



The Environmental Assessment Amendment Act

**Saskatchewan Ministry of
Environment**

November 2009



Saskatchewan
Ministry of
Environment

www.environment.gov.sk.ca

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SUMMARY

The Ministry of Environment is proposing amendments to The Environmental Assessment Act that would: increase legal certainty for project developers; promote greater efficiencies in environmental assessment processes; and modernize offence and penalty provisions.

Major amendments will:

- provide proponents with Ministerial decisions regarding whether or not further review and approval to proceed is required under the act;
- provide the ability to establish class assessment processes, including regulations to establish classes of developments, the content of class assessments and procedures for conducting class assessments;
- repeal section 9.1 because amendments to The Forest Resources Management Act will ensure environmental assessments for 20-year forest management plans are conducted as part of forestry planning processes; and
- create a broader set of offence provisions, including increased penalty amounts, additional options for court ordered protection and repair of the environment.

Other amendments will:

- provide the powers and give the protections of peace officers to environment officers appointed to enforce the act and the regulations;
- expand the Minister's powers and responsibilities to include the ability to conduct or commission environmental studies, including baseline, regional, sectoral, issue-based and follow-up studies;
- clarify the ability of the Minister to determine the scope of assessments, the content of statements and procedures for conducting assessments for developments and classes of development;
- provide for notices of environmental assessments and statements to be given in the manner that the Minister considers appropriate;
- allow the two-year limitation period on commencing a prosecution to run from the date that the Minister becomes aware of the alleged offence;
- update the service of notice and documents provision to be consistent with other legislation; and
- provide an immunity provision that protects against liability for good faith actions of officers and employees in carrying out functions and duties under the act.

The ministry has considered the recommendations from its independent legislative review and public consultations and is now seeking comments from interested parties and stakeholders on the details of the proposed changes to The Environmental Assessment Act.

INTRODUCTION

The ministry intends to introduce amendments to The Environmental Assessment Act during the fall 2009 session of the Legislative Assembly. These changes are part of the ministry's move to expand results-based regulation.

The purpose of The Environmental Assessment Act is to ensure that economic development in Saskatchewan proceeds with adequate environmental safeguards and in a manner understood by and broadly acceptable to the public and their representatives. The government intends that human and natural environments remain protected from adverse effects as the province realizes the benefits of greater economic development.

The proposed changes to The Environmental Assessment Act are based on the initial review of the ministry's mandate in 2008 by Clifton Associates Ltd. and two subsequent rounds of consultations in August 2008 and May 2009. Participants in stakeholder consultations overwhelmingly endorsed the current environmental assessment system in the province and several multi-national participants noted that it was among the best systems they have encountered. The independent review did, however, provide suggestions for improvement. It made a number of recommendations to improve efficiencies, timeliness and legal certainty.

The key challenge in amending The Environmental Assessment Act is to update and improve environmental assessment processes without compromising the existing features of the act that have made it successful in achieving its purposes.

Key principles observed in the amendments include:

- core standards that help operators improve and provide an incentive for improvement;
- legal authority and enforcement capability to hold operators and industry accountable for meeting the standards;
- transparency in all processes and information; and
- competent, innovative and responsive regulatory systems that are continuously improved and updated to the changing economic and environment priorities.

During consultations, interested parties and stakeholders indicated their strong desire to be fully engaged during the development process of the amendments and associated regulations.

The Ministry of Environment will maintain its commitment to consult with First Nations and rights-bearing Métis communities in advance of decisions or actions which may adversely impact Treaty and Aboriginal rights.

This document will:

- provide an overview of the major changes being proposed; and
- to solicit comments on those changes.

MAJOR CHANGES TO THE ENVIRONMENTAL ASSESSMENT ACT

The following text highlights changes the government considers to be significant and provides background explanations and analysis.

Appendix One contains a detailed description of proposed changes to The Environmental Assessment Act.

