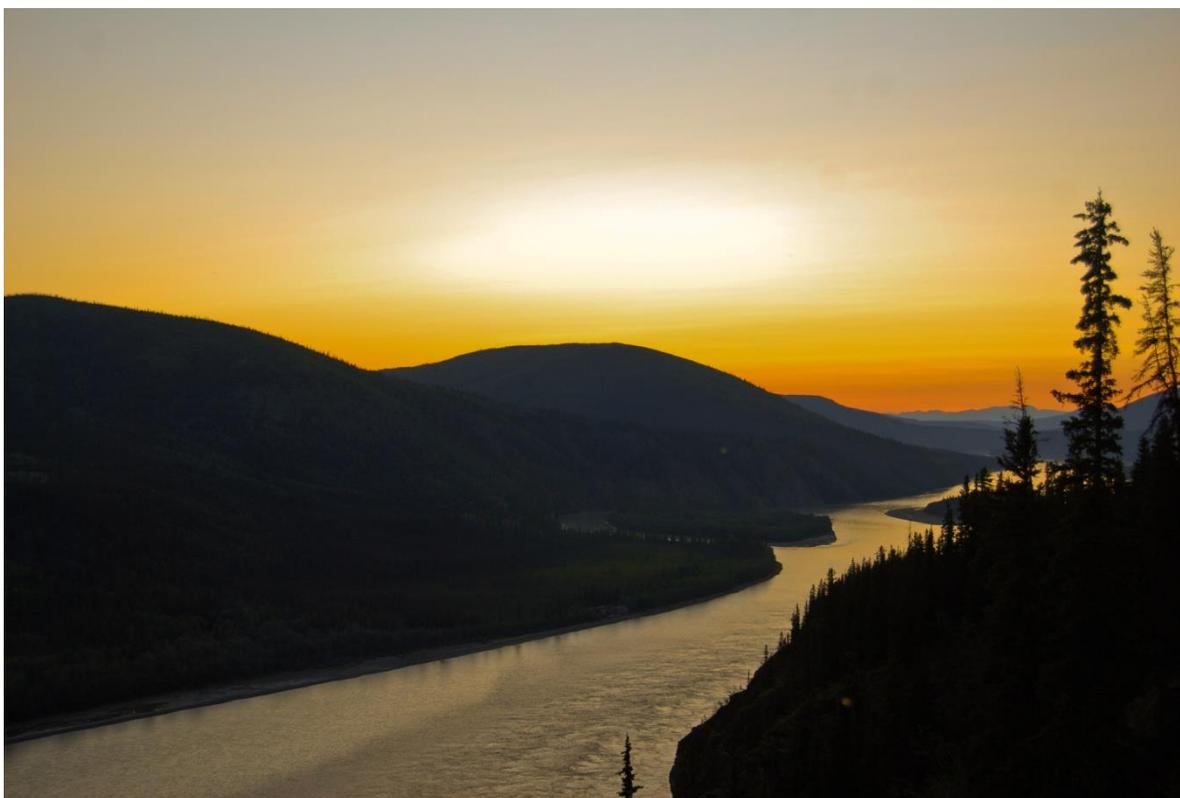


A GUIDE TO FEDERAL ROLES AND REGULATORY RESPONSIBILITIES IN THE YUKON



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Cover photo by Aboriginal Affairs and Northern Development Canada
[caption: a photo of the Yukon River near Dawson City, Yukon]

Table of Contents

Introduction	3
Aboriginal Affairs and Northern Development Canada	4
Canadian Northern Economic Development Agency	7
Environment Canada.....	9
Fisheries and Oceans Canada	11
Natural Resources Canada	13
Parks Canada.....	14
Transport Canada.....	16

Introduction

Across its departments and agencies, the Government of Canada aims to provide a coordinated and integrated whole-of-government approach when working and/or consulting with First Nations and other partners. To facilitate this, it is important internally as well as externally to communicate what each organization is doing, when and why. As such, this guide was collaboratively produced by seven federal government departments that operate in the Yukon Territory to help clarify each department's roles and responsibilities in not only the regulatory context but also in relation to consultation coordination efforts. It is hoped that this guide may help answer questions raised in this area or provide clarity to individuals as to why/when certain departments are involved in certain projects/consultations and not others.

In addition to describing each department's mandate and regulatory role, this guide includes specific information related to each department's involvement in the [Yukon Environmental and Socio-economic Assessment Act](#) (YESAA) process. This guide also follows recommendations made through the [YESAA Five-Year Review](#) (2008–2012) and at the 2013 YESAA Forum.

