

# S200 ENVIRONMENTAL EMERGENCY PLANNING REGULATIONS

CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

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PROCESS SAFETY & LOSS  
MANAGEMENT SYMPOSIUM



# OVERVIEW

- Details about the New Regulations
- E2 Reporting Requirements
- Implementation Guidelines
- The Notice Registry
- Compliance Promotion and Enforcement

# Features of CEPA 1999 Part 8

- Section 196 Guidelines and Codes of Practice
- Section 199 Environmental Emergency (E2) Plans
- Section 200 Regulations
- Section 201 Duty to notify, report and mitigate
- Section 202 "Third party/employee" protection
- Section 204 National Reporting and Notification
- Section 205 Liability for Environmental Damages and Costs Incurred by Public Authorities

# The E2 Planning Regulations Under S200

- Address emergency prevention, preparedness, response and recovery
- Benefits to be realized regardless of cause
  - - i.e. accidental, vandalism or terrorism
- Flexible as opposed to prescriptive approach to be taken, however, key elements must be addressed
- General support expressed for the initiative
- Consensus on using CRAIM list and thresholds

# The S200 Regulations (cont'd)

- Apply to any person who uses or stores one or more of the 174 substances above the specified quantities in a container equal to or exceeding the threshold
- List includes 16 CEPA toxic substances
- Schedule 1 of the regulations divided into Part 1 (76 flammables) and Part 2 (98 other hazardous) substances

# Substances on the List

- All substances on the list have specific thresholds.
- For those listed substances that are mixtures\*, quantities of their individual components are not considered when calculating substance quantities.
- Any listed substance with concentration below that shown in column 2 of Schedule 1 is excluded

\*e.g. Gasoline and Liquefied Natural Gas (LNG)

# FACTORS FOR INCLUSION OF SUBSTANCES ON THE S200 LIST

- Toxicity or other hazardous properties
- Physical properties
- Quantities in Canadian commerce
- Historical data related to accidental releases
- Adverse effects on the environment, environment on which human life depends or human health
- Adequate management of risks through existing federal or provincial regulations
- Results of EC's REF analysis

# Exceptions From Quantity Calculations [Section 3(2)]

- Amounts temporarily stored for 72 hours or less in a container not normally located at the place, if the person keeps evidence during the temporary storage period of the date the substance was received
- Quantities in a container with capacity of 30 kg or less
- Quantities of substance when it is a component of another substance in Schedule 1
- Quantities of a substance when it is a component of natural gas except in liquefied form



# Exceptions From Quantity Calculations [Section 3(2)]

- Quantities of a substance in fuel tank supplying engine of conveyance used in transportation
- Quantities of a substance that are the object of an activity that is subject to the *Transportation of Dangerous Goods Act*, during the performance of that activity
- Quantities of a substance in Part 1 of Schedule 1 that is a component of a mixture that has a flash point equal to or greater than 23°C or boiling point equal to or greater than 35°C
- Quantities of a substance in Part 2 of Schedule 1 in a mixture with partial pressure of the substance equal to or less than 10 millimetres of mercury

# THE PROCESS

- Determine if either the total amount of substance or single largest container exceeds the specified threshold
- For all facilities that meet either or both above criteria, a notice of identification of substance and place must be filed (90 days) along with certification [Section 3(1)(a) & (b)]
- For all facilities that meet both criteria, subsequent notices of plan preparation and implementation and testing must also be filed (6 mos, 1 year respectively) (Sections 4 & 5)

# ON-GOING OBLIGATIONS

- Annual testing of the E2 plan contents (all relevant components to be tested through multi-year cycle) [Section 6(1)]
- E2 plan to held at facility (unless unmanned) and available for inspection [Section 6(2)]
- Test results over a 5-year period to be documented and available for inspection [Section 6(3)]
- Spill notification and reporting\* (Section 9)

# ON-GOING OBLIGATIONS (cont'd)

- File an amended Schedule 2 for changes in information (under section 1 or 2) or increases in max. expected quantity > 10% within 60 days [Sections 3(4)(a) & (b)]
- Notify the Minister within 90 days after either the amount or capacity criterion less than that in column 3 of Schedule 1 for 12 consecutive months [Section 3(5)]

# Content of the E2 Plan

- In preparing an E2 plan, one must consider the following: [Section 4(2)]
  - properties and characteristics of the substance;
  - maximum expected quantity of the substance at the place at any time during a calendar year;
  - commercial, manufacturing, processing or other activity in relation to which the plan is prepared;
  - characteristics of the place and surrounding area; and
  - potential consequences to human life and health.

# Content of the E2 Plan

- An E2 plan must contain the following:  
[Section 4(3)]
  - description of the factors considered;
  - identification of any possible environmental emergencies expected to occur;
  - description of measures used to prevent, prepare for, respond to and recover from an E2;
  - list of individuals who are to carry out the plan;
  - identification of training required;
  - list of emergency equipment and its location; and
  - identification of measures used to notify the public.

