

Transportation of Dangerous Goods Act, 1992

1992, c. 34

An Act to promote public safety in the transportation of
dangerous goods

[Assented to 23rd June, 1992]

Her Majesty, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as
follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Transportation of
Dangerous Goods Act, 1992*.

INTERPRETATION

Definitions

2. In this Act,

"accidental release"
« *rejet accidentel* »

"accidental release" means, in relation to dangerous
goods, an unplanned or accidental

(a) discharge, emission, explosion, outgassing or
other escape of dangerous goods, or any
component or compound evolving from dangerous
goods, or

(b) emission of ionizing radiation that exceeds a
level or limit established under the *Nuclear Safety
and Control Act*;

"dangerous goods"
« *marchandises
dangereuses* »

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

"handling"
« *manutention* »

"handling" means loading, unloading, packing or
unpacking dangerous goods in a means of containment
for the purposes of, in the course of or following

	transportation and includes storing them in the course of transportation;
"import" « <i>importer</i> »	"import" means import into Canada, and includes transporting goods that originate from outside Canada and pass through Canada to a destination outside Canada, except when the goods are being transported on a ship or aircraft not registered in Canada;
"inspector" « <i>inspecteur</i> »	"inspector" means a person designated as an inspector under subsection 10(1);
"means of containment" « <i>contenant</i> »	"means of containment" means a container or packaging, or any part of a means of transport that is or may be used to contain goods;
"means of transport" « <i>moyen de transport</i> »	"means of transport" means a road or railway vehicle, aircraft, ship, pipeline or any other contrivance that is or may be used to transport persons or goods;
"Minister" « <i>ministre</i> »	"Minister" means the Minister of Transport;
"prescribed" <i>Version anglaise seulement</i>	"prescribed" means prescribed by regulations of the Governor in Council;
"public safety" « <i>sécurité publique</i> »	"public safety" means the safety of human life and health and of property and the environment;
"safety mark" « <i>indication de danger</i> »	"safety mark" includes a design, symbol, device, sign, label, placard, letter, word, number or abbreviation, or any combination of these things, that is to be displayed <ul style="list-style-type: none"> (a) on dangerous goods, on means of containment or transport used in handling, offering for transport or transporting dangerous goods, or at facilities used in those activities, and (b) to show the nature of the danger or to indicate compliance with the safety standards prescribed for the means of containment or transport or the facilities;
"safety requirements" « <i>règles de sécurité</i> »	"safety requirements" means requirements for handling, offering for transport or transporting dangerous goods, for reporting those activities and for training persons engaged in those activities;
"safety standards" « <i>normes de sécurité</i> »	"safety standards" means standards regulating the design, construction, equipping, functioning or performance of means of containment or facilities used or intended to be used in handling, offering for transport or transporting dangerous goods;
"ship" « <i>navire</i> »	"ship" includes any description of vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation, without regard to method or lack of propulsion;
"shipping record" « <i>registre d'expédition</i> »	"shipping record" means a record that relates to dangerous goods being handled, offered for transport or transported and that describes or contains information relating to the goods, and includes electronic records of information;
"standardized means of containment" « <i>contenant normalisé</i> »	"standardized means of containment" means a means of containment in relation to which a safety standard has been prescribed.

APPLICATION OF ACT

Binding on Her Majesty

3. (1) This Act is binding on Her Majesty in right of Canada or a province.

General application

(2) This Act applies in relation to all matters within the legislative authority of Parliament, including dangerous goods outside Canada that are carried on a ship or aircraft registered in Canada.

Exceptions-- regulations and permits

(3) This Act does not apply to the extent that its application is excluded by a regulation made under paragraph 27(1)(e) or a permit issued under section 31.

Other exceptions

(4) This Act does not apply in relation to

(a) any activity or thing under the sole direction or control of the Minister of National Defence or in circumstances in which it is prescribed to be under that Minister's sole direction or control;

(b) commodities transported by a pipeline governed by the *National Energy Board Act* or the *Oil and Gas Production and Conservation Act* or by the law of a province; or

(c) dangerous goods confined only by the permanent structure of a ship.

