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BULLETIN # 04-2019

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Environmental Emergency Regulations, 2019 come into force August 24, 2019

This year, a number of amendments to the *Environmental Emergency Regulations* were finalized and published to *Canada Gazette* Part II, closing a consultation process which started in 2016. The *Environmental Emergency Regulations, 2019* come into force on August 24, 2019.

This technical bulletin aims to provide targeted guidance on the major changes that have been made to the *Environmental Emergency Regulations* to assist facilities with the changes coming into force, and to provide clarity on changes to Fertilizer Canada’s Codes of Practice. However, this is not a comprehensive list and facilities which are storing regulated substances should consult the Regulations themselves to determine their compliance obligations.

Background

The *Environmental Emergency Regulations, 2019* (the “E2 Regulations”) outline requirements which support Canada’s mandate of environmental emergency preparedness – prevention, preparedness, response and recovery – to enhance environmental emergency management in Canada. Regulated parties which own or have the charge, management or control of specific substances set out by Schedule 1 are required to notify Environment and Climate Change Canada (ECCC) and possibly prepare an emergency response plan (E2 Plan) under specific conditions. These substances have been determined to be hazardous due to physical hazard (e.g. combustible, oxidizer, etc.), hazard to human life (e.g. inhalation hazard) and/or have environmental hazard (e.g. bioaccumulative, etc.).

Overview of Changes Made to the E2 Regulations

Below contains an overview of the main changes made to the E2 Regulations, however it is intended only to provide guidance and may not be comprehensive. [Appendix 1](#) contains the relevant excerpts from the new and old regulations. Please consult the E2 Regulations, 2019 for full details. Changes to the audited requirements of the Fertilizer Canada Codes of Practice are included at the end of each section.

1. Consolidation and Modification of Schedule 1

The substances listed in Schedule 1 were originally organized into three hazard categories under three Parts. This has been consolidated and the number of hazard



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categories increased for improved clarity and greater identification of substances [1]. Regulated thresholds have not been changed. Thirty-three new substances have also been added to Schedule 1 to be regulated [2].

Changes to Audited Requirements under Fertilizer Canada’s Codes of Practice

Code of Practice	Changes to Code Requirements
Ammonia	No changes to the Code requirements
Ammonium Nitrate	No changes to the Code requirements
Calcium Ammonium Nitrate	No changes to the Code requirements

2. Notice of Substance at a Facility and Environmental Emergency Plans (E2 Plans)

The actions which a regulated party must take are determined by the amount of substance and the capacity of containers present at a site. Each regulated substance in Schedule 1 has a threshold quantity which acts to activate required actions. The new Regulations make changes to the language surrounding notification of regulated products which may or may not be in container systems and consider the site as a whole rather than individual container systems [3].

Under the new Regulations, a regulated party must notify ECCC of substances on site (Schedule 2) when either:

- a) The total quantity of regulated substance, whether in a container or not, meets or exceeds the regulated threshold for that substance in Schedule 1; or
- b) An amount of substance is placed in a container system whose maximum capacity meets or exceeds the regulated threshold for that substance in Schedule 1.

If the maximum quantity of substance at a site or place and the capacity of the container used to contain a regulated substance meet or exceed the regulated threshold in Schedule 1, then a regulated party is required to prepare, implement, and conduct training exercises on an E2 Plan, and notify ECCC that it has done so.

The new Regulations have adjusted language for determining the situations when an E2 Plan is required [4]. Under the new Regulations, a regulated party must prepare an E2 Plan when:

- a) The total quantity of regulated substance expected at the site, whether in a container or not, meets or exceeds the regulated threshold for that substance in Schedule 1; or
- b) In the case of substances kept in a container system, when:



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- i. The maximum total expected quantity of a substance for the site meets or exceeds the regulated threshold for that substance in Schedule 1; and
- ii. the maximum capacity of the largest container system meets or exceeds the regulated threshold for that substance in Schedule 1, if all quantities of the substance are in a container system.

