



# Environmental Management and Protection Act, 2002

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On October 1, 2002 the *Environmental Management and Protection Act, 2002* came into effect. The new *Act* amalgamates the content of the former *Ozone-depleting Substances Control Act*.

*EMPA, 2002* is structured for easy reference and adopts a number of new approaches to the management and protection of the environment. It clarifies and simplifies the legislation by putting all the administrative components in one part and specific technical legislative requirements in distinct divisions of the statute.

These amendments make the legislation more concise and consistent with the policies of the government. It also makes access to the *Act* for future changes much more practical with the new structure.

The new *Act* coincides with changes to *The Saskatchewan Water Corporation Act* and the new *Saskatchewan Watershed Authority Act* to ensure that the people of the province have sustainable, reliable, safe and clean drinking water.

Major changes to *EMPA, 2002* include a specific section dealing with contaminated sites and improved enforcement provisions including administrative penalties for water related issues. Powers of environment officers in *EMPA, 2002* are now standardized with those in other departmental legislation. *The Ozone-depleting Substances Control Act* has been amended to manage ozone-depleting substances consistent with national commitments and with other provinces.

Of specific interest will be significant changes to definitions, unauthorized discharges, contaminated sites, environmental protection orders and new inspection and enforcement provisions including administrative penalties.



# definitions

- ▶ The concept of **adverse effect** has been introduced (the impairment of or damage to the environment, or harm to human health, caused by one or any combination of chemical, physical or biological alteration) which replaces the concept of pollution and contamination. This is consistent with the approach being used in other jurisdictions, most notably in Alberta and Nova Scotia as well as federal legislation;
- ▶ The definition of **environment** has been expanded to reflect Saskatchewan Environment's (SE's) mandate and eco-system based approach to management of the environment. The definition now refers to the complex ecological and climatic relationships in the environment; and
- ▶ The definition of '**person responsible for a discharge**' replaces the former terms 'owner of a pollutant,' 'person having control of a pollutant' and the previously undefined 'person responsible for the presence of a pollutant.' These changes are consistent with SE's policy on contaminated sites, and with other Canadian jurisdictions.

## UNAUTHORIZED DISCHARGES

- ▶ The new *Act* provides for a general prohibition on unauthorized discharges of substances that may cause an adverse effect. It prescribes a duty to report any such discharge and it requires the person responsible for a discharge (or who allows a discharge) to take all reasonable measures to minimize the damage and to restore the environment.

## CONTAMINATED SITES

- ▶ Formerly, the Minister's power to issue orders was used to clean-up existing sites and to protect the environment from ongoing contamination. *EMPA, 2002* has specific powers for designation of sites, providing formal notice of designation, providing for a written remedial action plan, and when needed, an agreement providing for the apportionment of costs amongst the responsible persons;
- ▶ **Contaminated site** provisions have been added which allow the department to designate an area as a contaminated site. These provisions provide for mandatory notification of all persons connected to the contaminated parcel of land and to enforce remedial action plans.

## PROTECTION OF WATER

- ▶ Part IV of the *Act* deals with **The Protection of Water** and the regulation of water quality. One innovative requirement is an obligation for the department to prepare and submit a **State of Drinking Water Quality Report** to the Cabinet annually.
- ▶ The new *Act* also specifies that the person responsible for any waterworks providing water for human consumption must ensure that the water supplied is safe for this purpose. The *Act* gives the minister the authority to issue a Precautionary Drinking Water Advisory, an emergency order suspending the operation of waterworks or sewage works and other related powers.

## ENVIRONMENTAL PROTECTION ORDERS (EPO's)

- ▶ Provisions are made for the issuance of '**environmental protection orders**' and for '**emergency environmental protection orders**' to deal with a range of issues. These powers replace the former section 4 Minister's Order provisions and do not reflect a change in policy.
- ▶ Section 46 provides for emergency environmental protection orders if the Minister is of the opinion that a person is doing anything or carrying out any activity that may cause, is causing or has caused an "immediate" or "significant" adverse effect. This clause is "notwithstanding any other provision of the *Act*" and overrides the requirement for the Minister to provide 30 days notice.

- ▶ Emergency environmental protection orders expire 15 days after they are issued.
- ▶ Section 47 permits the Minister to issue environmental protection orders requiring the person to whom the order is issued to take any measures that the Minister considers necessary to protect and to restore the environment. Before issuing the order, the Minister must provide written notice of an intention to issue the order and allow 30 days for written representation to the Minister.

## OZONE-DEPLETING SUBSTANCES CONTROL ACT

- ▶ **The Ozone Depleting Substances Control Act** has been rolled into *EMPA, 2002* and retains all of the functional provisions of the former *Act* while updating the wording to be consistent with other provincial and national programs.

## ENFORCEMENT POWERS

- ▶ *EMPA, 2002* has expanded the role and the authority of enforcement officers in Saskatchewan, giving them the same powers and protections as peace officers.
- ▶ The **powers of environment officers** have been upgraded to be consistent with other department legislation. They may **enter or cross over private land** for the purpose of conducting an inspection, **inspect computer, digital and electronic records** as well as paper records; they may **immediately seize an item** if they believe that adverse effects may be created by an action; and they have **improved authority to search vehicles, aircraft and boats** consistent with *The Wildlife Act* and other department legislation.

## ADMINISTRATIVE PENALTIES

- ▶ The Minister has the authority to issue **administrative penalties** to permittees and licensees pursuant to all water related provisions included in Part IV of the *Act*. Administrative penalties allow the Minister to assess a financial penalty for clear-cut, administrative violations.