AGREEMENT WITH PROVINCES

Agreement with provinces

4. (1) The Minister may

(a) with the approval of the Governor in Council, enter into an agreement with one or more provincial governments with respect to the administration of this Act; and

(b) subject to such terms and conditions as the Governor in Council may specify in the approval, agree to amendments to the agreement.

Publication

(2) The Minister shall make the agreement public.

SAFETY REQUIREMENTS, STANDARDS AND MARKS

General prohibition

5. No person shall handle, offer for transport, transport or import any dangerous goods unless

(a) the person complies with all applicable prescribed safety requirements;

(b) the goods are accompanied by all applicable prescribed documents; and

(c) the means of containment and transport comply with all applicable prescribed safety standards and display all applicable prescribed safety marks.

Misleading safety marks

6. No person shall display a prescribed safety mark on a means of containment or transport, or at a facility, if the

mark is misleading as to the presence of danger, the nature of any danger or compliance with any prescribed safety standard.

EMERGENCY RESPONSE ASSISTANCE PLANS

Plans and summaries

7. (1) Before offering for transport or importing any quantity or concentration of dangerous goods prescribed for the purposes of this section, a person shall have an emergency response assistance plan that is approved under this section and outlines what is to be done if there is an accident in transporting the dangerous goods.

Approval of plans

(2) The Minister or a person designated for the purposes of this section may approve the plan, either indefinitely or for a specified period, where the Minister or the designated person believes on reasonable grounds that it is capable of being implemented and will be effective in responding to any accident in transporting the dangerous goods.

Interim approval

(3) The Minister or the designated person may approve the plan pending an investigation of the matters to be considered under subsection (2) if the Minister or the designated person has no reason to suspect that the plan is incapable of being implemented or will be ineffective.

Revocation of approval

(4) The Minister or a person designated for the purposes of this section may revoke the approval where

(a) the Minister or the designated person has requested changes to the plan that he or she believes on reasonable grounds are needed to make it effective and the changes have been refused or have not been made; or

(b) the Minister or the designated person believes on reasonable grounds that the plan is no longer capable of being implemented.

1992, c. 34, s. 7; 1994, c. 26, s. 69.

MEANS OF CONTAINMENT

Improper means of containment

8. No person shall sell, offer for sale, deliver, distribute, import or use a standardized means of containment unless it displays all applicable prescribed safety marks.

Supply records

9. (1) A manufacturer or importer of standardized means of containment shall keep records of the persons to whom the manufacturer or importer supplies the means of containment.

Notices of defective construction and recall

(2) Where the Minister or a person designated for the purposes of this section believes on reasonable grounds that any standardized means of containment are unsafe for handling or transporting dangerous goods, the Minister or the designated person may direct the manufacturer or importer who supplied them to issue notices of defective construction or recall to the persons to whom they were supplied.

