
Critical Minerals Processing Investment Incentive

Policy Guidelines

August 2024

Governing Legislation:

Act: *The Financial Administration Act, 1993*

Regulation: *The Critical Minerals Processing Investment Incentive Regulations*

Record of Change

Version	Date	Author	Description
1.0	August 1, 2024	MP	<ul style="list-style-type: none">• Original

These guidelines serve to define the administrative policy that the Ministry of Energy and Resources will follow for implementation of *The Critical Minerals Processing Investment Incentive (CMPII)*. *The Critical Minerals Processing Investment Incentive Regulations* empower the Minister of Energy and Resources (Minister) with the authority to make final determinations concerning whether an application has met the program’s eligibility criteria. In any conflict between these guidelines and the Minister’s determination, the guidelines defer to the Minister’s authority. In any conflict between these guidelines and a signed CMPII Agreement, the guidelines defer to the agreement.

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Section 1: The Regulations

Program eligibility is primarily defined by clause 4 of *The Critical Minerals Processing Investment Incentive Regulations*. For easy reference, the text of that clause states:

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

- (a) is:*
 - (i) an aluminum processing, refining, or smelting facility;*
 - (ii) a cobalt processing or refining facility;*
 - (iii) a copper processing or refining facility;*
 - (iv) a gallium processing, refining or purification facility;*
 - (v) a helium processing or liquefaction facility;*
 - (vi) a lithium processing or refining facility;*
 - (vii) a magnesium processing or refining facility;*
 - (viii) a natural graphite processing, refining or purification facility;*
 - (ix) a nickel processing or refining facility;*
 - (x) a rare earth elements processing or refining, or magnet manufacturing, facility; or,*
 - (xi) a zinc processing or refining facility.*

- (b) will result in a significant increase in processing capacity as determined by the Minister;*

- (c) involves a minimum investment of \$10 million in eligible costs; and,*

- (d) has not become operational, as determined by the Minister, before the eligible project application is submitted.*

A qualifying material is described as any of the following: aluminum, cobalt, copper, gallium, helium, lithium, magnesium, natural graphite, nickel, rare earth elements, or zinc.

The guidelines for interpreting each element of clause 4 are set out in the following sections.

Section 2: Eligible Projects

In general, eligible projects under this program will be projects which add or create value by processing, transforming and/or upgrading the 11 emerging critical minerals listed as qualifying materials. The lists below are not exhaustive and other processing or refining methods may be considered by the Minister. This will not include the parts of projects that involve stand-alone primary extraction of the qualifying material (such as, but not limited to mining, pumping, crushing and grinding), but may include processing and commercialization of waste streams that recover the qualifying material as a by-product of the production of another primary mineral.

Eligible projects can include new (greenfield) facilities or expansions of existing (brownfield) facilities and all enabling infrastructure required to bring the project into operation other than primary extraction and preparation steps prior to any value-added processing. Eligible projects can also be conducted over multiple distinct phases.

Enabling Infrastructure

Enabling infrastructure that is on or near site, directly connected to the project and required to bring the eligible project into operation. This includes, but is not limited to, dedicated transportation systems (including pipelines, rail, or loading facility), utility connections and storage infrastructure which may be considered as eligible.

Phased Projects

For any value-added project planned to be built in distinct phases, the project proponent can submit a single project application that includes all phases of the planned project. Each subsequent phase of the project must be directly connected or linked to the first phase of the project.

The phased project must meet the eligibility criteria established within *The Critical Minerals Processing Investment Incentive Regulations*, including an incurred minimum investment of CAD\$10 million in eligible costs before any royalty credits can be earned. As identified in the application, the subsequent project phases (i.e. second phase, third phase, etc.) do not need to individually meet the eligible cost threshold of a minimum investment of CAD\$10 million if the preceding phase(s) of the project have already met this part of the program's criteria.

For the summation of all eligible project phases, any eligible costs that would exceed the project's royalty credit maximum of CAD\$75 million for eligible critical minerals projects will not be included in the calculation of earned royalty credits, as per *The Critical Minerals Processing Investment Incentive Regulations*.

Note the following:

- After the minimum investment of CAD\$10 million in eligible costs requirement is met, earned royalty credits will be released as each independent project phase becomes operational, per the terms of the agreement between the project proponent and the Ministry of Energy and Resources.
- A phased project application cannot be considered as an aggregated multi-site project application.

