

*Draft*

**INTERIM IMPLEMENTATION GUIDELINE FOR  
*CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999*  
PART 8, ENVIRONMENTAL MATTERS RELATED TO EMERGENCIES  
SECTION 199, AUTHORITIES FOR REQUIRING ENVIRONMENTAL  
EMERGENCY PLANS**

**Environmental Emergencies Branch  
Environment Canada**

**March 2000**

## TABLE OF CONTENTS

<b>SECTION NUMBER</b>	<b>PAGE</b>
1.0 PREFACE.....	1
2.0 SUMMARY OF CEPA'S ENVIRONMENTAL EMERGENCY PLANNING PROVISIONS UNDER PART 8 – SECTION 199 .....	3
3.0 APPLICATION OF SECTION 199 .....	5
3.1 Requirements for Environmental Emergency Plans – CEPA Subsection 199(1).....	5
3.2 Contents of Notice – CEPA Subsection 199(2) .....	7
3.3 Extension of Time – CEPA Subsection 199(3) .....	9
3.4 Plan Prepared or Implemented for Another Purpose – CEPA Subsection 199(4) .....	10
3.5 Where Partial Requirements are Met – CEPA Subsection 199(5) .....	11
3.6 Application of Provisions re: Declarations and Keeping Plans CEPA Subsection 199(6) .....	11
3.7 Submission of Plans – CEPA Subsection 199(7).....	13
<b>APPENDIX 1: PROPOSED FACTORS THE MINISTER MAY TAKE INTO CONSIDERATION WHEN DETERMINING WHETHER AN ENVIRONMENTAL EMERGENCY PLAN WOULD BE REQUIRED</b>	
<b>APPENDIX 2: PROPOSED MODEL SUBSECTION 199(1) GAZETTE NOTICE</b>	
<b>APPENDIX 3: SUGGESTED REFERENCES FOR ENVIRONMENTAL EMERGENCIES PREVENTION, PREPAREDNESS AND RESPONSE MEASURES AND DEVELOPMENT OF ENVIRONMENTAL EMERGENCY PLANS</b>	
<b>APPENDIX 4: PROPOSED FORMS FOR REQUESTS FOR EXTENSIONS</b>	
<b>APPENDIX 5: PROPOSED FORMS FOR DECLARATIONS OF PREPARATION AND IMPLEMENTATION FOR ENVIRONMENTAL EMERGENCY PLANS</b>	

## 1.0 PREFACE

Prevention of damage to the environment is key to the goal of the *Canadian Environmental Protection Act, 1999* (CEPA) of achieving “*the highest level of environmental quality for all Canadians*”, as stated in the Act’s preamble. In addition, the administrative duty imposed in subsection 2(a.1) requires the Government of Canada to “*take preventive and remedial measures to protect, enhance and restore the environment*”.

Part 8 of the CEPA on environmental emergencies sections 193 to 205, is new and provides the Minister of the Environment with various powers to reduce gaps in or between federal and provincial<sup>1</sup> legislation for the prevention of, preparedness for, response to or recovery from environmental emergencies. Part 8 also provides other authorities and obligations for the Minister.

Section 199 represents one of the important components of this comprehensive emergencies management framework. It authorizes the Minister to require the preparation and implementation of environmental emergency plans for substances on Schedule 1, the List of Toxic Substances (CEPA toxic substances), for substances the ministers of the Environment and Health have recommended the Governor in Council add to Schedule 1 and for substances the Governor in Council, on the recommendation of the Ministers, have made an order adding the substance to Schedule 1. The requirement for environmental emergency plans will be determined using a risk assessment framework approach. The success of environmental emergency planning will be assessed against an environmental objective, which will be stated in the notice in the *Canada Gazette*. These guidelines describe how Environment Canada intends to administer section 199. If information being submitted is considered confidential, refer to Section 313 of the CEPA.

The CEPA contains other sections relating to environmental emergencies. Part 9 (Government Operations and Federal and Aboriginal Land) authorizes the Governor in Council, on the recommendation of the Minister, to make regulations respecting environmental emergencies in relation to government operations and federal and aboriginal land. Part 10 (Enforcement) authorizes the court to order anyone convicted of an offence under the CEPA to prepare and implement an environmental emergency plan. Various provisions in Part 8 authorize the Minister to take other measures related to prevention, preparedness, response or recovery. **This draft guideline only addresses section 199 - Authorities for Requiring Environmental Emergency Plans.**

---

<sup>1</sup> For the purposes of this document, the term *provincial legislation* shall refer to provincial, territorial and aboriginal legislation.

This document is not meant to be the definitive interpretation of the CEPA or of any regulation made under the Act. Provisions of the CEPA have been reproduced for convenience of reference only and have no official sanction.

## **2.0 SUMMARY OF CEPA'S ENVIRONMENTAL EMERGENCY PLANNING PROVISIONS UNDER PART 8 – SECTION 199**

Environment Canada's objective for environmental emergency planning under section 199 is to ensure that risk management measures adopted for toxic substances include effective prevention, preparedness, response and recovery components. The Minister will use the authority to require environmental emergency plans to complement other existing or forthcoming risk management measures (e.g., regulations, guidelines) for CEPA toxics. In some cases, this may entail supplementing existing regulations or other instruments. When a substance is declared CEPA toxic, it may be necessary to ensure that environmental emergency measures are implemented immediately to prevent, prepare for, respond to and recover from sudden, unplanned or accidental releases of that substance.

This approach for the implementation of section 199 is consistent with:

- the general objective of environmental protection;
- the administrative duty to take preventative measures; and
- the concept of Part 8 of the CEPA serving as a "safety net" to complement other risk management measures.

Subsection 199(1) of the CEPA authorizes the Minister of the Environment to require the preparation and implementation of environmental emergency plans for:

- substances on the List of Toxic Substances (Schedule 1 of the Act); or
- substances determined by the ministers of the Environment and Health to be toxic under the CEPA and recommended or ordered to be added to the List of Toxic Substances [S.77(6)(b)].

