

MINISTER OF TRANSPORTATION'S
 REPORT TO THE LEGISLATIVE ASSEMBLY FOR 2009
 ON THE TRANSPORTATION OF DANGEROUS GOODS ACT (1990)

INTRODUCTION

The Northwest Territories *Transportation of Dangerous Goods Act* (1990) came into effect on August 1, 1991. The *Transportation of Dangerous Goods Act* is the territorial complement of the federal *Transportation of Dangerous Goods Act*. The *Transportation of Dangerous Goods Regulations* were first amended on August 15, 2002 to meet the clear language requirements and is further amended from time to time. Where the federal legislation applies to the transportation modes subject to its jurisdiction (i.e., air, marine, rail and road transport), the territorial Act applies to road transport operations. In the interests of consistency and national uniformity, the territorial Act references the federal regulations pursuant to the federal Act. In this way, dangerous goods moving in Canada from one mode of transportation to another and/or between jurisdictions are always subject to the same regulations.

Section 62 of the *Transportation of Dangerous Goods 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 of 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 ON NORTHWEST TERRITORIES HIGHWAYS

The Department of Transportation's Road Licensing and Safety Division currently employs 9 Highway Transport Officers who weigh and inspect motor carrier traffic reporting to its weigh scale facilities at Enterprise, and Inuvik. On road monitoring of motor carrier traffic is also conducted by the Highway Transport Officers on mobile patrols in all regions. The monitoring of motor carrier traffic is carried out exclusively by mobile patrol in the North Slave Region. Highway Transport Officers are trained and designated as Dangerous Goods Inspectors.

The Enterprise Weigh Scale handles the majority of traffic travelling on the NWT highway system. This facility, which may be open for 11.5 hours a day seven days a week, was open for approximately 61 percent of available time in 2009. While the scale is open, the officers on duty record the types and approximate quantities of dangerous goods moving through their facility by noting the product identification numbers affixed to the vehicles. The volume of specific dangerous goods is determined by averaging the volume for each vehicle configuration and product. Almost all dangerous goods passing through the Enterprise Scale originate in Hay River or south of the Northwest Territories boundary. In 2009, approximately 13,844 loaded transports reported to the Enterprise, and Inuvik scales for inspection. Of these 3,977 were transporting dangerous goods. According to these figures, about 28.7 percent of the loaded transport trucks travelling on Northwest Territories' highways are carrying dangerous goods. Hydrocarbon fuels account for the majority of dangerous goods traffic on the highway system.

The number of trucks reporting to each of the Weigh Scales and the number of trucks carrying dangerous goods is shown in the following table.

Scale	Number of Trucks Reporting	% Change from 2008	Number of Trucks Carrying Dangerous Goods	% Change from 2008
Enterprise	10,861	-42.3	3,620	-42.4
Inuvik	2,983	-12.9	357	-20.7
Total	13,844	-39.4	3,977	-37.8

The following table lists the dangerous goods most commonly carried by truck transports in the Northwest Territories. These quantities are based on the traffic flow through the Weigh Scales at Enterprise and Inuvik.

Commodity	Enterprise	Inuvik
Fuel Oil/ Diesel – Heating	93,657,000 l	5,657,000 l
Gasoline – Automotive	14,497,000 l	1,027,500 l
Aviation Fuels	22,471,000 l	3,603,000 l
Propane	10,180,000 l	107,700 l

Ammonium Nitrate	6,837,000 Kg	0 Kg
Sodium Cyanide	0 Kg	0 Kg
Explosives	31 trucks	0 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 subsections (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 for his or her employees or agents have contravened this Act of 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 2009.

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 the dangerous goods from a container, packaging or vehicle transporting the dangerous goods;

- (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
- (c) the dangerous goods are being transported in contravention of this Act of Regulations.

There were two formal, written orders issued in 2009.

One order was given on February 12 to remove a fuel truck from the road and produce a current tank certification before unit can be used again. The second order was given on November 24 for the same issue. Both units were subsequently placed out of service.

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 and 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 dangerous goods 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 decides which of the participating agencies has jurisdiction and passes the information on for its response. Indian and Northern Affairs Canada, Environment Canada and the territorial Department of Environment and Natural Resources now administer the Spill Report Line on a two-year rotational basis. The Spill Report Line works well in quickly directing a report to the proper agency for a prompt response.

In 2009, 7 road transport related spills were reported to the spill line. Details of the spills are as follows:

Spill Number	Date	Location	Commodity	Spill Quantity
09-019	15-Jan-09	Highway #3, km 239.5	Diesel	100 L
09-090	5-Mar-09	Highway #1, btw km 370 & 420	Diesel	1000 L
09-094	9-Mar-09	Lupin Winter Road, Portage 21	Diesel	150 L
09-095	9-Mar-09	Lupin Winter Road, Portage 25	Diesel	80 L
09-111	23-Mar-09	Highway #4, km 64.0	Aluminum Sulfate	unknown

Spill Number	Date	Location	Commodity	Spill Quantity
09-215	20-May-09	Old Airport Road & Kam Lake Road	Hydraulic Oil	57 L
09-379	6-Mar-09	Highway #1 and Mackenzie Valley Winter Road, between Alberta/NWT border & Norman Wells	Corrosion Inhibitor	1250 L

Summary of the above shows that 2 spills were required to be reported under the *Transportation of Dangerous Goods Act*. One spill may have been required to be reported, but the quantity spilled was not known at the time of the reporting. Four spills were not required to be reported under the *Transportation of Dangerous Goods Act*.

Of the 7 spills reported, most were required to be reported under the *Environmental Protection Act, Spill Contingency Planning and Reporting Regulations*. These regulations are more restrictive and not enforceable by Highway Transport Officers.

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 goods.

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 receiving the directive, but that person shall comply with the directive until the appeal is finally determined.

36. (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 2009.

CITATIONS AND CONVICTIONS

In 2009 the Department of Transportation issued 13 Summary Offence Tickets for violations of the Northwest Territories *Transportation of Dangerous Goods Act* (1990) and the *Transportation of Dangerous Goods Regulations*.

- 2 Summary Offence Tickets was issued for transporting dangerous goods in means of containment not in accordance with applicable regulations.

- 1 Summary Offence Tickets was issued for employer allowing employee to transport dangerous goods without training.
- 2 Summary Offence Tickets was issued for transporting dangerous goods in illegal or non-standard means of containment.

- 4 Summary Offence Tickets was issued for failing to include information required by shipping document.
- 4 Summary Offence Tickets was issued for failing to produce training certificate.