Sites which are required to have E2 Plans are required to ensure that the plan sufficiently identifies all emergency-related situations which could be applicable to the site’s location and has planned accordingly on how to prevent, prepare for, respond to, and recover from those potential emergency situations. Requirements for E2 Plans have been consolidated and some new requirements have been added [5], including:

- expansion of the requirements for a plan of the facility to include the location of any substance, and of the surrounding area that could be impacted by an environmental emergency;
- if applicable, a description of consultation with local public safety authorities;
- identification of harm which would likely result from the full release of substance contained in the container system of largest maximum capacity or maximum expected quantity if not in a container system;
- expansion of the potential environmental emergencies identification requirement to include the emergency scenarios which are most likely to occur and the scenarios which would have the longest impact distance outside the site’s boundaries; and
- new requirements for communication with the public (see section below for further details).

Changes to Audited Requirements under Fertilizer Canada’s Codes of Practice

Code of Practice	Changes to Code Requirements
Ammonia	<p>SECTION G1 – Written Emergency Response Plan</p> <p><u>Add:</u></p> <p>G1.13 If applicable, the operation must have an Environmental Emergency (E2) Plan submitted to Environment and Climate Change Canada as per the Environmental Emergency Regulations, 2019.</p>



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	<p>SECTION G2 – Communication of Emergency Response Plan</p> <p><u>Original:</u> G2 There is documentation of contact with local emergency responders to discuss and review the updated emergency response plan within the last 12 months.</p> <p><u>Amended:</u> G2 There is documentation of contact with local emergency responders to discuss and review the updated emergency response plan within the last 12 months, including the Environmental Emergency (E2) Plan, if applicable.</p>
Ammonium Nitrate	<p>SECTION B2 – Emergency Response and Security Plan</p> <p><u>Original:</u></p> <p>B2c) An up-to-date map of the property (facility) and surroundings or a complete description.</p> <p><u>Amended:</u></p> <p>B2c) A complete description of the property (facility) and surroundings and an up-to-date map of the facility showing the location of on-site ammonium nitrate.</p>
Calcium Ammonium Nitrate	No changes to the Code requirements

3. Environmental Emergency Plan (E2 Plan) Simulation Exercises

The new Regulations require an increased frequency of simulation exercises for sites that are required to have E2 Plans. An annual simulation exercise is required for each hazard category applicable to the site every year. A full-scale simulation exercise (requiring the deployment of personnel, equipment and resources) for one substance is required every



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five years [6] [7]. A site is required to cycle through the substances/hazard categories they have on site before repeating an simulation that they have completed previously [8].

Changes to Audited Requirements under Fertilizer Canada’s Codes of Practice

Code of Practice	Changes to Code Requirements
<p>Ammonia</p>	<p>SECTION G7 – Emergency Response Drill</p> <p><u>Original:</u></p> <p>G7 An exercise has been conducted on the emergency response plan in order to enhance the plan, familiarize participants with their duties and identify any gaps in the plan within the past 12 months.</p> <p><i>Compliance will be indicated through examination of records of the emergency response exercises for the operation to determine that an emergency response drill has been done.</i></p> <p><u>Amended:</u></p> <p>G7.1 An exercise has been conducted on the emergency response plan (including Environmental Emergency (E2) Plan if applicable) in order to enhance the plan, familiarize participants with their duties and identify any gaps in the plan within the past 12 months.</p> <p>G7.2 If applicable, a full-scale simulation exercise has been conducted on the Environmental Emergency (E2) Plan within the last 5 years.</p> <p><i>Compliance will be indicated through examination of records of the emergency response exercises for the operation to determine that an emergency drill / simulation has been done.</i></p>



Ammonium Nitrate	No changes to the Code requirements
Calcium Ammonium Nitrate	No changes to the Code requirements

4. Communication to the Public

The new Regulations contain more detailed requirements concerning public communications as part of a site’s environmental emergency plan (E2 Plan) [9]. Sites will be required to provide a description in their E2 Plan for the actions that will be taken, including any joint actions with local authorities, to communicate with the public before, during and after an environmental emergency.

The new Regulations require members of the public who may be adversely impacted by an event to be notified of the following in advance of an event:

- the possibility of an environmental event and potential consequences that could have impacts outside a site’s boundaries; and
- the measures which will be taken by the responsible person in the event of an environmental emergency, including any which will be done jointly with local authorities, and the means that it will be communicated.

