

MINISTER OF TRANSPORTATION'S
REPORT TO THE LEGISLATIVE ASSEMBLY
FOR 1998

TRANSPORTATION OF DANGEROUS GOODS ACT (1990)

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*TRANSPORTATION OF DANGEROUS GOODS ACT, 1990***

INTRODUCTION

The Northwest Territories' *Transportation of Dangerous Goods Act, 1990* came into effect on August 1, 1991. The *TDG Act* is the territorial complement of the federal *Transportation of Dangerous Goods Act*. Where the federal legislation applies to the transportation modes subject to its jurisdiction (i.e., air, marine, rail, pipeline and extra-provincial/territorial trucking), the territorial *Act* applies to intra-territorial trucking operations. In the interests of consistency and national uniformity, the territorial *Act* invokes the federal regulations pursuant to the federal *Act*. In this way, hazardous cargoes moving in Canada from one mode of transportation to another and/or between jurisdictions are always subject to the same dangerous goods regulations.

Section 62 of the *TDG Act* requires the Minister of Transportation to table an Annual Report in the Legislative Assembly. It reads as follows:

62. (1) The Minister shall, in respect of the administration of this *Act* and the Regulations in a year, cause to be prepared a report describing any:
- a) permit issued under subsection 4(1);
 - b) application made under subsection 7(1);
 - c) amendment, cancellation or suspension of a permit under paragraph 10(d);
 - d) order issued under subsection 31(1);
 - e) report made under subsection 34(1);
 - f) directive issued under subsection 35(1);
 - g) appeal commenced under section 36;
 - h) action taken by the Government of the Northwest Territories for the recovery of reasonable costs and expenses under section 38;
 - i) proceedings instituted in respect of an offence under this *Act* or the regulations; and
 - j) conviction for a contravention of this *Act* or the regulations.
- (2) The Minister shall table the report referred to in subsection (1) at the first session of the Legislative Assembly after the expiry of the year that is the subject of the report.

Profile of Dangerous Goods Traffic on Territorial Highways

The Department of Transportation's Motor Vehicles Division monitors, weighs and inspects motor carrier traffic reporting to its weigh scale facilities at Enterprise and Inuvik. Monitoring of motor carrier traffic is also conducted on the NWT highway system by mobile Highway Patrol Officers from Inuvik, Hay River and Yellowknife. In

1998, 23,838 transports reported to the Enterprise scale for inspection. Of these, 16,207 were loaded and were weighed. At the Inuvik scale 6110 transports were weighed. Of a total of 22,317 loaded vehicles, 5,464 were transporting dangerous goods. This figure represents almost 25% of all loaded vehicles passing through the weigh scale facilities.

The Enterprise Weigh Scale handles the majority of traffic entering the Northwest Territories. This facility may be open for 24 hours a day seven days a week. In 1998 it was open for eighty percent of the available time. The Inuvik Weigh Scale operates an average of 30 hours a week. Weigh scale personnel from the Inuvik scale conduct highway patrol activities for approximately 15 hours a week. Three full time Highway Patrol Officers patrol all highways in the South Mackenzie Region. One officer is based at Yellowknife and two others are based at Hay River. All Highway Patrol and Highway Transport Officers are designated as Transportation of Dangerous Goods Inspectors. The officers on duty at the Enterprise and Inuvik Scales record a profile of the types and approximate quantities of dangerous goods moving on the territorial highway system while they are open. The following table lists the dangerous goods most commonly carried by truck transports in the Northwest Territories. Hydrocarbon fuels account for the majority of the dangerous goods traffic on the highway system.

<u>Commodities</u>	<u>Quantities</u>
Fuel oil/diesel - heating	115,434,200 L
Gasoline - Automotive	31,562,100 L
Aviation Fuel	22,981,100 L
Propane	17,312,000 L
Ammonium Nitrate	1,676,800 KG
Sodium Cyanide	270,570 KG
Explosives	1,025,000 KG

Permits - 4.(1), Applications - 7.(1) and Amendments 10(d)

The sections of the *TDG Act* dealing with permits, applications for permits and their amendment read as follows:

- 4. (1) The Minister may, in accordance with this *Act* and the regulations, issue permits exempting the transportation of dangerous goods from the application of this *Act* or the regulations.

