

TRAPS TO AVOID: Providing False Information to Environmental Officials



There are many circumstances in which your company may be required to record or submit certain environmental information to government officials. For example, many business operations or activities that could impact the environment require permits or certificates of approval. And these permits or C of As often require companies to submit various kinds of reports to environmental officials. If you submit false or inaccurate information in such reports, you could be liable for an environmental offence. And governments seem to take such violations very seriously'and often go after not only the companies but also the individuals who submitted the information on the company's behalf.

Consequences of Submitting False Information

It's unclear whether more companies and/or individuals are submitting false environmental information to the government or officials across Canada are simply getting more aggressive in prosecuting those who do. Either way, these cases are just a few examples of the consequences you may face if the information you submit in an environmental report is false, inaccurate or misleading:

- A municipality in Ontario that owned a drinking water system altered log books and provided false information to the MOE. The municipality and three operators who ran the system were fined a total of \$154,500 and the lead operator was sentenced to 30 days' jail [*Municipality of West Elgin, Lloyd Jarvis, Michael Kalita and Chad Yokom*, Govt. News Release, Jan. 13, 2013].
- A contracted employee for an Alberta oil sands exploration company provided false water-use information for several oil sands exploration projects. The company pleaded guilty to one violation, was fined \$9,312 and was ordered to pay \$90,688 to support an environmental project [*Grizzly Oil Sands ULC*, Govt. News Release, April 9, 2013].
- The owner of another Alberta company was convicted of violating the *Environmental Protection and Enhancement Act* by submitting reports to the government that contained false and misleading information. The court fined him \$20,000, barred him from submitting any reports to Environment and Sustainable Resource Development under his company's or any other entity's permit for a year and required him to have an article about the situation run in an issue of an environmental publication [*Brian Buoy*, Govt. News Release, May 16, 2013].
- A sea observer's duties included preparing 'Set and Catch Sheets' for the Department of Fisheries and Oceans (DFO) that documented the fishing activity on the vessel to which he was assigned. A DFO officer compared the private logs of a vessel's skipper to the sea observer's sheets and found several discrepancies. The sea observer was convicted of providing false information in violation of the *Fisheries Act* [*R. v. Oake*, [2012] CanLII 74125 (NL PC), Nov. 23, 2012].
- The Ontario MOE inspected a waste management company's site and found numerous violations, including failing to maintain accurate and up-to-date records of waste volumes and providing false information on PCB contamination of a tanker of waste solvents. The company and its environmental manager pleaded guilty to environmental violations and were fined \$81,000 [*Buckham Transport Ltd. and David Neilson*, Govt. News Release, Aug. 3, 2012].
- A crab fisherman in Newfoundland was convicted of failing to complete his log on a daily basis. The court found that the fisherman was essentially using two sets of books and making false entries in the DFO log to conceal the actual number of crab caught, calling it 'a deliberate and purposeful scheme to mislead.' So it fined him \$40,500 [*Noonan*, Govt. News Release, Jan. 7, 2014].

SOLUTION: Verify Information Submitted Is Accurate

Although there's a difference between a simple error and a deliberate fabrication, both are likely violations. So if your company is required to record and/or submit any environmental information to the government such as in incident reports, environmental assessments, emissions reports, logs and applications for or reports required by permits, licences or C of As your EHS program should include procedures to ensure that such information is accurate and to discourage any falsification of it. For example, if you're required to perform certain environmental tests, such as of water quality or emissions levels, spell out how those tests are to be performed to ensure their results are correct. And make sure that all staff members involved in gathering or

reporting environmental information are properly trained and understand that lying on environmental reports may result in discipline up to, and including, termination as well as possible prosecution by the government.