The Minister may require a person (e.g., company or individual) or class of persons (e.g., industry sector) to prepare and implement an environmental emergency plan respecting the prevention of, preparedness for, response to or recovery from an environmental emergency. This requirement is triggered by publication of a notice in the *Canada Gazette* under subsection 199(1).

This *Gazette* notice shall specify:

- who will be required to prepare and implement an environmental emergency plan;
- the substance or group of substances for which the plan shall be prepared and implemented;
- the time limits for preparing and implementing the plan; and
- any other matter that the Minister considers necessary.

Unless requested by the Minister as per subsection 199(7), environmental emergency plans prepared under section 199 are not submitted to Environment Canada. Instead, two types of declarations must be sent to the Department. First, a declaration of preparation must be filed within a specified period of time stating that the environmental emergency plan has been prepared and is being implemented. Second, a declaration of implementation must be filed within a specified period of time stating that the implementation of the environmental emergency plan has been completed. In the event that information in either of these declarations becomes inaccurate, an amended declaration must also be submitted to the Department. A copy of the environmental emergency plan must be held at the place in relation to which it has been prepared.

In order to prevent duplication of efforts, parties may satisfy the requirements of a subsection-199(1) notice by using an environmental emergency plan prepared or implemented for another purpose or under another government or Act of Parliament. Where such a plan does not meet all the requirements of the notice, the plan shall be amended or an additional plan be prepared to meet the remainder of those requirements. As for all other environmental emergency plans prepared or implemented under Part 8, declarations of preparation and implementation must be filed.

There are strict penalties for not complying with the provisions of the CEPA. Part 10 (Enforcement), sections 272 to 274, outlines various offences and penalties for contraventions of the Act, regulations or agreements, for providing false or misleading information, and for causing damage to the environment or risk of death or harm to persons. Enforcement Officers may request access to these plans in order to confirm that they have been prepared and are being implemented.

Appendix 1 lists the factors the Minister may take into consideration in determining whether an environmental emergency plan would be required. Appendix 2 contains a proposed model subsection-199(1) notice requiring environmental emergency plans. Appendix 3 contains a list of suggested references for environmental emergency measures and the development of environmental emergency plans. Appendix 4 contains the proposed forms for requests for time extensions and Appendix 5 contains the proposed forms for declarations of preparation and implementation for environmental emergency plans.

For information relating to environmental emergencies, visit Environment Canada's Environmental Emergencies Branch website at: [www.ec.gc.ca/ee-ue/](http://www.ec.gc.ca/ee-ue/).

### **3.0 APPLICATION OF SECTION 199**

#### **3.1 REQUIREMENTS FOR ENVIRONMENTAL EMERGENCY PLANS – CEPA SUBSECTION 199(1)**

According to the CEPA subsection 199(1), *“The Minister may at any time publish in the Canada Gazette, and in any other manner that the Minister considers appropriate, a notice requiring any person or class of persons described in the notice to prepare and implement an environmental emergency plan respecting the prevention of, preparedness for, response to or recovery from an environmental emergency in respect of*

*a) a substance or group of substances on the List of Toxic Substances in Schedule 1; or*

*b) a substance or group of substances in relation to which there has been published in the Canada Gazette*

*i) a statement of the Ministers under paragraph 77(6)(b) indicating that the measure that they propose to take, as confirmed or amended, is a recommendation that the substance be added to the List of Toxic Substances in Schedule 1, or*

*(ii) a copy of an order proposed to be made under subsection 90(1).”*

#### **Rationale**

The Minister may require a person or class of persons to prepare an environmental emergency plan for a substance that is on the List of Toxic Substances or has been recommended or ordered to be added to the List. For substances which have been recommended or ordered to be added to the List of Toxic Substances, a notice indicating this must have been published in the *Canada Gazette* before an environmental emergency plan may be required. Note that the requirement for environmental emergency plans can only occur in relation to those aspects of an environmental emergency that:

a) has or may have an immediate or long-term harmful effect on the environment;

b) constitute or may constitute a danger to the environment on which human life depends; or

c) constitute or may constitute a danger to human life or health in Canada.

#### **Guidance**

**a) Factors that may be taken into consideration when determining which toxic substances should be subject to the requirements of section 199**



The Minister may take the following factors into consideration when determining whether to publish a notice requiring the preparation and implementation of environmental emergency plans:

- data on the quantity and use in commerce or storage of the substance in Canada to determine potential for exposure;
- data to determine the toxicity and threshold levels of these substances;
- data which is routinely gathered relating to uncontrolled, unplanned or accidental releases of these substances (i.e., frequency and severity of spills);
- which toxic substances, when released into the environment, present an immediate or long-term harmful effect on the environment, a danger to the environment on which human life depends, or a danger to human life or health; and
- whether the risks posed by these substances are being adequately managed by existing federal or provincial regulations or legislation. An examination of whether or not the regulations or legislation achieve or take into account the environmental goal of preventing, preparing for, responding to or recovering from a sudden, unplanned or accidental release of the toxic substance. In the event that regulations or legislation have not yet been developed for specific substances, this information may also be incorporated into the assessment process.

The Department may make a recommendation to the Minister that an environmental emergency plan should be required under subsection 199(1) where the sudden, unplanned or accidental release of the substance presents an immediate or long-term harmful effect on the environment, a danger to the environment on which human life depends, or a danger in Canada to human life or health. At any time, the Minister may request that environmental emergency plans be prepared and implemented for substances already placed on Schedule 1 or substances recommended or ordered for addition to the List of Toxic Substances. Information about the CEPA and the substances on Schedule 1 is available from the following website:  
[www.ec.gc.ca/CEPAregistry](http://www.ec.gc.ca/CEPAregistry).

It is important to note that, under the CEPA, it is possible for the ministers of the Environment and Health to propose a guideline, code of practice or memorandum of understanding to manage the risk posed by a toxic substance. However, these do not have the force of law. While encouraging the use of one of these non-regulatory instruments to manage toxic substances, the Minister may determine that the environmental goal respecting environmental emergencies is not being met and therefore request that an environmental emergency plan be prepared and implemented.