Example – New Neodymium Magnet Manufacturing Facility

The proposed project has three phases. Phase 1 will be operational prior to Phase 2 and Phase 3 expansions. Phase 1 includes CAD\$8 million in eligible costs, Phase 2 and Phase 3 each have eligible costs of CAD\$4 million. The entire project has eligible costs of CAD\$16 million and meets all other eligibility criteria set out within *The Critical Minerals Processing Investment Incentive Regulations*. Based on eligible costs, the earned credits are awarded as each phase becomes operational. The earned royalty credits would not be awarded until after Phase 2 is complete and becomes operational, as this is the phase when the project meets the program’s minimum investment of CAD\$10 million in eligible costs requirement.

Example – New Zinc Refining Facility

The proposed project has two phases, with Phase 1 being operational prior to Phase 2. Phase 1 includes CAD\$600 million in eligible costs and Phase 2 has CAD\$300 million in eligible costs. The entire project has eligible costs of CAD\$900 million and meets all other eligibility criteria set out within *The Critical Minerals Processing Investment Incentive Regulations*. The earned royalty credits, based on eligible costs, are awarded as each phase becomes operational; however, because Phase 1 exceeds the maximum project size under CMPII (i.e., \$500 million in eligible costs), credits are only earned on this portion of the project. The earned royalty credits will be awarded after Phase 1 is complete and becomes operational, and once the participant has submitted a Royalty Credit Application to the Ministry. Royalty credits would not be earned for Phase 2, as this would result in the project’s cumulative total credits exceeding the project-specific maximum.

Eligible Projects by Qualifying Material

4(a)(i) an aluminum processing, refining or smelting facility

Eligible projects include facilities that produce alumina from ore, in process stages such as digestion, filtration, precipitation and calcination. Eligible smelting projects include facilities that produce aluminum ingots from alumina through electrolytic reduction and casting.

4(a)(ii) a cobalt processing or refining facility

Eligible facilities will process or refine cobalt through froth flotation, flash furnace, drying/roasting or smelting ore concentrate, leaching, electrolysis, solvent extraction and precipitation. Concentrate may originate from stand-alone deposits or from waste streams or as byproduct of other mineral production.

4(a)(iii) a copper processing or refining facility

Eligible facilities will process or refine copper through froth flotation, settling, filtering or filter pressing, roasting or smelting ore concentrate, solvent extraction from a leach solution, bessemerization, electrowinning and electrolysis.

4(a)(iv) a gallium processing, refining or purification facility

Eligible facilities may recover gallium from the production or co-production of aluminum, zinc, rare earth elements, or some other mineral. Projects using fractional crystallization, vacuum distillation or solvent extraction to further refine and purify gallium will also be eligible.

4(a)(v) a helium processing or liquefaction facility

Projects that seek to build new or expanded facilities for which the primary function is the value-added processing, purification, or liquefaction of helium gas are considered eligible. These facilities primarily process helium but may also process gases produced in association with helium, including but not limited to carbon dioxide, methane and nitrogen; these activities, when directly related to an eligible helium project, are also considered eligible.

4(a)(vi) a lithium processing or refining facility

Projects that seek to build new or expand facilities for which the primary function is the value-added processing or purification of lithium are considered eligible. Eligible projects include projects that recover lithium (from hard rock or from brine liquid) through ion exchange, adsorption, solvent extraction or selective membranes and that convert initially recovered forms of lithium to battery grade lithium carbonate or lithium hydroxide. Concentrate may originate from stand-alone deposits or from waste streams or as byproduct of other mineral production. Projects that further refine lithium to industrial grade are also eligible.

4(a)(vii) a magnesium processing or refining facility

Projects that seek to build new or expand facilities for which the primary function is the value-added processing or purification of magnesium are considered eligible. These facilities may process magnesium from formation fluids produced via a wellbore, or as a by-product from extraction of other products. Eligible projects include those that recover magnesium from formation fluids through ion exchange, adsorption, solvent extraction or selective membranes, as well as projects that produce anhydrate magnesium from magnesium compound hydrates, or which produce metallic magnesium from magnesium compounds through electrolysis.

4(a)(viii) a natural graphite processing, refining or purification facility;

Eligible facilities will process, refine, or purify natural graphite through wet screening (spiral separation or froth flotation), centrifuge or rotary drying, leaching, or final thermal treatment. Natural graphite refers to naturally sourced graphite material formed as amorphous graphite, flake graphite and crystalline graphite.

4(a)(ix) a nickel processing or refining facility;

Eligible facilities will process or refine nickel through froth flotation, settling, filtering or filter pressing, roasting or smelting ore concentrate, leaching or electrolysis.

