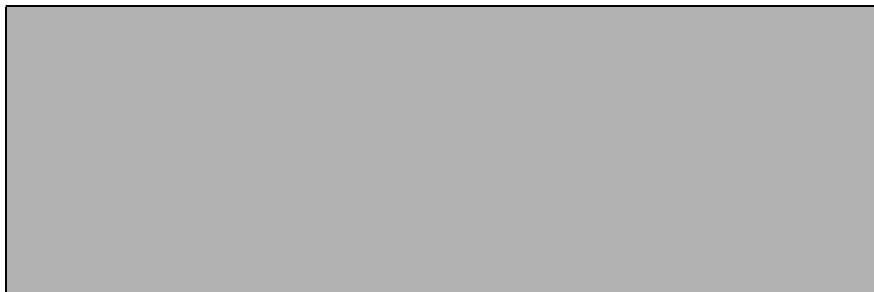




Obtaining an Entry Warrant Under the  
Fire Protection and Prevention Act



December 2004

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**GUIDELINE**



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December 2004  
OFM Section: Fire Safety Standards at (416) 325-3100

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## **Abstract**

This guideline is provided to assist fire officials in obtaining an entry warrant under the authority of Section 14, 20 or 34 of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, and with the preparation of relevant documents necessary to complete this activity. The guideline is intended for guidance only and not to be a statement of law in this area.

## **1.0 INTRODUCTION**

### **1.1 Scope**

Sections 14, 20 and 34 of the Fire Protection and Prevention Act (FPPA) have provisions for obtaining an entry warrant. Section 14 allows a Justice of the Peace to issue a warrant authorizing the Fire Marshal or a fire chief to enter on land or premises for the purpose of conducting an investigation into the cause of a fire or of determining whether a substance or device that is likely to cause a fire is situated on the land or premises. Section 20 allows a Justice of the Peace to issue a warrant authorizing an inspector to enter on land or premises for the purpose of assessing fire safety. Section 34 allows a Justice of the Peace to issue a warrant authorizing the person(s) named in the warrant to enter certain land or premises to take action or to do work, which has been authorized by the Fire Safety Commission.

The procedure for obtaining an entry warrant under Section 14, 20 or 34 is essentially the same. This guideline provides examples and sets out procedures to be used to obtain an entry warrant when dealing with entry warrants outlined in these Sections.

### **1.2 Definitions**

**Affidavit** – a written statement of facts supported by the oath of the person making the statement or by the solemn affirmation, administered by a person authorized by law to administer oaths.

**Information** – a complaint in respect of which a justice is authorized by an Act of Parliament or an enactment made thereunder to make an order.

**Informant** – person swearing to the Information. In the context of this guideline, this includes a “common” informant, the Fire Marshal, fire chief, assistant to the Fire Marshal, or an inspector as defined under the FPPA. Where a person other than the Fire Marshal, fire chief, assistant to the Fire Marshal, or inspector is swearing to the Information, that person is deemed to be a “common” informant. Based upon the facts contained in the file, that person forms the requisite reasonable and probable grounds to believe that an entry warrant is necessary, and attends before the justice to swear to the Information.

## **2.0 CRITERIA NECESSARY TO OBTAIN AN ENTRY WARRANT**

### **2.1 Criteria for Obtaining a Warrant Under Section 14**

An entry warrant can only be obtained under the provisions of Section 14 if there are reasonable grounds to believe that entry on the lands or premises is necessary for the purposes set out in Section 1.1 above, and the Fire Marshal or fire chief has been denied entry or been obstructed or there are reasonable grounds to believe that they will be denied entry or obstructed in exercising any of the powers given to them in Subsections 14(2) and (3).

### **2.2 Criteria for Obtaining a Warrant Under Section 20**

An entry warrant can only be obtained under the provisions of Section 20, if a Justice of the Peace is satisfied that there are reasonable grounds to believe that entry on the lands or premises is necessary to assess fire safety and an inspector (as defined in Section 19, includes the Fire Marshal, fire chief or an assistant to the Fire Marshal), has been denied entry to the land or premises or has been obstructed, or there are reasonable grounds to believe that they will be denied entry or obstructed in exercising any of the powers given to them in Section 19.

### **2.3 Criteria for Obtaining a Warrant Under Section 34**

An entry warrant can be obtained under the provisions of Section 34 if a Justice of the Peace is satisfied that there are reasonable grounds to believe that entry on the lands or premises is necessary for the purpose of doing work that has been authorized by the Fire Safety Commission.

Under Section 34, an entry warrant is necessary and can only be obtained under Section 34 after:

- An order has been made under Subsection 21(1) or (2), or Subsection 25(4) or 26(6), and
- The Fire Safety Commission has made an order pursuant to Section 33 of the FPPA.

## **3.0 STEP-BY-STEP INSTRUCTIONS**

### **3.1 Prepare an “Information To Obtain A Warrant”**

As the FPPA does not prescribe a specific form for this purpose, a sample “Information To Obtain A Warrant” is set out in the Appendix. Parts 5.0 and 6.0 of the guideline provide additional information on customizing the samples and how to obtain sample form templates.

