



About Right to Practice

[More Information.](#)

March, 2011

Dear Members:

During the month of December 2010, ASFP membership meetings were held in Prince Albert, Meadow Lake and in Hudson Bay to discuss the developing Saskatchewan Environmental Code and how it addresses qualified persons.

Several professional associations have been involved in discussions to date with the Ministry regarding the Saskatchewan Environmental Code development. These associations include those with an existing "right to practice" such as professional engineers (including environmental engineers) and agrologists. We are currently awaiting a response from the Ministry of Justice & Attorney General advising the ASFP on what they would consider a "qualified person" and how this may impact the ASFP membership, being a "right-to-title association.

The result of the December ASFP membership meetings is that the majority of members attending was receptive in moving towards the "right to practice", or was cautiously receptive if more information could be provided. In January, Council formed an ad-hoc committee to obtain this additional information and/or to prepare a course of action to obtain the answers for questions raised during these meetings. For your review is this committee's initial work and proposed actions to address the outstanding questions.

I also invite you to attending the Annual General Meeting to be held April 12, 2011 in Prince Albert. At the Annual General Meeting the topic of "right to practice" will be more thoroughly discussed. Further information about the AGM will be provided in the near future by our organizing committee.

Yours Truly,

Pat Mackasey,
President

A Message from “Right to Practice Committee”

Dear Members:

Our committee was asked to provide additional information to the membership about the Right to Practice and what it would mean to our members.

It is known that the initial chapters of the Saskatchewan Environmental Code are scheduled to be proclaimed in June, 2011. This quick pace of code development by government will result with some of our committee’s questions being left unanswered or answered with limited or no available time to respond. Our specific questions and concerns are:

- What persons will be deemed as “qualified person” for forestry-related operations and which tasks, will (if any) include the involvement of Forestry Professionals?
- Our committee is also concern that since our organization is “right to title”, the Ministry of Justice & Attorney General along with other levels of government may not recognize our members as qualified persons in the Saskatchewan Environmental Code.

Members from our committee and Council have been meeting with key government officials at several different levels to obtain clarification on these two important concerns. We will be sharing information with members as we become further informed.

Meanwhile, several questions were raised during the ASFP membership meetings held in December, 2010. Using the most current information available to our committee, the following responses and action plans are provided. We also encourage members to re-read the fall 2010 hand out “Questions: Right to Title, Right to Practice” which is on the ASFP website

1. Professional Liability and a need for a greater understanding of the possible need for it, (possibly a lawyer to provide information).

Obtaining Professional Liability Insurance is a personal choice based on the member's evaluation of risk and possible loss.

As a forestry professional, you need to understand your rights and obligations under the *Forestry Professionals Act*, along with the association's bylaws, the Code of Ethics, policies and guidelines, and abide by them.

Members can protect themselves by maintaining competence in their area of practice, and by following our continuing competency program. Members should also practice due diligence in their work. Many due diligence processes are already in place at many worksites and are part of daily business.

The "Fall 2010 hand out "Questions: Right to Title, Right to Practice" (which is on the ASFP website) includes a discussion on professional liability insurance, and costs. Individuals can also contact Jordan Fellner directly at (604) 899-3939 of **Hub International** who can answer your questions in detail. Hub International is the leading provider of professional liability insurance, (which covers errors, omissions for negligent acts) for most forestry professionals in Western Canada.

2. Clarification from the Ministry of Justice & Attorney General is needed and their interpretation as how our members will be viewed in the Code as qualified persons

The committee is awaiting clarification from the Ministry of Justice & Attorney General through the Code Development Committee to determine if organizations with "right to title" will be excluded from the code. A response was just received from the Ministry of Environment and the ASFP has been advised that no decision has been made regarding the application of Qualified Persons. The ASFP will continue to work closely with both Ministries in this regard and keep the membership informed of anything new.

3. Will there be any changes to entrance requirements?

The current process to apply for registration in the ASFP will not change. Further information on the registration process can be found on the ASFP website.