4(a)(x) a rare earth elements processing, refining, or magnet manufacturing facility;

Eligible facilities will refine rare earth metals through roasting or leaching ore concentrate, ion exchange, solvent extraction, electrolysis and fractional crystallization. Concentrate may originate from stand-alone deposits or from waste streams or as byproduct of other mineral production. Projects which use rare earth metals to manufacture rare earth metal magnets will also be eligible.

4(a)(xi) a zinc processing or refining facility.

Eligible facilities will process zinc through froth flotation, roasting, sintering. Refining can take place through either an electrolysis process utilizing leaching, purification, electrolysis, remelting and distillation. A smelting process may also be used using a shaft furnace system that cools out the zinc and is refined by distillation.

Section 3: Increase in Processing Capacity

4(b) will result in a significant increase in processing capacity as determined by the Minister;

In assessing whether a sufficient increase in processing capacity occurs as a result of a proposed new (greenfield) or existing expansion (brownfield) project being completed, factors to be considered include:

- processing is occurring to create and/or recover a new saleable product at a commercial scale that was not achieved prior to the project; and/or,
- creating a significant increase in the quantity of an existing saleable product and/or,
- creating or recovering a saleable product of higher quality or value in the marketplace; and/or,
- creating an incremental increase in the commercialization of byproducts and/or waste products from the primary extraction of another mineral and/or,
- the proportionality between the volume of incremental feedstock being processed and the scale of the project's total eligible costs.

Note: A saleable product is considered a product that can be monetized and that is directly and positively impacted by the related processing, value-added, or commercialization activity.

Note: Primary recovery is not considered a processing or value-added activity.

Increase in Processing Capacity at Existing Facilities

In the case of an eligible project application that concerns the expansion of an existing facility (brownfield), the Ministry of Energy and Resources may request that the applicant provide engineering and/or auditing evidence from an expert third party to ensure/confirm that all proposed eligible costs are directly related to the expansion of the facility and do not include any unrelated repair, maintenance (including costs related to routine well workovers/mine maintenance), or capital asset turnover costs related to the pre-existing facility (see details below regarding expert third-party verification).

Example – Helium processing facility debottlenecking

An existing helium processing facility is attempting to increase its processing capacity for the amount of purified helium it produces. By making modifications to the existing facility and equipment (total capital costs of CAD\$20 million), it is demonstrated that a 10 per cent increase in the facility's throughput capacity has occurred. The debottlenecking project would be considered as an eligible project as it is directly related to an increase in the facility throughput capacity and will allow for an increase in the marketing and distribution of helium.

Section 4: Minimum Investment Threshold

4(c) Involves a minimum investment of \$10 million in eligible costs.

Estimated eligible costs are evaluated at two stages – the application stage and the agreement stage.

Incurred project costs must be necessary and directly linked to bringing a new or expanded facility into a commercially operable status to be considered eligible. Specifics regarding eligible costs will be described in detail in an agreement between a successful applicant and the Ministry of Energy and Resources.

Final Approved Eligible Costs of a Project

As part of the eligible project application stage [Section 5 of *The Critical Minerals Processing Investment Incentive Regulations*], the Ministry of Energy and Resources will consider whether the proposed project will be highly likely to result in a minimum investment threshold of CAD\$10 million in recognized eligible costs to qualify for CMPIII.

Final eligible project costs – upon which all earned royalty credits are determined – are established as part of the agreement stage [Section 6 of *The Critical Minerals Processing Investment Incentive Regulations*]. The agreement phase is carried out by the project proponent and the Ministry of Energy and Resources after the eligible project application stage is successfully completed. Once the project proponent and the Ministry of Energy and Resources enter into an agreement, the project proponent moves from being a program “applicant” to being a program “participant”.

Once the eligible project is completed, per the terms of the agreement with the Ministry of Energy and Resources, the participant must submit a final detailed itemized breakdown of all approved and actual eligible costs. While estimated contingency costs are considered eligible for approval, all final costs submitted will be actual and under a detail category other than contingency. The costs must be audited by a licensed Chartered Professional Accountant and any other third-party expert required by the Ministry of Energy and Resources.

As previously noted, the agreement established between the project proponent and the Ministry of Energy and Resources will identify a detailed itemized breakdown of eligible costs. Any expense or cost not deemed eligible as established in the agreement or that is claimed in excess of the maximum authorized eligible cost amount as established in the agreement, will

not be eligible to be included in the calculation of earned royalty credits.

