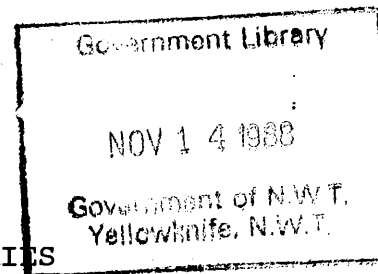


T.D. No. 63-88(2)
Tabled on November 7, 1988



LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

TRANSPORTATION OF DANGEROUS GOODS ACT

Statement of Purpose

The purpose of the proposed Bill is to regulate the transportation of dangerous goods; to appoint a Director and inspectors who are responsible for the administration and enforcement of the Act; to establish permits exempting any dangerous goods from the provisions of the Act; to provide for the enforcement of the Act, including provisions respecting arrest, inspection, search and seizure; to establish offences and penalties for a contravention of the Act; to provide regulation-making powers; and to repeal the Transportation of Dangerous Goods Act, S.N.W.T. 1982(3), c.19.

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.

TRANSPORTATION OF DANGEROUS GOODS ACT

The Commissioner of the Northwest Territories,
by and with the advice and consent of the Legislative
Assembly, enacts as follows: 5

INTERPRETATION 10

Definitions

1. In this Act,

"analyst"

"analyst" means an analyst appointed under section 6;

"container"

"container" means transport equipment, including
equipment that is carried on a chassis, that is strong
enough to be suitable for repeated use and is
designed to facilitate the transportation of goods
without intermediate reloading, but does not include
vehicles; 15
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"dangerous
goods"

"dangerous goods" means any product, substance or
organism included by its nature or by the regulations
in any of the prescribed classes of dangerous goods; 25

"Director"

"Director" means the Director appointed under section
5; 30

"discharge"

"discharge" includes emission or escape; 35

"federal Act"

"federal Act" means the Transportation of Dangerous
Goods Act (Canada), and the regulations made under
that Act; 40

"highway"

"highway" means a road, place, bridge or structure,
whether publicly or privately owned, that is or may
be used for the passage of vehicles and includes 35

(a) a privately or publicly owned area that is
designed and primarily used for the parking
of vehicles, other than the driveway of a
private dwelling, 40

(b) where a plan of survey or other instrument
establishes a highway, the area between the
boundary lines of the highway as shown on
such plan of survey or instrument, 45



	(c) any sidewalk, pathway, ditch or shoulder adjacent to and on either side of the travelled portion of the road or place and the area between such sidewalk, pathway, ditch or shoulder and the travelled portion of the road or place, and	5
	(d) any road on a frozen body of water or water course or any road that can be used for only a portion of a year;	
"inspector"	"inspector" means an inspector appointed under section 7 or a person who <u>ex officio</u> is an inspector under section 9;	10
"justice"	"justice" includes a territorial judge;	15
"municipal corporation"	"municipal corporation" means a corporation established or continued as (a) a city, town or village under the <u>Cities, Towns and Villages Act</u> , (b) a hamlet under the <u>Hamlets Act</u> , or (c) a charter community under the <u>Charter Communities Act</u> ;	20
"municipality"	"municipality" means the geographic area of jurisdiction of a municipal corporation;	25
"packaging"	"packaging" means any receptacle or enveloping material used to contain or protect goods, but does not include a container or a vehicle;	30
"permit"	"permit" means a permit issued under this Act;	
"prescribed"	"prescribed" means prescribed by regulation;	35
"safety mark"	"safety mark" includes any one or more designs, symbols, devices, signs, labels, placards, letters, words, numbers or abbreviations that are prescribed for display on dangerous goods, containers, packaging or vehicles used in the transportation of dangerous goods;	40
"safety requirements"	"safety requirements" means requirements for the transportation of dangerous goods, the training of persons engaged in that transportation and the reporting and inspection of that transportation;	45
"safety standards"	"safety standards" means standards regulating the design, construction, equipping, functioning or performance of containers, packaging or vehicles used in the transportation of dangerous goods;	50

"shipping document" "shipping document" means any document that accompanies dangerous goods being transported and that describes or contains information relating to the goods and includes a bill of lading, cargo manifest, shipping order or way-bill; 5