This guide is intended for First Nations, environmental and socio-economic assessment practitioners, and anyone who may be interested in learning more about the Government of Canada's roles and responsibilities in the Yukon. This guide will be updated on an annual basis or as needed.

Aboriginal Affairs and Northern Development Canada

Mandate

Aboriginal Affairs and Northern Development Canada (AANDC) is one of the federal government departments responsible for meeting the Government of Canada's obligations and commitments to First Nations, Inuit, and Métis, and for fulfilling the federal government's constitutional responsibilities in the North. AANDC supports northern Canadians in their efforts to improve social and economic well-being to develop healthier, more sustainable communities, and to participate more fully in Canada's political, social, and economic development.

AANDC leads federal efforts and coordinates partnerships under [Canada's Northern Strategy](#), which informs AANDC's [key priorities](#) for the department's work in the North. The four priority areas of Canada's Northern Strategy are:

- Exercising our Arctic sovereignty;
- Protecting our environmental heritage;
- Promoting social and economic development; and
- Improving and devolving northern governance.

AANDC's responsibilities are largely determined by numerous statutes, negotiated agreements and relevant legal decisions. Most of the department's programming is delivered through partnerships with Aboriginal communities and federal-provincial or federal-territorial agreements. AANDC also works with urban Aboriginal people, Métis, and Non-Status Indians (many of whom live in rural areas).

AANDC also negotiates comprehensive and specific claims and self-government agreements on behalf of the Government of Canada. In the Yukon, this includes the negotiation of the [Umbrella Final Agreement \(UFA\)](#), and separate [Self-Government Agreements, Self-Government Agreement Implementation Plans, Final Agreements and Final Agreement Implementation Plans](#) for 11 of the 14 Yukon First Nations. Implementation of the agreements is the responsibility of the whole of government, coordinated and tracked by AANDC.

Regulatory Role

AANDC's regulatory role in the Yukon is very limited. The [Yukon Northern Affairs Program Devolution Transfer Agreement](#) (DTA) provided for the transfer of resources and responsibilities for lands, water, forestry, and mineral resources from the Government of Canada to the Government of Yukon in 2003. Legislative changes formed part of the devolution process, the result being that much of the regulatory responsibility in the area of land and resource management, and the corresponding duty to consult obligations stemming from these responsibilities, now rests with the Government of Yukon. AANDC has,

however, retained administration and control over certain parcels of federal Crown land following devolution. AANDC also has a role related to the funding and remediation of Type II Mine Sites as set out in the DTA.

In light of AANDC's limited regulatory role following devolution, AANDC does not routinely issue authorizations that would trigger the decision body definition under the [Yukon Environmental and Socio-economic Assessment Act](#) (YESAA). AANDC could however be a decision body where other parts of the decision body definition under YESAA are triggered, such as where it is a proponent of a project, if it had the power to grant an interest in land required for a project to be undertaken, or if it has received an application for financial assistance for the project. AANDC also has a decision body role under YESAA in certain listed circumstances that are described in (d) and (e) of the decision body definition found in [section 2\(1\)](#).

AANDC's largest role in Yukon environmental and socio-economic assessments is in respect to the implementation of YESAA, which is federal legislation created as a result of provisions in [Chapter 12](#) of the UFA. One of the key purposes of YESAA is to provide a comprehensive, neutrally-conducted assessment process applicable throughout Yukon. AANDC is responsible for any legislative/regulatory changes to YESAA, appointing Board members, including the Board Chair, and for funding the YESAA process and its implementation (i.e., funding is provided to the Yukon Environmental and Socio-economic Assessment Board, Yukon First Nations, and the Government of Yukon for the implementation of YESAA).

Crown Consultation

AANDC also has advisory responsibilities to support the Government of Canada's Aboriginal engagement and consultation activities, as well as the Government of Canada's whole-of-government approach to Aboriginal consultation. In 2011, the [Updated Guidelines for Federal Officials to Fulfill the Legal Duty to Consult](#) were released to provide clearer direction on the government-wide responsibility of departments and agencies to fulfill the duty to consult. These guidelines focus on the increased need for policy leadership, coordination and collaboration, federal accountability, strengthening partnerships and strategic and practical guidance, training and support. In a further effort to support the whole-of-government approach to Aboriginal consultation, AANDC has also established Regional Consultation Coordinators (RCCs) across almost all regions, including the Yukon. While these coordinators do not often directly participate in a specific consultation process, they liaise with federal departments/agencies, Aboriginal groups, provinces/territories and industry to support and coordinate effective consultations.