4. Will the fees for the association go up?

There are no immediate reasons for fee increases should the association becomes "right to practice". The ASFP has been establishing a contingency reserve for several years to assist with any unforeseen expenses.

5. What are the activities covered under the Code?

At this time there are three Forestry Chapters and two other related chapters under development regarding beaver dams and water course crossing (e.g. culverts, structure installation/maintenance). The development of a code content committee to tackle linear corridor code chapter for development/issues is also currently being formed. The Forestry Code Content Committee believes three forestry code chapters will be recommended for approval in June 2011, with over 20 more forestry-related chapters to be developed over the next several years. Current status on these Forestry Codes chapters is:

- The Forestry Content Committee has submitted three code chapters: the Forest Regeneration Assessment Code Chapter, Forest Data Submission Code Chapter and Operating Plan Code Chapter to the Code Secretariat;
- Two of the code chapters have been accepted in principle by the Code Development Committee: the Forest Regeneration Assessment and Forest Data Submission Code Chapters;
- The Forestry Code Content Committee has included provision of the definition of a Qualified Person in all three code chapters developed to date although by existing legislation the definition of Qualified Person is only required in the Operating Plan Code Chapter.;
- The Forestry Code Content Committee has strongly recommended that the definition remain in all three chapters but inclusion of the definition may not survive the final 'cut' as inclusion is dependent on legal interpretation(s) from justice; and
- It is anticipated that over the course of time all forestry related activities (e.g. Forest Management Planning, Scaling, Natural Forest Patterns, FMA Standards and Guidelines, etc.) will be written to code within the auspices of the Saskatchewan Environmental Code.

6. What are the interdisciplinary aspects of the Saskatchewan Environmental Code – what chapters, what other disciplines and what other professional associations are involved?

The ASFP believes there will be many aspects of forestry activities that will fall into the interdisciplinary aspects of the Saskatchewan Environmental Code. Some examples included roads, water crossing structures, linear corridors and some elements of forest management plans (e.g. wildlife habitat-caribou, archaeology, soil productivity, etc). These interdisciplinary activities may involve professional disciplines such as engineers, agrologists, biologists and ecologists,

of which some have “right to practice” in Saskatchewan (e.g. engineers and agrologists).

The interdisciplinary code chapters will involve several industry and/or regulatory sectors during the code development including urban municipalities, rural municipalities, forestry, mining, energy (oil and gas sector), energy (Sask. Power and Sask. Energy), transportation (e.g. Ministry of Infrastructure and Highways). We must also be aware that the environment aspect (NGOs and ENGOs) will also participate and review/comment on all aspects of chapters of the Saskatchewan Environment Code.

The Forestry Code Content Committee feels the definition of a Qualified Person with respect to forestry related chapters can be transposed into interdisciplinary code chapters verbatim. Thus, regarding a ‘qualified’ forestry professional the definition of that qualified forestry professional will remain constant in all Saskatchewan Environmental Code Chapters whether they are directly related to forestry or are interdisciplinary code chapter.

7. There is a need for the ASFP to be proactive in the development of the Code and assessment of the implications to our members?

The ASFP has been actively involved with the ministry regarding the new results-based reform initiative since the beginning and have representation on both the Code Development and Forestry Code Content committees. A guiding principle the Association has applied to this work is that “Forestry-related work currently completed by our members should continue to be done by our members”.

To be effective our committee believes the ASFP needs to consider the following to ensure members have a clear understanding of the implications to them.