ADMINISTRATIVE OFFICIALS

Designation of

10. (1) The Minister may designate persons or classes

inspectors	of persons whom the Minister considers qualified to act as inspectors for the purposes of this Act or any of its provisions and the Minister may revoke the designations.
Certificate of designation	(2) The Minister shall furnish every inspector with a certificate of designation as an inspector showing the purposes, classes of dangerous goods, means of containment or transport and places for which the inspector is designated.
Certificate to be shown	(3) On entering any place or inspecting anything, an inspector shall show the certificate to the person in charge of the place or thing if the person requests proof of the inspector's designation.
<u>Certificate of inspection</u>	11. (1) Where an inspector opens anything for inspection, or takes a sample of anything that is sealed or closed up, the inspector shall provide the person who has the charge, management or control of the thing with a certificate in prescribed form as proof that it was opened for that purpose.
Effect of inspector's certificate	(2) The person to whom, or for whose benefit, the certificate is provided is not liable, either civilly or criminally, in respect of any act or omission of the inspector in the course of the inspection or taking of the sample, but is not otherwise exempt from compliance with this Act and the regulations.
<u>Designation of persons re plans, directions, permits</u>	12. (1) The Minister may designate persons for the purposes of section 7 or 9, subsection 31(1) or section 32, and the Minister may revoke any such designation.
Designation of persons re emergency permits	(2) The Minister may designate persons or classes of persons for the purposes of subsection 31(2), and the Minister may revoke any such designation.
	1992, c. 34, s. 12; 1994, c. 26, s. 70.
<u>Obstruction of inspectors</u>	13. (1) When an inspector is exercising powers or carrying out duties and functions under this Act, no person shall <ul style="list-style-type: none"> (a) fail to comply with any reasonable request of the inspector; (b) knowingly make any false or misleading statement either orally or in writing to the inspector; (c) except with the authority of the inspector, remove, alter or interfere in any way with anything detained or removed by or under the direction of the inspector; or (d) otherwise obstruct or hinder the inspector.
Contravention of non-compliance with directions	(2) No person shall contravene or fail to comply with a direction issued under subsection 9(2), 17(3) or (4), 19(2) or 32(1).
Notification of direction	(3) For greater certainty, a direction referred to in subsection (2) is not a statutory instrument for the purposes of the <i>Statutory Instruments Act</i> , but no person shall be convicted of an offence under that subsection unless the person was notified of the direction and, if any applicable regulations have been made under paragraph 27(1)(f), the notification was in accordance with the

regulations.

FINANCIAL RESPONSIBILITY

Financial
responsibility

14. (1) No person shall handle, offer for transport, transport or import dangerous goods, or manufacture or import standardized means of containment, unless the person is financially responsible in accordance with the regulations.

Request for proof of
financial responsibility

(2) A person who handles, offers for transport, transports or imports dangerous goods, or manufactures or imports standardized means of containment, shall provide the prescribed proof of financial responsibility to an inspector who requests the proof.

Limitation

(3) This section does not apply to Her Majesty in right of Canada or a province or to the entities named in Schedules II and III to the *Financial Administration Act*.

MONITORING COMPLIANCE

Powers of inspectors

15. For the purpose of ensuring compliance with this Act, an inspector may

(a) subject to section 16, at any reasonable time, stop any means of transport and enter and inspect any place or means of transport if the inspector is designated to inspect it and believes on reasonable grounds that on it or in it there are

(i) dangerous goods being handled, offered for transport or transported,

(ii) standardized means of containment,

(iii) books, shipping records, emergency response assistance plans or other documents that contain any information relevant to the administration or enforcement of this Act, or

(iv) computer systems that may be used to examine any information that is contained in or available to the computer systems and is relevant to the administration or enforcement of this Act;

(b) open and inspect, or request the opening and inspection of, any means of containment for which the inspector is designated if the inspector believes on reasonable grounds that it is being used to handle or transport dangerous goods or to contain dangerous goods offered for transport;

(c) for the purpose of analysis, take a reasonable quantity of anything the inspector believes on reasonable grounds to be dangerous goods; and

(d) examine and make copies of any information contained in any books, shipping records, emergency response plans or other documents, or in any computer systems, that the inspector believes on reasonable grounds contain any information relevant to the administration or enforcement of this Act.

Warrant required to enter dwelling-place

16. (1) An inspector may not enter a dwelling-place except with the consent of the occupant or under the authority of a warrant.

Authority to issue warrant

(2) Where on *ex parte* application a justice, as defined in section 2 of the *Criminal Code*, is satisfied by information on oath that

(a) the conditions for entry described in section 15 exist in relation to a dwelling-place,

(b) entry is necessary for any purpose relating to the administration or enforcement of this Act, and

(c) entry has been refused or there are reasonable grounds for believing that entry will be refused,

the justice may at any time sign and issue a warrant authorizing the inspector named in the warrant to enter the dwelling-place subject to any conditions that may be specified in the warrant.

