The Potash Production Tax Regulations

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Chapter M-17.1 Reg 6 (effective January 1, 1990) as amended by Errata Notices Gazetted January 5, 1990, February 16, 1990, and May 29, 1992, and by Saskatchewan Regulations 98/91, 79/96, 95/96, 21/99, 115/2003, 89/2005, 125/2010, 86/2013, 107/2013, 77/2015, 67/2017, 121/2017, 81/2018, 36/2019, 122/2020, 137/2020 and 69/2022.

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CHAPTER M-17.1 REG 6

The Mineral Taxation Act, 1983

PART I
Title and Interpretation

Title

1 These regulations may be cited as *The Potash Production Tax Regulations*.

Interpretation

2(1) In these regulations:

(a) **"accelerated capital"** for a year of a producer means the amount calculated pursuant to subsections (8.3) to (8.32);

(a.1) **"Act"** means *The Mineral Taxation Act, 1983*;

(a.2) **"adjusted base tonnes"** means the base tonnes of the producer multiplied by the common industry adjustment factor for the year;

(b) **"administrative and corporate expenditures"** means expenditures of an administrative, overhead, financial, general or management nature that are incurred by a producer or an affiliate of a producer and includes:

(i) directors' fees and expenses;

(ii) legal and auditing fees and expenses;

(iii) management fees;

(iv) corporate licensing or registration fees;

(v) donations, other than to religious, charitable, educational or similar non-profit organizations in Saskatchewan;

(vi) research and development costs, except approved research and development costs eligible for credit and mine research and development costs;

(vii) expenditures for corporate relations, including association fees and expenditures for advertising and public affairs activities and membership fees for the corporation or employees;

(viii) expenditures for the functions of a corporate comptroller's department, finance department and treasury department;

(ix) costs of personnel management and industrial relations;

(x) fees and expenses of consultants who perform work related to legal, audit or accounting matters, data processing or computer systems, executive pension plans, profit-sharing plans, taxes or royalties; and

(xi) salaries and benefits and severance packages of corporate officers and key management personnel and their immediate staff, and any other costs associated with their offices, including transportation and relocation costs associated with their employment and severance packages;

but does not include expenditures that are incurred at a place in Saskatchewan where production occurs and are solely attributable to potash produced from a mine;

(c) **"affiliate"** means an affiliated body corporate within the meaning of subsection 2(2) of *The Business Corporations Act*, but does not include an industry sales organization that would otherwise be an affiliate within the meaning of this clause;

(c.1) **"affiliate producer"** means an affiliate of the producer that is also a producer of potash in Saskatchewan as defined in clause 2(d) of the Schedule;

(d) **"annual productive capacity"** means the rate, expressed in tonnes of product per year, at which a mine can reasonably be expected to produce saleable potash, determined in accordance with section 3;

(e) **"approved market development costs"** for a year means, subject to subsection (3), the costs and expenses that are incurred by a producer during the year for the purpose of developing new markets for potash or expanding existing potash markets pursuant to a program that has the prior written approval of the minister;

(e.1) **"approved remote asset"** means a capital asset that is:

(i) located outside Saskatchewan;

(ii) acquired by a producer or an affiliate of the producer;

(iii) for use in the producer's Saskatchewan potash operations; and

(iv) approved in writing by the minister;

(e.2) **"approved remote capital"** means the difference between:

(i) the total of:

(A) subject to the prior written approval of the minister, the capital cost of approved remote assets; and

(B) the amount calculated pursuant to subclause 7(1)(b)(iii) for all previous years; and

(ii) the total of:

(A) the depreciation allowance calculated by the producer pursuant to subsection 8(8) for all previous years; and

(B) the proceeds of disposition of any asset described in clause (e.1);

(e.3) **"approved remote costs"** means, subject to the prior written approval of the minister, all costs, charges and expenses incurred outside Saskatchewan by a producer and its affiliates that relate to the use of approved remote assets in the producer's Saskatchewan potash operations, including:

(i) operating costs of the approved remote asset;

(ii) loading and unloading costs of Saskatchewan potash at an approved remote asset;

(iii) real property taxes on an approved remote asset, if the asset is used to store, treat, ship or otherwise handle Saskatchewan potash; and

(iv) a depreciation allowance for the approved remote asset, calculated pursuant to subsection 8(8);

(f) **Repealed.** 17 Oct 2003 SR 115/2003 s3.

(g) **"approved research and development costs"** for a year means, subject to subsection (4), the costs and expenses that are incurred by a producer, prior to January 1, 1998, in Saskatchewan during the year pursuant to a program of potash-related research and development that has the prior written approval of the minister;

(h) **"approved research and development costs eligible for credit"** for a year means:

(i) subject to subsection (5), the costs that are incurred in or outside Saskatchewan by a producer and its affiliates during the year respecting potash-related research and development and that are directly attributable to the mine, including expenditures with respect to the demonstration of new technology prior to its commercial application, for projects that:

(A) are intended to improve production efficiency, mitigate environmental impacts, reduce the risk associated with mining, or develop new or improved products;

(B) contain an element of technical innovation; and

(C) have received the prior written approval of the minister;

less:

(ii) subject to subsections (5.1) and (5.2) any subsidy, grant or other reimbursement of these expenditures received by the producer and its affiliates; and

(iii) subject to subsections (5.1) and (5.2) any amounts received by the producer and its affiliates for the sale of technology, where the costs of developing the technology were deducted in calculating profits pursuant to clause 7(2)(o) or deducted in calculating profit tax pursuant to clause 19(1)(c) in the current or any previous year, but reductions to approved research and development costs eligible for credit pursuant to this subclause for all years must not exceed the total cost of developing the technology;

(i) **"average quarterly price index"** means, subject to subsection (6), the implicit price index for the year published as GDP at market value in the table of "Gross domestic product: Price indexes" in the *Bank of Canada Review*;

(j) **"base payment"** means the base payment mentioned in clause 4(a) of the Schedule;

(j.1) **"base tonnes"** means, subject to clause 26(1)(c):

(i) in the case of a producer that had production and sales in 2001 and 2002, the average quantity of potash sold or otherwise disposed of from the mines of the producer in 2001 and 2002, expressed in K_2O tonnes; or

(ii) in the case of a producer that did not have production and sales in 2001 and 2002 and that has an interest or a beneficial interest in any mines that began commercial production after 2002, the lesser of:

(A) 1 000 000 K_2O tonnes; and

(B) the number of tonnes, BT, calculated in accordance with the following formula:

$$BT = \sum_{i=1}^{n} V_i$$

where:

i is a mine in which the producer has an interest or a beneficial interest that began commercial production after 2002;

n is the number of mines that began commercial production after 2002 in which the producer has an interest or a beneficial interest; and

V is, with respect to the ith mine, either:

(I) if the total annual quantity of potash sold or otherwise disposed of from the mine in the current year or in any previous year by all producers with an interest or a beneficial interest in the mine exceeds 1 333 333 K_2O tonnes, that producer's percentage interest in the total quantity of potash sold or otherwise disposed of in the current year from that mine multiplied by 1 000 000 K_2O tonnes; or

(II) in all other cases, 75% of the quantity of potash sold or otherwise disposed of by that producer in the current year from that mine, expressed in K_2O tonnes;

(k) **"beginning of commercial production"** of a mine means the earlier of:

(i) the first day of the month that immediately follows a period of three consecutive months in which production equalled or exceeded 10% or more of its planned annual productive capacity as approved in writing by the minister; or

(ii) the first day of any other month in which, in the opinion of the minister, production at a mine begins in reasonable commercial quantities;

(l) **"beneficial interest"** means, with respect to a mine, a right to production from the mine or a right to proceeds from production from the mine;

(m) **"Canadian generally accepted accounting principles"** means:

(i) for any time prior to January 1, 1985, Canadian generally accepted accounting principles as they existed on July 1, 1979;

(ii) for the period commencing on January 1, 1985 and ending on December 31, 1989, Canadian generally accepted accounting principles as they existed on January 1, 1985; and

(iii) on and from January 1, 1990, Canadian generally accepted accounting principles currently in effect;

(n) **Repealed.** 17 Oct 2003 SR 115/2003 s3.

(o) **"capital asset"** means any real or personal property, whether tangible or intangible, including any plant or equipment, that:

(i) in accordance with Canadian generally accepted accounting principles, is properly treated as a capital asset;

(ii) is held for use in the production or supply of goods or services; and

(iii) is expected to be used during more than one year;

but does not include:

(iv) any interest in land or mineral rights; or

(v) any property that, in the opinion of the minister, is properly referable to the production of any product other than potash;

(p) **"capital cost"** means the total of the following:

(i) where:

(A) a capital asset is acquired from a person dealing at arm's length with the producer, the purchase price of the capital asset;

(B) a capital asset is acquired from an affiliate or from a person not dealing at arm's length with the producer, the lesser of:

(I) where the affiliate or person purchased the asset in an arm's-length transaction, the purchase price of the capital asset paid by the affiliate or person, or, where the affiliate or person constructed the asset, the cost of construction; and

(II) the carrying value of the asset on the financial statements of the affiliate or person on the day on which the producer acquires title to the asset;

(B.1) a capital asset is constructed by the producer, the cost of construction; or

(C) a capital asset is approved as an approved remote asset subsequent to its acquisition, the lesser of:

(I) where the capital asset was acquired from a person dealing at arm's length with the producer and its affiliates, the amount that would be determined pursuant to paragraph (A);

(II) where a capital asset was acquired from an affiliate, the amount that would be determined pursuant to paragraph (B); and

(III) the carrying value of the capital asset on the financial statements of the producer or its affiliates at the time of the approval; and

(ii) all freight costs, installation charges and other costs incurred by the producer and its affiliates for the purpose of putting the asset in place for the producer, including:

(A) the costs of employee wages and benefits arising from the construction or acquisition of the asset;

(B) the costs of site preparation;

(C) initial delivery and handling costs;

(D) assembly costs;

(E) the net costs of testing the asset;

(F) the costs of services to provide health, safety and security during installation; and

(G) the cost of contractors, subcontractors, trades and subtrades;

but does not include:

(iii) any profit, gain, commission or overhead to an affiliate providing capital assets to a producer;

(iv) the cost of any capital asset, other than approved new mines or expansions, until that asset is in use;

(v) except for approved remote assets, the cost of any asset that is not located in Saskatchewan;

(vi) except for approved remote assets, the cost of any asset that is not used exclusively with respect to potash produced from a mine;

(vii) the cost of feasibility studies, except those related to approved new mines and expansions;

(viii) interest;

(ix) operating costs, operating losses or deficits;

(x) administrative and corporate expenditures;

(xi) fees or expenses for legal or accounting services; or

(xii) the cost of directly or indirectly acquiring from a person who is not dealing with the producer at arm's length, any interest or right under or in relation to any patent, copyright, trademark, industrial design or other form of intellectual property or similar intangible;

(p.1) **"common industry adjustment factor"** means the amount obtained by applying the following formula:

$$\frac{[B + (0.35 \times C)]}{(B + C)}$$

where:

(i) B is the sum of the base tonnes of all producers pursuant to subclause (j.1)(i) in the previous year; and

(ii) C is the sum of the base tonnes of all producers pursuant to subclause (j.1)(ii) in the previous year;

(q) **"concentration ratio"** means the amount obtained by applying the formula:

$$\frac{P}{O \times R}$$

where:

(i) O is the ore grade expressed as a decimal fraction of the average K_2O content of the ore;

(ii) P is the product grade expressed as a decimal percentage of the average K_2O content of the product; and

(iii) R is the recovery factor expressed as a decimal fraction of the recovery of potash product from the ore;

(q.1) **"cost of construction"**, with respect to a capital asset, includes:

(i) the costs of employee wages and benefits arising from the construction of the asset;

(ii) direct material costs related to the construction of the asset;

(iii) the costs of site preparation related to the construction of the asset;

(iv) initial delivery and handling costs of parts and materials related to the construction of the asset;

(v) the net costs of testing the asset;

(vi) indirect construction costs that are required for the construction of the asset but that cannot be individually traced to the constructed asset, including power, supplies, materials, construction labour and project management;

(vii) construction insurance;

(viii) the costs of services to provide health, safety and security during the construction of the asset;

(ix) the costs of design, engineering, procurement and construction management services related to the construction of the asset; and

(x) the cost of contractors, sub-contractors, trades and sub-trades directly attributable to the construction of the asset;

but does not include:

(xi) any profit, gain, commission or overhead to an affiliate providing capital assets to a producer;

(xii) the cost of any capital asset, other than approved new mines or expansions, until that asset is in use;

(xiii) except for approved remote assets, the cost of any asset that is not located in Saskatchewan;

(xiv) except for approved remote assets, the cost of any asset that is not used exclusively with respect to potash produced from a mine;

(xv) the cost of feasibility studies, except those related to approved new mines and expansions;

(xvi) interest;

(xvii) operating costs, operating losses or deficits;

(xviii) administrative and corporate expenditures;

(xix) fees or expenses for legal or accounting services; or

(xx) the cost of directly or indirectly acquiring from a person who is not dealing with the producer at arm's length any interest or right under or in relation to any patent, copyright, trademark, industrial design or other form of intellectual property or similar intangible;