- 7. (1) Subject to subsection (2), an application for a permit and a permit must be in writing in a form approved by the Minister.

10. The Minister may (d) amend, cancel or suspend a permit where the Minister believes on reasonable grounds that the person holding the permit or his or her employees or agents have contravened this *Act* or the Regulations or a term or condition imposed on the permit.

There were no applications for permits and none were issued, amended, cancelled or suspended in 1998.

Orders - 31(1)

Section 31(1) reads:

31. (1) An inspector may issue an order, in accordance with subsection (2), to the owner or person in charge of dangerous goods, where the inspector believes on reasonable grounds that;
- (a) there is occurring or has occurred a discharge of the dangerous goods from a container, packaging or vehicle transporting the dangerous goods;
 - (b) there is a reasonable likelihood of a discharge of the dangerous goods from any container, packaging or vehicle transporting the dangerous goods; or
 - © the dangerous goods are being transported in contravention of this *Act* or Regulations.

There were no formal, written orders issued in 1998.

Spills - 34(1)

Section 34 of the *Act* pertains to the response to spills of dangerous goods. It reads:

34. (1) Where there is a discharge of dangerous goods from a container, packaging or vehicle transporting dangerous goods, or there is a reasonable likelihood of such a discharge occurring, the person who owns or has charge of the dangerous goods at the time shall, as soon as possible in the circumstances:
- (a) in accordance with the regulations, report any discharge to an inspector or a person designated by regulation;
 - (b) implement the emergency plans referred to in section 1.5; and
 - (c) subject to any order made under section 31, take all other reasonable emergency measures consistent with public safety to repair or remedy any dangerous condition or reduce or mitigate any danger to life, health or the environment that results or may reasonably be expected to result from the discharge.

As provided in 34(1)(a) above, the Regulations of the territorial *TDG Act* require that spills of dangerous goods be reported to the Northwest Territories' Spill Report Line. The Department of Indian and Northern Affairs established the Spill Report Line in

1979 by agreement with the federal and territorial agencies with responsibilities for dealing with hazardous material spills.

The agreement establishes one telephone number to which any and all spills in the Northwest Territories are reported. The Spill Report Line is in constant readiness. When a spill is reported, the operator on duty determines which of the participating agencies has jurisdiction and passes the information on for its response. The Spill Report Line is now administered on a two year rotational basis by Indian and Northern Affairs Canada, Environment Canada and the territorial Department of Resources, Wildlife & Economic Development. The Spill Report Line works well in quickly directing a report to the proper agency for a prompt response.

In 1998 a total of 190 dangerous goods spills were reported via the Spill Line. Of these, three were road transport related spills. All three of the spills were as a result of single vehicle rollovers. Substantial quantities of Fuel Oil were released in each incident.

The following are the particulars related to each spill occurrence as indicated by the Department of Resources, Wildlife and Economic Development hazardous materials spill database:

SPILL REPORT NUMBER . . 98 - 008
DATE January 20, 1998
PRODUCT Fuel Oil
SPILL QUANTITY 7000 liters
LOCATION Highway 2, < 1 km. from Junction of Highways 1 and
. 2
CAUSE Single vehicle rollover

The driver of the tank transport unit stated a small passenger vehicle was approaching on his side of the highway and moved right to avoid the passenger vehicle. The wheels of the transport unit caught the loose snow at the shoulder of the highway pulling it into the ditch and overturning the tank trailers.

The spilled product was contained in the ditch and cleanup was conducted the following day by pumping off the remaining product and hauling the contaminated snow to an approved disposal site.

