

BILL

No. 83

An Act to amend *The Environmental Management and Protection Act, 2010*

(Assented to _____)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Environmental Management and Protection Amendment Act, 2017*.

SS 2010, c E-10.22 amended

2 *The Environmental Management and Protection Act, 2010* is amended in the manner set forth in this Act.

Section 2 amended

3 **The following clause is added after clause 2(1)(y):**

“(y.1) ‘**person**’ includes an unincorporated association, partnership or other organization”.

New section 4

4 **Section 4 is repealed and the following substituted:**

“Advisory committees

4(1) The minister may appoint advisory committees, which shall meet on the request of the minister.

(2) An advisory committee shall act in an advisory capacity to the minister on matters of general interest respecting the provisions of this Act.

(3) The members of an advisory committee are entitled to:

(a) except in the case of those members who are also members of the public service of Saskatchewan, remuneration for their services at the rates established by Treasury Board; and

(b) reimbursement for their expenses incurred in the performance of their responsibilities at the rates paid to members of the public service of Saskatchewan”.

Section 36 amended

5(1) **Subsection 36(1) is amended in the portion preceding clause (a) by adding “human health or” after “adverse effect on”.**

(2) **Subsection 36(2) is amended in the portion preceding clause (a) by adding “human health or” after “adverse effect on”.**

Section 44 amended

6 The following subsection is added after subsection 44(5):

“(6) No person shall claim or attempt to claim a refund if the refundable deposit and environmental handling charge mentioned in section 40 have not been paid”.

New section 45.1

7 The following section is added before section 46:

“Interim product stewardship program

45.1(1) In this section:

- (a) **‘prescribed product’** means a product prescribed for the purposes of clause 46(a);
 - (b) **‘product stewardship program’** includes a product management program that is in force on or before the day on which this section comes into force.
- (2) Subject to the approval of the Lieutenant Governor in Council, the minister may operate an interim product stewardship program on behalf of any person who manufactures, imports or sells a prescribed product if:
- (a) no person holds an approval to operate a product stewardship program for that prescribed product; and
 - (b) the minister is satisfied that it is in the public interest to do so.
- (3) Before operating an interim product stewardship program, the minister shall:
- (a) provide all persons who manufacture, import or sell the prescribed product with the following:
 - (i) 30 days’ notice in any manner the minister is satisfied will bring the notice to their attention and to the attention of the public that the minister intends to operate an interim product stewardship program and setting out:
 - (A) the date on which the interim product stewardship program is to commence operation; and
 - (B) any other information the minister considers appropriate;
 - (ii) an opportunity to make written representations within 30 days after the date on which the notice mentioned in subclause (i) is given; and
 - (b) post the notice mentioned in subclause (a)(i) on the ministry’s website and cause the notice to be made available to the public in any manner the minister considers appropriate.
- (4) If the minister operates an interim product stewardship program, the minister may, by order:
- (a) prepare a detailed description of the scope and operations of the interim product stewardship program;
 - (b) set rates and fees required to be paid by persons who manufacture, import or sell a prescribed product to the minister for the operation of the interim product stewardship program; and
 - (c) enter into an agreement with any person to implement and administer the interim product stewardship program.

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- (5) As soon as is reasonably practicable after making an order pursuant to subsection (4), the minister shall cause the order:
- (a) to be printed in the Gazette; and
 - (b) to be made available to the public in any manner the minister considers appropriate, including posting it on the ministry's website.
- (6) If the minister operates an interim product stewardship program:
- (a) every person who manufactures, imports or sells the prescribed product for which the program is being operated:
 - (i) shall comply with the interim product stewardship program; and
 - (ii) is no longer required to comply with any regulations respecting product stewardship programs with respect to that prescribed product; and
 - (b) any regulations with respect to a product stewardship program dealing with that prescribed product cease to apply during the period that the minister is operating the interim product stewardship program.
- (7) The minister may operate an interim product stewardship program for a period of not more than 2 years.
- (8) Subject to the approval of the Lieutenant Governor in Council, the minister may extend the period mentioned in subsection (7) by 1 year”.

Section 49 amended

8 Section 49 is amended by striking out the portion preceding clause (a) and substituting the following:

“No person shall discard or abandon or cause to be discarded or abandoned or allow to be discarded or abandoned, any waste other than:”.

