

UPDATE: Changes to the Environmental Emergency (E2) Regulations



The federal [*Environmental Emergency Regulations*](#)—commonly known as the E2 (for Environmental Emergency) Regulations—require companies to have environmental emergency or E2 plans under certain circumstances to ensure an

effective response to a spill or other environmental incident. In Dec. 2011, the government updated the [*E2 Regulations*](#). Here's a review of the general law on E2 plans, the changes to the regulations and a [*checklist*](#) you can use to create an E2 plan that complies with the new requirements.

WHAT THE LAW SAYS

There are two federal laws that apply to E2 plans:

CEPA. Part 8 of the [*Canadian Environmental Protection Act, 1999*](#) (CEPA) covers environmental emergencies. Sec. 199 gives the federal Minister of the Environment (the Minister) authority to require the preparation and implementation of E2 plans for substances listed or recommended for inclusion in Schedule 1 of the CEPA. Under Sec. 200, the Governor in Council, on the Minister's recommendation, has established a

list of substances that, if they enter the environment as a result of an environmental emergency, may be harmful to the environment, its biological diversity or human life or health (the “E2 substances”). This section also authorizes the Minister to issue the so-called E2 Regulations requiring a person or class of persons to prepare and implement an E2 plan that covers the prevention of, preparedness for, response to and recovery from an environmental emergency related to E2 substances.

E2 Regulations. The [E2 Regulations](#) flesh out the requirements for E2 plans under both Sec. 199 and Sec. 200 of the CEPA, including:

- Which facilities must have an E2 plan;
- The factors to be considered in developing the plan;
- What the plan must cover; and
- The information on the plan the facility must report to the government.

Insider Says: For more information on E2 plans, see “[Environmental Compliance: How to Comply with Environmental Emergency Laws](#).”

Many of the changes to the E2 Regulations are very technical. For example:

- A notice of closure or decommissioning of the facility or place is now required;
- Various substances are now excluded, including:
 - a substance that’s subject to the *Transportation of Dangerous Goods Act, 1992* or the *Canada Shipping Act, 2001*, unless the substance is being loaded or unloaded at a facility;
 - quantities of propane and solid nickel oxide under designated circumstances;
 - quantities of substances that are found in slag, waste

rock in tailings, solid residues, ores and ore concentrates; and

- quantities of anhydrous ammonia and ammonia solution that are stored by a farmer for use as an agricultural nutrient; and
- Forty-one substances were added to Schedule 1 and Part 3 was added to Schedule 1 to include substances that are toxic to aquatic organisms, or are carcinogenic, persistent or bioaccumulative.

In terms of E2 plans, the regulations now require such plans to inform members of the public who may be adversely affected by an environmental emergency of the measures the facility will take and what the public should do in the event of such an emergency.

To help facilities comply with the E2 Regulations, Environment Canada recently released an updated [Implementation Guidelines for the Environmental Emergencies Regulations](#). [Click here for an E2 Plan Preparation Checklist](#) based on one in the guidelines that you can use to ensure that your facility's plan complies with all of the requirements—new and old.