(r) **"Crown lease"** means a lease granted pursuant to *The Crown Minerals Act* or any predecessor or successor statute by which the Crown has granted to a person the right to extract, recover or produce a Crown mineral;

(s) **"Crown mineral"** means any mineral that may be found on, in or under any Crown mineral lands;

(t) **"Crown mineral lands"** means the mineral interest of the Crown in any lands in Saskatchewan, whether or not the surface rights in those lands are also the property of the Crown;

(u) **"Crown royalty"** means the royalty on potash payable pursuant to Part IV of *The Subsurface Mineral Regulations, 1960*;

(v) **"daily rated capacity"** of a major process of a mine, expressed in tonnes of ore per 24-hour day, means the lowest of the products of:

(i) the rated capacity of each of the elements comprising the major process, expressed in tonnes of ore per hour; and

(ii) the estimated number of hours per day during which the element in question may reasonably be expected to operate;

(v.1) **"decommissioning"** means the removal or permanent retirement from service of all or part of a mine, and includes any action to so remove or retire;

(v.2) **"demonstration"** means the initial testing of potash-related technology, prior to commercial application;

(w) **"designated productive capacity"** means:

(i) with respect to an existing mine, the annual productive capacity of the mine, approved in writing by the minister, as at January 1, 1990; and

(ii) with respect to a new mine, the annual productive capacity of the mine, approved in writing by the minister, as of the beginning of commercial production;

(x) **"disposition"** means, with respect to an asset:

(i) any transaction or event with respect to an asset that entitles a producer to proceeds of disposition;

(ii) any transfer of an asset by way of gift; or

(iii) the removal, other than a temporary removal, of an asset from a mine for any reason;

but does not include:

(iv) any transfer of an asset for the purpose only of securing a debt or loan;

(v) any transfer of an asset used as security for a debt or loan for the purpose only of returning the asset by the creditor; or

(vi) any transfer of an asset that results in a change of the legal ownership of the asset but not a change in the beneficial ownership of the asset;

(y) **Repealed.** 17 Oct 2003 SR 115/2003 s3.

(z) **Repealed.** 17 Oct 2003 SR 115/2003 s3.

(aa) **"freehold mineral lands"** means any lands that are not Crown mineral lands;

(bb) **"gross revenue"** means gross revenue determined in accordance with section 5;

(cc) **"index value"** means:

(i) for the year 1990, 1.0; and

(ii) for any year subsequent to 1990, the amount obtained by applying the formula:

$$\frac{A}{B};$$

where:

(A) A = the average quarterly price index for the previous year; and

(B) B = the average quarterly price index for 1989;

(dd) **"industry sales organization"** means Canpotex Limited and any other person, organization, syndicate, association, partnership or joint venture that performs a function similar to that of Canpotex Limited and is designated in writing by the minister as an industry sales organization;

(ee) **"interest"** means, with respect to a mine, an interest in the assets comprising the mine; and

(i) a right to production from the mine; or

(ii) a right to proceeds of production from the mine;

(ff) **"K_2O tonne"** means the quantity of potash that contains the equivalent of one tonne of potassium oxide;

(gg) **Repealed.** 17 Oct 2003 SR 115/2003 s3.

(hh) **"major process"** of a mine means each of the following processes:

(i) the mining of ore or, in the case of a solution mine, the recovery of brine;

(ii) the hoisting of ore;

(iii) the refining of ore to produce saleable potash;

(ii) **"marketing costs"** for a year means, subject to subsection 7(6), all costs, charges and expenses incurred by a producer and its affiliates during the year that are directly related and attributable to the marketing of potash produced from a mine in Saskatchewan and includes:

(i) with respect to:

(A) salespersons based at the head office who spend all of their time in marketing; and

(B) salespersons based at locations other than the head office; salaries, commissions and travel and entertainment costs;

(ii) advertising and sales promotion costs;

(iii) costs and expenses associated with the maintaining of sales offices other than the head office;

(iv) costs and expenses of conducting sales meetings;

(v) costs of market research relating to the North American market;

(vi) real property taxes and any business licences or registration fees that are necessary to carry on the business of marketing potash;

(vii) fees charged by a non-arm's length marketing agency that are approved in writing by the minister as being reasonable in the circumstances; and

(viii) depreciation allowances for:

(A) sales offices other than the head office, calculated in accordance with subsection 8(1);

(B) furniture and equipment used exclusively in sales offices, calculated in accordance with subsection 8(2); and

(C) automobiles used exclusively for marketing purposes, calculated in accordance with subsection 8(3);

does not include:

(ix) costs incurred for market studies for the purposes of corporate planning;

(x) grants or donations;

(xi) income or capital taxes;

(xii) approved market development costs;

(xiii) salaries and benefits for persons located at head office who do not spend all of their time in marketing;

(xiv) provision for, or actual, bad debt expenditure;

(xv) interest or any form of financing charges;

(xvi) except as provided in subclause (vi), administrative and corporate expenditures;

(xvii) costs directly related or attributable to public relations;

(xviii) costs directly related or attributable to personnel, credit or financing functions or accounting or legal costs;

(xix) residual or extraordinary costs; or

(xx) costs applicable to the making of offshore sales through an industry sales organization.

(ii.1) **"'mill"** means a facility operated to crush, grind, leach, dissolve, roast, float, sift, shake, wash, aspirate or carry out any other process for the purpose of obtaining, concentrating or processing potash, and includes a refinery;

(ii.2) **"mine expansion"** means any project undertaken by a producer with respect to a mine of the producer that is designed to increase the productive capacity of the mine by a minimum of 200 000 tonnes;

(jj) **"mine records"** means the books, records, papers and documents mentioned in section 37;

(jj.1) **"mine research and development costs"** for a year means, subject to subsection (4), the costs and expenses incurred by a producer in Saskatchewan during the year with respect to potash-related research and development that do not have the prior written approval of the minister, less:

(i) subject to subsections (5.1) and (5.2) any subsidy, grant or other reimbursement of these expenditures received by the producer and its affiliates during the year; and

(ii) subject to subsections (5.1) and (5.2) any amounts received by the producer and its affiliates during the year for the sale of technology, where the costs of developing the technology were included as mine research and development costs or as approved research and development costs in calculating profits in the current or any previous year, but reductions to mine research and development costs pursuant to this subclause for all years must not exceed the total cost of developing the technology;

(jj.2) **"net mine capital"** for a year of a producer means the amount calculated pursuant to subsection (8.33);

(kk) **"offshore sale"** means the sale or other disposition of potash to a purchaser or transferee who is outside of Canada and the continental United States of America;

(kk.1) **"operating costs"** means the costs incurred at a place in Saskatchewan where production occurs that are directly attributable to mining, refining and producing potash in a saleable form, and includes the following that are related to mining, refining and producing potash:

(i) salary payroll;

(ii) direct labour;

(iii) maintenance labour;

(iv) other payroll;

(v) employee benefits and payroll taxes;

(vi) operating supplies consumed;

(vii) repair materials consumed;

(viii) production materials consumed;

(ix) electricity consumed;

(x) natural gas consumed;

(xi) other utility costs;

(xii) insurance premiums;

(xiii) purchased services; and

(xiv) any other costs that, in the opinion of the minister, are directly attributable to mining, refining and producing potash in a saleable form;

(ll) **Repealed.** 17 Oct 2003 SR 115/2003 s3.

(ll.1) **"overriding royalties"** means, where a producer produces from land to which it has mineral title, royalties paid by the producer to a former owner of that mineral land;

(ll.2) **"pollutant control facility"** means a facility or area for the collection, containment, storage, transmission, treatment or disposal of any pollutant arising from mining operations or from the development of or the exploration for potash, and includes environmental protection components of:

(i) a mine or mill;

(ii) a tailings management area;

(iii) an ore storage facility;

(iv) a waste rock disposal area;

(v) a waste treatment plant;

(vi) a fuel storage facility;

(vii) a waste sump;

(viii) a site drainage control;

(ix) a groundwater dewatering system;

(x) any equipment used for exploration;

(xi) all associated machinery and equipment, including pumps, pipes, conveyors, launders and ditches used in connection with facilities or areas mentioned in subclauses (i) to (x);

(mm) **"proceeds of disposition"** means:

(i) the sale price or any other consideration received or receivable by a producer for the disposition of an asset, and includes:

(A) the assumption, undertaking, extinguishment or release of any liability:

(I) of the producer; or

(II) that affects the asset disposed of; and

(B) the value of any benefit of any kind conferred on the producer or on any other person at the direction of the producer as part of the arrangement relating to the disposition of the asset;

(ii) subject to section 28, any:

(A) compensation that is received by a producer; or

(B) amount that is paid to a producer pursuant to a policy of insurance;

with respect to an asset that is lost, destroyed or unlawfully taken;

(iii) subject to section 28, any:

(A) compensation that is received by a producer; or

(B) amount that is paid to a producer pursuant to a policy of insurance;

with respect to an asset that is damaged, except to the extent that the compensation or amount is applied to reduce operating costs pursuant to subclause 7(2)(a)(ii);

(iv) subject to section 28, compensation for an asset taken pursuant to statutory authority or the sale price of an asset sold to a person who has given notice of intention to take the asset pursuant to statutory authority;

(v) subject to section 28, compensation for an asset injuriously affected, whether lawfully or unlawfully or whether pursuant to statutory authority or otherwise; and

(vi) an amount equal to the fair market value of an asset disposed of, where the disposition is made:

(A) by a producer to a person with whom the producer is not dealing with at arm's length at the time of the disposition;

(B) to a corporation in consideration of the allotment and issue of its shares;

(C) to a corporation without share capital, organization, syndicate, association, partnership or joint venture in consideration of the admission to membership in it of any person;

(D) by way of gift; or

(E) by way of removal, other than a temporary removal, of the asset from a mine;

(nn) **"production"** means the quantity of potash produced in Saskatchewan from the mines of the producer and includes potash produced from both Crown mineral lands and freehold mineral lands;

(oo) **"productive capacity"** of a mine means the total of:

(i) the designated productive capacity of the mine;

(ii) any additional productive capacity of the mine resulting from an expansion approved by the minister that has been completed; and

(iii) any permanent increase or decrease in annual productive capacity of the mine that:

(A) is approved in writing by the minister; and

(B) results from an event other than an expansion mentioned in subclause (ii);

(pp) **"profit tax"** means the profit tax mentioned in clause 4(b) of the Schedule;

(qq) **"profits"** for a year means profits determined pursuant to section 7;

(qq.1) **"qualified corporate office position"** means, subject to subsections (1.2) and (1.3), a position occupied by an incumbent employee:

(i) whose principal workplace is an office that meets the requirements of subsection (1.1);

(ii) who is a permanent full-time employee of the producer or an affiliate of the producer;

(iii) who receives a statement of remuneration paid from the producer or an affiliate of the producer indicating the employee's address in Saskatchewan; and

(iv) who files an income tax return pursuant to *The Income Tax Act, 2000* respecting income in Saskatchewan;

(qq.2) **"qualified new corporate office positions"** means, for the year 2010 and all subsequent years, the positive difference, if any, between the number of qualified corporate office positions in the year and:

(i) for all years after 2009 but before 2015, the number of qualified corporate office positions in 2009; or

(ii) for the year 2015 and all subsequent years, the highest number of qualified corporate office positions in any year between and including 2009 and the year that is five years preceding the year for which the calculation is made;

(qq.3) **"qualified existing corporate office positions**" means, for the year 2010 and all subsequent years, the number of qualified corporate office positions in the year, less the qualified new corporate office positions in the year;

(rr) **"railcar costs"** for a year means, subject to subsection (8), the total of the following costs, charges and expenses incurred by a producer and its affiliates in connection with the transportation of potash produced from a mine:

(i) the difference between:

(A) rents for leased railcars, other than railcars with respect to which the producer has claimed a depreciation allowance pursuant to subclause (iii); and

(B) the total of:

(I) mileage credits received or receivable; and

(II) revenues received or receivable for subleasing railcars;

with respect to railcars owned or leased by the producer or its affiliates and used to transport Saskatchewan potash;

(ii) expenses incurred for repairs and maintenance of railcars and for insurance coverage on railcars;

(iii) a depreciation allowance calculated in accordance with subsection 8(4); and

(iv) costs related to facilitating the movement of potash from the mine to the first arm's-length purchaser or transferee;

(rr.1) **"reclamation"** means the rehabilitation of all or part of the land, water or watercourses used or disturbed by the construction or operation of a mine or treatment facility, pollutant control facility or mill located at or near a mine;

(ss) **"saleable potash"** means all potash produced from a mine that is:

(i) in the form in which it is produced from the mine, less any portion that is treated by or on behalf of the producer;

(ii) in the form in which it exists after being treated by or on behalf of the producer, less any portion that is in non-saleable form; and

(iii) treated potash in non-saleable form, to the extent that it is subsequently made saleable by or on behalf of the producer or is sold;

(tt) **"Schedule"** means *The Potash Production Tax Schedule*;

(tt.1) **"statement of remuneration paid"** means the information return that a producer or an affiliate of the producer is required to send to its employee pursuant to section 209 of the *Income Tax Regulations* (Canada) indicating the remuneration paid by the producer or an affiliate of the producer to the employee;

