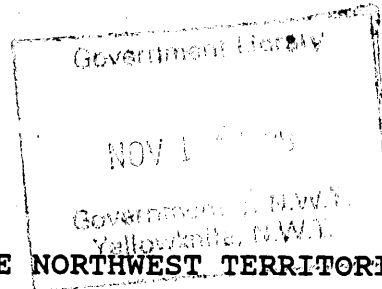


T.D. No. 62 - 88(2)

Tabled on November 7, 1988



LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

ENVIRONMENTAL PROTECTION ACT

Statement of Purpose

The purpose of the proposed Bill is to protect the environment of the Northwest Territories by regulating or prohibiting the discharge of contaminants, certain prescribed substances, hazardous waste and pesticides into that environment; to provide that persons who pollute can be required to restore the environment; to regulate the disposal of litter and unsightly land; to provide substantial penalties for persons who commit offences against the Act; and to repeal the existing Environmental Protection Act and the Pesticide Act.

IMPORTANT

This Bill is tabled for public review. This proposed Act does not represent the final policy of the Government of the Northwest Territories and is subject to change after public review and comment. Furthermore, changes of a technical nature can be expected to prepare the Bill for introduction in the Legislative Assembly.

ENVIRONMENTAL PROTECTION ACT

The Commissioner of the Northwest Territories, by and with the advice and consent of the Legislative Assembly, enacts as follows:

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INTERPRETATION

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Definitions	1. In this Act,	
"analyst"	"analyst" means an analyst appointed under section 9;	
"applicant"	"applicant" means a person who applies for a licence;	15
"contaminant"	"contaminant" means any substance that, if discharged into the environment, (a) endangers the health, safety or welfare of persons, (b) interferes with normal enjoyment of life or property, (c) endangers the health of animal life, or (d) causes damage to plant life or to property, and includes a pesticide;	20 25
"Director"	"Director" means the Director of Pollution Control appointed under subsection 6(1);	30
"discharge"	"discharge" includes abandon, apply, burn, deposit, drain, dump, emit, empty, leak, place, pour, pump, release, spill, spray, spread or throw;	
"environment"	"environment" means the components of the Earth and includes (a) air, land and water, (b) all layers of the atmosphere, (c) all organic and inorganic matter and living organisms, and (d) the interacting natural systems that include components referred to in paragraphs (a) to (c);	35 40
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"hazardous waste"	<p>"hazardous waste" means a contaminant that is produced or acquired for a purpose and that is no longer used for that purpose because</p> <ul style="list-style-type: none"> <li>(a) the properties or qualities of the contaminant have changed after being used, or</li> <li>(b) the use of the contaminant is prohibited by law,</li> </ul> <p>and includes any substance prescribed to be hazardous waste, but does not include a substance that</p> <ul style="list-style-type: none"> <li>(c) originates from a residence,</li> <li>(d) is included in Class 1 or 7 under the <u>Transportation of Dangerous Goods Act</u>, as amended from time to time, or</li> <li>(e) is prescribed not to be hazardous waste;</li> </ul>	5  10  15
"highway"	<p>"highway" means a highway as defined in the <u>Motor Vehicles Act</u>;</p>	20
"inspector"	<p>"inspector" means a pollution control inspector appointed under subsection 10(1) and a person who <u>ex officio</u> is a pollution control inspector under section 12;</p>	25
"justice"	<p>"justice" includes a territorial judge;</p>	30
"licence"	<p>"licence" means a licence issued under this Act;</p>	35
"litter"	<p>"litter" means</p> <ul style="list-style-type: none"> <li>(a) any rubbish, refuse, debris or trash that is in a solid or liquid form,</li> <li>(b) any paper, package, container, bottle or can,</li> <li>(c) the whole or part of any vehicle, equipment or machinery, or</li> <li>(d) any other prescribed material, product or thing,</li> </ul> <p>but does not include hazardous waste;</p>	40
"mark"	<p>"mark" means a stamp, tag or other means of identification attached to a place or thing;</p>	45
"municipal corporation"	<p>"municipal corporation" means a corporation established or continued as</p> <ul style="list-style-type: none"> <li>(a) a city, town or village under the <u>Cities, Towns and Villages Act</u>,</li> <li>(b) a hamlet under the <u>Hamlet Act</u>, or</li> <li>(c) a charter community under the <u>Charter Communities Act</u>;</li> </ul>	50

"municipality"	"municipality" means the geographic area of jurisdiction of a municipal corporation;	
"pesticide"	"pesticide" means any toxic or noxious substance or mixture of substances used, intended, sold or represented for use in preventing, destroying, repelling or mitigating any insect, nematode, rodent, predator, animal, bacteria, fungus, weed or other form of plant or animal life or virus, except a virus, bacteria or fungus in living humans or animals;	5 10
"prescribed"	"prescribed" means prescribed by regulation;	
"preventive measure"	"preventive measure" means any step taken or thing done to prevent (a) impairment to the environment, (b) danger to any person, or (c) damage to property or plant or animal life;	15 20
"public land"	"public land" means land vested in Her Majesty in right of Canada or land that may be disposed of by the Government of Canada, the Commissioner or the Government of the Northwest Territories and includes highways;	25
"restore"	"restore" means to do all things and take all steps necessary to return the environment, as closely as possible, to the condition or state that the environment was in immediately before the discharge of a contaminant or prescribed substance;	30
"substance"	"substance" means any solid, liquid, gas, odour or organism, or combination of any of them;	35
"vehicle"	"vehicle" includes any vehicle designed to travel on land that is drawn, propelled or driven by any kind of power, including muscular power, and includes an all-terrain vehicle as defined in the <u>All-terrain Vehicles Act</u> and a device that is designed to run on rails.	40

GOVERNMENT OF THE NORTHWEST TERRITORIES

Binding on  
Government

2. This Act and the regulations bind the Government of the Northwest Territories and its agents.

PART I

ADMINISTRATION

Agreements	3.(1) The Minister may enter into agreements with a province or the Yukon Territory, or with any person, institution, organization or firm respecting the administration and enforcement of	5
	(a) this Act and the regulations; or	
	(b) any Act or regulation of a province or the Yukon Territory relating to contaminants, prescribed substances or other environmental concerns.	10
<u>Idem</u>	(2) The Minister and the Commissioner may enter into agreements with the Government of Canada respecting the administration and enforcement of	15
	(a) this Act and the regulations; or	
	(b) any Act or regulation of the Government of Canada relating to contaminants, prescribed substances or other environmental concerns.	20
Powers of Minister	4. The Minister may	
	(a) establish, operate and maintain stations to monitor the quality of the environment in the Territories;	25
	(b) conduct research studies, conferences and training programs relating to contaminants, prescribed substances and other environmental concerns;	30
	(c) develop, co-ordinate and administer policies, standards, guidelines and codes of practice relating to the preservation and protection of the environment;	
	(d) collect, publish and disseminate information relating to contaminants, prescribed substances litter and other environmental concerns; and	35
	(e) compile, study and assess information directly or indirectly related to matters pertaining to the environment for the purpose of using the results of such study or assessment to carry out his or her powers and duties under this Act.	40
Committees	5.(1) The Minister may establish committees to perform functions relating to environmental quality or control or the administration of this Act.	45
Appointment and term	(2) Where the Minister establishes a committee under subsection (1), the Minister may	50
	(a) appoint the members of the committee;	

	(b) establish the term of office of the members;	
	(c) designate a chairperson, vice-chairperson and secretary for the committee; and	
	(d) provide for the remuneration of the members of the committee for their services and allowances for travelling and other expenses.	5
Functions	(3) The Minister may specify the functions that the committees are to perform and the manner in which the functions are to be performed.	10
Director	6.(1) The Minister shall appoint a Director of Pollution Control.	15
Delegation	(2) The Minister may delegate any of his or her powers and duties to the Director.	
<u>Idem</u>	7. The Director may delegate any of his or her powers or duties, other than powers or duties delegated to the Director by the Minister, to any other person.	20
Experts and technical advisors	8. The Director may from time to time engage the services of experts or persons having special technical or other knowledge to advise the Director or to inquire into and report to the Director on matters within the Director's jurisdiction under this Act or the regulations.	25 30
Analysts	9. The Minister may appoint analysts.	
Inspectors	10.(1) The Director may appoint pollution control inspectors.	35
Powers and duties	(2) The Director shall specify in the appointment the powers and duties under this Act and the regulations that may be performed or exercised by the inspector.	40
Supervision and instruction	(3) The Director, or a person designated by the Director, shall supervise and instruct each inspector in the exercise of the inspector's powers and the performance of the inspector's duties.	45
Powers of Director	(4) The Director may exercise any of the powers or perform any of the duties of an inspector.	

