The Environmental Management and Protection Act, 2010 Legislative Review

What We Heard – Engagement Discussion Paper

June 2025

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Contents

List of Abbreviations and Definitions

Act – *The Environmental Management and Protection Act, 2010*: Saskatchewan's main environmental law. It sets the rules for how people, businesses and industries must protect the environment when they do things that could affect land, air or water.

CAP – Corrective Action Plan: A detailed clean-up plan for land or water that has been contaminated by hazardous substances. A CAP outlines exactly what steps will be taken to fix the problem.

EPO – Environmental Protection Order: A legal tool the government uses to make sure environmental problems are fixed quickly and properly. This order tells the person or company what they must do to clean up the mess and prevent further harm.

EPP – Environmental Protection Plan: A document that outlines how a project or activity will avoid, reduce or manage harm to the environment. EPPs are used to make sure that construction, industrial work, or other activities do not damage land, water, air or wildlife.

FOIPP – *The Freedom of Information and Protection of Privacy Act*: A law in Saskatchewan that gives people the right to: access information held by the provincial government and protect their personal privacy when government institutions collect or use their information.

NoSC – Notice of Site Condition: An official record that shows a piece of land that was once contaminated has been cleaned up or managed to meet environmental safety standards. A NoSC tells future owners, developers or regulators that the site has been assessed, any necessary clean-up has been done and the land is now considered safe for its intended use

QP – Qualified Person: A trained and certified professional who has the knowledge and experience to assess environmental risks and help make sure environmental rules are followed.

the code – the Saskatchewan Environmental Code: A set of rules that helps protect the environment while giving people and businesses more flexibility in how they meet those rules. Instead of telling you exactly how to do something, the code focuses on what outcome you need to achieve. This is called a results-based approach.

WSA – Water Security Agency: The government organization in Saskatchewan that makes sure there is safe, clean, and reliable water for people, farms, businesses, and the environment.

Introduction

The Government of Saskatchewan is undertaking research and engagement to inform the legislative review of *The Environmental Management and Protection Act, 2010* (hereafter referred to only as "the Act," even though other Acts are named in this document).

Background

The Act is the overarching legislation that protects Saskatchewan's air, land and water resources by regulating and controlling potentially harmful activities and substances. It is the primary legislative framework for environmental protection in Saskatchewan. The Act serves as the overarching legislation for the Saskatchewan Environmental Code.

Since the Act came into force on June 1, 2015, issues have been identified, including those around enforceability, clarity of the legislation and harmonization with provincial legislation and other jurisdictions across Canada. The Ministry of Environment determined these issues were significant enough to warrant a legislative review of the Act.

Engagement Process

The legislative review has been taking place over the last two years, aiming for completion and coming into force in the spring of 2026. The review process has involved Indigenous and stakeholder engagement and will include committee hearings and legislative assembly debate prior to coming into force. The information gathered from the review and engagement process has helped to inform decision-making to update and refine the Act, and the ministry intends to continue incorporating feedback into the final amendments.

Phase One

Engagement began when the ministry released a discussion paper on June 30, 2023, which provided background information on the Act and outlined the key areas under consideration. The discussion paper outlined the rationale for the key areas of consideration and included targeted questions to guide stakeholders in providing meaningful feedback. The ministry invited 147 parties to review the discussion paper and provide feedback on any aspect of the Act, as well as posting it on the Public Engagement section of the Saskatchewan.ca webpage to seek additional input from the public. The ministry accepted written responses throughout phase one of the engagement period until August 25, 2023. Results from this engagement phase informed legislative amendments to the Act, keeping Indigenous communities and respondent engagement as a key tenet of the legislation review. To wrap up phase one, the ministry posted the "What We Heard" document of feedback received to the Saskatchewan.ca webpage on January 8, 2024.

Phase Two

The amendments to the Act were revised based on feedback from phase one and the proposed amendments for the second phase of engagement were posted on January 31, 2025. The ministry invited all stakeholders who were invited or provided a response in phase one to participate in phase two, as well as posting the proposed amendments on the Public Engagement section of the Saskatchewan.ca webpage and Government of Saskatchewan social media pages. Responses were accepted until April 4, 2025. The results from phase two have been informing the preparation of final amendments with the intent to be presented to the legislative assembly for debate in the Fall of 2025.

Participants

In phase two of the engagement process, the ministry received feedback from 116 stakeholders, including individuals, industry, Indigenous communities and other government organizations. Figure 1 shows the proportion of Indigenous organizations and stakeholders that provided feedback on the amendments posted for phase two. It is also important to note that in phase one, the ministry received feedback from 11 organizations, six of which also provided feedback in phase two.

