CEPA S200 ENVIRONMENTAL EMERGENCY PLANNING REGULATION ESSENTIALS – WHAT YOU NEED TO KNOW

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Overview

- Authorities under CEPA 1999 relating to environmental emergencies (E2)
- E2 Regulations
- Exceptions
- Regulatory requirements
- E2 Plan content
- Spill notification and reporting
- Compliance and enforcement
- Proposed amendments

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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

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E2 Regulations – S200 of CEPA 1999

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

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E2 Regulations (cont'd)

- Apply to any person who uses or stores one or more of the 174 substances above the specified quantities or who has a container for that substance equal to or exceeding the threshold
- Schedule 1 of the Regulations is divided into Part 1 (76 flammables) and Part 2 (98 other hazardous substances)
- For any mixture listed as a substance*, only need to comply with threshold quantity listed, not for that of its individual components

**ex. Gasoline and LNG*

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Exceptions

- Temporary storage of a substance for 72 hours or less in a container not normally located at the place
- Quantities of a substance in a container 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
- Quantities of a substance in fuel tank supplying engine of conveyance
- Quantities of a substance regulated under *Transportation of Dangerous Goods Act*

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Mixture Exclusions

Flammable Mixtures:

- 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 23ºC or boiling point equal to or greater than 35ºC

Other Hazardous Mixtures:

- 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 mmHg

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Obligations

- Notice of Identification of Substance and Place required if <u>either</u>:
  - Maximum quantity equals or exceeds threshold; OR
  - Largest container capacity equals or exceeds threshold

- Notices of Plan Preparation and Implementation required if <u>both :</u>
  - Maximum expected quantity equals or exceeds threshold; *AND*
  - Largest container capacity equal or exceed the threshold.

- All notices submitted must be accompanied by an authorized official's signature (Schedule 3 – Certification)

N.B. *E2 plans are not submitted to Environment Canada unless requested*

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Timelines

- *Canada Gazette* Part 2 : September 10, 2003
- E2 Regulations came into force 90 days after registration: November 18, 2003
- 3 Notices required after coming into force:
  - Within 90 days: Notice of Identification of Substance and Place
  - Within 6 months: Notice of Plan Preparation
  - Within 1 year: Notice of Plan Implementation and Testing
- For new facilities, timelines apply from when criteria first met

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Access to Information

- Notices can be filed electronically or in hard copy to EC's Regional Offices
- No electronic signature at this time (likely by Q4 2005)
- Notices (minus substance & quantity information) posted and publicly available at **www.cepae2.ec.gc.ca**
- Confidential Business Information and national security considerations will apply and hence certain information may not be released
- Access to information by first responders and the public will be allowed to extent legally permissible

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Content of an E2 Plan

In preparing an E2 plan one <u>must consider</u> the following:

- 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 health and the environment

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Content of an E2 Plan

An E2 plan <u>must contain</u> the following:

- description of the factors considered;
- identification of any probable 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.

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Existing Plans Accepted

It is important to note that:

An E2 plan prepared on a voluntary basis, for another level of government or under another Act of Parliament that meets the requirements of the proposed E2 Regulations are acceptable.

Those that do not meet all the requirements of the E2 regulations, only need to be modified to do so.

Other Obligations

- File an amended Notice of Identification within 60 days of any changes in information (under section 1 or 2 of Schedule 2) or increases in max. expected quantity > 10%

- Notify the Minister within 90 days after either the amount or capacity criterion become less than the threshold quantity for 12 consecutive months

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Other Obligations

- Annual testing of the E2 plan contents (all relevant components to be tested through multi-year cycle)
- Documented test results for a minimum of 5 years to be available for inspection
- E2 plan must be held at applicable manned facilities and available for inspection
- Even if facilities not required to submit notices under the E2 regulations, all environmental emergencies involving any listed substance must be reported and the appropriate person notified.

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Spill Notification & Reporting -
Duty to Notify, Report and Mitigate

- S201 applies once a substance is listed under s200 - general provision
- Applies when an "environmental emergency" occurs (s193) for any listed substance that impacts human health or the environment (s194)
- Applies to anyone who owns or has charge, management or control of said substance
- Use of existing provincial reporting thresholds or those specified under the Transportation of Dangerous Goods Act (see Appendix 6 of E2 Implementation Guidelines)

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Compliance & Enforcement

- Compliance promotion activities underway
- Both a 3-year Compliance Strategy and annual ComPro Plan have been prepared
- Range of opportunities available to raise awareness and inform regulatees of requirements
- Regulations now part of EC's annual inspection plans as of FY 2005-06
- Various penalties for violations outlined in Enforcement Plan for regulation
- On-going evaluation process

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Proposed Amendments

- Process began on July 11, 2005
- CEPA toxics evaluated
- Styrene and Ammonium Nitrate
- Some wording to be corrected
- Some obligations to be clarified
- Removal of potential duplication
- Risk Evaluation Framework (REF) revised
- Expected to be in force by mid-2006

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In Conclusion

- The E2 regulations should provide enhanced chemical safety
- Greater public awareness of risks and measures to combat such risks within their communities
- First responders such as police and fire fighters will have access to critical information to the extent legally permissible.
- For additional information visit:

https://cepae2-lcpeue.ec.gc.ca/index_en.cfm

QUESTIONS?