(uu) **"storage costs"** for a year means the difference between:

(i) all costs, charges and expenses incurred by a producer and its affiliates during the year that relate to the handling and storage of potash produced from a mine in Saskatchewan at a facility in which the potash is stored prior to its sale to an arm's length purchaser, including:

(A) rents for any of those facilities if leased by the producer, other than facilities with respect to which the producer has claimed a depreciation allowance pursuant to paragraph (J);

(B) expenses incurred for repairs and maintenance of those facilities;

(C) salaries and fees of persons who provide services at those facilities;

(D) throughput charges for handling and storing potash at those facilities;

(E) taxes measured by reference to potash inventories;

(F) costs incurred for blasting potash to facilitate its removal from those facilities;

(G) costs incurred for verifying the accuracy of weigh scales at those facilities;

(H) costs incurred for insuring potash while it is being handled or stored at those facilities;

(I) real property taxes and insurance premiums on those facilities, to the extent that they are payable by the producer;

(J) a depreciation allowance for warehouses, calculated pursuant to subsection 8(5); and

(K) a depreciation allowance for furniture and equipment used exclusively at storage facilities, calculated pursuant to subsection 8(6); and

(ii) the total of all rebates and credits received or receivable by the producer and its affiliates in connection with those facilities;

but does not include administrative and corporate expenditures or income taxes;

(vv) **"substandard potash"** means potash that requires further processing to meet minimum grade specifications;

(vv.1) **"tonne"**, when used with reference to potash produced in Saskatchewan other than when used with reference to a K_2O tonne, means one tonne of potash produced and either sold or disposed of from a Saskatchewan mine;

(ww) **"transferee"** means a person who receives potash from a producer pursuant to a disposition other than a sale;

(xx) **"transportation costs"** for a year means all costs, charges and expenses incurred by a producer and its affiliates during the year with respect to the transportation of potash produced from a mine, and includes:

(i) freight charges for the carriage of potash by rail, truck or barge, less all credits and rebates received or receivable by the producer and its affiliates with respect to those charges;

(ii) *ad valorem* fees that are imposed on privately-owned railcars and are based on mileage or time;

(iii) charges for switching and track leases;

(iv) roller car transit and reconsignment charges;

(v) the cost of insuring potash in transit;

(vi) diversion charges; and

(vii) lake vessel freight and demurrage costs;

but does not include railcar costs, administrative and corporate expenditures or taxes;

(yy) **"treated"** means concentrated, refined or otherwise processed:

(i) in Saskatchewan; or

(ii) with the prior written approval of the minister, outside Saskatchewan;

(zz) **"unitization agreement"** means an agreement for the unit operation of a mine;

(aaa) **"year"** includes:

(i) with respect to a producer who is the vendor of an interest or beneficial interest in a mine, that portion of a year in which the vendor is the owner of the interest or beneficial interest; and

(ii) with respect to a producer who is the purchaser of an interest or beneficial interest in a mine, that portion of a year in which the purchaser is the owner of the interest or beneficial interest.

(1.1) For the purposes of clause (1)(qq.1):

(a) the office must be located in a city or town in Saskatchewan; and

(b) the office must not be located at a place where production occurs.

(1.2) For the purposes of determining the number of qualified corporate office positions in the year, if all of the conditions set out in clause (1)(qq.1) are not satisfied for a qualified corporate office position for the entire year, only the fraction of the year in which all of the conditions set out in clause (1)(qq.1) are satisfied is to be included for the purposes of that determination.

(1.3) For the purposes of determining the number of qualified corporate office positions in the year, if a permanent full-time employee of the producer or an affiliate of the producer has been temporarily replaced due to maternity leave, illness or disability and the employee acting in the position meets the conditions set out in subclauses (1)(qq.1)(i), (iii) and (iv), the replacement employee is deemed to be a permanent employee;

(2) For the purposes of the Act and in these regulations, **"produced"** means extracted from the ground and includes:

(a) treated as defined in clause (1)(yy); and

(b) stored and shipped:

(i) in Saskatchewan; or

(ii) with the prior written approval of the minister, outside Saskatchewan.

(3) If approved market development costs are incurred by an affiliate of a producer on behalf of the producer and affiliate producers, the amount of the approved market development costs for a year attributed to the producer is the amount A calculated in accordance with the following formula:

$$A = TAMDC \times \frac{TSP}{TSPA}$$

where:

TAMDC is the total approved market development costs for the year incurred by the affiliate;

TSP is the total number of tonnes of potash sold during the year from the producer; and

TSPA is the total number of tonnes of potash sold during the year from the producer and affiliate producers.

(4) If mine research and development costs are incurred by an affiliate of a producer and are applicable to both the producer and affiliate producers, the amount of the mine research and development costs for a year attributed to the producer is the amount A calculated in accordance with the following formula:

$$A = TMRDC \times \frac{TSP}{TSPA}$$

where:

TMRDC is the total mine research and development costs incurred by the affiliate;

TSP is the total number of tonnes of potash sold during the year from the producer; and

TSPA is the total number of tonnes of potash sold during the year from the producer and affiliate producers.

(5) If costs described in subclause (1)(h)(i) are incurred by an affiliate of a producer and are applicable to both the producer and affiliate producers, the amount of those costs for a year attributed to the producer is the amount A calculated in accordance with the following formula:

$$A = TC \times \frac{TSP}{TSPA}$$

where:

TC is the costs described in subclause (1)(h)(i) incurred by the affiliate;

TSP is the total number of tonnes of potash sold during the year from the producer;

TSPA is the total number of tonnes of potash sold during the year from the producer and affiliate producers.

(5.1) If amounts received by a producer and its affiliates described in subclauses (1)(h)(ii) and (iii) and (1)(jj.1)(i) and (ii) are received with respect to both Saskatchewan potash operations and other affiliated operations, the amounts received are to be allocated between the Saskatchewan potash operations and the other affiliated operations in a manner approved by the minister.

(5.2) If amounts received by a producer and its affiliates described in subclauses (1)(h)(ii) and (iii) and (1)(jj.1)(i) and (ii) are attributable to both the producer and affiliate producers, the amounts received are to be allocated between the producer and affiliate producers in a manner approved by the minister.

(5.3) Subject to subsection (8.1), if approved remote costs are incurred at an approved remote asset by an affiliate of the producer and are applicable to both the producer and affiliate producers and the approved remote costs are for the treatment of Saskatchewan potash at the facility of an affiliate, the amount of the approved remote costs allocated to the producer from that approved remote asset for a year is the amount A calculated in accordance with the following formula:

$$A = TARC \times \frac{TPTP}{TPTPA}$$

where:

TARC is the total approved remote costs for that approved remote asset;

TPTP is the number of tonnes of potash shipped from the producer that were treated at that facility during the year; and

TPTPA is the total number of tonnes of potash shipped from the producer and affiliate producers treated at that facility during the year.

(5.4) Subject to subsections (8.2), if approved remote costs are incurred at an approved remote asset by an affiliate of the producer and are applicable to both the producer and affiliate producers and approved remote costs are incurred for a purpose other than for the treatment of Saskatchewan potash at the facility of an affiliate, the amount of the approved remote costs allocated to the producer from that approved remote asset for a year is the amount A calculated in accordance with the following formula:

$$A = TARC \times \frac{TPTP}{TPTPA}$$

where:

TARC is the total approved remote costs for that approved remote asset;

TPTP is the total number of tonnes of potash produced during the year by the producer; and

TPTPA is the total number of tonnes of potash produced during the year by the producer and affiliate producers.

(6) If the average quarterly price index for a year is revised in a subsequent issue of the *Bank of Canada Review*, or its monthly statistical supplement the value for the average quarterly price index to be used is the last value for that year published by the Bank of Canada in the following year.

(7) **Repealed.** 17 Oct 2003 SR 115/2003 s3.

(8) Where, in the opinion of the minister, any of the costs, charges and expenses described in clause (1)(rr) may properly be regarded as having been incurred by a producer and its affiliates with respect to the transportation of both potash and another product, the producer may include as railcar costs only that portion of the cost, charge or expense that bears the same proportional relationship to the entire cost, charge or expense that the number of tonnes of potash transported by rail by the producer and its affiliates during the year bears to the total number of tonnes of potash and other products transported by rail by the producer and its affiliates during the year.

(8.1) Where in the opinion of the minister, any of the costs, charges and expenses described as approved remote costs may properly be regarded as having been incurred by a producer with respect to both Saskatchewan potash and another product, and where those costs relate to the treatment of Saskatchewan potash at the producer's facility, the producer may include as approved remote costs only that portion of the cost, charge or expense that bears the same proportional relationship to the entire cost, charge or expense that the number of tonnes of Saskatchewan potash treated in the facility with approved remote costs during the year bears to the total number of tonnes of Saskatchewan potash and other products directed through the facility during the year.

(8.2) If, in the opinion of the minister, any of the costs, charges and expenses described as approved remote costs may properly be regarded as having been incurred by an affiliate with respect to Saskatchewan potash and other products and if those costs are incurred in an approved activity other than the treatment of Saskatchewan potash, the producer and its affiliate producers may include in a year as their total combined approved remote costs only the amount A that is calculated in accordance with the following formula:

$$A = TC \times \frac{SVPS}{SVAS}$$

where:

TC is the total of the costs, charges or expenses incurred for the year in the approved activity by an affiliate;

SVPS is the total sales value for the year of Saskatchewan potash for the producer and affiliate producers;

SVAS is the total sales value for the year of Saskatchewan potash for the producer and affiliate producers and the total sales value of the other products determined on the same basis as the total sales value of Saskatchewan potash.

(8.3) Subject to subsections (8.31) and (8.32), the accelerated capital for a year of a producer is the amount AC calculated in accordance with the following formula:

$$AC = A + B + C - D$$

where:

A is:

(a) for 2015, 1.2 multiplied by the balance of accelerated capital as it existed on December 31, 2014, after the producer has calculated an allowance, if any, pursuant to subsection 8(8.1) and section 8.1 as those provisions read on December 31, 2014; and

(b) for 2016 and subsequent years, the balance of accelerated capital at the end of the previous year, after the producer has calculated an allowance, if any, pursuant to subsection 8(8.1) and section 8.1;

B, in the case where the producer has submitted an application for the approval of a project involving a mine expansion or new mine and has received written approval for the project, is the product of:

(a) the costs as defined in subsection (8.31); and

(b) 1.2;

C is the total amount calculated pursuant to subclause 7(1)(b)(i) in the year; and

D is the product of:

(a) the total of:

(i) the proceeds of disposition in the year from dispositions of any capital assets whose capital costs have been recognized in a depreciation allowance pursuant to subsection 8(8.1); and

(ii) gross revenue from potash produced in the year from a new mine before the beginning of commercial production; and

(b) 1.2.

(8.31) For the purposes of clause (a) of the amount B in the formula set out in subsection (8.3), **"costs"** means:

(a) the capital costs of the project incurred by the producer in the year; and

(b) the following costs incurred in the year to the extent that they have not already been included as part of the capital costs of the project or as net mine capital:

(i) exploration expenses incurred to determine the existence, location, extent or quality of the potash to be mined, including the expenses of geological studies and drilling and related analyses;

(ii) the cost of design, the cost of development and the cost of construction of the mine or expansion;

(iii) the cost of construction and operation of housing, restaurant or recreational facilities that:

(A) are to be used for the benefit of persons engaged in the construction of the mine expansion or new mine; and

(B) are located at the mine or at a location that, in the opinion of the minister, is near the mine;

(iv) in the case of a new mine, costs directly attributable to potash produced before the beginning of commercial production;

but does not include:

(c) interest;

(d) administrative and corporate expenditures;

(e) legal fees or expenses;

(f) fees or expenses for accounting services;

(g) any portion of expenses that the minister is satisfied are covered by a grant or subsidy.

(8.32) If a producer has received approval from the minister for a mine expansion or a new mine, the total of the costs as defined in subsection (8.31) incurred in the years before the approval are considered for the purposes of subsection (8.31) to have been incurred in the year that the project is approved.

(8.33) For the purposes of clause (1)(jj.2), net mine capital for a year of a producer is the amount NMC calculated in accordance with the following formula:

NMC = A – B

where:

A is the total of:

(a) the balance of net mine capital:

(i) for 2015, as it existed on December 31, 2014 after the producer has deducted an allowance, if any, pursuant to subsection 8(7) as that subsection read on December 31, 2014;

(ii) for 2016 and subsequent years, as it existed at the end of the previous year after the producer has deducted an allowance, if any, pursuant to subsection 8(7);

(b) the product of:

(i) the capital cost of all capital assets acquired by the producer and its non-producer affiliates in the year for use in Saskatchewan in the production of potash from the mines of the producer, other than costs as defined in subsection (8.31); and

(ii) 1.2; and

(c) the total amount calculated pursuant to subclause 7(1)(b)(ii) in the year; and

B is the product of:

(a) the proceeds of disposition in the year from dispositions of any capital assets whose capital costs have been recognized in a depreciation allowance pursuant to subsection 8(7); and

(b) if the disposed capital assets were acquired by the producer:

(i) before January 1, 2015, 1; or

(ii) on or after January 1, 2015, 1.2.

