

The Oil and Gas Processing Investment Incentive Regulations

being

Chapter F-13.4 Reg 41 (effective June 6, 2019) as amended by
Saskatchewan Regulations [62/2021](#) and [82/2022](#).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER F-13.4 REG 41
The Financial Administration Act, 1993

Title

1 These regulations may be cited as *The Oil and Gas Processing Investment Incentive Regulations*.

Definitions

2 In these regulations:

“**Act**” means *The Financial Administration Act, 1993*;

“**agreement**” means an agreement entered into pursuant to section 6, and includes an agreement amended pursuant to that section;

“**applicant**” means the person applying for approval of an eligible project pursuant to section 5;

“**associated gas**” means gas that is produced from an oil well;

“**business day**” means a day other than a Saturday, Sunday or holiday;

“**credits**” means transferrable royalty credits earned by the applicant pursuant to subsection 7(2);

“**eligible costs**” means those costs that are described as eligible costs in an agreement and that are incurred on or after January 1, 2018;

“**eligible project**” means a project mentioned in section 4;

“**EOR project**” means any project approved as an EOR project pursuant to:

(a) *The Crown Minerals Act* and the regulations made pursuant to that Act; or

(b) *The Freehold Oil and Gas Production Tax Act, 2010* and the regulations made pursuant to that Act;

“**gas**” means gas as defined in *The Crown Oil and Gas Royalty Regulations, 2012*;

“**minister**” means the minister to whom for the time being the administration of these regulations is assigned;

“**ministry**” means the ministry over which the minister presides;

“**month of production**” means the month in which oil or gas is produced from an oil well;

“**oil**” means oil as defined in *The Crown Oil and Gas Royalty Regulations, 2012*;

“**participant**” means an applicant whose application has been approved pursuant to section 5 and who has entered into an agreement pursuant to section 6;

“**program**” means the Oil and Gas Processing Investment Incentive Program established pursuant to section 3;

“**royalties**” means royalties payable on Crown minerals pursuant to *The Crown Oil and Gas Royalty Regulations, 2012*;

“**taxes**” means the taxes imposed by sections 4 and 17 of *The Freehold Oil and Gas Production Tax Act, 2010*;

“**transferee**” means a person to whom credits are transferred in accordance with section 8 and who holds credits;

“**well**” means a well as defined in *The Crown Oil and Gas Royalty Regulations, 2012*.

14 Jne 2019 cF-13.4 Reg 41 s2; 21 May 2021 SR 62/2021 s3.

Program established

3(1) The Oil and Gas Processing Investment Incentive Program is established.

(2) The minister shall administer the program in accordance with these regulations.

14 Jne 2019 cF-13.4 Reg 41 s3.

Eligible projects

4 Subject to these regulations, an oil, gas, associated gas, helium, lithium or chemical fertilizer project is eligible for approval pursuant to these regulations if the applicant satisfies the minister that the project:

- (a) is:
 - (i) a refinery;
 - (ii) an upgrading facility;
 - (iii) a petrochemical facility;
 - (iv) an associated gas commercialization project;
 - (v) an associated gas pipeline gathering system;
 - (vi) a carbon capture utilization and storage for enhanced oil recovery project;
 - (vii) a commercialization of oil and gas production byproducts or waste products project;
 - (viii) a helium processing or liquefaction facility;
 - (ix) a chemical fertilizer facility; or
 - (x) a lithium processing facility.
- (b) will result in a significant increase in processing capacity as determined by the minister;
- (c) involves a minimum investment of \$10 million in eligible costs; and
- (d) has not become operational, as determined by the minister, before the eligible project application is submitted.

14 Jne 2019 cF-13.4 Reg 41 s4; 21 May 2021 SR 62/2021 s4; 10 Nov 2022 SR 82/2022 s3.

Application for approval of eligible project

- 5(1) On or before March 31, 2024, an applicant may apply to have an eligible project approved by submitting an application to the minister that is in a form acceptable to the minister and that contains any information that the minister may require.
- (2) On receipt of an application, the minister:
- (a) may approve the application if the minister is satisfied that the eligible project meets the requirements of these regulations and that it is in the public interest to do so; or
 - (b) may refuse the application.
- (3) If the minister makes a decision pursuant to subsection (2), the minister shall notify the applicant of the minister's decision and, in the case of a decision pursuant to clause (2)(b), provide written reasons for the decision.