The first step to obtain an entry warrant involves the preparation of an “Information To Obtain A Warrant” and an accompanying affidavit;

- The affidavit and related materials must be completed by a person qualifying as an “inspector” within the meaning of Section 19 of the FPPA for the purpose of obtaining a warrant under Section 20 and the Fire Marshal or a fire chief or the fire chief’s delegate for the purpose of obtaining a warrant under Section 14. It would be advisable for an “inspector” within the meaning of Section 19 of the FPPA completes the affidavit for the purpose of obtaining a warrant under Section 34.
- The affidavit states the grounds for the belief that the entry on the subject lands or premises of the warrant is necessary; where the fire official is not the informant (person swearing the Information), it will be necessary to swear a separate affidavit in support of the Information (refer to sample format provided in the applicable Appendix);
- The subject of the entry warrant should be identified (if the subject is a company, it may be advisable where time permits to obtain the articles of incorporation to verify the correct legal name);
- Accurately describe the location to be entered (e.g. municipal address or, where rural, include lot or part lot number, concession, township, county or district; where there is not a

municipal address or lot number, then give a description of place and buildings by reference to surrounding and distance from other known points);

- For entry under Section 14 or 20, the affidavit should describe the steps previously taken to gain entry; for entry under Section 34, describe the work which has been authorized and which necessitates entering the premises to complete the work (e.g. involves construction or moving of walls, doors, installations, wiring, which cannot be done off site).
- For entry under Section 34, attach a copy of the Inspector's order and Fire Safety Commission order to the affidavit and mark these as exhibits to the affidavit;
- For entry under Section 14, attach evidence that the Fire Marshal or fire chief has delegated his or her powers under Section 14 where this is applicable.
- In the affidavit include an estimation of the time required to complete the investigation or inspection or to complete the work authorized by the Commission (estimate time required or obtain information from the outside contractor who will be doing the work; make the estimate generous so as to account for delays, etc. NOTE – where the work, inspection or investigation is not completed by the expiry date in the warrant, an extension must be obtained);
- In addition to completing the Information To Obtain A Warrant and accompanying affidavit, a draft warrant must also be prepared (follow the applicable example format provided in the Appendix).

### **3.2 Prepare a draft warrant and appendix**

- Since the example format of the warrant includes little room to describe the conditions of the warrant or for outlining the work the Justice of the Peace will be authorizing, it may be more appropriate to complete a separate Appendix to the Warrant (refer to examples);
- The Appendix will form part of the warrant and describes the work the Justice is authorizing to do, the times during which work can be carried out, and the expiry date of the warrant;
- Prepare two sets of the package (i.e. Information To Obtain A Warrant, affidavit with exhibits to the affidavit attached, warrant and Appendix to warrant); one original will be filed with court (i.e. left with the Justice of the Peace), another original will be brought to the place to be entered.

### **3.3 Attend before the Justice of the Peace**

- The package is to be taken before a Justice of the Peace in the jurisdiction where the warrant is to be executed; A Justice of the Peace may receive and consider an application for a warrant without notice to the owner or occupant;
- The informant should indicate to the Justice of the Peace that he/she is seeking a warrant under the FPPA to enter premises;
- The informant should indicate he/she has an affidavit and an Information To Obtain A Warrant that he/she wishes to swear (or affirm, i.e. declare to be true and sign);
- Where the informant is the inspector, swear (or affirm) that the contents of the affidavit are true and sign the affidavit, alternatively, the affidavit can be sworn in advance before any Commissioner of Oaths;

- As applicable, verify that the Commissioner of Oaths or Justice of the Peace signs the affidavit as a commissioner and signs the exhibits attached to the affidavit as a commissioner;
- The Informant/Inspector (as applicable), would swear (or affirm) to the Information that he/she has reasonable grounds to believe and does believe that it is necessary to obtain the warrant; verify that the Justice of the Peace signs as well;
- The Justice of the Peace will consider whether to issue the warrant; (the Justice has the discretion to issue a warrant or not, and may ask questions of the inspector/informant)
- Where the Justice of the Peace decides to grant the warrant, verify that he/she signs the warrant where indicated;
- Make two additional photocopies of the package; one photocopy should be retained for the file and another photocopy should be provided to the owner of the place to be entered if it is requested; ensure that one original package is filed with the court, or, where left with the Justice of the Peace, ascertain that he/she will file the package;
- The inspector should ensure that the second original is kept so that it can be shown to the owner when entry is attempted or alternatively provide a photocopy upon request; note - some Justices will only allow one original to be created, in that case, the Inspector/Informant should retain the original and file a photocopy of the original with the court).