Certificate of identification	11. Every inspector, other than an <u>ex officio</u> inspector, must be furnished with a certificate of identification in a form approved by the Director, and on entering any place, building or vehicle under this Act, the inspector shall, if so requested by the owner or person in control, produce the certificate.	5
<u>Ex officio</u> inspectors	12. All members of the Royal Canadian Mounted Police are <u>ex officio</u> inspectors.	10
Public inquiry	13.(1) Where a discharge of any contaminant or prescribed substance has resulted in injury or death to any person, danger or potential danger to the health or safety of the public or damage to property or the environment, the Minister may direct that a public inquiry be held.	15
Appointment	(2) The Minister may appoint persons to conduct the inquiry.	20
<u>Public Inquiries Act</u>	(3) The provisions of the <u>Public Inquiries Act</u> apply to a public inquiry held under this Act.	25

PART II

CONTAMINANTS AND OTHER SUBSTANCES

Prohibitions 30

Discharge of contaminants	14.(1) Subject to section 16, no person shall discharge a contaminant into the environment.	
<u>Idem</u>	(2) Subject to section 16, no person responsible for a source of a contaminant shall permit the discharge of the contaminant from that source into the environment.	35
Discharge of prescribed substances	15.(1) Subject to section 16, no person shall discharge a prescribed substance into the environment in the prescribed amount, concentration or level for that substance.	40
<u>Idem</u>	(2) Subject to section 16, no person responsible for a source of a prescribed substance shall permit the discharge of the substance from that source into the environment in the prescribed amount, concentration or level for that substance.	45

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**Exceptions**

16. Sections 14 and 15 do not apply to the discharge of contaminants or prescribed substances

- (a) authorized by this Act or the regulations or by an order or licence issued under this Act;
- (b) from a residence;
- (c) from the exhaust system of a vehicle;
- (d) caused by the burning of leaves, foliage, wood, crops or stubble for domestic or agricultural purposes;
- (e) from burning for land clearing or land grading;
- (f) from a fire that is authorized under the Forest Protection Act;
- (g) that are soil particles or grit in the course of agriculture or horticulture; or
- (h) that are pesticides or biocides being discharged for agricultural, domestic or forestry purposes in compliance with this Act, the Pest Control Products Act (Canada) and any other Act and regulation governing their use.

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**Transport**

17.(1) The Director may direct a person who transports a contaminant or a prescribed substance for compensation or as part of that person's business activities to submit a plan that sets out the response of the person and his or her employees if a contaminant or prescribed substance being transported by the person is discharged into the environment.

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**Submission of plan**

(2) A person who is subject to a direction under subsection (1) shall submit to the Director a plan that is satisfactory to the Director within 20 days of receiving the direction.

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**Operation of Plants**

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**Definition of "plant"**

18. In sections 19 to 22, "plant" means

- (a) a plant for the manufacture of petroleum products, natural gas products, primary metal products, chemical products, pulp and paper products, stone, clay or glass products, cement and lime products, fertilizers or animal by-products, asphalt or concrete;
- (b) a plant for the processing of metal, wood or wood products, minerals, natural gas or its derivatives;
- (c) a plant or structure for crushing gravel;

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	(d) a hay and forage drier, seed cleaning plant or feed mill plant;	
	(e) a meat packing plant;	
	(f) an incinerator, other than an incinerator for a one-family residence;	5
	(g) a sewage treatment or sewage disposal plant;	
	(h) a thermal electric power generating plant or a steam generating plant; or	
	(i) a prescribed type of plant, structure or thing.	10
Operation of plant	19. No person shall operate or use a plant that discharges a contaminant or prescribed substance into the air, unless the person holds a licence that authorizes the plant to discharge the contaminant or prescribed substance into the air.	15
Construction plans	20. A person who intends to construct a plant that will discharge a contaminant or prescribed substance into the air shall submit such plans as specified by the Director respecting the construction of the plant at least 30 days before the start of the construction.	20
Alteration of plant	21.(1) Subject to subsection (3), no person shall operate or use a plant for which a licence has been issued after the plant has been altered, added to or changed unless the person obtains an amended licence authorizing the plant as altered, added to or changed to discharge contaminants or prescribed substances into the air.	25
Exceptions	(2) Subsection (1) does not apply to alterations, additions or changes that are (a) adjustments, repairs or maintenance in the course of normal operations of a plant; or (b) minor improvements to a plant.	30
Emergency alterations	(3) A person who has altered, added to or changed a plant in an emergency shall (a) obtain an amended licence within 30 days of making the alteration, addition or change; or (b) where the Director requires additional changes to the plant, make such additional changes and obtain an amended licence within 60 days of making the emergency alteration, addition or change.	35
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Construction plans 22.(1) A person who is required to obtain an amended licence under section 21 shall submit plans as specified by the Director respecting the alteration, addition or change at least 30 days before the start of the construction of the alteration, addition or change. 5

Exception (2) Subsection (1) does not apply to a person who makes an alteration, addition or change to a plant in an emergency. 10

Hazardous Waste

Generation of hazardous waste 23. Every person who generates hazardous waste in the prescribed quantities shall notify the Director at least 30 days before the generation of the hazardous waste. 15

Generator's number 24.(1) The Director shall assign a number to each person who generates hazardous waste in the prescribed quantities and who has notified the Director of this fact. 20

Use of number (2) The number assigned to a person under subsection (1) is to be used to assist in ensuring that hazardous waste is stored, transported, treated and disposed of in accordance with this Act and the regulations. 25

Operation of facilities 25. No person shall operate a facility for the storage, treatment or disposal of prescribed quantities of hazardous waste, unless the person holds a licence authorizing the operation of such a facility. 30

Construction plans 26. A person who intends to construct a facility referred to in section 25 shall submit such plans as the Director may specify respecting the construction and operation of the facility at least 30 days before the start of construction. 40

Alteration of facility 27.(1) Subject to subsection (3), no person shall operate a facility referred to in section 25 after the facility has been altered, added to or changed unless the person obtains an amended licence authorizing the operation of the facility as altered, added to or changed. 45

Exceptions	(2) Subsection (1) does not apply to alterations, additions or changes that are	
	(a) adjustments, repairs or maintenance of a facility; or	
	(b) minor improvements to a facility.	5
Emergency alterations	(3) A person who has altered, added to or changed a facility referred to in section 25 in an emergency shall	
	(a) obtain an amended licence authorizing the operation of the facility as altered, added to or changed within 30 days of making the alteration, addition or change; or	10
	(b) where the Director requires additional changes to the facility, make such additional changes and obtain an amended licence authorizing the operation of the facility as changed within 60 days of making the emergency alteration, addition or change.	15
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Construction plans	28.(1) A person who is required to obtain an amended licence under section 29 shall submit plans as specified by the Director respecting the alteration, addition or change at least 30 days before the start of the making of the alteration, addition or change.	25
Exception	(2) Subsection (1) does not apply to a person who makes an alteration, addition or change to a facility in an emergency.	30
Hazardous waste	29. No person shall store, treat or dispose of a prescribed quantity of a hazardous waste except at a facility operated by a person who holds a licence authorizing such storage, treatment or disposal.	35
Transport of hazardous waste	30. No person shall transport hazardous waste for compensation or as part of that person's business activities unless the person holds a licence authorizing the transport of hazardous waste.	40

Duty on generator respecting transport

31. No person who generates hazardous waste in the prescribed quantities shall cause or allow the hazardous waste to be transported unless the person ensures that

- (a) the person transporting the hazardous waste holds a licence authorizing the transport; and
- (b) the person receiving the hazardous waste holds a licence authorizing the storage, treatment or disposal of hazardous waste.