(9) **Repealed.** 7 May 99 SR 21/1999 s3.

(10) Where an expenditure falls within the meaning of both "administrative and corporate expenditures" and any other term defined in subsection (1), the expenditure is to be treated as an administrative and corporate expenditure and not as an expenditure within the meaning of that other term.

(11) If a producer has received approval from the minister for a project or a program and the producer has not reported any costs for that project or program in any previous year, then for the purposes of clause (1)(e) or (h) the total of the costs of the project or program that were incurred in the years before the approval and that are eligible to be claimed are deemed to have been incurred in the year that the project or program is approved.

22 Dec 89 cM-17.1 Reg 6 s2; 27 Dec 91 SR 98/91 s3; 29 May 92 Errata; 11 Oct 96 SR 79/96 s2; 13 Dec 96 SR 95/96 s3; 7 May 99 SR 21/1999 s3; 17 Oct 2003 SR 115/2003 s3; 16 Sep 2005 SR 89/2005 s3; 24 Dec 2010 SR 125/2010 s3; 3 Jan 2014 SR 107/2013 s3; 18 Sep 2015 SR 77/2015 s3; 14 Dec 2018 SR 81/2018 s2; 4 Dec 2020 SR 122/2020 s3.

PART II
Components of Tax Calculations

Annual productive capacity

3(1) In this section:

(a) **"C"** means the concentration ratio, expressed in tonnes of ore per year;

(b) **"D"** means the daily rated capacity of a major process of a mine;

(c) **"N"** means the number of days in a year during which a major process of a mine may reasonably be expected to operate.

(2) Annual productive capacity is the lowest value of R, where R is calculated for each of the three major processes of a mine, according to the following formula:

$$R = \frac{D \times N}{C}.$$

(3) **Repealed.** 24 Dec 2010 SR 125/2010 s4.

(4) In determining annual productive capacity, the annual operating time of each element of each major process is the difference between:

(a) 365; and

(b) the total of:

(i) a reasonable number of days during the year for scheduled summer or other shutdowns for holiday purposes, including public holidays within the meaning of *The Labour Standards Act*;

(ii) a reasonable number of days during the year for major equipment overhauls;

(iii) a reasonable number of days during the year for scheduled maintenance; and

(iv) a reasonable allowance for unscheduled down-time of each major process;

without regard to stoppages caused by labour disputes, fires, floods or other similar events.

(5) The reasonableness of any estimate used in the calculation of annual productive capacity of a mine is to be measured against the actual operating experience of the mine, disregarding the effects of market factors, but taking into account the type and condition of existing mining machinery, the grade, type and location of the ore and other similar factors.

22 Dec 89 cM-17.1 Reg 6 s3; 24 Dec 2010 SR 125/2010 s4.

4 Repealed. 17 Oct 2003 SR 115/2003 s4.

Gross revenue

5(1) Subject to subsections (2) to (12), for the purposes of determining the amount of the base payment and profit tax for a year that a producer is liable to pay, the producer's gross revenue for the year is obtained by calculating the total of all amounts that are received or receivable by the producer and its affiliates as revenue from the sale or other disposition in that year of:

(a) potash produced in Saskatchewan from the mines of the producer;

(b) **Repealed**. 8 Dec 2017 SR 121/2017 s3.

(2) Subject to subsections (3) to (6), where potash is sold in a year to a purchaser other than an industry sales organization, gross revenue for the year includes an amount equal to the difference between:

(a) the total of:

(i) the sale price received or receivable by the producer and its affiliates for that potash, free on board the mine; and

(ii) all other amounts received or receivable by the producer and its affiliates in connection with:

(A) the sale and transportation of potash to; and

(B) the loading, unloading, storing, bagging, palletizing, insuring and demurrage of the potash for;

the first arm's length purchaser or transferee; and

(b) either:

(i) in the case of sales that are not offshore sales, transportation costs incurred by the producer or its affiliates in transporting the potash from the mine to the first arm's length purchaser or transferee; or

(ii) in the case of offshore sales:

(A) where the producer or its affiliates have incurred the costs of:

(I) unloading, storing, bagging, demurrage or loading the potash onto vessels at the tidewater transshipment point; and

(II) for ocean transportation to the destination;

any of those costs that, in the opinion of the minister are reasonable, excluding any commissions or other fees paid or payable to a purchaser or export agent; and

(B) transportation costs incurred by the producer or its affiliates in transporting the potash from the mine to tidewater.

(3) Gross revenue includes an amount determined in accordance with subsection (4) where potash is sold or otherwise disposed of in a year:

(a) to a person other than an industry sales organization in consideration, in whole or in part, of financing costs, property or a service;

(b) to a person, other than an affiliate of the producer, with whom the producer does not deal at arm's length;

(c) in such a manner that the potash is retained for its own use by the producer or its affiliates;

(d) to a person other than an industry sales organization that is a purchaser or transferee that, together with its affiliates, purchases or otherwise acquires not less than 75% of the potash produced by the producer in the year at the mines of the producer;

(e) to a person who currently owns:

(i) a business entity that was formerly owned by the producer or its affiliates and that formerly consumed or purchased potash from the producer or its affiliates; or

(ii) the assets of a business entity that was formerly owned by the producer or its affiliates and that formerly consumed or purchased potash from the producer or its affiliates; or

(f) to another producer or to an affiliate of another producer.

(4) The amount mentioned in subsection (3) is equal to the difference between:

(a) the greater of:

(i) the fair market value of the consideration received or receivable by the producer and its affiliates for:

(A) the price of the potash sold or otherwise disposed of; and

(B) the transportation of potash to, and the loading, unloading, storing, bagging, palletizing, insuring and demurrage for, the purchaser or transferee; and

(ii) the fair market value of the potash sold or otherwise disposed of; and

(b) the total of:

(i) in the case of transactions that are not offshore sales and with respect to which the producer or its affiliates incurred the cost of transporting the potash from the mine to the purchaser or transferee, the transportation costs for the potash from the mine to its destination; and

(ii) in the case of offshore sales, the total of:

(A) any costs, excluding any commissions or other fees paid or payable to a purchaser, transferee producer or export agent, that:

(I) are incurred by the producer or its affiliates for the unloading, storing, demurrage and loading of the potash onto vessels at the tidewater transshipment point and for ocean transportation to the destination; and

(II) in the opinion of the minister, are reasonable; and

(B) the transportation costs incurred by the producer or its affiliates in transporting the potash from the mine to tidewater.

(5) For the purposes of subsection (4), the fair market value of potash sold or otherwise disposed of is:

(a) in the case of potash sold or otherwise disposed of in a transaction that is not an offshore sale, the product of:

(i) the number of K_20 tonnes sold or otherwise disposed of; and

(ii) the weighted average selling price, determined by the minister from information furnished pursuant to section 34, per K_2O tonne of potash of that grade and for that quantity, free on board the mine, for arm's length sales, other than offshore sales, by potash producers in Saskatchewan or their affiliates in the month in which the potash was sold or otherwise disposed of;

including the fair market value of any transportation, demurrage, loading, unloading, storing, bagging, palletizing or insuring of the potash provided by the producer or its affiliates to or on behalf of the purchaser or transferee;

(b) in the case of potash sold or otherwise disposed of in an offshore sale that is not a sale or other disposition to an industry sales organization, the product of:

(i) the number of K_20 tonnes sold or otherwise disposed of; and

(ii) the weighted average selling price, determined by the minister from available information after receiving notice from the producer pursuant to subsection (12), per K_2O tonne of potash of that grade for arm's length sales to the jurisdiction in which the potash was sold or otherwise disposed of;

including the fair market value of any transportation, demurrage, loading, unloading, storing, bagging, palletizing or insuring of the potash provided by the producer or its affiliates to or on behalf of the purchaser or transferee; and

(c) in the case of the consumption of substandard potash by the producer or its affiliates in the manufacture of products other than potash, the difference between:

(i) the product of:

(A) the number of K_20 tonnes sold or otherwise disposed of; and

(B) the weighted average selling price, determined pursuant to subclause (a)(ii); and

(ii) the costs that would have been incurred by the producer or its affiliates to upgrade the substandard potash.

(6) Gross revenue does not include the fair market value of potash consumed by the producer or its affiliates in:

(a) programs of potash-related research and development; or

(b) pilot or demonstration plants designed to test the commercial viability of potash production.

(7) Where:

(a) all or part of the consideration received or receivable by a producer for the transfer of potash produced in Saskatchewan is other potash produced in Saskatchewan; and

(b) that other potash is transferred to the producer prior to the later of:

(i) the end of the year in which the first transfer was made; and

(ii) the day that is six months after the first transfer;

the first transfer is to be ignored in determining the producer's gross revenue to the extent that the consideration for the first transfer was other potash produced in Saskatchewan.

(7.1) Where potash is sold or otherwise disposed of in a year from a facility that is located outside Saskatchewan and at which the potash has been treated, gross revenue includes an amount that is acceptable to the minister.

(8) Where potash is sold or otherwise disposed of in a year to an industry sales organization, gross revenue for the year includes the producer's proportionate share, as determined in accordance with subsection (10), of:

(a) the amount by which all amounts received or receivable by the industry sales organization on account of the sale of Saskatchewan potash exceed:

(i) subject to subsections (10.1) and (10.2), all expenditures made by the industry sales organization that are attributable to the sale of Saskatchewan potash, including actual selling, loading, storage, transportation, interest, legal and administration costs, but not including any expenditures by the industry sales organization that have been reported as approved market development costs pursuant to clause 7(2)(m) or 19(1)(b); and

(b) the total of all amounts received for the return shipment by railcar or by ocean vessel of commodities other than potash.

(9) **Repealed.** 7 May 99 SR 21/1999 s5.

(10) For the purposes of subsection (8), the producer's proportionate share is to be the same as the producer's proportionate share of the amounts received or receivable from the industry sales organization on account of the sale of Saskatchewan potash.

(10.1) If an industry sales organization makes expenditures in a year that are expected to be unrelated to sales volumes and that can be attributed to both Saskatchewan potash and another product or products, the amount of those expenditures that the industry sales organization must allocate to Saskatchewan potash is the amount A calculated in accordance with the following formula:

$$A = TE \times \frac{SVP}{SVAP}$$

where:

TE is the expenditures in the year that are expected to be unrelated to sales volumes and that can be attributed to both potash and other products, including:

(a) marketing costs;

(b) interest costs;

(c) legal costs; and

(d) administrative costs;

SVP is the sales value for the year of Saskatchewan potash marketed and distributed by the industry sales organization; and

SVAP is the sales value for the year of both Saskatchewan potash and other products marketed and distributed by the industry sales organization.

(10.2) If an industry sales organization makes expenditures in a year that are expected to be related to sales volumes and that can be attributed to both Saskatchewan potash and another product or products, the amount of those expenditures that the industry sales organization must allocate to Saskatchewan potash is the amount A calculated in accordance with the following formula:

$$A = TE \times \frac{TSP}{TSAP}$$

where:

TE is the expenditures in the year that are expected to be related to sales volumes and that can be attributed to both potash and other products including:

(a) shipping costs; and

(b) warehousing costs;

TSP is the number of tonnes shipped in the year of Saskatchewan potash marketed and distributed by the industry sales organization; and

TSAP is the number of tonnes shipped in the year of both Saskatchewan potash and other products marketed and distributed by the industry sales organization.

(11) Gross revenue does not include:

(a) any amount received by the producer or its affiliates from another person for the treatment of potash owned by the other person; or

(b) any gain resulting from a change in the Canadian dollar value of a foreign currency.

(12) A producer shall, within 20 days of entering into a transaction described in clause (5)(b), give notice to the minister specifying the details of the transaction.

22 Dec 89 cM-17.1 Reg 6 s5; 7 May 99 SR 21/1999 s5; 17 Oct 2003 SR 115/2003 s5; 8 Dec 2017 SR 121/2017 s3.

6 Repealed. 17 Oct 2003 SR 115/2003 s6.

Profits

7(1) Subject to subsections (2) to (8), for the purposes of determining the amount of the base payment and profit tax for a year that a producer is liable to pay, the producer's profits for a year are the amount equal to the total of:

(a) the difference between:

(i) the producer's gross revenue for the year; and

(ii) the total of the allowances, expenses and deductions set out in subsection (2) that are properly applicable to the producer's potash mining operations in the year;

(b) the total of:

(i) the amount, if any, by which accelerated capital at the end of the year is less than zero;

(ii) the amount, if any, by which the net mine capital at the end of the year is less than zero; and

(iii) the amount, if any, by which approved remote capital at the end of the year is less than zero; and

(c) any amounts received or receivable by the producer from another person on account of depreciation with respect to the treatment in the year by the producer of potash owned by that other person.