Section 56 amended

9 Subsection 56(1) is repealed and the following substituted:

“(1) If the minister is satisfied that a person is doing any thing or carrying out any activity that may cause or is causing an adverse effect, the minister may issue an environmental protection order against a person responsible directing that person to take any measures that the minister considers necessary to remedy, minimize, mitigate or prevent the adverse effect”.

New sections 78 to 78.2

10 Section 78 is repealed and the following substituted:

“Audits and inspections

78(1) In this section and in section 78.2:

‘**property**’ includes computer software;

‘**record**’ includes any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media.

(2) An environment officer may conduct an audit or inspection in accordance with this section.

(3) An audit may be conducted on any person who has been issued a permit pursuant to this Act or who engages in an activity that is governed by an accepted environmental protection plan or the code.

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- (4) An audit conducted pursuant to this section must contain:
- (a) an assessment of how well the person mentioned in subsection (3) has complied with this Act, the regulations, the code or the terms and conditions of the permit or the accepted environmental protection plan; and
 - (b) if the obligations imposed by this Act, the regulations or the code or the terms or conditions of the permit or the accepted environmental protection plan have not been met, an explanation for the differences between the results and those obligations, terms and conditions.
- (5) Subject to subsection (7), in carrying out an environment officer's duties in conjunction with an audit or inspection, an environment officer may, at any reasonable time:
- (a) enter any area or place and conduct an inspection if the environment officer has reasonable grounds to believe that an activity governed by this Act, the regulations or the code or an Act or regulation mentioned in section 74 is taking place;
 - (b) enter and inspect any area or place for which a permit or order has been issued, or an environmental protection plan has been accepted, pursuant to this Act, the regulations, the code or an Act or regulation mentioned in section 74;
 - (c) enter and inspect any premises containing any books, records, papers or documents, including any computer, digital or electronic records, files or data, that are required to be kept pursuant to this Act, the regulations, the code, an accepted environmental protection plan or an Act or regulation mentioned in section 74; and
 - (d) enter and inspect any place to determine:
 - (i) the extent, if any, to which a substance may cause or is causing an adverse effect;
 - (ii) the cause of any adverse effect that may occur or is occurring; and
 - (iii) how the adverse effect may be prevented, remedied, mitigated, minimized or how land affected by the adverse effect may be remedied or reclaimed.
- (6) When conducting an audit or inspection in accordance with subsection (5), an environment officer may do all or any of the following things:
- (a) make any inquiry the environment officer considers appropriate;
 - (b) require the use of any machinery, equipment, appliance or thing located at the place or premises to be demonstrated;
 - (c) conduct any tests, take any samples and make any examinations that the environment officer considers necessary or advisable;
 - (d) take one or more persons to any place to assist the environment officer and make arrangements with the person in charge of the place for those persons to re-enter the place to perform specified duties;
 - (e) require the production of, inspect and make copies of any books, records, papers or documents or of any entry in those books, records, papers or documents required to be kept by this Act, the regulations, the code, an accepted environmental protection plan or an Act or regulation mentioned in section 74;

(f) subject to subsection (8), remove any books, records, papers or documents examined pursuant to this section for the purpose of making copies where a copy is not readily available, if a receipt is given;

(g) require any person to provide the environment officer with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;

(h) in order to produce information and records mentioned in this subsection, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used by the person required to deliver the information and records.

(7) An environment officer shall not enter a private dwelling without a warrant issued pursuant to section 78.2 unless the occupant of the dwelling consents to the entry.

(8) An environment officer who removes any books, records, papers or documents pursuant to this section for the purpose of making copies shall:

(a) make those copies as soon as is reasonably possible; and

(b) promptly return the books, records, papers or documents from which the copies were made to:

(i) the place from which they were removed; or

(ii) any other place that may be agreed to by the environment officer and the person who produced them.

“Obtaining information

78.1 For the purpose of obtaining any information that is required to determine compliance with this Act, the regulations, the code, an accepted environmental protection plan, an order made pursuant to this Act or an Act or regulation mentioned in section 74 or that is otherwise required for the performance of the duties or the exercise of the powers of the environment officer, the officer may direct any person to provide the officer with any information in any form and manner and within any time that the officer may specify.