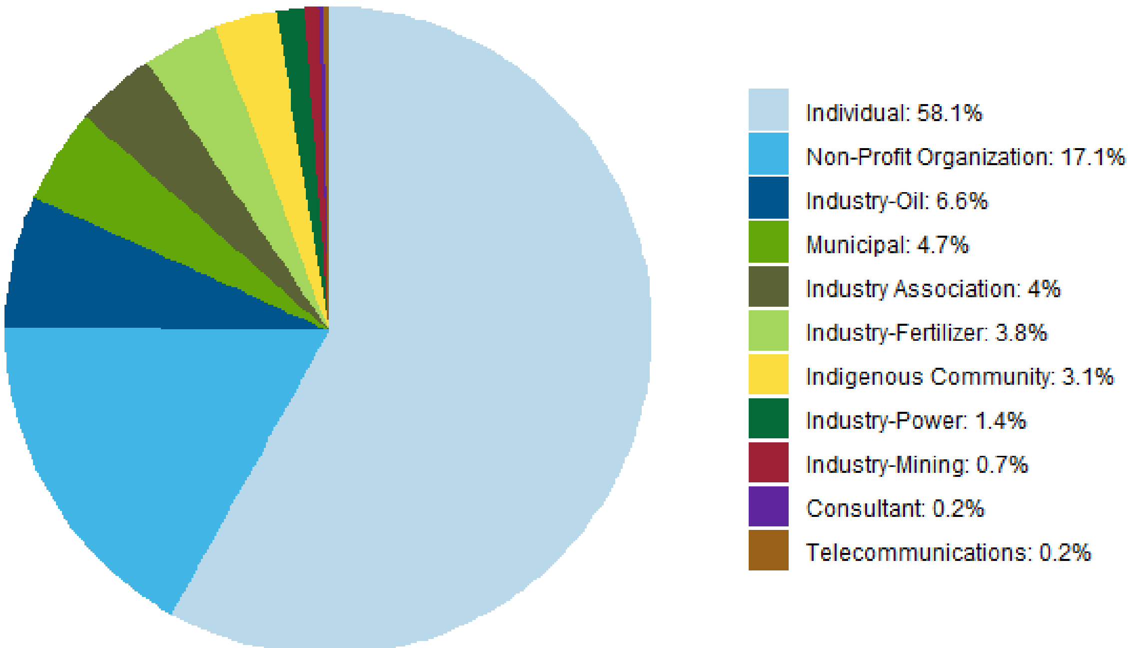

Figure 1. Breakdown by sector of the 116 stakeholders and Indigenous organizations that provided feedback in phase two of engagement. Percentages beside the legend indicate the proportion of each sector to the total number of comments received (total comments received = 443).

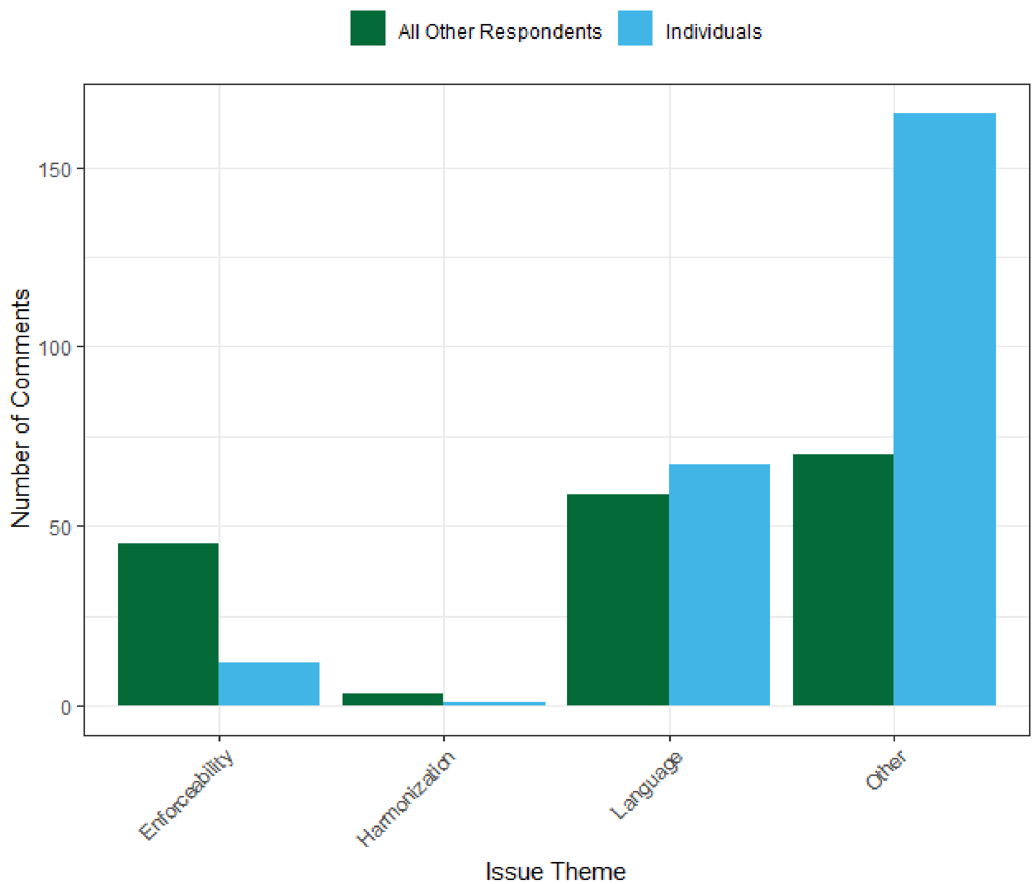

Figure 2. Breakdown of the number of comments based on the issues associated with the proposed amendments to the Act, detailed within the categories presented below. Stakeholders are categorized into individual respondents and all other respondents, with individual respondents making up approximately 58 per cent of all stakeholders that provided feedback, but may have different interests or concerns as compared to the other stakeholders.

