

The Subsurface Mineral Regulations, 1960

Repealed

by [Chapter C-50.2 Reg 32](#) (effective January 1, 2017).

Formerly

Saskatchewan Regulations 541/67 (effective September 6, 1960) as amended by Saskatchewan Regulations 558/64, 536/67, 8/68, 167/70, 94/75, 271/86, 45/87, 40/89, 91/92, [78/96](#), [60/2011](#), [81/2012](#), [18/2015](#) and [69/2017](#); and by the *Statutes of Saskatchewan*, 2006, c.25.

NOTE:

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

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SASKATCHEWAN REGULATION 541/67
under *The Mineral Resources Act, 1959*

Regulations under The Mineral Resources Act, 1959,
respecting subsurface minerals

Title

- 1** These regulations may be cited as The Subsurface Mineral Regulations, 1960.
- 2 Repealed** 2 Apr 2015 SR 18/2015 s3.
- 3 Repealed** 2 Apr 2015 SR 18/2015 s3.

Definitions

- 4** In these regulations:
 - (a) “**Act**” means *The Crown Minerals Act*;
 - (a.1) “**disposition**” means a subsurface disposition as defined in *The Subsurface Mineral Tenure Regulations*;
 - (b) “**subsurface minerals**” means all natural mineral salts of boron, calcium, lithium, magnesium, potassium, sodium, bromine, chlorine, fluorine, iodine, nitrogen, phosphorus and sulphur, and their compounds, occurring more than 60 metres below the surface of the land.

2 Apr 2015 SR 18/2015 s4; 7 Jly 2017 SR
69/2017 s3.

PART I
Permits

- 5 to 16 Repealed** 2 Apr 2015 SR 18/2015 s5.

Part II
Leases

- 17 to 25e Repealed** 2 Apr 2015 SR 18/2015 s5.

PART III
General Provisions

26 to 37 Repealed 2 Apr 2015 SR 18/2015 s5.

PART IV
Royalty

Royalty rates

38(1) Subject to section 40, the disposition holder shall pay to the Crown the following royalty, as the same may from time to time be amended or substituted by the Lieutenant Governor in Council, in respect of the potash ore produced or deemed to be produced from the lands described in the disposition, that is to say, that percentage of the net selling price of mine run ore (manure salts), determined by the average grade of potash ore mined or deemed to be mined from the said lands in each month, in accordance with the following schedule of royalty rates:

SCHEDULE OF ROYALTY RATES PAYABLE

Grade of Mine Run Ore – % potash	Rate of Royalty
Under 21%	4.25%
21% to 21.99%	4.40%
22% to 22.99%	4.55%
23% to 23.99%	4.70%
24% to 24.99%	4.85%
25% to 25.99%	5.00%
26% to 26.99%	5.00%
27% to 27.99%	5.25%
28% to 28.99%	5.50%
29% to 29.99%	5.75%
30% to 30.99%	6.25%
31% to 31.99%	6.50%
32% to 32.99%	6.75%
33% to 33.99%	7.00%
34% to 34.99%	7.25%
35% to 35.99%	7.50%
36% to 36.99%	7.65%
37% to 37.99%	7.80%
38% to 38.99%	7.95%
39% to 39.99%	8.10%
40% to 40.99%	8.25%
41% to 41.99%	8.40%
42% to 42.99%	8.55%
43% to 43.99%	8.70%
44% to 44.99%	8.85%
45% and over	9.00%

Net selling price

(2) For the purpose of computing the royalty under subsection (1), the net selling price shall be the price per unit of potash in mine run ore, free on board the plant of the disposition holder, in accordance with the current published list price of the holder less all discounts allowed by the holder: provided that such net selling price per unit of potash in the form of mine run ore shall not be less than forty-nine per cent of the net selling price per unit of potash in the form of standard muriate of potash, sixty per cent potassium oxide, in accordance with the current published list price of the disposition holder less all discounts allowed by the holder.

Published price list

(3) Each year and following each change in the published price list of the disposition holder, the holder shall furnish the minister with a copy of his published price list.

Minister's power to determine certain questions

(4) The minister shall have the power to determine from time to time any question that may arise in ascertaining the amount of royalty payable in any particular case including, without restricting the generality of the foregoing, the net selling price of mine run ore. At the request of the minister, the disposition holder shall supply an audited report, acceptable to the minister, giving such information as the minister may require, certified by a member in good standing of a recognized accounting profession that is regulated by an Act who is satisfactory to the minister, and the decision of the minister shall be final and conclusive.