(2) Subject to subsections (3) and (3.1), the following allowances, expenses and deductions may be taken in determining profits pursuant to subsection (1):

(a) the difference between:

(i) the total of:

(A) all costs, charges and expenses incurred by the producer and its affiliates at a place in Saskatchewan where production occurs that, pursuant to Canadian generally accepted accounting principles, are operating costs directly attributable to the production of potash, the consideration for the sale or other disposition of which is included in the gross revenue of the producer for the year, and that is considered to have been disposed of on a first-produced, first-sold basis; and

(B) subject to subsections 2(5.3), (5.4), (8.1) and (8.2), approved remote costs; and

(ii) subject to section 28, any amount:

(A) paid to the producer or its affiliates:

(I) as compensation for damage to; or

(II) pursuant to a policy of insurance with respect to damage to;

property or assets of the producer used in connection with the production of potash if the costs of repairing that damage are within the scope of subclause (i); or

(B) paid to the producer or its affiliates pursuant to a policy of insurance with respect to maintaining ongoing mining operations after an insurable loss occurs;

(b) subject to subsection (2.1), any of the following expenses that are incurred by the producer or its affiliates for services performed, work undertaken or goods provided solely with respect to the mines of the producer or that, in the opinion of the minister, are directly attributable to the mines of the producer, but are not incurred at a mine of the producer and are not administrative and corporate expenditures or engineering expenses:

(i) computer system costs respecting operations carried out at the mine;

(ii) costs of developing long-term contracts with suppliers of goods and services to the mines of the producer;

(iii) accounting costs other than the cost of a corporate controller's activities;

(c) the cost of any asset that, in accordance with Canadian generally accepted accounting principles, would properly be treated as a capital asset but:

(i) is not a capital asset within the meaning of subclause 2(1)(o)(iii); or

(ii) with the approval of the minister, is not put into use at a mine;

(c.1) the cost of purchase investigations, feasibility studies and other similar costs related to the acquisition or construction of a capital asset, whether or not the asset is purchased or constructed, but not including feasibility studies for approved new mines and expansions that are actually undertaken;

(d) subject to subsection (5), the storage costs incurred respecting potash stored off-site, otherwise than in railcars, in connection with sales that are not offshore sales or sales to an industry sales organization;

(e) the railcar costs for the year;

(f) all taxes, rates, assessments, fees and duties levied or imposed with respect to the mines of the producer, including:

(i) school taxes;

(ii) municipal taxes;

(iii) business taxes;

(iv) sales taxes for non-capital items;

(v) annual lease rentals;

(vi) overriding royalties, except:

(A) royalties paid under agreements signed on or after January 1, 1998; and

(B) royalties paid under obligations assumed by the producer in the acquisition of all or part of a mine; and

(vii) the amount by which royalties paid at arm's length to freehold mineral owners for production on freehold mineral land exceeds the amount that would have been the Crown royalty if the production had been from Crown land or deemed by a unitization agreement to have come from Crown land;

but not including:

(viii) the base payment;

(ix) any royalty payable to the Crown or any other person, except as provided in subclauses (vi) and (vii);

(x) any mineral rights tax;

(xi) any tax measured by reference to the income or the capital of the producer; or

(xii) any levy calculated by reference to:

(A) the production of potash from the mines of the producer, except as provided in subclauses (vi) and (vii);

(B) the reserves of potash in the mines of the producer; or

(C) the profits or revenues from potash produced from the mines of the producer;

(g) subject to subsection (6), marketing costs;

(h) an allowance in lieu of administrative and corporate expenditures equal to 2% of the gross revenue of the producer for the year;

(i) a depreciation allowance with respect to net mine capital calculated in accordance with subsection 8(7);

(j) decommissioning and reclamation costs;

(k) the costs of providing:

(i) a guarantee, irrevocable letter of credit, irrevocable letter of guarantee, performance bond, surety bond or security interest that would constitute a financial assurance fund for decommissioning and reclamation pursuant to clauses 15(1)(d) and (e) of *The Mineral Industry Environmental Protection Regulations, 1996*; and

(ii) any other assurance fund as required pursuant to section 15 of *The Mineral Industry Environmental Protection Regulations, 1996*, with the written approval of the minister;

(l) **Repealed.** 8 Dec 2017 SR 121/2017 s4.

(m) approved market development costs;

(n) mine research and development costs;

(o) approved research and development costs eligible for credit;

(o.1) exploration expenditures incurred on the lease in which the mine is situated;

(p) donations to religious, charitable, educational or similar non-profit organizations in Saskatchewan;

(q) subject to subsections (7) and (9), any portion of the total of the amounts, if any, by which profits in any of the five preceding years were less than zero, to the extent that the portion has not been deducted from profits in previous years; and

(r) a depreciation allowance with respect to accelerated capital calculated in accordance with subsection 8(8.1);

(r.1) a corporate office allowance, calculated in accordance with subsection (12);

(s) **Repealed.** 17 Oct 2003 SR 115/2003 s7.

(2.1) If, in the opinion of the minister, costs mentioned in clause (2)(b) may properly be regarded as having been incurred by a producer with respect to Saskatchewan potash and other products, those costs are to be allocated between the Saskatchewan potash and the other products in a manner approved by the minister.

(3) Subject to subsections (3.1) and (8), where goods or services to be used solely with respect to production of potash at the producer's mine are acquired by a producer from an affiliate, the producer may deduct:

(a) where goods or services are purchased, leased or rented by the affiliate in arm's-length transactions, the actual amounts paid by the affiliate; and

(b) where the affiliate manufactures goods for the producer or supplies services to the producer, the actual cost to the affiliate, not including any profit, gain, commission or overhead.

(3.1) No deduction is to be made for the cost of directly or indirectly acquiring from a person who is not dealing with the producer at arm's length, any interest or right under or in relation to any patent, copyright, trademark, industrial design or other form of intellectual property or similar intangible.

(4) **Repealed.** 17 Oct 2003 SR 115/2003 s7.

(5) Where, in the opinion of the minister, an expense in the nature of storage costs may properly be regarded as having been incurred with respect to both potash and another product at a facility, the producer shall include in the amount described in clause (2)(d) only that portion of the expense that bears the same proportional relationship to the entire expense as the total number of tonnes of potash sold or otherwise disposed of by the producer or its affiliates at the facility during the year bears to the total number of tonnes of both potash and the other product sold or otherwise disposed of by the producer or its affiliates at the facility during the year.

(6) Subject to subsection (10), where, in the opinion of the minister, an expense in the nature of marketing costs at an area sales division may properly be regarded as having been incurred with respect to the marketing of both Saskatchewan potash and another product, the producer shall include in the amount described in clause (2)(g) only that portion of the expense that bears the same proportional relationship to the entire expense that the sales value of Saskatchewan potash sold or disposed from that area sales division for the year bears to the sales value of both Saskatchewan potash and the other product determined on a similar basis.

(7) Amounts described in clause (2)(q) are to be deducted from profits in the earliest year in which profits are greater than zero.

(8) Notwithstanding any other provision of these regulations, in determining profits pursuant to subsection (1), no deduction is to be made with respect to:

(a) wages, salaries or any other compensation for employees who, in their employment with the producer, are not normally employed exclusively at the mine, except in relation to activities mentioned in clause (2)(b);

(b) the cost of a capital asset other than an asset described in clause (2)(c);

(c) an outlay, loss or replacement of capital or a payment on account of capital;

(d) a depreciation or obsolescence allowance except as provided in clauses (2)(i) and (r), subclause 2(1)(e.3)(iv), subclause 2(1)(ii)(viii) and subclause 2(1)(rr)(iii) and paragraphs 2(1)(uu)(i)(J) and (K);

(e) a rent, royalty or other payment pursuant to a lease of any property that, in accordance with Canadian generally accepted accounting principles, is properly treated as a capital asset of the producer;

(f) depletion in the value of any reserve of potash by reason of exhaustion or partial exhaustion of the reserve;

(g) any amortization of pre-production expenditures or financing expenses or any other amortization charges, write-offs or amounts transferred to a reserve account, contingent account or sinking fund, except as provided in clauses (2)(i) and (r), subclause 2(1)(e.3)(iv), subclause 2(1)(ii)(viii) and subclause 2(1)(rr)(iii) and paragraphs 2(1)(uu)(i)(J) and (K);

(h) any:

(i) administrative and corporate expenditures;

(ii) management salaries for employees, except those in marketing, sales and distribution, who, in their employment with the producer, are not employed exclusively at a mine of the producer;

(iii) legal or audit expenditures; and

(iv) fees and expenses of consultants who perform work related to legal, audit and accounting matters, data processing and computer systems, executive pension plans, profit-sharing plans, taxes or royalties;

except as provided in clauses (2)(b), (g), (h) and (r.1);

(i) interest;

(j) subject to section 8.1, the amount of any allowance or deduction that could have been taken in a previous year but was not;

(k) an amount paid or payable by the producer to another person for the treatment by that other person of the potash owned by the producer, other than a reimbursement of direct operating costs to that other person;

(l) operating costs incurred by the producer with respect to the treatment of potash owned by another person;

(m) any loss resulting from the change in the Canadian dollar value of a foreign currency;

(n) except where the method of allocation is specifically provided in these regulations, any amount determined by an allocation of costs that:

(i) in the opinion of the minister, is not made fairly or reasonably; or

(ii) is not made in accordance with Canadian generally accepted accounting principles;

(o) subject to clause (2)(p), any outlay or expense that is not made for the purpose of generating gross revenue;

(p) any expenditure that has been reimbursed in whole or in part to the producer or its affiliates by way of subsidy, grant or other reimbursement, to the extent of the reimbursement; or

(q) any deduction that, in the opinion of the minister, is not reasonable in the circumstances.

(9) For the purposes of clause (2)(q), **"five preceding years"** does not include any year prior to 1990.

(10) For the purposes of subsection (6), **"sales or other dispositions"** does not include sales to an industry sales organization.

(11) To determine the value of closing inventory for the purposes of paragraph (2)(a)(i)(A), if a producer has engaged in a trade of potash with another producer and the trade has not been completed by the end of the year, the producer shall:

(a) if the producer is owed potash from another producer, add the volume owed to the closing inventory volume; and

(b) if the producer owes potash to another producer, subtract the volume owed from the closing inventory volume.

(12) For the purposes of clause (2)(r.1), the producer's corporate office allowance in the year shall be the amount A calculated in accordance with the following formula:

$$A = (B \times \$25{,}000) + (C \times \$100{,}000)$$

where:

B is the quantity of qualified existing corporate office positions of the producer; and

C is the quantity of qualified new corporate office positions of the producer.

(13) For the purposes of paragraph (2)(a)(i)(A), for the years 2017 to 2021, where a producer has incurred costs to maintain its mines in operating condition against occurring inflows of water in its mine workings, the producer shall report, at 120% of their original amount, the portion of those costs that are not reported as capital costs.

22 Dec 89 cM-17.1 Reg 6 s7; 27 Dec 91 SR 98/91 s6; 13 Dec 96 SR 95/96 s4; 7 May 99 SR 21/1999 s6; 17 Oct 2003 SR 115/2003 s7; 16 Sep 2005 SR 89/2005 s4; 24 Dec 2010 SR 125/2010 s5; 3 Jan 2014 SR 107/2013 s4; 18 Sep 2015 SR 77/2015 s4; 8 Dec 2017 SR 121/2017 s4.

Depreciation allowances

8(1) For the purposes of paragraph 2(1)(ii)(viii)(A), the depreciation allowance for sales offices other than the head office is equal to the lesser of:

(a) the amount of depreciation that:

(i) is calculated on a straight-line basis on the carrying value, determined in accordance with Canadian generally accepted accounting principles, of those sales offices; and

(ii) would be used in preparing annual financial statements if those statements were prepared for the calendar year; and

(b) the amount of depreciation that would otherwise be calculated pursuant to clause (a) if the straight-line depreciation rate was 10%.

(2) For the purposes of paragraph 2(1)(ii)(viii)(B), the depreciation allowance for furniture and equipment used exclusively in sales offices is equal to the lesser of:

(a) the amount of depreciation that:

(i) is calculated on a straight-line basis on the carrying value, determined in accordance with Canadian generally accepted accounting principles, of that furniture and equipment; and

(ii) would be used in preparing annual financial statements if those statements were prepared for the calendar year; and

(b) the amount of depreciation that would otherwise be calculated pursuant to clause (a) if the straight-line depreciation rate was 20%.

(3) For the purposes of paragraph 2(1)(ii)(viii)(C), the depreciation allowance for automobiles used exclusively for marketing purposes is equal to the lesser of:

(a) the amount of depreciation that:

(i) is calculated on a straight-line basis on the carrying value, determined in accordance with Canadian generally accepted accounting principles, of those automobiles; and

(ii) would be used in preparing annual financial statements if those statements were prepared for the calendar year; and

(b) the amount of depreciation that would otherwise be calculated pursuant to clause (a) if the straight-line depreciation rate was 35%.

(4) For the purposes of subclause 2(1)(rr)(iii), the depreciation allowance for railcars is equal to the lesser of:

(a) the amount of depreciation that:

(i) is calculated on a straight-line basis on the carrying value, determined in accordance with Canadian generally accepted accounting principles, of those railcars; and

(ii) would be used in preparing annual financial statements if those statements were prepared for the calendar year; and

(b) the amount of depreciation that would otherwise be calculated pursuant to clause (a) if the straight-line depreciation rate was 7%.

(5) For the purposes of paragraph 2(1)(uu)(i)(J), the depreciation allowance for warehouses is equal to the lesser of:

(a) the amount of depreciation that:

(i) is calculated on a straight-line basis on the carrying value, determined in accordance with Canadian generally accepted accounting principles, of those warehouses; and

(ii) would be used in preparing annual financial statements if those statements were prepared for the calendar year; and

(b) the amount of depreciation that would otherwise be calculated pursuant to clause (a) if the straight-line depreciation rate was 5%.