1. Legal Certainty Concerning the Requirement to Undergo Environmental Assessment

One important objective for the amendments is to provide legal certainty with respect to the ministry's initial screening decision.

Under the current act, the only way the Minister may legally compel a project to go through environmental assessment is to seek a court order blocking the project if the Minister thinks the project will have environmental impacts that require assessment. It is potentially costly for proponents to wait until they are proceeding with a project to learn if the Minister will seek to require an assessment. Proponents would also prefer not to be the subject of a government court action.

As a result, the practice has developed that proponents seek the Minister's views on the need for an environmental assessment well before they proceed with their project. Proponents provide a description of the proposed project and detailed information to an environmental assessment officer. The officer screens the information and forms an opinion on whether the project is likely to have sufficiently significant impacts to be a development as defined by the act and whether approval under the act is required.

Based on the review, the ministry provides the proponent with a letter expressing an opinion either that the project is a development and requires further review or that it is not a development and no further review is required. Often the opinion that the project does not require further review is conditional on the proponent designing or operating the project in certain ways.

Projects going through this process are identified in the ministry's quarterly report. In 2008, the Environmental Assessment Branch reviewed 112 projects submitted by proponents. Of these, seven were classed as developments.

Opinions on projects are not published. However, the act allows any member of the public access to project files, subject to some confidentiality requirements. A common practice is to provide copies of the opinion to stakeholders who have expressed interest in, or have been consulted about, the proposed project.

The opinion from the ministry provides the proponent with some certainty that the government will not seek to block the project. However, it does not prevent court challenges by others. In addition, any conditions requested by the ministry may be difficult to enforce.

The proposed amendments will provide a formal process allowing a proponent to voluntarily apply to the ministry for a Minister's screening decision. This decision will be called a "determination" because it will determine whether the proposed project meets the definition of a development and whether further review and approval to proceed is required under the act.

The proponent will be required to complete an application to provide the information the Minister needs to make the determination. The Minister will establish the application process, including necessary information, public notification and consultation requirements. The ministry will provide the Minister's determination to the proponent in writing with reasons. The determination may include terms and conditions.

This legislated screening decision was recommended to provide more legal certainty to proponents. Legal certainty increases because the act will formally empower the Minister to decide the need for further review. This will greatly reduce the probability that court actions will be necessary to decide the level of review that a project must receive prior to proceeding.

A formal decision should increase the proponent's legal ability to defend its actions if a third party wants to challenge the proponent for not having conducted an environmental assessment under the act. On the other hand, any terms and conditions that result from a minister's determination will be legally binding upon the proponent, including a determination that a proponent must conduct an environmental assessment. This change will also put an onus on the ministry to implement more consistent and predictable review processes for proponents and the public to minimize the risk that Minister's decisions could be challenged in the courts.

The ministry expects this option to be used by proponents already using the informal process and that the determination process will, in general, parallel existing informal processes. It is also expected that there will be no significant effect on ministry workload.

2. More efficient processes

Class Assessments

The amendments also implement recommendations to provide the Minister with the ability to conduct class assessments where projects have common characteristics. This should reduce proponents' costs and time by providing greater certainty about information requirements, desired outcomes and, possibly, standard mitigation measures. The other requirements of the act will continue to apply to class assessments.

A regulation will be required to establish what kinds of developments may be subject to a class assessment. Although class assessment processes have been used elsewhere in Canada, the ministry recognizes that their use in Saskatchewan should be grounded in our own experience and circumstances. Prior to establishing classes in regulation, the ministry intends to consult about what types of developments should be considered and what processes should be used to define the environmental outcomes desired for a class.

Twenty-year Forest Management Plans

The current section 9.1 of the act will be repealed. Amendments to The Forest Resources Management Act will integrate environmental assessment processes for 20-year forest management plans with the overall forest planning process. This will provide a single integrated planning and assessment process for review and approval of these plans. Many of the environmental assessment and forestry planning requirements are the same and forestry proponents are currently required to obtain approvals under both programs.

