

Environmental Programs

Environment Act

Application of Environment Act Regulations

Prior to Devolution on April 1, 2003, much of the land in the Yukon was Federal land, and as such was subject to Federal regulations. The Yukon *Environment Act* and the regulations under it applied only to private lands and to public lands administered by the Yukon Government and the municipalities. As a result the environmental regulations that applied to any given activity depended on where it was being carried out.

At Devolution, most parcels of Federal land in the territory became Commissioner's Land. With that change, Yukon's *Environment Act* and its regulations came to apply to much more land in the territory. Pockets of Federal land still exist within the Yukon – for example, the two national parks and the land on which Federal buildings sit – but in general, the *Environment Act* and its regulations apply throughout the territory. In particular, resource-based activities (such as mining and forestry), which occur on formerly Federal lands are no longer exempt from the requirement to obtain permits under the Yukon *Environment Act* and its regulations. There are, however, a few special circumstances where either the Federal regulations still apply, where the Yukon regulations contain exemptions, or where both Yukon and Federal rules are in force; these are described below and in Table 1 on the attached page.

First Nations Lands

As with all other Yukon laws, the *Environment Act* and its regulations apply on First Nations settlement lands until any First Nation makes a regulation that covers the same topic as the Yukon regulation. For example, the Yukon's Contaminated Sites Regulation will continue to apply to all First Nations land in the territory until a First Nation puts their own regulation in place that addresses contaminants in soil and water. Once any such regulation is put into place by a First Nation, it will take precedence over the Yukon regulation on their settlement lands.

To date, no Yukon First Nation has adopted any regulation covering the same topics as an existing regulation under Yukon's *Environment Act*, so the Yukon regulations continue to apply.

Federal Government Departments

Unlike the Yukon Government, the Federal Government is not bound by Yukon's *Environment Act* or its regulations. This means that when the Federal Government is the proponent undertaking an activity, they do not generally require permits under the Environment Act regulations. The one exception to this is in relation to the assessment and remediation of sites listed in Appendix H of the Devolution Transfer Agreement, as the Federal Government has agreed to obtain all Yukon permits for those activities. In practice, though, Federal Government proponents sometimes opt to obtain permits required under the Yukon regulations.

Contractors doing work on behalf of the Federal Government are bound by Yukon's *Environment Act* and are required to obtain all necessary permits, as identified in Table 1.

Yukon and Federal Regulations on Federal Lands in the Yukon

On all lands in the Yukon, with the few exceptions noted in Table 1, Yukon's *Environment Act* and regulations apply and proponents must adhere to their requirements, including the requirement to obtain permits where necessary. However, it is also true that Federal regulations also apply on Federal lands within the Yukon. In some cases the requirements of the Federal regulations differ from those of the Yukon regulations. A common question is whether that means that the Federal regulations take precedence over the Yukon regulations in these situations, so that proponents only have to fulfill the requirements of the Federal regulations.

In short, the answer is: not necessarily. When both Yukon and Federal regulations apply to the same activities (in this case, some activities occurring on Federal lands in the Yukon), a legal principle called the "paramouncy principle" applies. This principle states that when two regulations apply, the regulations made by the senior level of government take precedence to the extent of any conflict between the requirements of the two regulations. So, for example, if a Federal regulation were to require proponents on Federal land in the Yukon to build a retaining wall, but the Yukon regulation said that proponents could not build a retaining wall, the paramouncy principle would dictate that the proponent would, in fact, be required to build the retaining wall as required by the Federal regulation.

Note that the paramouncy principle does not mean that the Federal regulation always takes precedence over a Yukon regulation on the same topic. The paramouncy principle only applies if there is a conflict between the requirements of the two regulations; if there is no conflict, then both the Federal and Yukon regulations would apply. So, for example, if a Federal regulation required that proponents of a particular activity register with the Federal government, and a Yukon regulation required that the proponents obtain a permit from the Yukon government, the proponents would need to both register and obtain the permit. The two requirements may be somewhat duplicative, but they do not conflict (i.e. it is possible to do both things), so both requirements must be met.

Other Topics

Info sheets are also available on the following topics:

- Environment Act Permits
- Environmental Regulations Affecting Mining and Mineral Exploration

For more information on the application of the Environment Act and its regulations, please contact:

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Copies of Yukon regulations may be viewed online at www.environmentyukon.gov.yk.ca/monitoringenvironment/ under the "Standards & Approvals" section, or at any Yukon Public Library, territorial agent, territorial representative or regional services office. You may purchase copies at the Inquiry Centre, Yukon Government Administration Building, 2071-2nd Avenue in Whitehorse, or by mail from the Subscriptions Clerk, Yukon Government Queen's Printer, Box 2703, Whitehorse, Yukon, Y1A 2C6 (phone (867) 667-5783 or toll free 1-800-661-0408 extension 5783).



Table 1: Application of Yukon Regulations

Regulation	Application
Air Emissions	-applies throughout the Yukon
Beverage Container	-applies throughout the Yukon
Contaminated Sites	-applies throughout the Yukon except for the following exemptions for federal lands in the Environment Act, sections 114 to 117: <ul style="list-style-type: none"> -cannot be formally designated as a contaminated site; nor can a certificate of compliance be issued -no authorization is needed when changing the use of the soil or groundwater, undertaking excavation or construction or dismantling buildings or equipment -no orders can be issued against federal lands when the contaminated site is likely to cause unsafe conditions or damage to the environment or likely to cause a threat to public health
Designated Materials	-applies throughout the Yukon
Ozone Depleting Substances and Other Halocarbons	-applies throughout the Yukon
Pesticides	-applies throughout the Yukon, except to pesticides in Schedule 1 of the Pesticides Regulation
Solid Waste	-permits are not required for facilities on federal land, unless they are operated by the Government of Yukon or a municipality <ul style="list-style-type: none"> -permits are not required if operators hold approvals under another Yukon Act that addresses solid waste management as required by the Solid Waste Regulations
Special Waste	-applies throughout the Yukon
Spills	-applies throughout the Yukon <ul style="list-style-type: none"> -regulations do not apply to a release of gas without flaring where authorized by a license issued under the <i>Yukon Oil and Gas Act</i> - regulations do not apply to substances listed in Schedule A of the Ozone Depleting Substances and Other Halocarbons Regulations
Storage Tank	-applies throughout the Yukon to new storage tanks and tanks to be altered <ul style="list-style-type: none"> -regulations do not apply to storage tanks used to supply comfort heating systems -regulations do not apply to storage tanks used to store crude oil

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