"vehicle" "vehicle" includes (a) any vehicle designed to travel on land that is drawn, propelled or driven by any kind of power, including muscular power, 10 (b) an all-terrain vehicle as defined in the All-terrain Vehicles Act, and (c) a trailer. 15

GOVERNMENT OF THE NORTHWEST TERRITORIES

Binding on government 2. This Act and the regulations bind the Government of the Northwest Territories. 20

APPLICATION

Application 3.(1) Subject to subsection (2), this Act applies to all dangerous goods that are transported on any highway by any vehicle, whether or not for hire or reward. 25

Exceptions (2) This Act does not apply to any transporting of dangerous goods 30 (a) to the extent that the transporting is exempted from the application of this Act by the regulations; (b) while under the sole direction or control of the Minister of National Defence for Canada; 35 or (c) where the transporting is exempted from the application of this Act by a permit, while there is compliance with all prescribed terms and conditions respecting the permit and all terms and conditions imposed on the permit. 40

Paramountcy (3) Where there is a conflict between the terms of this Act and the terms of any other enactment, this Act and the regulations operate with respect to the transportation of dangerous goods, unless this Act otherwise provides or another Act specifically states that it operates notwithstanding this Act. 45

ADMINISTRATION

Agreements with a province or Yukon Territory	4.(1) The Minister may enter into agreements with a province or the Yukon Territory respecting the administration and enforcement of (a) this Act and the regulations; or (b) any Act or regulation of a province or the Yukon Territory that deals with the transporting of dangerous goods.	5
Agreements with Government of Canada	(2) The Minister and the Commissioner may enter into agreements with the Government of Canada respecting the administration and enforcement of (a) this Act and the regulations; or (b) the federal Act and the regulations under that Act.	10 15
Apportionment of costs	(3) An agreement entered into under this section may provide for the apportionment of any costs, expenses or revenues arising from the agreement.	20
Director	5.(1) The Minister may appoint a Director.	
Delegation	(2) The Minister may in writing delegate any of his or her powers and duties to the Director.	25
Analysts	6. The Director may appoint analysts.	
Inspectors	7.(1) The Director may appoint inspectors.	30
Powers and duties	(2) An inspector shall have the powers and duties prescribed by regulation.	
Certificates	(3) 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 or inspecting any container, packaging, vehicle, building or place the inspector shall, if so requested by the owner or person in charge or possession, produce the certificate.	35 40
Powers of Director	8. The Director may perform any of the powers and exercise any of the duties of an inspector.	
<u>Ex officio</u> inspectors	9. All members of the Royal Canadian Mounted Police are <u>ex officio</u> inspectors for the purposes of this Act.	45

PERMITS

Permits	10. The Director or a person designated in writing by the Director may, in accordance with this Act and the regulations, issue and renew permits exempting the transportation of dangerous goods from the application of one or more provisions of this Act or the regulations where the Director or person designated by the Director	5 10
	(a) believes on reasonable grounds that an emergency situation exists and the exemption is necessary to prevent, reduce or eliminate danger to life, health, property or the environment; or	15
	(b) is satisfied, on reasonable grounds, that the manner of transporting the dangerous goods provides a level of safety at least equivalent to that provided by compliance with the Act and the regulations.	20
Terms and conditions	11.(1) The Director may, in addition to any prescribed term or condition, impose any terms or conditions on a permit that the Director deems necessary for the safe transportation of dangerous goods.	25
<u>Idem</u>	(2) Terms or conditions may be	
	(a) imposed on a permit either before or after the permit is issued; or	30
	(b) amended or deleted after the permit is issued.	
Alteration to permit	(3) Where a term or condition on a permit is imposed, amended or deleted after the permit is issued, notice of the change shall be served on the person holding the permit in accordance with the regulations.	35
Form of permit and application	12.(1) Subject to subsection (2), a permit and an application for a permit must be in writing in a form approved by the Director.	40
Oral permit	(2) A permit referred to in paragraph 10(1)(a) may be issued orally on the basis of an oral application.	45