3. Offences and Penalties

Amendments will update and modernize offence and penalty provisions. These provisions have not been amended in close to 30 years and are out of step with other jurisdictions.

The financial penalty amounts have been significantly increased and are now a more credible deterrent to non-compliance with the requirements of the act. Under the current wording, a court could order financial penalties up to \$5,000 for an offence and a further \$1,000 per day for a continuing offence. Under the proposed amendments, the court may order a financial penalty up to \$500,000 and a further \$250,000 per day for a continuing offence.

In addition, the courts will have clearer powers to require offenders to repair or restore damaged environments. Other provisions of the act dealing with potential liability of proponents for proceeding in the absence of approvals remain unchanged.

In addition to revising financial penalties, amendments will also allow courts to imprison offenders for a period not exceeding 6 months. The Environmental Assessment Act does not now provide for incarceration with respect to environmental assessment offences. The table below provides a summary of the imprisonment penalties for environmental offences in Saskatchewan, British Columbia, Alberta, Manitoba and Ontario. Ontario is the only surveyed province that does not include imprisonment for environmental assessment and forestry offences.

**Maximum Term of Imprisonment for Offences
Provincial Comparison from Ontario to British Columbia**

Jurisdiction	Env. Mgmt. & Protection	Environmental Assessment	Forest Resources Mgmt.
Sask.	3 years (1)	6 months (2)	5 years (1)
B.C.	6 months	6 months(3)	3 years (3)
Alta.	2 years	2 years	1 year
Man.	1 year	6 months (3)	3 months (4)
Ont.	5 years	No imprisonment	No imprisonment

- (1) Current provision – no change proposed
- (2) No imprisonment currently
- (3) Can double for repeat offences
- (4) For non-payment only

OTHER CHANGES TO THE ENVIRONMENTAL ASSESSMENT ACT

Other noteworthy changes will:

- provide the powers and give the protections of peace officers to environment officers appointed to enforce the act and the regulations.
- add the ability to conduct or commission environmental studies, including baseline, regional, sectoral, issue-based and follow-up studies, to the list of the Minister's powers and responsibilities.
- provide the Minister with the ability to determine the scope of assessments, the content of statements and procedures for conducting assessments for developments and classes of development.
- provide for notices of environmental impact statements to be given in the manner that the Minister considers appropriate.
- allow the two-year limitation period on commencing a prosecution to run from the date that the Minister becomes aware of the alleged offence.
- update the service of notice and documents provision to be consistent with other legislation.
- provide an immunity provision that protects against liability for good faith actions of officers and employees in carrying out functions and duties under the act.
- update the regulation-making authority, including regulations to establish: classes of developments; the content of assessments; procedures for conducting assessments; and the process and procedures for making a decision regarding whether the project is a development.

**APPENDIX A:
PROPOSED CHANGES TO THE ENVIRONMENTAL ASSESSMENT ACT**

DETAILED DESCRIPTION OF PROPOSED AMENDMENTS TO THE ENVIRONMENTAL ASSESSMENT ACT

(Note: The following descriptions relate primarily to possible wording of substantive amendments. The final text of the act will contain additional text respecting changes to headings, part and section numbers and other editorial changes

