

The Helium and Associated Gases Regulations, 1964

being

Saskatchewan Regulations 559/64 (effective November 6, 1964)
as amended by Saskatchewan Regulations 50/87, 73/92, [81/94](#),
[12/2012](#), [84/2013](#) and [98/2013](#); 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 559/64
under *The Mineral Resources Act, 1959*

PART I

Title

1 These regulations may be cited as The Helium and Associated Gases Regulations, 1964.

2 Repealed. 2 Dec 94 SR 81/94 s3.

Definitions

3(1) In these regulations unless the context otherwise requires:

(a) **“adjoin”** or **“adjoining”** where used in connection with subdivisions of land means touching at one or more points and subdivisions that are separated by a correction line, road allowance, railway or other right of way shall be deemed to be adjoining;

(b) **“associated gases”** means naturally occurring gas or gases excluding helium and hydrocarbon gases;

(c) **“commercial quantities”** means the production from a well of such quantity of helium or associated gases as would, in the opinion of the minister economically warrant the drilling of a like well in the vicinity thereof for the taking of such production, consideration having been given to the cost of drilling and production operations, available market and the value of helium or associated gases;

(c.1) **“Crown lands”** means Crown minerals and Crown mineral lands that consist of helium or associated gases;

(d) **“director”** means the Director of Mineral Lands of the department;

(e) **“drainage unit”** means the area allocated to a well for the purpose of drilling for and producing helium or associated gases and includes subsurface areas bounded by the vertical planes in which the surface boundaries lie;

(f) **“grantee”** means the holder of a permit, lease or other disposition in respect of Crown lands issued under these regulations;

(g) **“permit area”** means an area so designated on the permit within which the lands under the permit and any other lands are located and which forms a solid block;

(g.1) **“royalty payer”** means a person who owns a working interest;

- (h) “**well**” means any opening in the ground, except seismic shot holes or structure test holes, made or being made by drilling or boring, or in any other manner through which helium or associated gases are obtained or are obtainable;
- (i) “**working interest**” means an interest acquired pursuant to a Crown lease, including an interest acquired from the person who is the holder of the Crown lease, where the interest:
 - (i) entitles a person to share in the helium and associated gases produced from or allocated to the Crown lands that are the subject of the lease or in the proceeds from the disposition of the helium and associated gases; and
 - (ii) requires a person to bear or contribute to the costs associated with producing helium and associated gases from or allocated to the Crown lands that are the subject of the lease.
- (2) For the purposes of these regulations, in the expressions “helium and associated gases” and “helium or associated gases” the word “and” includes “or” and the word “or” includes “and”.

13 Nov 64 SR 559/64 s3; 2 Dec 94 SR 81/94 s4.

Application

- 4(1) These regulations shall apply to the rights to helium and associated gases that are the property of the Crown in the right of Saskatchewan and to the disposition thereof as follows:
 - (a) Part II shall apply to dispositions of Crown rights to helium and associated gases made heretofore or hereafter by means of permits;
 - (b) Part III shall apply to dispositions of Crown rights to helium and associated gases by means of leases;
 - (c) Part IV shall apply to all permits, leases or other dispositions of Crown rights to helium and associated gases granted heretofore or hereafter.
- (2) Notwithstanding subsection (1), Part V shall apply to all lands situated in Saskatchewan except in the following cases:
 - (a) freehold lands where the owner of the surface rights is also the owner of all the rights to the helium and associated gases thereunder;
 - (b) freehold lands in respect of which an agreement for the use of the surface for a well site has been made prior to the first day of November, 1953, as long as such right to use the surface is held continuously from that date whether or not under the same agreement.

13 Nov 64 SR 559/64 s4.

PART II Permits

Application for permit

5 An application for a permit to explore for helium and associated gases may be submitted to the department, and the minister may issue such permits in accordance with these regulations for any area of land not exceeding one hundred thousand acres in respect of which the rights to helium and associated gases are the property of the Crown in the right of Saskatchewan.

13 Nov 64 SR 559/64 s5.

Requirements for application

6 An application for a permit shall be accompanied by:

- (a) a plan and description of the lands applied for satisfactory to the minister;
- (b) a program of work that the applicant intends to carry out in respect thereof;
- (c) a statement providing the applicant's ability to have the proposed work done where such proof is not already on record in the department;
- (d) the rent for the first year, and such rent shall be retained by the department if the permit is granted, or returned to the applicant if the application is rejected; and
- (e) the names and addresses of the directors and officers of the applicant if the applicant is a corporation and if such information is not on record in the department.

13 Nov 64 SR 559/64 s6.

Rights granted

7(1) Subject to the Geophysical exploration Regulations made under The Mineral Resources Act, 1959, the permit shall grant to the permittee the right, licence, privilege and authority to explore the permit lands for helium and associated gases but not to remove, produce or recover such helium and associated gases until a lease pursuant to these regulations has been applied for and the granting thereof approved by the minister.

(2) Notwithstanding subsection (1), upon application of the permittee, the minister may, if he deems it advisable, waive for a specified period the requirement to lease upon such terms and conditions as he may designate in order that the permittee may place a well on production for production test purposes.

13 Nov 64 SR 559/64 s7.

Term of permit

8(1) The term of the permit shall be a maximum of five years from the date of issue provided that if the permit is issued between the first day of October and the first day of March next following the term shall commence on the first day of March or such other earlier date within the said period as the applicant may specify.

