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**ONTARIO REGULATION 464/10**

made under the

**TECHNICAL STANDARDS AND SAFETY ACT, 2000**

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Amending O. Reg. 211/01

(Propane Storage and Handling)

Note: Ontario Regulation 211/01 has previously been amended. For the legislative history of the Regulation, see the Table of Consolidated Regulations – Detailed Legislative History at [www.e-Laws.gov.on.ca](http://www.e-Laws.gov.on.ca).

**1. The definition of “risk and safety management plan” in subsection 1 (1) of Ontario Regulation 211/01 is revoked and the following substituted:**

“risk and safety management plan” means a risk and safety management plan that sets out the safe operation of a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre and that meets the requirements of,

- (a) subsections 3.1 (0.2) and (2) if it is a Level 1 risk and safety management plan, or
- (b) subsection 3.1 (1) and (2) if it is a Level 2 risk and safety management plan;

**2. (1) Section 3.1 of the Regulation is amended by adding the following subsections:**

**Risk and safety management plan, certain facilities**

(0.1) No person shall operate a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre unless,

- (a) the person has filed a Level 1 risk and safety management plan with the director that meets the requirements of subsections (0.2) and (2) if the facility has no more than the greater of,
  - (i) a total capacity of 5,000 USWG, and
  - (ii) fixed storage capacity of 5,000 USWG and portable storage capacity of no more than 500 USWG, if it has fixed storage capacity of exactly 5,000 USWG;
- (b) the person has filed a Level 2 risk and safety management plan with the director that meets the requirements of subsections (1) and (2) if clause (a) does not require the person to file a Level 1 risk and safety management plan with the director;
- (c) the director has given the confirmation described in subsection (4) with respect to the risk and safety management plan that the person is required to have to operate the facility or the person holds a conditional licence under section 32;
- (d) the person operates the facility in accordance with the risk and safety management plan that the person is required to have to operate the facility; and
- (e) except if the person holds a conditional licence under section 32, the person has taken the measures set out in the risk mitigation and control plan required under paragraph 3 of subsection (1) and the emergency response and preparedness plan required under paragraph 4 of subsection (1), if applicable.

(0.2) A Level 1 risk and safety management plan for a facility shall provide the information required by the document entitled Level 1 Risk and Safety Management Plan that is issued by the Corporation and dated November 26, 2010 and the operator of the facility shall sign the plan to attest that the information provided is accurate.

**(2) Subsection 3.1 (1) of the Regulation is amended by striking out the portion before paragraph 1 and substituting the following:**

- (1) A Level 2 risk and safety management plan for a facility shall, at a minimum, address the following matters:

. . . . .

**(3) Subsections 3.1 (2) to (10) of the Regulation are revoked and the following substituted:**

(2) A Level 1 risk and safety management plan shall be prepared by the operator of the facility to which the Level 1 plan relates and a Level 2 risk and safety management plan shall be prepared by a professional engineer.

(3) A person who is applying for a licence to operate a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre and for which a licence has not been issued under this Regulation on or before the day this paragraph comes into force shall prepare and file the required risk and safety management plan with the director when applying for the licence.

(4) Upon receiving a Level 1 or a Level 2 risk and safety management plan, the director shall confirm, as the case may be, that,

- (a) the Level 1 risk and safety management plan contains the information required by subsection (0.2) and meets the requirements of subsection (2); or
- (b) the Level 2 risk and safety management plan meets the requirements of subsections (1) and (2).

(5) Once the director has confirmed that a Level 1 risk and safety management plan contains the information required by subsection (0.2) and meets the requirements of subsection (2), the person who operates the facility to which the plan relates shall provide a copy of the plan to the fire service responsible for the area where the facility is located, except if the area is a territory without municipal organization that does not have a fire department established by an agreement under clause 3 (2) (b) of the *Fire Protection and Prevention Act, 1997*.

(6) The director shall make available to the public, in print or electronic form, the emergency response procedures set out in the Level 1 risk and safety management plan or the evacuation procedures set out in the Level 2 risk and safety management plan, as the case may be.

(7) No person shall operate a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre with fixed, portable, mobile or transient storage, or any combination of them, in excess of that provided for under the risk and safety management plan that the person is required to have to operate the facility.

(8) A person who operates a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre and who is required to file a Level 1 risk and safety management plan with the director shall,

- (a) maintain the plan up to date; and
- (b) when applying to renew the licence for the facility, file the updated plan with the director and, except if the area where the facility is located is a territory without municipal organization that does not have a fire department established by an agreement under clause 3 (2) (b) of the *Fire Protection and Prevention Act, 1997*, provide a copy of the updated plan to the fire service responsible for the area.

(9) A person who operates a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre and who is required to file a Level 2 risk and safety management plan with the director shall maintain an up-to-date account of any changes to identified hazards, assessed risks and the emergency response and preparedness plan contained in the risk and safety management plan and shall conduct, at least annually, a review of the latter plan.