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
DEFINITIONS	
2(d)(i) have an affect on any unique, rare or endangered feature of the environment;	The word “effect” will replace “affect” as the latter is used incorrectly.
2(f) “environment officer” means an environment officer appointed pursuant to <i>The Environmental Management and Protection Act</i> ;	<p>Officers will be appointed under a specific provision of this act and will include a member of the Royal Canadian Mounted Police or a member of a police service as defined in <i>The Police Act, 1990</i>”;</p> <p>Environmental Officers have certain investigative and court related duties under <u>The Environmental Assessment Act</u> (EA Act) and proposed amendments. The change facilitates administration of which officers are responsible for enforcement of the Act.</p>
New Provision: Definition of Ministry	The act will include a definition of ministry as the term is used elsewhere in the act and refer to the ministry over which the ministry presides.
New Provision: Residual responsibilities	<p>A new provision will assign to the minister responsibility for all matters not by law assigned to any other minister or government agency respecting environmental planning, assessments, statements and the quality of the environment.</p> <p>This is intended to clarify the general responsibility for environmental assessment matters where these are not covered by other acts or ministerial mandates.</p>
RESPONSIBILITIES AND POWERS OF MINISTER	
5 For the purpose of administering and enforcing this Act and the regulations, the minister may:	The existing section 5 will be updated and reworded to reflect amendments to the Minister’s responsibilities and powers in the Act. .

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
5(a) conduct research with respect to the environment, assessments or statements;	A small rewording of this section will be more explicit about the minister's ability also to <i>commission</i> research with respect to the environment, environmental planning, assessments or statements. This explicitly recognizes past practices regarding the use of consultants, third party advice, advisory committees, inquiries, etc.
5(b) conduct studies of the quality of the environment, environmental planning, assessments or statements;	This section will be reworded to add mention of various types of studies that may be conducted or commissioned such as baseline studies, spatial or regional studies, sectoral studies, issue-based studies or follow-up studies.
5(c) gather, publish and disseminate information with respect to the environment, assessments or statements;	Reference to environmental planning will be included in this section consistent with references in other sections.
5(d) appoint committees to perform any advisory functions that he considers necessary;	This power will be deleted from list. Such powers are provided to Ministers in <u>The Government Organization Act</u> . Preceding amendments provide for the power to commission studies, advice etc. The ability to appoint an inquiry provided by section 14 is not affected.
5 (e) make any examinations, tests and other arrangements that the minister considers necessary;	No change except for renumbering

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
New Provision: Scoping, Process and Guidelines	<p>New provisions will clarify the ability of the Minister to:</p> <ul style="list-style-type: none"> • set the scope of assessments and content of statements for developments and for classes of developments; • set the procedures and methods for conducting assessments and preparing statements for developments and for classes of developments; • develop or establish guidelines and standards respecting any matter governed by the Act <p>The current act does not explicitly recognize the ability of the Minister to provide direction to project developers on how to meet the requirements of the EA Act, e.g. Project Specific Guidelines. Adding this ability was recommended by the Ministry's third-party, independent statutory review. The Act will retain the ability of Cabinet to pass regulations on these matters that would take precedence over any direction provided by the Minister.</p>
New Provision: Consultation	A new provision will recognize current practice that the Minister may consult with any person, any government agency or any other government about any matter governed by this Act.
New Provision: Residual Powers	<p>This new provision will provide a general power to the Minister to do any other thing that the minister considers appropriate to carrying out the minister's responsibilities or to exercising the minister's powers pursuant to this Act and the regulations.</p> <p>This is a standard clause provided for legislation and is consistent with Minister's role under proposed s. 5(1).</p>

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
<p>5(f) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person with respect to the environment, assessments or statements.</p>	<p>This section will be reworded to provide a clearer description the purpose of entering such agreements and potential parties to them.</p> <p>Potential purposes include furthering, undertaking and enforcing the minister’s activities and responsibilities pursuant to the Act, Potential parties may include:</p> <ul style="list-style-type: none"> (a) the Government of Canada; (b) a government agency; (c) the government of any other province or territory of Canada; (d) the government of any other country, any state or division of that country or any minister, agent or official of that government; or (e) any person, agency, board, commission, organization, institution or body. <p>There will be no change to scope of purpose or the potential parties to an agreement. The intent is to recognize more explicitly cooperative agreements with other jurisdictions such as the Canada-Saskatchewan cooperative agreement and to provide greater certainty to potential parties that the agreement is within the scope of the Minister to conclude.</p>
<p>New Provision: Appointment of Environment Officers</p>	<p>A new provision will empower the minister to appoint under this Act the environment officers enforcing or overseeing the enforcement of this Act and the regulations. The current act requires the Minister to appoint officers using <u>The Environmental Management and Protection Act (EMPA)</u>.</p> <p>The amendment will clarify accountability for administering the appointment process and allow the appointment process to be more efficient.</p>
<p>New Provision: Powers of Environment Officers</p>	<p>This new provision will provide the powers of peace officers to environmental officers appointed to enforce the Act and the regulations.</p> <p>This section mirrors the existing EMPA provisions. It will make it simpler and easier for persons assigned to enforce the EA act as well as other acts since they will not have to take account of any differences.</p>