The site’s E2 Plan must also contain a description of the measures which will be taken during and after an event, including actions which are done jointly with local first responders, to provide the public who may be affected with information and guidance on actions that could be taken to reduce potential impacts from the emergency and how these actions help to reduce harm or danger.

Changes to Audited Requirements under Fertilizer Canada’s Codes of Practice

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5. Periodic Submission of Notices

The new E2 Regulations introduce a requirement for periodic updates on submitted facility information [10]. Every five (5) years a regulated site must submit a new Notice Regarding Substances Located at a Facility (Schedule 2) and/or a new Notice Regarding Simulation Exercises Conducted in Relation to and Environmental Emergency Plan (Schedule 5), as applicable.



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Coming into Force and Timeline for Requirements

The new requirements of the *Environmental Emergency Regulations, 2019* come into force on August 24, 2019. All changes to the audited requirements of the Code of Practice will also come into force for this date.

Information to be submitted is organized into schedules within the Regulations. All schedules are completed online and have associated instructions for guidance. The table below summarizes deadline requirements for submission of schedule requirements:

Section	Information Requirement	Timeline for Submission
Schedule 2	Notice Regarding Substances Located at a Facility	Within 90 days of meeting one of the following criteria: <ul style="list-style-type: none"> • The total quantity of a substance, whether in a container system or not, at any time is equal to or exceeds the threshold quantity; or • A container system for the substance has a maximum capacity equal to or greater than the threshold quantity
	Notice of Change	Within 60 days if either of the following has occurred: <ul style="list-style-type: none"> • changes to contacts provided for the facility or head office; or • increases to the maximum expected quantity or container capacity meeting or exceeding 10%
	Periodic Submission	No later than five years after the day on which the most recent notice was submitted
Schedule 3	Notice Regarding the Preparation of an	Within 6 months of meeting the following criteria:



	Environmental Emergency Plan	<ul style="list-style-type: none"> The total quantity of a substance in a container system at any time is equal to or exceeds the threshold quantity; and A container system for the substance has a maximum capacity equal to or greater than the threshold quantity <p>Or:</p> <ul style="list-style-type: none"> The maximum expected quantity of a substance that is partially or entirely not in a container system is equal to or exceeds the threshold quantity
Schedule 4	Notice Regarding the Bring Into Effect of an E2 Plan	E2 Plan must be brought into effect within 12 months after the day on which a responsible person is required to prepare an E2 Plan
Schedule 5	Notice Regarding Simulation Exercises	After a full-scale simulation has been completed (within 5 years after the day on which the E2 Plan was brought into effect)
Schedule 6	Notice Regarding a Change in Quantity or Capacity	Within 60 days of the end of a one year period where the capacity or quantity of a substance has been reduced or is below the substance’s regulated threshold
Schedule 7	Notice of Cessation of Operations or Transfer of Ownership	Within 30 days that the site no longer stores regulated products or on or before the date of transfer to the new owner
Schedule 8	Written Report of Environmental Emergency	As soon as possible

Resources and Information

For more information, please consult:

- [*The Environmental Emergency Regulations*](#)
- [*The Environmental Emergency Regulations, 2019*](#)
- [*Environment and Climate Change Canada’s E2 Regulations Webpage*](#)



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Should you have any questions with respect to your audit, please do not hesitate to contact the Code Project Manager, Anthony Laycock via email at manager@awsa.ca. You may alternately contact Fertilizer Canada using the coordinates below.