(2) Notwithstanding subsection (1), the minister may, if he considers it to be in the public interest, grant upon written application up to three one-year extensions to the term of the permit; and all conditions applicable in the fifth year of the permit shall mutatis mutandis apply in each year of the extension period. In any extension so granted the minister may impose such other terms and conditions as he deems advisable.

13 Nov 64 SR 559/64 s8.

Permit rent

9 The rent shall be payable annually in advance as follows:

- (a) for the first and second years of the term of the permit, at the rate of two cents an acre for each year;
- (b) for the third year of the term of the permit, at the rate of five cents an acre;
- (c) for the fourth and fifth years of the term of the permit, at the rate of ten cents an acre for each year.

13 Nov 64 SR 559/64 s9.

Minimum expenditure requirements

10(1) The permittee shall, during each of the first and second years of the term of the permit, expend in exploring for helium and associated gases in and upon the permit lands a sum of money equivalent to at least twenty cents for each acre of such lands or \$10,000, whichever is the greater.

(2) The permittee shall, during the third year of the term of the permit, expend in exploring for helium and associated gases in and upon the permit lands a sum of money equivalent to at least forty cents for each acre of such lands or \$15,000, whichever is the greater.

(3) The permittee shall, during each of the fourth and fifth years of the term of the permit expend in exploring for helium and associated gases in and upon the permit lands a sum of money equivalent to at least sixty cents for each acre of such lands or \$20,000 whichever is the greater.

13 Nov 64 SR 559/64 s10.

Proof of expenditures

11(1) The permittee shall, within thirty days next following the anniversary date of each year of the term of the permit, submit to the minister a statement setting forth the estimated sums of money expended during such year in carrying out the work and operations on the permit lands and on any lands in respect of which work credit is claimed by the permittee.

(2) The permittee shall, within four months next following the anniversary date of each year of the term of the permit, submit to the minister a detailed statement setting forth the sums of money expended in carrying out the work and operations during such year on the permit lands and on any lands in respect of which work credit is claimed by the permittee, and such statement shall be certified by a member in good standing of a recognized accounting profession that is regulated by an Act who is satisfactory to the minister or verified by statutory declaration by a person with personal knowledge of the facts and accompanied by original vouchers or certified copies thereof, verifying the expenditures provided that, if the minister in any particular case so requires, the statement shall be certified by a member in good standing of a recognized accounting profession that is regulated by an Act who is satisfactory to the minister.

(3) If there is a deficiency in the amount of expenditures required to be made pursuant to section 10, the permittee may:

(a) make a cash payment equivalent to the amount of such deficiency in order to maintain the permit in good standing; or

(b) make a cash deposit equivalent to the amount of such deficiency and such deposit shall be refunded upon proof by the permittee that he has expended in the year following such deficiency an amount equivalent to the cash deposit together with the expenditures required by section 10 for such following year: provided that the minister may, if the permittee has expended the amount required by section 10 for the year following the deficiency but has not expended an additional amount equivalent to the cash deposit, refund a portion of the cash deposit equivalent to the expenditures made over and above the expenditures required under section 10 and forfeit the remainder to the Crown.

13 Nov 64 SR 559/64 s11; 2006, c.25, s.8.

Credit for expenditures

12(1) The amount of expenditures approved by the minister in respect of the work and operations carried out by the permittee during any year of the term of the permit shall be credited to the permittee against the amount of the expenditures required to be made during such year.

- (2) If the permittee expends during any year an amount of money greater than he is required to expend pursuant to section 10, such excess expenditures shall be deemed to have been expended in work in succeeding years of the permit or may, at the option of the permittee, be applied for credit against lease rents pursuant to section 26.
- (3) For the purpose of determining the amount expended from time to time as required by section 10:
- (a) the maximum capital charges shall not exceed the maximum capital cost allowance as provided for in the Income Tax Act (Canada);
 - (b) the cost of unrecovered casing may be accepted as an expenditure; and
 - (c) if the permit lands are in an unsurveyed territory the cost of a recognized legal survey of the lands shall be accepted as an expenditure in the year in which any work in connection with such survey was done, but the total credit for such survey shall not exceed twenty per cent of the expenditures required to be made during the third year of the term of the permit.
- (4) Where any acreage of permit lands is surrendered in accordance with these regulations, expenditures in excess of those required by section 10 shall, for the purpose of credit for expenditures, be proportionately reduced in the ratio of the acreage surrendered to the acreage held prior to surrender.
- (5) If the permittee drills a well on freehold lands or on Crown lands other than his permit lands, he may claim credit for the expenditures made in drilling such well to the extent that the amount of such credit bears to the actual expenditures as the acreage of all Crown lands in a three miles by three miles square area centered by the section in which the well is located bears to the total acreage of lands in such square area, provided that the well is located within the permit area and not more than one mile from his permit lands and provided further that such credit shall not apply to any well that is drilled after a well producing in commercial quantities has been drilled within such three miles by three miles square area.