(6) For the purposes of paragraph 2(1)(uu)(i)(K), the depreciation allowance for furniture and equipment used exclusively at storage facilities is equal to the lesser of:

(a) the amount of depreciation that:

(i) is calculated on a straight-line basis on the carrying value, determined in accordance with Canadian generally accepted accounting principles, of that furniture and equipment; and

(ii) would be used in preparing annual financial statements if those statements were prepared for the calendar year; and

(b) the amount of depreciation that would otherwise be calculated pursuant to clause (a) if the straight-line depreciation rate was 20%.

(7) For the purposes of clause 7(2)(i), the depreciation allowance with respect to the net mine capital is the product of:

(a) the amount by which the net mine capital exceeds zero; and

(b) for:

(i) 2015 and 2016, 20%; and

(ii) for 2017 and subsequent years, 35%.

(8) For the purposes of clause 2(1)(e.3), the depreciation allowance respecting approved remote capital is equal to 35% of the amount by which approved remote capital exceeds zero.

(8.1) For the purposes of clause 7(2)(r), but subject to section 8.1, the depreciation allowance for a year with respect to accelerated capital is the product of:

(a) the amount by which accelerated capital exceeds zero; and

(b) for:

(i) 2015 and 2016, 60%; and

(ii) for 2017 and subsequent years, 35%.

(9) **Repealed.** 7 May 99 SR 21/1999 s7.

(10) **Repealed.** 7 May 99 SR 21/1999 s7.

(11) **Repealed.** 17 Oct 2003 SR 115/2003 s8.

(12) **Repealed.** 17 Oct 2003 SR 115/2003 s8.

(13) **Repealed.** 7 May 99 SR 21/1999 s7.

(14) **Repealed.** 7 May 99 SR 21/1999 s7.

22 Dec 89 cM-17.1 Reg 6 s8; 27 Dec 91 SR 98/91 s6; 7 May 99 SR 21/1999 s7; 17 Oct 2003 SR 115/2003 s8; 16 Sep 2005 SR 89/2005 s5; 24 Dec 2010 SR 125/2010 s6; 3 Jan 2014 SR 107/2013 s5; 18 Sep 2015 SR 77/2015 s5.

Deduction of lesser amount

8.1(1) If the deduction of the amount specified in subsection 8(8.1) would result in the producer reporting a profit less than zero for the year, the producer may elect to deduct a lesser amount.

(2) If the producer elects to deduct a lesser amount pursuant to subsection (1), the producer must deduct at least the portion of the amount available for deduction pursuant to subsection 8(8.1) that would result in the producer reporting zero profit.

24 Dec 2010 SR 125/2010 s7.

9 Repealed. 17 Oct 2003 SR 115/2003 s9.

PART III
Base Payment

Percentage of profits

10(1) For the purposes of clause 5(1)(a) of the Schedule, the percentage of a producer's profits for a year is 35%.

(2) **Repealed.** 17 Oct 2003 SR 115/2003 s10.

22 Dec 89 cM-17.1 Reg 6 s10; 17 Oct 2003 SR 115/2003 s10.

Base payment holiday – application and qualification

10.1(1) In this section and section 10.2, **"approved"** means approved by the minister in a prior written approval given for the purposes of subsection (3).

(2) Subject to subsections (3) to (6) and to section 10.2, a producer may qualify for a reduction in base payment with respect to production from:

(a) an expansion in the productive capacity of an existing mine, if that expansion commences on or after January 1, 2005; or

(b) the development of a new mine, if the beginning of commercial production for that new mine is on or after January 1, 2005.

(3) Subject to subsection (4), a producer qualifies for the reduction in base payment only if:

(a) the expansion in productive capacity of an existing mine or the development of the new mine has been approved; and

(b) in the case of an expansion in the productive capacity of an existing mine, the increase in the annual productive capacity qualifies the expansion as a mine expansion.

(4) If a producer has applied for and received approval for a mine expansion of an existing mine or the development of a new mine and the producer subsequently makes adjustments to operations of that mine that have the effect of further increasing the productive capacity of the mine by amounts that would not qualify as a mine expansion, those further increases in productive capacity resulting from the adjustments:

(a) are deemed to be a part of the productive capacity that is associated with the prior approved mine expansion or new mine; and

(b) qualify for a reduction in base payment in the same manner and for the original period as production from the prior approved mine expansion or new mine.

(5) For the purpose of determining whether or not new mines and mine expansions qualify for the reduction in base payment, the producer shall deliver to the minister a written certificate stating:

(a) for each occasion that the producer applies for approval of a mine expansion, the productive capacity of the mine as of the date of the application;

(b) for each occasion that the producer receives approval of a mine expansion, the productive capacity of the mine following completion of the expansion; and

(c) for each new mine developed by the producer, the productive capacity of the mine after the beginning of commercial production.

(6) The certificate of productive capacity specified in subsection (5) must be:

(a) consistent with the methodology provided for calculating annual productive capacity as set out in section 3;

(b) either:

(i) provided by a firm of professional engineers, as defined in *The Engineering and Geoscience Professions Act*, acceptable to the minister; or

(ii) if the new mine or mine expansion must be approved by the Board of Directors of the producer or an affiliate of the producer, provided and certified by an authorized officer or director of the producer or an affiliate of the producer in a manner that the estimates are consistent with the estimates contained in the documents used for the purpose of obtaining the Board of Director's approval for the new mine or mine expansion;

(c) in the case of a certificate mentioned in clause (5)(a), provided to the minister with the application for the approval of the mine expansion;

(d) in the case of a certificate mentioned in clause (5)(b), provided to the minister within one year after the completion of the mine expansion; and

(e) in the case of a certificate mentioned in clause (5)(c), provided to the minister within one year after the beginning of commercial production.

16 Sep 2005 SR 89/2005 s6; 24 Dec 2010 SR 125/2010 s8.

Base payment holiday – calculation of amounts

10.2(1) Subject to subsections (2) to (7), for each mine of the producer that qualifies for reduction in base payment pursuant to section 10.1 and this section, the following production from that mine in the year is not subject to base payment, and is to be used to reduce the quantity of potash subject to base payment as set out in section 11:

(a) in the case of a new mine, all production from the mine after the date that the new mine has been approved; or

(b) in the case of a mine expansion, any production in excess of the mine's productive capacity, as at the date of the application for the mine expansion, as established in the certificate provided pursuant to clauses 10.1(5)(a) and (6)(c).

(2) A producer may reduce its base payment in accordance with subsection (1) during the period:

(a) with respect to a mine expansion:

(i) commencing on January 1 of the year following the year in which the mine expansion is approved by the minister; and

(ii) ending on December 31 of the tenth year following the year in which the mine expansion is approved by the minister; and

(b) with respect to a new mine:

(i) commencing on January 1 of the year following the year in which the new mine is approved by the minister; and

(ii) ending on December 31 of the tenth year following the year in which the new mine is approved by the minister.

(3) A producer that applies for and receives approval for a subsequent mine expansion that qualifies for a reduction in base payment pursuant to section 10.1 and this section is eligible to reduce its base payment for that subsequent mine expansion in accordance with this section.

(4) For the purposes of subsection (3), the quantity of potash that is to be used to reduce the producer's base payment is equal to the positive difference, if any, between:

(a) production in the year from the mine; and

(b) the mine's productive capacity, as at the date of the application for the subsequent mine expansion, as established in the certificate provided pursuant to clauses 10.1(5)(a) and (6)(c).

(5) A producer may reduce its base payment in accordance with subsections (3) and (4) during the period:

(a) commencing on January 1 of the year following the year in which the subsequent mine expansion is approved by the minister; and

(b) ending on December 31 of the tenth year following the year in which the mine expansion is approved by the minister.

(6) Notwithstanding clause (2)(a) and subsection (5), on the written application of a producer to the minister and if the minister is satisfied that it is appropriate to do so, the minister may authorize the producer to reduce its base payment in accordance with subsection (1) or subsections (3) and (4), as the case may be, during the period:

(a) commencing on January 1 of the year in which the mine expansion is approved by the minister; and

(b) ending on December 31 of the ninth year following the year in which the mine expansion is approved by the minister.

(7) If, pursuant to subsections (3) and (4), a producer is granted a reduction in base payment for a subsequent mine expansion and the producer has already been granted a reduction in base payment pursuant to section 10.1 and this section with respect to a previous mine expansion or a new mine, the reduction in the quantity of potash subject to base payment for the previous mine expansion or new mine is to be revised and is equal to:

(a) in the case of previous reductions in base payment granted for expansions to an existing mine the positive difference, if any, between:

(i) the lesser of:

(A) production in the year from the mine; and

(B) the mine's productive capacity, as at the date of the application for the subsequent mine expansion, as established in the certificate provided pursuant to clauses 10.1(5)(a) and (6)(c); and

(ii) the mine's productive capacity, as at the date of the application for the mine expansion preceding the subsequent mine expansion, as established in the certificate provided pursuant to clauses 10.1(5)(a) and (6)(c) for the preceding mine expansion; or

(b) in the case of previous reductions in base payment granted to a new mine, the annual production at the mine that is less than or equal to the productive capacity of the new mine, as at the date of the application for the first approved expansion to the new mine, as established in the certificate provided pursuant to clauses 10.1(5)(a) and (6)(c).

16 Sep 2005 SR 89/2005 s6.

Quantity of potash sold – base payment

11 For the purposes of clause 5(1)(b) of the Schedule, subclause 5(2)(a)(ii) of the Schedule and clauses 16(1)(b) and 17(1)(b) of these regulations, the quantity of potash sold or otherwise disposed of from a mine in a year is the quantity, expressed in K_2O tonnes, of saleable potash that:

(a) is produced from the mines of the producer;

(b) is sold or otherwise disposed of from the mines of the producer in the year; and

(c) does not qualify for a reduction in base payment pursuant to sections 10.1 and 10.2.

16 Sep 2005 SR 89/2005 s7.

12 Repealed. 10 May 2019 SR 36/2019 s3.

Maximum rate of tax

13 For the purposes of subsection 5(4) of the Schedule, the maximum rate of tax is $12.33 per K_2O tonne.

7 May 99 SR 21/1999 s8.

Minimum rate of tax

14 For the purposes of subsection 5(5) of the Schedule, the minimum rate of tax is $11 per K_2O tonne.

22 Dec 89 cM-17.1 Reg 6 s14.

15 Repealed. 10 May 2019 SR 36/2019 s4.

Monthly statement

16(1) (1) On or before March 31 of the year following the end of each year, a producer shall submit to the minister a statement containing:

(a) the amount of profits for the year;

(b) the quantity of potash sold or otherwise disposed of in the year; and

(c) a calculation of the rate of tax pursuant to subsection 5(3) of the Schedule.

(2) The information mentioned in clauses (1)(a) and (c) is required only if the maximum rate of tax calculated pursuant to section 13 is not the rate of tax to be applied pursuant to subclause 5(2)(a)(i) of the Schedule.

22 Dec 89 cM-17.1 Reg 6 s16; 29 May 92 Errata; 10 May 2019 SR36/2019 s5.

Annual statement

17(1) On or before March 31 of the year following the end of each year, a producer shall submit to the minister a statement containing:

(a) the amount of profits for the year;

(b) the quantity of potash sold or otherwise disposed of in the year; and

(c) a calculation of the rate of tax pursuant to subsection 5(3) of the Schedule

(2) A statement pursuant to subsection (1) with respect to the year 1990 is to contain, in addition to the information set out in that subsection, a statement of the quantity of potash that is sold or otherwise disposed of in 1990 but is produced on or before December 31, 1989.

22 Dec 89 cM-17.1 Reg 6 s17; 24 Dec 2010 SR 125/2010 s9; 10 May 2019 SR36/2019 s6.

Payment of the difference – base payment

17.1 If the amount of the base payment determined pursuant to subsection 5(10) of the Schedule exceeds the total of the instalments paid pursuant to subsection 5(8) of the Schedule, the producer shall pay to the minister the difference between those amounts on or before March 31 of the year following the end of the year.

22 Dec 89 cM-17.1 Reg 6 s17; 24 Dec 2010 SR 125/2010 s9; 24 Dec 2010 SR 125/2010 s10.

PART IV
Profit Tax

Profit brackets and rates of tax

18 For the purposes of clause 6(1)(a) of the Schedule, the prescribed profit brackets and rates of tax are those set out in Table 1 of the Appendix.

22 Dec 89 cM-17.1 Reg 6 s18.

Deductions

19(1) For the purposes of clause 6(1)(b) of the Schedule, deductions may be made for the following in calculating the profit tax for a year:

(a) the amount A calculated in accordance with the following formula:

$A = (B \times C)$

where:

B is the lesser of:

(i) the quantity of potash as determined pursuant to section 11; and

(ii) the quantity of potash as determined pursuant to subsection 21(2);

C is the base payment rate of tax as calculated pursuant to subclause 5(2)(a)(i) of the Schedule;

(b) an amount not exceeding 40% of the approved market development costs that:

(i) are incurred by the producer during the year; and

(ii) the producer has not deducted in determining its profits for the year;

(c) an amount not exceeding 40% of the approved research and development costs eligible for credit that the producer has not deducted in determining its profits for the year;

(d) for each producer who has the right to produce and sell or otherwise dispose of potash from more than one mine on January 1, 2002, for the years 2002 to 2011 inclusive, 10% of the total of the excess amounts calculated pursuant to subsection 20(3).