### **3.4 Entry**

- Take an original and a photocopy of the warrant to the premises to be entered within the specified hours and within the prescribed effective dates;
- Unless otherwise restricted by the warrant, the Inspector may take with him/her such other persons that he/she considers advisable, including police officers, as necessary, and may use such force as necessary to make the entry and conduct the investigation or inspection or do the work authorized;
- Retain the original copy of the warrant but provide a photocopy of the warrant to the owner where requested; also identify self to owner or occupier of the land or premises and explain the purpose of the entry on request; (Note – It is preferable, but not essential that the owner or a representative of the owner be present when the warrant is executed. However, where the owner cannot be found, a warrant may be executed with no one present. When executing the warrant, there is no legal requirement to provide the occupant with a copy of the warrant or to post a copy if there is no one present. However, this may be a good practice and there is no harm in doing so.)
- Carry out the specified work, inspection or investigation within the time limit prescribed in the warrant;
- If the work cannot be completed within the time limit of the warrant, the Inspector must apply for an extension of the warrant prior to expiry;

### **3.5 Extensions**

- Prior to the expiry of the warrant, an application for extension may be made without notice to the owner or occupier of the land or premises;

- Using the appropriate example in the Appendices, prepare an Extension of Warrant and Order along with the corresponding affidavit;
- The inspector/informant attends before a Commissioner of Oaths or the Justice of the Peace and swears (or affirms) the affidavit;
- As applicable, verify that the Commissioner of Oaths or the Justice of the Peace signs as a commissioner;
- The informant should request that the Justice of the Peace sign the Order granting an extension of the warrant (copies of the warrant should be shown to the Justice);
- Again, make two additional photocopies of the extension order; one photocopy should be retained for the file and another photocopy should be provided to the owner of the place to be entered if it is requested; ensure that one original package is filed with the court, or, where left with the Justice of the Peace, ascertain that he/she will file the package;
- Re-attend the land or premises with the Extension Order and continue.

#### **4.0 GENERAL**

- It is advisable to have a copy of the FPPA to show the Justice of the Peace when applying for a warrant or for an Extension Order in case he or she wishes to ask questions or refer to it.
- If at any time during the execution of the warrant, notice is received of an application to judicially review or appeal the decision of the Fire Safety Commission, or the decision of the Justice of the Peace in granting the warrant, the fire official should consult with the Office of the Fire Marshal and their municipal legal counsel before continuing to execute the warrant.

#### **5.0 CUSTOMIZING THE EXAMPLE TO SUIT NEEDS**

Appendices A, B, and C each contain sample materials for reference and use in creating the documentation necessary for applying for an entry warrant under:

- Section 14 - Appendix A
- Section 20 - Appendix B
- Section 34 - Appendix C

In the examples, *italics* indicate where information appropriate to the specific situation must be substituted for that shown in the example.

The information in the affidavit should be modified to suit the specific situation, but should include similar type of relevant information as shown in the example.

#### **6.0 FORM TEMPLATES**

A Microsoft Word version of template forms used in this guideline may be obtained through e-mail by phoning 416-325-3227 or by submitting a request through the OFM Webmaster at <http://www.gov.on.ca/OFM/feedback.htm>.

# **Appendix A**

**EXAMPLES FOR OBTAINING AN ENTRY WARRANT**

**UNDER SECTION 14**

**OF THE FPPA**

A-1

**INFORMATION TO OBTAIN A WARRANT**  
**Under Section 14 of the *Fire Protection and Prevention Act S.O. 1997 c.4***

**ONTARIO COURT OF JUSTICE**  
**PROVINCE OF ONTARIO**

This is the information of *John Smith, Inspector, of XYD Fire Department, Anytown, Ontario.*

I have reasonable grounds to believe and do believe that,

It is necessary for the purpose of the administration of the *Fire Protection and Prevention Act* to enter upon the land and premises of *Ontario Chemicals Inc. located at Lot 18, Concession 10, Township of Northern Lakes in the District of Timiskiming, municipally known as 123 Any Street, Northern Lakes, Ontario T0P 4I2.*

And further say that my ground for so believing is:

See attached affidavit and exhibits thereto.

Therefore I request that a warrant be issued to enter upon the said land and premises for the purposes set out in the attached affidavit, sworn the *15<sup>th</sup> day of June, 2003* for the said reasons.

---

Signature of Informant

Sworn (or Affirmed) before me at *Anytown,*  
*in the District of Anydistrict, this 15<sup>th</sup> day*  
*of June, 2003*

---

Justice of the Peace in and for the  
Province of Ontario and/or the  
County District of

A-2

**IN THE MATTER of section 14 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

**AFFIDAVIT**

I *John Smith, of the XYZ Fire Department, Anytown*, in the Province of Ontario MAKE OATH AND SAY (or AFFIRM) AS FOLLOWS:

I am a *firefighter* in the *XYZ Fire Department, Anytown, Ontario* and have personal knowledge of the facts hereinafter deposed to.

Pursuant to Subsection 6(6) of the *Fire Protection and Prevention Act, S.O. 1997, c4*, I have been delegated by the fire chief of the *XYZ Fire Department, Anytown, Ontario* to exercise his/her powers under Section 14 of the Act. A copy of the delegation is attached as Exhibit "A".

I have a reasonable ground to believe and do believe that it is necessary for the purpose of the administration of the *Fire Protection and Prevention Act*, to enter upon the land and premises of *Ontario Chemicals Inc. located at Lot 18, Concession 10, Township of Northern Lakes in the District of Timiskaming, municipally know as 123 Any Street, Northern Lakes, Ontario TOP 4I2*, and my ground for so stating is:

*Ontario Chemicals Inc. is the owner of the land or premises located at Lot 18, Concession 10, Township of Northern Lakes in the District of Timiskaming, municipally known as 123 Any Street, Northern Lakes, Ontario TOP 4I2.*

On or about *June 14, 2003*, a fire occurred on the land and premises of *Ontario Chemicals Inc.* at the aforementioned location.

