

## Saskatchewan Environmental Code

### Questions and Answers Regarding Qualified Persons

*The questions and answers below apply to Qualified Persons as relevant in the Saskatchewan Environmental Code. The roles and responsibilities of a Qualified Person for activities not covered in the new environmental code remain unchanged.*

- 1. For the purposes of the new Environmental code, what is the role of a QP?** Qualified Persons (QPs) play important roles in providing opinions to ensure that the desired outcomes are achieved or doing the work such as design. Public safety and environmental sustainability are predicated on having suitable QPs responsible for delivering environmental protection and related services.
- 2. When does a QP need to be used?** Each code chapter identifies which specific activities require the use of a QP. Under *The Environmental Management & Protection Act, 2010 (EMPA 2010)* QPs are required when proposing an alternative solution, or in some circumstances, following the acceptable solution. Under *The Forest Resources Management Amendment Act (FRMA)*, QPs are required when a proponent wishes to submit a Forest Operating Plan at a frequency outside of the annual requirement.
- 3. How do I find out if I am a QP?** To understand if you are a QP, consult each individual code chapter. Generally speaking, QPs are associated with a profession and/or professional body of practice. In some circumstances, additional criteria are applied such as education and work experience. In addition, for those who do not meet the criteria as outlined in the code, an individual can request to be designated by the Minister to become a QP.
- 4. Can a QP be sourced from within the organization or do they have to be an independent third-party?** Unless otherwise specified in the legislation or code chapter, as long as the individual meets the QP requirements specified in the chapter, that individual can perform the QP duties regardless of their independence. All parties are required, by law, to take reasonable and prudent action and comply with applicable professional standards and ethics. All parties, including QPs, failing to take reasonable and prudent action and failing to comply with applicable professional standards and ethics may be subject to penalty and/or prosecution.

**5. Once a QP, am I qualified to be a QP in all chapters?**

No, not necessarily. QPs are specific to each code chapter, and requirements may vary for each specific activity within that code chapter. The professions, designations and competencies that deem someone a QP are outlined for each activity within the code chapter itself. It is therefore necessary to consult the code before determining if you are a QP.

**6. Are there differences in the role of a QP from chapter to chapter?**

Conceptually speaking the role of the QP from chapter to chapter is the same, however, QPs will conduct, certify or sign-off on various activities that are chapter specific. The criteria and professions identified in the code that identify an individual as being a QP for a specific activity therefore vary across code chapters and activities to take into consideration the skills, competencies and class of persons required to perform that activity.

**7. Who is accountable for the verification of a QP?**

QPs will provide their qualifications and competencies through the Qualified Person Certification Standard. Verification of this information and any other information submitted will be done through the ministry's audit procedures. Misrepresentations and/or false representations may be subject to legal recourse and disciplinary action.

**8. The new environmental code also provides the ministry the authority to designate a QP; how will this process work?**

The minister at his/her discretion and through delegated authority within the ministry can designate an individual to be a QP. The process for ministry-designated QPs is described in detail on the Ministry of Environment's website. Individuals may submit an application to the Minister of Environment for designation and provide their qualifications in the relevant area.

At a high-level, an individual wishing to become a ministry-designated QP should follow these steps:

**Step 1:** Review the relevant code chapter and determine if the activity falls under the exclusive scope of practice of a profession. If it does, then that professional designation is the only acceptable QP for the job.

**Step 2:** Determine if the individual is legally entitled to work in Canada.

**Step 3:** Review core skills, qualifications, experience and competencies and compare them to those in the code for QPs for the specific chapter.

**Step 4:** If after reviewing the criteria and code requirements, the individual qualifies to apply, submit the application to become a ministry-designated QP.

**9. Can ministry-designated QPs be deemed QPs for any activity?**

No, the Ministry-designated QP is not meant to circumvent professional designations. Although QPs can be designated by the Minister of Environment, such designation does not entitle that person to engage in an activity if that activity is within the exclusive scope of practice of a profession and that person is not a member of that profession. On an exception basis, where circumstances require it, a QP may be designated where overlap exists with a professional association's scope of practice.