Feedback

This document summarizes the feedback received from various stakeholders regarding the proposed amendments to the Act. The feedback has been categorized into four main areas:

- Language;
- Harmonization with Other Jurisdictions;
- Enforceability; and
- Other Concerns.

The ministry is currently incorporating stakeholder feedback into the final proposed amendments. While some of this feedback has already been integrated, certain sections of the legislation still require further clarification based on the input received.

The ministry's response to the feedback received regarding the proposed amendments that require additional clarification is provided below. The following list of responses is not comprehensive, as any changes mentioned below are still subject to review and approval through the formal legislative review process.

Language

Sections of the Act Affected: 2(1)(b), 2(1)(pp), 2(1)(r), 2(1)(y), 2(1)(ll), 8(1), 12(3),17, 27, 38, 51, 78, 83

Section 2(1)(b) – Adverse Effects

Comments by Individuals: 5

Comments by Other Respondents: 11

The new definition of "adverse effect" relies on opinions, which could lead to misuse, increased regulatory burden and confusion, requiring clear rules and scientific criteria for consistent enforcement. The new definition of adverse effect is seen as too broad and is based on subjective and qualitative factors. Stakeholders want the definition to be objective and scientifically defensible, which does not increase regulatory obligations without corresponding environmental benefit. This new definition leads to uncertainty in how it will be interpreted and enforced. There are concerns about how odour complaints will be addressed when the odour does not result in physical harm. The broader definition affects all parts of the Act and regulations that mention “adverse effect”, making it harder to understand, especially for things like “normal use”, “material discomfort", "loss of enjoyment," and “environmental change,” which are not defined. Concerns were raised about the definition focusing on protecting the economy rather than the environment, and that this change could give the ministry more power to charge people and could be misused by those who frequently complain.

Response – Based on feedback received on the proposed definition of adverse effects, the ministry consulted legal advisors and revised the proposed definition to be less subjective. It is proposed to remove "material discomfort" from clause (c) and remove clause (f), which includes "loss of enjoyment of normal use of property." However, it is proposed that the "impairment of safety" clause is retained. Additionally, Section 2(2) must be considered when reviewing 2(1)(b). Section 2(2) states: "For the purposes of this Act, exceeding any permissible limit, standard, criteria or condition that is prescribed or set out in the code is deemed to cause an adverse effect." This has not changed and references standards that will still be used to measure adverse effects.

Section 2(1)(bb) – Qualified Person

Comments by Individuals: 0

Comments by Other Respondents: 1

One stakeholder suggested that “standards” should be removed from the subclause, as standards are controlled by other organizations and as such, the definition of a qualified person should not be subject to change by other organizations.

Response – The standards referenced in this clause refer to standards that are or will be adopted pursuant to this Act and are not subject to change by any other organization.

Section 2(1)(ll) – Waste

Comments by Individuals: 1

Comments by Other Respondents: 2

Stakeholders suggest there should be a central location for defining "waste" in the regulations or code, ensuring it excludes "scrap" to support recycling and addressing the circular reference issue to the Act in the Substance Characterization code chapter.

Response – The ministry acknowledges the suggestion to establish a central, consistent definition of "waste" within the regulations or code. Concerns about excluding "scrap" to support recycling efforts and addressing the circular reference in the Substance Characterization code chapter have been noted and will be considered in future reviews.

Section 2(1)(pp) – Waterworks

Comments by Individuals: 0

Comments by Other Respondents: 1

One stakeholder identified that to ensure clarity, add "potable" and avoid removing "regardless of whether any other uses have been made of that water" to prevent activities that make water unfit for human consumption.

Response – Waterworks capture human consumptive and hygienic waterworks (non-potable). Therefore, the term potable cannot be used.

Section 2(1)(r) – Industrial Waste

Comments by Individuals: 0

Comments by Other Respondents: 3

One stakeholder identified that they would like “industrial waste” to be defined within the Act rather than in chapters of the code. Concerns that by narrowing the definition of industrial waste to what is listed in the code, some waste types may be missed and create environmental risks, with no clear benefit over the current broader definition.

Response – The ministry acknowledges the concern regarding how and where “industrial waste” is defined. Any future amendments to this definition or other definitions within the code will be subject to stakeholder review as part of the code development and code adoption process

Section 8(1) – Prohibition on Discharges

Comments by Individuals: 4

Comments by Other Respondents: 8

Many stakeholders have concerns with the proposed amendment and that it sets an unreasonably low standard for environmental protection, removes the requirement for quantifiable measures of adverse effects, and could lead to any discharge being prohibited regardless of its actual impact, creating compliance uncertainty, enforcement challenges and potential misalignment with other jurisdictions' practices. Some stakeholders suggested that “substances that may cause adverse effects” be clearly defined. One stakeholder strongly supported this amendment.