14 Jne 2019 cF-13.4 Reg 41 s5.

Applicant to enter into agreement

- 6(1) Subject to subsection (2), after an application has been approved pursuant to clause 5(2)(a) and before credits may be earned, the applicant must enter into an agreement with the minister that is satisfactory to the minister and that contains terms respecting the following matters:
- (a) a description of the eligible project and the eligible costs that may be incurred in carrying out the eligible project;
 - (b) the date for the start of construction and completion of the eligible project;
 - (c) the maximum amount of credits towards the remission of royalties and taxes that may be earned in relation to the eligible project;
 - (d) a schedule for the submission to the minister of evidence that eligible costs have been incurred;
 - (e) an indemnification by the applicant respecting possible claims against the Government of Saskatchewan in relation to the eligible project by persons other than the applicant;
 - (f) the obligations of the applicant in the event that the applicant fails to complete the eligible project by the date specified in the agreement for completion of the eligible project;
 - (g) the confidentiality of information provided to the minister by the applicant;
 - (h) the preparation and submission to the minister of periodic reports;
 - (i) any other matters that the minister considers appropriate.
- (2) If both the participant and the minister consent, they may amend the agreement.

14 Jne 2019 cF-13.4 Reg 41 s6.

Earning credits

- 7(1) In this section, “**approved**” means approved by the minister.
- (2) A participant may earn, in accordance with this section, credits towards the remission of royalties and taxes based on eligible costs incurred by the participant in relation to the eligible project.
- (3) **Repealed.** 21 May 2021 SR 62/2021 s5.
- (4) For the purposes of subsection (2), the participant shall apply to the minister for approval of the eligible costs in a form acceptable to the minister.
- (5) No participant shall apply for approval of any eligible costs until a minimum of \$10 million in eligible costs has been incurred and the eligible project has commenced operations.
- (6) On receipt of an application pursuant to subsection (4), the minister may:
- (a) approve the eligible costs if the participant satisfies the minister that:
 - (i) the participant has met the minimum investment requirement set out in clause 4(c);
 - (ii) the participant has otherwise complied with these regulations;
 - (iii) the costs being claimed are eligible costs as described in the agreement; and
 - (iv) the eligible costs have been incurred by the participant or by others as permitted by section 10; or
 - (b) not approve the eligible costs and, if the minister does so, shall provide written reasons for the decision.
- (7) **Repealed.** 21 May 2021 SR 62/2021 s5.
- (8) If the minister approves the eligible costs pursuant to subsection (6), the minister shall inform the participant in writing of:
- (a) the amount of the approved eligible costs; and
 - (b) subject to subsections (9) and (10), the amount of credits that are earned with respect to those approved eligible costs.
- (9) Subject to subsection (10), the participant may earn credits equal to 15% of the approved eligible costs.
- (10) The maximum amount of credits that a participant may earn for all eligible costs incurred respecting an eligible project is:
- (a) in the case of a project described in subclauses (4)(a)(i) to (viii) and (x):
 - (i) \$75 million; or
 - (ii) if the amount of credits to be earned for the eligible project would result in the total of all credits earned by all participants for all eligible projects described in those subclauses pursuant to the program in accordance with these regulations exceeding \$300 million, the amount that would result in the \$300 million maximum not being exceeded; or
 - (b) in the case of a project described in subclause (4)(a)(ix):
 - (i) \$70 million; or

(ii) if the amount of credits to be earned for the eligible project would result in the total of all credits earned by all participants for all eligible projects described in that subclause pursuant to the program in accordance with these regulations exceeding \$70 million, the amount that would result in the \$70 million maximum not being exceeded.

(11) When informing a participant pursuant to subsection (8) of the credits that are earned, the minister shall advise the participant of the maximum amount of credits that may be earned in accordance with subsection (10).

(12) Credits may be earned for eligible costs respecting an eligible project that were incurred on and after January 1, 2018.