Use of force

(3) The inspector who executes the warrant shall not use force unless the inspector is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

Remedying non-compliance

17. (1) Where an inspector believes on reasonable grounds that any dangerous goods are being handled, offered for transport, transported or imported in a way that does not comply with this Act, the inspector may detain the dangerous goods until satisfied that they will be handled, offered for transport, transported or imported in compliance with this Act.

Detention of non-complying standardized means of containment

(2) Where an inspector believes on reasonable grounds that any standardized means of containment is being sold, offered for sale, delivered, distributed, imported or used in a way that does not comply with this Act, the inspector may detain the means of containment until satisfied that it will be sold, offered for sale, delivered, distributed, imported or used in compliance with this Act.

Other measures

(3) The inspector may also take any other measures necessary to remedy the non-compliance, or direct any person who owns, imports or has the charge, management or control of the dangerous goods or means of containment to take the necessary measures.

Direction not to import

(4) Where the dangerous goods or means of containment originate from outside Canada and the inspector believes on reasonable grounds that measures to remedy the non-compliance are not possible or desirable, the inspector may direct that the goods or means of containment not be imported or that they be returned to their place of origin.

DUTY TO RESPOND

Duty to report

18. (1) Where an accidental release of dangerous goods in excess of a prescribed quantity or concentration occurs or is imminent from a means of containment being used to handle or transport dangerous goods, any person who at the time has the charge, management or control of the means of containment shall report the occurrence or

imminence of the release to any person prescribed for the purposes of this section.

Duty to take reasonable emergency measures

(2) Every person required to make a report shall, as soon as possible in the circumstances, take all reasonable emergency measures to reduce or eliminate any danger to public safety that results or may reasonably be expected to result from the release.

INTERVENTION

Grounds for intervention

19. (1) An inspector may take any measure referred to in subsection (2) where the inspector believes on reasonable grounds that it is necessary to prevent an imminent accidental release of dangerous goods from a means of containment being used to handle or transport the dangerous goods, or to reduce any danger to public safety resulting from the accidental release.

Authorized measures

(2) The inspector may

(a) remove or direct a person described in subsection (3) to remove the dangerous goods or means of containment to an appropriate place;

(b) direct a person described in subsection (3) to do anything else to prevent the release or reduce any resulting danger, or direct the person to refrain from doing anything that may impede its prevention or the reduction of danger; or

(c) take any other measure described in section 15.

Persons liable to direction

(3) A direction may be issued to

(a) any person who owns, imports or has the charge, management or control of the dangerous goods or means of containment when the release occurs or becomes imminent, or at any time afterward;

(b) any person who is responding to the occurrence or imminence of the release in accordance with an emergency response assistance plan approved under section 7; or

(c) any person who causes or contributes to the occurrence or imminence of the release.

PERSONAL LIABILITY

Personal liability

20. A person directed or required under subsection 17 (3) or (4), 18(2) or 19(2) to do or refrain from doing anything is not personally liable, either civilly or criminally in respect of any act or omission in the course of complying with the direction or requirement or doing any reasonable thing incidental to it, unless it is shown that the act or omission was in bad faith.

INQUIRIES

Minister may direct inquiry

21. (1) Where an accidental release of dangerous goods from a means of containment being used to handle or transport dangerous goods has resulted in death or injury to any person or damage to any property or the

environment, the Minister may direct a public inquiry to be made, subject to the *Canadian Transportation Accident Investigation and Safety Board Act*, and may authorize any person or persons that the Minister considers qualified to conduct the inquiry.

Powers of persons conducting inquiries

(2) For the purposes of the inquiry, any person authorized by the Minister has all the powers of a person appointed as a commissioner under Part I of the *Inquiries Act*.

Compatible procedures and practices

(3) The person or persons authorized to conduct the inquiry shall ensure that, as far as practicable, the procedures and practices for the inquiry are compatible with any investigation procedures and practices followed by any appropriate provincial authorities, and may consult with those authorities concerning compatible procedures and practices.