Under AANDC's mandate, RCCs have the responsibility to engage other federal departments/agencies, provincial/territorial governments, Aboriginal groups and industry to:

- Facilitate partnerships and relationships between all stakeholders;

- Encourage collaboration and improve efficiency of consultation and accommodation processes;
- Support coordination mechanisms (i.e. Memoranda of Understanding (MoUs) and consultation protocols); and
- Foster ongoing information exchange between all parties.

RCCs also participate in AANDC's development of policy as well as provides policy advice, operational guidance and training for consultation and accommodation. As such, AANDC may be called upon to provide internal input and/or advice to federal departments or agencies that are otherwise engaged in federal Crown consultation, including in relation to activities being assessed under YESAA and any associated potential federal Crown conduct.

Please [visit the AANDC website](#) for more information, including AANDC's [acts and regulations](#).

For more information about YESAA implementation, please contact the Manager of Environmental Stewardship & Policy. For more information regarding the Government of Canada's whole-of-government approach to consultation, please contact the Yukon Regional Consultation Coordinator. Both contacts can be reached by calling the main office administration at (867) 667-3888.

Canadian Northern Economic Development Agency

Mandate

The Canadian Northern Economic Development Agency (CanNor) works to help develop a diversified, sustainable, and dynamic economy across Canada's three territories. CanNor works with communities to develop and diversify local economies, and take advantage of the strengths of Northern Canada. CanNor fosters growth and development in the North by delivering economic development programs and by collaborating with, and aligning the efforts of, partners in northern and southern Canada to respond to economic challenges and opportunities in the North. The agency also coordinates the activities of other federal departments to maximize their collective impact (particularly federal regulators in relation to major project development) in the North.

CanNor has three key, interrelated business lines and services that help drive economic development:

- Contribution programs;
- the [Northern Projects Management Office](#) (NPMO); and
- Serving as a voice for the North.

CanNor's suite of programs provide funding to support the development of key economic sectors such as mining, tourism, fisheries, cultural industries, and community and business development. Programs include:

- Strategic Investments in Northern Economic Development;
- Northern Aboriginal Economic Opportunities Program;
- Northern Adult Basic Education Program; and
- Promotion of official language minority communities.

Regulatory Role

CanNor's NPMO was established to improve the environmental review process for proposed major resource development and infrastructure projects in northern Canada. The office is responsible for:

- Providing advice and issues management among federal and territorial governments, industry, regulatory review boards, and Aboriginal groups and communities;
- Coordinating federal efforts related to northern regulatory review processes;
- Publicly tracking the progress of projects; and

- Working with partners to advance community readiness, helping to maximize the positive socio-economic opportunities of major projects for northern communities.

Crown Consultation

NPMO is responsible for coordinating consultation with Aboriginal people and maintaining the official Crown consultation record for projects coordinated by NPMO. Consultation coordination includes working with responsible federal departments and agencies to develop and implement a project-specific consultation plan, which is then integrated into the environmental assessment and regulatory review process for projects within the territories.

Please [visit the CanNor website](#) for more information.

Environment Canada

Mandate

Environment Canada is responsible for providing Canadians with a clean, safe, and sustainable environment. Environment Canada works to ensure that Canadians can live and prosper in an environment that is respected, protected, and conserved. Environment Canada provides Canadians with information and tools needed to make responsible decisions about the environment, about weather and climatic conditions, and with regard to sustaining the environment for the benefit of present and future generations. The department seeks to achieve this through its mandate to:

- Preserve and enhance the quality of the natural environment, including water, air, soil, flora, and fauna;
- Conserve Canada's renewable resources;
- Conserve and protect Canada's water resources;
- Forecast daily weather conditions and warnings, and provide detailed meteorological information to all of Canada;
- Enforce rules relating to boundary waters; and
- Coordinate environmental policies and programs for the federal government.