14 Jne 2019 cF-13.4 Reg 41 s7; 21 May 2021 SR 62/2021 s5; 11 Nov 2022 SR 82/2022 s4.

Transfer of credits

8(1) In this section, “**business associate**” means a person who has registered to use the petroleum registry established pursuant to *The Oil and Gas Conservation Act*.

(2) Credits earned by a participant or held by a transferee may be transferred only on approval by the minister.

(3) A transfer of credits may be made only if the person to whom the credits are transferred:

- (a) is a business associate; or
- (b) satisfies the minister that the person will become a business associate.

(4) On transfer of credits approved pursuant to subsection (2), the credits held by the participant or transferee, as the case may be, must be reduced by the amount of credits transferred.

14 Jne 2019 cF-13.4 Reg 41 s8.

Applying credits

9(1) In this section:

“**total credits**” means the credits as determined in accordance with subsection 7(2) less any credits transferred pursuant to section 8;

“**unused credit**” means a credit that has not been applied towards the remission of royalties or taxes.

(2) After an agreement is entered into with respect to an eligible project, the participant or transferee, as the case may be, who holds the credits may apply credits towards the remission of royalties and taxes in accordance with the following rules:

- (a) credits may be applied towards royalties and taxes owed by the participant or transferee;
- (b) after eligible costs are incurred and approved by the minister pursuant to clause 7(6)(a), the participant or transferee may elect to apply credits; and

- (c) the maximum amount of credits that the participant or transferee may claim in the first year in which credits are claimed is:
 - (i) in the case of a participant, 20% of the total credits held by the participant;
 - (ii) in the case of a transferee, the credits transferred to that transferee pursuant to section 8 and held by the transferee;
 - (d) the maximum amount of credits that the participant or transferee may claim in the second year in which credits are claimed is:
 - (i) in the case of a participant:
 - (A) 30% of total credits held by the participant; and
 - (B) any unused credits held by the participant that the participant was entitled to claim pursuant to subclause (c)(i); and
 - (ii) in the case of a transferee:
 - (A) the credits transferred to that transferee pursuant to section 8 and held by the transferee; and
 - (B) any unused credits held by the transferee that the transferee was entitled to claim pursuant to subclause (c)(ii);
 - (e) the maximum amount of credits that the participant or the transferee may claim in the third year in which credits are claimed and in future years is:
 - (i) in the case of a participant, any unused total credits held by the participant; and
 - (ii) in the case of a transferee, any credits transferred to that transferee pursuant to section 8 and held by the transferee that are unused credits;
 - (f) all unused credits expire on March 31, 2035.
- (3) Credits may be applied towards the remission of royalties or taxes when the eligible project is operational, as determined by the minister, but no participant and no transferee shall apply credits towards the remission of royalties or taxes with respect to any month of production before the eligible project is operational.
- (4) If a participant or transferee elects to apply an amount of credits towards the remission of royalties or taxes:
- (a) in the case of a participant, the total credits are reduced by the amount applied; and
 - (b) in the case of a transferee, the credits transferred to that transferee pursuant to section 8 and held by the transferee are reduced by the amount applied.

Other persons

10(1) Eligible costs approved by the minister may include costs for the eligible project that are borne, directly or indirectly, by a person other than the participant, based on contracts or arrangements between the participant and that person.

(2) Neither these regulations nor any agreement creates any right with respect to a credit on the part of any person other than a participant or transferee.

(3) The application of credits towards the remission of royalties or taxes pursuant to these regulations is at the election of the participant or transferee, as the case may be, who holds the credits, and any right that another person may have pursuant to a contract or arrangement with the participant or the transferee is a private right that can only be exercised against the participant or the transferee, as the case may be.

14 Jne 2019 cF-13.4 Reg 41 s10.

Minister to maintain record of credits

11 The minister shall cause a record of the following matters to be maintained in the ministry for each project that the minister approves:

- (a) the eligible costs approved by the minister in relation to the project;
- (b) the credits earned by the participant based on those eligible costs;
- (c) the transfer of credits approved by the minister;
- (d) the amount of credits mentioned in clauses (b) and (c) that a participant or transferee elects to apply from time to time towards the remission of royalties or taxes;
- (e) the balance of credits that a participant or transferee has remaining at any given time.