Report

(4) As soon as possible after the inquiry is concluded, the person or persons authorized to conduct the inquiry shall submit a report with recommendations to the Minister, together with all the evidence and other material that was before the inquiry.

Publication

(5) The Minister shall publish the report within thirty days after receiving it.

Copies of report

(6) The Minister may supply copies of the report in any manner and on any terms that the Minister considers proper.

RECOVERY OF COSTS AND EXPENSES

Recovery of reasonable costs and expenses by Her Majesty

22. (1) Her Majesty in right of Canada may recover the costs and expenses reasonably incurred while taking any measures under section 17 or 19.

Persons liable

(2) The costs and expenses may be recovered jointly and severally from any persons who, through their fault or negligence or that of others for whom they are by law responsible, caused or contributed to the circumstances necessitating the measures.

Presumption

(3) For the purposes of proceedings under this section, a defendant engaged in an activity in relation to which this Act applies shall be presumed to have been at fault or negligent unless it is established, on a balance of probabilities, that the defendant and any others for whom the defendant is by law responsible took all reasonable measures to comply with this Act and the regulations.

Procedure

(4) All claims under this section may be sued for and recovered by Her Majesty in right of Canada with costs in proceedings brought or taken for the claims in the name of Her Majesty in right of Canada in any court of competent jurisdiction.

Recourse or indemnity

(5) This section does not limit or restrict any right of recourse or indemnity that any person who is liable under subsection (1) may have against any other person.

Civil remedies

(6) No civil remedy for any act or omission is suspended or affected by reason only that the act or omission is an offence under this Act or gives rise to liability under this section.

Operator's liability under <i>Nuclear Liability Act</i>	(7) Nothing in this section relieves an operator, as defined in section 2 of the <i>Nuclear Liability Act</i> , from any duty or liability imposed on the operator under that Act.
Limitation period	(8) Proceedings in respect of a claim under this section may be instituted no later than two years after the day the events in respect of which the proceedings are instituted occurred or became evident.

DISCLOSURE OF INFORMATION

<u>Notice for disclosure of information</u>	23. (1) The Minister may, by registered mail, send a written notice to any manufacturer, distributor or importer of any product, substance or organism requesting the disclosure of information relating to the formula, composition or chemical ingredients of the product, substance or organism and any similar information the Minister considers necessary for the administration or enforcement of this Act.
Disclosure	(2) A person who receives a notice shall disclose the requested information to the Minister within the time and in the manner specified in the notice.
<u>Privileged information</u>	24. (1) The following information is privileged: <ul style="list-style-type: none"> (a) information disclosed under section 23 and information of a similar nature obtained by an inspector under section 15; and (b) information in a record of a communication between any person and the Canadian Transport Emergency Centre of the Department of Transport relating to an accidental release of dangerous goods that occurred or appeared to be imminent.
Exceptions	(2) Information is not privileged to the extent that it <ul style="list-style-type: none"> (a) relates only to the dangerous properties of a product, substance or organism without revealing its formula, composition or chemical ingredients; or (b) is required to be disclosed or communicated for the purposes of an emergency involving public safety.
Evidence in legal proceedings	(3) Despite any other Act or law, no person shall be required, in connection with any legal proceedings, to produce any statement or other record containing privileged information or to give evidence relating to it unless the proceedings relate to the administration or enforcement of this Act.
Disclosure	(4) No person to whom privileged information has been provided shall knowingly communicate it or allow it to be communicated to any person, or allow any other person to inspect or have access to the information, except <ul style="list-style-type: none"> (a) with the consent in writing of the person who provided the information or from whom it was obtained; or (b) for the purposes of the administration or enforcement of this Act.