13 Nov 64 SR 559/64 s12.

Grouping of permits

- 13(1) The permittee may group his permit lands covered by two or more permits provided that such lands are not separated by more than six miles, and provided further that such grouping includes all lands covered by the permits concerned.
- (2) The minister may authorize the grouping of two or more permits held by different permittees upon such terms as he deems to be in the public interest.
- (3) No grouping shall be valid for more than one rental year.
- (4) Excess expenditures credited pursuant to section 12 shall be prorated to the permit lands in the group on an acreage basis.
- (5) Where permit lands are grouped pursuant to this section, any work performed upon such lands subsequent to the grouping or that portion of the work performed subsequent to the grouping and attributable to such lands as work credit shall, for the purpose of determining expenditures and credits, be deemed to be operations conducted on the permit lands in the group.

13 Nov 64 SR 559/64 s13.

Information and material to be submitted

14(1) The permittee shall, within six months after the end of each year of the term of the permit submit to the minister a detailed statement setting forth full particulars of the work and operations conducted on the permit lands and on any lands in respect of which work credit is claimed during the preceding year and specifically setting forth the following information and accompanied by the following material:

- (a) the nature of the operations and work performed;
- (b) the extent to which drilling operations were carried out;
- (c) where a gravity meter survey has been made:
 - (i) a clear sepia copy of a map showing the location and ground elevation of each station;
 - (ii) a clear sepia copy of a map showing the final corrected value at each station contoured on 0.5 milligals or less; and
 - (iii) a translucent copy of the complete report on the survey signed by a qualified geophysicist, geologist or engineer;
- (d) where a geophysical survey approved by the minister or an aerial magnetometer or ground magnetometer survey has been made:
 - (i) a clear sepia copy of a map contoured on a suitable scale, showing the location of each station and the corresponding observed value; and
 - (ii) a translucent copy of the complete report on the survey signed by a qualified geophysicist, geologist or engineer;
- (e) where a seismic survey has been made:
 - (i) a clear sepia copy of a map showing on the map, or in suitable translucent tabular form, the location and ground elevation of each shot hole and the depth of the overburden, glacial drift, water, sand, gravel, coal, clay, and other minerals encountered;
 - (ii) a clear sepia copy of maps for the most dependable and continuous reflecting horizon above, at and below the top of the Palaeozoic group where information at such levels is available, based on the best current interpretation of all the seismograms obtained in the permit area indicating the correction datum and velocity functions applied, showing at each shot point the corrected time values or corresponding depths and contoured on the basis of these values, employing a contour interval of 0.010 seconds or less if the value at the shot point is represented in corrected time and fifty feet or less if the value at the shot point is given in feet; and
 - (iii) a translucent copy of the complete report on the survey submitted by the contracting seismograph company to the operator or by the operator's own seismograph department;

(f) where maps are required to be submitted to the minister or copies thereof under this subsection, the paper on which such maps are printed shall not be larger in size than forty inches by forty-eight inches; and

(g) in addition to the information requested under subclause (ii) of clause (e), the minister may request clear copies of the seismograms taken at each shot point with the necessary computational data included on the face of each record, and a departmental employee authorized by him may at any time examine the original seismograms and any pertinent data related to them.

(2) Notwithstanding anything contained in subsection (1), the permittee may delay the submission of the information required by clause (c), (d) or sub-clause (ii) or (iii) of clause (e) of subsection (1) upon depositing with the department the sum of \$10,000 to guarantee the submission of the required information not later than six months after the termination of the permit. If such information is submitted before the expiration of six months after the termination of the permit the deposit shall be returned to the permittee, but if the information is not so submitted the deposit shall be forfeited to the Crown upon giving notice thereof to the permittee.

13 Nov 64 SR 559/64 s14.

Release of information

15(1) No information submitted pursuant to clause (g) of subsection (1) of section 14 shall be made available to the public.

(2) No information submitted pursuant to subclauses (ii) and (iii) of clause (c), clause (d) and subclauses (ii) and (iii) of clause (e) of subsection (1) of section 14 shall be made available to the public for one year after the termination of the permit.

13 Nov 64 SR 559/64 s15.

Surrender

16 The permittee shall have the right to surrender all or any part of the permit lands at any time during the term of the permit, but no refund of rent shall be made and the expenditure requirements shall be based upon the acreage of permit lands at the commencement of each rental year.

13 Nov 64 SR 559/64 s16.

Conversion to lease upon commercial discovery

17 Where a well drilled on any land within the permit area has determined the presence of helium or associated gases in commercial quantities the permittee shall, within ninety days after being notified by the department, apply for a lease or leases of at least nine sections of Crown rights to helium or associated gases within a rectangular area containing within its boundaries the well or, if the permit lands comprise nine sections or less, lease of all of the permit lands.

13 Nov 64 SR 559/64 s17.

Right to lease

18 The permittee shall, subject to prior compliance with section 10 or subsection (3) of section 11 in addition to any lease or leases that he may obtain pursuant to the foregoing provisions, have the exclusive right, at any time during the term of the permit and during the period of sixty days after the termination of the permit unless it is terminated for any default on the part of the permittee, to apply for and obtain a lease or leases of permit lands provided that no lease shall be granted in the fourth year of the term of the permit unless the permittee has, prior to the time of application for lease, expended in actual drilling an amount attributable to the permit lands as work credit equivalent to at least fifteen cents for each acres of permit lands; and provided further that no lease shall be granted in the fifth year of the term of the permit or in the sixty day period after the termination of the permit unless the permittee has, prior to the time of application for lease, expended in actual drilling an amount attributable to the permit lands as work credit equivalent to at least thirty cents for each acre of permit lands in accordance with these regulations.

