENT ACT**

March 2021



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# 1. Introduction

The *Environment Act*<sup>1</sup> provides for a right to a “healthful natural environment”. Individuals, corporations and government are responsible for protecting the Yukon environment from degradation.

The Enforcement & Compliance Policy is established in accordance with s. 150 of the *Environment Act*. The purpose of the Policy is to outline those actions which will be taken by government to encourage compliance with, and where necessary, to enforce the *Environment Act*. This Policy, and an accompanying procedures manual, will guide officials responsible for enforcing the Act.

The Enforcement and Compliance Policy may be revised periodically in order to remain current. The Policy does not have the force of law. Rather, it will guide the application of the law. For information on the law, the reader should consult the Act.

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<sup>1</sup> *Environment Act*, RSY 2002, c76

## 2. Definitions

“Compliance” means acting in the state of conformity with the law.

“Contaminant” means a solid, liquid, gas, smoke, odour, heat, sound, vibration, pathogen or radiation or any combination thereof, that is foreign to the normal constituents of the natural environment, or that exceeds normal quantities or concentrations in the environment, and that results directly or indirectly from human activity that may cause or contribute to causing adverse effect.

“Contaminated Site” means an area of land in which the soil or underlying ground water beneath it, or the water including the sediment and bed below it, contains a contaminant which is in an amount, concentration or level in excess of the applicable standard in the Contaminated Sites Regulation or allowed under a permit.

“Enforcement” means the process taken to compel obedience with the law.

“Environmental Protection Officer” means a person designated as an Environmental Protection Officer by the Minister for the purposes of the Act.

“Environment” means:

- (a) the air, land and water,
- (b) all organic and inorganic matter and living organisms including biodiversity within and among species,
- (c) the ecosystem and ecological relationships,
- (d) buildings, structures, road, facilities, works and artifacts,
- (e) all social and economic conditions affecting community life,
- (f) the inter-relationships between or among any of the factors in paragraphs (a), (b), (c), (d), or (e).

Note: “Environment” only refers to the above-noted factors which occur within Yukon.

“Spill” means a release of a substance

- (a) into the natural environment;
- (b) from a structure, vehicle or container; and
- (c) that is abnormal in quantity or quality; or
- (d) in excess of an amount specified in Schedule A of the *Spills Regulations*<sup>2</sup>.

Note: to be a spill, (a) and (b) above must be true, plus either (c) or (d).

“Ticket” means a document issued for a prescribed offence pursuant to the Summary Convictions Act<sup>3</sup> and the Summary Convictions Regulations<sup>4</sup>.

"Yukon First Nation" means one of the following:

- Carcross/Tagish First Nation;
- Champagne and Aishihik First Nations;
- Dawson First Nation;
- Kluane First Nation;
- Kwanlin Dun First Nation;
- Liard First Nation;
- Little Salmon/Carmacks First Nation;
- First Nation of Nacho Nyak Dun;
- Ross River Dena Council;
- Selkirk First Nation;
- Ta'an Kwach'an Council;
- Teslin Tlingit Council;
- Vuntut Gwitchin First Nation; or
- White River First Nation.

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<sup>2</sup> Spills Regulations, YOIC 1996/193

<sup>3</sup> Summary Convictions Act, RSY 2002, c.210

<sup>4</sup> Summary Convictions Regulations, O.I.C. 2016/105

# 3. Guiding Principles

The following principles will guide the Government of the Yukon in enforcement activities under the *Environment Act*.

## **Prevention a Priority**

The Government of the Yukon, in administering its environmental legislation, policies and programs, will give high priority to the prevention of harm to the environment while respecting its commitment to the principle of sustainable development. By promoting education and public awareness of environmental concerns, the government is moving toward this goal.

## **Fairness, Consistency and Predictability**

The Government of Yukon will seek compliance with its legislation in a manner that is fair and consistent across Yukon, implementing compliance and enforcement responses based on the law and this Policy.

## **Comprehensive Response**

Every suspected or actual violation of the Act that comes to the attention of government officials will receive an appropriate enforcement response. These responses, which are set out in the Act, may involve administrative actions, legal actions, or both.