Response – This amendment addresses a redundancy in 8(1). Amounts, concentrations and release rates are already inherent in approvals, permits and licences mentioned in subsections (c), (d), and (e). Section 2(2) further states that exceeding permissible limits, standards, criteria or conditions that are prescribed or set out in the code are deemed to cause an adverse effect. Comments are valid and additional legal review is underway.

Section 12(3) – Persons Responsible

Comments by Individuals: 0

Comments by Other Respondents: 5

Stakeholders are concerned with this proposed amendment, as it would shift cleanup responsibility from polluters to current owners, which they feel goes against the original intent of the law. Stakeholders feel retroactive enforcement should be handled by courts, not the minister, to avoid subjective decisions. The amendment's undefined "reasonableness" standard and lack of transparency reduce fairness. Keeping the objective standard ensures consistency and prevents arbitrary decisions.

Response – Ideally, the polluter is held responsible, but in practice, historical polluters may be deceased, insolvent or otherwise unavailable. In such cases, responsibility may shift to other parties, which aligns with practices in other jurisdictions. The minister is already involved in resolving these disputes and this addition enables the minister to make a final determination based on the evidence provided.

Section 17 – Matters Not Moved Forward – Financial Assurances

Comments by Individuals: 0

Comments by Other Respondents: 2

Stakeholders are concerned that their comments on financial assurances - Section 17 - were not considered. They believe that requiring financial assurance instruments for properties managed under risk management with future reclamation approaches is unnecessarily punitive when a financially stable, responsible party is committed to managing future liabilities. Stakeholders support using financial assurance for liability transfers or obtaining final NoSC, but argue that financial assurance should not be required if administrative controls are maintained and further remediation is not needed. They also note the lack of a clear definition for "risk management with future reclamation.”

Response – There will be further guidance and definition of risk management with future reclamation in the code chapter amendments. The ministry already allows administrative controls with no financial assurance if the administrative controls are registered to a NoSC.

Section 27 – Decision on Permits and Environmental Protection Plans

Comments by Individuals: 24

Comments by Other Respondents: 11

Stakeholders are concerned that the proposed changes will decrease oversight of the minister by removing the requirement for approval from the Lieutenant Governor in Council for permits or EPPs. They believe this accountability clause is crucial for external oversight and preventing habitat destruction without recourse. Stakeholders fear that eliminating Cabinet oversight could increase regulatory risks and allow exemptions without proper checks, undermining transparency and public trust. They strongly object to this amendment, emphasizing the need for maintaining accountability to protect the environment and uphold public and Indigenous interests.

Response – This proposed amendment would allow the ministry to refuse or place conditions on a permit without needing approval from the Lieutenant Governor in Council, as the minister is deemed to have sufficient authority in these cases. Approval from the Lieutenant Governor in Council has not been and is not currently required to issue permits.

Section 38 – Offences

Comments by Individuals: 0

Comments by Other Respondents: 3

Stakeholders are concerned about expanding the definition of persons responsible for contraventions to include waterworks operators, as it raises procedural and accountability questions. They recommend consultation with the Saskatchewan Operators Certification Board before proceeding with this amendment. Stakeholders seek clarity on who would be considered responsible and in what situations an individual versus the permittee holder would be liable. They suggest changing the wording to include potential bad actors like vandals and believe the broad link to "at any time" could unfairly hold people responsible for discharges they did not cause.

Response – The ministry acknowledges the concerns regarding the expanded definition of persons responsible for contraventions, particularly the implications for waterworks operators and the need for procedural clarity.

Section 51 – Interpretation of Part

Comments by Individuals: 2

Comments by Other Respondents: 6

Stakeholders are concerned about the proposed amendments to expand the definition of "industrial activity" and how this might impact existing exemptions from EPP requirements. They worry that the broader application could lead to confusion and increased regulatory challenges, particularly for facilities currently exempt from EPP requirements. Stakeholders also suggest updating the definition of "ambient air" to exclude emissions and clarify when ambient air quality standards apply. They emphasize the need for regulations and code chapters to be accessible to the public to avoid confusion and recommend further engagement with affected sectors to assess the impact of these changes.

Response – This change will help identify industries that should have been captured under this definition. The ministry will provide appropriate notification and engagement whenever additional activities are added.

Section 78 – Audits and Inspections

Comments by Individuals: 3

Comments by Other Respondents: 4

Stakeholders have mixed feelings about the proposed amendment to expand audit authority to any activity. While they appreciate the potential for more proactive environmental management, they are concerned about the broad and vague definitions of adverse effects, which could lead to excessive and burdensome audits. They recommend focusing audits on high-impact activities and ensuring clear communication of new audit authorities. Stakeholders also suggest defining the scope of audits more precisely and considering the resource constraints of rural municipalities.

Response – The Compliance Audit Program complements other compliance planning and enforcement activities, such as inspections and investigations. The minister has already delegated authority to the Compliance Audit Program to conduct these audits. The current proposal will formalize this authority by explicitly incorporating it into the Act. Further revisions to this section have been proposed to ensure clarity in the scope and process of audits.