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### Pesticides

Pesticides

32.(1) Subject to subsection (2), no person shall

- (a) manufacture a pesticide,
- (b) apply a pesticide,
- (c) display, sell, trade or barter a pesticide,
- (d) operate a business that provides a service that involves the application of a pesticide,
- (e) apply or offer to apply a pesticide for hire or reward, or
- (f) store a pesticide,

unless the person holds a licence authorizing such activity.

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Prescribed pesticides

(2) Subsection (1) applies only to prescribed classes of pesticides in prescribed amounts in respect of each activity.

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Manufacturer's method of disposal

33.(1) Where the manufacturer of a pesticide recommends a method of disposal of the pesticide or disposal of the container of the pesticide and the recommendation is on a label attached to the container when the pesticide is purchased, no person shall dispose of the pesticide or container except in accordance with the recommendation of the manufacturer.

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Other methods of disposal

(2) Where no label is attached to a container setting out a manufacturer's recommended method of disposal, no person shall dispose of a pesticide or a container that has been used to hold a pesticide, except in a manner that is

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- (a) prescribed; or
- (b) approved by an inspector.

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Possession and storage of pesticides

34. No person shall possess or store a pesticide except in

- (a) the container in which the pesticide was purchased;

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- (b) a container that
  - (i) is of a type customarily used by the manufacturer to store the pesticide,
  - (ii) is labelled in accordance with the regulations, and
  - (iii) complies with the Transportation of Dangerous Goods Act; or
- (c) a holding tank or spray tank.

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Washing containers

35. No person shall wash or submerge in any ocean, lake, river, stream, slew or other open body of water any apparatus, equipment or container for the storage or application of a pesticide.

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Device preventing backflow

36. No person shall draw water from any ocean, lake or river, stream, slew or other open body of water into any apparatus or equipment used for the mixing or application of a pesticide unless the apparatus or equipment is equipped with a device that prevents backflow.

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#### Emergencies

Environmental emergency

37.(1) Where there occurs or is a reasonable likelihood of a discharge of a contaminant or prescribed substance into the environment in contravention of this Act or the regulations, any person causing or contributing to the discharge or increasing the likelihood of a discharge, or the owner or the person in control of the contaminant or prescribed substance immediately before its discharge or likely discharge, shall immediately

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- (a) subject to the regulations made under paragraph 120(j.1), report the discharge to an inspector or to such person as is designated by the regulations;

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- (b) take all reasonable emergency measures consistent with public safety to prevent or eliminate any danger to life, health, property or the environment that results or may reasonably be expected to result from the discharge; and

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- (c) make a reasonable effort to notify any member of the public who may be adversely affected by the release or likely release.

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Intervention by inspector

(2) Where any person fails to take any measures required under subsection (1), an inspector may take those measures, cause them to be taken or direct any person referred to in subsection (1) to take them.

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Right of access (3) Any inspector, person assisting an inspector or other person directed to take any measures under subsection (1) may enter and have access to any place or property and may do such reasonable things as may be necessary in order to eliminate any danger to life, health, property or the environment. 5

PART III 10

ENVIRONMENTAL ORDERS

Stop, control and restoration orders 38.(1) Where an inspector believes on reasonable and probable grounds that 15

- (a) there has occurred, is occurring or is a reasonable likelihood of a discharge of a contaminant or a prescribed substance, or 15
- (b) there has occurred or is occurring
  - (i) the application, storing or disposal of a pesticide, or 20
  - (ii) the storing, treating or transporting of a hazardous waste, 20

in contravention of this Act or the regulations, the inspector may issue an order requiring any person described in subsection (2) to do one or more of the following: 25

- (c) stop immediately the
  - (i) discharge of the contaminant or prescribed substance into the environment, 30
  - (ii) application, storing or disposal of the pesticide, 30
  - (iii) storage, treatment or transporting of the hazardous waste, 35permanently or for the period of time specified in the order;
- (d) limit or control the rate of discharge of the contaminant or prescribed substance into the environment in accordance with the directions and for the period of time specified in the order; 40
- (e) comply with the directions specified in the order in regards to the manner in which the contaminant or prescribed substance may be discharged, the pesticide applied, stored or disposed of, or the hazardous waste stored, treated or transported; 45
- (f) take preventive measures for the period of time specified in the order; 50

	(g) restore the environment within the time specified in the order; or	
	(h) take any other measures that the inspector considers reasonable.	
Application	(2) Subsection (1) applies to any person who	5
	(a) owns or has charge of a contaminant or prescribed substance at the time of or immediately before the contravention or reasonable likelihood of a contravention of this Act or the regulations described in subsection (1); or	10
	(b) causes or contributes to the contravention or reasonable likelihood of a contravention of this Act or the regulations described in subsection (1).	15
Requirements of order	(3) Subject to subsection (4), an order issued under this section must be	
	(a) in writing in a form approved by the Director; and	20
	(b) served on the person to whom it is directed.	
Exception	(4) An order issued with respect to the transportation of hazardous waste may be made orally.	25
Oral order	(5) An order issued orally under subsection (4) must be confirmed in writing in a form approved by the Director and served on the person to whom it is issued within seven days of making the order.	30
Effect of order	(6) An order issued under this section takes effect,	35
	(a) where the order is issued orally, at the time it is issued; or	
	(b) where the order is issued only in writing, at the time service of the order is effected.	40
Order where licence to operate	39. An inspector may issue an order in respect of a plant defined in section 18 notwithstanding that the plant is being operated in accordance with a licence at the time the order is made.	45
Order where an offence is charged	40. An inspector may issue an order whether the person to whom the order is directed is charged with an offence against this Act or the regulations and whether the person has been acquitted or found guilty of such an offence.	50

Amendment	41.(1) An inspector may, in writing, amend, vary or rescind an order.	
Effect of amendment	(2) An amendment or variation made under subsection (1) has the same effect as an order.	5
Service of notice	(3) Notice of an amendment, variation or rescission of an order must be served on the person to whom the order is directed.	10
Director may act	42.(1) Where a person to whom an order is directed does not comply with the order, the Director may take or cause to be taken whatever measures the Director considers necessary to effect compliance with the order.	15
Service of notice	(2) The Director shall cause notice that measures will be taken under subsection (1) to be served on the person to whom the order is directed at least three clear days before the measures are taken.	20
Right of access	(3) An inspector or a person assisting an inspector who takes any measures under subsection (1) may enter and have access to any place or property and may do such reasonable things as may be necessary to effect compliance with the orders.	25
Liability for costs	43.(1) A person to whom an order is directed under subsection 38(1) is liable for all reasonable costs and expenses incurred as a result of the Director taking or causing to be taken any measures under subsection 42(1).	30
Procedure	(2) A claim under subsection (1) may be sued for and recovered with costs as a debt due to the Government of the Northwest Territories.	35
Appeal	44.(1) A person to whom an order is directed may appeal the issuance, amendment or variation of the order in accordance with the appeal procedures under Part VII.	40
Compliance with order	(2) A person who appeals an order shall comply with the order until the appeal is determined.	45