(2) For the purposes of clause 6(1)(b) of the Schedule, no deduction may be made with respect to the refundable amounts of any royalties, taxes or other similar payments made by the producer pursuant to any Act, regulation or agreement.

(3) In calculating the deductions available pursuant to subsection (1), if the producer has claimed a royalty reduction, the amount of the deductions must, before they can be applied for the purposes of clause 6(1)(b) of the Schedule, be reduced by the amount of the royalty reduction claimed by the producer in the current and all previous years.

(4) In this section, **"royalty reduction"** means a royalty reduction against the amount of royalty due to the Crown calculated pursuant to subsection 4(3) of *The Subsurface Mineral Royalty Regulations, 2017*.

22 Dec 89 cM-17.1 Reg 6 s19; 16 Feb 90 Errata; 27 Dec 91 SR 98/91 s9; 7 May 99 SR 21/1999 s9; 17 Oct 2003 SR 115/2003 s13; 16 Sep 2005 SR 89/2005 s9; 24 Dec 2010 SR 125/2010 s11; 10 May 2019 SR36/2019 s7; 23 Sep 2022 SR 69/2022 s2.

Deductions carried forward

20(1) If the total of the deductions of a producer pursuant to clauses 19(1)(b) and (c) in any year exceeds the amount calculated pursuant to subsection 6(1) of the Schedule for the year before deducting the amounts calculated pursuant to clauses 19(1)(b) and (c), the excess may be carried forward and deducted by the producer from the amount of the base payment or profit tax that would otherwise be payable by the producer in subsequent years.

(2) Subject to subsection (3), if the deduction of a producer pursuant to clause 19(1)(a) in any year exceeds the profit tax for the year that would otherwise be payable, the excess may be carried forward and deducted by the producer from the profit tax payable by the producer in the five years immediately following.

(3) For each producer who has the right to produce and sell or otherwise dispose of potash from more than one mine, the excess amounts calculated pursuant to subsection (2) for the years 1997 to 2001 inclusive that have not been deducted from profit tax in years prior to 2002 may not be deducted pursuant to subsection (2) in 2002 and subsequent years.

(4) If the deduction pursuant to clause 19(1)(d) in any year exceeds the profit tax for the year that would otherwise be payable, the excess may be carried forward and deducted by the producer from the profit tax payable by the producer up to December 31, 2011.

27 Dec 91 SR 98/91 s10; 7 May 99 SR 21/1999 s10; 4 Dec 2020 SR 122/2020 s4.

Quantity of potash sold – profit tax

21(1) For the purpose of determining a producer's profit per tonne of potash sold or otherwise disposed of pursuant to paragraph 6(1)(a)(i)(B) of the Schedule, the quantity of potash sold or otherwise disposed of from the mines of the producer in a year is:

(a) for all years before 2017, the quantity, expressed in K_2O tonnes, of saleable potash sold or otherwise disposed of from the mines of the producer in the year; and

(b) for 2017 and subsequent years, the quantity, expressed in K_2O tonnes, of saleable potash that:

(i) is produced from the mines of the producer; and

(ii) is sold or otherwise disposed of from the mines of the producer in the year.

(2) For the purpose of determining a producer's profit in each profit bracket pursuant to subclause 6(1)(a)(i) of the Schedule, the quantity of potash sold or otherwise disposed of from the mines of the producer in the year is:

(a) for all years before 2003, the quantity as determined pursuant to subsection (1) for that year;

(b) for the years 2003 to 2009, the lesser of:

(i) the quantity as determined pursuant to subsection (1) for that year; and

(ii) the average of the quantity determined pursuant to subsection (1) for the years 2001 and 2002; and

(c) for 2010 and subsequent years, the greater of:

(i) 35% of the quantity determined pursuant to subsection (1) for that year; and

(ii) the lesser of:

(A) the producer's adjusted base tonnes in the year; and

(B) the quantity determined pursuant to subsection (1) for that year.

17 Oct 2003 SR 115/2003 s14; 24 Dec 2010 SR 125/2010 s12; 8 Dec 2017 SR 121/2017 s6.

Interest rate

22(1) For the purposes of clauses 6(8)(a) to (d) of the Schedule, the rate of interest per annum 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 prescribed by this section shall be determined on June 15 and December 15 in each year and:

(a) the interest rate as determined on June 15 applies to any amount that is due on or after July 1; and

(b) the interest rate as determined on December 15 applies to any amount that is due on or after January 1 of the following year.

3 Jan 2014 SR 107/2013 s6.

Calculation of interest

23(1) Subject to subsections (2) and (3), interest payable pursuant to any of the provisions of subsection 6(8) of the Schedule is to be calculated:

(a) for the period commencing on April 1 in the year and ending on June 30 in the year, on the amount, if any, by which 20% of the profit tax for the year exceeds the amount remitted on March 31 in the year;

(b) for the period commencing on July 1 in the year and ending on September 30 in the year, on the amount, if any, by which 42.5% of the profit tax for the year exceeds the amount remitted on or before June 30 in the year;

(c) for the period commencing on October 1 in the year and ending on December 31 in the year, on the amount, if any, by which 67.5% of the profit tax for the year exceeds the amount remitted on or before September 30 in the year;

(d) for the period commencing on January 1 in the year immediately following and ending on the day on which payment is received by the minister, on the amount, if any, by which 95% of the profit tax for the year exceeds the amount remitted on or before December 31 in the year.

(2) For the purposes of subsection (1), the amount by which the percentage of the profit tax for the year specified in any of clauses (1)(a) to (d) exceeds the amount remitted on the day specified in that clause does not include any amount that results from a revision of the index value.

(3) **Repealed.** 17 Oct 2003 SR 115/2003 s15.

22 Dec 89 cM-17.1 Reg 6 s23; 27 Dec 91 SR 98/91 s12; 17 Oct 2003 SR 115/2003 s15.

Quarterly statement

24 At the end of each quarter, a producer shall submit to the minister a statement containing:

(a) an estimate of the amount of the producer's profit tax for the year that, in the opinion of the minister, is reasonable; and

(b) an estimate of the amount of the producer's profit tax for the next calendar year that, in the opinion of the minister, is reasonable;

supported by estimates of the producer's gross revenue, operating costs and other amounts relevant to the calculation of the profit tax.

22 Dec 89 cM-17.1 Reg 6 s24; 17 Oct 2003 SR 115/2003 s16.

Annual statement

25 On or before March 31 of the year following after the end of each year, a producer shall submit to the minister:

(a) a statement setting out the profit tax for the year, including the calculation of required payments; and

(b) schedules for the combined operations of the mines of the producer setting out:

(i) the quantity and grade of all potash extracted, raised, concentrated, refined, stored, shipped sold, disposed of, transferred or consumed during the year and the price or other consideration received for that potash;

(ii) a reconciliation of the quantity of potash shown as being acquired or disposed of during the year to the quantity of potash owned at the beginning of the year and the quantity of potash owned at the end of the year;

(iii) the gross revenue and the quantities of potash related to the calculation of gross revenue for:

(A) the year; and

(B) each month of the year;

separated into the amounts of gross revenue calculated pursuant to subsections 5(2), (3) and (8);

(iv) the allowances, expenses and deductions taken pursuant to subsection 7(2), separated into the categories set out in that subsection;

(v) the operating costs, separated into the categories listed in clause 2(1)(kk.1);

(v.1) the approved remote costs;

(vi) the computation of:

(A) net mine capital; and

(B) approved remote capital;

(C) **Repealed.** 17 Oct 2003 SR 115/2003 s17.

(D) **Repealed.** 17 Oct 2003 SR 115/2003 s17.

for the year;

(vii) the volume and cost of potash owned by the producer at the start of the year and at the end of the year;

(viii) any insurance proceeds received by the producer or its affiliates during the year and the details of any insurance claim related to those proceeds;

(ix) the marketing costs, storage costs, transportation costs and railcar costs for the year;

(x) the approved market development costs, mine research and development costs and approved research and development costs eligible for credit incurred during the year;

(xi) the expenses incurred at the mines of the producer in the year that are not deductible in computing profits; and

(xii) any other data that:

(A) the producer considers relevant; or

(B) in the opinion of the minister, is relevant;

to the calculation of the profit tax for the year.

22 Dec 89 cM-17.1 Reg 6 s25; 27 Dec 91 SR 98/91 s13; 7 May 99 SR 21/1999 s11; 17 Oct 2003 SR 115/2003 s17; 24 Dec 2010 SR 125/2010 s13; 3 Jan 2014 SR 107/2013 s7.

Payment of the difference – profit tax

25.1 If the amount of the profit tax determined pursuant to subsection 6(5) of the Schedule exceeds the total of the instalments paid pursuant to subsection 6(3) of the Schedule, the producer shall pay to the minister the difference between those amounts on or before March 31 of the year following the end of the year.

24 Dec 2010 SR 125/2010 s14.

PART V
General

Net mine capital and accelerated capital on transfer of interest in a mine

26(1) If a producer, as transferor, sells, lets, assigns, transfers or otherwise disposes of an interest or a beneficial interest in a mine to another person who, as recipient of that interest, is or becomes a producer:

(a) subject to subsections (2) to (5), the opening net mine capital and the opening accelerated capital of the recipient of that interest or beneficial interest are the net mine capital and accelerated capital of the transferor with respect to that interest or beneficial interest on the day immediately preceding the day of disposition;

(b) amounts that may be carried forward pursuant to clause 7(2)(q) and subsections 20(1) and (2) are transferred from the transferor to the recipient of that interest or beneficial interest; and

(c) subject to subsection (6), the base tonnes that the minister determines to be associated with that interest or beneficial interest are transferred from the transferor to the recipient of that interest or beneficial interest.

(2) If, with respect to a transferor or a recipient of that interest or beneficial interest, a year is less than 365 days, mine capital for that year must be reduced to an amount A calculated in accordance with the following formula:

$$A = MC \times \frac{Y}{365}$$

where:

MC is the net mine capital or accelerated capital transferred from the transferor to the recipient of that interest or beneficial interest; and

Y is the number of days in the transferor's or recipient's year.

(3) If a producer, as transferor, sells or otherwise disposes of part of an interest or beneficial interest in a mine, the net mine capital and the accelerated capital of the transferor with respect to the part of the interest or beneficial interest that has been disposed of is the amount A calculated in accordance with the following formula:

$$A = MC \times \frac{VIS}{VBS}$$

where:

MC is the transferor's net mine capital or accelerated capital with respect to that interest or beneficial interest immediately before the disposition;

VIS is the transferor's percentage interest in production in the mine that corresponds to the interest or beneficial interest that has been disposed of;

VBS is the transferor's percentage interest in production in the mine that corresponds to the interest or beneficial interest immediately before the disposition.

(4) For the purposes of this section, a producer with beneficial interests in more than one mine shall keep a separate account of net mine capital and accelerated capital for each beneficial interest.

(5) On the disposition of an interest or a beneficial interest in a mine, the transferor's net mine capital and accelerated capital are to be reduced by the amounts calculated pursuant to subsections (2) and (3).

(6) The minister may determine:

(a) for the purposes of this section, when a producer, as transferor, has sold, let, assigned, transferred or otherwise disposed of an interest or a beneficial interest in a mine to another person; and

(b) for the purposes of clause (1)(c), the number of base tonnes associated with the interest or beneficial interest to be transferred.

24 Dec 2010 SR 125/2010 s15.

New mine

27 Where a producer has an interest or a beneficial interest in a new mine, the producer is liable for the payment of the base payment and the profit tax with respect to all potash sold or otherwise disposed of from the mine on and after the beginning of commercial production.

22 Dec 89 cM-17.1 Reg 6 s27; 17 Oct 2003 SR 115/2003 s19.

New mine producers to report certain capital expenditures before beginning production

27.1(1) If a producer has received prior approval from the minister to construct a new mine and does not have a direct or beneficial interest in another operating Saskatchewan potash mine, the producer shall report to the minister, with respect to each year before the beginning of commercial production, the costs of the project incurred for the year as defined in subsection 2(8.31).

(2) A report mentioned in subsection (1) must be submitted to the minister on or before March 31 of the year following the end of the year to which the report relates.

(3) If a producer has reported costs pursuant to subsection (1) and has not used those costs to report a depreciation allowance, the sum of those unused costs accumulated before commercial production is deemed, in the first year of commercial production, to be costs incurred in the current year for the purposes of subsection 2(8.31).

18 Sep 2015 SR 77/2015 s6.

Insurance proceeds and other compensation

28(1) Subject to subsections (5) and (6), insurance proceeds, including proceeds from business interruption insurance, for the purposes of clauses 2(1)(mm) and subclause 7(2)(a)(ii):

(a) are proceeds of disposition and amounts within the meaning of those provisions in the year in which they are received; and

(b) shall not be allocated to any previous year or years in which the insurable loss occurred.