Section 83 – Public Information

Comments by Individuals: 25

Comments by Other Respondents: 13

Stakeholders are concerned that the proposed changes to Section 83 of the Act could undermine transparency and public access to environmental information. They believe that FOIPP should not be rewritten within the Act, as it ensures public access to information and accountability. Stakeholders recommend consulting the FOIPP Commissioners' Office and rewording Section 83(3) to clarify the handling of personal and third-party information. They strongly oppose any amendments that would exempt environmental matters from public access, emphasizing the importance of maintaining transparency and accountability in environmental management.

Response – Based on the feedback received, a subsequent decision was made to repeal Section 83 altogether. This change aimed to reduce confusion caused by its overlap with FOIP, which already provides clear rules for how the Minister handles public access to information, protects sensitive data and manages appeals when information is withheld. Removing Section 83 along with amending Section 22 establishes how the ministry handles confidential information and facilitates public access to environmental information.

Enforceability and Compliance Measures

Sections of the Act Affected: 13, 14, 15, 16, 18, 22, 23, 26, 84, 86, 88, New Sections

Section 13 – Site Assessment

Comments by Individuals: 2

Comments by Other Respondents: 9

The proposed changes have raised concerns among stakeholders. They feel that requiring both voluntary and directed site assessments to follow the code, which was designed for directed processes, creates confusion and may discourage voluntary submissions due to increased costs and delays. Stakeholders are worried that landowners who are not polluters will be unfairly burdened with delineating impacts and notifying neighbours. Additionally, the broad discretion given to the minister in assessing site submissions could lead to inconsistent application, causing uncertainty and frustration. Stakeholders suggest extending the reporting period from 180 to 365 days to alleviate stress related to seasonal constraints and the iterative nature of site assessments.

Response – The ministry recognizes that revisions to the code will be required to support these proposed changes. Code chapter changes will be reflective of the Act amendments. The ministry is confident in its ability to administer extensions when required. The ministry already has the authority to direct additional assessment work if the ministry is not satisfied with the work completed. However, it only applies to the directed process. The changes will allow for the ministry to direct additional assessment work for the self-directed process as well. Ministry satisfaction generally relates to code requirements and enforcement actions would still follow the ministry's existing processes.

Section 14 – Corrective Action Plan

Comments by Individuals: 2

Comments by Other Respondents: 11

Stakeholders feel that the proposed changes give the ministry too much discretion to move sites from voluntary to directed processes without clear justification. They are concerned that assigning responsibility for CAP to any potential person responsible, rather than the party who conducted the site assessment, could lead to confusion and inefficiencies. Stakeholders also worry that the broad discretion given to the minister in assessing site submissions could result in inconsistent application, causing uncertainty and frustration. They suggest retaining existing provisions to ensure responsibility lies with the appropriate party and extending the reporting period to accommodate the complexities of a CAP.

Response – The purpose of the proposed amendment is to clarify that code requirements still apply, even if a person was not directed to complete an Environmental Site Assessment under Section 13. The ministry will be adjusting the code chapter to reflect the Act amendments. There will be opportunities to comment on any proposed changes to the code chapters. All code requirements will apply for directed CAPs and all code requirements, except timelines, will apply to self-directed CAPs. The ministry is confident in its ability to administer extensions when required.

Section 15 – More than One Person Responsible

Comments by Individuals: 0

Comments by Other Respondents: 2

Stakeholders believe that using the "principles of responsibility" to identify the polluter would be beneficial. They are concerned about the logistical challenges of requiring all parties to jointly prepare a CAP, especially if cooperation is lacking. This could lead to legal complications and questions about whether the CAP meets the Ministry of Environment’s requirements if submitted individually. Stakeholders suggest clarifying whether the ministry would approve separate work on a CAP when parties cannot agree on a joint plan.

Response – The proposed amendment allows the minister some flexibility in determining whether the respective parties shall be required to prepare a joint CAP. The current language in the legislation requires the respective parties to prepare a joint CAP.

Section 16 – Minister's Consideration of CAP

Comments by Individuals: 0

Comments by Other Respondents: 4

Stakeholders feel that these changes effectively make the voluntary process the directed process, raising concerns about whether formal reviews are necessary for low-risk sites. They believe Section 16(1) is unnecessary and conflicts with Section 14(3) and seek clarification on what "immediately submitted" means for CAP, given their iterative nature. Finally, they suggest changing "any" to "the" in the phrase "not satisfied with any" to improve clarity and appropriateness.

Response – The ministry is proposing to incorporate subsection 16(2) into Section 14, and repeal Section 16 in its entirety as it is duplicative, as noted by stakeholders.

Section 18 – Notice of Site Condition

Comments by Individuals: 0

Comments by Other Respondents: 3

Stakeholders feel that the proposed amendments are redundant given the review required in Section 16. They support clarifying that CAPs must meet code requirements to enable the minister to file a NoSC in the impacted sites registry, but are concerned that unreasonable third parties may reject a compliant CAP. They recommend that the minister have sole authority to accept a CAP and issue a NoSC despite objections. Additionally, stakeholders are worried about the proposed changes allowing registration when an EPO is in place, as the rationale for this is unclear.