RESEARCH AND ADVICE

Technical research and publication

25. The Minister may

(a) conduct, alone or in cooperation with any government, agency, body or person, whether Canadian or not, programs of technical research and investigation into the development and improvement of safety marks, safety requirements, safety standards and regulations under this Act and coordinate the programs with similar programs undertaken in Canada; and

(b) have information relating to the programs or their results published and distributed in a form and manner that are most useful to the public, the Government of Canada and the governments of the provinces.

Advisory councils

26. (1) The Minister may, by order,

(a) establish one or more advisory councils to advise the Minister on matters concerning existing or proposed safety marks, safety requirements and safety standards or on any other matters specified in the order;

(b) specify the period or periods during which the councils are to serve; and

(c) provide for any matters relating to the councils or their members as the Minister considers necessary.

Membership

(2) The Minister may determine the membership of any advisory council after any consultation that the Minister considers appropriate with the representatives of the transportation and related industries, the governments of the provinces, other interested persons and bodies and the public.

REGULATIONS AND ORDERS

Regulations

27. (1) The Governor in Council may make regulations generally for carrying out the purposes and provisions of this Act, including regulations

(a) prescribing products, substances and organisms to be included in the classes listed in the schedule;

(b) establishing divisions, subdivisions and groups of dangerous goods and of the classes of dangerous goods;

(c) specifying, for each product, substance and organism prescribed under paragraph (a), the class, division, subdivision or group into which it falls;

(d) determining or providing the manner of determining the class, division, subdivision or group into which dangerous goods not prescribed under paragraph (a) fall;

(e) exempting from the application of this Act and the regulations, or any of their provisions, the handling, offering for transport, transporting or importing of dangerous goods in any quantities or concentrations, in any circumstances, at any premises, facilities or other places, for any purposes or in any means of containment that may be specified in the regulations;

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

(g) prescribing circumstances in which any activity or thing is under the sole direction or control of the Minister of National Defence;

(h) prescribing circumstances in which dangerous goods must not be handled, offered for transport or transported;

(i) prescribing dangerous goods that must not be handled, offered for transport or transported in any circumstances;

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

(k) prescribing quantities or concentrations of dangerous goods in relation to which emergency response assistance plans must be approved under section 7;

(l) prescribing the manner in which records must be kept under section 9, the information that must be included in the records and the notices that must be given under that section;

(m) governing the issuance of notices under section 9;

(n) prescribing shipping records and other documents that must be used in handling, offering for transport or transporting dangerous goods, the information that must be included in those documents and the persons by whom and manner in which they must be used and kept;

(o) governing the qualification, training and examination of inspectors, prescribing the forms of the certificates referred to in sections 10 and 11 and prescribing the manner in which inspectors must carry out their duties and functions under this Act;

(p) prescribing the manner of determining the financial responsibility required under subsection 14(1) and prescribing the form of proof that may be requested under subsection 14(2);

(q) prescribing quantities or concentrations of dangerous goods for the purposes of subsection 18(1);

(r) prescribing persons to receive reports under subsection 18(1), the manner of making the reports,

the information that must be included in them and the circumstances in which they need not be made;

(s) prescribing the manner of applying for, issuing and revoking approvals of emergency response assistance plans under section 7 or permits under section 31 and providing for the appeal or review of a refusal to issue an approval or permit or a revocation of it;

(f) providing for the notification of persons directed to do anything under section 9, 17, 19 or 32, for the effect, duration and appeal or review of those directions and for any other incidental matters; and

(u) prescribing the manner in which amounts are to be paid under paragraph 34(1)(d).

References in regulations

(2) The regulations may refer to any document as it exists when the regulations are made and, for the purpose of prescribing alternative ways of complying with this Act, may refer to any of the following documents as amended from time to time:

(a) the *International Maritime Dangerous Goods Code* published by the International Maritime Organization;

(b) the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* published by the International Civil Aviation Organization; and

(c) Title 49 of the *Code of Federal Regulations* of the United States.

Contravention or non-compliance with regulations

28. No person shall contravene or fail to comply with a provision of any regulation made under paragraph 27(1) (h), (i), (f), (n) or (r).