PART IV

LITTER

Application	45. This Part does not apply to land within a municipality, except for highways designated as primary highways under the <u>Public Highways Act</u> .	5
Litter on public land	46. No person shall dispose of litter on public land unless (a) the litter is disposed of in a container placed for the purpose of collecting litter; (b) the litter is disposed of in a garbage dump operated by or with the approval of a municipal corporation, the Government of the Northwest Territories or the Government of Canada; (c) the disposal is authorized by permit or licence issued under any federal or territorial enactment; or (d) the disposal is authorized by the regulations.	10 15 20
Litter on private land	47. No person shall dispose of litter on any land that is not public land unless the owner of the land consents to the disposal.	25
Litter from vehicles	48.(1) For the purposes of sections 46 and 47, if litter is disposed of from a vehicle, other than a bus or taxi, and it cannot be determined who in the vehicle is responsible, the driver of the vehicle shall be deemed to be the person who disposed of the litter from the vehicle.	30
Owner deemed to litter	(2) Where it cannot be determined who is the driver of the vehicle, the owner of the vehicle shall be deemed to be the person who disposed of the litter from the vehicle.	35 40
Defence	(3) Where an owner by virtue of subsection (2) is charged with contravening section 46 or 47, the owner shall be found not guilty if the owner proves that the driver of the vehicle at the time of the contravention was in possession of the vehicle without the consent of the owner.	45

Transportation of litter	49. No person shall transport litter or any other load in or on a vehicle, unless the litter or other load is, while being transported, adequately secured or covered to prevent the litter or load from falling or blowing off of the vehicle.	5
Order to remove litter	50. Where an inspector on reasonable grounds believes that a person has contravened section 46, 47 or 49, the inspector may, in writing, order the person to remove the litter, material or substance that is the subject of the contravention to a place designated by the inspector.	10
Civil action respecting litter	51. Nothing in this Act or the regulations prevents an owner of land on which litter has been disposed from commencing a civil action against the person responsible for disposing of the litter.	15
Removal of litter by Director	52.(1) The Director may cause litter that has been disposed of on public lands in contravention of section 46 to be removed from those public lands.	20
Liability for expenses	(2) The person who disposed of the litter on public land that has been removed under subsection (1) is liable for all reasonable expenses incurred by the Director in removing the litter.	25
	PART V	30
	UNSIGHTLY LAND	
Application	53. This Part does not apply to land within a municipality.	35
Meaning of unsightly land	54.(1) For the purposes of sections 55 and 56, land is unsightly where there is litter of such a kind or quantity on the land that an inspector believes on reasonable grounds that the land is unsightly.	40
Factors	(2) In formulating a belief referred to in subsection (1) with respect to a parcel of land, an inspector must consider the kind and quantity of litter on land adjacent to or near that parcel of land.	45
Unsightly land	55. No owner, occupier or person in control of land shall allow that land to become unsightly.	

Order to remove litter	56.(1) Where an inspector believes on reasonable grounds that any land is unsightly, the inspector may issue an order to the owner of the land or the last person to own the land to remove litter from the land.	5
Removal of litter by Director	(2) Where a person fails to comply with the terms and conditions of an order under subsection (1), the Director may cause the removal of the litter in accordance with the order.	10
Liability for costs	(3) A person to whom an order is directed under subsection (1) is liable for all reasonable costs and expenses incurred as a result of the Director causing the removal of the litter under subsection (2).	15
Procedure	(4) A claim under subsection (1) may be sued for and recovered with costs as a debt due to the Government of the Northwest Territories.	20

PART VI

LICENCES

Licences	57. The Director shall issue and renew licences in accordance with this Act and the regulations.	25
Forms approved by Director	58. A licence and an application for a licence must be in a form approved by the Director.	30
Fees	59.(1) Every application for a licence must be accompanied by the prescribed fee.	35
Refunds	(2) An application fee must be refunded where the application for a licence is refused.	40
Requirements for licence	60.(1) The Director may require an applicant <ul style="list-style-type: none"> <li>(a) where the applicant is a corporation or society, to provide proof of incorporation or registration under the <u>Companies Act</u> or the <u>Societies Act</u>;</li> <li>(b) to establish that the applicant is financially responsible by <ul style="list-style-type: none"> <li>(i) proving that the applicant is insured by a policy of a type and in an amount satisfactory to the Director,</li> <li>(ii) depositing with the Director an indemnity bond of a type and in an amount satisfactory to the Director,</li> </ul> </li> </ul>	50

	(iii) depositing with the Director some other form of security of a type and in an amount satisfactory to the Director;	
	(c) to publish a notice of the application in a newspaper of general circulation in the geographic area to which the application relates;	5
	(d) to provide an environmental assessment in accordance with section 61 that is satisfactory to the Director;	10
	(e) to provide any further information that the Director considers necessary or that is prescribed by regulation; or	
	(f) to comply with any terms or conditions that the Director may attach to the application.	15
Knowledge of applicant	(2) The Director may require an applicant to demonstrate to the satisfaction of the Director that the applicant and, where applicable, the employees or agents of the applicant have adequate knowledge of the safe use, storage and disposal of the contaminant or prescribed substance to which the application relates.	20
Entitlement to licence	(3) An applicant who does not meet the requirements of subsection (1) or (2) is not entitled to a licence.	25
Environmental assessment	61. An environmental assessment submitted to the Director under paragraph 60(1)(d) must consist of	30
	(a) a description of the effects that will be caused or are likely to be caused to the environment by the issuance of the licence applied for; and	35
	(b) such contingency or restoration plans, studies, analyses, assessments, samples or other information required by the Director relating to the environment that is or is likely to be affected by the issuance of the licence being applied for.	40
Consultation by Director	62. The Director may, prior to issuing a licence, consult with any person, organization, council or firm who will or is likely to be affected by the issuance of a licence.	45
Review by committee	63.(1) The Director may refer an application for a licence to a committee established by the Minister under section 5 for its advice and recommendations.	50

Factors to be considered in issuing licence	(2) In determining whether to issue a licence, the Director	
	(a) shall take into consideration the advice and recommendations of the committee referred to in subsection (1); and	5
	(b) may take into consideration other factors related to life, health, property or the environment that the Director considers relevant.	10
Terms and conditions	64.(1) The Director may, in addition to any prescribed term or condition, impose on any licence, terms or conditions that the Director considers necessary for the protection of the environment.	15
<u>Idem</u>	(2) The Director may	
	(a) impose terms or conditions on a licence either before or after the licence is issued; and	20
	(b) amend or delete terms or conditions on a licence after the licence is issued.	
Application of licence	(3) The Director may amend or impose terms or conditions on a licence on the application of the holder of the licence.	25
Notice of change	65. Where a term or condition on a licence is imposed, amended or deleted after the licence is issued, notice of the change must be served on the holder of the licence and the term or condition takes effect from the time service of the notice is effected.	30
Contents of licence	66. A licence must set out	
	(a) the class of the licence;	35
	(b) where applicable, the business, plant or thing in respect of which the licence is issued;	
	(c) the actions permitted by the licence;	
	(d) where applicable, the geographic area to which the licence applies;	40
	(e) the period for which the licence is valid;	
	(f) the terms and conditions, if any, imposed on the licence by the Director; and	
	(g) such other information that the Director considers appropriate.	45
Records	67. The holder of a licence shall maintain the prescribed records and shall submit the prescribed records and reports to the Director in accordance with the regulations.	50

Indemnification	68. The holder of a licence is required to indemnify the Government of the Northwest Territories and its officers, agents and employees against all claims, actions, losses, costs or damages arising from or attributable to any act done under the authority of the licence.	5
Right of action	69. No person shall bring an action against the Government of the Northwest Territories in respect of any matter arising from the issuing of a licence.	10
Dealings with licence	70. No person shall (a) transfer, sell or assign, (b) offer to transfer, sell or assign, (c) purchase or offer to purchase, or (d) accept or offer to accept the transfer or assignment of, a licence without the consent of the Director.	15
Amendment, cancellation or suspension	71.(1) The Director may (a) amend a licence or a term or condition imposed on a licence to correct a typographical or clerical error; (b) cancel a licence that was issued in error; (c) amend, cancel or suspend a licence on the application of the holder of the licence; or (d) amend, cancel or suspend a licence where the Director believes on reasonable grounds that (i) the insurance, indemnity bond or other type of financial responsibility referred to in paragraph 60(1)(b) is no longer in effect, or (ii) the holder of the licence has contravened this Act or the regulations or a term or condition imposed on the licence.	20 25 30 35 40
Power of Minister	(2) The Minister may suspend or cancel a licence where, in the opinion of the Minister, the suspension or cancellation is necessary to protect the environment.	45
Effect of cancellation or suspension	(3) Where the Director or Minister cancels or suspends a licence under this section, the Director or Minister, as the case may be, may direct that any or all of the terms and conditions imposed on the licence are to remain in effect for the period specified by the Director or Minister.	50