“Investigations

78.2(1) If a justice or a provincial court judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that an offence against this Act, the regulations, the code or an Act or regulation mentioned in section 74 has occurred and that evidence of that offence is likely to be found, the justice or the provincial court judge may issue a warrant to do all or any of the following:

(a) enter and search any place or premises named in the warrant;

(b) stop and search any vehicle described in the warrant;

(c) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act, the regulations, the code or an Act or regulation mentioned in section 74;

(d) carry out any other activities mentioned in subsection (2).

(2) With a warrant issued pursuant to subsection (1), an environment officer may:

- (a) enter at any time and search any place or premises named in the warrant;
- (b) stop and search any vehicle named in the warrant;
- (c) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the environment officer finds in the place, premises or vehicle;
- (d) require the production of and examine any records or property that the environment officer believes, on reasonable grounds, may contain information related to an offence against this Act, the regulations, the code or an Act or regulation mentioned in section 74;
- (e) remove, for the purpose of making copies, any records examined pursuant to this section;
- (f) require the use of any machinery, equipment, appliance or thing located at the place or premises to be demonstrated;
- (g) conduct any tests, take any samples and make any examinations that the environment officer considers necessary or advisable; and
- (h) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act, the regulations, the code or an Act or regulation mentioned in section 74.

(3) Subject to subsection (4), an environment officer may exercise all or any of the powers mentioned in subsection (2) without a warrant issued pursuant to subsection (1) if:

- (a) the conditions for obtaining a warrant exist; and
- (b) the environment officer has reasonable grounds to believe that the delay necessary to obtain a warrant would result:
 - (i) in danger to human life or safety; or
 - (ii) in the loss, removal or destruction of evidence.

(4) An environment officer shall not enter a private dwelling without a warrant issued pursuant to this section unless the occupant of the dwelling consents to the entry”.

Section 79 amended

11 Subsection 79(1) is amended by adding “audit, inspection or” before “investigation”.

Section 80 amended

12 Subsection 80(1) is amended in the portion preceding clause (a) by adding “audit, inspection or” before “investigation”.

New sections 80.1 and 80.2**13 The following sections are added after section 80:****“Seizure of certain objects**

80.1(1) In addition to the powers mentioned in sections 78 and 78.2, in conducting an audit or an inspection pursuant to section 78 or in carrying out an investigation pursuant to section 78.2, an environment officer may seize anything to which this Act, the regulations, the code or an Act or regulation mentioned in section 74 applies, including a vehicle, aircraft or boat, that the environment officer has reasonable grounds to believe:

(a) was used in the commission of an offence or is something in relation to which an offence against this Act, the regulations, the code or an Act or regulation mentioned in section 74 has been committed;

(b) will provide evidence with respect to the commission of an offence against this Act, the regulations, the code or an Act or regulation mentioned in section 74; or

(c) was taken or obtained by the commission of an offence against this Act, the regulations, the code or an Act or regulation mentioned in section 74.

(2) Anything to which this Act, the regulations, the code or an Act or regulation mentioned in section 74 applies that is seized pursuant to subsection (1) may be removed to any place that the environment officer considers appropriate for the preservation and containment of the thing to which this Act, the regulations, the code or an Act or regulation mentioned in section 74 applies.

(3) If a vehicle is being used to transport anything to which this Act, the regulations, the code or an Act or regulation mentioned in section 74 applies and the thing has been seized by the environment officer pursuant to subsection (1), any person in charge of or operating the vehicle shall convey the seized thing to which this Act, the regulations, the code or an Act or regulation mentioned in section 74 applies to any place that the environment officer may direct.

(4) If anything to which this Act, the regulations, the code or an Act or regulation mentioned in section 74 applies is liable to seizure by an environment officer and has been mixed with other similar products so as to render it impractical or difficult to distinguish or separate the thing from the other products or materials with which it is mixed, all of those products or materials so mixed may be seized.

(5) If an environment officer has custody of anything to which this Act, the regulations, the code or an Act or regulation mentioned in section 74 applies that is seized pursuant to subsection (1) and that is perishable or susceptible to deterioration, the minister, the ministry or the environment officer may dispose of it, in whole or in part, in any manner approved by the minister, and any proceeds realized from the disposition are to be dealt with in the manner set out in the regulations.