13 Nov 64 SR 559/64 s18.

Part III to apply in lease selections

19 An application for and granting of a lease pursuant to the rights acquired under this part shall be in accordance with Part III.

13 Nov 64 SR 559/64 s19.

Lease rent credits

20 The minister shall, if he is satisfied that the permittee has during the term of the permit fulfilled all the requirements of these regulations, credit the permittee with the amount by which the expenditures approved pursuant to section 12 in respect of the term of the permit exceed the expenditures required to be made pursuant to section 10 and such credit shall be applied against the rent for the first twenty-four months or, at the option of the permittee, the first twenty-four months of the term commencing from the first day of April, of any lease or leases that may have been, or may thereafter be, granted to the permittee in respect of any permit lands: provided that no credit for excess expenditures shall be applied against the rent for a lease or leases taken out in the first, second, third or fourth year of the term of the permit unless the permittee has spent on actual drilling and prior to the conversion of the permit to such lease or leases an amount equal to at least fifteen cents for each acre of permit lands.

13 Nov 64 SR 559/64 s20.

Other parts applicable to permits

21 All permits shall be subject to Parts IV and V.

13 Nov 64 SR 559/64 s21.

PART III Leases of Crown Lands

Granting of lease

22 The minister may grant to applicants leases of rights to helium or associated gases in accordance with these regulations.

13 Nov 64 SR 559/64 s22.

Size of lease

23 The area that may be included in any one lease shall be a minimum of one legal subdivision, unless otherwise approved by the minister, and a maximum of forty-nine quarter sections or seven thousand eight hundred and forty acres, provided that all lands in the lease are adjoining.

13 Nov 64 SR 559/64 s23.

Application

24 Every application for a lease shall be accompanied by:

- (a) a plan showing the area applied for and the lands in the area within which the rights to helium or associated gases are the property of the Crown in the right of Saskatchewan;
- (b) a legal description of such lands if they are in a surveyed territory;
- (c) subject to section 20, the rent at the rate of five cents an acre for each month or portion thereof, if any, between the effective date of the lease and the first day of April next following;
- (d) an application fee as set out in item 1 of Table 2 of the Appendix; and
- (e) the names and addresses of the directors and officers of the applicant if the applicant is a corporation and if such information is not already on record in the department.

13 Nov 64 SR 559/64 s24; 12 Jne 87 SR 50/87
s3; 5 Apr 2012 SR 12/2012 s3.

Term of lease

25(1) The lease shall be for a term commencing on the effective date thereof and extending to the first day of April next following and thenceforth for a period of twenty-one years unless the effective date of the lease is the first day of April in which case the term of the lease shall be twenty-one years from the effective date of the lease.

(2) Upon the expiration of the twenty-one year period mentioned in subsection (1), the lease shall, subject to compliance with these regulations and the terms of the lease, continue notwithstanding subsection (1):

- (a) if drilling operations are being conducted and continuously and diligently being carried on to the satisfaction of the minister and without cessation of operations for more than thirty days; or

(b) if there is a producing well or wells in the lease lands, for that portion of the leased lands in each surveyed section containing such producing well or wells until ninety days after production from such portion of the lease lands ceases; or

(c) if any part or whole of the leased lands is under unit operation approved by the minister for that part or whole of the leased lands until six months after it is no longer subject to such unit operation.

13 Nov 64 SR 559/64 s25.

Annual rent

26(1) The rent subsequent to the rent referred to in clause (c) of section 24 shall be at the rate of fifty cents an acre per annum, except as may otherwise be provided herein and subject to section 20, is payable yearly in advance on or before the first day of April.

(2) Notwithstanding subsection (1), when a lessee elects to apply credits in lieu of cash rent covering the first twenty-four months of the lease as provided for in section 20, the rent for that portion of the year from the termination of the credit period to the next succeeding rent anniversary date of April 1 shall be due and payable on the termination date of such credit period.

(3) Notwithstanding subsection (1), while an adequate market for helium or associated gases in which the lessee may participate is not available, the minister may, upon being satisfied of such facts, reduce the rent in respect of such lease to a rent of twenty-five cents an acre per annum payable yearly in advance.

13 Nov 64 SR 559/64 s26.

Refund of rent

27(1) If the lessee during or within six months after the first year of the term of the lease commencing on the first day of April submits evidence to the director that during such year actual drilling operations for helium or associated gases have been conducted on the lease, a refund of rent or a portion thereof paid in advance for such year may be made to the lessee.

(2) If drilling operations for helium or associated gases are conducted during the second year of the term of the lease and evidence is submitted to the director as required by subsection (1), refunds of rent may be allowed during or within six months following the second year in the same manner as for the first year provided that such refund shall not exceed the rent for the second year.

(3) If drilling operations for helium or associated gases are conducted during the third year of the term of the lease and evidence is submitted to the director as required by subsection (1), refunds of rent may be allowed during or within six months following the third year in the same manner as for the first year provided that such refund shall not exceed the rent for the third year.