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
PROCESS FOR A MINISTERIAL DETERMINATION	
New Part	<p>This new part will provide proponents with a process to replace the current informal practice of the Ministry providing its ‘opinion’ to proponents on whether or not the Ministry expects them to conduct an environmental impact assessment. The current practice is legally ambiguous and leaves proponent ‘undertakings’ open to legal challenges.</p> <p>The application process is based on current informal practice. It will apply to ‘undertakings’ defined as a project, operation or activity or any alteration or expansion of a project operation or activity. The chief differences are that the process concludes with a decision by the Minister that determines if further review is required or not and that may impose legally binding environmental protection measures even where the undertaking is not a development.</p> <p>This new part implements recommendations from the Ministry’s third-party, independent statutory review of the EA Act.</p>
New Provision: Option to apply for a determination	In this new part, proponents will have the option to voluntarily apply for a determination from the Minister whether or not their proposed undertaking requires an environmental impact statement.
New Provision: Information required for determination	<p>Proponents will be provided with an application form and will be asked to provide the minister with any other information or material that the minister may reasonably require or that the regulations require. The information to be required will be based on current project proposal guidelines. The ministry is considering whether regulations are necessary.</p> <p>The applicant may also have to verify the information provided by affidavit or otherwise.</p>

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
New Provision: Process	The minister may specify the process he or she will follow prior to making a decision and may include public notification, consultation or involvement in the process. Regulations may also specify procedural requirements respecting determinations. However, the current informal process has operated without regulations and the Ministry is not planning to create them.
New Provisions: Content of Determinations	<p>The provision will provide the Minister with two primary options in making a determination. Either the proposed undertaking is a development or the proposed undertaking is not a development.</p> <p>For each of these options, the minister may impose on the applicant any terms and conditions that the minister considers necessary or advisable.</p> <p>If an undertaking is determined to be a development, the minister may set terms and conditions relating to the conduct of the assessment or other matters related to his decision under section 15.</p> <p>If the undertaking is determined not to be a development, the Minister may set legally enforceable terms and conditions on how it might proceed. .</p>
New Provision: Notification of Determinations	The amendments will require the Minister to notify the applicant of the determination and the reasons for it. As well, the minister may notify any other persons that the minister considers advisable.
New Provisions: Compliance Required	<p>The amendments will contain provisions to require applicants to comply with the determination and any of its terms and conditions. They will also require the applicant not to proceed with any undertaking that has been determined by the Minister to be a development.</p> <p>However, further review and ministerial approval under the Act is not required if the determination is that the undertaking is not a development.</p>