**b) Factors that may be taken into consideration when determining who will have to prepare and implement an environmental emergency plan under section 199**

The Minister may take the following factors into consideration when determining who will be required to prepare and implement an environmental emergency plan under section 199:

- the commercial, manufacturing, processing or other users and sources of CEPA toxic substances identified under the process described above that meet the categories specified in Appendix 1; and
- all other commercial, manufacturing, processing or other activities from which the Minister is satisfied that the uncontrolled, unplanned or accidental release of the substance:
  - a) has or may have an immediate or long-term harmful effect on the environment;
  - b) constitute or may constitute a danger to the environment on which human life depends; or
  - c) constitute or may constitute a danger to human life or health in Canada.

For persons or companies with several facilities or areas where toxic substances are located, an environmental emergency plan specific to each location may generally be required. As with all other environmental emergency plans, these plans must address the prevention of, preparedness for, response to or recovery from an uncontrolled, unplanned or accidental release of a toxic substance at that location. For each location, a declaration of preparation and implementation should be submitted, and a site-specific environmental emergency plan must be prepared and kept at that location.

### **c) Subsection 77(6) statements**

For each substance that they propose to add to the List of Toxic Substances as a result of a review or assessment conducted pursuant to subsection 77(1), the ministers of the Environment and Health will publish, under subsection 77(6), a summary of the screening risk assessment, review of a decision of another jurisdiction or of a report of the assessment of substances on the Priority Substances List and a statement indicating how they intend to develop a proposed instrument or regulation respecting preventive or control measures in relation to that substance. Among other things, this statement may indicate whether environmental emergency plans will be required. The assessment of substances on the second Priority Substances List will be completed by December 31, 2000, and reports of those assessments will state whether or not the substances are toxic within the meaning under the CEPA and recommended for possible addition to Schedule 1. Information on the status of these assessments is available from the Environment Canada's Commercial Chemicals Evaluation Branch website at [www.ec.gc.ca/cceb1/eng/cc\\_index.htm](http://www.ec.gc.ca/cceb1/eng/cc_index.htm).

## **3.2 CONTENTS OF NOTICE – CEPA SUBSECTION 199(2)**

CEPA subsection 199(2) states that “*The notice shall specify*

- a) the substance or group of substances in relation to which the plan is to be prepared;*
- b) the period of time within which the plan is to be prepared;*

- c) *the period of time within which the plan is to be implemented; and*
- d) *any other matter that the Minister considers necessary.*

## **Rationale**

This subsection sets out the type of information that must be included in the *Canada Gazette* notice requiring that an environmental emergency plan be prepared. The notice will describe the substances, the time frame for preparation, the time frame for implementation and any other matter considered necessary.

## **Guidance**

For those persons or classes of persons required to prepare an environmental emergency plan, a notice will be published in the *Canada Gazette* indicating who specifically is required to prepare and implement an environmental emergency plan and with what specifically the plan must deal.

While certain core elements should be incorporated into an environmental emergency plan, the subsection-199(1) notice will attempt to avoid prescriptive language regarding the exact measures to be included in the environmental emergency plan. Rather, the notice will describe the environmental objectives to be achieved. As such, it may include explanatory notes that are separate from its compulsory content and that set out the issues of concern to the Minister of the Environment and, where appropriate, refer to relevant examples, models or guidelines.

Appendix 2 contains a draft model of a subsection-199(1) notice.

## **Content of an Environmental Emergency Plan**

The Minister may issue guidelines and codes of practice to guide the preparation of environmental emergency plans. Appendix 3 provides a list of references that may be utilized when preparing an environmental emergency plan covering prevention, preparedness, response and recovery.

It is recognized that the complexity of environmental emergency plans may vary depending upon the circumstances for each individual or company required to prepare and implement a plan. However, in general, environmental emergency plans should contain:

- a senior-level statement committing to implement and maintain the environmental emergency plan;
- an identification of what types of emergencies might possibly occur and the associated prevention, preparedness, response and recovery capabilities;
- a description of the roles and responsibilities of individuals during an environmental emergency;

- accurate contact lists for emergency resource personnel and equipment;
- detailed training logs for emergency response individuals; and
- a means for ensuring that the plan is current, comprehensive and effective (e.g., routine testing and updating of the plan).

Environment Canada strongly recommends that persons preparing an environmental emergency plan share the plan with local and provincial emergency authorities.

### **3.3 EXTENSION OF TIME – CEPA SUBSECTION 199(3)**

CEPA subsection 199(3) states that “*Where the Minister is of the opinion that further time is necessary to prepare or implement the plan, the Minister may extend the period for a person who submits a written request before the expiry of the period referred to in the notice or of any extended period.*”

#### **Rationale**

It may not be possible for all parties to meet the time frames specified for preparing or implementing an environmental emergency plan. This subsection gives the Minister the authority to extend the time limit set in a notice made under subsection 199(1) when a written request for an extension has been submitted before the end of this limit or another extension, and the Minister believes that extra time is necessary.

#### **Guidance**

In general, the Minister will provide a period of approximately six months after publication of the subsection-199(1) notice for the preparation of environmental emergency plans and a further six months for completion of the implementation of the plans. In order for the Minister to decide whether an extension should be granted, a request must be submitted to the Minister prior to the end of the time limit set in the notice or in another extension, and the Minister must be of the opinion that further time is necessary.

An environmental emergency plan should take into consideration prevention, preparedness, response and recovery and can be considered implemented when it has been written and is operational to the point where the person submitting the declaration can expect to successfully deal with all aspects of an environmental emergency. Implementation includes prevention, preparedness, response and recovery documentation, access to the identified response resources, training, and testing sufficient to validate the plan. Under Part 8, recovery from an environmental emergency means restoring any part of the environment damaged by or during an emergency.

Appendix 4 contains draft forms for applying for time extensions. Since it is possible that a request for an extension may not be granted, applications for time extensions should be made as early as reasonably feasible.