(2) to (4) **Repealed.** 7 May 99 SR 21/1999 s12.

(5) Where, pursuant to the Potash Resource Payment Agreement, 1979, as amended from time to time, a producer has, on or before December 31, 1989, reported insurance proceeds as payable pursuant to a policy of insurance, but receives the proceeds on or after January 1, 1990, the producer shall report the difference between:

(a) the amount reported as payable; and

(b) the amount received;

in the year in which the proceeds are received.

(6) After an insurable loss occurs, where a producer receives insurance proceeds as reimbursement for either or both of the following:

(a) expenditures reported as capital costs incurred to repair damage or replace assets;

(b) expenditures made to maintain ongoing mining operations after an insurable loss occurs;

unless the minister approves otherwise, a producer shall allocate those insurance proceeds between net mine capital and operating costs in direct proportion to the expenditures made by the producer as described in clauses (a) and (b) respecting that insurable loss.

(7) Subsections (1), (5) and (6) apply, with any necessary modification, to:

(a) compensation for an asset taken pursuant to statutory authority or the sale price of an asset sold to a person who has given notice of intention to take the asset pursuant to statutory authority; and

(b) compensation for an asset injuriously affected, whether lawfully or unlawfully or whether pursuant to statutory authority or otherwise.

22 Dec 89 cM-17.1 Reg 6 s28; 7 May 99 SR 21/1999 s12; 3 Jan 2014 SR 107/2013 s8.

Reporting of certain costs

29(1) Where assets are damaged or destroyed, the producer shall report the costs for replacement or repair of those assets in the year in which those costs are incurred.

(2) Where a producer incurs costs to maintain ongoing mining operations after an insurable loss occurs, the producer shall report those costs in the year in which they are incurred.

22 Dec 89 cM-17.1 Reg 6 s29.

Interest

30(1) Subject to subsection (1.1), for the purposes of subsection 22(1) of the Act, the rate of interest per annum 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%.

(1.01) The interest rate prescribed by this section shall be determined on June 15 and December 15 in each year and:

(a) the interest rate as determined on June 15 applies to any amount that is due on or after July 1; and

(b) the interest rate as determined on December 15 applies to any amount that is due on or after January 1 of the following year.

(1.1) When interest is payable by the producer because the producer has not made a payment when due as required pursuant to clause 5(6)(a) or subsection 6(2) of the Schedule or section 17.1 or 25.1 of these regulations, the rate of interest is to be calculated in accordance with *The Mineral Taxation Late Payment Charges Regulations*.

(2) For the purposes of subsection 22(2) of the Act and section 9 of the Schedule, the minister shall pay interest to a producer only with respect to:

(a) amounts refunded to the producer as the result of an assessment or reassessment pursuant to section 26 of the Act; and

(b) the amount of overpayments of quarterly instalments of profit tax, calculated in accordance with subsection (3).

(3) The amount of overpayments of quarterly instalments of profit tax for a year is equal to the total of:

(a) for the period commencing on April 1 of the year and ending on June 30 in the year, the amount, if any, by which the amount remitted on March 31 of the year exceeds 30% of the profit tax for the year;

(b) for the period commencing on July 1 of the year and ending on September 30 of the year, the amount, if any, by which the amount remitted on or before June 30 of the year exceeds 57.5% of the profit tax for the year;

(c) for the period commencing on October 1 of the year and ending on December 31 of the year, the amount, if any, by which the amount remitted on or before September 30 in the year exceeds 82.5% of the profit tax for the year; and

(d) for the period commencing on January 1 of the year immediately following and ending on the earlier of:

(i) the day on which the statement mentioned in section 25 is received by the minister; and

(ii) March 31 of the year immediately following;

the amount, if any, by which the amount remitted on or before December 31 in the year exceeds 105% of the profit tax for the year.

(4) For the purposes of clause (2)(a), the rate of interest per annum is the rate equal to the prime lending rate of the bank holding the general revenue fund as determined and adjusted in accordance with this section, for the later of:

(a) the day on which the amount in question should have been paid or remitted; and

(b) the day on which the amount in question was paid or remitted.

(5) For the purposes of clause (2)(b), the rate of interest per annum is the rate equal to the prime lending rate of the bank holding the general revenue fund as determined and adjusted in accordance with subsection 22(2).

22 Dec 89 cM-17.1 Reg 6 s30; 17 Oct 2003 SR 115/2003 s20; 24 Dec 2010 SR 125/2010 s17; 3 Jan 2014 SR 107/2013 s9; 7 Jly 2017 SR 67/2017 s3; 24 Dec 2020 SR 137/2020 s2.

Application of payments

31 Moneys paid by a producer pursuant to these regulations shall be applied to the base payment, profit tax and interest owed by the producer in the proportions determined from time to time by the minister.

22 Dec 89 cM-17.1 Reg 6 s31.

Currency

32(1) All monetary amounts mentioned in these regulations are expressed in Canadian dollars.

(2) A producer shall, in any report or statement required pursuant to the Act or these regulations, express all monetary amounts in Canadian dollars.

(3) For the purposes of subsection (2), where an amount is transacted in a foreign currency, the equivalent value in Canadian dollars is to be obtained by translating the foreign currency to Canadian dollars at the mid-market noon spot rate for the foreign currency that prevails on the interbank market in Canada on the day of the transaction.

(4) Notwithstanding subsection (3), if a method of translating foreign currency other than the method described in subsection (3) is presently followed by a producer in drawing up its corporate accounts, and that method:

(a) in the opinion of the minister, is consistently and reasonably applied; and

(b) produces results that approximate the results that would be obtained by applying the method described in subsection (3);

that method may be used by the producer for the purposes of subsection (2).

22 Dec 89 cM-17.1 Reg 6 s32.

Arm's length

33(1) Persons are deemed not to deal at arm's length with one another where:

(a) they are related persons within the meaning of section 251 of the *Income Tax Act* (Canada), as amended from time to time; or

(b) one of the persons is a corporation and the other beneficially owns, directly or indirectly, voting securities that carry more than 10% of the voting rights attached to all outstanding voting securities of the corporation.

(2) Where persons are not within the scope of subsection (1), it is a question of fact whether, at a particular point in time, they were dealing with each other at arm's length.

(3) In determining a question of fact pursuant to subsection (2), consideration is to be given as to whether each stands on the strict letter of his or her rights and conducts his or her business in a formal manner without:

(a) trusting to the other's fairness or integrity; or

(b) being subject to the other's control or overmastering influence.

22 Dec 89 cM-17.1 Reg 6 s33.

Monthly statement

34(1) On or before the 28th day of each month, a producer shall submit to the minister a statement containing:

(a) the quantity and grade of all potash extracted, raised, concentrated, refined, stored, shipped or sold, disposed of, transferred or consumed during the preceding month and the price or other consideration obtained for that potash, stated separately for each destination to which potash was shipped during that month;

(b) a reconciliation of the quantities of potash shown as being acquired or disposed of during the preceding month to the quantity of potash owned at the beginning of that month and the quantity of potash owned at the end of that month; and

(c) subject to subsection (3), in the case of potash shipped, sold, disposed of or transferred to an industry sales organization:

(i) the information set out in clause (a) with respect to:

(A) the quantity, grade, price and destination of; and

(B) the price or other consideration for;

that potash; and

(ii) a reconciliation pursuant to clause (b) with respect to that potash;

after receipt of that potash by the industry sales organization.

(2) For the purposes of clause (1)(a), shipments to destinations within any state of the United States or any province of Canada are deemed to be shipments to a single destination.

(3) Where no breakdown on a producer-by-producer basis is available, the information required pursuant to clause (1)(c) may be aggregated for the industry sales organization.

(4) If sales or dispositions of potash that are required to be reported pursuant to subsection (1) are made to an affiliate, the producer shall report those transactions as sales to an affiliate in its monthly report.

22 Dec 89 cM-17.1 Reg 6 s34; 17 Oct 2003 SR 115/2003 s21.

Verification of statement

35 Every statement required by these regulations is to be verified and signed by the producer or a representative of the producer who:

(a) is authorized by the producer to make the verification and sign the statement; and

(b) has charge, and full knowledge, of the producer's mining operations.

22 Dec 89 cM-17.1 Reg 6 s35.

Copies of reports

36 A producer shall furnish the minister with copies of any reports provided to the producer by an industry sales organization, including budgets, operating plans, reports of operations, financial reports, memoranda on commitments and entitlements, and revisions and updates of any of those reports.

22 Dec 89 cM-17.1 Reg 6 s36.

Mine records

37(1) For the purposes of section 20 of the Act, a producer shall keep full, correct and complete books of account, with supporting documents, showing in full:

(a) all transactions and expenditures in connection with all mines of the producer;

(b) the quantities of potash that are:

(i) extracted or raised from all mines of the producer; and

(ii) concentrated, refined, shipped, sold, disposed of, transferred or consumed;

(c) the price or other consideration for the potash mentioned in clause (b);

(d) the day on which a quantity of potash was shipped or sold, disposed of, transferred or consumed; and

(e) the name of each person to whom potash was shipped or sold, disposed of or transferred or by whom it was consumed.

(2) A producer shall keep at each mine in which the producer has a beneficial interest or at any other place approved in writing by the minister:

(a) proper up-to-date surveys, mine plans and maps, assay plans, assay records and mining records; and

(b) copies of all sales, transportation, storage and handling contracts and all equipment and facility leases.

17 Oct 2003 SR 115/2003 s22.

Retention of records

38(1) A producer shall retain all mine records for a period of five years following the end of the year to which the records pertain, unless written consent to their disposal is obtained from the minister.

(2) A producer shall retain all mine records relating to capital assets for a further period of two years after the expiry of the period set out in subsection (1).

(3) Records kept for the further period mentioned in subsection (2) may be kept in the form of a microfilm or microfiche facsimile.

22 Dec 89 cM-17.1 Reg 6 s38.

Production of records

39(1) At the minister's request, a producer shall deliver to the minister copies of any of the producer's audited financial statements in existence.

(2) A producer shall keep and maintain relevant and appropriate documentation in support of the information required to be given to the minister pursuant to any provision of these regulations and provide that documentation on request to any official of the department during any investigation pursuant to subsection 25(1) of the Act.

22 Dec 89 cM-17.1 Reg 6 s39.

Penalty on audit assessments

39.01(1) For the purposes of section 26.1 of the Act, every producer shall pay to the minister a penalty at the rate set out in subsection (2) on any tax that is not paid or remitted as and when required by the Act or these regulations.

(2) For the purposes of subsection (1), the penalty is 10% of the tax that is not paid or remitted as and when required by the Act or these regulations.

7 Jly 2017 SR 67/2017 s4.

Interest on audit assessments

39.02 For the purposes of section 26.1 of the Act, every producer shall pay interest pursuant to subsection 22(1) of the Act at the rate set out in subsection 30(1) of these regulations.

7 Jly 2017 SR 67/2017 s4.

Refunds

39.03(1) Subject to subsections (2) and (3), if a producer has made an overpayment of tax, the minister:

(a) shall refund the amount of the overpayment to the producer; and

(b) may pay interest at the rate and in the manner set out in subsection (6).

(2) If a producer owes any taxes pursuant to the Act or these regulations at the time the minister determines that an overpayment has been made:

(a) the minister shall retain the amount of the overpayment, or as much of the overpayment as is required, and apply it to the taxes owing; and

(b) the minister shall notify the producer of the set-off mentioned in clause (a).

(3) No refund is payable if the fact of the overpayment did not come to the attention of the minister within three years after the date on which the overpayment occurred.

(4) Notwithstanding *The Limitations Act*, no action may be brought to recover an overpayment after the expiration of three years after the date on which the overpayment occurred.

(5) The refund of an overpayment of tax is to be made in a manner approved by the minister.

(6) The rate of interest per annum to be paid on a refund of an overpayment of tax pursuant to subsection (1) is equal to the prime lending rate of the bank holding the general revenue fund, and subsection 22(2) applies, with any necessary modification.

7 Jly 2017 SR 67/2017 s4.

Continuance of certain capital pools

39.1 Notwithstanding the enactment of *The Potash Production Tax Amendment Regulations, 2015* or any other Act or law:

(a) the definitions of "accelerated capital" and "net mine capital" as they existed before the coming into force of *The Potash Production Tax Amendment Regulations, 2015* continue to apply to accelerated capital and net mine capital on or before December 31, 2014; and

(b) the amounts of a producer's accelerated capital and net mine capital on or before December 31, 2014 are to be calculated in accordance with the provisions of these regulations as they existed before the coming into force of *The Potash Production Tax Amendment Regulations, 2015*.

18 Sep 2015 SR 77/2015 s7.

Appendix

TABLE 1

[*Section 18*]

Effective January 1, 1998

Profit Bracket ($ per $K_2$0 tonne)	Rate of Tax
(0.00 x I*) to (35.00 x I)	15%
(over 35.00 x I)	35%

Effective January 1, 2001

Profit Bracket ($ per $K_2$0 tonne)	Rate of Tax
(0.00 x I*) to (40.00 x I)	15%
(over 40.00 x I)	35%

* **"I"** means the index value for the year in question

7 May 99 SR 21/1999 s13.

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