<u>Idem</u>	(3) An oral permit shall be confirmed in writing in a form approved by the Director as soon as practicable after it is issued.	5
Fee	13.(1) Subject to subsection (2), every application for a permit shall be accompanied by the prescribed fee.	
<u>Idem</u>	(2) Where a permit is issued orally, the person to whom the permit is issued shall submit the prescribed fee, and a written application in a form approved by the Director, within 14 days of the date the permit is issued.	10
Refund	(3) The fee paid for a permit is refundable where the application for the permit is refused.	15
Prohibition	14. No person shall, unless authorized by the Director,	20
	(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	25
	a permit.	
Indemnity	15.(1) The holder of a permit is required to indemnify the Government of the Northwest Territories and its officers, agents and employees, in accordance with the regulations, against all claims, actions, losses, costs or damages arising from or attributable to any act done under the authority of a permit.	30
Cause of action prohibited	(2) No person shall bring an action against the Government of the Northwest Territories in respect of the issuing of a permit.	35
Amendments, cancellation or suspension	16. The Director may	
	(a) amend a permit to correct a typographical or clerical error,	40
	(b) cancel a permit that was issued in error,	
	(c) amend, cancel or suspend a permit on the application of the person holding the permit, or	45
	(d) amend, cancel or suspend a permit where the Director believes on reasonable grounds that the person holding the permit or his or her employees or agents have violated a provision of this Act or the regulations or a term or condition imposed on the permit,	50
	in accordance with the regulations.	

<u>Idem</u>	17. Where a permit is amended, suspended or cancelled, the Director shall ensure that notice of the amendment, suspension or cancellation is served on the person holding the permit in accordance with the regulations.	5
Permit must be produced	18. A person holding a permit or transporting dangerous goods under the authority of a permit, other than an oral permit, shall produce the permit or a copy of the permit, without delay, at the direction of an inspector.	10
	DANGEROUS GOODS	15
Prohibited transportation	19. No person shall transport any dangerous goods in or upon a vehicle on a highway except where <ul style="list-style-type: none"> (a) all applicable prescribed safety requirements are complied with; (b) the person is in possession of all applicable prescribed shipping documents; and (c) the vehicle and all containers and packaging in or upon it comply with all applicable prescribed safety standards and display applicable prescribed safety marks. 	20 25
Safety standards	20. No person shall <ul style="list-style-type: none"> (a) put any prescribed safety mark on any container, packaging or vehicle used or intended for use in the transportation of dangerous goods, or (b) deliver or distribute any container, packaging or vehicle used or intended for use in the transportation of dangerous goods, on which any prescribed safety mark is displayed, unless the container, packaging or vehicle complies with all applicable prescribed safety standards.	30 35 40
Emergency plans	21. The Minister may require any person who engages in the transportation of dangerous goods to prepare, in the prescribed manner and circumstances, emergency plans for implementation in the event of a discharge, emission or escape of dangerous goods from a container, packaging or vehicle.	45

Financial responsibility	22. The Minister may, subject to the regulations, require any person who engages in or proposes to engage in the transportation of dangerous goods to provide evidence of financial responsibility in the form of insurance or an indemnity bond, or in any other form satisfactory to the Minister.	5
Duty to take action	23.(1) Where there occurs or is a reasonable likelihood of occurring any discharge of dangerous goods from any container, packaging or vehicle, the person who owns or has charge or possession of the dangerous goods at the time shall, as soon as possible in the circumstances,	10
	(a) subject to any regulations made under paragraph 60(1)(1), report the discharge to an inspector or a person designated by regulation; and	15
	(b) take all reasonable emergency measures consistent with public safety to prevent the discharge or, if it cannot be prevented, remedy any dangerous condition or reduce or mitigate any danger to the environment or to human life or health that results from the discharge of the dangerous goods or may reasonably be expected to result if the dangerous goods are discharged.	20
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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 subsection (1) to take them.	30
No warrant required	(3) Any inspector or other person directed, required or requested to take any measures under subsection (1) or (2) may, without a warrant, enter and have access to any place or property, and may do all reasonable things as may be necessary in the circumstances.	35
Personal liability	(4) Any person, other than a person referred to in subsection (1), who provides assistance or advice in taking the measures required by subsection (1) or who takes any measures authorized under subsection (2), is not personally liable either civilly or criminally in respect of any act or omission in the course of providing assistance or advice or taking any measures under those subsections unless it is established that the person acted in bad faith.	40
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Costs and expenses	24.(1) The Government of the Northwest Territories may recover the costs and expenses of and incidental to the taking of any measures under subsection 23(2) jointly or severally from any persons referred to in subsection 23(1) to the extent that such costs and expenses can be established to have been reasonably incurred in the circumstances.	5
Cause of action	(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.	10
Direction of Minister	25.(1) Where the Minister considers it necessary for the protection of the public, property or the environment, the Minister may, in respect of any matter not provided for in this Act, and in accordance with the regulations, direct any person engaged in the transportation of dangerous goods to cease any activity or to carry it on in any manner consistent with the intention of this Act.	15 20
Minister to confirm	(2) A direction under subsection (1) shall be confirmed in writing by the Minister within 24 hours after it is made.	25
Review or appeal	(3) Any person who receives a directive under subsection (1) may apply to have the directive reviewed or appeal the directive in the manner set out in the regulations, but that person shall comply with the directive until the review or appeal is finally determined.	30