### **3.4 PLAN PREPARED OR IMPLEMENTED FOR ANOTHER PURPOSE – CEPA SUBSECTION 199(4)**

According to the CEPA subsection 199(4):

*“Subject to subsection (5), where a person who is required to prepare or implement an environmental emergency plan under a notice published under this section has prepared or implemented a plan in respect of environmental emergencies on a voluntary basis or for another government or under another Act of Parliament that meets all or some of the requirements of the notice, the person may use that plan for the purposes of meeting the requirements of this Part and, in that case, the plan shall be considered to be an environmental emergency plan that has been prepared or implemented under this Part.”*

#### **Rationale**

The intent of this subsection is to avoid duplicating efforts. Work completed to prepare and implement environmental emergency plans to meet requirements of federal or provincial legislation or on a voluntary basis may be used to meet the requirements in the CEPA and allows for a “one plan” approach.

#### **Guidance**

Environmental emergency plans prepared on a voluntary basis or pursuant to the requirements of other federal or provincial legislation may be deemed to meet some or all of the requirements of the subsection-199(1) notice.

Where the existing plan does not meet all of the requirements of the subsection-199(1) notice, the person shall either amend the previously completed plan or prepare an additional plan that meets the remainder of the requirements. In any event, all persons using a pre-existing plan to satisfy a subsection-199(1) notice shall file both a declaration of preparation and a declaration of implementation.

Environment Canada is committed to ongoing consultation with federal departments, including the Department of Fisheries and Oceans, Transport Canada, and Health Canada with a view to avoiding duplication with emergency planning requirements under other legislation, such as the *Canada Shipping Act* or *Transportation of Dangerous Goods Act*.

### **3.5 WHERE PARTIAL REQUIREMENTS ARE MET – CEPA SUBSECTION 199(5)**

CEPA subsection 199(5) specifies that “*Where a person uses a plan under subsection (4) that does not meet all of the requirements of the notice, the person shall*

- a) amend the plan so that it meets all of those requirements; or*
- b) prepare an additional environmental emergency plan that meets the remainder of those requirements.”*

#### **Rationale**

A person must meet all of the requirements set out in a notice to prepare and implement an environmental emergency plan. If a plan prepared on a voluntary basis or for another government or department is incomplete, it must be amended or a new plan prepared that meets the remainder of the requirements.

#### **Guidance**

This subsection clarifies the process for using a plan prepared for another purpose. The plan may have to be amended or a new environmental emergency plan prepared which meets the remainder of the requirements of the notice. The requirements set out in the subsection-199(1) notice to prepare and implement an environmental emergency plan must be met, either through an existing, amended or new environmental emergency plan.

### **3.6 APPLICATION OF PROVISIONS RE: DECLARATIONS AND KEEPING PLANS – CEPA SUBSECTION 199(6)**

According to the CEPA subsection 199(6), “*Sections 58 and 59 apply to environmental emergency plans, with any modifications that the circumstances require, as if any reference to a pollution prevention plan were read as a reference to an environmental emergency plan.”*

CEPA Sections 58 and 59 contain the following provisions:

CEPA Subsection 58(1) states that “*Every person who is required to prepare a pollution prevention plan under section 56 or 291 or under an agreement in respect of environmental protection alternative in measures shall file, within 30 days after the end of the period for the preparation of the plan specified in the notice referred to in subsection 56(1) or extended under subsection 56(3), or specified by the court under section 291 or in the agreement, as the case may be, a written declaration to the Minister that the plan has been prepared and is being implemented.”*

CEPA Subsection 58(2) states that *“Every person who is required to implement a pollution prevention plan under section 56 or 291 or under an agreement in respect of environmental protection alternative measures shall file, within 30 days after the completion of the implementation of the plan, a written declaration to the Minister that the plan has been prepared and is being implemented.”*

CEPA Subsection 58(3) states that *“Where a person has filed a declaration under subsection (1) or (2) and the declaration contains information that, at any time after the filing, has become false or misleading, that person shall file an amended declaration to the Minister within 30 days after that time.”*

CEPA Subsection 58(4) states that *“A declaration referred to in subsection (1), (2) or (3) shall be filed in the form and manner and contain the information specified by the Minister.”*

CEPA Section 59 states that *“Every person who is required to prepare a pollution prevention plan under section 56 or 291 or under an agreement in respect of environmental protection alternative measures shall keep a copy of the plan at the place in Canada in relation to which it has been prepared.”*

## **Rationale**

As with the declarations required for pollution prevention plans, the same provisions apply to environmental emergency plans. A person does not have to submit the plan to the Minister, but has 30 days after the end of the time period specified in the notice for the preparation of the plan and 30 days after completion of implementation of the plan to declare that fact in writing to the Minister. The person must keep a copy of the plan at the place for which it was prepared and where it was implemented. The person must also amend the declaration if any information in the declaration becomes false or misleading.

## **Guidance**

Parties required to prepare and implement an environmental emergency plan must submit two declarations to the Minister:

- the first within 30 days after the end of the period provided to prepare the plan indicating that the plan has been prepared and is being implemented; and
- the second within 30 days after completion of the implementation of the plan and no later than 30 days after the implementation date specified in the notice, indicating that the implementation of the plan has been completed.

In addition, if at any time any of the information contained in either of these declarations becomes false or misleading, an amended declaration must be filed within 30 days after that time.

The first declaration (preparation of plans) shall provide information on :

- a) facility data;
- b) an indication of environmental emergency prevention, preparedness, response and recovery measures identified in the plan;
- c) previous environmental emergencies; and
- d) response personnel training and plan testing information.

The second declaration (implementation of plans) shall confirm that the implementation of the environmental emergency plan described in the declaration of preparation has been completed.

As previously indicated, a plan will be considered implemented when it has been written and is operational to the point where the person submitting the declaration can expect to successfully deal with all aspects of an environmental emergency.

As discussed in Section 3.1, for persons or companies with several facilities or areas where toxic substances are located and who are required to prepare and implement an environmental emergency plan, a plan specific to each location may generally be required. There may be instances however, where the prevention of, preparedness for, response to or recovery from a sudden, unplanned or accidental release of a toxic substance at that location is either covered under a larger plan (e.g., an area-wide environmental emergency plan) or under a company wide plan for all its facilities.

For each location for which an environmental emergency plan is required, a declaration of preparation and a declaration of implementation must be submitted. If the declaration being submitted covers multiple areas or facilities or sites or substance(s) of concern, detailed information for each location, as per Appendix 5, must be provided. A copy of the environmental emergency plan must be held at each location.