**10. Do I have to fill out a QP certification form every time I wish to perform an activity as a QP?**

Yes, in accordance to the practice outlined in the code chapters, individuals wishing to perform QP related activities must follow the certification process in order to perform that activity. The same process would apply for those ministry-designated QPs.

**11. Will the ministry maintain a record of the QP certification and is the record publically accessible?**

As a component of the QP certification process, the QP will be required to determine whether the submission contains proprietary information. If the submission is not proprietary, all information will be made publically accessible. If the QP deems the submission proprietary then they will be asked to submit an executive summary as well as the rationale for deeming the content, or portions thereof proprietary. The request for the submission to be deemed proprietary will be assessed and determined on a case-by-case basis.

**12. Can the ministry refuse a QP or QP submission?**

At the sole discretion of the Minister, the ministry can refuse the work, solution and plan of a QP and has the authority to notify the right to practice organization of potential misconduct. At the sole discretion of the Minister of Environment, the ministry can suspend, change, overturn, ban, or place under review any ministry-designated QP.

**13. Will the ministry maintain a current list of all QPs?**

The ministry will not maintain a list of all individuals identified as a QP, since in many cases QPs are identified by their profession, professional association and right-to-practice organizations. These bodies will be responsible for maintaining current membership lists. In the case where a QP is designated by the minister, this list will be maintained by the ministry but will not be made publically accessible.

**14. What steps will be taken to determine an appropriate level of compliance assurance is being achieved in the QP process**

According to the respective acts, QPs are required to take reasonable and prudent action and comply with any professional standards and ethics. The Ministry of Environment will follow compliance, enforcement and audit procedures to ensure appropriate safeguards are in place. In addition, the ministry will also be relying on the professional associations to undertake disciplinary actions as required.

**15. Why would a QP need to be designated by the Minister of Environment?**

There are two primary reasons why the minister would designate a QP.

- a. Where very specific and sophisticated qualifications are required and there is no appropriate way to identify such persons through profession, education, class, etc.; and
- b. Where an individual feels they have the appropriate knowledge, competency and significant experience to perform such duties/decisions as outlined in the code chapter, but do not necessarily fall within the criteria set out to be a QP.

**16. Who is accountable for the verification of a ministry-designated QP?**

For those wishing to apply to be a ministry-designated QP, select information will be required for submission. The ministry will verify pertinent information before making a recommendation to the minister.

**17. Who will review my application to be a ministry-designated QP?**

The ministry will utilize internal staff where appropriate including representatives from those areas that have mandated responsibility for the activity in question. In a case where the ministry does not have the internal expertise to make the recommendation, external perspectives will be obtained as required.

**18. If approved as a ministry-designated QP, how long will the designation be valid?**

Typically, the ministry-designated QP will be valid for a **maximum of five years**. In some cases the QP designation will only apply to a specific activity and may come with specific terms and conditions. After the five-year period, individuals will need to re-apply for ministry-designated QP status.

**19. Can someone who has been denied a ministry-designated QP appeal?**

As a component of the decision-making process, the minister (or designate) will provide the applicant with the intent of the response. Once the ministry's response has been received, the applicant will have 30 days to respond and will be given the opportunity to make representation. This process allows for discussion and clarification. At the ministry's discretion, this process may result in terms or conditions being clarified, added or removed, and will ultimately result in the intent of the decision being upheld or reversed. If the applicant does not respond to make representation during the 30 day period, the decision is final. Once decisions are final, appeals can only be made through the Queen's Bench.

**20. Is insurance required to become a ministry-designated QP?**

No, however, the Qualified Persons Advisory Committee (QPAC) recommends, as good business practice that individuals applying for, and/or performing activities as a ministry-designated QP have appropriate coverage, including errors and omissions insurance.

For more information, contact:

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