Service of notice	72.(1) Where (a) the Director refuses to issue a licence or amends, suspends or cancels a licence or amends or deletes a term or condition imposed on a licence, or (b) the Minister suspends or cancels a licence, the Director or Minister, as the case may be, shall cause notice of the refusal, amendment, suspension, cancellation or deletion to be served on the applicant or the holder of the licence and the amendment, suspension or cancellation takes effect from the time that service is effected.	5 10
Appeal	(2) The applicant or the holder of a licence may appeal the refusal, amendment, suspension, cancellation or deletion referred to in subsection (1) in accordance with the appeal procedures under Part VII.	15
Surrender of licence	73. The holder of a licence who receives notice of the imposition, amendment or deletion of a term or condition of the licence or an amendment to the licence, or the suspension or cancellation of the licence shall surrender the licence to the Director.	20 25
Amended licence	74. Where a licence is amended or a term or condition of the licence is imposed, amended or deleted in accordance with this Act, the Director shall issue an amended licence.	30

PART VII

APPEALS

Appeal	75.(1) A person (a) whose application for a licence has been refused, (b) whose licence has been amended, cancelled or suspended, (c) who holds a licence of which terms or conditions have been imposed, amended or deleted, or (d) who is subject to an order or an amendment or variation of an order may appeal a decision or order referred to in paragraphs (a) to (d), by sending a notice of appeal to the Minister within 10 days of being served with notice of the decision or order.	35 40 45
		50

Notice of appeal	(2) A notice of appeal must (a) be in a form approved by the Minister; (b) state the reasons for the appeal; and (c) be accompanied by the prescribed fee.	5
Review and decision	76.(1) Within 30 days of being served with a notice of appeal in accordance with subsection (1), the Minister shall (a) establish a committee to advise and make recommendations to the Minister respecting the appeal; or (b) hear the appeal.	10
Appointment and term	(2) Where the Minister establishes a committee, the Minister may (a) appoint the members of the committee; (b) establish the term of office of the members; (c) designate a chairperson, vice-chairperson and secretary; and (d) provide for the remuneration of the members of the committee for their services and allowances for travelling and other expenses.	15 20
Procedures	77. The committee, or the Minister where the Minister hears the appeal, shall give the appellant a reasonable opportunity of appearing before it, presenting evidence and making submissions.	25
Report of committee	78. Where a committee is appointed under section 76, the committee shall within 30 days after the conclusion of the hearing of the appeal, submit a report to the Minister together with its recommendations and the evidence that was presented to it.	30 35
Power of Minister	79. The Minister, after considering the evidence and submissions presented to him or her at the hearing of the appeal, or the report and recommendations of the committee and evidence presented to the committee, may (a) in respect of an appeal of a decision referred in paragraph 75(1)(a), confirm the decision of the Director or direct the Director to issue the licence applied for;	40 45



- (b) in respect of an appeal of a decision as referred to in paragraph 75(1)(b) or (c), confirm, vary or quash the decision; and
- (c) in respect of an appeal of an order, amendment or variation referred to in paragraph 75(1)(d), confirm, vary or quash the order. 5

Reasons 80. The decision of the Minister and the reasons for the decision must be in writing and must be served on the appellant within 30 days of the Minister hearing the appeal or receiving the report, recommendations and evidence from the committee. 10

PART VIII 15

ENFORCEMENT

General 20

Trespass 81.(1) The Director or an inspector in the exercise of a duty or in the performance of a power under this Act and a person who is subject to an order issued under this Act, when complying with the order, may enter and pass over any public or private land without being liable for trespass. 25

Liability (2) A person who enters and passes over land under the authority of subsection (1) is liable for damages to the land caused by his or her wilful or negligent acts. 30

Application (3) Subsections (1) and (2) apply to any person who is assisting the Director or an inspector. 35

Request for permit 82.(1) An inspector may direct a person who purports to hold a licence issued under this Act to produce the licence for examination. 40

Duty to comply (2) A person who is subject to a direction made by an inspector under subsection (1) shall, where the person has been issued a licence under this Act, comply with the direction. 45

## Records

- Request for records 83.(1) The Director may direct
- (a) the owner or operator of any plant, structure or thing who is required to maintain records under the regulations, or 5
  - (b) a person who holds a licence, to provide to the Director any records that are required to be maintained within the time specified in the direction. 10
- Duty to comply (2) A person who is subject to a direction under subsection (1) shall, where the records exist, comply with the direction. 15

## Arrest

- Powers of arrest 84. An inspector may arrest, without a warrant, a person whom the inspector finds contravening this Act or the regulations if the inspector has reasonable and probable grounds to believe that the public interest, having regard to all the circumstances, including
- (a) the need to establish the identity of the person, 25
  - (b) the need to secure or preserve evidence of or relating to the contravention,
  - (c) the need to prevent the continuation or repetition of the contravention or the commission of another contravention, and 30
  - (d) the probability that the person will fail to attend in court in order to be dealt with according to law,
- requires that the person be arrested without a warrant. 35

## Inspection

- Inspection 85.(1) For the purposes of determining if there is compliance with this Act or the regulations, an inspector may, at any reasonable time, without a warrant, enter and inspect any place, building or vehicle, other than a residence, where the inspector believes on reasonable grounds that 40
- (a) a contaminant or prescribed substance is located on or in the place, building or vehicle; or 45

	(b) any books, records, electronic data or other documents relevant to the administration of this Act can be found in the place, building or vehicle.	5
Request driver to stop	(2) An inspector may, for the purposes of an inspection under subsection (1), direct a driver of a vehicle to stop the vehicle and park the vehicle at a place specified by the inspector.	10
Duty to comply	(3) The driver of a vehicle that has been directed to stop by an inspector under subsection (2) shall (a) immediately stop the vehicle and park the vehicle at the place specified by the inspector; and (b) not move the vehicle until permitted to do so by the inspector.	15
Powers under inspection	86.(1) An inspector may, in the performance of an inspection under subsection 85(1), (a) examine any contaminant, prescribed substance or other thing relevant to the administration of this Act; (b) open and examine any receptacle or package found that the inspector has reason to believe contains any contaminant or prescribed substance; (c) examine any books, records, electronic data or other documents that the inspector believes on reasonable grounds to contain any information relevant to the administration or enforcement of this Act or the regulations and make copies of them or take extracts from them; (d) take samples of any thing relevant to the administration of this Act; and (e) conduct any tests or take any measurements.	20 25 30 35
Operation of computer system	(2) In carrying out an inspection of a place or building under subsection 85(1), an inspector may (a) use or cause to be used any computer system at the place to examine any data contained in or available to the computer system; (b) reproduce any record or cause it to be reproduced from the data in the form of a printout or other intelligible output; (c) take a printout or other output for examination or copying; and (d) use or cause to be used any copying equipment at the place to make copies of the record.	40 45 50

Duty of person in possession or control (3) Every person who is in possession or control of any place or building being inspected under subsection 85(1) shall permit the inspector

- (a) to use or cause to be used any computer system at the place or building to examine any data contained in or available to the computer system for data from which a record that the inspector is authorized to examine may be produced; 5
- (b) to obtain a physical copy of the record and to take it; and 10
- (c) to use or cause to be used any copying equipment at the place or building to make copies of the record. 15

Destruction of contaminant or prescribed substance 87.(1) An inspector, in the performance of an inspection under subsection 85(1) with respect to a contaminant or prescribed substance that he or she believes on reasonable grounds

- (a) to be abandoned, or 20
- (b) to have deteriorated, and to be a danger to life, health, property or the environment, may destroy or otherwise dispose of the contaminant or prescribed substance in any manner that is appropriate in the circumstances. 25