## **Application of the Act**

Requirements under the law and this Policy apply equally to the Government of Yukon, corporations, and individuals.



## 4. Environment Act Enforcement Authority

The following authorities are responsible for enforcing the *Environment Act*:

### Minister of Environment

The Minister of Environment is responsible for implementing the Act. The Minister may take direct enforcement action including:

- cancelling or suspending permits
- ordering cleanup, restoration, or closure
- applying for court orders or injunctions.

The Minister's enforcement powers may be delegated to employees of the Government of Yukon or of a municipality.

### Environmental Protection Officers

Environmental Protection Officers are designated by the Minister to ensure compliance with the Act and the regulations throughout Yukon. Environmental Protection Officers may be employees of the federal, Yukon or municipal governments, or they may be employees of a Yukon First Nation involved in the administration of an environmental law. Their duties include inspections of sites and activities that are regulated, and investigations of violations.

## 5. Promoting Compliance

This enforcement and compliance policy is directed primarily towards encouraging individuals and industry to take an active role in protecting the environment and preventing pollution. The following measures are part of a program to create a partnership between the public and government aimed at ensuring compliance with the law.

### Emphasis on Prevention

#### **Inspections**

Environmental protection officers conduct an inspection program, involving all activities and developments that are (or that ought to be) the subject of a permit, order or direction to monitor compliance with the Act. The primary objective of the inspection program is to detect and correct any problems to prevent or mitigate any harm to the environment.

#### **Environmental Protection Orders**

Orders aimed at anticipating and preventing environmental damage may be issued by the Minister of Environment or Environmental Protection Officers where there is a risk of harm to the environment or public health or safety.

For example, where a spill has occurred, an Environmental Protection Officer may order a person to take measures such as investigating the spill; minimizing or remedying the effects of the spill; restoring the area affected by the spill; and other measures. In addition, an officer may issue a Duty to Mitigate letter to inform the parties that caused the spill, or had care and control of the material, of their responsibilities.

If a person fails to comply with an environmental protection order issued to them, in addition to possible prosecution, the Minister may take necessary measures to effect

compliance with the order, and may then recover expenses incurred in doing so from the recipient of the order.

The Minister of Environment may apply to the Supreme Court of Yukon for an injunction to stop an activity before a violation of the Act occurs that would constitute an offence. If a person fails to comply with an environmental protection order issued to them, the Minister may apply to the courts for an injunction ordering them to comply under terms and conditions imposed by the Court.

### **Financial Assurance**

In certain circumstances, an individual or business may be required to post a financial bond to guarantee that specified measures in a permit or an environmental protection order issued by the Minister will be completed. For example, the specified action may include prevention of harm to the environment after a development has closed down. As an incentive for compliance, the financial assurance may be reduced or released in stages, as specified in the permit or order.

## Increasing Public Awareness and Involvement

### **Information Programs**

The government is committed to promoting compliance with the Environment Act. Information programs foster understanding and compliance. Among the information and education initiatives are:

- education and awareness programs in cooperation with First Nations, businesses and communities;
- consultation with all affected interests in the development of regulations; and
- Public distribution of the *Environment Act*, and associated regulations and information documents on Government of Yukon's website [Yukon.ca](http://Yukon.ca).

## Public Actions

Members of the public are encouraged to bring any concerns about environmental damage or possible violations of the Act to the attention of government officials. The public's valuable role reporting situations which may constitute violations is recognized through a formal procedure allowing members of the public to request an investigation.

Public complaints regarding a decision of an official under the Act may be resolved through a formal complaint procedure or mediation.



## 6. Determining Compliance

The Enforcement and Compliance Policy is designed to encourage early detection and response to violations. The measures used to determine the level of compliance in regulated developments and activities include the regular review of internal audits, ongoing inspections, and thorough investigation of violations.

This part summarizes many of the powers that the Act provides to Environmental Protection Officers in relation to determining compliance. However, it does not contain all the information an officer needs to know in relation to those powers. Every Environmental Protection Officer should review their powers in the Act, including the restrictions placed on them.

### Self-Monitoring

Permits issued under the Act may require permit holders to collect monitoring data and submit it to the government on a regular basis. In addition, court orders and injunctions may require the submission of data to the government to allow officials to monitor compliance with the injunction or order.

