Saskatchewan

Ministry of Energy and Resources

# Notice of Consultation: Proposed Changes to *The Surface Rights Acquisition and Compensation Act*

**Background**

The Ministry of Energy and Resources (ER, the Ministry) is consulting with stakeholders on proposed changes to *The Surface Rights Acquisition and Compensation Act* (SRACA). The proposed changes seek to address issues impacting the operations of the Surface Rights Board of Arbitration (the Board), provide needed clarifications within the SRACA, and provide landowners with additional time to respond to applications for immediate rights of entry.

**The Process**

Stakeholders are invited to review and give written comments on the proposed legislative amendments by **June 19, 2026**. The Ministry will review this feedback in the development of draft legislation, which may be introduced in the Legislature of Saskatchewan at a future date.

**Summary of Proposed Changes**

A more detailed description of the issues addressed by the proposed amendments is provided in the accompanying Appendices. In general, the proposed changes fall into three broad categories: **Administration**, **Procedural Fairness**, and **Clarifications / Housekeeping**.

**1. Administration**

- **Review of Compensation (Section 77)**
  Amendments are proposed to clarify that parties may apply to the Board for a review of compensation no sooner than three years from the date that the compensation was first established (in a surface lease agreement or Board compensation order) or was last updated. A recent court ruling has interpreted the provision contrary to how it has historically been applied. Legislative clarification is proposed to restore the original intent of allowing periodic reviews of compensation tied to the date of the agreement.

- **Filing of Surface Rights Agreements (Sections 30 and 51)**
  Operators are currently required to file copies of surface rights agreements with the Board even though the SRACA does not establish a legal registry for these documents. The filed agreements are not originals and are not relied upon by the Board for adjudicative or administrative purposes. As the requirement serves no practical function, it is proposed that sections 30 and 51 be repealed.

- **Compensation Resulting from Ministerial Entry Orders**
  A new provision is proposed to clarify the Board's authority to hear and determine compensation payable for damage or loss sustained by a landowner as a result of an

entry ordered by the Minister under section 17.01 of *The Oil and Gas Conservation Act*. This amendment establishes a clear statutory linkage with subsection 17.041(7) of that Act, which contemplates compensation being determined under the SRACA in the event of a disagreement.

- **Compensation for Weed and Pest Control Costs (Section 85)**
  Amendments are proposed to expressly allow a landowner or occupant to apply to the Board for compensation for reasonable costs incurred in carrying out weed or pest control where an operator has failed to meet their obligations under section 85.

- **Appointment of Board Administrative Staff (Section 12)**
  It is proposed to remove the requirement that Board secretaries and administrative staff be appointed through an Order-in-Council process. These positions provide administrative support only and do not participate in decision-making. Removing this requirement would expedite hiring and reduce operational risk arising from staff vacancies. The appointment process for Board members would remain unchanged.

- **Notice of Damage Caused by Operators (Section 62)**
  Amendments are proposed to require owners or occupants to provide notice of damage directly to the operator rather than to the Board. If the operator fails to address the damage, an application may then be made to the Board. This change would promote earlier resolution of damage issues and limit Board involvement to unresolved disputes.

**2. Procedural Fairness**

- **Immediate Right of Entry Applications (Section 31)**
  It is proposed to extend the objection period for landowners from seven to ten days and to extend the timeline for the Board to schedule and hold the associated hearing from 21 days to 30 days. These changes would provide landowners with additional time to consider and respond to applications and would improve the Board's ability to manage hearing scheduling where objections are filed later in the objection period.

**3. Clarifications and Housekeeping**

- **Definition of "Service Line"**
  Amendments are proposed to clarify that a service line under the SRACA is limited to infrastructure connecting a well head to a battery. Lines extending beyond the lease to off-site destinations, such as processing or loading facilities, are governed under *The Pipelines Act, 1998* and are not intended to be captured by the SRACA.

- **Use of the Terms "Serve" and "Notify"**
  Revisions are proposed to ensure that references to "serve" and "notify" accurately reflect the procedural intent of the Act. In several provisions, formal legal service is not intended, and notification may appropriately occur through other means, including electronic delivery.

- **Removal of Outdated or Redundant References**
  Additional housekeeping amendments are proposed to remove references to repealed or obsolete provisions and to ensure internal consistency throughout the Act.

**Review of Proposed Legislative Changes**

A more detailed description of proposed changes can be found in Appendices A, B and C in the following pages.

Please direct any written comments or questions to the ER Service Desk at er.servicedesk@gov.sk.ca. **Subject line:** Proposed Changes to The Surface Rights Acquisition and Compensation Act.