- A. If moving to a “right to practice” regime, ensure that there is political support for this move on behalf of the Provincial government.
- B. Ensure that there is support within both the ministries of Environment and Justice for the ASFP to move to ‘right to practice’.
- C. There needs to be clear definitions of what the ‘right to practice’ means:
 - There needs to be a clear definition of what a qualified person is;
 - There needs to be a clear understanding of which pieces of the code or new legislation require a qualified person or are applicable for ‘right to practice’;
- D. Ensure that continuing competency requirements are strong enough to support ‘right to practice’ requirements and that individual’s maintain their competency;

- E. Ensure a clear understanding of liability as it relates to the ASFP. The Association needs to understand what liabilities or accountability it is taking on (or is being off-loaded) from the government during the move to results-based regulations and the right to practice. For example, the 'right to practice' may need to include ASFP guidelines for policy interpretation, education and experience;
- F. Consideration should be given to how non-members or small businesses are affected by the 'right to practice' in application of the code. This doesn't mean that individuals currently doing these tasks who are not a forestry professional become prohibited from working. Their work would now have to be supervised/reviewed by a forestry professional prior to submission. This oversight by a forestry professional provides the public and government with assurance that the work was done correctly. For supervisors this is really no change to their normal project or staff supervision; and
- G. There should be some consideration given to ensuring that council is made up of a diverse group of membership. Diversity should include but not be limited to young and old, experience vs. non experience, government, industry and small business members, etc.

8. **How will a change to 'Right to Title' affect members**

For the most part, members will still have the same responsibilities and accountabilities as defined under the current legislation. For example, admission requirements, competency requirements, ethical behaviour, being subject to complaint, investigation, and discipline will still all apply. However, the enhanced designation may also bring subtle changes in perception and regulatory status.

For example:

- The 'Right-to-Practice' designation would also put Saskatchewan's professional foresters and forest technologists on an equal footing with those professionals in other jurisdictions such as British Columbia, Alberta, Ontario, and Quebec and bring greater respect and recognition of the designations: RPF and RPFT;
- Greater confidence and trust in the conduct and practice of forestry activities is anticipated from regulators. This could translate into less review and regulatory requirements for individuals with the professional designation of RPF or RPFT due to their professional requirements of ethical behaviour, competence, commitment to continuing education, and accountability which are established for the protection of the public. It is also expected that RPF's

and RPFT's could also be designated as 'qualified individuals' as is currently being discussed under the provincial Environmental Code; and

- Related to the second point, it is expected that some RPF's or RPFT's will be required to sign and or seal specific documents to attest that they have been prepared by a qualified individual or under the supervision of one.

9. How will a Change Affect the Association?

Administrative and regulatory activities and responsibilities of the association will largely remain the same. However, due to enhanced accountability and responsibility of certain members for the work of others, it is suspected that previously unregistered foresters or forest technologists may be encouraged or required to register, especially if the employer and/or the supervising RPF/RPFT do not wish to assume the increased responsibility and liability for their work. Other provincial self-regulating professions anticipated an increase in membership during the transition from Right-to-Title to Right-to-Practice.

10. Does the age of our organization affect our ability to transition from a "Right-to-Title" to "Right-to-Practice" organization?

The ASFP was officially established almost six years ago. Since then, the Association has completed the initial registration of members, established a continuing education program, formalized the professional conduct and disciplinary process and built a contingency fund. The written exam is now ready for new entrants and the ASFP is an active member the Canadian Federation of Professional Foresters Associations (CFPFA). Now that this initial work is completed the ASFP is prepared should it be desired to become a "right to practice" Organization.

Changing the Forestry Professional Act to "right to practice", would require some changes to the Act, completion of numerous internal government legislative steps, followed by placement on the order paper for the legislature. Bills for the legislature are usually introduce in one sitting, then voted on in following sitting, Proclamation of the passed bill occurs at that time or deferred to later date. For example, changes to FRMA and EMPA have been passed by the legislature with proclamation is pending the passage of the Saskatchewan Environment Code. If this process is to take place, it would likely be initiated after the next provincial election.

11. Do we have support from government officials and others if we requested a change to Right to Practice.

Officials at the Forest Service Branch are supportive; however the level of support at senior management of the Ministry of Environment is not fully known. The committee intends to continue to gather support from various levels of government.