Regards,

[final to be signed]

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APPENDIX 1

No.	<i>Environmental Emergency Regulations</i>	<i>Environmental Emergency Regulations, 2019</i>
[1]	Schedule 1 contained substances under three Parts: a) Part 1 – Substances Likely To Explode b) Part 2 – Substances Hazardous When Inhaled c) Part 3 – Other Hazardous Substances	Schedule 1 is consolidated, and substances individually ranked with one of the following hazard categories: <ul style="list-style-type: none"> • A – Aquatically Toxic • C – Combustible • E – Explosion Hazard • F – Fire Pool Hazard • I – Inhalation Hazard • O – Oxidizer That May Explode
[2]	N/A	New substances added to Schedule 1: <ul style="list-style-type: none"> • 2-Propenamide • Phenol, 4,4'-(1-methylethylidene)bis- • Benzene, (chloromethyl)- • Ethanol, 2-methoxy-, acetate • Hexane • Ethanol, 2-ethoxy-, acetate • 1,2-Benzenediol • 1,4-Benzenediol • 1,4-Dioxane • Phosphoric acid, tributyl ester • Phenol 2,4,6-tris(1,1-dimethylethyl)- • Vanadium pentoxide • Ammonium hydroxide • Cobalt chloride • Petroleum crude oil • Phenol, 2,6-bis(1,1-dimethylethyl)-4-(1-methylpropyl)- • Decanedioic acid, bis(1,2,2,6,6-pentamethyl-4-piperidinyl) ester • Natural gas condensates, petroleum • Natural gas, petroleum, raw liquid mix • Distillates, petroleum, sweetened middle • Naptha, petroleum, sweetened • Distillates, petroleum, hydrodesulphurized middle • Fuels, diesel • Fuel oil, No. 2 • Fuel oil, No.4 • Fuel oil, residual • Fuels, diesel, No. 2 • Naptha, petroleum, full range alkylate, butane containing • Fuel oil, No. 6 • Natural gas condensates • Methylium, [4-(dimethylamino)phenyl] bis[4-(ethylamino)-3-methylphenyl-, acetate • Distillates, petroleum, hydrodesulphurized full-range middle • Crude oil, oil sand



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<p>[3]</p>	<p>3 (1) Any person who owns or has the charge, management or control of a substance set out in column 1 of Schedule 1 that is located at a place in Canada, must submit to the Minister a notice containing the information requested in Schedule 2 for each such place in either of the following circumstances:</p> <ul style="list-style-type: none"> a) the substance is in a quantity that at any time is equal to or exceeds the quantity set out in column 3 of Schedule 1 for that substance; or b) the substance is in a quantity that is greater than zero and is stored in a container that has a maximum capacity equal to or exceeding the quantity set out in column 3 of Schedule 1 for that substance. 	<p>3 (1) A responsible person must, within 90 days after the day on which either of the following situations occurs, submit to the Minister a notice containing the information referred to in Schedule 2 for each facility at which a substance is located:</p> <ul style="list-style-type: none"> a) the total quantity of the substance, whether it is in a container system or not, is equal to or greater than the quantity set out in column 4 of Part 1 or 2 of Schedule 1 for that substance; or b) a quantity of the substance is placed in a container system that has a maximum capacity that is equal to or greater than the quantity set out in column 4 of Part 1 or 2 of Schedule 1 for that substance.
<p>[4]</p>	<p>4 (1) Subject to section 7, a person required to submit a notice to the Minister under subsection 3(1) must prepare an environmental emergency plan with respect to the substance referred to in that subsection in the following circumstances:</p> <ul style="list-style-type: none"> a) if the substance is set out in column 1 of Part 1 of Schedule 1 and is not part of a mixture, and <ul style="list-style-type: none"> (i) the maximum expected quantity of the substance that was reported under paragraph 3(d) of Schedule 2 is equal to or exceeds the quantity set out in column 3 of Schedule 1 for that substance, and (ii) the substance is in a storage container that has a maximum capacity equal to or exceeding the quantity set out in column 3 of Schedule 1; b) if the substance is set out in column 1 of Part 1 of Schedule 1 and is a component in a mixture, other than a mixture that is a substance set out in column 1 of Schedule 1, and <ul style="list-style-type: none"> (i) the mixture is in a quantity that is equal to or exceeds 4.5 tonnes, and (ii) the mixture is in a storage container that has a maximum capacity equal to or exceeding 4.5 tonnes; 	<p>4 (1) A responsible person must, for each facility at which a substance is located, prepare an environmental emergency plan with respect to the substance under the following circumstances:</p> <ul style="list-style-type: none"> a) if some or all of the substance is not in a container system, a responsible person has reported a maximum expected quantity under paragraph 3(d) of Schedule 2 that is equal to or greater than the quantity set out in column 4 of Part 1 of Schedule 1 for that substance; or b) if the substance is in a container system, a responsible person has reported <ul style="list-style-type: none"> i. under paragraph 3(d) of Schedule 2, a maximum expected quantity that is equal to or greater than the quantity set out in column 4 of Part 1 or 2 of Schedule 1 for that substance, and ii. under paragraph 3(f) of Schedule 2, a maximum capacity that is equal to or greater than the quantity set out in column 4 of Part 1 or 2 of Schedule 1 for that substance.



