

Amending the *Environmental Emergency Regulations*



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Introduction

In 2003, the *Environmental Emergency Regulations* (E2 Regulations) came into force under the authorities of section 200 of the *Canadian Environmental Protection Act, 1999* (CEPA 1999). The E2 Regulations require the development and implementation of environmental emergency plans for substances with associated thresholds that, if released to the environment as a result of an environmental emergency, may harm human health or environmental quality. In December 2011, the E2 Regulations were amended. Among other things, this amendment added 41 substances to Schedule 1 of the E2 Regulations and clarified the regulatory requirements.

Environment Canada is proposing to amend the E2 Regulations again in response to several factors. The Environmental Emergencies Program is mandated to review new and existing substances of concern and other federal priorities, including Chemicals Management Plan substances, to determine whether they should be added to the regulations. In addition, stakeholders have identified the need for clarification in regards to certain regulatory requirements.

What are the E2 Regulations?

The *Environmental Emergency Regulations* enhance the protection of the environment and human health in environmental emergency situations by promoting prevention and ensuring preparedness, response and recovery. In addition, the E2 Regulations minimize the frequency and consequences of environmental emergencies caused by uncontrolled, unplanned or accidental releases of toxic or other hazardous substances. The E2 Regulations may apply to any person who owns or has the charge, management or control of a listed substance. There are currently 4,800 regulatees.

Success Stories

The E2 Regulations protect the environment by encouraging industry members to reformulate their products, reduce quantities on site, change to safer processes, and reduce potential impact zones around facilities. Here are some examples of industry activities to minimize the consequences of environmental emergencies:

- Substituted chlorine for sodium hypochlorite for water treatment and reduced risk zone from 4 km to no impact on the surrounding population
- Eliminated or reduced the size of large reservoirs of propane, hydrochloric acid and diethyl ether
- Captured vapours to reduce risk to human health due to inhalation or explosion
- Established multi-disciplinary teams to evaluate risks of facility activities and equipment

Sharing of information and best practices among E2 regulatees:

- In Quebec, several cities have established a joint committee (comité mixte municipal industriel) (CMMI) with industrial, municipal and different provincial and federal government representatives to manage the risks of industrial accidents linked to E2 substances.

Societal & Financial Benefits of the E2 Regulations

For the 2011 amendments to the *Environmental Emergency Regulations*, the Regulatory Impact Analysis Statement determined that there was a net benefit to Canadians as a result of the amendments. These benefits include improved safety and security, reduced environmental damage, increased protection for property, and a reduction in human health and safety impacts resulting from emergencies. In addition, it was determined that the expected benefit from damage reductions will range from \$55 million to \$576 million over a period of 25 years. When the costs to government and industry are factored into the cost-benefit equation, the net benefit of the amendments will range from approximately \$41 million to \$562 million over a period of 25 years.

Potential Amendments: Building on Previous Success

As part of our commitment to continually improve the performance of the E2 Regulations and regulate new substances that have been assessed as emergency hazards, Environment Canada is proposing to amend the E2 Regulations.

The objectives of the potential amendments are to:

- Improve protection of environment and human health
 - Add new chemicals to the E2 substance list (Schedule 1): These chemicals were identified under the federal government's Chemicals Management Plan (CMP) or have been internationally recognized as hazardous and a significant emergency risk.
- Improve clarity and effectiveness of the E2 Regulations
 - Add new text and modify wording where needed, thus making the regulations clearer and providing more guidance to regulatees.
 - Make the regulations more prescriptive and more specific, thus helping industry better comply with the regulations.
- Harmonize E2 Regulations with existing laws and regulations and streamline administrative requirements
 - Consider the reporting requirements of the Transport of Dangerous Goods Regulations and provincial/territorial requirements. The aim is to establish clear reporting requirements that protect the environment and reduce the burden on industry so that small spills or releases that do not pose a threat to the environment or to human health would no longer be reported.