Appendix 5 contains draft forms for declarations of preparation and implementation.

### **3.7 SUBMISSION OF PLANS – CEPA SUBSECTION 199(7)**

*Under the terms of the CEPA subsection 199(7), “The Minister may publish in the Canada Gazette, and in any other manner that the Minister considers appropriate, a notice requiring any person or class of persons described in the notice who are required to prepare or implement an environmental emergency plan under subsection (1) or section 291 or under an agreement in respect of environmental protection alternative measures to submit, within the period specified by the Minister, the plan or any part of the plan.”*



## **Rationale**

The Minister may require a person to submit all or part of an environmental emergency plan. The Minister may request to see an environmental emergency plan where an inspection indicates that follow-up action is required, where a plan has been prepared pursuant to a court order or an environmental protection alternative measures agreement, or where the substances involved present a serious environmental concern.

## **Guidance**

The Minister may require the submission of all or part of the plan when it has been determined that there is a need to develop further risk management measures in relation to specific substances in the plan. It may also be necessary to submit an environmental emergency plan required pursuant to a court order issued under subsection 291(1) or under an environmental protection alternative-measures agreement negotiated between the Attorney General of Canada and an alleged offender.

## **APPENDICES**

- APPENDIX 1**            **PROPOSED FACTORS THE MINISTER MAY TAKE INTO CONSIDERATION WHEN DETERMINING WHETHER AN ENVIRONMENTAL EMERGENCY PLAN WOULD BE REQUIRED**
- APPENDIX 2**            **PROPOSED MODEL SUBSECTION 199(1) GAZETTE NOTICE**
- APPENDIX 3**            **SUGGESTED REFERENCES FOR ENVIRONMENTAL EMERGENCIES PREVENTION, PREPAREDNESS AND RESPONSE MEASURES AND DEVELOPMENT OF ENVIRONMENTAL EMERGENCY PLANS**
- APPENDIX 4**            **PROPOSED FORMS FOR APPLICATIONS FOR EXTENSIONS**
- APPENDIX 5**            **PROPOSED FORMS FOR DECLARATIONS OF PREPARATION AND IMPLEMENTATION FOR ENVIRONMENTAL EMERGENCY PLANS**

**APPENDIX 1**

**PROPOSED FACTORS THE MINISTER MAY TAKE INTO CONSIDERATION  
WHEN DETERMINING WHETHER AN ENVIRONMENTAL EMERGENCY PLAN  
WOULD BE REQUIRED**

# **Proposed Factors The Minister May Take Into Consideration When Determining Whether An Environmental Emergency Plan Would Be Required**

## **Background**

Subsection 199(1) of the *Canadian Environmental Protection Act, 1999* (CEPA), authorizes the Minister of the Environment to require any person or class of persons to prepare and implement an environmental emergency plan respecting the prevention of, preparedness for, response to or recovery from an environmental emergency for substances on the List of Toxic Substances in Schedule 1 and substances the ministers of the Environment and Health have recommended or ordered to be added to Schedule 1.

The proposed factors the Minister may take into consideration to determine whether an environmental emergency plan would be required under section 199 are set out below.

### **1.0 Substances on the List of Toxic Substances in Schedule 1**

For substances on the List of Toxic Substances in Schedule 1, the Minister may take the following factors into consideration when determining whether an environmental emergency plan would be required:

- i) whether the substance is currently imported, manufactured, used or stored in Canada;
- ii) whether the management option for the substance includes the requirement for an emergency plan outlining preventative or control measures (or equivalent) that adequately address the prevention of, preparedness for, response to or recovery from an environmental emergency; and
- iii) for all other substances on the List of Toxic Substances where the Minister determines that, after a review of available data by the process indicated in Section 3.0 of the guideline, whether there is potential for a sudden, unplanned or accidental release to occur, given the existing or proposed preventative or control measures.

### **2.0 Substances recommended or ordered for addition to Schedule 1**

For substances the ministers of the Environment and Health have recommended under subsection 77(6)(b) that the Governor-in-Council add to Schedule 1 or have recommended under subsection 90(1) that the Governor in Council make an order adding the substance to Schedule 1, the Minister of the Environment may require an environmental emergency plan. This plan may be required as a temporary instrument for the interim period until risk management measures are implemented that address environmental emergencies satisfactorily, however, nothing precludes the environmental emergency plan from being used as a permanent risk management tool for a substance.

**APPENDIX 2**

**PROPOSED MODEL SUBSECTION-199(1) *GAZETTE* NOTICE**

## PROPOSED MODEL SUBSECTION-199(1) GAZETTE NOTICE

### *Canadian Environmental Protection Act, 1999*

#### Notice with Respect to Environmental Emergency Plans

Notice is hereby given that, pursuant to the provisions of subsection 199(1) of the *Canadian Environmental Protection Act, 1999*, the persons or classes of persons described in paragraph 1 of this notice shall prepare and implement an environmental emergency plan respecting the prevention of, preparedness for, response to or recovery from an environmental emergency in respect of [***name the substance or substances***], which [is/are on the List of Toxic Substances in Schedule 1] [the Ministers of the Environment and Health has/have recommended or ordered that the Governor-in-Council add to Schedule 1] of the *Canadian Environmental Protection Act, 1999* for the purpose of [***state environmental objective***].

1. *Persons required to prepare environmental emergency plans:* [***typically will specify persons required to prepare plans by referring to factors such as industry sector, use, quantity and storage volumes, rather than by naming individual companies***]. For persons or companies which have several facilities or areas where [***name the substance or substances***] are located, an environmental emergency plan specific to each location is required. In the event that a company wide or area-wide environmental emergency plan covers several of these facilities in relation to of [***name the substance or substances***], this plan can be used as a “site-specific” plan for the purposes of this notice.
2. *Period within which the plan is to be prepared:* The plan shall be prepared within [***time period to be specified; it will usually be six months***] of the date of this notice.
3. *Period within which implementation of the plan is to be completed:* Implementation of the plan shall be completed within [***time period to be specified; it will usually be twelve months***] of the date of this notice.
4. *Content of plans:* Although persons preparing plans may determine the appropriate content of their own environmental emergency plans, every person subject to this notice shall take into consideration the elements outlined in the Implementation Guidelines for section 199. These include, but are not limited to, the following:
  - a senior-level statement committing to implement and maintain the environmental emergency plan;
  - an identification of what types of emergencies might possibly occur and the associated prevention, preparedness, response and recovery capabilities;
  - a description of the roles and responsibilities of individuals during an environmental emergency;

- accurate contact lists for emergency resource personnel and equipment;
- detailed training logs for emergency response individuals; and
- a means for ensuring that the plan is current, comprehensive and effective (e.g., routine testing and updating of the plan).