ORDERS

Orders	26.(1) Where an inspector is satisfied on reasonable grounds that	35
	(a) there is a serious and imminent danger of a discharge of dangerous goods from any container, packaging or vehicle transporting dangerous goods, or	40
	(b) dangerous goods are being transported in contravention of this Act or the regulations, the inspector may issue an order to the owner or person in charge or possession of the dangerous goods requiring that person to do one or more of the following:	45
	(c) detain the dangerous goods, container, packaging or vehicle;	
	(d) remove the dangerous goods, container, packaging or vehicle to a location specified in the order; or	50

	(e) take any other measures that are practicable to protect life, health, property or the environment.	
Compliance with order	(2) Where an order referred to in paragraph (1)(d) is made, no person shall transport the dangerous goods, container, packaging or vehicle, except as provided in the order, until the order is terminated or suspended by an inspector.	5
Duty to take action	(3) Notwithstanding subsections (1) and (2), a person to whom an order is issued shall, in the event of an accident involving the discharge of the dangerous goods, take all measures required under subsection 23(1).	10
Termination of order	27.(1) Subject to subsection (2), an order issued under section 26 shall be terminated by an inspector (a) after the provisions of this Act and the regulations have, in the opinion of the inspector, been complied with, or (b) after the danger to life, health, property or the environment has, in the opinion of the inspector, been prevented or adequately reduced, whichever occurs first.	20
Expiry of order	(2) The order shall expire 30 days from the date of issuance, unless extended by an inspector.	25
Termination, variation, etc. of order	(3) The order or any part of the order may, in writing, be terminated, varied, suspended or extended by an inspector.	30
Director may take action	28.(1) Where an order is issued to a person under this Act requiring the person to do anything or comply with certain terms and conditions and the person fails or refuses to comply with the order, the Director may take the measures or cause them to be taken.	35
Costs and expenses	(2) The Government of the Northwest Territories may recover the costs and expenses of and incidental to the taking of any measures under subsection (1) from the person to whom the order is issued.	40
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Cause of action (3) A claim under subsection (2) may be sued for and recovered with costs as a debt due to the Government of the Northwest Territories.

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ENFORCEMENT

General

Powers of inspectors 29. Inspectors have the powers of peace officers under the Criminal Code to enforce this Act and the regulations and are entitled, while performing their duties and exercising their powers, to every protection to which peace officers are entitled under the Criminal Code. 10
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Arrest

Powers of arrest 30. An inspector may arrest, without a warrant, a person whom the inspector finds contravening this Act or the regulations if the inspector believes on reasonable grounds 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 violation, (c) the need to prevent the continuation or repetition of the violation or the commission of another violation, 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

Duty to inspect 31.(1) For the purpose of ensuring compliance with this Act and the regulations an inspector may at any reasonable time inspect 40 (a) any vehicle and its load where the inspector believes on reasonable grounds that dangerous goods are being transported; or 45 (b) any vehicle, place or building, other than a private dwelling house, in which the inspector believes on reasonable grounds that any books, records, electronic data or other documents relevant to the administration of this Act can be found. 50

Vehicle to stop	(2) An inspector may, for the purpose 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.	5
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.	10
Powers of enforcement	32.(1) An inspector may in the performance of an inspection under section 31, (a) for the purpose of analysis, take samples of anything that he or she believes on reasonable grounds to be dangerous goods; (b) examine and remove, for the purpose of making copies or taking extracts, any books, records, electronic data, or other documents that the inspector believes on reasonable grounds to contain information relevant to the administration or enforcement of this Act or the regulations; (c) open and inspect any container, packaging or vehicle in which the inspector believes that dangerous goods are being transported; (d) conduct any tests or take any measurements; or (e) examine any thing relevant to the administration of this Act.	15 20 25 30
Operations of computer system	(2) In carrying out an inspection of a place or building under this section, 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.	35 40 45

Duty of person
in possession
or control

(3) The owner or person in charge or possession of any place or building being inspected under this section shall permit the inspector

- (a) to use or cause to be used any computer system at the place 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;
- (b) to obtain a physical copy of the record and take it; and
- (c) to use or cause to be used any copying equipment at the place to make copies of the record.