When I *attempted to enter the premises on the morning of June 15, 2003*, I was told by *Mr. \_\_\_\_\_, who identified himself as the manager of the premises, that an investigation was not necessary and I could not enter unless I had a court order.*

For the purposes of investigating the cause of the fire it is necessary to enter the lands and premises of *Ontario Chemicals Inc.* at the aforementioned location and to exercise the powers referred to in Subsection 14(2) or (3) of the *Fire Protection and Prevention Act, S.O. 1997 c.4.*

I believe that the work will take until approximately \_\_\_\_\_, 20\_\_, to complete.

I make this affidavit in support of an Information to obtain a warrant to enter the lands and premises of *Ontario Chemicals Inc.* and to investigate the cause of a fire and for no improper purpose.

Sworn (or Affirmed) before me at the

Office of the Fire Marshal of Ontario

*Anytown, in the District of  
Anydistrict, this 15<sup>th</sup> day  
of June, 2003*

---

Signature of Deponent

---

Commissioner for Taking Affidavits

**Please note that all exhibits attached to an affidavit must be commissioned at the same time as the commissioning of the Affidavit, by the same Commissioner of Oaths who commissioned the affidavit. Somewhere on the face of every exhibit, the following should be indicated:**

*This is Exhibit \_\_\_\_\_ to the affidavit of  
\_\_\_\_\_ sworn before  
me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_*

**EXHIBIT A**

Pursuant to Subsection 6(6) of the *Fire Protection and Prevention Act*, S.O. c.4 this is to certify that John Smith is authorized under the Act to conduct an investigation into the cause, or origin and circumstances of any fire or any explosion, and is further authorized to enter on land or premises or adjacent land or premises for the purpose set out in section 14 of the Act.

Expires December 31, 2005

\_\_\_\_\_  
Signature of Fire Chief

\_\_\_\_\_  
Signature of Holder

A-4

**WARRANT**

**Under Section 14 of the  
*Fire Protection and Prevention Act, S.O. 1997, c.4***

**ONTARIO COURT OF JUSTICE  
PROVINCE OF ONTARIO**

IN THE MATTER of an investigation into the cause of a fire upon the property of *Ontario Chemicals Inc.* pursuant to Section 14 of the *Fire Protection and Prevention Act, S.O. 1997, c.4*

To:

*John Smith, Inspector*, and such other persons as he considers advisable.

Whereas, upon reading the Information on oath of *John Smith, Inspector*, made on the *15<sup>th</sup>* day of *June 2003* at *Anytown* and attachments thereto.

*(recite other material considered on motion)*

This is to authorize you to:

**See Appendix "A" to Warrant**

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

at \_\_\_\_\_

\_\_\_\_\_  
Justice of the Peace in and for the Province  
of Ontario and/or the County District of

A-5

**Appendix "A" to Warrant**

**Under Section 14 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

Enter upon the land and premises of *Ontario Chemicals Inc. legally described as Lt 18, Concession 10 in the Township of Northern Lakes in the District of Timiskaming, municipally known as 123 Any Street, Northern Lakes, Ontario TOP 4I2*, for the purpose of the administration of the *Fire Protection and Prevention Act*.

Take all steps necessary to do one or a combination of the following:

- (a) close, and prevent entry to, the land or premises for the length of time necessary to complete the examination of the land or premises;
- (b) remove from the land or premises, retain and examine any article or material, and take such samples or photographs, make videotapes and other images electronic or otherwise that in your opinion may be of assistance in determining the cause of the fire under investigation;
- (c) make such excavations on the land or premises as you consider necessary;
- (d) require that any machinery, equipment or device be operated, used or set in motion under specified conditions; and
- (e) make any reasonable inquiry of any person, orally or in writing.

Call on any other person you consider advisable to execute this warrant.

Carry out all such actions as outlined herein for up to twenty-four hours each day during the currency of this warrant.

This warrant expires at *12.01 a.m. on July 15, 2003*.

**ORDER FOR EXTENSION OF WARRANT**

**Under Section 14 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

**ONTARIO COURT OF JUSTICE  
PROVINCE OF ONTARIO**

IN THE MATTER of an application for the extension of the expiry date on a warrant authorizing an Inspector to investigate the cause of a fire upon the property of *Ontario Chemicals Inc.* issued pursuant to Section 14 of the *Fire Protection and Prevention Act, S.O. 1997, c.4.*

Pursuant to Subsection 14(8) of the *Fire Protection and Prevention Act, S.O. 1997, c.4*, I hereby order an extension of the warrant issued on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_, at \_\_\_\_\_, Ontario, authorizing an Inspector of the *XYZ Fire Department* to investigate a fire upon the property of *Ontario Chemicals Inc., 123 Any Street, Northern Lights, Ontario TOP 412.*

This extension shall be effective until \_\_\_\_\_ am/pm on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

Justice of the Peace in and for the  
Province of Ontario and/or the  
County/District of

**IN THE MATTER of Section 14 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

AND IN THE MATTER of an application for the extension of the expiry date on a warrant authorizing an Inspector to investigate the cause of a fire upon the property of *Ontario Chemicals Inc.* issued pursuant to Section 14 of the Fire Protection and Prevention Act, S.O. 1997, c.4.