To deliver on its mandate, Environment Canada undertakes research, enters into consultations with stakeholders, and establishes and enforces standards and regulations. Environment Canada believes that the environment is of vital importance to the identity and well-being of Canadians and that all Canadians have a shared responsibility for the environment. The department values the contribution of natural and social sciences in making responsible decisions about the environment and is committed to demonstrating integrity, trust, and mutual respect in our working relationships. Environment Canada strives to provide high quality service to the public, which includes the provision of technical and scientific advice. For environmental assessments in the Yukon, Environment Canada may provide scientific expertise and advice in the areas of geochemistry, hydrogeology, hydrology, water quality, migratory birds, and species at risk.

Regulatory Role

Environment Canada administers and enforces the [Canadian Environmental Protection Act](#), the [Species at Risk Act](#) (SARA), the [Migratory Birds Convention Act](#) (MBCA), and the [International Rivers Improvement Act](#) (IRIA) as well as the regulations under each act. In addition, the Minister of Environment is responsible for the water pollution provisions of the [Fisheries Act](#) and accompanying regulations such as the [Metal Mining Effluent Regulations](#).

In the context of environmental and socio-economic assessments in the Yukon, Environment Canada's regulatory responsibilities under SARA, MBCA, IRIA, and the *Fisheries Act* may result in the department being a decision body under the [Yukon Environmental and Socio-economic Assessment Act](#). Environment Canada participates in the Government of Canada's whole-of-government approach to Aboriginal consultation.

Please [visit the Environment Canada website](#) for more information, including Environment Canada's [acts and regulations](#).

For questions related to environmental and socio-economic assessment in the Yukon, please contact the Environment Canada Whitehorse office at (867) 667-3400 and ask to speak to an assessment officer.

Fisheries and Oceans Canada

Mandate

Fisheries and Oceans Canada (DFO) has the lead federal role in managing Canada's fisheries and safeguarding its waters. The department supports strong economic growth in marine and fisheries sectors by supporting exports and advancing safe maritime trade, supporting innovation through research in expanding sectors such as aquaculture and biotechnology, and contributing to a clean and healthy environment and sustainable aquatic ecosystems through fisheries protection, oceans management, and ecosystems research. DFO's actions and decisions are based on sound science, research, and analysis, but may also consider a variety of Canadian interests, expressed by citizens and stakeholders from a broad range of backgrounds, to ensure long-term benefits for all Canadians.

Regulatory Role

DFO has regulatory responsibilities under 13 acts; however, with respect to environmental impact assessments, including those conducted under the [Yukon Environmental and Socio-Economic Assessment Act](#) (YESAA), there are three important acts and associated regulations that DFO administers: the [Fisheries Act](#), the [Oceans Act](#), and the [Species at Risk Act](#). In carrying out its duties under these acts, DFO undertakes research, participates in environmental assessments, and conducts regulatory reviews.

The *Fisheries Act* and associated policy guidance focuses protection rules on real and significant threats to fisheries and the habitat that support them, while setting clear standards and guidelines for routine projects. The fisheries protection provisions are administered by DFO's [Fisheries Protection Program](#) (FPP). The mandate of the FPP is to provide for the sustainability and ongoing productivity of fisheries by applying the fishery protection provisions.

The key fisheries protection provision is section 35, which prohibits projects that result in serious harm to fish that are part of, or support, commercial, recreational, or Aboriginal fisheries, unless authorized by the Minister of Fisheries and Oceans.

Serious harm to fish is defined as:

- The death of fish;
- The permanent alteration to fish habitat; or
- The destruction of fish habitat.

The Minister must consider whether there are measures and standards to avoid, mitigate, or offset serious harm to fish that are part of or that support a commercial, recreational, or Aboriginal fishery. These three factors establish a hierarchy of measures where efforts should be made to avoid impacts first. When avoidance is not possible, then efforts should be made to mitigate impacts caused by the

project in question. After these actions, any residual impacts would normally require authorization and should then be addressed by offsetting. Applications for authorizations must complete the [Application for Authorization](#) under paragraph 35(2)(b) of the *Fisheries Act* regulations, and applications are processed in accordance with those regulations.

The Minister, when making a decision to authorize projects, is also required to consider four factors:

- The contribution of the fish to a fishery;
- The fisheries management objectives;
- Whether there are measures to avoid, mitigate, or offset serious harm to fish; and
- The public interest.

Under the *Fisheries Act*, the fisheries protection provisions are the most common regulatory trigger to require an evaluation of a proposed project proposal under YESAA. Prior to exercising certain regulatory authorities under the *Fisheries Act*, DFO participates as a decision body in the YESAA project review process. Following the conclusion of the environmental and socio-economic assessment, DFO participates in the Government of Canada's whole-of-government approach to Aboriginal consultation in advance of rendering a regulatory action or decision.