The deadline for submitting written comments is **June 19, 2026.**

## APPENDIX A

## *ADMINISTRATION*

- **Review of rights granted by compensation (section 77).**

In 2025, the Court of Appeal for Saskatchewan (2025 SKCA 37) ruled that section 77 of the SRACA, as currently written only allows for applications for a review of compensation to be heard on a three-year cycle tied to the date that the section came into force (May 19, 1981). Prior to the court ruling, the Board allowed applications for compensation reviews to be made every three years from the date of the last agreement (allowing for an application for a review to be filed within a plus/minus three-month window of the three-year agreement anniversary date).

Under the court ruling, the Board can now only receive these applications between February 19 to August 19 in the years 2026, 2029, 2032 and every third year following. This creates a practical administrative challenge for the Board to accept and review applications and hold hearings in a timely manner.

It is proposed to amend the SRACA to clarify that compensation reviews would be eligible to be filed as long as the compensation has not been reviewed within the previous three-years. This would allow applications for compensation reviews that are three years or older to be filed throughout the year, every year, better enabling the Board to address them in a timely manner and not limit filers of those applications to a narrow window in which to bring forth their applications.

Proposed changes would continue the Board's practice of tying eligibility for a compensation review application to agreement anniversary dates and would preserve the plus/minus three-month window relating to the agreement's anniversary date for filing of the application to the Board.

Potential wording could be as follows:

**Review of compensation**

**77**(1) In this section:

**"application period"** means the period commencing 90 days before the anniversary of the determination date and ending 90 days after the anniversary of the determination date;

**"determination date"** means the most recent date on which the compensation for a right of entry was determined.

(2) Notwithstanding the terms and conditions of any compensation order or lease but subject to subsection (3), an owner or an operator may apply to the board during the application period for a review of the compensation payable with respect to a right of

entry.

(3) An application made pursuant to subsection (2) is to be submitted no earlier than the third application period following the determination date.

(4) On review of an application pursuant to this section, the board may issue an order setting out the compensation to be paid for the right of entry.

(5) Any change to the compensation determined by the board pursuant to this section is effective on the anniversary of the determination date that falls within the application period in which an application pursuant to subsection (2) was submitted.

**Questions for Consideration:**

- *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*

❖ **Operator to file agreement with board**

Sections 30 and 51 of the Surface Rights and Right of Access Compensation Act (SRACA) require operators to file copies of surface lease and flowline easement agreements with the Board. However, SRACA does not establish a legal registry for such agreements, and the documents filed are only copies.

The legislation does not assign any specific role or function to the Board in relation to these filed agreements, nor does the Board rely on them in its adjudicative processes. As a result, agreements are currently being filed without a clear or practical purpose under the Act.

Given that the agreements are copies of originals maintained by the parties and given that the Board does not rely on them for operational or adjudicative purposes, it is proposed that the filing requirements set out in sections 30 and 51 be repealed. Removing these provisions would ease administrative requirements without affecting the rights or obligations of landowners or operators under existing surface rights agreements.

**Question for Consideration:**

- *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*

❖ **Compensation for damages resulting from an order**

Subsection 17.041(7) of *The Oil and Gas Conservation Act* (OGCA)) speaks to the Board being used to determine compensation to be paid in cases where a party fulfilling an order under section the OGCA causes damage to a landowner's land or property adjacent to the surface lease or uses land outside the surface lease area. However, no provision currently exists within the SRACA that allows such application to be filed with the Board to determine what compensation is owed.

A new section could be added to the SRACA to clarify that such applications can be filed with the Board should an owner and an operator be unable to agree upon the loss or damage sustained and/or if land outside of the surface area is also utilized for purpose of fulfilling the Order issued under the OGCA.

**Question for Consideration:**

➢ *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*

❖ **Operator's responsibility to cut down weeds (section 85)**

Section 85 requires operators to control weeds and pests on lands subject to a surface lease. Where an operator fails to meet this obligation, the owner or occupant may either enter the lands to address the weed and/or pest issue themselves or apply to the Board for an order directing the operator to remedy the situation.

However, the current wording of section 85 creates uncertainty with respect to the recovery of costs incurred by an owner or occupant who undertakes weed or pest control measures due to an operator's failure to act. While the section clearly establishes the operator's responsibility and the landowner's right to intervene, it does not explicitly provide a mechanism for a landowner or occupant to seek compensation through the Board for reasonable costs incurred in addressing the issue.

It is proposed that section 85 be amended to expressly allow an owner or occupant to apply to the Board for compensation for costs incurred in undertaking weed and pest control where an operator has failed to fulfill their obligations. This amendment would clarify the Board's authority, provide greater certainty to landowners, and reinforce operator accountability while maintaining the existing framework that prioritizes operator responsibility for weed and pest control on surface leases.