**AFFIDAVIT**

I *John Smith, of the XYZ Fire Department, Anytown*, in the Province of Ontario MAKE OATH AND SAY (or AFFIRM) AS FOLLOWS:

I am an Inspector in the *XYZ Fire Department, Anytown*, Ontario and have personal knowledge of the facts hereinafter deposed to.

On the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, a warrant to enter the premises of *Ontario Chemicals Inc., located at 123 Any Street, Northern Lights, Ontario TOP 412* was issued to me by \_\_\_\_\_, at \_\_\_\_\_ Ontario. Attached hereto and marked as Exhibit "A" to this my affidavit is a copy of the Warrant.

I attended at the premises of the said *Ontario Chemicals Inc.* to conduct an investigation into the cause of a fire as authorized in the said warrant on \_\_\_\_\_, 20\_\_\_\_.

The investigation has not yet been completed, (*explain why*) and will not be completed until \_\_\_\_\_, 20\_\_\_\_.

As the aforesaid warrant expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and it is necessary to enter upon the aforesaid lands and premises in order to complete the investigation, an extension of the aforesaid warrant is requested.

I make this affidavit in support of an application for extension of the warrant to enter the lands and premises of *Ontario Chemicals Inc.* and for no improper purpose.

Sworn (or Affirmed) before me  
at the \_\_\_\_\_  
on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Deponent

\_\_\_\_\_  
Commissioner for Taking Affidavits

# **Appendix B**

**EXAMPLES FOR OBTAINING AN ENTRY WARRANT**

**UNDER SECTION 20**

**OF THE FPPA**

B-1

**INFORMATION TO OBTAIN A WARRANT**  
**Under Section 20 of the *Fire Protection and Prevention Act S.O. 1997 c.4***

**ONTARIO COURT OF JUSTICE**  
**PROVINCE OF ONTARIO**

This is the information of *John Smith, Inspector, of XYD Fire Department, Anytown, Ontario.*

I have reasonable grounds to believe and do believe that,

It is necessary for the purpose of the administration of the *Fire Protection and Prevention Act* to enter upon the land and premises of *Ontario Chemicals Inc. located at Lot 18, Concession 10, Township of Northern Lakes in the District of Timiskiming, municipally known as 123 Any Street, Northern Lakes, Ontario TOP 412.*

And further say that my ground for so believing is:

See attached affidavit and exhibits thereto.

Therefore I request that a warrant be issued to enter upon the said land and premises for the purposes set out in the attached affidavit, sworn the *15<sup>th</sup> day of June, 2003* for the said reasons.

---

Signature of Informant

Sworn (or Affirmed) before me at *Anytown,*  
*in the District of Anydistrict, this 15<sup>th</sup> day*  
*of June, 2003*

---

Justice of the Peace in and for the  
Province of Ontario and/or the  
County District of

B-2

**IN THE MATTER of Section 20 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

**AFFIDAVIT**

I *John Smith, of the XYZ Fire Department, Anytown*, in the Province of Ontario MAKE OATH AND SAY (or AFFIRM) AS FOLLOWS:

I am an *Inspector* in the *XYZ Fire Department, Anytown, Ontario* and have personal knowledge of the facts hereinafter deposed to.

I have a reasonable ground to believe and do believe that it is necessary for the purpose of the administration of the *Fire Protection and Prevention Act*, to enter upon the land and premises of *Ontario Chemicals Inc. located at Lot 18, Concession 10, Township of Northern Lakes in the District of Timiskaming, municipally know as 123 Any Street, Northern Lakes, Ontario TOP 412*, and my ground for so stating is:

*Ontario Chemicals Inc. is the owner of the land or premises located at Lot 18, Concession 10, Township of Northern Lakes in the District of Timiskaming, municipally known as 123 Any Street, Northern Lakes, Ontario TOP 412.*

*On or about June 14, 2003, we received a telephone complaint that there are in or upon the buildings or premises of Ontario Chemicals Inc. at the aforementioned location combustible or explosive materials or conditions dangerous to the safety of the buildings or premises or to adjoining property.*

*The capacity of the dike system around the tank farm is inadequate to contain possible spills, ruptures or leakage and the water that may need to be applied during subsequent fire fighting operations.*

*Inadequate provisions exist to confine anticipated product leakage and released water from the automatic sprinkler system during a possible fire in the storage building.*

*The yard fencing is inadequate to discourage unwanted entry unto the premises.*

*Unsegregated storage of flammable and combustible liquids and oxidizers creates an unacceptable fire loading and fire hazard in the storage building.*

*The fire alarm system installed within the two buildings at this site fails to provide proper annunciation.*

On or about *June 14, 2003*, I attempted to enter the premises of *Ontario Chemicals Inc.* at the aforementioned location for the purpose of conducting an inspection to verify the

information contained in the complaint and to assess the fire safety of the premises. *I encountered a locked gate. When I telephoned the company to arrange access through the gate, I was told by Mr. \_\_\_\_\_, who identified himself as the manager of the premises that I could not enter unless I had a court order.*

I make this affidavit in support of an Information to obtain a warrant to enter the lands and premises of *Ontario Chemicals Inc.* for the purpose of assessing fire safety and for no improper purpose. It is estimated that it will take \_\_\_\_ days to complete the inspection.