These plans must address the prevention of, preparedness for, response to or recovery from an uncontrolled, unplanned or accidental release of **[name the substance or substances]**.

5. *Declaration of preparation:* Pursuant to subsection 199(6) of the CEPA, every person identified in paragraph 1 of this notice shall file, within 30 days after the end of the period for the preparation of the plan specified in paragraph 2 of this notice, a “Declaration that an Environmental Emergency Plan Has Been Prepared and is Being Implemented.” This declaration shall provide information on:
- a) facility data;
  - b) an indication of environmental emergency prevention, preparedness, response and recovery measures identified in the plan;
  - c) previous environmental emergencies ; and
  - d) response personnel training and plan testing information.

Forms for this declaration are available from **[insert appropriate coordinates]**. Each location requiring an environmental emergency plan must be covered under such a declaration.

6. *Declaration of implementation:* Pursuant to subsection 199(6), every person identified in paragraph 1 of this notice shall file, within 30 days after the completion of the implementation of the plan, and no later than 30 days after the implementation date specified in paragraph 3 of this notice, a “Declaration that the Implementation of an Environmental Emergency Plan Has Been Completed.” This declaration shall confirm that the implementation of the environmental emergency plan described in the declaration of preparation has been completed. Forms for this declaration are available from **[insert appropriate coordinates]**. Each location requiring an environmental emergency plan must be covered under such a declaration.
7. *Filing of amended declaration:* Pursuant to subsection 199(6), where the declaration contains information that, at any time after the filing, has become false or misleading, the person identified in paragraph 1 of this notice shall file an amended declaration to the Minister within 30 days after that time.
8. *Requirement to keep plan:* Every person identified in paragraph 1 of this notice shall keep a copy of the environmental emergency plan at the place in Canada for which the plan was prepared.

9. *Pre-Existing plans:* If you have prepared or implemented a plan in respect of environmental emergencies on a voluntary basis, for another government, or under another Act of Parliament, you may use that plan for the purposes of this notice if it meets the requirements specified in paragraph 4. If the plan does not meet all the requirements specified in paragraph 4, subsection 199(5) of the CEPA provides that the plan must either be amended or an additional plan that meets the remainder of the requirements be prepared. In any event, all persons using a pre-existing environmental emergency plan to satisfy the requirements in paragraph 4 shall file both a declaration of preparation and a declaration of implementation.
10. *Extension of preparation date:* Where the Minister has received a written request for an extension of time to prepare an environmental emergency plan, the Minister may extend the period for preparing the plan. For an extension to be granted, the request must be submitted prior to the expiry of the period referred to in paragraph 2 of this notice and the Minister must be of the opinion that further time is necessary to prepare the plan. The form to be submitted to the Minister when requesting this extension is the “Request for Extension of Time to Prepare an Environmental Emergency Plan,” and is available from [*insert appropriate coordinates such as web address*].
11. *Extension of implementation date:* Where the Minister has received a written request for an extension of time to implement an environmental emergency plan, the Minister may extend the period for implementing the plan. For an extension to be granted, the request must be submitted prior to the expiry of the period referred to in paragraph 3 of this notice and the Minister must be of the opinion that further time is necessary to implement the plan. The form to be submitted to the Minister when requesting this extension is the “Request for Extension of Time to Implement an Environmental Emergency Plan,” and is available from [*insert appropriate coordinates such as web address*].
12. *Other matters:* [*include any other necessary information or requirements*].
13. *More information on environmental emergency planning:* Additional information and guidance on preparing environmental emergency plans may be obtained from [*insert possible sources of information*].
14. *Reference number:* for administrative purposes, all communication with Environment Canada concerning this notice should refer to the following reference number:

\_\_\_\_\_

Minister's name



## **APPENDIX 3**

### **SUGGESTED REFERENCES FOR ENVIRONMENTAL EMERGENCIES PREVENTION, PREPAREDNESS AND RESPONSE MEASURES AND DEVELOPMENT OF ENVIRONMENTAL EMERGENCY PLANS**

## **Suggested References for Environmental Emergencies Prevention, Preparedness and Response Measures and Development of Environmental Emergency Plans**

American Petroleum Institute. *Recommended Practice 750, Management of Process Hazards*. United States: American Petroleum Institute, 1995. This document is available from the American Petroleum Institute in Washington, D.C.; Phone (202) 682-8000 or visit their website at [www.api.org](http://www.api.org); (\$42 US)\*.

Canadian Standards Association. *Emergency Planning for Industry: A National Standard for Canada (CAN/CSA-Z731-95)*. Toronto: Canadian Standards Association, 1995. This document can be ordered from CSA International at 1-800-463-6727 or from their website at [www.test-and-certify.com](http://www.test-and-certify.com). ID# 2004922; (\$65)\*

Major Industrial Accidents Council of Canada. *Community Self-Awareness Tool*. Ottawa: Major Industrial Accidents Council of Canada, 1999. This document can be downloaded for free from the Major Industrial Accidents Council of Canada's (MIACC's) website at [www.miacc.ca](http://www.miacc.ca).

Major Industrial Accidents Council of Canada. *Hazardous Substances Risk Assessment: A Mini-Guide for Municipalities and Industry*. Ottawa: Major Industrial Accidents Council of Canada, 1994. This document can be obtained from the Canadian Association of Fire Chiefs (CAFC) in Ottawa; Phone (613) 728-2123; (\$75)\*

Major Industrial Accidents Council of Canada. *Process Safety Management*, 2<sup>nd</sup> Edition. Ottawa: Major Industrial Accidents Council of Canada, 1996. This document is available from the CAFC; (\$20)\*.

