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Public Information Note Petroleum Fuel Storage on Yukon Land

The following is intended to assist in addressing inquiries and promoting safe and consistent practice for low volume (i.e. 400 to 2,000 litres) fuel storage.

GENERAL

Fuel storage is governed under a variety of acts and regulations implemented to ensure safety and environmental protection (see page 3)

In general, for fuel stored properly in amounts less than 4,000 litres, there is little regulatory authority. There is slightly more authority if the fuel is a fire hazard, presents an imminent threat to fish-bearing waters or to public drinking water, or there is evidence of a spill. The authority for fuel storage is explained below and summarized in the Appendix (page 6).

Fuel storage on private titled land is regulated by Laws of General Application. For information see Appendix 1 (page 6).

For the purposes of this document “Yukon Land” is defined as “*Territorial Lands*”, as defined in the *Territorial Lands (Yukon) Act* and “*Yukon lands*”, as defined in the *Lands Act*

FUEL STORAGE ON YUKON LAND

Land Use Regulation

The Land Use Regulation authorizes a temporary use of Yukon land. Under the Regulation a Land Use Permit is required for fuel storage when:

- Fuel storage exceeding 4,000 litres capacity.
- The use of a single container with a capacity exceeding 2,000 litres.

Unless authorized, permittees must not store fuel within the ordinary high water mark reserve of a navigable water body. Fuel may be stored or staged on frozen lakes, as long as all authorizations and mitigations are in place.

Fuel caches between 400 litres and 4000 litres must be reported to the Manager of Land Use (Land Management Branch) within 30 days of placement on Yukon Land. Single containers with a capacity exceeding 2,000 litres require a Land Use Permit.

For further information see the Yukon government Land Use Regulation: www.emr.gov.yk.ca
Contact Land Use Section at Tel: (867) 667-5215 Fax: (867) 667-3214

Fuel storage associated with leases

A lease is a land disposition that provides the lessee with exclusive possession of the leased land along with other specified rights. It should be noted that the lease does not authorize the use of land immediately outside the lease boundary.

A land use permit is not required within the lease boundary.

Unless otherwise stated in the lease, fuel storage is permitted up to 4,000 litres without a permit. Fuel storage above 4000 litres requires a permit under the Fuel Storage Tank Regulations (OIC 1996/194 Environmental Act).

A Lessee must take precautions to prevent fuel spills on the ground or into water and keep records in accordance with the law as per terms and conditions with the lease.

It is the responsibility of the lessee to ensure all authorizations are in place before storing fuel on leased land.

Fuel storage associated with Licenses of Occupation

While a license authorizes a long term use of land, a license is not a land disposition and does not grant an interest or right to the land. Consequently the land remains "Yukon land".

Licensees are therefore subject to fuel permitting pursuant to the Land Use Regulations (OIC 2003/51 Territorial Lands (Yukon) Act) as well as the Storage Tank Regulations (OIC 1996/194 Environmental Act). See the "Fuel Storage on Public, Land Use Regulation Section" (page 1) for further details.

In addition, a Licensee must also take precautions to prevent fuel spills on the ground or into water and keep records in accordance with the law. A Licensee must also notify the Manager of Land Use in writing if storing 400- 4000 litres of fuel.

It is the responsibility of the licensee to ensure all authorizations are in place before storing fuel on licensed land.

INSPECTION, MONITORING, AND ENFORCEMENT

Improper fuel storage

Fuel owners must comply with any applicable enactment related to fuel storage. For improper fuel storage of any amount, such as where there is imminent risk of spills or contamination, steps should be taken regardless of any associated land tenure or unauthorized occupancy. Risks should be mitigated, ownership determined, and if appropriate, a report made under one of the following regulations:

- Yukon *Environment Act* for spills of 200 litres or more
- Fire Marshall for improper storage that may pose a fire risk
- Canada *Fisheries Act* if there is imminent threat to fish-bearing waters
- Yukon *Public Health and Safety Act* if a spill occurs or is likely to occur into public drinking water
- Yukon *Waters Act* if there is a spill into water

Although fuel storage on private property is not within Land Management Branch's jurisdiction, any improper fuel storage on private property should be reported under the appropriate authority, as outlined above. For private property within municipalities, there may be applicable bylaws or zoning restrictions.