Sworn (or Affirmed) before me at the  
*Anytown, in the District of  
Anydistrict, this 15<sup>th</sup> day  
of June, 2003*

---

Signature of Deponent

---

Commissioner for Taking Affidavits

B-3

**WARRANT**

**Under Section 20 of the  
*Fire Protection and Prevention Act S.O. 1997, c.4***

**ONTARIO COURT OF JUSTICE  
PROVINCE OF ONTARIO**

IN THE MATTER of an inspection of *Ontario Chemicals Inc.* pursuant to Section 19 of the *Fire Protection and Prevention Act, S.O. 1997, c.4*

To:

*John Smith*, Inspector, and such other persons as he considers advisable.

Whereas, upon reading the Information on oath of *John Smith*, Inspector, made on the *15<sup>th</sup>* day of *June 2003* at *Anytown* and attachments thereto.

*(recite other material considered on motion)*

This is to authorize you to:

**See Appendix "A" to Warrant**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_

\_\_\_\_\_  
Justice of the Peace in and for the Province  
of Ontario and/or the County District of

B-4

**Appendix "A" to Warrant**

**Under Section 20 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

Enter upon the land and premises of *Ontario Chemicals Inc. legally described as Lot 18, Concession 10 in the Township of Northern Lakes in the District of Timiskaming, municipally known as 123 Any Street, Northern Lakes, Ontario TOP 4I2*, for the purpose of the administration of the *Fire Protection and Prevention Act*.

Take all steps necessary to do one or a combination of the following:

- (a) examine a document or other thing that is relevant to the inspection;
- (b) demand the production for inspection of a document or other thing that is relevant to the inspection;
- (c) remove any thing that is relevant to the inspection for review and examination and remove any document that is relevant to the inspection for review and copying;
- (d) conduct tests, take and remove samples, take photographs and make videotapes and other images, electronic or otherwise, that are relevant to the inspection;
- (e) in order to produce a document in readable form, use data storage, information processing or retrieval devices or systems that are normally used in the premises being inspected; and
- (f) question a person on matters relevant to the inspection.

Call on any other person you consider advisable to execute this warrant.

Carry out all such actions as outlined herein for up to twenty-four hours each day during the currency of this warrant.

This warrant expires at 12.01 a.m. on June 22, 2003.

**ORDER FOR EXTENSION OF WARRANT**

**Under Section 20 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

**ONTARIO COURT OF JUSTICE  
PROVINCE OF ONTARIO**

IN THE MATTER of an application for the extension of the expiry date on a warrant authorizing an Inspector to assess fire safety upon the property of *Ontario Chemicals Inc.* issued pursuant to Section 20 of the *Fire Protection and Prevention Act, S.O. 1997, c.4.*

Pursuant to Subsection 20(3) of the *Fire Protection and Prevention Act, S.O. 1997, c.4*, I hereby order an extension of the warrant issued on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_, at \_\_\_\_\_, Ontario, authorizing an Inspector of the *XYZ Fire Department* to enter for the purpose of the administration of the *Fire Protection and Prevention Act* upon the property of *Ontario Chemicals Inc., 123 Any Street, Northern Lights, Ontario T0P 4I2.*

This extension shall be effective until \_\_\_\_\_ am/pm on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

Justice of the Peace in and for the  
Province of Ontario and/or the  
County/District of

**IN THE MATTER of Section 20 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

AND IN THE MATTER of an application for the extension of the expiry date on a warrant authorizing an Inspector to assess fire safety upon the property of *Ontario Chemicals Inc.* issued pursuant to Section 20 of the *Fire Protection and Prevention Act, S.O. 1997, c.4.*

**AFFIDAVIT**

I *John Smith, of the XYZ Fire Department, Anytown,* in the Province of Ontario MAKE OATH AND SAY (or AFFIRM) AS FOLLOWS:

I am an Inspector in the *XYZ Fire Department, Anytown,* Ontario and have personal knowledge of the facts hereinafter deposed to.

On the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, a warrant to enter the premises of *Ontario Chemicals Inc., located at 123 Any Street, Northern Lights, Ontario TOP 4I2* was issued to me by \_\_\_\_\_, at \_\_\_\_\_ Ontario. Attached hereto and marked as Exhibit "A" to this my affidavit is a copy of the Warrant.

I attended at the premises of the said *Ontario Chemicals Inc.* for the purpose of the administration of the *Fire Protection and Prevention Act* as authorized in the said warrant on \_\_\_\_\_, 20\_\_\_\_.

The inspection has not yet been completed, (*explain why*) and I do verily believe that the remainder of the inspection will not be completed until \_\_\_\_\_, 20\_\_\_\_.