Please [visit the national Projects Near Water website](#) for more information about FPP.

If you are unsure how to comply with the *Fisheries Act* when conducting a project near water in the Yukon Pacific Region, we recommend that you contact a qualified environmental professional at the FPP Triage & Planning Unit Ecosystem Management Branch at 1 (866) 845-6776 (toll-free) or ReferralsPacific@dfo-mpo.gc.ca.

Natural Resources Canada

Mandate

Natural Resources Canada's (NRCan) vision is to improve the quality of life of Canadians by creating a sustainable resource advantage. It seeks to achieve this vision by working to improve the competitiveness of the natural resource sectors and to grow their contribution to Canada's economy by:

- Supporting the sustainable development of Canada's resources in a manner that advances the country's global standing as a leader on the environment; and
- Using its knowledge and expertise of Canada's landmass to support the safety and security of citizens.

To deliver on its mandate to promote sustainable development in the natural resources sector, NRCan relies on science and technology to help address priorities and plan for the future. It develops policies, programs, and regulations to help create a sustainable resource advantage, supporting strong, competitive natural resource sectors that are environmentally and socially responsible. This includes the provision of technical and scientific advice and knowledge to inform decisions and the planning of responsible resource developments. For environmental assessments in the Yukon, NRCan may provide specialist knowledge and advice in the areas of mine waste management, hydrogeology, geology, permafrost and geohazards.

Regulatory Role

NRCan administers the [Explosives Act](#) and regulations, and conducts research on explosives safety and security technology. NRCan's principle priority is the safety and security of the public and of all workers involved in the explosives industry in Canada. NRCan's Explosive Regulatory Division issues licences for the manufacturing and storage of explosives. Explosives facilities are operated according to regulations under the *Explosives Act* and are subject to inspections. When operations cease, the facilities must be satisfactorily decommissioned before licences lapse.

In the context of environmental assessments in the Yukon, NRCan's regulatory responsibilities under the *Explosives Act* may result in the department being a decision body under the [Yukon Environmental and Socio-Economic Assessment Act](#). NRCan participates in the Government of Canada's whole-of-government approach to Aboriginal consultation.

Please [visit the NRCan website](#) for more information, including [explosives regulations](#) at NRCan.

Parks Canada

Mandate

Parks Canada helps protect our nation's diverse and spectacular natural places, tells our country's fascinating story, and offers visitors unique opportunities for adventure, recreation, discovery, and renewal in national parks, national historic sites, national marine conservation areas, historic canals, and other heritage areas. We are stewards for special places such as Kluane, Vuntut, and Ivvavik¹ national parks and national historic sites such as Dawson Historical Complex and the S.S. Klondike. In these places, Canadians can connect to their heritage and to the landscapes, waters, and wildlife that together reveal the very essence of our country.

To deliver on its mandate, Parks Canada prepares, in consultation with others, a management plan for each national park that reflects Parks Canada regulations and policies as well as comprehensive land claim agreements. In accordance with the [Canada National Parks Act](#) and management plan direction, Parks Canada regulates and permits activities within national parks and historic sites.

Parks Canada Mandate

On behalf of the people of Canada, we protect and present nationally significant examples of Canada's natural and cultural heritage, and foster public understanding, appreciation and enjoyment in ways that ensure the ecological and commemorative integrity of these places for present and future generations.

Throughout Canada, environmental assessments are conducted through the [Canadian Environmental Assessment Act](#). However, as a result of the [Yukon Umbrella Final Agreement](#) and resulting individual First Nation final agreements, environmental assessments for Parks Canada parks and sites in the Yukon are conducted through the [Yukon Environmental and Socio-Economic Assessment Act](#) (YESAA). The YESAA environmental assessment process is consistent with Parks Canada's policy of consulting with First Nations, governments, communities, and individuals on matters affecting national parks.

¹ Ivvavik National Park is in the Yukon; however, the area is included within the Inuvialuit Final Agreement (IFA) area and, as such, is subject to both YESAA and the Canadian Environmental Assessment Agency, as described in the IFA. Screenings are reviewed by both the district office (Dawson City) and the Environmental Impact Screening Committee.

