

ONTARIO REGULATION 440/08
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 not previously been amended.

1. (1) The definition of “facility” in subsection 1 (1) of Ontario Regulation 211/01 is amended by striking out “carlock/keylock” and substituting “cardlock/keylock”.

(2) Subsection 1 (1) of the Regulation is amended by adding the following definitions:

“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 subsection 3.1 (1);

“total capacity” means the total volume of fixed, portable, mobile and all other transient storage at a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre, including the total volume of all cylinders or tanks in which propane is stored and any tanker trucks or rail cars that stay at the retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre for longer than it takes for the propane to be transferred;

“USWG” means volume in U.S. water gallons;

2. The Regulation is amended by adding the following section:

Risk and safety management plan, certain facilities

3.1 (1) A person who holds a licence to operate a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre shall prepare a risk and safety management plan, which shall, at a minimum, address the following matters:

1. A hazard analysis that identifies possible hazardous scenarios, the frequency of those scenarios and their consequences, and that takes into account,
 - i. the most severe incident or situation that could occur at the referenced facility based on the total capacity of propane at the referenced facility, and
 - ii. any less severe incident or situation that could occur at the referenced facility.
2. A risk assessment that is based on the single largest transient, mobile, portable, or fixed propane storage vessel, as the case may be, at the referenced facility and that,
 - i. estimates the injury or death that would likely be caused to people at or in the vicinity of the referenced facility as a result of an incident or situation described in paragraph 1,
 - ii. reasonably estimates the hazard distance applicable to the referenced facility, and
 - iii. concludes that the assessed risk is acceptable based on the measures described in paragraphs 3 and 4.
3. A risk mitigation and control plan that is based on the reasonable measures taken to limit the risks assessed in subparagraphs 2 i and ii. Where total capacity at the referenced facility exceeds 5,000 USWG, the risk mitigation and control plan, in addition to accounting for the matters in subparagraph 2 i, shall also consider nearby land use.
4. An emergency response and preparedness plan that provides for onsite and offsite procedures, including evacuation procedures, to be followed in the event of an incident or situation described in paragraph 1.

- (2) The risk and safety management plan shall be prepared,
- (a) by a professional engineer, where the total capacity of propane at the retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre is 120,000 litres or more (30,000 USWG); or
 - (b) by a person who has specialized knowledge in the field of risk management, where the total capacity of the retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre is less than 120,000 litres (30,000 USWG).
- (3) On receipt of the risk and safety management plan, the director shall confirm that the plan meets the requirements of this section.
- (4) The director shall make available to the public, in print or electronic form, the evacuation procedures set out in the risk and safety management plan.
- (5) No person shall operate a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre unless the person has submitted a risk and safety management plan to the director that meets the requirements of this section and the risk and safety management plan is kept current in accordance with this section.
- (6) No person shall operate a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre,
- (a) except in accordance with the risk and safety management plan; and
 - (b) unless the person has implemented,
 - (i) the measures set out in the risk mitigation and control plan required under paragraph 3 of subsection (1), and
 - (ii) the emergency response and preparedness plan required under paragraph 4 of subsection (1).
- (7) No person shall operate 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.
- (8) A person who operates a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre shall maintain an up-to-date account of any changes to identified hazards, assessed risks and the emergency response and preparedness plan and shall conduct a full review of the risk and safety management plan at least annually.
- (9) A person who operates a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre,
- (a) shall 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;
 - (b) shall update the risk and safety management plan to reflect the change; and
 - (c) shall implement any risk mitigation and control measures and emergency response and preparedness measures identified as part of the update.
- (10) Operators of retail outlets, filling plants, cardlocks/keylocks, private outlets or container refill centres shall prepare and submit their risk and safety management plans in accordance with the following schedule:
1. Operators in possession of a licence on or before December 31, 2008, shall submit their risk and safety management plan on the first renewal of their licence after December 31, 2010.
 2. Operators in possession of a licence on or before December 31, 2008 who are seeking a modification of their licence,
 - i. shall submit their risk and safety management plan on the first renewal of their licence after December 31, 2010, if the application for modification of their licence is made on or before December 31, 2009, and
 - ii. shall submit their risk and safety management plan when they are applying to modify their licence, if the application for modification of their licence is made after December 31, 2009.
 3. Persons who do not hold a licence on or before December 31, 2008,
 - i. shall submit their risk and safety management plan on the first renewal of their licence after December 31, 2010, if their application for a licence is made on or before December 31, 2009, and
 - ii. shall submit their risk and safety management plan when they apply for their licence, if their application for a licence is made after December 31, 2009.