As the aforesaid warrant expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and it is necessary to enter upon the aforesaid lands and premises in order to complete the inspection, an extension of the aforesaid warrant is requested.

I make this affidavit in support of an application for extension of the warrant to enter the lands and premises of *Ontario Chemicals Inc.* and for no improper purpose.

Sworn (or Affirmed) before me  
at the \_\_\_\_\_  
on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Deponent

\_\_\_\_\_  
Commissioner for Taking Affidavits

# **Appendix C**

**EXAMPLES FOR OBTAINING AN ENTRY WARRANT**

**UNDER SECTION 34**

**OF THE FPPA**

C-1

**INFORMATION TO OBTAIN A WARRANT**  
**Under Section 34 of the *Fire Protection and Prevention Act S.O. 1997 c.4***

**ONTARIO COURT OF JUSTICE**  
**PROVINCE OF ONTARIO**

This is the information of *John Smith, Inspector, of XYD Fire Department, Anytown, Ontario.*

I have reasonable grounds to believe and do believe that,

It is necessary for the purpose of the administration of the *Fire Protection and Prevention Act* to enter upon the land and premises of *Ontario Chemicals Inc. located at Lot 18, Concession 10, Township of Northern Lakes in the District of Timiskiming, municipally known as 123 Any Street, Northern Lakes, Ontario TOP 412.*

And further say that my ground for so believing is:

See attached affidavit and appendices thereto.

Therefore I request that a warrant be issued to enter upon the said land and premises and cause the thing or things to be done as set out in Exhibit "B" (the Fire Safety Commission Order) to my attached affidavit, sworn the *4<sup>th</sup> day of June, 2003* for the said reasons.

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Signature of Informant

Sworn (or Affirmed) before me at *Anytown,*  
*in the District of Anydistrict, this 4<sup>th</sup> day*  
*of June, 2003*

---

Justice of the Peace in and for the  
Province of Ontario and/or the  
County District of

C-2

**IN THE MATTER of Section 34 of the  
Fire Protection and Prevention Act S.O. 1997 c.4**

**AFFIDAVIT**

I *John Smith, of the XYZ Fire Department, Anytown*, in the Province of Ontario MAKE OATH AND SAY (or AFFIRM) AS FOLLOWS:

I am an Inspector in the *XYZ Fire Department, Anytown, Ontario* and have personal knowledge of the facts hereinafter deposed to.

I have a reasonable ground to believe and do believe that it is necessary for the purpose of the administration of the *Fire Protection and Prevention Act*, to enter upon the land and premises of *Ontario Chemicals Inc. located at Lot 18, Concession 10, Township of Northern Lakes in the District of Timiskaming, municipally know as 123 Any Street, Northern Lakes, Ontario TOP 412*, and my ground for so stating is:

*Ontario Chemicals Inc. is the owner of the land or premises located at Lot 18, Concession 10, Township of Northern Lakes in the District of Timiskaming, municipally known as 123 Any Street, Northern Lakes, Ontario TOP 412.*

On or about *April 14, 2003*, I inspected the land and premises of *Ontario Chemicals Inc.* at the aforementioned location and found that there are in or upon the buildings or premises *combustible or explosive materials or conditions dangerous to the safety of the buildings or premises or to adjoining property*. Pursuant to Section 21 of the *Fire Protection and Prevention Act, S.O. 1997, c.4*, I issued an order dated *April 15, 2003* requiring *Ontario Chemicals Inc. to remove combustible or explosive materials or anything that may constitute a fire menace*. A copy of the said order is attached as Exhibit "A". The grounds for my order are as follows:

*The capacity of the dike system around the tank farm is inadequate to contain possible spills, ruptures or leakage and the water that may need to be applied during subsequent fire fighting operations.*

*Inadequate provisions exist to confine anticipated product leakage and released water from the automatic sprinkler system during a possible fire in the storage building.*

*The yard fencing is inadequate to discourage unwanted entry unto the premises.*

*Unsegregated storage of flammable and combustible liquids and oxidizers creates an unacceptable fire loading and fire hazard in the storage building.*

*The fire alarm system installed within the two buildings at this site fails to provide proper annunciation.*

On or about *May 10, 2003*, I applied to the Fire Safety Commission for an order authorizing me to cause the things set out in my order to be done. The Fire Safety Commission, after a hearing held on *May 21, 2003*, authorized me to cause to be done the things required by order dated *April 15, 2003* issued pursuant to Section 21 of the *Fire Protection and Prevention Act*, S.O. 1997 c.4, as *Ontario Chemicals Inc.* has refused to comply with or is not complying with the said order and is not likely, in the Commission's opinion, to comply with the order promptly and in the Commission's opinion, failure to do the thing would seriously endanger the health or safety of any persons or the quality of the natural environment for any use that can be made of it. A copy of the Commission's order dated *May 21, 2003* is attached hereto as Exhibit "B".

As of the date of this affidavit the work outlined in Exhibit "B" is still outstanding. Entry upon the aforesaid lands or premises is necessary for the purpose of doing the said work. (*Set out reasons why it is essential to enter upon the property to complete the authorized work.*)

I am advised by (*i.e. contractor*), and do verily believe that the work will take until approximately \_\_\_\_\_, 20\_\_\_\_, to complete.