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Search

Warrant to
search

33.(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, container, packaging or vehicle

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- (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

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- (b) any thing that will afford evidence that a contravention of this Act or the regulations is being or has been committed,

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the justice may issue a warrant authorizing the inspector named in the warrant to enter and search that place, building, container, packaging or vehicle for any such thing, subject to any conditions specified in the warrant.

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Search and
seizure

(2) An inspector authorized by a warrant issued under subsection (1) may

- (a) at any reasonable time enter and search a container, packaging, place, building or vehicle referred to in the warrant;
- (b) seize and detain any thing referred to in the warrant; and
- (c) exercise the powers described in subsection 32(1).

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Search without warrant	34.(1) Where an inspector has reasonable grounds to believe that there is in any place, building, container, packaging, or vehicle anything referred to in subsection 33(1), but by reason of exigent circumstances it would not be practicable to obtain a warrant under subsection 33(1), the inspector may search that place, building, container, packaging, or vehicle without a warrant.	5
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 serious and imminent danger to human life or safety or loss or destruction of evidence.	10 15
Force may be used	35. An inspector making a search under section 33 or 34 may use such force as the inspector reasonably considers necessary to facilitate the search, including the breaking of any lock or fastening.	20
Operation of computer system	36.(1) An inspector making a search on a place, building or vehicle under section 33 or 34 may (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; (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 (d) use or cause to be used any copying equipment at the place to make copies of the record.	25 30 35
Duty of person in possession or control	(2) The owner or person in charge or possession of any place, building or vehicle in respect of which a search is carried out under section 33 or 34 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 to make copies of the record.	40 45 50

Assistance to inspectors 37. The owner or the person in charge of a place, building or vehicle entered by an inspector under section 31, 33 or 34 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. 5 10

Seizure

Seizure 38.(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 15
(a) by means of or in relation to which the inspector reasonably believes the contravention occurred; or 20
(b) that the inspector reasonably believes will afford evidence of the contravention. 25

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. 30

Idem (3) Where the thing referred to in subsection (1) is so mixed or annexed to other things that it is impracticable or difficult to separate the seized thing from the other things, an inspector may seize the other things. 35

Notice of contravention (4) An inspector who has seized any thing under subsection (1) or (3) 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. 40

Proceedings instituted 39.(1) Where proceedings are instituted in respect of an offence under this Act or the regulations in relation to the thing seized, it may be held until the proceedings are finally concluded. 45

Application	(2) Where proceedings referred to in subsection (1) are instituted, any person from whom any thing has been seized under subsection 33(2) or section 38 or any other person who is entitled to the thing seized may apply to the court before which the proceedings are instituted for an order that the thing be returned to the applicant.	5
Terms and conditions	(3) Where the court is satisfied that (a) it is not in the public interest to continue to hold the thing, (b) the thing is not required as evidence or for the purposes of analysis, and (c) no danger to persons, property or the environment would occur by the release of the thing, the court may grant the application and order the immediate return of the thing to the applicant, subject to any terms and conditions that appear necessary or desirable to ensure that it is safeguarded and preserved for any purpose for which it may subsequently be required.	10 15 20
Order to forfeit	40.(1) Where a person is convicted of an offence under this Act, any thing seized under subsection 33(2) or section 38 by means of or in relation to which the offence was committed may be forfeited to the Government of the Northwest Territories by order of the convicting court, whether or not it has been returned under subsection 39(3).	25 30
<u>Idem</u>	(2) On the making of the order referred to in subsection (1), the thing shall be forfeited and may be disposed of as the Minister directs.	35
Return of property	(3) Where proceedings referred to in subsection 39(1) are instituted but no forfeiture is ordered under subsection (1), any thing seized under subsection 33(2) or section 38, if not earlier returned under subsection 39(3), shall be returned to the person from whom the seizure was made or any other person who appears on reasonable grounds to an inspector to be entitled to it, unless that person has been convicted of an offence under this Act or the regulations, in which case the thing may be (a) held until any fine imposed on conviction has been paid; or (b) sold under execution in satisfaction of the fine or any part of the fine.	40 45 50