**Question for Consideration:**

➢ *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*

❖ **Appointment of board secretary**

Section 12 currently requires that the appointment of Board secretaries and other Board staff be made through a Lieutenant Governor Order in Council. This requirement mirrors the existing appointment process for members of the Surface Rights Board of Arbitration.

Board secretaries and administrative staff provide operational and administrative support to the Board, including receiving applications, scheduling hearings and meetings, and responding to inquiries. These staff do not participate in the Board's adjudicative or decision-making processes. Although their work supports the functioning of the Board, they are employees of the Government of Saskatchewan and are subject to standard public service terms and conditions of employment.

It is proposed that the requirement for Board administrative staff to be appointed through an Order-in-Council process be removed. This change would allow administrative support positions to be staffed through regular public service hiring processes, helping to expedite recruitment and reduce delays associated with vacancies. Improving the timeliness of staffing would help minimize operational disruptions and reduce the risk that administrative capacity constraints could impair the Board's ability to schedule and conduct hearings or otherwise carry out its business.

This proposal would not affect the appointment process for Board members, which would continue to require appointment through Order in Council.

**Question for Consideration:**

- *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*

**APPENDIX B**

***PROCEDURAL FAIRNESS***

- **Application to board for hearing (Section 31)**

Consideration is being given to extending the time period during which a landowner may object to an application for an immediate right of entry under section 31 from seven days to ten days. In addition, a corresponding amendment would extend the period within which the Board must schedule and hold the associated hearing from 21 days to 30 days following receipt of the notice of intention to have the matter determined by the Board.

Ensuring that landowners have adequate time to review applications and provide informed responses has been a recurring concern raised in previous proceedings. While amendments to the SRACA in recent years have introduced more efficient notification methods such as electronic service, these efficiencies do not necessarily translate into sufficient time for landowners to meaningfully assess applications and determine whether to object. Extending the objection period by three days is expected to help address these concerns by providing landowners with a more reasonable opportunity to respond.

The proposed extension to the Board's hearing timeline is intended to support effective hearing management. Under the current framework, the Board must hold a hearing within 21 days of receiving the notice of intention. When objections are submitted near the end of the existing seven-day objection period (proposed to increase to ten days), this significantly compresses the window available to schedule and conduct a hearing. Although the Board now has the authority to conduct hearings virtually, this option is not always appropriate or feasible. Providing up to 30 days to schedule and hold a hearing would offer greater flexibility, reduce scheduling pressures, and facilitate fair and orderly proceedings.

**Question for Consideration:**

- *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*

## APPENDIX C

## *CLARIFICATIONS/HOUSEKEEPING*

### ❖ Definition of a "service line"

It is proposed to amend the definition of "service line" to provide clarification that, for the purposes of the SRACA, a service line is limited to infrastructure connecting a well head and a battery.

The amended definition would read as follows:

> **"service line"** means a pipe or conduit of pipes, other than a flow line, used for the transportation, gathering or conduct of a mineral, water, or other fluid between a well head and a battery site in connection with the producing operations of an operator.
>
> This amendment would clarify that pipelines or similar lines extending from a battery site to destinations beyond the lease—such as midstream gas processing facilities, loading terminals, or other off-lease infrastructure—are not captured by the definition of a service line under the SRACA.
>
> Infrastructure of that nature is appropriately governed under *The Pipelines Act, 1998*, which establishes the regulatory framework for pipelines transporting products beyond the immediate production lease area. Clarifying the scope of "service line" within the SRACA would help avoid jurisdictional overlap, improve regulatory certainty, and ensure that infrastructure is regulated under the appropriate legislative framework.

**Question for Consideration:**

- *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*

### ❖ Proposed Revisions to Use of the Terms "Serve" and "Notify"

Revisions are proposed to clarify the intended procedural meaning of the terms "serve" and "notify" as used in various sections of the SRACA.

The term "serve" generally implies a formal legal process involving the service of documents between parties in accordance with prescribed legal requirements. In several sections of the SRACA, however, the term "serve" is used to refer the Board's interactions with parties to a dispute and this level of formality does not properly describe the involvement of an administrative tribunal. Rather, the intent of this terminology is to ensure that affected parties are made aware of applications, notices, or proceedings before the Board.

It is proposed that references to "serve" be revised, where appropriate, to instead use the term "notify." This change would more accurately reflect the procedural intent of the Act and involvement by the Board. There are also opportunities to recognize that notification relating to SRACA processes may be accomplished through various reasonable means, including electronic delivery or other methods authorized by the SRACA.