### Inspections

The purpose of inspections is to monitor activities and developments to ensure that they are in compliance with the Act, a permit, order or direction. Environmental Protection Officers are responsible for conducting inspections. They may engage in the following inspection activities:

- planned inspections, in accordance with annual inspection plans, or spot checks of sites which are, or which ought to be, subject to permits, directions, orders;
- response to a complaint or report of possible violation;
- monitoring compliance with permits, orders and directions;; and
- issuing orders, directions or notices; including the following:

- Environmental Protection Orders;
- Hold Orders for contaminated substances;
- Risk Assessment and Preventative Measures Orders for hazardous substances;
- Directions to mitigate a spill; and
- Notices of Non-Compliance.

Environmental Protection Officers have authority under subsections 151(1)-(2) of the Act to enter the following places without a search warrant to inspect something that is, or ought to be, subject to a permit, order, or direction:

- any place, with the consent of the owner,
- any place to which the public is ordinarily admitted,
- any part of the environment adversely affected by a development, activity, or contaminant,
- any place they reasonably believe may contain waste, hazardous substances, or pesticides,
- any place from which they reasonably believe a contaminant is being, has been, or may be released into the natural environment, or
- any place likely to contain documents related to the above bullet.

Officers may enter private dwellings only with the consent of the owner or as authorized by a search warrant. While conducting an inspection, Environmental Protection Officers may take any action necessary to complete the inspection, including the following:

- taking samples, measurements and conducting tests,
- controlling the operation of any process,
- requiring that a place or thing not be disturbed, operated, used, or set in motion,
- requiring that certain documents be produced,
- copying relevant information,
- temporarily removing a document for reproduction,
- making reasonable inquiries of any person,
- making excavations, and
- stopping a vehicle or boat.

An Environmental Protection Officer conducting an inspection must carry and, upon request, produce an identification card and explain the purpose of the inspection. If, during an inspection, an Environmental Protection Officer observes a violation of the Act, the Officer will choose an enforcement option consistent with this Policy.

## Investigations

The purpose of an investigation is to gather evidence of a suspected violation of the Act. Environmental Protection Officers will initiate investigations where there are reasonable grounds to believe an offence has been committed. Such grounds may include a reliable complaint or report of a suspected offence. Department of Environment is using an Investigation Referral Process to ensure a consistent application for suspected violations of the Act.

## Search and Seizure

An Environmental Protection Officer may apply for a warrant to conduct inspections if denied access, and to enter and search a place and seize specified evidence of a violation; subject to the specific authority provided in the warrant. While conducting the search authorized by the warrant, the Officer may also seize evidence of an offence that is not listed in the warrant but is in plain view.

In circumstances where the grounds to obtain a warrant exist but the delay associated with obtaining a warrant would result in a risk of serious harm to human life or the environment, or the loss or destruction of evidence of a commission of an offence, an Environmental Protection Officer may enter and search a place (other than a private dwelling without the occupant's consent) at any reasonable time; and seize evidence of an offence.

An Environmental Protection Officer may seize evidence of a violation without a search warrant, if the evidence is produced to the Officer or if the Officer observes the

evidence in plain view during an inspection. The Officer may seize and remove the evidence or seize it in place.





## 7. Enforcement Responses to Violations of the Act

The *Environment Act* provides for a wide range of enforcement responses where violations of the Act have been identified. A single violation may evoke a single response or a combination of responses. There is no prescribed order in which the responses may be chosen as it depends on the circumstances of each violation. For example, a first violation may result in prosecution, while a repeat offender may receive an Environmental Protection Order imposing specified response action.

The following enforcement responses are available:

- Notice of Non-Compliance
- Environmental Protection Order
- Hold Order
- Product or Packaging Ban
- Cancellation or Suspension of Permits
- Closure Order
- Supreme Court Order
- Injunctions
- Charge by way of Ticket (available for some offences)
- Charge by way of Information

## CRITERIA FOR ENFORCEMENT RESPONSES

Enforcement personnel will respond to suspected violations of the *Environment Act* giving priority to those that have, or will likely have the greatest harm or pose the greatest risk to public health, public safety, and the environment. Where there is sufficient evidence to conclude that a violation of the Act has occurred, officials will use the following criteria to determine the appropriate enforcement response:

### **Nature of the Violation**

What is the nature and the extent of the harm or the potential harm to the environment, human health or safety? Is the violation of a flagrant or deliberate nature indicating a serious disregard for the environment? Violations of a serious or long-term nature will be treated more seriously than violations which are of a relatively minor nature and of short duration.