Royalty payment in kind

(5) Notwithstanding anything contained herein, the minister may from time to time order that the disposition holder shall, in lieu of payment of royalty in cash, deliver free on board the disposition holder's mine or plant such products of the mine or plant as the minister may specify in such quantity as shall be equal in value to the amount of cash royalty. When the royalty is desired in kind the minister shall, at least ninety days before the beginning of the potash selling season, advise the disposition holder of the requirements of the minister. In computing the quantity of potash products in lieu of cash royalty payable, the products shall be valued at the current selling price thereof, free on board the disposition holder's mine or plant: provided that any potash products used by the Crown in any of its governmental institutions shall be valued at a discount of ten per cent less than the current selling price thereof: provided further that the discount shall not apply if the Crown desires to use the potash products in any commercial enterprise in competition with the disposition holder or any of his customers.

Royalty payments in lieu of severance tax

(6) The royalty payments herein provided shall be in lieu of and in substitution for all taxes, levies or imposts of a nature similar to royalty that are based on the separation of the ore from the earth or the production of such ore.

Royalties on other subsurface minerals

(7) The royalty payable in respect of any subsurface mineral sold, other than potash, shall be in such amount and in such manner as may be prescribed by the Lieutenant Governor in Council from time to time.

(8) **Repealed.** 14 Jly 89 SR 40/89 s3.

16 Sep 60 SR 541/67 s38; 29 Nov 63 SR 536/67 s4 and 5; 14 Jly 89 SR 40/89 s3; 2006, c.25, s.11; 2 Apr 2015 SR 18/2015 s6.

Royalty on sodium chloride

38.1(1) In this section, “**quarter**” means a calendar quarter ending on March 31, June 30, September 30 or December 31 in each year.

(2) The royalty payable by a disposition holder to the Crown with respect to sodium chloride that is produced from, or allocated pursuant to a unit agreement to, lands that are subject to a disposition is the greater of:

- (a) 33¢ per tonne of dry sodium chloride that is produced or allocated and:
 - (i) used as a raw material base; or
 - (ii) sold or otherwise disposed of; and
- (b) 3% of the selling price of a quantity of sodium chloride in slurry form that is equivalent to a tonne of dry sodium chloride.

(3) For the purposes of clause (2)(b), where:

- (a) in the opinion of the minister, the selling price of the sodium chloride does not accurately reflect its fair market value; or
- (b) the sodium chloride is not sold or otherwise disposed of in the slurry form;

the minister may determine the fair market value of the sodium chloride, and that value is deemed to be the selling price of the sodium chloride.

(4) The minister may:

- (a) determine any questions that arise from time to time in determining the amount of royalty payable pursuant to subsection (2) in a particular case; and
- (b) without limiting the generality of clause (a), determine the quantity of sodium chloride that has been produced, allocated, sold or otherwise disposed of.

(5) Within 30 days after the last day of each quarter, a disposition holder shall:

- (a) pay the amount of the royalty required pursuant to subsection (2) with respect to that quarter; and
- (b) submit to the minister a royalty return in a form approved by or acceptable to the minister.

(6) Every disposition holder shall inform the minister in writing of the prices at which sodium chloride is to be sold or otherwise disposed of pursuant to, and any other term of, any contract the disposition holder has entered into for the sale or other disposition of any sodium chloride produced or to be produced from, or allocated or to be allocated to, lands that are subject to a disposition:

- (a) if the contract is entered into prior to the day on which these regulations are filed with the Registrar of Regulations, within 60 days of the day of filing of the regulations; or
- (b) if the contract is entered into on or after the day on which these regulations are filed with the Registrar of Regulations, within 60 days of entering into the contract.

- (7) A disposition holder shall, on the demand of the minister, provide the minister with a copy of any contract mentioned in subsection (6) that is in writing.
- (8) A disposition holder shall:
 - (a) immediately inform the minister of any change in any of the terms of any contract mentioned in subsection (6); and
 - (b) if the change is in writing, provide the minister with a copy of the change on the demand of the minister.

14 Jly 89 SR 40/89 s4.

Payment of royalty

- 39(1) Where the royalty is payable other than in kind, the person liable for the payment of such royalty shall, on or before the last day of the second month after the end of each period of three months of every calendar year, pay the amount of royalty on the potash produced during such period of three months.
- (2) If the royalty payable exceeds the total of the amounts paid in respect of the potash produced during the whole year, the person liable for the payment of royalty shall pay the amount of the difference on or before the first day of April next following the end of the year in which such potash was produced.
- (3) Subject to section 40.3, if the royalty payable is less than the total amount paid, the amount of the difference is refundable.

16 Sep 60 SR 541/67 s39; 2 Sep 2011 SR 60/2011 s2; 7 Jly 2017 SR 69/2017 s4.

Three year averaging of production

- 40(1) In this section:
 - (a) **“township area”** means the area covered by all townships in which is situated:
 - (i) any part of the disposition area; and
 - (ii) any lands from which the disposition holder produces potash ore in conjunction with his mining operations for the disposition area.
 - (b) **“proportionate share of production”** means that proportion of the total production by the disposition holder from the township area which proportion is to the total production as the number of acres of all Crown subsurface mineral lands in the township area is to the total number of acres in the township area.

