



A decision on response to occurrences of non-compliance is based upon both the level of environmental, human health and/or safety impacts (actual or potential) and the likelihood of compliance by the discharger (based on history and willingness and capacity to comply). A non-compliance decision matrix is then used to determine the most appropriate tools to apply to encourage compliance. Tables 1 to 3 outline the components of the non-compliance decision matrix.

Table 1: Non-Compliance Decision Matrix. To be used in conjunction with Tables 2 and 3.

		ESCALATING ENVIRONMENTAL, HUMAN HEALTH OR SAFETY (ACTUAL OR POTENTIAL)				
		LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
DIMINISHING LIKELIHOOD OF COMPLIANCE (COMPLIANCE HISTORY/WILLINGNESS AND CAPACITY TO COMPLY)	CATEGORY A (HIGH)	ADVISORY	ADVISORY - WARNING	WARNING - ORDER - ADMIN SANCTION - ADMIN PENALTY	ORDER - ADMIN SANCTION - ADMIN PENALTY - INVESTIGATION	INVESTIGATION
	CATEGORY B	ADVISORY - WARNING	WARNING - ADMIN PENALTY	WARNING - INVESTIGATION		
	CATEGORY C	WARNING - ADMIN PENALTY	WARNING - ORDER - ADMIN SANCTION	ORDER - ADMIN PENALTY - ADMIN SANCTION - INVESTIGATION		
	CATEGORY D	WARNING - ORDER - ADMIN SANCTION - ADMIN PENALTY	ADMIN SANCTION - ADMIN PENALTY - INVESTIGATION			
	CATEGORY E (LOW)	ORDER - ADMIN SANCTION - ADMIN PENALTY - INVESTIGATION				

NOTE: Increasing significance of real or potential impacts and diminishing likelihood of compliance warrant the full investigative process (referral to COS). The outcome of the investigation may still be a lower level response, but if the process uncovers more than expected, prosecutorial tools will be available.

Violation tickets, restorative justice and prosecution are additional enforcement tools that are not listed on the matrix because they would be selected after an investigation occurs.

Table 2: Description of Levels Environmental, Human Health or Safety Impacts.

LEVEL 1
<ul style="list-style-type: none"> • Non-compliance that does not result or is unlikely to result in any environmental, human health or safety impact; or • Minor administrative non-compliance.
LEVEL 2
<ul style="list-style-type: none"> • Non-compliance resulting in a minor, temporary impact to the environment or minor, temporary threat to human health or safety; or • Significant administrative non-compliance.
LEVEL 3
<ul style="list-style-type: none"> • Non-compliance resulting in a moderate, temporary impact to the environment or moderate, temporary threat to human health or safety.
LEVEL 4
<ul style="list-style-type: none"> • Non-compliance resulting in a significant impact to the environment or significant threat to human health or safety (may be temporary or permanent).
LEVEL 5
<ul style="list-style-type: none"> • Known or likely human health impact that is severe in effect, i.e. resulting in hospitalization and/or long term human health consequences.

Table 3: Categories of Likelihood of Compliance

CATEGORY A - Indications of future and ongoing compliance are very high
<ul style="list-style-type: none"> • No previous occurrences of non-compliance; • Good demonstrated awareness of and/or capacity to meet regulatory requirement; and/or • Offender has a reasonable and cooperative attitude.
CATEGORY B - Indications of future and ongoing compliance are uncertain
<ul style="list-style-type: none"> • Few previous occurrences of non-compliance; and/or • Questionable awareness of and/or capacity to meet regulatory requirement.
CATEGORY C - Indications of future and ongoing compliance are unlikely
<ul style="list-style-type: none"> • Numerous previous occurrences of non-compliance; and/or • Little or no awareness of and/or capacity to meet regulatory requirement.
CATEGORY D - No indication of future and ongoing compliance
<ul style="list-style-type: none"> • Wilful violation of ministry regulatory requirement; and/or • Little or no demonstrated willingness or capacity to meet regulatory requirement.
CATEGORY E - No indication of future and ongoing compliance
<ul style="list-style-type: none"> • Hindering or obstructing a ministry official; • Refusing to furnish required information; and/or • Intentionally including false or misleading information in any required document.

There are a variety of compliance tools used to address occurrences of non-compliance from two categories under the *Environmental Management Act*: administrative or prosecutorial. These tools are explained below. It should be noted that all compliance data is publicly reported annually, and includes company names and inspection results.

Administrative Responses administered by Environmental Protection Officers:

Advisory: written record advising of current occurrences of non-compliance found at a specific date and time.

Warning: in addition to advising of current occurrences of non-compliance this written record also warns of possible escalating enforcement action if non-compliance continues.

Order: creates new requirements to prevent or remedy pollution.

Administrative Monetary Penalties: financial penalties up to \$40,000.

Administrative Sanctions: suspension or cancellation of a permit or approval.

Prosecutorial Responses administered by the BC Conservation Officer Service:

Violation Ticket: small monetary penalty up to a maximum of \$575 per day, per violation.

Formal Charges: large monetary penalty up to \$1,000,000 or imprisonment of 6 months, or both upon conviction.

Restorative Justice: repair of damages through negotiations between offenders, victims and the Crown.

What should you do?

As an authorized discharger it is important that every effort is made to bring your facility into full compliance with all permit or regulatory requirements. The extent and promptness with which occurrences of non-compliance are addressed helps to form part of your compliance history. Should future occurrences of non-compliance occur, this shows your willingness to comply as measured on the matrix assessment referred to in the 'How is Compliance Assessed' information sheet.



The Ministry of Environment Compliance and Enforcement Policy and Procedure Manual can be found here:

http://www.env.gov.bc.ca/main/prgs/docs/ce_policy_and_procedure.pdf.

Environmental Compliance Inspections Reporting can be found here:

<http://www2.gov.bc.ca/gov/content/environment/research-monitoring-reporting/reporting/env-compliance-inspection-report>