Liability for costs (2) The owner of a contaminant or prescribed substance is liable for all reasonable costs and expenses incurred as a result of an inspector destroying or disposing of the contaminant or prescribed substance under subsection (1). 30

Procedure (3) A claim under subsection (1) may be sued for and recovered with costs as a debt due to the Government of the Northwest Territories. 35

Search

Search warrant 88.(1) Where on ex parte application a justice is satisfied by information on oath that there are reasonable grounds to believe that there is in any place, building or vehicle

- (a) anything on or in respect of which any contravention of this Act or the regulations has been or is suspected to have been committed, or 45

	(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of any contravention of this Act or the regulations,	
	the justice may issue a warrant authorizing the inspector named in the warrant to enter and search that place, building or vehicle for any such thing subject to such conditions as may be specified in the warrant.	5
Search and seizure	(2) An inspector authorized by a warrant issued under subsection (1) may	10
	(a) at any reasonable time enter and search a place, building or vehicle referred to in the warrant;	15
	(b) seize any thing referred to in the warrant; and	
	(c) exercise the powers described in subsections 86(1) and 87(1).	20
Warrant not required	89.(1) Where an inspector on reasonable grounds believes that there is in any place, building or vehicle anything referred to in paragraph 88(1)(a) or (b), but by reason of exigent circumstances it would not be practicable to obtain a warrant under subsection 88(1), the inspector may search that place, building or vehicle without a warrant.	25
Exigent circumstances	(2) For the purposes of subsection (1), exigent circumstances include circumstances in which the delay necessary to obtain a warrant under subsection (1) would result in danger to human life or safety or loss or destruction of evidence.	30
Force	90. An inspector making a search under section 88 or 89 may use such force as the inspector reasonably considers necessary to facilitate the search, including the breaking of any lock or fastening.	35
Operation of computer system	91.(1) An inspector making a search of a place, building or vehicle under section 88 or 89 may	40
	(a) use or cause to be used any computer system at the place, building or vehicle to search any data contained in or available to the computer system;	45
	(b) reproduce any record or cause it to be reproduced from the data in the form of a printout or other intelligible output;	
	(c) seize the printout or other output for examination or copying; and	50

(d) use or cause to be used any copying equipment at the place, building or vehicle to make copies of the record.

Duty of person in possession or control

(2) Every person who is in possession or control of any place, building or vehicle in respect of which a search is carried out under section 88 or 89 shall permit the inspector carrying out the search

- (a) to use or cause to be used any computer system at the place, building or vehicle to search any data contained in or available to the computer system for data from which a record that the person named in the warrant is authorized to search for may be produced;
- (b) to obtain a physical copy of the record and to seize it; and
- (c) to use or cause to be used any copying equipment at the place, building or vehicle to make copies of the record.

Assistance to inspectors

92. The owner or the person in charge of a place, building or vehicle entered by an inspector under section 85, 88 or 89 and every person found in the place, building or vehicle shall give the inspector all reasonable assistance in his or her power to enable the inspector to carry out his or her duties under this Act and the regulations and shall furnish the inspector with such information with respect to the administration of this Act and the regulations as the inspector may reasonably require.

### Seizure

Seizure

93.(1) Whenever during the course of an inspection or a search an inspector has reasonable grounds to believe that any provision of this Act or the regulations has been contravened, the inspector may seize any thing

- (a) by means of or in relation to which the inspector reasonably believes the contravention occurred; or
- (b) that the inspector reasonably believes will afford evidence of the contravention.

Limitation

(2) An inspector shall not seize any thing under subsection (1) unless the thing is required as evidence or for purposes of analysis or the inspector is of the opinion that the seizure is necessary in the public interest.

Notice of  
contravention

(3) An inspector who has seized any thing under subsection (1) shall, as soon as practicable, advise the person in whose possession it was at the time of seizure of the provision of this Act or the regulations that the inspector believes has been contravened.

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Release from  
seizure

94. Any thing seized under subsection 88(2) or section 93 shall be released from seizure

(a) after the owner of the thing or the person in whose possession it was at the time of seizure applies to the Director for its release and the Director is satisfied that it is not in the public interest to continue to detain the thing or that it is not required as evidence or for purposes of analysis; or

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(b) after the expiration of 90 days after the day of seizure, unless before that time

(i) the thing has been forfeited under section 97, or

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(ii) proceedings have been instituted in respect of the contravention in relation to which the thing was seized, in which case it may be detained until the proceedings are finally concluded.

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Storage of  
seized thing

95.(1) A thing seized by an inspector under subsection 88(2) or section 93 shall be kept or stored in the place where it was seized except in accordance with subsections (2) or (3).

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Removal

(2) Where, in the opinion of the inspector,

(a) it is not in the public interest to keep in store a thing seized in the place it was seized, or

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(b) the thing seized, or a sample of it, is required as evidence and removal and storage of the thing seized is necessary to ensure that the thing or sample will be available as evidence in any related proceedings,

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the thing seized may be removed by the inspector.

Idem

(3) Where the person who had possession of the thing at the time of seizure or the person entitled to possession of the place where the thing was seized requests the inspector to have it removed to some other place, the thing may be removed and stored in any other place at the direction of an inspector at the expense of the person who requested the removal.

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Interference with seized thing	96.(1) Unless authorized by an inspector, no person shall remove, alter or interfere in any way with any thing seized by an inspector under subsection 88(2) or section 93.	5
Examination of seized thing	(2) An inspector shall, at the request of the person from whom it was seized, allow that person or any person authorized by that person to examine it and, where practicable, furnish a sample or copy of the thing seized to such person.	10
<b>Forfeiture</b>		
Forfeiture on consent	97.(1) Where an inspector has seized any thing under subsection 88(2) or section 93 and the owner or person who was in lawful possession of it at the time of seizure consents in writing to the forfeiture of the thing, the thing is forfeited to the Government of the Northwest Territories.	15
Disposal or destruction	(2) The Minister may dispose of or destroy any thing forfeited under subsection (1).	20
Liability for costs	(3) If the Minister so directs, the owner or the person who was in lawful possession of the thing at the time it was seized is liable for all reasonable costs and expenses incurred as a result of the disposal or destruction of the thing seized.	25
Procedure	(4) A claim under subsection (3) may be sued for and recovered with costs as a debt due to the Government of the Northwest Territories.	30
Forfeiture by order of court	98.(1) Where a person is convicted of an offence under this Act or the regulations and any thing seized under subsection 88(2) or section 93 is being detained,	35
	(a) the thing is, if the court so directs, forfeited to the Government of the Northwest Territories in which case	40
	(i) the Minister may dispose of or destroy the thing, and	
	(ii) the offender is liable for all reasonable costs of the forfeiture, disposal or destruction; or	45



(b) the thing shall, on the expiration of the time for taking an appeal from the conviction or on the final conclusion of the proceedings, as the case may be, be restored to the person from whom it was seized or to any other person entitled to possession of it on such conditions, if any, as may be imposed by order of the court and as, in the opinion of the court, are necessary to avoid the commission of any further offence under this Act or the regulations. 5  
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Procedure (2) A claim under subparagraph (1)(a)(ii) may be sued for and recovered with costs as a debt due to the Government of the Northwest Territories. 15

Liability for thing seized 99. No right of action lies and no right of compensation exists against the Government of the Northwest Territories, the Minister, the Commissioner, the Director or an inspector or a person acting under the authority of any of them for loss or damage arising from the disposal authorized by this Act or the deterioration of any thing during any period when it is under seizure unless the inspector was negligent in the care of the thing seized. 20  
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## PART IX

### OFFENCES AND PUNISHMENT 30

Inspector 100. No person who is not an inspector shall (a) hold himself out as an inspector; 35  
(b) carry or wear a badge or other identification that is likely to cause persons to believe that he or she is an inspector; or  
(c) unless authorized under this Act or regulations, exercise or attempt to exercise any of the powers of an inspector. 40

Obstruction and false information 101. No person shall (a) obstruct, delay or interfere with, or (b) give false information to, an inspector in the exercise of his or her powers or the performance of his or her duties. 45