3. (1) Section 5 of the Regulation is amended by adding the following subsections:

- (3) Every person who is licensed to operate a facility under this Regulation shall ensure that their employees or agents are trained in the facility's emergency management procedures and shall ensure that they are trained at least annually in emergency management procedures.

(4) Every person who is licensed to operate a facility under this Regulation shall ensure that new employees or agents receive the training required by subsection (3) as soon as is practical after they commence their responsibilities.

(2) Section 5 of the Regulation is amended by adding the following subsections:

(5) Every person who is licensed to operate a facility under this Regulation shall ensure that certificate holders or persons with a ROT, who perform functions at the facility, are provided with site-specific training and shall keep a record of the persons who were trained and the dates on which they were trained and the name of the trainer on each date.

(6) Every person who is licensed to operate a facility under this Regulation shall keep,

- (a) records of the dates on which the fire protection devices, equipment or systems were serviced, maintained, repaired or tested; and
- (b) the results of those tests.

4. Section 6 of the Regulation is amended by adding the following subsection:

(2) Any person who is required to hold a certificate or ROT under this Regulation shall produce it on demand of the director, an inspector, or any other person.

5. Section 13 of the Regulation is amended by adding the following subsection:

(3) No person shall operate a new or modified facility unless they have first contacted the fire service where the facility is located to provide the fire service with an opportunity to attend at the site and to become familiar with the facility.

6. Clause 27 (3) (d) of the Regulation is revoked and the following substituted:

(d) subject to subsections (15) and (16), prepare and submit a legible plan in triplicate that shows,

- (i) the location of each propane storage tank, cylinder storage facility, underground piping or tubing and other propane handling facilities within the container refill centre or filling plant,
- (ii) the location of parking spaces designated by the applicant for tanker truck parking,
- (iii) the distance from each propane storage tank and cylinder storage facility to the property lines of the centre or plant,
- (iv) each building or structure located within 50 feet of a propane storage tank,
- (v) the location of each site where flammable or combustible substances are stored,
- (vi) the capacity in USWG of each propane storage tank within the centre or plant, and
- (vii) any other relevant information requested by the director that is necessary to ensure that the installation is safe and complies with this Regulation; and

7. The Regulation is amended by adding the following section:

Licensing of certain facilities

27.1 (1) The director shall not consider an application for a licence for a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre or an application for an expansion of one, unless it is accompanied by an approval from the fire service responsible for the area where the referenced facility is located.

(2) The approval of the fire service shall indicate that the fire service has approved all components of the risk and safety management plan that address fire safety, fire protection and emergency preparedness.

(3) On application for a licence for a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre or on application for its renewal, the applicant shall ensure that at least one person referenced in subsection (4) holds a certificate or a ROT that is at least at the highest level of certificate or certificates or ROT required for the operation of the referenced facility.

(4) For the purposes of subsection (3) the person who must hold the certificate or ROT is,

- (a) an officer or director, in the case of a corporation;
- (b) a partner, in the case of a partnership; or
- (c) the proprietor, in the case of a sole proprietorship.

(5) On application for a licence for a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre or on application for a modification, the applicant shall provide a letter from the municipality or, in the case of land within a planning area consisting of territory without municipal organization, the planning board where the referenced facility is located,

- (a) indicating that the referenced facility's use for its intended purpose does not contravene the zoning by-laws of the municipality or of the planning board, as the case may be;

- (b) confirming that the municipality or the planning board has been provided details of the proposal and has had the opportunity to comment to the applicant on the land use planning aspects of the proposal; and
 - (c) setting out any comments referred to in clause (b) and how the applicant intends to address those applicable to the applicant's risk and safety management plan.
- (6) For the purposes of licensing or renewing the licence of a retail outlet, filling plant, cardlock/keylock, private outlet or container refill centre, the director shall consider its total capacity.

8. Section 27.1 of the Regulation, as made by section 7, is amended by adding the following subsection:

(7) The director shall cause retail outlets, filling plants, cardlocks/keylocks, private outlets and container refill centres to be inspected at least annually.

9. Section 30 of the Regulation is amended by adding the following subsection:

(9) Subsections 27.1 (3) and (4) apply to an application to renew a licence for a container refill centre or a filling plant whether the application is made before or after the licence has expired.

10. (1) Subject to subsections (2) and (3), this Regulation comes into force on December 31, 2009.

(2) Sections 1, 2, 4, 6 and 8 come into force on January 1, 2009.

(3) Subsection 3 (1) comes into force 60 days after the day this Regulation is filed.