Regulatory Role

Parks Canada is a decision-making body for environmental assessments conducted through YESAA in national parks and historic sites in the Yukon. Parks Canada regulates and permits activities under the [National Parks Act](#) and its regulations and the [Species at Risk Act](#). Several other federal acts (such as the [Fisheries Act](#)) have provisions that apply to national parks. Consequently, other federal departments may have a decision-making role during an assessment pertaining to a PC-managed heritage place.

Many northern national parks have developed cooperative management boards with First Nations in accordance with land claim agreements. Cooperative management boards provide an opportunity for First Nations to provide advice on all matters pertaining to the development and management of the park, including natural and cultural resources. The [Champagne and Aishihik First Nations](#) and [Kluane First Nation](#) Final Agreements provide for the establishment of the Kluane National Park Management Board, along with other rights and responsibilities of both First Nations related to Kluane National Park and Reserve. Vuntut National Park was established under the [Vuntut Gwitchin Final Agreement](#) and provides for a cooperative management structure that includes the Vuntut Gwitchin Government and the North Slope Renewable Resources Council. Ivvavik National Park was established through the [Inuvialuit Final Agreement](#) and is cooperatively managed with the Inuvialuit.

For more information about environmental assessments for Yukon national parks and national historic sites, please contact the Resource Conservation Manager at Kluane National Park and Reserve by calling the main office administration at (867) 634-2329.

Transport Canada

Mandate

Transport Canada is responsible for transportation policies and programs that promote all parts of the transportation system to work effectively and in an integrated manner, so as to provide Canadians with a sustainable transportation system that is safe, secure, efficient, and environmentally responsible. The department also has a responsibility to regulate associated transportation infrastructure, equipment, and personnel in accordance with the legislation and regulations within the mandate of Transport Canada. For environmental assessments in the Yukon, Transport Canada may provide specialist knowledge and advice in the areas of navigation protection, marine transportation safety and security, rail transportation safety, transportation of dangerous goods, and aviation safety.

Regulatory Role

Transport Canada administers various acts and regulations related to navigation protection, marine transportation safety and security, rail transportation safety, transportation of dangerous goods, and aviation safety. In the context of environmental assessments in the Yukon, Transport Canada's regulatory responsibilities under the [Navigation Protection Act](#) (NPA) may result in the department being a decision body under the [Yukon Environmental and Socio-Economic Assessment Act](#) (YESAA). Transport Canada participates in the Government of Canada's whole-of-government approach to Aboriginal consultation.

Transport Canada's [Navigation Protection Program](#) specializes in the administration and enforcement of NPA, which is a federal law designed to protect the public right of navigation. NPA includes a schedule of waters that are regulated, and works on these waterways require an application and approval from Transport Canada. It also prohibits the depositing or throwing of materials that risk impacting navigation in navigable waters and the dewatering of navigable waters.

The [Constitution Act, 1867](#) grants the federal government exclusive legislative jurisdiction over navigation and shipping, coastal fisheries, and aids to navigation such as beacons, buoys, and lighthouses. In the Arctic, the [Canada Shipping Act, 2001](#), the [Arctic Waters Pollution Prevention Act](#), the [Marine Liability Act](#), the [Coasting Trade Act](#), and the [Marine Transportation Security Act](#) combine to provide Canada's operational regulatory regime governing marine safety and security issues.

Transport Canada is responsible for developing and implementing policies, regulations, and services, as well as the overall administration of the [Railway Safety Act](#), and also overseeing operating rules that are developed and applied by the railway industry. Transport Canada advances the safety of the Canadian rail transportation system through regulation, outreach and oversight towards a national rail transportation system that Canadians recognize as safe and efficient.

The transportation of dangerous goods by air, marine, rail and road is regulated under the federal [Transportation of Dangerous Goods Act, 1992](#) (TGDA). The [Transportation of Dangerous Goods Regulations](#), adopted by all provinces and territories, establishes the safety requirements for the transportation of dangerous goods. TDGA 1992 and its regulations are focused on preventing hazardous incidents when dangerous goods are imported, handled, offered for transport, or transported.

Transport Canada is responsible on behalf of the Minister of Transport under the [Aeronautics Act](#), for the regulation of aeronautics and the supervision of all matters connected with aeronautics. Aerodrome operations are regulated under part III of the [Canadian Aviation Regulations](#). Guidance information is provided for pilots in the Aeronautical Information Manual.

Please [visit the Transport Canada website](#) for more information, including Transport Canada's [acts and regulations](#). To contact a Transport Canada environmental officer, call the office administrator at (204) 983-4357 or email pnrean-pnreen@tc.gc.ca.