SPILL REPORT NUMBER . . 98 - 015
DATE February 10, 1998
PRODUCT Fuel Oil
SPILL QUANTITY 5000 liters

LOCATION Highway 4, north of the Powder Point turnoff
CAUSE Single vehicle rollover

While travelling northbound on Highway 4, a tank transport unit left the road and rolled onto its side spilling substantial product. The remaining Fuel Oil was pumped off and the spilled product and contaminated snow was then burned off. Several truck loads of residue were hauled to the Yellowknife landfill site. A follow up inspection was conducted by an RWED official on May 7, 1998 and reported the clean up was satisfactory,

SPILL REPORT NUMBER . . 98 - 036
DATE March 16, 1998
PRODUCT Fuel Oil
SPILL QUANTITY 4000 liters
LOCATION Highway 4, km 13
CAUSE Single vehicle rollover

While travelling northbound on Highway 4 past the Dettah turnoff, a transport truck pulling two trailers became disconnected. The trailers pulled away from the tractor and rolled onto their side on a small lake near the side of the road. The tanks were pumped off and removed from the site and the contaminated snow and fuel was burned off. The remaining residue was hauled to the Yellowknife landfill site. On May 5, 1998 a follow up inspection was conducted by an RWED official and he reported the clean up was satisfactory,

Directives - 35(1), Appeals - 36(1) and Recoveries - 38(1)

Sections 35, 36 and 38 of the *TDG Act* refer to ministerial directives, Appeals against Ministerial Directives and Recoveries of public expenditures made to remedy abandoned or discharged dangerous.

- 35. (1) Where the Minister considers it necessary for the protection of the public, property or the environment, the Minister may direct a person engaged in the transportation of dangerous goods to cease any activity or to perform the activity in a manner consistent with the intentions of this *Act*.
- (4) A person who receives a directive under subsection (1) may appeal the directive to the Supreme Court within 60 days of receiving the directive, but that person shall comply with the directive until the appeal is finally determined.
- 36. (1) An appeal to the Supreme Court shall be commenced by
 - (a) filing an originating notice with the Supreme Court; and

- (b) serving a copy of the originating notice on the Minister.
38. (1) The Government of the Northwest Territories may claim and recover reasonable costs and expenses incurred in taking any measures under section 24, 33 or 34.

Under either the federal or the territorial/ provincial *TDG Acts*, Ministerial Directives are issued only in exceptional circumstances. The Minister was not required to issue any directives and no appeals to directives were made in 1998.

No actions were initiated for recovery of costs of expenses with respect to spills during this reporting period.

Citations and Convictions

Of the 5,464 vehicles transporting dangerous goods, 13 violations of the *TDG Act* and regulations were documented by Department of Transportation's Dangerous Goods Inspectors. Five summary offence tickets and eight written warnings were issued.

Two summary offence tickets and four written warnings were issued to drivers for operating a vehicle transporting dangerous goods without proper safety marks. The written warnings were issued because the vehicles were missing one of four or more required placards.

Two summary offence tickets and one written warning were issued operating a vehicle without proper documentation. The written warning was issued because of an error or omission in the documentation carried with the load.

One summary offence ticket and three written warnings were issued to drivers for failing to produce a certificate of training. The charge of failing to produce is similar in nature to the charge of operating while not being a trained person. The facts are readily available to the Inspector at the time of the offence and the voluntary penalty is the same. The written warnings for this offence were written where the Inspectors had cause to believe the driver was issued a training certificate by his/her employer but for various reasons did not have it in his/her possession at the time of inspection.

SUMMARY

Indicated traffic volumes in 1998 are up by a six percent over 1997. This may be due to the increased coverage at the Enterprise scale facility from 65% during 1997 to 68% during 1998. Vehicles transporting dangerous goods loads remained almost the same as in 1997 but resulted in a slightly smaller percentage of total traffic. The completion of the construction of the BHP diamond mine and the closure of the Lupin gold mine likely affected the lower percentage of dangerous goods traffic.

There were three reportable spills of Dangerous Goods in 1998. All three involved the transportation of Fuel Oil. The circumstances were all very similar and involved 16,000 liters in total of spilled product. All three occurred during the winter months and containment and cleanup was reported as satisfactory and complete by the Environmental Protection Division's Inspectors.

The detection rate of violations of Dangerous Goods legislation increased during 1998. All offences were dealt with either summarily or by a documented written warning notice. The violations were of the same types as in the previous year. The number of Summary Offence Ticket Informations issued remained consistent with 1997 but written warning increased by five. None of the circumstances singularly or collectively appears to indicate any trend towards a compliance problem at this time.