Ministerial fees orders

29. (1) The Minister may make orders prescribing any fees or charges, or the manner of calculating any fees or charges, to be paid

(a) for services or the use of facilities provided by the Minister in the administration of this Act; or

(b) in relation to filing documents or applying for or issuing permits or approvals under this Act.

Limitation

(2) Her Majesty in right of Canada or a province and the entities named in Schedules II and III to the *Financial Administration Act* are not liable to pay the fees or charges.

Proposed regulations and orders to be published

30. (1) Subject to subsection (2), a copy of each regulation the Governor in Council proposes to make under section 27 and each order the Minister proposes to make under section 29 shall be published in the *Canada Gazette* and a reasonable opportunity shall be afforded to interested persons to make representations to the Minister with respect to the regulation or order.

Single publication required

(2) No proposed regulation or order need be published more than once, whether or not it is amended after that publication as a result of representations made by interested persons.

PERMITS AND DIRECTIONS

Equivalent level of safety permits

31. (1) The Minister or a person designated for the purposes of this subsection may issue a permit authorizing any activity to be carried on in a manner that does not comply with this Act if the Minister or designated person is satisfied that the manner in which the authorized activity will be conducted provides a level of safety at least equivalent to that provided by compliance with this Act.

Emergency permits

(2) The Minister or a person designated for the purposes of this subsection may issue a permit authorizing any activity to be carried on in a manner that does not comply with this Act if the Minister or designated person is satisfied that the authorized activity is necessary to deal with an emergency in which there is danger to public safety.

Oral permit

(3) A permit issued under subsection (2) is not a statutory instrument for the purposes of the *Statutory Instruments Act* and may be issued orally, but must be reissued in writing as soon as practicable and the writing is conclusive of its content.

Terms and conditions

(4) A permit may include terms and conditions governing the authorized activity and non-compliance with any of the terms or conditions invalidates the permit.

Scope of permit

(5) A permit may authorize the activity in terms of the persons who may carry on the activity and the goods or means of containment that it may involve.

Revocation of equivalent level of safety permits

(6) The Minister or a person designated for the purposes of subsection (1) may revoke a permit issued under that subsection where the Minister or designated person is no longer satisfied of the matter described in that subsection or the regulations have been amended and address the activity authorized by the permit.

Revocation of emergency permits

(7) The Minister or a person designated for the purposes of subsection (2) may revoke a permit issued under that subsection where the Minister or designated person is no longer satisfied of the matter described in that subsection.

1992, c. 34, s. 31; 1994, c. 26, s. 72(F).

Protective directions

32. (1) The Minister or a person designated for the purposes of this section may, if satisfied of the matters described in subsection (2), direct a person engaged in handling, offering for transport, transporting or importing dangerous goods, or supplying or importing standardized means of containment, to cease that activity or to conduct other activities to reduce any danger to public safety.

Emergency

(2) The Minister or the designated person must be satisfied that the direction is necessary to deal with an emergency that involves danger to public safety and cannot be effectively dealt with under any other provision of this Act.

Revocation of protective direction

(3) The Minister or a person designated for the purposes of this section may revoke the direction where the Minister or the designated person is satisfied that the direction is no longer needed.

OFFENCES AND PUNISHMENT

Contraventions and non-compliance with Act

33. Every person who contravenes or fails to comply with a provision of this Act is guilty of

(a) an offence punishable on summary conviction and liable to a fine not exceeding fifty thousand dollars for a first offence, and not exceeding one hundred thousand dollars for each subsequent offence; or

(b) an indictable offence and liable to imprisonment for a term not exceeding two years.

Court order

34. (1) Where a person is convicted of an offence, the court may make an order having any or all of the following effects:

(a) prohibiting the person for a period of not more than one year from engaging in any activity regulated under this Act;

(b) requiring the person to provide compensation, whether monetary or otherwise, for any remedial action taken or damage suffered by another person arising out of the commission of the offence;

(c) requiring the person to do anything that will assist in repairing any damage to the environment arising out of the commission of the offence; or

(d) requiring the person to conduct programs of technical research and investigation into the development and improvement of safety marks, safety requirements and safety standards, or to pay an amount in the manner prescribed to be used to conduct the research.