Major Industrial Accidents Council of Canada. *Site Self-Assessment Tool*. Ottawa: Major Industrial Accidents Council of Canada, 1999. This document can be downloaded for free from the MIACC website at [www.miacc.ca](http://www.miacc.ca).

United Nations Environment Program. *APELL, Awareness and Preparedness for Emergencies at Local Level: A Process for Responding to Technological Accidents*. Paris: United Nations Environment Program, 1988. This document can be ordered from the United Nations Environment Programme's on-line bookshop at [www.EarthPrint.com](http://www.EarthPrint.com). ISBN: 9280711830; Stock Number: API; (\$15 US)\*

\* estimated cost - this may change without notice

**APPENDIX 4**

**PROPOSED FORMS FOR REQUESTS FOR EXTENSIONS**

**PROPOSED FORMS FOR REQUESTS FOR EXTENSION OF TIME TO PREPARE  
OR IMPLEMENT AN ENVIRONMENTAL EMERGENCY PLAN PURSUANT TO A  
NOTICE UNDER SECTION 199 OF CEPA**

**Background**

Paragraphs 199(2)(b) and (c) of the *Canadian Environmental Protection Act, 1999*, require the Minister of the Environment to specify the period within which an environmental emergency plan is to be prepared and implemented, respectively. Subsection 199(3) authorizes the Minister of the Environment to extend these periods if the person subject to a notice submits a written request for an extension before the expiry of the period referred to in the notice or of any extended period and if the Minister is of the opinion that further time is necessary.

The attached documents are the proposed forms for applying for extensions under subsection 199(3).

**Request for Extension of Time to Prepare an Environmental Emergency Plan  
(Pursuant to a Notice Under Section 199 of CEPA)**

**1.0 Facility information**

- Name of facility: \_\_\_\_\_
- Address: \_\_\_\_\_
- Contact person: \_\_\_\_\_
- Phone number: \_\_\_\_\_
- Fax number: \_\_\_\_\_
- E-mail: \_\_\_\_\_

**2.0 Publication date of subsection-199(1) notice and substance(s) of concern identified in the notice**

- Publication date of subsection-199(1) notice: \_\_\_\_\_
- Reference number of the subsection-199(1) notice: \_\_\_\_\_
- Substance(s) of concern identified in the notice: \_\_\_\_\_

**3.0 Deadline for preparation of the plan prescribed in subsection-199(1) notice**

\_\_\_\_\_

**4.0 Extension Requested for preparation of the plan (indicate desired date)**

\_\_\_\_\_

**5.0 Rationale for application**

Explain why additional time is necessary to prepare the plan.

This application was completed by \_\_\_\_\_ (Senior Company Manager's, position) on \_\_\_\_\_ (date).

---

Signature

**Request for Extension of Time to Implement an Environmental Emergency Plan  
(Pursuant to a Notice Under Section 199 of CEPA)**

**1.0 Facility information**

- Name of facility: \_\_\_\_\_
- Address: \_\_\_\_\_
- Contact person: \_\_\_\_\_
- Phone number: \_\_\_\_\_
- Fax number: \_\_\_\_\_
- E-mail: \_\_\_\_\_

**2.0 Publication date of subsection-199(1) notice and substance(s) of concern identified in the notice**

- Publication date of subsection-199(1) notice: \_\_\_\_\_
- Reference number of the subsection-199(1) notice: \_\_\_\_\_
- Substance(s) of concern identified in the notice: \_\_\_\_\_

**3.0 Deadline for implementation of the plan prescribed in subsection-199(1) notice**

\_\_\_\_\_

**4.0 Extension requested for completion of implementation of the plan (indicate desired date)**

\_\_\_\_\_

**5.0 Rationale for Application**

Explain why additional time is necessary to complete implementation of the plan.

This application was completed by \_\_\_\_\_ (Senior Company Manager's name, position) on \_\_\_\_\_ (date).

\_\_\_\_\_



Signature

**APPENDIX 5**

**PROPOSED FORMS FOR DECLARATIONS OF PREPARATION AND  
IMPLEMENTATION FOR ENVIRONMENTAL EMERGENCY PLANS**

## Subsection 199(6) Declarations

### Background

Parties required to prepare an environmental emergency plan pursuant to a notice issued under subsection 199(1) of the *Canadian Environmental Protection Act, 1999*, are required to submit two declarations under subsection 199(6) to the Minister of the Environment:

- the first within 30 days after the end of the period provided to prepare the plan, indicating that the plan has been prepared and is being implemented (Declaration of Preparation); and
- the second within 30 days after the completion of the implementation of the plan, indicating that the implementation of the plan has been completed (Declaration of Implementation).

In addition, if at any time after filing, information contained in either of these declarations becomes false or misleading, an amended declaration must be filed within 30 days of that time.

Subsection 199(4) states that plans prepared or implemented in respect of environmental emergencies on a voluntary basis or pursuant to some other legal requirement may be used to meet some or all of the requirements of a subsection-199(1) notice. Subsection 199(5) states that where the other plan does not meet all of the requirements of the subsection-199(1) notice, the person shall either amend the plan or prepare an additional plan that meets the remainder of the requirements. Persons wishing to use a pre-existing plan are required to submit subsection-199(6) declarations, and to indicate on those declarations that they are using a pre-existing plan to satisfy the subsection-199(1) notice.

For persons or companies with several facilities or areas where toxic substances are located who are required to prepare and implement an environmental emergency plan, a plan specific to each location may generally be required. There may be instances however, where the prevention of, preparedness for, response to or recovery from a sudden, unplanned or accidental release of a toxic substance at that location is either covered under a larger plan (e.g., an area-wide environmental emergency plan) or under a company wide plan for all its facilities.

For each location for which an environmental emergency plan is required, a declaration of preparation and a declaration of implementation must be submitted. If the declaration being submitted covers multiple areas or facilities or sites or substance(s) of concern, detailed information for each location must be provided. A copy of the environmental emergency plan must be held at each location.