### **History of Compliance**

What is the compliance history of the individual or business which is alleged to have violated the Act?

Have other methods of enforcement been tried and proven ineffective with the individual or business? Did the individual or business ignore the environmental incident in question or did it take measures to reduce or stop any environmental damage? Did the person responsible report the incident to the authorities promptly or was it discovered during an inspection or an investigation?

### **Effectiveness in Achieving Compliance**

Which enforcement response will be most effective in obtaining compliance with the Act? If enforcement action has already been taken by Yukon or other government authorities, which enforcement response will best complement the initial action?

### **Consistency of Responses**

Similar circumstances require similar responses. What action has been taken in previous similar situations?

## Notices Issued by Environmental Protection Officers

### **Notice of Non-Compliance**

A Notice of Non-Compliance may be the initial response for a minor violation of the Act, regulations, or a permit. Notices may be issued where the environmental harm or public health concern is relatively minor and can be easily remedied.

Notices will be in writing and must give the violator the following information:

- the nature of the violation,
- a request for voluntary compliance,
- the steps which should be taken to achieve compliance,
- the date by which compliance should be achieved, and

- a warning that further action will be taken by the Environmental Protection Officer if there is non-compliance with the requirements of the Notice.

If a public register of Notices of Non-Compliances is established (as per s.158(3) of the Environment Act), then notices shall be placed on this register and removed when compliance has been achieved.

## Orders Issued by Environmental Protection Officers

### **Environmental Protection Order**

Where an Environmental Protection Officer believes that an activity is likely to cause irreparable environmental damage or a serious threat to public health, the Officer may issue an Environmental Protection Order. The order may require the person responsible for the activity to take measures to prevent or reduce the damage by closing down a development or stopping a harmful activity, or other necessary actions to prevent or mitigate the damage to the environment or harm to public health or safety.

The order expires after seven days. An Environmental Protection Officer can extend the expiry date for seven more days. The Minister may further extend the expiry date.

### **Environmental Protection Order Relating to Spill**

In the case of a spill, an Environmental Protection Order may require the person responsible for the spilled substance to take appropriate remedial measures including investigating the spill, minimizing the effects of the spill, setting up pollution control equipment or taking measures to prevent further spills.

### **Remedial Action or Direction Relating to Spill**

If a person responsible for a spill has not properly mitigated it as required by the Act, and an Environmental Protection Officer believes that there is a danger to human life or health, the Officer may take remedial action himself/herself, hire another person or direct the person responsible for the substance to take specific action(s).

### **Hazardous Substances Order**

To reduce the risk of the release of a hazardous substance, an Environmental Protection Officer may order a person responsible for the hazardous substance to undertake the following measures at his/her own expense:

- to investigate and report on the extent of any risk;
- to prepare a contingency plan as directed;
- to take measures including construction of works; and,
- to abate or prevent a spill as requested.

### **Hold Order**

An Environmental Protection Officer may issue a Hold Order to require a person responsible for a contaminant to control the contaminant if it is being or likely to be released into the environment and causing or likely to cause damage.

### **Waste Removal Order**

Where waste is deposited in an unauthorized manner, an Environmental Protection Officer may order the person responsible for depositing the waste, or the owner or occupier of the area where the waste was deposited, to remove the waste and restore the site to a satisfactory condition.

### **Litter Order**

An Environmental Protection Officer may order the owner or occupier of unsightly private property to take specific actions to clean up the property. The contents of the order must take into consideration local standards and the provisions of the Public Health and Safety Act.

## **Orders Issued by the Minister**

### **Contaminated Sites Restoration Order**

Where the Minister reasonably believes a contaminated site is, or is likely to be, a threat to public health or has caused or is likely to cause unsafe conditions or irreparable

damage to the natural environment, the Minister may order the person responsible for the site to provide information on the site, to investigate the site, prepare a restoration plan and to restore or rehabilitate the site. The order may authorize any person designated by the Minister to enter land to carry out the restoration or rehabilitation.

All Restoration Orders will be placed on a public registry of contaminated sites. Upon appropriate restoration or rehabilitation of the site, the Minister will issue a certificate of compliance.

### **Cancellation or Suspension of Permits**

If a permit holder fails to meet any of the conditions of a permit or violates the Act or regulations, the permit may be suspended or cancelled by the Minister.

The Minister may also cancel or suspend a permit where the permitted development or activity has caused harm or the potential of harm to the environment or to public health or safety.

The Minister must first provide permit holders with reasonable notice of his/her intention to suspend the permit and an opportunity to make representations. Upon suspension or cancellation of the permit, the permit holder will receive reasons for its cancellation. The Minister must, where satisfied that the conditions which led to the suspension or cancellation have been remedied, reinstate the permit or issue a new permit.

### **Closure Order**

The Minister may, by order directed to a permit holder, close a development or stop an activity for any time considered necessary. Before making such an order, the Minister must obtain the approval of the Commissioner in Executive Council and must provide reasonable notice to the permit holder and an opportunity to make representations. The Minister must revoke the order when satisfied that adequate steps have been taken to remedy the conditions that were the basis for the order.

A Closure Order may be considered an appropriate enforcement response where, for example, cancelling or suspending a permit alone would not adequately address the issue of ongoing environmental damage.

### **Environmental Protection Order**

The Minister may issue an Environmental Protection Order on a reasonable belief that a violation has occurred, or that a development or activity is causing or likely to cause a serious adverse effect or a threat to public health or safety.

The Order may require the person in control of the development or activity to do the following:

- to shut down the development or cease the activity until the Minister is satisfied that compliance has been achieved,
- to prevent, remedy or mitigate any significant adverse effect or threat to public health or safety,
- to restore or rehabilitate the natural environment to a standard satisfactory to the Minister,
- to comply with any order issued by an Environmental Protection Officer, or
- to comply with any directions issued by an Environmental Protection Officer relating to a spill of a hazardous substance, pesticide, contaminant or special waste.

The Order will include the Minister's reasons for issuing it as well as a deadline for meeting requirements, and must be made in the form included in the *Administrative Regulations*.

Except in emergency situations, the Minister must offer to consult with other authorities including the federal government, a municipality or a Yukon First Nation before issuing an Environmental Protection Order. Where practicable, the Minister will give the intended recipient and any other directly affected person notice of his/her intention to issue the order and a reasonable opportunity to make representations.

### **Environmental Protection Order: Spills**

In the case of a spill, the Minister may issue an Environmental Protection Order requiring the person who owns, possesses or controls the spilled substance, to take remedial measures including investigating the spill, minimizing the effects of the spill, and taking measures to prevent further spills.

### **Hazardous Substances Order**

If the Minister is satisfied that the handling or importation of a hazardous substance will cause significant impairment of the natural environment that cannot otherwise be prevented or mitigated, the Minister may, by order, prohibit the handling or importation of that hazardous substance.

## **Charges Laid by Environmental Protection Officers**

Charges may be prosecuted by way of two alternative processes: by way of ticket or information. A ticket must be served within 30 days of the alleged offence. The time limit for commencing proceedings by way of information is within two years of either the day on which the offence was committed or the day on which an Environmental Protection Officer had sufficient evidence of the offence to justify a prosecution.

### **Ticketing**

Environmental Protection Officers may issue tickets to persons who commit offences that are listed in the *Summary Conviction Regulations* as “ticketable” offences. Where an offence is designated as ticketable, a ticket may be issued in response to violations under the Summary Convictions Act in consideration of the totality of the circumstances, but may not be appropriate for more significant violations as outlined in section N”(section on long form)..

A ticket provides the alleged violator with a period of time in which to choose one of the following options:

- to plead guilty and pay a prescribed fine without going to Court,
- to request an appearance in Court to present relevant information to the Court,  
or
- to plead not guilty and proceed to trial.