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	<p>c) if the substance is set out in column 1 of Part 2 of Schedule 1, and</p> <ul style="list-style-type: none"> (i) the maximum expected quantity of the substance that was reported under paragraph 3(d) of Schedule 2 is equal to or exceeds the quantity set out in column 3 of Schedule 1 for that substance, and (ii) the substance is in a storage container that has a maximum capacity equal to or exceeding the quantity set out in column 3 of Schedule 1 for that substance; and <p>d) if the substance is set out in column 1 of Part 3 of Schedule 1, and</p> <ul style="list-style-type: none"> (i) the maximum expected quantity of the substance that was reported under paragraph 3(d) of Schedule 2 is equal to or exceeds the quantity set out in column 3 of Schedule 1 for that substance, and (ii) the substance is in a storage container that has a maximum capacity equal to or greater than the quantity set out in column 3 of Schedule 1 for that substance. 	
<p>[5]</p>	<p>4 (2) In preparing an environmental emergency plan with respect to a substance, the person must consider the following factors:</p> <ul style="list-style-type: none"> a) the properties and characteristics of the substance and the maximum expected quantity of the substance at the place at any time during a calendar year; b) the commercial, manufacturing, processing or other activity in relation to which the plan is to be prepared; c) the characteristics of the place where the substance is located and of the surrounding area that may increase the risk of harm to the environment or of danger to human life or health; and d) the potential consequences from an environmental emergency on the environment and on human life or health. 	<p>4 (2) The environmental emergency plan must include the following:</p> <ul style="list-style-type: none"> a) a description of the properties and characteristics of the substance and the maximum expected quantity of the substance at the facility; b) a description of the commercial, manufacturing, processing or other activity involving the substance that takes place at the facility; c) a description of the facility and of the area surrounding the facility that may be affected by an environmental emergency referred to in paragraph (d), including any hospitals, schools, residential, commercial or industrial buildings and any highways, public transit infrastructure, parks, forests, wildlife habitats, water sources or water bodies; d) an identification of any environmental emergency that could reasonably be expected to occur at the facility and that would likely cause harm to the environment or constitute a danger to human life or health, including the environmental emergency referred to in paragraph (e) and, if applicable, the environmental emergency that is more likely to occur than the