(4) If drilling operations for helium or associated gases are conducted during the forth and succeeding years of the term of the lease and the wells drilled prove to be nonproducers, and evidence is submitted to the director as required under subsection (1), rent may be refunded within six months following such year as follows:

- (a) for a well in the leased lands that is drilled beyond four thousand feet, refunds are applicable up to the forth year of the term of the lease;
 - (b) for a well in the leased lands that is drilled beyond five thousand feet, refunds are applicable up to the fifth year of the term of the lease;
 - (c) for a well in the leased lands that is drilled beyond six thousand feet, refunds are applicable up to the sixth year of the term of the lease;
 - (d) for a well in the leased lands that is drilled beyond seven thousand feet, refunds are applicable up to the seven year of the term of the lease;
 - (e) for a well in the lease lands that is drilled beyond eight thousand feet, refunds are applicable up to the eighth year of the term of the lease;
 - (f) for a well in the leased lands that is drilled beyond nine thousand feet, refunds are applicable up to the ninth year of the term of the lease;
 - (g) for a well in the leased lands that is drilled beyond ten thousand feet, refunds are applicable up to the tenth year: provided that no refund shall exceed the amount of rent for the lease year in which the drilling was done.
- (5) Where in the opinion of the minister certain geophysical work performed on the leased lands in an acceptable and necessary form of preliminary development prior to drilling, the minister may, if he deems it advisable and in the public interest, approve a rent refund in such amount as he may determine.
- (6) The amount of refund shall be the amount of approved expenditures or the amount of rent for the year, whichever is the lesser.
- (7) The evidence to be submitted to the director for establishing rent refunds shall include an itemized statement of amounts expended in drilling verified by the statutory declaration of a person having personal knowledge of the facts.
- (8) The cost of machinery, production casing and such other items that, in the opinion of the minister, do not constitute actual drilling expenditures shall not be approved.
- (9) If a well is drilled in any year of the lease or group of leases on which rent has been satisfied by previous credits or otherwise, the minister may approve for credit purposes the expenditures made in drilling the well and the expenditures so made may be credited against any one subsequent year's rent on such lease or group of leases as shall qualify for rent refund at the beginning of such year on the basis of subsection (4).

Grouping and regrouping

28(1) The minister may authorize the grouping or regrouping of Crown lands, or portions thereof, covered by two or more leases of helium or associated gases. Where lands are grouped or regrouped pursuant to this section the operations conducted upon any lands so grouped or regrouped shall, for the purpose of section 27 be deemed to be operations conducted upon the lands in the group.

(2) No land shall be included in the group if it is separated by more than six miles from any other land to be included in the group.

(3) The maximum area to be included in a group shall be as follows:

(a) for an area containing a well that does not penetrate into any part of a formation older than the Devonian formation, on hundred and forty-four quarter sections or twenty-three thousand and forty acres;

(b) for an area containing a well that penetrates into any part of a formation older than the Devonian formation, two hundred and eighty-eight quarter sections or forty-six thousand and eighty acres.

(4) Regrouping shall cancel all previously established groups in respect of any lands included in the new group.

(5) Every assignment, surrender or cancellation of part of the area included in a group shall decrease the size of the group accordingly without the necessity of regrouping unless the areas remaining in the group are required to be regrouped in order to comply with subsection (2).

(6) Every approval of an application for grouping shall be at the discretion of the minister who may consider, among other things the size and shape of the proposed groups and the location of any well to be drilled for rent refund purposes within the group.

(7) An application for grouping shall be in writing and accompanied by:

(a) a plot map showing the lands to be included in the group and the leases so involved;

(b) a detailed list of the lands or leases and the acreage for each parcel or lease; and

(c) fees required by Schedule "B".

13 Nov 64 SR 559/64 s28.

What lease conveys

29 Subject to these regulations, each lease shall grant to the lessee the exclusive right, licence, privilege and authority to search, dig, bore and drill for helium and associated gases within the lands described in the lease and to win, get, recover, procure, carry away, dispose of and sell the helium and associated gases found within such land.

13 Nov 64 SR 559/64 s29.

Offset requirements

30(1) If the lands covered by a lease adjoin privately owned mineral lands in which helium and associated gases are being obtained from a formation to which the lease applies, the lessee shall, within ninety days after receiving a written request from the minister or such other person authorized by him to comply with this section:

- (a) commence drilling an offset well on the location designated by the minister to a sufficient depth to test such producing zone; or
 - (b) surrender to the Crown the drainage unit on which the offsetting well is required, such surrender to be in respect of all formations covered by the lease except any zone in respect of which helium and associated gases are being obtained by the lessee to the satisfaction of the minister.
- (2) For the purpose of subsection (1) a location for an offsetting well shall be designated by the minister as follows:
- (a) the lateral offset location or locations in case of ten, forty, one hundred and sixty or six hundred and forty acre spacing;
 - (b) the diagonal offset location or locations in the case of twenty, eighty or three hundred and twenty acre spacing.
- (3) For the purpose of subsection (1) a written request addressed to the lessee at his last known address on record in the department shall be deemed to have been received by the lessee within three days after the mailing thereof.
- (4) Notwithstanding subsection (1), consideration may be given by the department for cancelling or deferring an offset obligation under special circumstances, provided that an application for relief from such obligation is submitted in writing and supported by necessary maps, reports and other pertinent information.

13 Nov 64 SR 559/64 s30.

Surrender whole or part of a lease

31(1) Subject to sections 33 and 34, the lessee may surrender the whole or part of the lands covered by his lease provided that:

- (a) the surrendered portions conform to legally described parcels of land and include all the rights granted in the original lease; and
 - (b) the retained portion of the lease is not less than a legal subdivision.
- (2) Where lands are surrendered there shall be no refund of rent except as provided for in section 27.

13 Nov 64 SR 559/64 s31.

Form of lease

32 The minister shall determine the form of lease in accordance with these regulations.

13 Nov 64 SR 559/64 s32.

Operations continuous if helium found

33 If the lands described in a lease produce helium or associated gases in commercial quantities, the lessee shall produce and work the wells thereon in accordance with these regulations and to the satisfaction of the minister.

13 Nov 64 SR 559/64 s33.

Royalties

34(1) In this section:

- (a) **“allowable transportation expenses”** means:
 - (i) transportation expenses actually incurred by the royalty payer in transporting helium and associated gases to the delivery point specified in an arm’s-length agreement for sale of the helium and associated gases; and
 - (ii) any other reasonable transportation expenses that are approved by the minister as allowable transportation expenses;
 - (b) **“month of production”** means the month in which the helium and associated gases are allocated to Crown lands and produced from a well;
 - (c) **“pre-authorized debit”** means a withdrawal from a royalty payer’s account at a financial institution that is initiated by the minister on the authority of the royalty payer pursuant to subsection (11);
 - (d) **“SRC”** means the Saskatchewan Resource Credit, which equals:
 - (i) with respect to helium and associated gases produced before April 1, 2013, 1%; and
 - (ii) with respect to helium and associated gases produced on or after April 1, 2013, 0.75%.
- (2) Subject to subsection (3), the well-head price of helium and associated gases is the amount by which the price of that helium and any associated gases, expressed in dollars per thousand cubic metres, received by a royalty payer pursuant to the first arm’s-length agreement for the sale of helium and associated gases exceeds allowable transportation expenses, expressed in dollars per thousand cubic metres, with respect to that helium and any associated gases.
- (3) The well-head price of helium and associated gases is the fair price determined by the minister if:
- (a) the minister is satisfied that there is no agreement for the sale of the helium and associated gases or that no arm’s-length transaction has occurred;
 - (b) the minister is satisfied that there was an agreement for the sale of the helium and associated gases but that the royalty payer did not receive the price set out in the agreement;
 - (c) there is a consideration for the sale of helium and associated gases in addition to or instead of the price specified in an arm’s-length agreement; or

- (d) the minister believes that one of the purposes of a transaction evidenced by an agreement for sale of the helium and associated gases is to reduce, unduly or artificially, the liability of a royalty payer to pay royalty on the production of helium and associated gases.
- (4) Before determining a fair price pursuant to subsection (3), the minister shall consider the following:
 - (a) the arm's-length prices received by the royalty payer for the sale of similar quality gases in similar markets;
 - (b) the arm's-length prices received by other royalty payers for the sale of similar quality gases in similar markets;
 - (c) the arm's-length prices received by the royalty payer for sales of similar quality gases in other markets;
 - (d) any other price information provided by the royalty payer that the minister considers appropriate in the circumstances.
- (5) If the minister determines a fair price pursuant to subsection (3), the minister shall provide notice of the price to the royalty payer.
- (6) For the purposes of these regulations:
 - (a) related persons, as determined in accordance with the *Income Tax Act* (Canada), are deemed not to deal with each other at arm's length; and
 - (b) it is a question of fact whether persons not related to each other, as determined in accordance with the *Income Tax Act* (Canada), were at a particular time dealing with each other at arm's length.
- (7) The royalty excepted and reserved and the payments to be made with respect to helium and associated gases that are produced from or allocated to any Crown lands on or after January 1, 1994 must be determined for each well, for each month, by:
 - (a) determining the Crown royalty share of helium and associated gases produced from a well for the month by applying a rate equal to the amount by which 5% exceeds the SRC to the total monthly production of helium and associated gases allocated to Crown lands and produced from the well;
 - (b) determining each royalty payer's share of the Crown royalty share, as determined pursuant to clause (a), of the helium and associated gases allocated to Crown lands and produced from the well for the month by applying the royalty payer's proportionate share to the Crown royalty share; and

- (c) calculating the payment required to be made by each royalty payer for the month with respect to helium and associated gases allocated to Crown lands and produced from the well for the month by applying the royalty payer's well-head price for the month, as determined pursuant to subsections (2) and (3), to the royalty payer's share of the Crown royalty share as determined pursuant to clause (b).
- (8) The minister shall, on a monthly basis:
 - (a) determine the royalties required by these regulations in accordance with subsection (7); and
 - (b) provide to every royalty payer an invoice that sets out the royalties mentioned in clause (a) applicable to that royalty payer.
- (9) The royalties required by these regulations shall be paid:
 - (a) subject to clause (b), by one of the following methods:
 - (i) pre-authorized debit;
 - (ii) electronic transfer of funds; or
 - (b) in the case of any exceptional circumstances that, in the opinion of the minister, prevent payment by one of the methods mentioned in clause (a), by any other method acceptable to the minister.
- (10) The royalties required by these regulations shall be paid:
 - (a) on or before the 15th day of the second month following the month of production; or
 - (b) if the day mentioned in clause (a) is not a business day, on or before the last business day before the 15th day of the second month following the month of production.
- (11) Every royalty payer who pays by pre-authorized debit pursuant to subclause (9)(a)(i) or by electronic transfer of funds pursuant to subclause 9(a)(ii) shall provide the minister with the information required to enable payment by the applicable method.
- (12) For the purposes of these regulations, a remittance of royalty is deemed to have been received by the minister on the date shown in the department's records.

5 Apr 2012 SR 12/2012 s4; 25 Oct 2013 SR 84/
2013 s2; 6 Dec 2013 SR 98/2013 s3.

No lease or assignment for person in default

- 35(1)** No person who owes to the Crown any royalty shall be entitled to acquire any further lease from the Crown or acquire any further Crown lease by assignment unless settlement of such royalty is made in full.

(2) No person who owes to the Crown any royalty in respect of an operation for helium or associated gases shall assign any lease unless settlement of such royalty is made in full.

13 Nov 64 SR 559/64 s35.

PART IV

Conditions Applicable to Permits and Leases

Manner of applying

36 The application for a permit or lease may be filed by the applicant in person or by his agent or may be sent by mail to the department.

13 Nov 64 SR 559/64 s36.

Not binding until documents executed

37 No application for disposition of Crown lands shall be binding on the Crown until the document of disposition in respect of the rights applied for has been executed by the minister.

13 Nov 64 SR 559/64 s37.

Application in unsurveyed territory

38 An application for disposition in respect of Crown lands situated in an unsurveyed territory shall contain a plan and land description satisfactory to the minister.

13 Nov 64 SR 559/64 s38.

Comply with Acts and regulations

39 The grantee shall at all times fulfil, perform, observe and comply with the surface rights provisions of The Petroleum and Natural Gas Regulations, 1963, The Oil and Gas Conservation Act and the regulations thereunder and every other statute or regulation that is or may be by future enactment or amendment in any manner whatsoever applicable to his operation, plant, works, business or undertaking.

13 Nov 64 SR 559/64 s39.

Good practices

40 The grantee shall carry out all his operations in accordance with the best accepted geological, geophysical and engineering practices applicable to such operations.

13 Nov 64 SR 559/64 s40.

Accurate records

41 The grantee shall at all times keep accurate and detailed records, books and accounts of his operations hereunder and of the expenditures made in connection with such operations and shall, whenever requested by the minister to do so, furnish to the director with true copies of such records verified by affidavit.

13 Nov 64 SR 559/64 s41.

Examine records

42(1) The minister or any person authorized by him may at any time and from time to time enter upon the lands of the grantee and into the office or other place where the grantee's books and records are kept and inspect and examine the operations of the grantee and the plant, works, books and records used or kept in connection with or having any reference to the operations, examine samples of mineral and other substances encountered during the operations and make copies of such books and records or of any part thereof.

(2) The grantee shall give or cause to be given all such assistance as the minister or the person authorized by him may reasonably require for the purpose of effecting subsection (1).

13 Nov 64 SR 559/64 s42.

Assignments, subleases and transfers

43(1) Every grantee of an assignment, sublease or transfer of a lease or permit shall submit to the department for registration such assignment, sublease or transfer within sixty days of the date of execution thereof.

(2) Two signed copies of the assignment, sublease or transfer shall be submitted to the department.

(3) Upon registration one signed copy of the assignment, sublease or transfer shall be retained by the department.

(4) No assignment, sublease or transfer shall be registered in the department unless it is submitted by or on behalf of a person or company who or which has registered in the department an interest in the lease or permit assigned, subleased or transferred.

(5) The minister may in his discretion refuse to register an assignment, sublease or transfer.

13 Nov 64 SR 559/64 s43.

New lease where partial surrender, etc.

44 Where an assignment, transfer, surrender or cancellation of a lease affects or relates to only a portion of the lands, formations, strata or zones included in the lease:

(a) the minister may, upon registration of the assignment, transfer, surrender or cancellation grant to the assignee, transferee or lessee a new lease in respect of the lands, formations, strata or zones included in the assignment or transfer or excepted from the assignment, transfer, surrender or cancellation, for the unexpired term of the original lease and these regulations shall mutatis mutandis apply to the new lease; or

(b) the minister may, upon registration of the assignment or transfer, permit all formations, strata or zones to be included in the original lease provided that the obligations under such lease continue to remain with the original lessee and the whole lease is subject to cancellation upon default.

13 Nov 64 SR 559/64 s44.

Company registered in Saskatchewan

45 No permit or lease shall be granted to a corporation or partnership and no consent to the assignment of a permit or lease to a corporation or partnership shall be given unless the laws of Saskatchewan respecting registration of corporations or partnerships have been complied with.

13 Nov 64 SR 559/64 s45.

Assignment to bank

46(1) Notwithstanding anything contained in these regulations, a copy of an assignment of a permit or lease by way of security given to a chartered bank under section 82 of the Bank Act, certified by an officer of the bank to be a true copy, may be registered in the department.

(2) Except as provided for in subsection (3) a bank shall not sell or assign or otherwise dispose of any interest of any person, including itself, in a permit or lease without the prior written consent of the minister.

(3) Where the moneys borrowed have been repaid to the bank by the assignor together with such other sums as the bank may be entitled thereto, as soon as may be possible thereafter the bank shall execute and the assignor shall register in the department a disclaimer of interest under the assignment or a reassignment of the permit or lease, or such other document as may be necessary to effectually place the original assignor with respect to the permit or lease in the same position in relation to the bank as he was before the assignment to the bank was executed. Such disclaimer of interest, reassignment or other document shall be in such form as may be approved by the minister.

13 Nov 64 SR 559/64 s46.

Failing to register

47 Failure to register in the department any assignment or transfer of a permit or lease, whether by way of mortgage or otherwise, shall not invalidate the same as between the parties thereto, but such documents as to other assignees and transferees shall take effect from the date of registration and not from the date of the document.

13 Nov 64 SR 559/64 s47.

Document register

48(1) The director shall be responsible for registering in the department assignments and other documents pertaining to Crown lands that have been approved and he shall keep a book to be called the "Document Register" in which he shall make an entry of each assignment and each other document received by him that is in proper form. Such entry shall contain a short description of the assignment or other document, together with the day, hour and minute of the receipt thereof.

(2) For purposes of priority between assignees and transferees the time entered pursuant to subsection (1) with respect to assignments and transfers shall be taken as the time of registration.

(3) In addition to documents registered pursuant to this section the director may accept for filing but not for approval or registration certain other documents such as trust agreements that are in proper form.

(4) The director shall make such other entries and keep such other records of assignments and other documents registered or filed pursuant to these regulations as he may deem necessary.

13 Nov 64 SR 559/64 s48.

Cancellation of permit or lease

49(1) If the grantee fails to fulfill, perform or observe any term or condition by these regulations required to be fulfilled, performed or observed by him, the minister may give the grantee written notice of his intention to cancel the permit or lease and if the grantee fails to remedy or commence to remedy the default to the satisfaction of the minister within sixty days after receiving such notice the minister may cancel the permit or lease.

(2) The notice shall be sent by registered mail addressed to the grantee at his last known address according to the records of the department, and shall be deemed to have been received by the grantee within three days after the mailing thereof.

13 Nov 64 SR 559/64 s49.

Address for service

50 Every grantee shall file with the department an address for service in Saskatchewan unless otherwise approved by the minister.

13 Nov 64 SR 559/64 s50.

Service of communication

51(1) In this section, “**business day**” means a day other than a Saturday, Sunday or holiday.

(2) Any communication required by these regulations to be given or served may be given or served:

- (a) by personal service;
- (b) by ordinary or registered mail to the last known address of the person being served; or
- (c) on a person described in subsection (5), by electronic means.

(3) A communication served by ordinary mail or registered mail is deemed to have been received on the fifth business day following the day of its mailing, unless the person to whom it is mailed establishes that through no fault of the person, the person did not receive it or that the person received it at a later date.

(4) A communication served by electronic means is deemed to have been received on the second business day after it is sent.

- (5) Every grantee or royalty payer:
- (a) is deemed to have consented to receive any notice or information pursuant to these regulations by electronic means; and
 - (b) shall provide the minister with an email address for service on that person.
- (6) Irregularity in the service of a communication does not affect the validity of an otherwise valid communication.

5 Apr 2012 SR 12/2012 s5.

Advertise

52 Where permits or leases for helium and associated gases are available for certain specified areas, the minister may cause permits or leases to be advertised in The Saskatchewan Gazette and in such newspapers and periodicals as he may designate.

13 Nov 64 SR 559/64 s52.

Described under “The Land Surveys Act”

53 Where reference is made to a section, quarter section or other subdivision, such section, quarter section or other subdivision shall be construed in accordance with The Land Surveys Act.

13 Nov 64 SR 559/64 s53.

Orders

54 The minister from time to time may issue such orders as he may deem necessary for the interpretation and effective administration of these regulations.

13 Nov 64 SR 559/64 s54.

Fees

55 The fees payable to the department in respect of work or services pursuant to these regulations are the fees set out in Table 2 of the Appendix and are payable in advance.

12 Jne 87 SR 50/87 s4; 5 Apr 2012 SR 12/2012 s6.

Right of entry not authorized

56 A permit or lease to which these regulations apply shall not authorize the grantee to enter upon or use the surface of the lands described therein for the purpose of a well site or roadway except as provided for in Part V.

13 Nov 64 SR 559/64 s56.

PART V Surface Rights

Surface Rights

57 The surface rights regulations set forth in Part VII of The Petroleum and Natural Gas Regulations, 1963, shall be deemed to be a part of these regulations.

13 Nov 64 SR 559/64 s57.

Appendix

TABLE 1

Due Date for Payment of Royalties**Repealed.** 6 Dec 2013 SR 98/2013 s4.

TABLE 2

Fees

[Section 55]

The following fees are required to be paid to the department with respect to work or services provided pursuant to these regulations:

ITEM	AMOUNT
1 Application for lease	\$28.00
2 Registration of assignment or disclaimer of interest, per permit or lease	55.00
3 Registration of partial assignment of permit or lease, including issuing new permit or lease covering assigned portion and amending original permit or lease	55.00
4 Division of lease by issue of new lease and amending original lease ..	28.00
5 Amending permit or lease on withdrawal of portion of land or surrender of rights covered thereby	11.00
6 Registration of sublease or other agreement where no change in registered ownership results, per permit or lease	11.00
7 Filing of document pursuant to subsection 48(3)	11.0
8 Preparing certified copy of lease	11.00
9 Preparing photocopy of any document, each page, (unless otherwise authorized by the minister)	1.00
10 Preparing plans, maps, etc., per hour	2.00
minimum charge	1.00
11 Search fee, per disposition	11.00
in person	2.00
12 Historical abstract, per disposition	11.00
13 Special case requiring Order in Council	55.00
14 Change of name, per document	39.00

5 Apr 2012 SR 12/2012.