Clarifying this distinction would reduce confusion, better align the legislation with current notification practices, and avoid implying unnecessary procedural or legal requirements that could create inefficiencies or disputes over technical compliance. It would also support the Board's ability to conduct its processes in a timely and accessible manner while ensuring impacted parties are properly informed.

Specific sections impacted include:

**Fixing date of hearing**
**33**(1) Where, pursuant to section 31, a hearing is to be held by the board it shall fix a date and place for the hearing of the matters in dispute and shall ~~serve~~ notify the operator, owner and occupant, if any, with written notice thereof not less than seven days before the date so fixed.

**Notice and hearing of disputes**
**34**(3) Upon receipt of a notice mentioned in clause (a) or (b) of subsection (1), the board shall fix a date and place for the hearing and determination of the compensation to be paid and for the determination of any other matter that may arise, and shall ~~serve~~ notify the operator and the owner and occupant, if any, ~~with written notice thereof~~ not less than seven days before the date so fixed.

**Determination of compensation where amount not agreed upon**
**63**(3) No application shall be made to the board under subsection (1) after six months from the date of ~~the service of~~ the notice mentioned in subsection (1) of section 62.

(Note "Service" is not contemplated in 62 so this removes an inconsistency in the SRACA)

**Agreement of settlement**

**67** (2) The agreement of settlement shall be executed by each of the parties to the settlement or, if one of the parties is a corporation, by the proper officers of the corporation or the duly authorized agent of the corporation, which execution shall be attested by a subscribing witness; and the mediation officer shall ~~deliver or~~ send a copy of the executed agreement ~~by registered mail, postage prepaid,~~ using any of the methods mentioned in section 32, to each of the parties to the agreement of settlement and shall file one copy of the executed agreement with the board together with his report.

(3) Upon receipt of the report of the mediation officer, the chairperson of the board shall

make an order in writing incorporating the terms of the agreement filed with the report and shall ~~serve~~ send a copy of the order upon each of the parties affected by the order.

**Form of application under Act, duties of board respecting hearing**
**80**(3) The board shall forthwith acknowledge receipt of the application and shall send a notice ~~by registered mail~~ using any of the methods mentioned in section 32 to the owner, occupant or operator, as the case requires, affected by the application advising him of the receipt by the board of the application.

(4) Where a hearing is to be held by the board to consider the application, the board shall fix a date and place for the hearing of the matters in dispute and shall ~~serve~~ notify the parties concerned ~~with written notice~~ of the hearing not less than seven days before the date so fixed.

**Termination of right of entry**
**86** (2) Upon receipt of an application under subsection (1) the board shall fix a date for a hearing of the application and shall ~~serve notice thereof on~~ notify all parties concerned in such manner as the board deems proper

**Question for Consideration:**

- *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*

❖ **Notice of loss or damage to operator**

Section 62 of the *Surface Rights and Right of Access Compensation Act* (SRACA) currently requires an owner or occupant who becomes aware of off-lease damage caused by an operator to notify the Board within 30 days of the occurrence of the damage. Upon receipt of the notice, the Board is then required to provide a copy of the notice to the operator.

Requiring notice to be provided to the Board as an initial step does not facilitate timely resolution of damage issues and may instead delay corrective action by the operator. The Board itself has no operational role in addressing or repairing damage and is not required to become involved unless the matter remains unresolved. In practice, the Board only needs to be engaged where an operator has failed to respond appropriately after being made aware of the damage.

It is proposed that section 62 be revised to require an owner or occupant to provide notice of damage directly to the operator. If the operator fails to address the damage within a reasonable period, the owner or occupant would then be entitled to apply to the Board for remedy. In such cases, evidence that notice was provided to the operator could be submitted as part of the application and considered during a hearing.

This proposed change would promote more timely communication between landowners

and operators, support early resolution of damage issues, and reserve Board involvement for situations where disputes cannot be resolved between the parties. It would also reduce unnecessary administrative steps while preserving procedural fairness and access to the Board where required.

**Question for Consideration:**

- *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*

- *If it were to be specified, what might be considered a reasonable time period to grant an operator in order to address damage they caused?*

❖ R**emove outdated references to repealed sections**

- Compensation for certain rights deemed to be included in certain grants, determination and review of compensation (Section 76) **-** Eligibility for compensation is already established in section 6, subject to the amendments proposed above.

- As noted, sections 30 and 51 would be repealed if requirements to file agreements with the Board are removed.

**Question for Consideration:**

- *Are there any implications you wish to raise if these proposed legislative amendments are adopted?*