Holder of licence	102. No person other than the person to whom a licence is issued shall	
	(a) hold himself or herself out as the holder of the licence; or	
	(b) exercise or attempt to exercise the rights attached to the licence.	5
Fraud	103. No person shall	
	(a) make a false or misleading statement or provide false or misleading information in	10
	(i) an application for a licence, or	
	(ii) any other form or document required by this Act or the regulations; or	
	(b) make a false or misleading entry in any book or record required to be kept by this Act or the regulations.	15
Signs and marks	104. No person shall remove, duplicate or destroy a sign or mark posted by an inspector relating to this Act or the regulations.	20
Offences	105. Every person who	
	(a) contravenes section 14, 15, 19, 21, 25, 29 to 32 or 37,	
	(b) fails to comply with an order issued under section 38 that is directed to that person, or	25
	(c) holds a licence and, in carrying out the activity authorized by the licence, does not comply with the licence or any terms or conditions to which the licence is subject,	30
	is guilty of an offence and is liable on summary conviction	
	(d) for a first offence, to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding six months, or to both, and	35
	(e) for each subsequent offence, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding three years, or to both.	40
Limitation	106.(1) No proceedings may be instituted in respect of an offence under this Act or the regulations later than two years after the time when the Director became aware of the subject-matter of the proceedings.	45

Minister's certificate	(2) A document purporting to have been issued by the Director, certifying the day on which the Director became aware of the subject-matter of any proceedings, is admissible in evidence and, in the absence of any evidence to the contrary, the document must be considered as conclusive proof of that fact without proof of the signature or of the official character of the person appearing to have signed the document.	5
Continuing offence	107. Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.	10
Proof of offence	108. In any prosecution of an offence under this Act it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or prosecuted for the offence.	15
Liability of directors	109.(1) Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence.	20
<u>Idem</u>	(2) An officer, director or agent of a corporation is liable to conviction under this section whether or not the corporation has been prosecuted or convicted.	25
Other offences	110. Every person who contravenes a provision of this Act or any regulation made under this Act, other than a provision referred to in section 105, is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding six months, or to both.	30
Defence	111. No person shall be found guilty of an offence under this Act or the regulations if the person establishes that he or she exercised all due diligence to prevent its commission.	35
Absolute or conditional discharge	112.(1) Where an offender has pleaded guilty to or been found guilty of an offence, the justice may, instead of convicting the offender, by order direct that the offender be discharged absolutely or on conditions having any or all of the effects described in section 113.	40
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Conditions of  
order

(2) Where an order is made under subsection (1) and the offender contravenes or fails to comply with the order, or is convicted of an offence under this Act, including an offence under section 115, the prosecutor may apply to the justice to revoke the discharge, convict the offender of the offence to which the discharge relates and impose any sentence that could have been imposed if the offender had been convicted at the time the order was made.

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Orders of court

113.(1) Where an offender has been convicted of an offence under this Act, in addition to any other punishment that may be imposed under this Act, the justice may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order having one or more of the following terms:

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(a) prohibiting the offender from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;

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(b) directing the offender to take such action as the justice considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;

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(c) directing the offender to publish, in the manner prescribed, the facts relating to the conviction;

(d) directing the offender to notify, at his or her own cost and in a specified manner, any person aggrieved or affected by the offender's conduct of the facts relating to the conviction;

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(e) directing the offender to post such bond or pay such amount of money into court as will ensure compliance with any order made under this section;

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(f) directing the offender to submit to the Minister, on application by the Minister made within three years after the date of conviction, such information with respect to the activities of the offender as the justice considers appropriate and just in the circumstances;

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(g) suspending any licence held by that person for such period as the justice thinks fit;

(h) cancelling any licence held by that person; or

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	(i) requiring the offender to comply with such other reasonable conditions as the justice considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.	5
Coming into force and duration of order	(2) An order made under subsection (1) comes into force on the day on which it is made or on such other day as the justice may determine and does not continue in force for more than three years after that day.	10
<u>Idem</u>	(3) Where a licence is suspended or cancelled under subsection (1), the holder of the licence shall immediately surrender the licence to the justice.	15
Surrender of licence	(4) The justice, upon receiving a licence under subsection (3), shall indicate on the licence that it is suspended or cancelled, as the case may be, and send it to the Director.	20
Variation of sanctions	114.(1) Subject to subsection (2), where a justice has made, in relation to an offender, an order or direction under section 113, the justice may, on application by the offender or the prosecutor, require the offender to appear before him or her and, after hearing the offender and the prosecutor, vary the order in one or any combination of the following ways if, in the opinion of the justice, it is desirable by a change in the circumstances of the offender since the order was made: (a) make changes in the order or the conditions specified in the order or extend the period for which the order is to remain in force for such period, not exceeding one year, as the justice considers desirable; or (b) decrease the period for which the order is to remain in force or relieve the offender, either absolutely or partially or for such period as the justice considers desirable, from having to comply with any condition that is specified in the order.	25 30 35 40
Notice	(2) Before making an order under subsection (1), the justice may direct that notice be given to such persons as the justice may consider to be interested and may hear any such person.	45

Limitation	(3) Where an application made under subsection (1) in respect of an offender has been heard by a justice, no other application may be made with respect to the offender except with leave of the justice.	5
Offence	115. Every person who contravenes or fails to comply with an order or direction made under section 113 is guilty of an offence and is liable on summary conviction	
	(a) for a first offence, to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding six months, or to both; or	10
	(b) for each subsequent offence, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding three years, or to both.	15

PART X

EVIDENCE 20

Proof of facts	116. A licence, order or certificate, or the renewal, suspension or cancellation of a licence purporting to be signed by the Minister or the Director, or a certified copy, is admissible in evidence in an action, prosecution or other proceeding and, in the absence of any evidence to the contrary, the document must be considered as conclusive proof of the facts set out in it without proof of the signature or of the official character of the person appearing to have signed it.	25
Report or certificate of analyst or inspector	117.(1) In an action, prosecution or other proceeding under this Act or the regulations,	
	(a) a report or certificate of an analyst stating that the analyst has analyzed or examined a substance or product and stating the result of the analysis or examination, and	35
	(b) a report of an inspector that he or she has inspected a building, place or vehicle and stating the result of the inspection,	40
	is admissible in evidence and is proof, unless the contrary is shown, of the facts set out in the report or certificate without proof of the signature or the official character of the person appearing to have signed it.	45
Attendance of analyst	(2) The party against whom a report or certificate described in subsection (1) is produced may, with leave of the court, require the attendance of the analyst or inspector, as the case may be, for the purpose of cross-examination.	50

Notice	(3) No report or certificate of an analyst or inspector shall be admitted as evidence unless the party intending to produce it has given to the opposite party at least seven days' notice of that intention together with a copy of the report or certificate.	5
Definition of "electronic transmission"	118.(1) In this section, "electronic transmission" means any method by which a message is transmitted electronically and reduced to written form and includes a transmission by telex, facsimile transfer or computer.	10
Service	<p>(2) The service of an order or other document under this Act must be made</p> <p>(a) on an individual,</p> <p style="padding-left: 40px;">(i) by personal service,</p> <p style="padding-left: 40px;">(ii) by leaving the order or document for the individual at his or her usual place of residence with a person who appears to be at least 16 years of age, or</p> <p style="padding-left: 40px;">(iii) by registered mail with receipt acknowledged or by electronic transmission addressed to the individual at his or her last known address for service or at his or her usual place of business; or</p> <p>(b) on a corporation,</p> <p style="padding-left: 40px;">(i) by leaving the order or document with the registered office of the company or an officer, director, manager, office manager, secretary or agent of the corporation, or</p> <p style="padding-left: 40px;">(ii) by registered mail with receipt acknowledged or by electronic transmission addressed to the corporation at its registered office, last known address for service or at its usual place of business.</p>	<p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p>
Affidavit of service	(3) An affidavit purporting to be signed by the person who effected service of an order or other document referred to in subsection (2) is admissible as evidence in any action, prosecution or other proceeding as proof of the facts set out in it without proof of the signature of the person appearing to have signed it.	<p>45</p> <p>50</p>

PART XI

BY-LAWS

By-laws

119.(1) The council of a municipal corporation may, by by-law,

(a) regulate, control or prohibit

(i) the emission of contaminants from fuel-burning equipment and incinerators, and

(ii) the setting, feeding or maintaining of an open fire for the disposal of any material;

(b) require the submission of plans and specifications for fuel-burning equipment and incinerators before the equipment or incinerator is installed or operated;

(c) designate the route and time of travel of vehicles transporting a contaminant;

(d) prohibit the transportation of classes and quantities of contaminants on specified highways;

(e) prohibit or regulate the disposal of litter on public or private land; and

(f) define unsightly land, prohibit owners or occupiers of land from allowing that land to become unsightly and provide for the clean up of unsightly land.