Response – The ministry is considering amendments to the code chapters to support the authority and discretion to accept a CAP and issue a NoSC in the event of unreasonable third parties.

Section 26 – Minister May Require or Waive Permits

Comments by Individuals: 3

Comments by Other Respondents: 4

Stakeholders have mixed feelings about the proposed amendment to exempt very small, low-risk facilities from preparing an EPP. While some support the idea, fearing that broad exemptions could lead to insufficient oversight and environmental risks, others believe it could incentivize voluntary engagement with regulatory processes. Concerns include the subjective nature of "low risk" assessments, the need for clear guidance and the lack of provisions for Indigenous lands or First Nations consultation. Stakeholders suggest that a proportionate EPP might be better than an outright exemption to ensure environmental protection standards are upheld.

Response – The ministry acknowledges the mixed views on the proposed exemption for very small, low-risk facilities from preparing an EPP. Concerns about oversight, the subjectivity of risk assessments to exempt such facilities and the importance of clear guidance and Indigenous consultation are noted. The suggestion to consider an EPP that is proportionate to the level of risk as a balanced alternative has been noted.

Section 84 – Offences

Comments by Individuals: 1

Comments by Other Respondents: 4

Stakeholders are concerned that the proposed amendment to create an offence for failure to comply with a court order duplicates existing civil contempt provisions and may lead to legal overlap. They believe that charging a proponent again for not following a court order may not ensure compliance and suggest investigating means to enforce the original court order instead. Stakeholders recommend removing the proposed language in Section 84(1)(e) and encourage more specificity in the language used throughout the Act to reduce ambiguity and the burden on industry.

Response – If a responsible party fails to comply with an EPO, they can be charged and convicted. The only way to enforce cleanup is through a court order, but the Act does not address non-compliance with court orders. Enforcement then falls under the Criminal Code, which requires proof of intent and excludes orders related to money reimbursement.

Section 86 – Vicarious Liability

Comments by Individuals: 2

Comments by Other Respondents: 2

Stakeholders are concerned that the proposed amendment, which prevents attributing responsibility for a contravention entirely to an employee, helper or agent, could lead to unfair punishment of employers. They worry that without the opportunity to mount a due diligence defence, employers could be held liable for offences committed by rogue employees without their knowledge. Stakeholders recommend retaining the existing provision or including a clause that allows for a due diligence defence to ensure fairness and prevent unjust liability.

Response – The ministry acknowledges the concerns regarding the proposed amendment and the potential implications for employer liability. The recommendation to retain the existing provision or include a due diligence defence provision to ensure fairness has been noted.

Section 88 – Administrative Penalty

Comments by Individuals: 1

Comments by Other Respondents: 6

Stakeholders feel that the proposed change from one-time to daily penalties may encourage quicker compliance but suggest reducing the daily amount to a more reasonable figure, such as $1,000/day. They believe that daily penalties should only apply to contraventions with significant adverse effects and recommend maintaining the existing administrative penalty framework for minor violations. Stakeholders also emphasize the need for clear guidelines on when to impose daily penalties versus one-time penalties and suggest basing penalties on the scale of environmental damage or gross revenues to ensure fairness.

Response – The maximum penalty amount is set at $10,000. However, this does not mean that this amount will automatically be applied. The actual penalty, whether assessed as a one-time or daily amount, will be determined at the discretion of the minister. This decision will be based on several factors, including the level of risk and the severity of the non-compliance.

New Section – Aiding and Abetting

Comments by Individuals: 0

Comments by Other Respondents: 2

Stakeholders are concerned that the new section creating an offence to aid, abet, counsel or procure contraventions is overbroad and lacks an intent requirement. They recommend removing this section or adding an intent threshold.

Response – These proposed amendments are in alignment with other provincial legislation. The ministry has internal guidelines on how these policies are implemented.

New Section – Warrantless Arrests

Comments by Individuals: 1

Comments by Other Respondents: 6

Stakeholders understand the need for prompt action in environmental emergencies but believe the proposed arrest provisions should be carefully regulated to prevent misuse and protect the rights of rural residents. They suggest clarifying the text to apply only in cases where arresting the individual would stop significant environmental or human health concerns. Additionally, they worry that allowing warrantless arrests without limits could violate the Canadian Charter of Rights and Freedoms and suggest establishing clear procedural safeguards and independent review mechanisms.

Response – Other comparable provincial legislation (i.e. fisheries or wildlife) uses the same wording as suggested. This wording aligns with those acts. The ability to arrest cannot be tied to a requirement to assess risk because the officer on site may not have the training to determine the significance of risk or know how serious a potential human health concern is. Sometimes the impact or significance of an activity is not known until far later. An environment officer also includes a member of the RCMP or another police service.