“Forfeiture

80.2 If a person is convicted of a contravention of this Act, the regulations, the code or an Act or regulation mentioned in section 74, the convicting court may order that any item or thing or vehicle seized in connection with the offence is forfeited to the Crown and is to be disposed of in a manner approved by the minister”.

New section 83**14 Section 83 is repealed and the following substituted:****“Public information**

83(1) Subject to subsections (3) to (11), all applications, information, data, test results, reports, returns and records and responses to a direction of the minister submitted to the minister pursuant to this Act, the regulations, the code or an accepted environmental protection plan are deemed to be public information.

(2) The minister may disclose to the public any application, information, data, test result, report, return or record or response to a direction of the minister mentioned in subsection (1) at any time and in any manner that the minister considers appropriate.

(3) Subject to the regulations, a person who submits an application or any information, data, test result, report, return or record or responds to a direction of the minister pursuant to this Act may request in writing that all or any part of the application, information, data, test result, report, return, record or response be kept confidential for a period of up to 5 years after the date of submission.

(4) Before the expiry of the period mentioned in subsection (3) or, if a request by that person has been approved pursuant to this subsection, before the expiry of the most recent period, the person may request in writing that the application, information, data, test result, report, return, record or response be kept confidential for a further period of up to 5 years.

(5) A request made pursuant to this section is to be dealt with in the prescribed manner.

(6) On receipt of a written request pursuant to subsection (3) or (4), the minister may approve the request if the minister is satisfied that the application, information, data, test result, report, return, record or response:

(a) contains matters that:

- (i) are of a commercial, financial, scientific or technical nature; and
- (ii) would reveal proprietary business, competitive or trade secret information about that person’s business; or

(b) meets any prescribed criteria.

(7) If the minister does not approve the written request pursuant to subsection (3) or (4), the minister shall:

(a) notify the person who made the request of the minister’s decision along with reasons for the decision; and

(b) wait for a period of 30 days after sending the notice mentioned in clause (a) before disclosing the application, information, data, test result, report, return, record or response with respect to which the request was made to the public.

(8) A person who makes a request pursuant to subsection (3) or (4) may appeal the minister’s decision made pursuant to subsection (7) on a question of law to a judge of the Court of Queen’s Bench within 30 days after the date of service of the decision.

(9) The record of an appeal pursuant to subsection (8) consists of:

(a) the application, information, data, test result, report, return, record or response to a direction of the minister with respect to which the request was made;

- (b) the written representations made to the minister by the person concerning the request that the person made;
 - (c) the minister’s decision; and
 - (d) any other material that the Court of Queen’s Bench may require.
- (10) On hearing an appeal pursuant to this section, the judge of the Court of Queen’s Bench may issue an order:
- (a) confirming the minister’s decision to disclose the application, information, data, test result, report, return, record or response to the public; or
 - (b) directing that all or any portion of the application, information, data, test result, report, return, record or response with respect to which the request was made be kept confidential for a period of up to 5 years.
- (11) Unless otherwise ordered by the judge of the Court of Queen’s Bench, an appeal pursuant to this section stays the operation of the decision of the minister with respect to which the appeal is made”.

Section 98 amended

15 Clause 98(1)(fff) is amended:

- (a) by adding “and” after subclause (i);
- (b) by striking out “and” after subclause (ii); and
- (c) by repealing subclause (iii).

Schedule, New Table 1

16 Table 1 of the Schedule is repealed and the following substituted:

“TABLE 1
[Section 24]

Activities for which a permit is required

Item	Activity
1.	Operation of a waterworks
2.	Construction or alteration of all or part of a water treatment works
3.	Construction, alteration or extension of all or part of a water distribution works, other than construction, alteration or extension of all or part of a water distribution works that is governed by a chapter of the code
4.	Operation of a sewage works
5.	Construction or alteration of all or part of a sewage treatment works
6.	Construction, alteration or extension of all or part of a sewage collection works, other than construction, alteration or extension of all or part of a sewage collection works that is governed by a chapter of the code

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Coming into force

17 This Act comes into force on assent.

SECOND SESSION

Twenty-eighth Legislature

SASKATCHEWAN

B I L L

No. 83

An Act to amend *The Environmental Management
and Protection Act, 2010*

Received and read the

First time

Second time

Third time

And passed

Honourable Dustin Duncan