The amendments propose the following initiatives:

- Add 49 substances and amend 3 others that meet the triggers for E2 Regulations (i.e., flammable, combustible, human health toxicity and/or aquatically toxic). A list of the potential substances is available on our website: www.ec.gc.ca/ee-ue.
- Change Schedule 1 to a single list of substances:
 - Organize by CAS # rather than in different parts.
 - Add column to indicate the hazard(s) on which the threshold is based.
- Add minor prescriptive changes to the E2 Regulations to clarify:
 - What is considered as a container.
 - The requirements for exercising an environmental emergency plan (E2 plan).
 - The requirements for informing the public.
- Add a new requirement for annual reporting and requests for new information (e.g., NAICS information).
- Clarify regulatory text based on comments from regulatees and other interested parties.
- Possibly include measures to reduce the burden on small businesses.

Preliminary Sector Analysis for 2nd Amendment

In December 2012, approximately 1,200 companies were asked to complete a voluntary questionnaire. The purpose of the questionnaire was to gather socio-economic information related to environmental emergency planning. Preliminary sector analysis indicates that more than 30 sectors are potentially affected by the proposed addition of the 49 substances. There are 8 sectors that are touched by 5 or more substances and are likely to require an E2 plan for some of those substances: Chemical Manufacturing, Petroleum and Coal Product Manufacturing, Oil and Gas Extraction, Utilities, Food Manufacturing, Plastics and Rubber Products Manufacturing, Non-metallic Mineral Product Manufacturing and Paper Manufacturing.

Preliminary Consultation Approach

- Industries involved with the CMP substances, current regulatees, potential regulatees and other interested parties / stakeholders / associations
- Aboriginal communities
- Small and medium-sized enterprises (SMEs) in all implicated sectors
- Used existing communication fora for engagement
- Aligned with ongoing consultation activities (consultations for other regulations, existing consultation groups, compliance promotion activities)
- Used technologies and tools such as teleconference, video conference, webinars and online surveys

Preliminary Consultations Process

Preliminary consultations:

- Launched in November, 2013 and ended in April, 2014.
- Two phases:
 - First mail-out to approximately 18,000 stakeholders and interested parties to inform on the intent to consult.
 - Second mail-out to invite all stakeholders and interested parties to provide comments on the potential amendments.
- Released consultation material including background documentation, substance assessments and potential amendments.
- Hosted and/or attended workshops, meetings, Webinars, etc.
- Results:
 - About 1,140 stakeholders completed the Consultation Invitation Form
 - About 275 respondents provided comments through an on-line Feedback Form
 - About 40 written submissions were received
 - Comments received for all potential amendments

Next Steps:

- Environment Canada will finalize the draft regulations based on stakeholder input during the fall 2014.
- The draft regulations are anticipated to be published in the *Canada Gazette*, Part I (CGI) in 2015.
- There will be a formal public comment period after CGI publication.

Want to Know More about the Regulations or the Amendments?

For additional information regarding the E2 Regulations or the amendments, please visit our website, www.ec.gc.ca/ee-ue, or contact your regional representative:

Atlantic: CEPAE2-LCPEUE-ATL@ec.gc.ca
Quebec: CEPAE2-LCPEUE-QC@ec.gc.ca
Ontario: CEPAE2-LCPEUE-ON@ec.gc.ca
Prairies & Northern: CEPAE2-LCPEUE-PNR@ec.gc.ca
Pacific & Yukon: CEPAE2-LCPEUE-PYR@ec.gc.ca
E2 national email address: CEPAE2-LCPEUE@ec.gc.ca

The *Environmental Emergency Regulations* are administered by Environment Canada through our E2 online database: <https://cepae2-lcpeue.ec.gc.ca>. A copy of the Implementation Guidelines for the *Environmental Emergency Regulations*, 2011 is also available on our website.

Environment Canada Info line: 1-800-668-6767