I make this affidavit in support of an Information to obtain a warrant to enter the lands and premises of *Ontario Chemicals Inc.* for the purpose of assessing fire safety and for no improper purpose.

Sworn (or Affirmed) before me at the  
*Anytown, in the District of*  
*Anydistrict, this 4<sup>th</sup> day*  
*of June, 2003*

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Signature of Deponent

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Commissioner for Taking Affidavits

C-3

**WARRANT**

**Under Section 34 of the  
*Fire Protection and Prevention Act S.O. 1997, c.4***

**ONTARIO COURT OF JUSTICE  
PROVINCE OF ONTARIO**

IN THE MATTER of an Order of the Fire Safety Commission dated *May 21, 2003* authorizing the Fire Marshal, or an Inspector to do a thing or things upon the property of *Ontario Chemicals Inc.* issued pursuant to Section 33 of the *Fire Protection and Prevention Act, S.O. 1997, c.4*

To:

*John Smith*, Inspector, and such other persons as he considers advisable.

Whereas, upon reading the Information on oath of *John Smith*, Inspector, made on the *4<sup>th</sup> day of June 2003 at Anytown* and attachments thereto.

*(recite other material considered on motion)*

This is to authorize you to:

**See Appendix "A" to Warrant**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Justice of the Peace in and for the Province  
of Ontario and/or the County District of

C-4

**Appendix "A" to Warrant**

**Under Section 34 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

Enter upon the land and premises of *Ontario Chemicals Inc. legally described as Lt 18, Concession 10 in the Township of Northern Lakes in the District of Timiskaming, municipally known as 123 Any Street, Northern Lakes, Ontario T0P 4I2*, for the purpose of the administration of the *Fire Protection and Prevention Act*.

Take all steps necessary to do one or a combination of the following: *(List the thing or things to be done that are outlined in the Fire Safety Commission's Order.)*

*(a)*

*(b)*

*(c)*

*(d)*

Call on any other person you consider advisable to execute this warrant.

Carry out all such actions as outlined herein for up to twenty-four hours each day during the currency of this warrant.

This warrant expires at 12.01 a.m. on July 20, 2003.

**ORDER FOR EXTENSION OF WARRANT**

**Under Section 34 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

**ONTARIO COURT OF JUSTICE  
PROVINCE OF ONTARIO**

IN THE MATTER of an application for an extension of the expiry date on a warrant authorizing an Inspector to do a thing or things upon the property of *Ontario Chemicals Inc.* issued pursuant to Section 34 of the *Fire Protection and Prevention Act, S.O. 1997, c.4.*

Pursuant to Subsection 34(3) of the *Fire Protection and Prevention Act, S.O. 1997, c.4*, I hereby order an extension of the warrant issued on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_, at \_\_\_\_\_, Ontario, authorizing an Inspector of the *XYZ Fire Department* to enter for the purpose of the administration of the *Fire Protection and Prevention Act* upon the property of *Ontario Chemicals Inc., 123 Any Street, Northern Lights, Ontario T0P 4I2.*

This extension shall be effective until \_\_\_\_\_ am/pm on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

Justice of the Peace in and for the  
Province of Ontario and/or the  
County/District of

**IN THE MATTER of Section 34 of the  
*Fire Protection and Prevention Act S.O. 1997 c.4***

AND IN THE MATTER of an application for an extension of the expiry date on a warrant authorizing an Inspector to do a thing or things upon the property of *Ontario Chemicals Inc.* issued pursuant to Section 34 of the *Fire Protection and Prevention Act, S.O. 1997, c.4.*

**AFFIDAVIT**

I *John Smith, of the XYZ Fire Department, Anytown*, in the Province of Ontario MAKE OATH AND SAY (or AFFIRM) AS FOLLOWS:

I am an Inspector in the *XYZ Fire Department, Anytown*, Ontario and have personal knowledge of the facts hereinafter deposed to.

On the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, a warrant to enter the premises of *Ontario Chemicals Inc., located at 123 Any Street, Northern Lights, Ontario TOP 4I2* was issued to me by \_\_\_\_\_, at \_\_\_\_\_ Ontario. Attached hereto and marked as Exhibit "A" to this my affidavit is a copy of the Warrant.

I attended at the premises of the said *Ontario Chemicals Inc.* to complete the work authorized by the Fire Safety Commission as authorized in the said warrant on \_\_\_\_\_, 20\_\_\_\_.

The work to be done has not yet been completed (explain why) and I am advised by \_\_\_\_\_ and do verily believe that the remaining work will not be completed until \_\_\_\_\_, 20\_\_\_\_.

As the aforesaid warrant expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and it is necessary to enter upon the aforesaid lands and premises in order to complete the work, an extension of the aforesaid warrant is requested.

I make this affidavit in support of an application for extension of the warrant to enter the lands and premises of *Ontario Chemicals Inc.* and for no improper purpose.

Sworn (or Affirmed) before me  
at the \_\_\_\_\_  
on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Deponent

\_\_\_\_\_  
Commissioner for Taking Affidavits