# Content of the E2 Plan

- E2 plans prepared on a voluntary basis or for another government or under another Act of Parliament that meet the requirements of the proposed E2 Regulations can be used. [Section 7(1)]
- Those that do not meet the requirements must be amended. [Section 7(2)]

# Timelines

- Publication of Implementation Guidelines in *Canada Gazette I* was September 6th
- Publication of regulations in *Canada Gazette Part 2* was September 10, 2003
- The E2 Regulations come into force 90 days after promulgation (or 90 days after criteria first apply)
- 3 notices are required after coming into force:
  - Within 90 days - Identification of Substance and Place
  - Within 6 months - Prepare E2 Plan
  - Within 1 year - Test & Implement the Plan



# General Provisions of Section 201 in Part 8 of CEPA 1999

- **Duty to Notify, Report and Mitigate**
- Section 201 applies once a list of substances is established under the section 200 proposed E2 Regulations
- A verbal and written report is required in the event of an “environmental emergency” involving any Schedule 1 substance

# Spill Notification and Reporting

- An “environmental emergency” is defined under section 194 of CEPA 1999 as one that:
  - has or may have an immediate or long term harmful effect on the environment;
  - constitutes or may constitute a danger to the environment on which human life depends; or
  - constitutes or may constitute a danger in Canada to human life or health.

# Spill Reporting and Notification

- E2 Regulations will not initially specify any spill reporting threshold quantities
- Environment Canada considers that existing provincial reporting thresholds, if any, or alternately those specified under the Transportation of Dangerous Goods Act (TDGA) are acceptable for the purposes of meeting obligations under the general provisions of s201

# Harmonization of Requirements

- Environment Canada's goal is to harmonize spill reporting requirements throughout the country
- Future amendments to the proposed E2 Regulations will be considered to apply existing reporting thresholds within its requirements

# Notification and Reporting

- Verbal notification is to be made by telephone as soon as reasonably possible
- Written reports should be made within 30 days of the event
- Notification and reporting is to be made to an Enforcement Officer or to any other person designated by the proposed E2 Regulations
- Content of notifications and reports are further outlined in the E2 Implementation Guidelines

# Points of Contact

- Arrangements exist between federal and provincial authorities for spill notification and reporting
- Further details available in the Implementation Guidelines (Appendix 6)

# THE INTENT OF THE IMPLEMENTATION GUIDELINES

- To provide further guidance on the requirements of the s200 regulations
- To clearly delineate between ss200 and 199
- To establish the principles of environmental emergency planning under CEPA 1999
- To outline Environment Canada's expectations with respect to the regulation and its implementation

# THE CONTENTS

- Summary of E2 planning provisions under ss200 and 199
- Application of ss200 and 199
- Spill notification and reporting
- E2 plan content for PPRR
- Public access information
- Compliance and enforcement



# THE CONTENTS (cont'd)

- Appendices cover:
  - ⇒ suggested references
  - ⇒ sample notices/declarations and certifications
  - ⇒ model subsection 199(1) Gazette notice
  - ⇒ the list of regulated substances
  - ⇒ substance amount calculations
  - ⇒ notification and reporting documentation

# E2 Online Notification

## *How will it work?*

- Clear step-by-step instructions guide user through filing process
- “Point and click” used as much as possible to minimize effort and error
- Extensive Qs & As section should cover most queries
- At completion of each stage, hard copy to be signed and sent to EC
- All submissions acknowledged electronically

# E2 Online Notification

## *Upkeep and improvement*

- Verify data, and periodically review database for duplication or other errors
- Hardcopy of signatures to be filed (for now)
- Questions from public will go to common email account - *CEPAE2@ec.gc.ca*
- Improvements to site can be made as required, both before and after launch

# Compliance Promotion

- Compliance promotion activities underway
- Include development of both a ComPro Strategy and Plan
- Will be publicly available
- Identifies responsibilities for both HQ and Regions
- Range of opportunities available to raise awareness and inform regulatees of requirements
- Plan also contains various performance targets e.g. # of plans evaluated, # of exercises observed annually

# Enforcement

- Internal Enforcement plan also in development
- Once in force, regulations will become part of EC's annual inspection plans
- Emergencies program to work closely with Enforcement staff
- Regulated facility database in development
- Range of penalties available for violations, consistent with CEPA's Enforcement and Compliance Policy and degree of severity

# FOR FURTHER INFORMATION

- CEPA Registry:
  - [www.ec.gc.ca/CEPARegistry/](http://www.ec.gc.ca/CEPARegistry/) (regulations & guidelines)
- Information on the regulations:
  - [www.ec.gc.ca/ee-ue/plans/plans](http://www.ec.gc.ca/ee-ue/plans/plans)
- On-line Notification System:
  - [www.cepae2.ec.gc.ca](http://www.cepae2.ec.gc.ca)

# Calculation of Quantities Flammable Mixtures

- The following criteria must be met:
  - flash point  $< 23^{\circ}\text{C}$
  - boiling point  $< 35^{\circ}\text{C}$
- Concentration is equal to or greater than that shown in Column 2 of Part 1 of Schedule 1
- Total amount of the mixture = 4.5 tonnes or greater and
- Storage container = 4.5 tonnes or greater

# Calculation of Quantities Hazardous Mixtures

- The following criteria must be met:
  - partial pressure of the substance in the mixture exceeds 10 mm of Hg
  - Concentration is equal to or greater than that shown in Column 2 of Part 2 of Schedule 1
  - Total amount of substance = concentration of substance in solution x weight of solution
  - Storage container = threshold amount or greater