Order additional to other punishment

(2) The court may make the order in addition to any other punishment imposed on the person and shall have regard to the nature of the offence and the circumstances surrounding its commission.

Monetary limit

(3) The total value of what the person may be required to do under paragraphs (1)(b) to (d) in relation to a single offence must not exceed one million dollars.

Breach of order

(4) If the person contravenes or fails to comply with the order, the person is guilty of

(a) an offence punishable on summary conviction and liable to a fine not exceeding fifty thousand dollars for a first offence, and not exceeding one hundred thousand dollars for each subsequent offence; or

(b) an indictable offence and liable to imprisonment for a term not exceeding two years.

Limitation period for summary conviction offences

35. Proceedings by way of summary conviction may be instituted at any time within, but not later than, two years after the day on which the subject-matter of the proceedings arose.

<u>Continuing offence</u>	36. Where an offence 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.
<u>Venue</u>	37. A complaint or an information in respect of an offence may be heard, tried or determined by any competent court of criminal jurisdiction in a province if the accused is resident or carrying on business within the territorial jurisdiction of that court although the matter of the complaint or information did not arise in that territorial jurisdiction.
<u>Offences by employee or agent</u>	38. In any prosecution for an offence, 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 has been prosecuted for the offence.
<u>Officers, etc., of corporation</u>	39. Where a corporation commits an offence, an 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 on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted for the offence.
<u>Defence</u>	40. No person shall be found guilty of an offence if it is established that the person took all reasonable measures to comply with this Act or to prevent the commission of the offence.

EVIDENCE

<u>Certificate or report of inspector</u>	41. (1) In any prosecution for an offence, a certificate, report or other document, appearing to have been signed by the Minister or by an inspector, is admissible in evidence without proof of the signature or official character of the person appearing to have signed it and, in the absence of evidence to the contrary, is proof of the matters asserted in it.
<u>Copies</u>	(2) In any prosecution for an offence, a copy made by an inspector under section 15 and appearing to have been certified under the inspector's signature as a true copy is admissible in evidence without proof of the signature or official character of the person appearing to have signed it and, in the absence of evidence to the contrary, has the same probative force as the original would have if it were proved in the ordinary way.
<u>Notice</u>	(3) No certificate, report or copy shall be received in evidence unless the party intending to produce it has, before the trial, served on the party against whom it is intended to be produced reasonable notice of that intention together with a duplicate of the certificate, report or copy.
<u>Safety marks and prescribed documents</u>	42. In any prosecution for an offence, evidence that a means of containment or transport bore a safety mark or was accompanied by a prescribed document is, in the absence of evidence to the contrary, proof of the information shown or indicated by the safety mark or contained in the prescribed document.

CONSEQUENTIAL AMENDMENTS

43. to 45. [Amendments]

BILL C-13

46. [Amendment]

REPEAL

47. [Repeal]

SCHEDULE

(Sections 2 and 27)

Class Explosives, including explosives within the
1-- meaning of the *Explosives Act*

Class Gases: compressed, deeply refrigerated, liquefied
2-- or dissolved under pressure

Class Flammable and combustible liquids
3--

Class Flammable solids; substances liable to
4-- spontaneous combustion; substances that on
contact with water emit flammable gases

Class Oxidizing substances; organic peroxides
5--

Class Poisonous (toxic) and infectious substances
6--

Class Nuclear substances, within the meaning of the
7-- *Nuclear Safety and Control Act*, that are
radioactive

Class Corrosives
8--

Class Miscellaneous products, substances or organisms
9-- considered by the Governor in Council to be
dangerous to life, health, property or the
environment when handled, offered for transport
or transported and prescribed to be included in
this class

1992, c. 34, Sch.; 1997, c. 9, s. 123.