

# Private Environmental Investigations & Prosecutions



Naturally, government officials have the authority to investigate possible violations of environmental laws. But most jurisdictions in Canada give members of the public the right to compel the government to launch investigations of possible environmental offences—and even to bring private environmental prosecutions. Although private environmental investigations and prosecutions are rare, they can be successful. For example, in 2013, a jet fuel truck ran off the road in the Slocan Valley, BC and dumped 33,000 litres of fuel into a river, compromising drinking water and killing fish. The province investigated but concluded that no charges were warranted. But a private resident of the Slocan Valley successfully laid her own charges under the federal *Fisheries Act*. Here’s a chart showing the rights that members of the public have in each jurisdiction to initiate an environmental investigation and/or prosecution.

## KNOW THE LAWS: Private Environmental Investigations & Prosecutions

Here are the rights that members of the public have in each jurisdiction to compel the government to initiate an environmental investigation and/or prosecution:

	<u>Canadian Environmental Protection Act:</u> 1. An individual who’s resident in Canada and at least 18 years of age may apply to the Minister for an investigation of any offence under this Act that the individual alleges has occurred [Sec. 17(1)]. 2. An individual who has applied for an investigation may bring an environmental protection action if: a. the Minister failed to conduct an investigation and report within a reasonable time; or b. the Minister’s response to the investigation was unreasonable [Sec. 22(1)].
FED	
AB	<u>Environmental Protection and Enhancement Act:</u> Any two persons ordinarily resident in Alberta who aren’t less than 18 years of age and who are of the opinion that an offence has been committed under this Act may apply to the Director to have an investigation of the alleged offence conducted [Sec. 196(1)].
BC	<u>Environmental Management Act</u> doesn’t give the public the right to initiate environmental investigations or prosecutions.
MB	<u>The Environment Act:</u> Any person may lay an information in respect of any offence against this Act or the regulations [Sec. 38].
NB	<u>Clean Air Act:</u> Any two or more individuals who are residents of New Brunswick, who are at least 18 years of age and who are of the opinion that an offence has been committed under this Act or the regulations, or that a person hasn’t complied with a directive, may apply to the Minister on a form provided by the Minister for an investigation of the alleged offence [Sec. 28(1)].
NL	<u>Environmental Protection Act:</u> Where a person has a reasonable belief that a person has contravened or is contravening this Act and the regulations, that person may request that the department investigate the alleged contravention [Sec. 91(2)].
NS	<u>Environment Act:</u> Any person who’s of the opinion that an offence has been committed under this Act may apply to the Department to have an investigation of the alleged offence conducted [Sec. 115(1)].
NT	<u>Environmental Rights Act:</u> 1. Any two persons resident in the Northwest Territories who aren’t less than 19 years of age and who are of the opinion that a contaminant has been released into the environment, is being released into the environment, or is likely to be released into the environment, may apply to the Minister for an investigation of the release or the likely release [Sec. 4(2)]. 2. Any resident of the Territories who, on reasonable grounds, believes that an offence has been committed under an Act listed in the Schedule may lay an information in writing and under oath before a justice [Sec. 5(1)].
NU	<u>Environmental Rights Act:</u> 1. Any two persons resident in Nunavut who aren’t less than 19 years of age and who are of the opinion that a contaminant has been released into the environment, is being released into the environment, or is likely to be released into the environment, may apply to the Minister for an investigation of the release or the likely release [Sec. 4(2)]. 2. Any resident of Nunavut who, on reasonable grounds, believes that an offence has been committed under an Act listed in the Schedule may lay an information in writing and under oath before a justice [Sec. 5(1)].
ON	<u>Environmental Bill of Rights:</u> Any two persons resident in Ontario who believe that a prescribed Act, regulation or instrument has been contravened may apply to the Environmental Commissioner for an investigation of the alleged contravention by the appropriate minister [Sec. 74(1)].
PE	<u>Environmental Protection Act</u> doesn’t give the public the right to initiate environmental investigations or prosecutions.

QC *Environment Quality Act* doesn't give the public the right to initiate environmental investigations or prosecutions.

SK *Environmental Management and Protection Act, 2010:*  
Any resident of Saskatchewan who's at least 18 years old and who's of the opinion that a contravention against this Act, the regulations or the code has been committed may apply to the minister for an investigation of the alleged contravention [Sec. 71(1)].

YT *Environment Act:*  
1. Any two persons resident in the Yukon, who believe on reasonable grounds that an activity is impairing or is likely to impair the natural environment, may apply to the Minister for an investigation [Sec. 14(1)].  
2. An adult person resident in the Yukon may commence a private prosecution in respect of an offence under this Act or a regulation under this Act or under a schedule 1 enactment or a regulation under a schedule 1 enactment [Sec. 19(1)].