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
CONDUCT OF ASSESSMENTS AND CONTENT OF STATEMENTS	
<p>Assessment and statement required</p> <p>9(1) The proponent of a development shall, in accordance with the regulations:</p> <p>(a) conduct an environmental impact assessment of the development; and</p> <p>(b) prepare and submit to the minister an environmental impact statement relating to the development.</p>	<p>The wording of this section will be revised to correct the impression that the Act requires regulations. Regulations have never been passed but the text makes it appear that they are required. The Act has been administered without regulations. Instead, the content and conduct of assessments have been guided by a combination of general guidelines, project specific guidelines, letters of advice and discussion with proponents.</p> <p>The Act will still permit regulations on these issues. However, the intent is that the Minister will issue guidelines to guide proponents in the preparation and conduct of assessments.</p> <p>The Ministry's third-party, independent statutory review concluded that enactment of regulations is not necessary.</p>
CLASS ASSESSMENTS	
<p>New Provisions</p>	<p>Amendments will include provisions that implement the recommendation of the Ministry's third-party, independent statutory review that a class assessment process be established.</p> <p>Regulations will be required to define classes of developments that may be reviewed using a class assessment approach. Regulations could set information requirements for the assessment of defined projects and specify requirements for environmental protection measures. In the absence of regulations, these could also be set by the Minister. Developments subject to a class assessment would still follow the process outline for developments that are members of the class.</p>
REPEAL OF SECTION 9.1	
<p>Section 9.1. has the effect of making activities under a 20 year forest management plans subject to environmental assessment and approval by the Minister. .</p>	<p>Section 9.1 was added to <i>The Environmental Assessment Act</i> in 1996 by consequential amendment to <i>The Forest Resources Management Act</i>. The section is being repealed in recognition of the new forest management planning processes established under the latter Act.</p>

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
REVISION TO NOTICE PROVISIONS	
<p>Sections 10 and 11 of the current act require public notice of assessments to be conducted and of statements that are available for inspection.</p>	<p>These sections will be reworded to make it clear that the manner of notification will be determined by the Minister and not in regulation.</p> <p>Regulations have never been passed but the text makes it appear that they are required. Rewording will eliminate this ambiguity in the act and confirm that the manner of notification may be a matter of policy. Current practice uses newspaper advertisements supported by other methods as required by circumstances, e.g., in the north. Current practice has proved adequate in general and has not been the subject of legal challenge.</p> <p>The Ministry's third-party, independent statutory review concluded that a regulation would be too constraining.</p>
OFFENCES AND PENALTIES	
<p>Prohibition re giving false information 20 No person shall knowingly give false information to:</p> <p>(a) the minister; (b) any environment officer; (c) any board of inquiry appointed under this Act; or (d) any appointee of, or person employed by or acting on behalf of, the minister or a board of inquiry; in respect of any matter to which this Act or the regulations relate.</p>	<p>This section will refer more simply to the minister, an environment officer, the ministry or any person acting on behalf of the minister.</p> <p>This simpler wording covers same scope of audiences and will be consistent with other acts.</p> <p>In addition the section will be amended to include as offences:</p> <ul style="list-style-type: none"> • omitting to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made to the same persons • failing to comply with a ministerial approval issued pursuant to this Act or the regulations; • obstructing or interfering with an environment officer carrying out the environment officer's duties pursuant to this Act; or • failing to comply with any provision of this Act or the regulations

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
<p>21. Any person who contravenes subsection 8(1) or 16(3), section 17 or 20 or subsection 25(3) is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 and, in the case of a continuing offence, to a further fine of not more than \$2,500 for each day or part of a day during which the offence continues.</p>	<p>Provisions relating to penalties will be moved to section 20 from section 21 and provide that contraventions of the Act or the regulations are offences. Persons convicted of offences are liable on summary conviction to fines not exceeding \$500,000, to imprisonment not exceeding six months or to both that fine and imprisonment. In the case of a continuing offence, there is potential for a further fine of \$250,000 for each day or part of a day during which the offence continues.</p> <p>The proposed provision increases fines to a level consistent with other jurisdictions. The Act will continue to provide the court with the option to structure penalties to discourage a continuing offence. Penalties have never been amended since 1980.</p>
<p>New Provisions: New Penalty Options for the Court</p>	<p>New penalty provisions will be added to Section 20. These will provide the court upon conviction with the option of:</p> <ul style="list-style-type: none"> • imposing a fine equal to any monetary benefits the court may conclude accrued to offender • imposing penalties upon directors, officers or agents of a corporation who directed, authorized, assented to or acquiesced in or participated in an offence whether or not the corporation has been prosecuted or convicted <p>Similar provisions are found in other jurisdictions and in EMPA.</p>