Three year adjustment period

- (2) Subject to subsection (3), the royalty shall be adjusted at the end of every three year period, the first of such period commencing on the first day of the calendar year in which production by the disposition holder commences and the next successive periods of three consecutive years commencing on the day following the termination date of the immediately preceding period, on the basis of the yearly production of subsurface minerals from the disposition area averaged over the relevant three year period.

Minimum royalty

(3) The Crown royalty payable by the disposition holder shall, in each of the first two years of every three consecutive year period, be not less than the royalty calculated on that production equivalent to the proportionate share of production as defined in this section produced during the respective year; and the total Crown royalty payable by the disposition holder for the three consecutive year period shall be not less than the total royalty calculated on that production equivalent to the proportionate share of production produced during the three consecutive year period.

(4) Subsections (2) and (3) do not apply where the subsurface mineral area in which the disposition area is included is operated as a unit established by an agreement entered into pursuant to section 18 of *The Crown Minerals Act*.

16 Sep 60 SR 541/67 s40; 11 Oct 96 SR 78/96 s2.

Penalty on audit assessments

40.1(1) For the purposes of section 24.1 of the Act, every disposition holder shall pay to the minister a penalty at the rate set out in subsection (2) on any royalty that is not paid or remitted as and when required by the Act or these regulations.

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

7 Jly 2017 SR 69/2017 s5.

Interest on audit assessments

40.2(1) For the purposes of section 24.1 of the Act, every disposition holder shall pay to the minister interest at the rate set out in subsection (2) on any royalty that is not paid or remitted as and when required by the Act or these regulations, calculated from the day on which that amount should have been paid or remitted to the date on which the amount is received by the minister, as shown in the records of the minister.

(2) For the purposes of subsection (1), the rate of interest per annum is the rate that is equal to the sum of:

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

(3) The interest rate set out in this section is to be determined on June 15 and December 15 in each year and:

- (a) the interest rate as determined on June 15 applies to any royalty that is not paid or remitted as mentioned in subsection (1) on or after July 1; and
- (b) the interest rate as determined on December 15 applies to any royalty that is not paid or remitted as mentioned in subsection (1) on or after January 1 of the following year.

7 Jly 2017 SR 69/2017 s5.

Refunds

40.3(1) Subject to subsections (2) and (3), if a disposition holder has made an overpayment of a royalty, the minister:

- (a) shall refund the amount of the overpayment to the disposition holder; and
 - (b) may pay interest on the amount mentioned in clause (a) at the rate and in the manner set out in subsection (6).
- (2) If a disposition holder owes any royalty to the Crown 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 any portion of the overpayment that is required, and apply it to the royalty owing; and
 - (b) the minister shall notify the disposition holder 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 four 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 four years after the date on which the overpayment occurred.
- (5) The refund of an overpayment of a royalty 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 a royalty pursuant to subsection (1) is equal to the prime lending rate of the bank holding the general revenue fund, and subsection 40.2(3) applies, with any necessary modification.

7 Jly 2017 SR 69/2017 s5.

41 Repealed 2 Apr 2015 SR 18/2015 s7.

PART V

Repealed. 12 Jne 87 SR 45/87 s5.

PART VI
Coming into Force and Conversion

Coming into force

42(1) Every disposition of subsurface mineral lands made on and after the fourteenth day of September, 1960, shall be subject to these regulations.

Conversion

(2) Notwithstanding subsection (1), upon the written approval of the holder of a withdrawal, permit or lease issued under the Subsurface Mineral Regulations, 1956, made by Order in Council 1544/56, that is in good standing on the fourteenth day of September, 1960, the minister may take such necessary action for converting such withdrawal, permit or lease into a permit or lease, as the case may be, under The Subsurface Mineral Regulations, 1960, subject to the following conditions:

- (a) a withdrawal shall be deemed to be a permit issued under these regulations;
- (b) the date of issue of the withdrawal shall be deemed to be the date of issue of the permit;
- (c) a permit shall be deemed to be a permit issued under these regulations;
- (d) the date of issue of the permit shall be:
 - (i) where any extension of the three year term of the permit has been granted, such extension shall be deemed to be the first, second or third year extension, as the case may be, under these regulations;
 - (ii) where the permit is in its first year, it shall be deemed to be in the third year of the term of a permit under these regulations;
 - (iii) where the permit is in its second year, it shall be deemed to be in the fourth year of the term of a permit under these regulations;
 - (iv) where the permit is in its third year, it shall be deemed to be in the fifth year of the term of a permit under these regulations;
- (e) a lease shall be deemed to be a lease issued under these regulations.

16 Sep 60 SR 541/67 s42.

SCHEDULE OF FEES AND RENTALS

Repealed 2 Apr 2015 SR 18/2015 s8.

