

Changes to the Environmental Emergency Regulations Being Considered



The *Environmental Emergency Regulations* (the “E2 Regulations”) under the *Canadian Environmental Protection Act, 1999* (“CEPA 1999”) are designed to support an effective response to an environmental emergency, such as a massive spill. Environment Canada recently launched preliminary consultations on potential amendments to the E2 Regulations. It accepted comments to the proposed changes through April 7, 2014. The goal is to pre-publish proposed amendments in the *Canada Gazette, Part I*, in late 2014 for formal public comment. Here’s an overview of the proposed changes that are being considered.

THE PROPOSED CHANGES

The proposed changes impact these key areas:

Covered substances. The E2 Regulations only apply to facilities that contain designated substances in large quantities. The proposed amendments would add additional substances to increase protection.

Clarification. Various changes are proposed to improve the clarity of the E2 Regulations and increase industry understanding and compliance with them. For example, the proposed changes clarify:

- The definitions of terms such as container;
- Several exclusions or exemptions from the regulations; and
- The requirements for E2 plans.

Accountability. Some potential amendments are aimed at better managing the risks associated with substances that are currently used in large quantities in Canada by increasing the accountability of regulated facilities, with oversight by Environment Canada. For example, the amendments would add a new requirement to annually re-submit Notice of the implementation and testing of an E2 plan and for an up-to-date material safety data sheet (MSDS) to be included in the E2 plan.

Administrative burden. Lastly, the proposed amendments try to reduce the administrative burden on industry, especially small businesses. For example, the changes would provide alternative or flexible options for small businesses—that is, those with fewer than 100 employees or between \$30,000 and \$5 million in annual gross revenues—to reduce the direct administrative or compliance costs

and allow regulated facilities to submit their reports using technology such as internet, email, PDF documents and electronic signatures.

ANALYSIS

The comment period to the proposed changes to the E2 Regulations is already closed. So we'll have to wait and see how that feedback impacts the proposal when the draft amendments to the regulations are formally released later in 2014. But it's likely that *some* changes will be made to the E2 Regulations. However, the proposed amendments reflect a tinkering or fine-tuning of the requirements, not a major overhaul. So to review what these regulations currently require, see "Environmental Emergency Laws: What Must Your Company Do to Comply?" and "Update: Changes to the E2 Regulations."