Approval by Minister

(2) No by-law under subsection (1) is valid unless it is approved by the Minister.

PART XII

REGULATIONS

Regulations

120. The Commissioner, upon the recommendation of the Minister, may make regulations

(a) prescribing substances that are to be regulated or prohibited under this Act and establishing amounts, concentrations or levels of such substances that are not to be discharged into the environment;

(a.1) prescribing types of plants, structures or things for the purposes of section 18;

(a.2) respecting the maximum permissible calculated ground level concentration for the discharge of a substance into the air for all or any part of the Northwest Territories;



- (b) prescribing the maximum concentration for the discharge of a substance into the air from a plant, structure or thing;
- (b.1) prescribing the maximum visible emissions permitted to be discharged in all or any part of the Northwest Territories; 5
- (b.2) prescribing the maximum rate of emission or weight of a substance that may be emitted into the air from a plant, structure or thing; 10
- (c) respecting the measurement of
  - (i) the concentration of a substance in the air,
  - (ii) the calculated ground level concentration of a substance in the air, 15
  - (iii) the concentration of a substance discharged into the air from a plant, structure or thing,
  - (iv) the weight of a substance discharged into the air from a plant, structure or thing, 20
  - (v) the rate of emission of a substance discharged into the air from a plant, structure or thing, or 25
  - (vi) the visible emissions from a plant, structure or thing;
- (c.1) respecting the control, restriction or prohibition of the manufacture, sale or use of any equipment, device or service designed or provided for any purpose related to the control or elimination of air pollution; 30
- (c.2) prohibiting or regulating the removal or rendering ineffective any device or thing that reduces or prevents or is intended to reduce or prevent the discharge of any contaminant or substance into the air attached or connected to or forming part of any plant, structure or thing; 35
- (d) prescribing a substance to be a hazardous waste and specifying the division, subdivision or group that it is within; 40
- (d.1) establishing the method of determining the division, subdivision or group that a hazardous waste is within; 45
- (d.2) prescribing a substance not to be a hazardous waste;
- (e) establishing divisions, subdivisions and groups of hazardous waste;
- (e.1) prescribing quantities of hazardous waste for the purposes of sections 23 and 25; 50

(e.2) prescribing procedures for the discharge of a hazardous waste;	
(f) respecting the operation and identification of a hazardous waste disposal site;	
(f.1) prescribing safety marks, safety requirements and safety standards respecting the discharge, display, sale, trade, handling, siting, storing, manufacturing, transport or use of hazardous waste;	5
(f.2) respecting the classification of pesticides;	10
(g) prescribing the class or classes of pesticides and amounts for which a licence is required under section 32;	
(g.1) respecting the qualifications, training and certification required for any person who applies pesticides;	15
(g.2) respecting areas where a pesticide may not be used or discharged;	
(h) respecting levels or quantities of pesticides that may be applied, discharged, disposed of or stored;	20
(h.1) respecting the manner of disposing of pesticides;	
(h.2) prescribing sites for the disposal of pesticides;	25
(j) respecting the type of containers or tanks in which pesticides must be kept;	
(j.1) indentifying classes and quantities of contaminants and prescribed substances, the discharge of which does not have to be reported under section 37;	30
(j.2) designating persons to whom discharges may be reported under section 37;	
(k) prescribing any material, product or thing to be litter;	35
(k.1) authorizing the disposal of types and amounts of litter on public land;	
(k.2) respecting the issue and renewal of licences;	40
(l) respecting fees for	
(i) licences and appeals,	
(ii) copies of documents, and	
(iii) any other service provided for under this Act or the regulations;	45
(l.1) respecting eligibility of applicants for a licence and the information to be provided by an applicant for a licence;	
(l.2) setting out terms and conditions that apply to a class of licence;	50

- (m) respecting books and records that the holder of a licence is required to maintain;
- (m.1) respecting reports and information to be sent to the Director by the holder of a licence; 5
- (m.2) identifying the plants, structures or things, the owner of which is required to maintain records;
- (n) respecting procedures for the issuance, renewal, amendment, suspension or cancellation of licences; 10
- (n.1) respecting procedures relating to appeals authorized by this Act;
- (n.2) respecting the posting of signs or the marking of areas or things under this Act or the regulations; 15
- (o) prescribing any matter or thing that by this Act may or is to be prescribed; and
- (o.1) respecting any other matter that the Commissioner considers necessary for carrying out the purposes and provisions of this Act. 20

Idem

121. The Commissioner, upon the recommendation of the Minister, may make regulations respecting a contaminant or substance that provide for or impose requirements respecting 25
- (a) the quantity or concentration of a contaminant or substance that may be released into the environment either alone or in combination with any other substance from any source or type of source; 30
  - (b) the places or areas where a contaminant or substance may be released;
  - (c) the commercial, manufacturing or processing activity in the course of which the contaminant or substance may be released; 35
  - (d) the manner and conditions under which the contaminant or substance may be released into the environment, either alone or in combination with any other substance; 40
  - (e) the quantities or concentrations in which the contaminant or substance may be used;
  - (f) the manner in which and conditions under which and the purposes for which the contaminant or substance or a product containing the contaminant or substance may be advertised or offered for sale; 45

	(g) the manner in which and conditions under which the contaminant or substance or a product or material containing the contaminant or substance may be stored, displayed, handled, transported or offered for transport; and	5
	(h) the manner, conditions, places and method of disposal of the contaminant or substance or a product or material containing the contaminant or substance, including standards for the construction, maintenance and inspection of disposal sites.	10
Adoption of codes	122.(1) Where a code of rules or standards concerning the subject-matter of this Act has been promulgated by any association, person, body of persons or government and is available in printed form, the Commissioner, upon the recommendation of the Minister, may, by regulation, adopt such code and upon adoption, the code shall be in force in the Territories either in whole or in part or with such variations as may be specified in the regulations.	15
Codes as amended	(2) A regulation made under subsection (1) may adopt a code of rules or standards as amended from time to time.	20
<u>Northwest Territories Gazette</u>	(3) Where a code of rules or standards is adopted under this section, publication in the <u>Northwest Territories Gazette</u> of a notice of adoption identifying the code of rules or standards, the extent of its adoption and setting out the variations subject to which it is adopted shall, for the purposes of the <u>Regulations Act</u> , be deemed sufficient publication without publishing, in the <u>Northwest Territories Gazette</u> , the text of the code of rules or standards or part adopted.	25
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Existing permits	123.(1) A permit issued under the <u>Pesticide Act</u> that is valid at the time section 125 comes into force is deemed to be a licence of a corresponding class issued under this Act.	

PART XIII

TRANSITIONAL, REPEAL AND COMING INTO FORCE

Expiry

(2) A permit deemed to be a licence under subsection (1) expires on the day it would have expired under the Pesticide Act, unless the permit is sooner cancelled under this Act.

Environmental Protection Act

124. The Environmental Protection Act, R.S.N.W.T. 1974, c.E-3, is repealed.

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Pesticide Act

125. The Pesticide Act is repealed.

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Coming into force

126. This Act or any provision of this Act comes into force on a day or days to be fixed by order of the Commissioner.