The attached documents are proposed forms for the subsection-199(6) declarations.

**Section 199**  
**Declaration that an Environmental Emergency Plan Has Been Prepared and is Being Implemented**

**1.0 Administrative information**

*Head office information:*

Name of company \_\_\_\_\_  
Street address or PO box \_\_\_\_\_  
City and province \_\_\_\_\_  
Postal code \_\_\_\_\_  
Contact person \_\_\_\_\_  
(for plan preparation, if applicable)  
Title of contact person \_\_\_\_\_  
Telephone # \_\_\_\_\_  
Fax # \_\_\_\_\_  
E-mail \_\_\_\_\_  
NPRI # (if applicable) \_\_\_\_\_

*Facility/site information:*

Name of company \_\_\_\_\_  
Street address or PO box \_\_\_\_\_  
City and province \_\_\_\_\_  
Postal code \_\_\_\_\_  
Contact person \_\_\_\_\_  
(for plan preparation)  
Title of contact person \_\_\_\_\_  
Telephone # \_\_\_\_\_  
Fax # \_\_\_\_\_  
E-mail \_\_\_\_\_  
NPRI # (if applicable) \_\_\_\_\_

If the declaration being submitted covers multiple areas or facilities or sites or substance(s) of concern, please provide detailed information for each location.

**2.0 Publication date of the Subsection-199(1) notice and substance(s) of concern**

Publication date of notice \_\_\_\_\_  
Notice reference number \_\_\_\_\_  
Substance(s) of concern \_\_\_\_\_

**3.0 Deadline for preparation of plan prescribed in the section-199(1) notice**

---

**4.0 Use of prior plans**

Are you using an environmental emergency plan prepared on a voluntary basis or pursuant to some other legal requirement to satisfy the requirement in the subsection-199(1) notice?

Yes / No

If yes, indicate under what voluntary basis or legal requirement the pre-existing plan was prepared.

---

**5.0 Local-level involvement**

5.1 Have local authorities, along with community and interest groups, been involved in plan development?

Yes / No

5.2 Are the contents of the plan available to local authorities as well as community and interest groups?

Yes / No

**6.0 Environmental emergency plan information**

For each substance or group of substances for which an environmental emergency plan has been required, state the name of the substance and complete the following subsections.

**6.1 Nature of activities**

Substance \_\_\_\_\_

Is the substance of concern (check (√)):

- a) manufactured
- b) processed
- c) stored

- d) otherwise used
  - e) other
- please explain: \_\_\_\_\_

## **6.2 Potential on-site environmental emergencies**

6.2.1 Does the plan describe potential on-site environmental emergencies for the substance of concern?  
Yes / No

## **6.3 Potential for off-site consequences or for entry into the environment**

6.3.1 Does the plan describe the potential for the substance of concern to enter into the environment including potential impacts on human health and safety?  
Yes / No

## **6.4 Environmental emergency measures**

6.4.1 Does the plan identify environmental emergency prevention measures that are in place?  
Yes / No

6.4.2 Does the plan identify environmental emergency preparedness measures that are in place?  
Yes / No

6.4.3 Does the plan identify environmental emergency response measures that are in place?  
Yes / No

6.4.4 Does the plan identify environmental emergency recovery measures that are in place?  
Yes / No

## **6.5 Previous environmental emergencies**

6.5.1 Does the plan describe environmental emergencies that have occurred related to the substance of concern over the last five years?  
Yes / No

**6.6 Employee training**

6.6.1 Does the plan incorporate requirements for training?

Yes / No

**6.7 Plan testing and review**

6.7.1 Does the plan incorporate requirements for annual testing and review?

Yes / No

This declaration was completed by \_\_\_\_\_  
(employee's name, position) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature

This declaration was authorized by \_\_\_\_\_ (Senior  
Company Manager's name, position) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature



**Section 199**

**Declaration that the Implementation of an Environmental Emergency Plan Has Been Completed**

**1.0 Administrative Information**

*Head office information:*

Name of company \_\_\_\_\_  
Street address or PO box \_\_\_\_\_  
City and province \_\_\_\_\_  
Postal code \_\_\_\_\_  
Contact person \_\_\_\_\_  
(for plan preparation, if applicable)  
Title of contact person \_\_\_\_\_  
Telephone # \_\_\_\_\_  
Fax # \_\_\_\_\_  
E-mail \_\_\_\_\_  
NPRI # (if applicable) \_\_\_\_\_

*Facility/site information:*

Name of company \_\_\_\_\_  
Street address or PO box \_\_\_\_\_  
City and province \_\_\_\_\_  
Postal code \_\_\_\_\_  
Contact person \_\_\_\_\_  
(for plan preparation)  
Title of contact person \_\_\_\_\_  
Telephone # \_\_\_\_\_  
Fax # \_\_\_\_\_  
E-mail \_\_\_\_\_  
NPRI # (if applicable) \_\_\_\_\_

If the declaration being submitted covers multiple areas or facilities or sites or substance(s) of concern, please provide detailed information for each location.

**2.0 Publication date of the notice and substance(s) of concern**

Publication date of the subsection-199(1) notice: \_\_\_\_\_  
Reference number of the subsection-199(1) notice: \_\_\_\_\_  
Substance(s) of concern identified in the notice: \_\_\_\_\_

**3.0 Deadline for completion of implementation of the plan prescribed in the subsection-199(1) notice**

\_\_\_\_\_

**4.0 Use of prior plans**

Are you using an environmental emergency plan that was prepared on a voluntary basis or pursuant to some other legal requirement to satisfy the requirement in the subsection-199(1) notice?

Yes / No

**5.0 Implementation of the environmental emergency plan**

Date of testing of the environmental emergency plan \_\_\_\_\_

Internal departments involved in the testing of the plan

\_\_\_\_\_

External organizations involved in the testing of the plan

\_\_\_\_\_

Substance(s) of concern used as part of the environmental emergency plan test

\_\_\_\_\_

This declaration was completed by \_\_\_\_\_  
(employee's name, position) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature

This declaration was authorized by \_\_\_\_\_ (Senior  
Company Manager's name, position) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature