



Ministry of  
Environment and  
Climate Change Strategy



**Extended Producer Responsibility Programs  
Compliance and Enforcement  
September 29, 2017**



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Recycling Regulation (B.C. Reg. 449/2004)



# Responding to Non-Compliance

- Compliance achieved through variety of tools
- Consideration of most appropriate tool necessary
- Prosecution - essential tool to be applied vigorously as needed
- [Compliance Management Framework](#) – overarching approach, encourages awareness and voluntary compliance
- [Compliance and Enforcement Policy and Procedure](#) - measured and progressive approach to bring entities into compliance



## Program Staff

Advisories and Warnings

Orders

Administrative  
Sanctions

Administrative  
Penalties

Administrative Tools

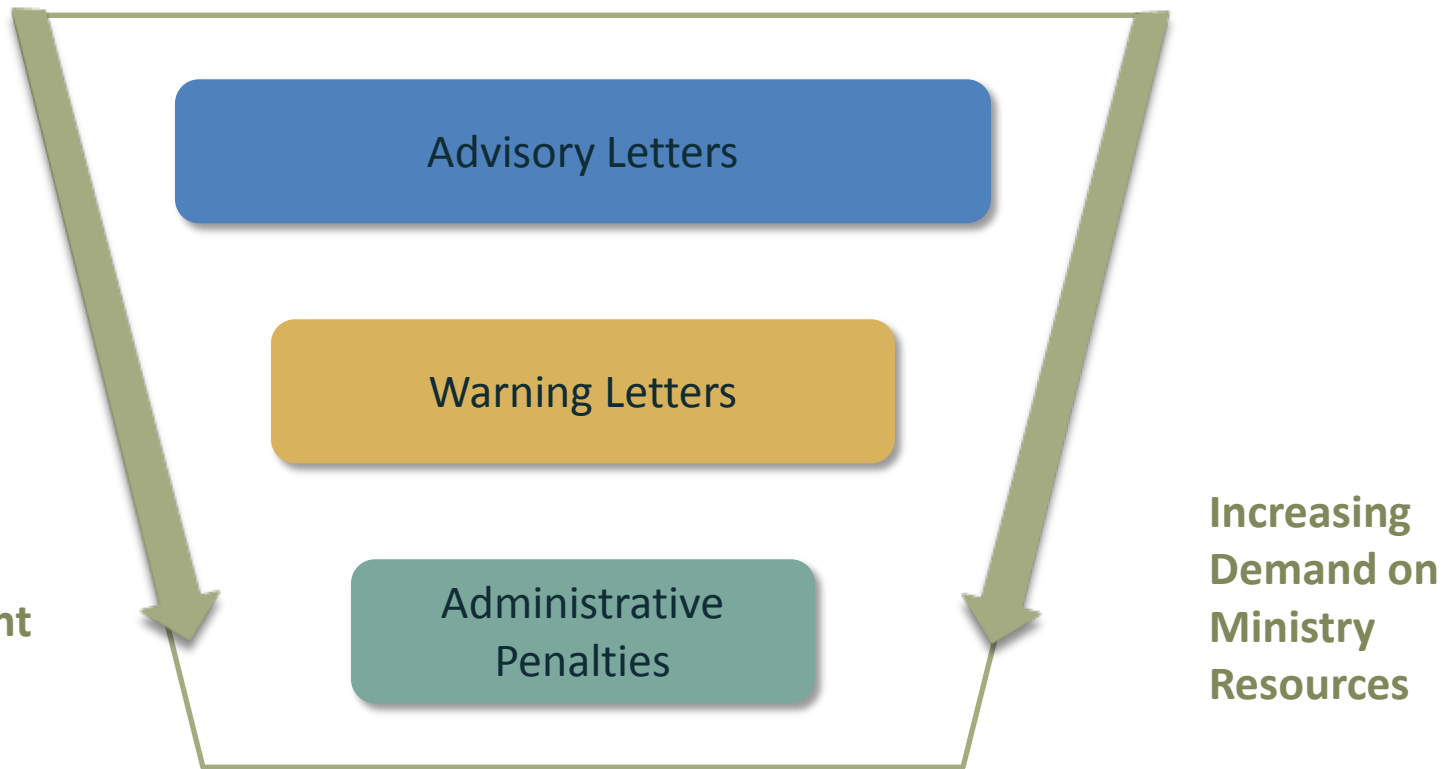
## Conservation Officers

Tickets

Formal  
Court Charges

Restorative  
Justice

Prosecutorial Tools





## Program Area / C & E Staff

- Must prove the contravention (the essential elements)
- Provide facts and context (tell the story)
- Assemble supporting evidence (includes agency outreach)
- *Recommend the AMP*

## Statutory Decision Maker (SDM)

- Ensure the 'case has been made'
- Calculate the penalty
- Ensure administrative fairness and consistency
- *Make the determination*



## AMP Process

- Notification of Penalty sent advising of penalty and amount being considered
- Recipient has 30 days to request an Opportunity to be Heard (OTBH)
- OTBH allows party to provide any info to SDM they feel may impact the penalty decision
- SDM makes final determination: can cancel penalty altogether, or raise or lower the penalty amount



## AMP Process continued

- Notice sent of final SDM decision and penalty due
- Recipient has 30 days to either pay, or appeal to Environmental Appeal Board (EAB)
- If Appeal filed, EAB can hold up SDM decision, throw out penalty, or change amount
- If Recipient not satisfied with EAB decision, they can proceed with legal action





## QUARTERLY ENVIRONMENTAL ENFORCEMENT SUMMARY

3rd Quarter 2013  
(July 1 - September 30)



*Protecting the Splendor of our Natural Places*



<http://www2.gov.bc.ca/gov/content/environment/research-monitoring-reporting/reporting/environmental-enforcement-reporting/quarterly-environmental-enforcement-summary>

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- Over 1,800 Advisories have been issued
- Approx. 340 Warnings have been issued
- 8 Administrative Monetary Penalties have been issued









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## Environmental Appeal Board

**Welcome to the Environmental Appeal Board**

The Environmental Appeal Board (EAB) is established under the [Environmental Management Act](#). It is an independent agency which hears appeals from certain decisions made by government officials related to environmental issues. These decisions include water licenses, contaminated site remediation orders, pesticide permits and the cancellation of hunting licenses, among other things. The Environmental Appeal Board plays a role in ensuring the protection and wise use of the environment by providing a quasi-judicial access point for the public and industry to appeal certain government decisions.

**Important information about changes to the Environmental Appeal Board's process and procedures, effective Friday, July 1, 2016.**

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EAB Decisions:

<http://www.eab.gov.bc.ca/ema/2016EMAList.htm>



# Outcomes and Lessons Learned

1. Defining and identifying appropriate “Producer” not always easy for everyone:

- Challenge with different corporate structures that have no influence or data e.g. holding companies
- Intent for process to remain business-to-business
- Does result in most appropriate party taking on obligation, but often requires Ministry involvement and ongoing dialogue i.e. drain on limited Ministry resources

# Outcomes and Lessons Learned continued

2. Compliance and enforcement role of Ministry, but agencies play key role as well:

- Initial outreach and attempts to bring into compliance
- Provide evidence of due diligence to Ministry for enforcement follow-up
- Agency agreements with producers to ensure payment of back fees, or may provide incentive to delay/avoid compliance
- Producers need to be involved to ensure level playing field for industry

# Questions and Comments

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