(10) A person who operates a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre shall,

- (a) give written notice to the director within 15 days of a change to any of the information contained in the risk and safety management plan that the person is required to have to operate the facility;
- (b) update the risk and safety management plan to reflect the change; and
- (c) take any risk mitigation and control measures and emergency response and preparedness measures identified as part of the update.

**3. (1) Subsection 27.1 (1) of the Regulation is revoked and the following substituted:**

(1) Except if the director issues a conditional licence under section 32, if a person requires a Level 2 risk and safety management plan to operate a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre, the director shall not consider an application for a licence for the facility, an application for the renewal of such a licence occurring in the first year after subsection (2.1) comes into force or an application for a modification of the facility unless it is accompanied by an approval from the fire service responsible for the area where the facility is located, except if the area is a territory without municipal organization that does not have a fire department established by an agreement under clause 3 (2) (b) of the *Fire Protection and Prevention Act, 1997*.

**(2) Subsection 27.1 (2) of the Regulation is amended by striking out “risk and safety management plan” and substituting “Level 2 risk and safety management plan”.**

**(3) Section 27.1 of the Regulation is amended by adding the following subsection:**

(2.1) Except if the director issues a conditional licence under section 32, if a person requires a Level 1 risk and safety management plan to operate a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre, the director shall not consider an application for a licence for the facility, an application for the renewal of such a licence occurring in the first year after this subsection comes into force or an application for a modification of the facility unless,

- (a) the director confirms that the fire service responsible for the area where the facility is located has had an opportunity to review the plan before the person files it with the director and to comment on it in relation to emergency response and preparedness procedures, except if the area is a territory without municipal organization that does not have a fire department established by an agreement under clause 3 (2) (b) of the *Fire Protection and Prevention Act, 1997*; and
- (b) the plan as filed with the director sets out the comments, if any, described in clause (a) and how the applicant proposes to address them.

**(4) Subsection 27.1 (4) of the Regulation is amended by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding the following clause:**

- (d) a senior management person who is designated by the applicant for the purposes of that subsection, if there is no officer, director, partner or proprietor of the applicant or if there is no officer, director, partner or proprietor of the applicant present in Ontario.

**(5) Section 27.1 of the Regulation is amended by adding the following subsection:**

(8) If an operator of a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre applies for and receives the approval of the director for the modification, the operator may modify the facility to reduce the total capacity of the facility so that clause 3.1 (0.1) (a) requires the operator to file a Level 1 risk and safety management plan with the director.

**4. Section 32 of the Regulation is revoked and the following substituted:**

#### Conditional licences

**32.** (1) If there has been a change in ownership of a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre and for which a licence has been issued under this Regulation and if the owner of the facility after the change in ownership applies for a licence to operate the facility, has met all requirements for the licence but has not filed a Level 1 or a Level 2 risk and safety management plan for the facility with the director as required by section 3.1, the director shall issue the licence subject to the condition that the applicant file the required risk and safety management plan with the director within 120 days after the director issues the licence.

(2) If an operator of a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre submits an application for approval to modify the facility to reduce the total capacity of the facility so that clause 3.1 (0.1) (a) requires the operator to file a Level 1 risk and safety management plan with the director and if the operator has met all requirements for the modification but has not filed a Level 1 risk and safety management plan for the facility as modified with the director as required by section 3.1, the director may approve the modification and, in that case, shall impose a condition on the licence for the facility that the operator file the required Level 1 risk and safety management plan with the director within 120 days after the director approves the modification.

(3) If an operator applies for the renewal of a licence to operate a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre, has met all requirements for the renewal but has not filed a Level 1 or a Level 2 risk and safety management plan for the facility with the director as required by section 3.1, the director shall issue the renewal subject to the condition that the operator file the required risk and safety management plan with the director within 120 days after the renewal date noted on the operator’s current licence if the renewal date occurs on or before December 31, 2011.

(4) The director shall issue the licence of an operator of a facility that is a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre subject to the condition described in subsection (5) if the operator,

- (a) applies for the renewal and meets all requirements for the renewal;
- (b) has filed a Level 2 risk and safety management plan for the facility with the director as required by section 3.1;
- (c) has not taken the measures set out in the risk mitigation and control plan required under paragraph 3 of subsection 3.1 (1) and the emergency response and preparedness plan required under paragraph 4 of subsection 3.1 (1), if applicable; and
- (d) has filed with the director a timetable for the completion of the measures mentioned in clause (c) that does not extend beyond the renewal date noted on the operator’s current licence.

(5) A licence issued under subsection (4) is subject to the condition that the operator complete the measures mentioned in clause (4) (c) by the date specified in the timetable mentioned in clause (4) (d).

- (6) A conditional licence issued under this section expires on the earlier of,

- (a) the first anniversary of the renewal date noted on the operator's current licence, if applicable; and
- (b) the expiry of the date for fulfilling the condition attached to the licence under this section.

**5. (1) Subject to subsection (2), this Regulation comes into force on the later of January 1, 2011 and the day it is filed.**

**(2) Subsection 3 (4) and this section come into force on the day this Regulation is filed.**

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