Cause of action prohibited	41. 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 for loss or damage arising from the deterioration of any dangerous goods, container, packaging or vehicle during any period when it is under seizure unless the inspector was negligent in the care of the dangerous goods, container, packaging or vehicle.	5
Certificate	42.(1) Where an inspector inspects, seizes or takes a sample of any thing under this Act or the regulations, the inspector shall, if the thing is sealed or closed up, provide the owner or person in charge of it with a certificate, in a form approved by the Director, evidencing the inspection, seizure or taking of the sample.	10 15
<u>Idem</u>	(2) A certificate provided under subsection (1) relieves the person to whom or for whose benefit it is provided of liability with respect to the inspection, seizure or taking of a sample evidenced by the certificate, but does not otherwise exempt that person from compliance with this Act or the regulations.	20 25

OFFENCES AND PUNISHMENT

Prohibition	43. No person, who is not an inspector, shall (a) hold himself out as an inspector; (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.	30 35
Obstruction of inspector	44. No person shall (a) obstruct, delay or interfere with, or (b) give false information to an inspector in the performance of his or her duties or the exercise of his or her powers.	40
Interference with property	45. No person shall use, move or in any way interfere with property that has been seized under this Act by an inspector.	45
Permit	46. No person other than the person to whom a permit is issued shall (a) hold himself or herself out as the holder of the permit; or	50

(b) exercise or attempt to exercise on behalf of the person to whom the permit is issued, any rights attached to the permit.

False or misleading information

47. No person shall 5
- (a) make a false or misleading statement or provide false or misleading information in
 - (i) an application for a permit, or
 - (ii) any other form or document required by this Act or the regulations; or 10
 - (b) make a false or misleading entry in any book or record required to be kept by this Act or the regulations.

Destruction of signs

48. No person other than an inspector shall remove, duplicate or destroy 15
- (a) any sign posted by an inspector, or
 - (b) any tag or other mark that an inspector attaches to any dangerous goods, container, packaging or vehicle 20
- under this Act or the regulations.

Offence and penalty

49. Every person who contravenes section 19 or 20 is guilty of an offence and is liable on summary conviction 25
- (a) 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
 - (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. 30

Idem

50. Every person who contravenes a provision of this Act or the regulations for which no other punishment is provided by this Act, commits an offence and is liable on summary conviction to a fine of not more than \$200,000, to imprisonment for a term of not more than six months, or to both a fine and imprisonment. 35

Limitation

- 51.(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. 40

Director'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, shall be received in evidence and, in the absence of any evidence to the contrary, the document is proof of that fact without proof of the signature or official character of the person appearing to have signed the document.

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Continuing offence

52. Where an offence under this Act 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.

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Proof of offence

53. 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 defendant, whether or not the employee or agent is identified or prosecuted for the offence.

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Liability of directors

54. Where a corporation commits an offence under this Act or the regulations, 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, and is liable to the punishments provided for the offence, whether or not the corporation has been prosecuted or convicted.

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Defence

55. 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.

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EVIDENCE

Proof of documents

56.(1) In a prosecution for an offence under this Act or the regulations,

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(a) a permit or the renewal, suspension or cancellation of a permit purporting to be signed by the Director, or a copy of the permit appearing to be certified by the Director as a true copy,

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(b) a report or certificate of an analyst stating that he or she has analyzed or examined a dangerous good and stating the results of the analysis,

