

*The
Critical Minerals
Processing Investment
Incentive
Regulations*

being

[Chapter F-13.4 Reg 50](#) (effective July 25, 2024;
expires on March 31, 2041).

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 50

The Financial Administration Act, 1993

Title

1 These regulations may be cited as *The Critical Minerals 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;

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

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

“**eligible costs**” means those costs that are described as eligible costs in an agreement;

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

“**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;

“**participant**” means, except for the purposes of subclause 7(8)(b)(ii), 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 Critical Minerals Processing Investment Incentive Program established pursuant to section 3;

“**qualifying material**” means any or all of the following:

- (a) aluminum;
- (b) cobalt;
- (c) copper;
- (d) gallium;
- (e) helium;
- (f) lithium;
- (g) magnesium;
- (h) natural graphite;
- (i) nickel;
- (j) rare earth elements;
- (k) zinc;

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“royalties” means royalties payable on:

- (a) Crown minerals pursuant to *The Crown Oil and Gas Royalty Regulations, 2012*; and
- (b) helium and associated gases pursuant to section 9-26 of *The Oil and Gas Tenure Registry Regulations*;

“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.

2 Aug 2024 cF-13.4 Reg 50 s2.

Program established

- 3(1) The Critical Minerals Processing Investment Incentive Program is established.
- (2) The minister shall administer the program in accordance with these regulations.

2 Aug 2024 cF-13.4 Reg 50 s3.

Eligible projects

4 Subject to these regulations, a project is eligible for approval pursuant to these regulations if the applicant satisfies the minister that the project:

- (a) is:
 - (i) an aluminum processing, refining or smelting facility;
 - (ii) a cobalt processing or refining facility;
 - (iii) a copper processing or refining facility;
 - (iv) a gallium processing, refining or purification facility;
 - (v) a helium processing or liquefaction facility;
 - (vi) a lithium processing or refining facility;
 - (vii) a magnesium processing or refining facility;
 - (viii) a natural graphite processing, refining or purification facility;
 - (ix) a nickel processing or refining facility;
 - (x) a rare earth elements processing or refining, or a magnet manufacturing, facility; or
 - (xi) a zinc processing or refining 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;
- (d) has not become operational, as determined by the minister, before the eligible project application is submitted; and
- (e) is being undertaken by an applicant that is not:
 - (i) a government, ministry, board, commission or any other agent or subsidiary of the Crown or of the Crown in right of Canada; or
 - (ii) a not-for-profit corporation.

2 Aug 2024 cF-13.4 Reg 50 s4.

Application for approval of eligible project

5(1) On or before March 31, 2029, 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.

2 Aug 2024 cF-13.4 Reg 50 s5.

Applicant to enter into agreement; expiry of approval

6(1) Subject to subsections (2) to (5), 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 dates 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.

(3) An applicant whose application is approved but who has not entered into an agreement with the minister in accordance with subsection (1) within 2 years after the day on which that application is approved must, within 60 days after the 2-year anniversary of that approval, provide to the minister a project update that:

(a) confirms that contracts to begin construction on the eligible project are signed; or

(b) includes other evidence satisfactory to the minister that the applicant intends to enter into an agreement with the minister in accordance with this section.

- (4) If an applicant fails to provide the minister with a project update pursuant to subsection (3), the minister's approval given pursuant to clause 5(2)(a) is deemed expired.
- (5) An applicant whose approval is deemed expired pursuant to subsection (4) may reapply to have an eligible project approved and, in that case, subsection 5(1) applies, with any necessary modification.

2 Aug 2024 cF-13.4 Reg 50 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) 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.
- (4) 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.
- (5) On receipt of an application pursuant to subsection (3), 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 subsection (4);
 - (ii) the participant has otherwise complied with these regulations and the agreement;
 - (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) refuse to approve the eligible costs and, if the minister does so, shall provide written reasons for the decision.
- (6) If the minister approves the eligible costs pursuant to subsection (5), the minister shall inform the participant in writing of:
- (a) the amount of the approved eligible costs; and
 - (b) subject to subsections (7) and (8), the amount of credits that are earned with respect to those approved eligible costs.
- (7) Subject to subsection (8), the participant may earn credits equal to 15% of the approved eligible costs.
- (8) The maximum amount of credits that a participant may earn for all eligible costs incurred respecting an eligible project is the lesser of:
- (a) \$75 million; and

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(b) if the amount of credits to be earned for the eligible project would result in the total of all credits earned by all participants:

(i) for all eligible projects pursuant to the program in accordance with these regulations; and

(ii) for all eligible projects within the meaning of *The Oil and Gas Processing Investment Incentive Regulations* for which agreements have been entered into with the minister pursuant to section 6 of those regulations;

exceeding the maximum aggregate amount of \$500 million, the amount that would result in that maximum aggregate amount not being exceeded.

(9) When informing a participant pursuant to subsection (6) 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 (8).

(10) Credits may be earned for eligible costs respecting an eligible project that were incurred:

(a) in the case of helium and lithium projects, on and after January 1, 2018; and

(b) in the case of eligible projects respecting any qualifying material other than helium and lithium, on and after April 1, 2024.

2 Aug 2024 cF-13.4 Reg 50 s7.

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.

2 Aug 2024 cF-13.4 Reg 50 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.

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(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(5)(a), the participant or transferee may elect to apply credits;
- (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; and
 - (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 the 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 subsequent years is:
 - (i) in the case of a participant, any unused 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, 2040.

(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.

2 Aug 2024 cF-13.4 Reg 50 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 eligible 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.

2 Aug 2024 cF-13.4 Reg 50 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.

2 Aug 2024 cF-13.4 Reg 50 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 participant 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 participant of the decision.

2 Aug 2024 cF-13.4 Reg 50 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.

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(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.

2 Aug 2024 cF-13.4 Reg 50 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.

2 Aug 2024 cF-13.4 Reg 50 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 of the participant 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.

2 Aug 2024 cF-13.4 Reg 50 s16.

Coming into force and expiry

17(1) These regulations come into force on the day on which they are filed with the Registrar of Regulations.

(2) These regulations expire on March 31, 2041.

2 Aug 2024 cF-13.4 Reg 50 s17.