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
<p>New Provisions: Court Orders to Protect or Repair the Environment</p>	<p>New penalty provisions will be added to Section 20. These will provide the court upon conviction with the option of:</p> <ul style="list-style-type: none"> • prohibiting the convicted person from doing any act or engaging in any activity that, in the opinion of the court, may result in the continuation of the offence; • directing the convicted person to repair any damage to the environment that resulted from the commission of the offence in a manner and within the period specified by the order; • requiring the convicted person to take steps to prevent any damage to the environment that may result from the commission of the offence in a manner and within the period specified by the order; • directing the convicted person to pay to the minister an amount of money as compensation, in whole or in part, for the cost of any remedial or preventative action taken by or at the direction of the minister as a result of the commission of the offence; • requiring the convicted person to do any other thing that, in the opinion of the court, is necessary in the circumstances. <p>Similar provisions are found in other jurisdictions.</p>
<p>LIMITATION ON PROSECUTION</p>	
<p>22 No prosecution for an offence under this Act is to be commenced after two years from the day of the commission of the alleged offence.</p>	<p>This section will be revised to have the 2 years start from when the facts on which the alleged contravention is based first came to the knowledge of the minister”.</p> <p>The changes recognize that the some offences may not become readily apparent in the environment. It is meant to avoid a situation where government becomes responsible for environmental cleanups.</p>

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
SERVICE OF NOTICE	
24(1) Any notice required to be given by this Act or the regulations is, unless otherwise provided for, to be served personally or mailed by registered mail to the last known address of the person being served.	Section 24 will be updated to provide a process consistent with other EMPA. Manner of service may be prescribed in the regulations. Prescribed means intended to permit use of electronic notice, e.g., e-mail.
(2) A notice served by registered mail is deemed to have been received on the seventh day following the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of his own, he did not receive the notice or he received it at a later date.	This provision will be amended to allow 10 business days. A business day is any day other than a Saturday, Sunday or a holiday. A new section will be added that provides that irregularity in the service of a notice, order or decision does not affect the validity of an otherwise valid notice, order or decision.
IMMUNITY PROVISIONS	.
New Provision	The Ministry intends to include an immunity provision similar to the one included in <u>The Management and Reduction of Greenhouse Gases Act</u> . This will reflect current legislative practice regarding liability of Crown and its agents. That provision reads: “s. 75. No action or other proceeding lies or shall be instituted or commenced against the minister, the ministry, any environment officer, the Crown in right of Saskatchewan or officers and employees of the Crown for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any one or more of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act, the regulations or the Codes in the carrying out or supposed carrying out of any function or duty imposed by this Act, the regulations or the Codes”.

<u>EXISTING PROVISION</u>	<u>PROPOSED CHANGES</u>
REGULATION MAKING POWERS	
New provisions	<p>The regulation making powers will be updated to reflect current legislative practice and to accommodate amendments to the Act. Powers will include:</p> <ul style="list-style-type: none"> • defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act; • establishing classes of developments; • prescribing matters covered by the new determination process such as information to be submitted with determinations and procedural requirements; • prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations; • prescribing any other matter or thing necessary to carry out the Act's intent.
Amended Powers	<p>A number of existing powers would be amended to reflect amendments elsewhere in the act. These would include:</p> <ul style="list-style-type: none"> • including references to class assessments • including reference to standards as well as guidelines • prescribing manner of notices to anticipate use of electronic means • expanded wording for the power to specify procedures and methods of conducting EIAs and preparing EISs
ENTRY INTO FORCE	The ministry intends the act to come into force upon proclamation.