If one of these options is not chosen within the stated time limit and the accused does not appear in court to answer the charge, the violator will be convicted of the offence in their absence and become liable for the prescribed penalty.

A ticket must be properly served on the accused person within 30 days of the alleged offence. Service is by personal delivery to the accused. The ticket must also be filed with the court registry as soon as practicable after it has been served, and within 30 days of service.

### **Offences Charged by Long-Form Information**

In addition to offences that are not ticketable, charges by way of information will generally be the response, where the following criteria apply:

- The violation results, or could likely result, in serious harm or risk of harm to human life, health or the environment,
- The alleged violator deliberately provided false or misleading information or test results to an authority under the Act,
- The alleged violator hindered or obstructed an Environmental Protection Officer in his/her duties,
- The alleged violator concealed or attempted to conceal information regarding an offence,
- The alleged violator failed to take all reasonable measures to comply with a direction or order issued under the Act,
- The violation is subsequent to previous violations of the same nature where tickets were used, or



- The violator intentionally contravened the Act or the regulations and/or issuing a ticket would be an inadequate response.

Environmental Protection Officers will normally recommend charges for violations of the Act unless they determine that:

- a Notice of Non-Compliance is a more appropriate response, or
- an order by the Minister or an Environmental Protection Officer would better suit the public interest in the circumstances.

A thorough investigation must be conducted before charges are laid. This involves collection of all evidence of the offence including witness statements and cautioned statements from the accused, physical evidence in the form of samples, documents, photographs, and videos. The lead investigator will consider all relevant legislation and possible defences and make every effort to gather evidence that would address all anticipated defences. For all offences charged by long form information, the lead investigator will prepare a case file for review by their manager and Crown prosecutor before swearing charges with the court. For all offences charged by ticket, the same investigative requirements exist. The lead investigator will maintain all evidence as per agency policies, and this evidence and how it supports the charge(s) will be clearly documented in the enforcement file. A detailed court brief will be provided to the Crown prosecutor responsible for prosecuting the charge(s) if the matter proceeds to court. The court brief will contain all documents in government's possession that are relevant to the offence, including those that might assist the accused in pursuing a line of defence.

Where continuing harm to the environment or public health and safety exists, it may be necessary to pursue abatement action in the form of an order or direction to minimize environmental harm while at the same time pursuing prosecution.

### **Penalties and Court Orders upon Conviction**

The Act provides the Court with broad powers to impose penalties once an accused has been convicted of an offence. The range of penalties available includes fines, imprisonment, and other court orders. Environmental Protection Officers will consider the following criteria when making sentencing recommendations.

### **Criteria for Sentencing Recommendations**

- How serious was the offence? What was the harm or the potential harm to human health and safety or the environment?
- What is the compliance history of the offender? Does the offender have previous convictions for similar offences?
- Has the offender taken responsibility for the offence? What has been the offender's level of cooperation and willingness to minimize the effects of the offence?
- What kind of deterrent effect will the amount of fine have on the offender? If a corporation, what can you find out about its size and profits?
- How effective would the recommended penalty be in achieving compliance with the Act?
- How effective would the penalty be in deterring the offender and others in the community from committing similar offences?
- What penalties were imposed in similar cases?

### **Court Orders**

In addition to a fine or imprisonment, upon conviction, the court sentencing may require the convicted person:

- to take measures to refrain from causing any further adverse effect;
- to take corrective measures to restore or rehabilitate the natural environment affected by the commission of the offence; or
- to pay restitution to compensate any person who has been harmed by the offence.

## Civil Actions Initiated by the Government

The Government of Yukon may commence a range of civil remedies in Yukon Supreme Court, including injunctions, declarations, awards of damages, orders for cost recovery, preventative measures orders, restoration orders, and permit suspensions or cancellations.

### **Court Order for Cost Recovery**

The Government of Yukon may sue to recover costs it has incurred in effecting compliance with an Environmental Protection Order if the person to whom it was issued failed to comply. Such expenses can also include investigating a violation or effecting compliance with a direction or an Environmental Protection Order.