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	(c) a report of an inspector stating that he or she has inspected a building, place, container, packaging, vehicle or dangerous good and stating the results of the inspection, or	5
	(d) a copy or extract taken by an inspector under paragraph 32(1)(b) and appearing to be certified under his or her signature as a true copy or extract,	
	is admissible in evidence and is proof, unless the contrary is shown, of the facts set out in the permit, report, certificate, copy or extract without proof of the signature or the official character of the person appearing to have signed the permit, report, certificate, copy or extract.	10
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Cross-examination	(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 who signed or who appears to have signed the report, certificate, copy or extract for the purpose of cross-examination.	20
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 such intention together with a copy of the report, certificate, copy or extract.	25
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Service	57. The service of an order or other document under this Act must be made in the manner prescribed by regulation.	
Evidence	58. A shipping document or safety mark appearing on any container, packaging or vehicle is, in the absence of evidence to the contrary, proof of the contents of that container, packaging or vehicle.	35
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	BY-LAWS	
By-laws	59.(1) Subject to this Act and the regulations, a municipal corporation may, by by-law, with respect to highways inside the municipality	45
	(a) designate the route and time of travel of vehicles transporting dangerous goods; and	
	(b) prohibit the transporting of dangerous goods on the highways specified in the by-law.	
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Approval by Minister	(2) No by-law under subsection (1) comes into effect until it is approved by the Minister.	

Publication

(3) Notice of every by-law made under subsection (1) must be published in a newspaper having a general circulation in the municipality.

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REGULATIONS

Regulations

60. (1) The Commissioner, upon the recommendation of the Minister, may make regulations

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(a) prescribing classes, divisions, subdivisions, and groups of dangerous goods;

(b) prescribing products, substances and organisms to be included in the classes of dangerous goods;

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(c) establishing divisions, subdivisions and groups of dangerous goods;

(d) specifying, for each product, substance and organism, the class, division, subdivision or group into which it falls;

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(e) determining or providing the manner of determining the class, division, subdivision or group into which any dangerous goods fall;

(f) exempting from the application of any provision of this Act or the regulations the transportation of dangerous goods in any quantities or concentrations, in any circumstances, for any purposes or in any containers, packaging or vehicles as are specified in the regulations;

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(g) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted under paragraph (f);

(h) prescribing circumstances in which the transportation of dangerous goods is prohibited;

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(i) specifying dangerous goods that shall not be transported in any circumstances;

(j) prescribing safety marks, safety requirements and safety standards of general or particular application;

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(k) respecting the manner and circumstances in which emergency plans referred to in section 21 shall be prepared;

(l) respecting the manner and circumstances in which the discharge, emission or escape of dangerous goods referred to in section 23 shall be made and designating the person to whom the report should be made;

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- (m) respecting the qualification, training and examination of inspectors and analysts;
- (n) prescribing shipping documents and other documents to be used in the transporting of dangerous goods, the information to be included in such documents and the persons by whom and manner in which such documents are to be used and retained; 5
- (o) prescribing the circumstances in which fees shall and shall not be paid for inspections under this Act and determining the amount of such fees; 10
- (p) prescribing the manner in which a permit shall be applied for and issued under section 10 and providing for the appeal and review of any decision not to issue a permit; 15
- (q) providing for the notification of persons directed to do anything under section 25, for the form, effect, duration and appeal or review of such directions and for any matters incidental to the appeal or review; 20
- (r) prescribing fees for
 - (i) applications for permits,
 - (ii) copies of documents, and
 - (iii) any other service provided for under this Act or regulations; 25
- (s) respecting eligibility of applicants for a permit and the information to be provided by an applicant for a permit;
- (t) respecting the issuance, renewal, suspension and cancellation of permits; 30
- (u) setting out terms and conditions that apply to permits;
- (v) governing the route and time of travel of vehicles transporting dangerous goods; 35
- (w) respecting indemnities given under section 16;
- (x) respecting the powers and duties of inspectors; and
- (y) respecting any matter the Commissioner considers necessary for carrying out the purposes and provisions of this Act. 40

Adoption
of codes

- (2) Any regulations made under subsection (1) may adopt by reference, in whole or in part, with such changes as the Commissioner considers necessary, any code or standard, or any regulation made under an Act of a province, the Yukon Territory, or the Government of Canada, and may require compliance with the code, standard or regulation so adopted. 45

REPEAL

Repeal

61. The Transportation of Dangerous Goods Act, S.N.W.T. 1982(3), c.19 is repealed.

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TRANSITIONAL

Transitional

62. If, at the time that section 60 comes into force, there is in force in a municipality a by-law dealing with the subject matter referred to in that section, the by-law continues in force

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(a) for six months from the time section 63 comes into force, or

(b) until a by-law is passed and approved by the Minister under section 60, whichever occurs first.

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COMMENCEMENT

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Coming into force

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