Harmonization with Other Legislation

Sections of the Act Affected: 34(2)

Section 34 – Easements

Comments by Individuals: 1

Comments by Other Respondents: 3

Stakeholders are concerned that the proposed change makes it optional for the minister to act on sewage works discharging onto land not owned by the permittee or adversely affecting other land. They believe the clause should retain its original criteria, with an addition to address discharges onto land not owned by the permittee. They also suggest using the term "adverse effect" for clarity and addressing situations where discharge into a waterway impacts downstream property owners indirectly. Additionally, they note a potential wrong cross-reference in the clause.

Response – The minister has acknowledged the concerns raised, including the suggestion to improve clarity and accountability. These issues have been reviewed and cross-referenced, and a revision to the proposed amendment has been made accordingly.

Other Concerns

Sections of the Act Affected: Part 2 Division 2, 22, 49, 58, 90, 93,

Part II Division II – State of the Environment Report

Comments by Individuals: 36

Comments by Other Respondents: 16

There were broad concerns and strong opposition to the Ministry's initial proposal to remove the Minister's requirement to prepare and table the State of the Environment Report every two years.

Response – Initially, the proposed amendment intended to remove the Minister's requirement to prepare and table a State of the Environment Report. Upon further review and consideration, a recommendation was made to simply change the reporting frequency from two years to five years instead of removing the requirement altogether. Such an approach serves to allow the Ministry to dedicate more time and resources to compiling high-quality environmental data and presenting it in a format that is clearer, more relevant and easier for the public to understand and use.

Section 22 – Registry

Comments by Individuals: 2

Comments by Other Respondents: 5

Stakeholders feel that the proposed changes are unclear and potentially redundant, as they aim to ensure Section 22 applies to all site assessments and CAP, not just those directed by the minister. They are confused about the registration requirements for site assessments and CAP, questioning whether multiple people involved must all register. Stakeholders believe these changes could improve documentation and accessibility of environmental information, but worry about potential oversight if documents are not correctly registered. They seek clarification on what "register a notice" for site assessments and "register a plan" for CAP mean and how these changes achieve the intended goals.

Response – Based on public feedback, additional amendments were made to improve clarity and organization of the provisions of this section. These changes emphasize the registry's role, confirm that its contents are generally public unless otherwise specified and align access rules with FOIP. The minister retains discretion to withhold certain information when necessary, following FOIP guidelines.

The ministry is also considering amendments to the code chapters to provide clear guidance and define registration requirements related to CAPs and Site Assessments.

Section 23 – Obligations of Municipalities

Note: No changes were proposed for this section.

Comments by Individuals: 0

Comments by Other Respondents: 1

Stakeholder feels that the current wording of Section 23 of the Act may have unintended consequences and recognize they may be too late in the process to identify the need for change. They are concerned that the current wording requires municipalities to change zoning based on potentially incorrect registered documents and without municipal input. Stakeholder suggests that the responsibility should be on the QP to interpret and apply the correct land use based on current municipal zoning before registration. They believe early input from municipalities could prevent errors and provide a broader perspective. Additionally, stakeholder feels that proponents should clearly communicate land use changes to municipalities to avoid locking down land use without municipal intervention, which could hinder neighbourhood management.

Response – Concerns about potential unintended impacts on municipal zoning and the importance of accurate land use designation are acknowledged. While changes may not be feasible at this stage, the suggestion to involve municipalities earlier in the process and to clarify the role of QPs is appreciated and may be considered in future amendments by the minister.

Section 49 – Abandoned Waste

Comments by Individuals: 28

Comments by Other Respondents: 14

Stakeholders strongly oppose exempting agricultural waste from regulation, arguing it should be treated like any other hazardous waste to ensure environmental protection. Stakeholders are concerned that it will reduce oversight and increase pollution risks to waterways and land, and impact Aboriginal and treaty rights. They fear that unregulated disposal of agricultural waste could lead to contaminated runoff entering water systems, negatively affecting water quality and ecosystems. They seek clarity on how agricultural waste will be managed and emphasize the need for consistent regulatory oversight to prevent environmental degradation.

Response – The ministry is revising how this clause is written, as the intention is not to exempt agricultural waste.

Section 58 – Issuing and Amending EPOs

Comments by Individuals: 0

Comments by Other Respondents: 2

Stakeholders are concerned that allowing environmental protection orders to be amended without notice undermines procedural fairness and transparency. They believe that removing opportunities for engagement risks collaborative compliance and recommend maintaining dialogue requirements for amended orders to ensure transparency and fairness.

Response – The ministry is revising how this section is written to ensure clarity. The proposed amendments intend to allow the ministry to amend EPOs without notice only when there are clerical or administrative errors, such as dates or typographical errors. If any content of the EPO is to be changed, the notice requirements will apply. The clause 58(6)(c) that would allow the minister to amend an EPO without notice at their discretion has been removed.

Section 90 – Impacted Sites Fund

Comments by Individuals: 0

Comments by Other Respondents: 4

Stakeholders are concerned about the proposed change to Section 90, which would allow the minister to use the Impacted Sites Fund for environmental assessments. They believe this deviates from the fund's original purpose and seek more information on its implications. Stakeholders suggest expanding fund access to individuals and government agencies and emphasize the need for clarity on its use for orphaned sites. They argue that projects should be fully funded by proponents from the start and that public funds should not be used for damage assessment. Additionally, they highlight the lack of limitations and reporting requirements for fund use in the proposed legislation.