Fuel storage on unauthorized occupations

Fuel storage is to be addressed separately from tenure issues or building removal actions. As above, risks associated with improper storage should be assessed, mitigated and ownership determined (Fuel owners must comply with regulations applicable to fuel storage).

Abandoned fuel

If ownership of fuel or containers on Yukon land cannot be determined by thorough research into land use permits, leases, licences or other information, the fuel would be considered abandoned. Any risks should be mitigated. Removal will be coordinated by Client Services and Inspections, EMR, with support as needed from Environmental Programs Branch, Environment, and Land Use, EMR. Any removal plan will depend on accessibility and level of risk.

ACTS AND REGULATIONS RELATED TO FUEL STORAGE AND SPILLS

ENVIRONMENT ACT

The Yukon *Environment Act Storage Tank Regulations* applies to public and private land. The Regulations address fuel storage in containers in a fixed location in an amount more than 4000 litres. The *Special Waste Regulations* address the storage of waste oil. For convenience the relevant sections are set out below.

Special Waste Regulation

"special waste" includes

- (a) dangerous goods that are no longer used for their original purpose, including a dangerous good that is
 - (i) recycled, treated or disposed,
 - (ii) intended for recycle, treatment or disposal, or
 - (iii) in storage or transit before recycle, treatment or disposal,
- (b) waste oil, or
- (c) biomedical waste;

but does not include a dangerous good that is

- (d) returned to a manufacturer or supplier of the dangerous good for reprocessing, repackaging or resale, including but not limited to a dangerous good that is
 - (i) defective or otherwise not usable for its original purpose, or
 - (ii) in surplus quantities but still usable for its original purpose, and
- (e) included in Class 1 or Class 7 in the Federal Regulations [*NOTE: Class 1 is explosives, Class 7 is radioactives, the Federal Regulations are the Transportation of Dangerous Goods Regulations*].

Environment Act Storage Tank Regulation

“storage tank” means a closed container with a capacity of more than 230 litres that is designed to be installed in a fixed location, and includes either an aboveground storage tank or an underground storage tank;

For information about spill prevention procedures, see Appendix 2 (page 7)

Please note: spills can be reported to the Yukon Spill Report Centre, Tel: (867) 667-7244. This line is monitored 24 hours a day, 7 days a week. Spills can also be reported to an Environment Yukon Environmental Protection Officer, Tel: (867) 667-5683 during regular business hours.

FIRE PREVENTION ACT

The Fire Marshall has the authority to inspect any premises. If there is an inflammable substance or hazardous condition present, Fire Marshall can require the owner or occupant to remove the substance or remedy the condition.

National Fire Code

The National Fire Code provides standards to the Fire Marshall. The fire code addresses petroleum storage in and around buildings and structures and spill precautions, but is generally not specifically related to outdoor fuel storage. Amounts of fuel storage less than 25 barrels is generally not addressed by the National Fire Code. The Fire Marshall can enforce standards under the National Fire Code, but there has to be evidence of fire risk.

Several standards regarding fuel storage are defined by the Canadian Standards Association (CSA) and the Underwriters' Laboratories of Canada (ULC), which may be requirements under the National Fire Code.

YUKON PUBLIC HEALTH AND SAFETY ACT

Under the Drinking Water Regulation, “no person shall introduce anything into a large public drinking water system or its watershed, or do or cause any other thing to be done or to occur, if this will result in or is likely to create a health or safety risk to the users.” This regulation is enforced by a medical health officer or health officer.

YUKON DANGEROUS GOODS TRANSPORTATION ACT

Provides guidance for the transportation of dangerous goods on any highway. Monitored by Carrier Compliance, HPW. The branch can request the assistance of federal inspectors if a complaint is received that is outside the branch's jurisdiction.

CANADA TRANSPORTATION OF DANGEROUS GOODS ACT

- Provides standards for transportation and storage of dangerous goods, including gasoline.
- Not clear who is designated an inspector under this act

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.

FISHERIES ACT

The act prohibits deposit of materials that may cause imminent threat to fish-bearing waters. The act is enforced by inspectors of Environment Canada. They have jurisdiction within the 30.48-metre setback but it is considered stretching their mandate unless there is imminent threat.