Monies received by the government, as a result of a successful civil action are directed to the Environmental Account, a special account established under the Act for the purposes of restoration and the general enhancement of the environment. The government will resort to court action only where the matter cannot be otherwise resolved.

### **Injunctions for Violations**

The Minister may apply to the court for an injunction to stop ongoing violations of the Act or to take steps to prevent an anticipated violation of the Act. Generally, an injunction may be sought in circumstances where the violation may cause imminent and serious environmental damage.

Where the violation has already occurred, the Minister may, in addition to obtaining the injunction to stop further damage, pursue other enforcement responses such as prosecution or civil action for recovery of costs.

### **Injunction for Non-Compliance with Environmental Protection Order**

Where a person has failed to comply with an Environmental Protection Order, the Minister may apply to the Yukon Supreme Court for an injunction to order compliance under terms and conditions imposed by the court.

In addition, the Minister may seek an injunction to stop or restrain the operation of a development or activity where the appropriate financial assurance, required by an Environmental Protection Order, has not been provided. Injunctions may be available even where the defendant has been convicted of an offence for the same activity.

Where a person disobeys an injunction, the Minister may return to court to seek a contempt of court ruling, further instructions from the court or additional penalties.

## 8. Public Rights

**Note:** this section provides information about public rights under the Act. It does not directly address compliance and enforcement, but are rights that indirectly could lead to such actions.

The Act recognizes that Yukoners have the right to a “healthful natural environment”. They may rely upon provisions in the Act which allow them to take an active role in protecting the environment. These rights include the following provisions.

### Complaints

Any person may complain to the Minister with respect to a decision, recommendation, act or omission pursuant to the Act. The Minister shall then attempt to resolve the complaint.

In addition to the formal complaint procedure, people also have the option of informally bringing matters related to the *Environment Act* to the Minister's attention.

### **Request for Investigation**

Where two Yukon residents believe that a development or activity is impairing or is likely to impair the environment, they may request the Minister to commence an investigation. Within a specified period, the Minister must report on the outcome of the investigation, and must attempt to resolve each investigation within 180 days of the request being made.

### **Private Prosecution**

An adult Yukon resident has the right to commence a private prosecution of an offence under the *Environment Act*, the *Parks and Lands Certainty Act*, the *Wildlife Act* and certain parts of the regulations under the *Public Health and Safety Act* regulations. Private prosecutions may be commenced by swearing an Information in front of a Justice of the Peace.

If a private prosecution results in a conviction, the court may order that all or a part of a fine imposed will be paid to the person who commenced the private prosecution for the purposes of helping pay the expenses of the prosecution.

### **Civil Right of Action**

Every adult and corporate resident of the Yukon may begin a civil action if that person reasonably believes that:

- a person has impaired or is likely to impair the environment; or
- the Government of the Yukon has failed to protect the natural environment.

A person may commence civil action whether or not she/he is directly affected by the environmental damage. Awards of damages made as a result of a private action that are paid to the Minister shall be deposited in an account known as the Environmental Account. The Supreme Court of Yukon may make any of a number of orders in respect of the civil action.

## 9. Contact Information

The Enforcement & Compliance Policy for the Yukon's Environment Act is issued by the Department of Environment, Government of Yukon.

Information about the *Environment Act* and its regulations and related documents are regularly posted on the government's website [Yukon.ca](http://Yukon.ca). People who wish to receive information about the *Environment Act* and its regulations can add their name to a mailing list by contacting the Environmental Protection & Assessment Branch.

### Department of Environment Offices

Whitehorse Head Office:	10 Burns Road (across from airport)
Environmental Protection & Assessment Branch:	(867) 667-5683
Toll Free Number:	1-800-661-0408 Ext.5683
Fax:	(867) 393-6205
Email	envprot@yukon.ca
Mailing Address:	Environmental Protection & Assessment Branch V-8 Department of Environment Box 2703 Whitehorse, Yukon, Y1A 2C6
<b>Department of Environment Conservation Officer Services' District Offices</b>	
Dawson City	867-993-5492
Faro	867-994-2862
Haines Junction	867-634-2247
Mayo	867-996-2202
Ross River	867-969-2202
Teslin	867-390-2685
Watson Lake	867-536-7363
Whitehorse	867-667-8005