Response – The proposed amendment clarifies that the minister may fund site assessments for orphaned sites acquired by municipalities through tax arrears, where municipalities are exempt from responsibility. This fund fills a gap, supporting municipalities in returning such sites to productive, tax-generating use when no responsible party exists. The ministry is aware that some entities buy impacted sites at reduced prices to manage risks and profit. Expanding the fund to others could incentivize abandonment or ownership transfers to avoid cleanup costs. The code already includes tools to hold polluters accountable, such as enforcement actions and financial assurances tied to corrective plans and transfers of responsibility.

Section 93 – Service of Notice

Comments by Individuals: 3

Comments by Other Respondents: 4

Stakeholders are concerned that the proposed change of allowing notices to be sent via email without confirmation of receipt lacks rigour and could lead to issues with delivery. They believe it is unreasonable for businesses to be subject to penalties if notices are sent to dormant email accounts. Stakeholders suggest that documents should be personally served or sent by registered mail to ensure successful delivery. They also recommend including a 10-day service window for electronically delivered correspondence and ensuring electronic mail is deemed delivered only with confirmation of receipt.

Response – The ministry is updating the wording to align with other provincial legislation regarding electronic delivery and to ensure consistency with *The Electronic Information and Documents Act, 2000*. This section only applies to notices, orders or decisions issued as part of enforcement measures. Additional due diligence is required to verify that the correct party is identified and that the email address is current before serving any of these documents.

Matters Not Moved Forward – Wetlands

Comments by Individuals: 49

Comments by Other Respondents: 13

Stakeholders are concerned that the Agricultural Water Stewardship Policy lacks a scientifically based definition of wetlands, which is crucial for their protection and management. They believe that the WSA drainage policy, being a non-binding policy, lacks the oversight and enforceability of the Act. This raises concerns about unauthorized wetland drainage, increased flooding, habitat loss and water quality degradation. Stakeholders recommend defining wetlands in the Act using the Canadian Wetland Classification System and harmonizing the Act with WSA policies to improve enforcement and management. They emphasize the importance of legislative accountability for wetlands to ensure their protection and sustainable management.

Response – The WSA uses the Canadian Wetland Classification System in its definition of wetlands and its application of the Agricultural Water Stewardship Policy. The policy sets out wetland retention requirements as conditions of drainage approvals, which are in turn registered on land titles. WSA uses compliance tools and a risk-based approach to compliance and is considering options for a holistic wetland protection policy.

General Comments

Comments by Individuals: 45

Comments by Other Respondents: 12

Stakeholders appreciate efforts to reduce regulatory burdens but are concerned about the shift of elements from the Act to the code, which they believe diminishes public accountability due to the code's ability to be changed without legislative approval. They argue that changes to the code should require legislative approval to ensure transparency.

Stakeholders believe the proposed amendments to the Act move away from results-based regulation, complicate enforceability and grant excessive discretion to the minister without sufficient oversight. They recommend harmonizing the Act with other provincial legislation to prevent regulatory overlap and emphasize the importance of maintaining a clear and predictable regulatory regime.

Stakeholders stress the need for meaningful consultation with Indigenous communities and caution against relying too heavily on the code, which lacks the same level of legislative scrutiny and accountability. They dispute the consultative process for the Act review, citing insufficient notice and inadequate channels for informing landholders. They recommend extending the consultation period by six months and advising all landowners through official channels. Additionally, they emphasize the need for meaningful Indigenous consultation, respecting Indigenous knowledge and treaty rights.

Overall, stakeholders want transparency, legislative accountability and the protection of natural resources, warning that weakening the Act poses significant risks to the environment and future generations. They express concern over the low participation rate and lack of public engagement opportunities. They also highlight the need for clear technical definitions to avoid ambiguity in the Act, particularly criticizing the frequent use of the word "may," which leads to vague and non-specific requirements.

Response – Thank you to all stakeholders for the thoughtful and comprehensive feedback on the proposed amendments to the Act. The Input received highlights a strong commitment to environmental protection, public accountability and inclusive governance. The ministry acknowledges concerns about shifting regulatory elements from the Act to the code and recognizes the importance of maintaining transparency, noting that the code remains a form of regulation requiring public engagement and legislative approval for changes. The ministry is committed to ensuring a clear, consistent and enforceable regulatory framework, harmonizing with other provincial legislation and enhancing engagement processes. The feedback received reinforces the need for a transparent and environmentally responsible legislative approach that serves both current and future generations.

Conclusion

The feedback received reflects a wide range of thoughtful concerns and ideas from stakeholders across the province. The ministry is using this input to help shape the final amendments to the Act. The ministry's goal is to protect the environment in a meaningful way while also considering the needs and perspectives of those affected. The ministry is working to make decisions that are transparent, balanced and in the public interest.

Contact

ATTN: EMPA REVIEW

empa@gov.sk.ca

Environmental Protection Branch
Ministry of Environment
Government of Saskatchewan
2nd Floor, 3211 Albert Street
REGINA, SK S4S 5W6