Deposit of deleterious substance prohibited

(3) Subject to subsection (4), no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water.

"deleterious substance" means

- (a) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water, or
 - (b) any water that contains a substance in such quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water,
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YUKON WATERS ACT

The broad definition of "waste" in the Waters Act would include all petroleum fuels. The Waters Act prohibits the deposit of waste into water within a water management area except in accordance with a permit. If deposit does occur, it must be reported to an inspector. Since most backcountry operators are not subject to a water license, water inspectors would likely only become involved after a spill were reported.

APPENDIX 1: SUMMARY OF PETROLEUM FUEL STORAGE AUTHORITIES IN YUKON

Table 1: - Laws of General Application:
Applies to public and private land in Yukon*

	<i>Less than 400 litres (leased)</i>	<i>400-4000 litres not under lease</i>	<i>2000-4000 litres in a single tank or over 4000 litres total</i>	<i>Over 4000 litres in a single tank or over 80,000 litres total</i>
Yukon Environment Act Environmental Protection Officer	Must report spills of 200L or more; or those abnormal in quality or quantity in light of all circumstances.			Requires permit under Storage Tank Regs. Must report spills of 200L or more; or those abnormal in quality or quantity in light of all circumstances.
Yukon Fire Prevention Act /Nat. Fire Code Fire Marshall	Storage standards exist No permitting.		National Fire Code has standards. No permitting. Standards for over 25 drums of Avgas and 175 drums of Jet B.	
Fisheries Act Fisheries inspectors	If imminent threat to fish-bearing waters exists.			
Public Health and Safety Act Health officer	If spill into public drinking water occurs.			
Waters Act Water inspectors	If spill into water is reported			

*Except on Settlement Land, when a Yukon First Nation has introduced legislation replacing applicable Yukon Law(s) of General Application.

Table 2: Laws under the Territorial Lands (Yukon) Act
Act applies on Territorial (Yukon) Land. Table 1 also applies.

	<i>Less than 400 litres (leased)</i>	<i>400-4000 litres (no single tank over 2,000 litres)</i>	<i>2000-4000 litres in a single tank or over 4000 litres total</i>	<i>Over 4000 litres in a single tank or over 80,000 litres total</i>
YG Lease**/ Titled Land	Must take spill precautions	Take spill precautions	Must take spill precautions	Must take spill precautions
Licenses	Take spill precautions	Must notify Manager of Land Use in writing	Requires land use permit	Requires land use permit
Vacant Public (Land Use Regulation)	Take spill precautions	Must notify Manager of Land Use in writing	Requires land use permit	Requires land use permit

** Some leases may contain clauses that place limitations on fuel storage of fuel on leased land. A lessee must comply with any such limitations.

Please note: spills can be reported to the Yukon Spill Report Centre, Tel: (867) 667-7244. This line is monitored 24/7. Spills can also be reported to an Environment Yukon Environmental Protection Officer, Tel: (867) 667-5683 during regular business hours.

APPENDIX 2: SPILL PREVENTION PROCEDURES

The following list of measures should be practiced to prevent fuel spills:

- Surround all stationary fuel storage containers in excess of 4,000 litres with a dike lined with waterproof material.
- Store and transport all petroleum products in approved sealed containers.
- Store stationary fuel containers a minimum of 30 meters from of the ordinary high water mark of any body of water.
- Place all portable fuel storage containers that are not in active use a minimum of 30 metres from the ordinary high water mark of any body of water.
- Do not fuel or service equipment within 30 metres of the ordinary high water mark, unless it is impractical due to the size of the equipment, and only then with the approval of a HPW Engineer.
- Place water pumps that are being serviced (adjacent to a body of water) in secondary containment.
- Take precautions when transporting or handling of fuel.
- Place drip pans underneath valves or nozzles to capture spilled fuel.
- Regularly inspect fuel storage areas and equipment to detect leaks. Repair leaking equipment immediately.
- Keep an extra fuel storage container on site.
- Keep a fuel spill kit on site.

For more information contact Yukon Department of Environment, Environmental Programs Branch
(867) 667-5683

<http://www.env.gov.yk.ca/environment-you/spills.php>