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	<p>(3) The environmental emergency plan must include:</p> <ul style="list-style-type: none"> a) a description of the factors considered under subsection (2); b) the identification of any environmental emergency that can reasonably be expected to occur at the place and that would likely cause harm to the environment or constitute a danger to human life or health, and identification of the harm or danger; c) a description of the measures to be used to prevent, prepare for, respond to and recover from any environmental emergency identified under paragraph (b); d) a list of the individuals who are to carry into effect the plan in the event of an environmental emergency and a description of their roles and responsibilities; e) the identification of the training required for each of the individuals listed under paragraph (d); f) a list of the emergency response equipment included as part of the environmental emergency plan, and the equipment's location; and g) ... 	<p>environmental emergency referred to in paragraph (e) and that would have the longest impact distance outside the boundary of the facility;</p> <ul style="list-style-type: none"> e) an identification of the harm to the environment or danger to human life or health that would likely result from an environmental emergency involving the release of (i) the maximum quantity of the substance that could be contained in the container system that has the largest maximum capacity, if a quantity of the substance is in a container system, and (ii) the maximum expected quantity of the substance that will not be in a container system, if a quantity of the substance is not in a container system; f) an identification of the harm to the environment or danger to human life or health that would likely result from the environmental emergency identified under paragraph (d), if any, that is more likely to occur than the environmental emergency referred to in paragraph (e) and would have the longest impact distance outside the boundary of the facility; g) a description of the measures to be taken to prevent and prepare for the environmental emergencies identified under paragraph (d) and the measures that will be taken to respond to and recover from such emergencies if they were to occur; h) a list of the position titles of the persons who will make decisions and take a leadership role in the event of an environmental emergency and a description of their roles and responsibilities; i) a list of the environmental emergency training that has been or will be provided to prepare personnel at the facility who will respond in the event that an environmental emergency identified under paragraph (d) occurs; j) a list of the emergency response equipment that is necessary for the measures described in paragraph (g) and the equipment's location; k) ...
<p>[6]</p>	<p>6(1) The person referred to in subsection 5(1) must update and test the environmental emergency plan at least once each calendar year to ensure that it continues to meet the requirements of subsections 4(2) and 4(3).</p>	<p>7(1) A responsible person must conduct simulation exercises in relation to each environmental emergency plan that is prepared under subsection 4(1) as follows:</p> <ul style="list-style-type: none"> a) Each year, beginning on the day on which the plan is brought into effect, a simulation exercise in respect of one substance from each of the hazard categories referred to in column 5 of Parts 1 and 2 of Schedule 1, using an environmental emergency identified under paragraph 4(2)(d) as the emergency being simulated; and b) Every five years, beginning on the day which the plan is brought into effect, a full-scale simulation exercise in respect of any one substance, using an environmental emergency referred to in paragraph 4(2)(e) or (f) as the emergency being simulated



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[7]	N/A	<p>Simulation exercise means an exercise simulating the response to an environmental emergency involving the release of a substance.</p> <p>Full-scale simulation exercise means an action-based simulation exercise requiring the deployment of personnel, resources and equipment.</p>
[8]	N/A	<p>7(2) For the purposes of paragraph (1)(a), a simulation exercise conducted in respect of a substance belonging to a given hazard category must simulate a different environmental emergency for each subsequent simulation exercise until all of the environmental emergencies identified under paragraph 4(2)(d) for each of the substances belonging to that hazard category have been simulated, after which the environmental emergencies must be cycled through again.</p>
[9]	<p>4 (3) g) a description of the measures to be taken by the person referred to in subsection (1) to notify members of the public who may be adversely affected by an environmental emergency and to inform them of those measures and of what to do in the event of an environmental emergency.</p>	<p>4 (2) k) a description of the measures that will be taken by a responsible person or by a responsible person and local authorities, acting jointly, to communicate with the members of the public who may be adversely affected by the environmental emergency referred to in paragraph (f) to inform them, before the environmental emergency occurs, of</p> <ul style="list-style-type: none"> i. the possibility that the environmental emergency could occur, ii. the potential effects of the environmental emergency on the environment and on human life or health, taking into account the factors referred to in paragraphs (a) to (c), and iii. the measures that will be taken by the responsible person to protect the environment and human life or health, and the means by which the responsible person will communicate with them, in the event that the environmental emergency occurs; <p>l) a description of the measures that will be taken by a responsible person or by a responsible person and local authorities, acting jointly, to, in the event that an environmental emergency involving the release of a substance occurs, communicate with the members of the public who may be adversely affected to provide them, during and after its occurrence, with information and guidance concerning the actions that could be taken by them to reduce the potential harm to the environment and danger to human life or health, including an explanation of how those actions may help to reduce the harm or danger;</p> <p>m) the position title of the person who will communicate with the members of the public referred to in paragraphs (k) and (l);</p>
[10]	N/A	<p>13 If a notice has been submitted under subsection 3(1), a responsible person must submit a new notice to the Minister that contains the information referred to in Schedule 2 no later than five years after the day on which the most recent notice containing that information was submitted.</p>



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		14 If a notice has been submitted under section 9, a responsible person must submit a new notice to the Minister that contains the information referred to in Schedule 5 no later than five years after the day on which the most recent notice containing that information was submitted.
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