14 Jne 2019 cF-13.4 Reg 41 s11.

Minister to receive information and access to records

12(1) Every participant shall:

- (a) provide any information to the minister that the minister considers necessary for the purposes of these regulations within the period the minister may specify; and
- (b) permit representatives of the minister to access any records or documents in the possession or control of the participant.

(2) Every transferee shall:

- (a) provide any information to the minister that the minister considers necessary for the purposes of these regulations within the period the minister may specify; and
- (b) permit representatives of the minister to access any records or documents in the possession or control of the transferee.

14 Jne 2019 cF-13.4 Reg 41 s12.

Determination by minister

13(1) Notwithstanding that the minister has approved eligible costs pursuant to section 7, if, after receiving information pursuant to section 12, the minister is not satisfied that the participant has earned all of the credits mentioned in the record maintained pursuant to section 11, the minister shall:

- (a) determine the correct amount of credits that have been earned by the participant; and
 - (b) notify, in writing, the participant and every transferee of the determination.
- (2) The participant or any transferee may, within 20 business days after receiving notice of a determination, request in writing that the minister review the determination.
- (3) After reviewing the determination, the minister:
- (a) may vary or confirm it; and
 - (b) shall notify, in writing, the participant and every transferee of the decision.

14 Jne 2019 cF-13.4 Reg 41 s13.

Maximum application of credits and reimbursement

14(1) No participant or transferee shall transfer or elect to apply more credits towards the remission of royalties or taxes than the participant has earned or the transferee holds.

(2) If a determination by the minister indicates that a participant has transferred or elected to apply more credits towards the remission of royalties or taxes than the participant has earned:

- (a) the minister shall give written notice of the determination to the participant; and
 - (b) the participant shall pay to the minister an amount of money equal to the difference between the amount of credits transferred or applied and the amount of credits earned by the participant.
- (3) The amount to be paid by the participant pursuant to subsection (2) is:
- (a) a debt due to and recoverable by the Government of Saskatchewan and may be recovered in any manner authorized by the Act or in any other manner authorized by law; and
 - (b) deemed to be payable 20 business days after the date on which the participant receives notice of the determination pursuant to subsection (2).
- (4) Subsections (2) and (3) apply to a transferee, with any necessary modification.
- (5) In addition to the amount required to be paid pursuant to subsection (3) or (4), the participant or the transferee, as the case may be, shall pay to the minister interest at the rate set out in subsection (6) on the amount required to be paid that remains outstanding at the end of the 20 business day period.

(6) For the purposes of subsection (5), the rate of interest per annum is the rate that is equal to the sum of:

- (a) the prime lending rate of the bank holding the general revenue fund as determined and adjusted in accordance with this section; and
- (b) 3%.

(7) The interest rate set out in subsection (6) is to be determined on June 15 and December 15 in each year and:

- (a) the interest rate as determined on June 15 applies to any unpaid amount owing on or after July 1; and
- (b) the interest rate as determined on December 15 applies to any unpaid amount owing on or after January 1 of the following year.

14 Jne 2019 cF-13.4 Reg 41 s14.

Publication of policies

15 If the minister establishes policies for the purposes of these regulations, the minister shall cause those policies to be made public in any manner that the minister considers appropriate, including by publishing them on the ministry's website.

14 Jne 2019 cF-13.4 Reg 41 s15.

Notices

16(1) Any notice of a determination or decision that is required to be given or served pursuant to these regulations is to be sent to the participant and every transferee by ordinary mail or by email or in any other manner that the minister considers appropriate to ensure that the participant or transferee receives the notice.

(2) Every notice of a determination or decision sent by ordinary mail or by email pursuant to subsection (1) is deemed to have been received 5 business days after the date on which the minister gave or sent the notice, unless the person to whom the notice is given or sent establishes that, through no fault of that person, the person did not receive the notice or received it at a later date.

(3) For the purposes of this section, a notice may be sent by email only if the person to whom the notice is to be sent:

- (a) has provided the minister with an email address; and
- (b) has agreed to receive notices at that email address.

14 Jne 2019 cF-13.4 Reg 41 s16.

Coming into force

17 These regulations come into force on the day on which they are filed with the Registrar of Regulations.

14 Jne 2019 cF-13.4 Reg 41 s17.

