



Province of Saskatchewan

Order in Council 354/2020

Approved and Ordered: 16 July 2020

Lieutenant Governor

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, makes *The Saskatchewan Chemical Fertilizer Incentive Regulations* in accordance with the attached Schedule.

President of the Executive Council

(For administrative purposes only.)

Recommended by: Minister of Trade and Export Development

Authority: *The Saskatchewan Chemical Fertilizer Incentive Act, section 24*
JAG MM -
08-07-20

SCHEDULE to OC 354/2020

Title

1 These regulations may be cited as *The Saskatchewan Chemical Fertilizer Incentive Regulations*.

Definitions

2 In these regulations:

“**Act**” means *The Saskatchewan Chemical Fertilizer Incentive Act*;

“**new capital expenditures**” means expenditures as described in section 3;

“**qualified person**” means an auditor, engineer or real estate appraiser who is a member in good standing of a professional association recognized by the minister;

“**sustaining capital**” means capital expenditures made for the purpose of replacing a current capital asset if:

- (a) the current asset’s useful life has expired and replacement is necessary to maintain the ongoing viability of the operation;
- (b) the new asset does not improve the efficiency of a process beyond the improvement that can be expected from the replacement of an asset whose useful life has expired with a new, equivalent asset; or
- (c) the new asset is required to adapt to regulatory changes.

Capital expenditures

3(1) For the purposes of section 6 of the Act, “**new capital expenditures**” means expenditures made by an applicant with respect to the arm’s length acquisition of any real property and depreciable property that is to be used in Saskatchewan primarily for eligible chemical fertilizer production, and include:

- (a) subject to clause (1), the land on which the eligible activity takes place;
- (b) the capitalized costs of qualified professional services associated with the new capital expenditures; and
- (c) the capitalized costs of installation of the depreciable property or of a capital lease;

but does not include expenditures with respect to the following:

- (d) sustaining capital;
- (e) automobiles and automotive equipment, including powered industrial lift trucks;

- (f) office equipment;
- (g) furnishings;
- (h) portable tools, machinery and equipment;
- (i) power operated movable equipment for excavating, moving, placing or compacting earth, rock, concrete or asphalt;
- (j) intellectual property;
- (k) non-capital lease costs;
- (l) in the case of the acquisition of land mentioned in clause (a), any excess land, as determined by a qualified person, that the applicant may be able to re-sell, offer for lease or develop for a purpose unrelated to the existing facility or new facility that is the subject of the application.

(2) In determining the amount of an applicant's capital expenditures for the purposes of subsection 6(4) of the Act, the minister shall use the lesser of the applicant's actual cost and the fair market value of the property acquired or services rendered.

(3) For the purpose of subsection (2), the applicant must provide evidence satisfactory to the minister with respect to its actual costs.

(4) For the purposes of this section, "fair market value" means the fair market value as determined by the minister based on the report of a qualified person or another person who is satisfactory to the minister.

Review of application

4(1) In the case where a new facility is constructed or an existing facility is expanded solely for the purpose of carrying on all or any of the following activities, that activity is not eligible chemical fertilizer production for the purposes of the requirement set out in subclause 6(1)(a) of the Act:

- (a) bagging, handling, or storage of fertilizer;
- (b) fertilizer production for which potash is the primary feedstock;
- (c) production of fertilizer that can be classified as a blend, having any of the following characteristics:
 - (i) differences in size, shape or density;
 - (ii) segregated granules;
 - (iii) uneven distribution of nutrients.

(2) For the purposes of clause 6(1)(b) of the Act, the applicant must satisfy the minister that it has made at least \$10,000,000 in eligible new capital expenditures.

Interest rate re recovery of overpayment or tax credit to which eligible applicant not entitled

5(1) For the purpose of clause 20(1)(c) of the Act, the rate of interest per annum with respect to the recovery of an SCFI tax credit claimed by an eligible applicant to which that eligible applicant was not entitled is the rate 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%.

(2) The interest rate set out in this section 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 interest on the amount of the tax credit mentioned in the certificate filed pursuant to clause 20(1)(c) of the Act accruing from July 1; and

(b) the interest rate as determined on December 15 applies to interest on the amount of the tax credit mentioned in the certificate filed pursuant to clause 20(1)(c) of the Act accruing from January 1 of the following year.

Service of notice or documents

6 In addition to the methods mentioned in subsection 23(1) of the Act, any notice, decision or other document required to be given or served may be served:

(a) by email to the last email address provided to the minister by the person to be served; or

(b) by any other manner of electronic submission that is satisfactory to the minister.

Coming into force

7(1) Subject to subsection (2), these regulations come into force on the day on which section 1 of *The Saskatchewan Chemical Fertilizer Incentive Act* comes into force.

(2) If these regulations are filed with the Registrar of Regulations after the day on which section 1 of *The Saskatchewan Chemical Fertilizer Incentive Act* comes into force, these regulations come into force on the day on which they are filed with the Registrar of Regulations.