Note the following:

- Eligible costs must be directly related to the eligible project and must have been incurred on or after January 1, 2018, for the cases of helium or lithium projects, or April 1, 2024, for the case of any eligible project other than helium or lithium.
- When eligible projects occur at a facility where another material is produced and processed, only the costs of processes that are separate from and in addition to, any processes that produce the non-qualifying material will be recognized as eligible.
- According to Section 10 of *The Critical Minerals Processing Investment Incentive Regulations*, eligible costs may be incurred directly or indirectly by an entity other than the participant.

Eligible Costs

- Any real property and depreciable assets.
- The land on which the project is built and operates.
 - Land costs will be recognized at the lesser of actual costs or fair market value.
 - Costs associated with excess land will be excluded. Excess land includes land the applicant may be able to re-sell, offer for lease, or develop for another purpose.
- The capitalized costs of qualified professional services are directly associated and prorated with the project, whether in-house or third party.
- The capitalized costs of installing the depreciable assets, whether in-house, third party, or of a capital lease.
- The capitalized costs of transporting the depreciable assets, whether in-house, third party, or of a capital lease.
- The cost of mobile or modular equipment and infrastructure essential to the successful operation of the project. *
- Intellectual Property licensing costs directly related to the project's design or operation.
- Specialized software costs essential to the successful operation of the project.
- Labour costs directly related to project engineering and design.
- Any site preparation and project construction costs (contracting, labour, equipment leasing or renting and materials included).
- Any necessary utilities servicing costs directly related to the construction of the eligible project.
- Regulatory, licensing and other development fees that are necessary and directly related to the project's approval, permitting and/or construction.
- Direct costs of contracting any independent expert third-party accountants, engineers and real estate appraisers as requested by the Ministry of Energy and Resources or as required

by the terms of the agreement entered into by the project proponent and the Ministry of Energy and Resources.

- Capitalized interest.
- Front-End Engineering Design (FEED) studies.

*Note: For any mobile or modular equipment and infrastructure that the project proponent seeks to include as an eligible cost within the agreement, the project proponent must commit to keeping the assets in Saskatchewan for a minimum of 10 consecutive years. This time period will begin on the date the participant receives their first earned royalty credits in relation to the eligible project.

Ineligible Costs

- Administration and overhead costs.
- Office supplies and furnishings.
- Land that is not directly related to and/or necessary for the eligible project.
- Any travel or subsistence costs.
- Any promotional or advertising costs.
- Operating utility costs.
- Operating transportation costs.
- Operating labour costs.
- Treating, capital asset turnover, maintenance (including costs related to routine well workovers or mine or mill maintenance), servicing and other materials directly related to the operations/functioning of pre-existing assets or the project post-construction.
- Generic software and/or computer costs.
- Feasibility study costs.
- Insurance.
- Selling and marketing costs.
- Costs related to asset ownership transfer.
- Federal Goods and Services Tax (GST).
- Provincial Sales Tax (PST).
- Harmonized Sales Tax (HST).
- Spare equipment.
- Non-compliance fees, fines and penalties.
- Stakeholder engagement or community benefit agreements
- Costs already submitted under another CMPII submission.
- Non arm's length transactions.

Section 5: Operational Status

4(d) has not become operational, as determined by the Minister, before the eligible project application is submitted.

Projects cannot be submitted retroactively. Any project that is operational prior to the submission of the application will be rejected.

The wide variety of project types eligible under CMPII requires that the operational status of each project be assessed individually.

Section 6: Other Requirements and Considerations

Third Party Audit of Eligible Costs

Once the project has become operational, the participant will be allowed to request that the approved eligible costs incurred during the project's construction become officially recognized by the Ministry of Energy and Resources. The credits will be calculated as earned royalty credits per the schedule outlined within *The Critical Minerals Processing Investment Incentive Regulations*.

For the eligible costs to be reviewed by the Ministry of Energy and Resources, the final statement of eligible costs must be audited by a relevant expert third party, as determined in the agreement between the project proponent and the Ministry of Energy and Resources. Unless otherwise noted in the project agreement, this must come in the form of an **Assurance Report**, issued by a licensed Chartered Professional Accountant, that provides the Ministry of Energy and Resources with reasonable assurance in accordance with the guidelines established under the Canadian Auditing Standards (CAS) 805, Special Considerations-Audits of Single Financial Statements and Specific Elements, Accounts, or Items of a Financial Statement. The Assurance Report will provide an opinion on the project proponent's Eligible Cost Submission Form and should include an audit of the proponent's statement of eligible expenditures, while considering the following:

- All proposed eligible costs were actually incurred;
- All proposed eligible costs (including contingency-related costs) are within eligible cost categories, as established in section 4 of the CMPII Policy Guidelines, and in the project agreement;
- All proposed eligible costs are directly related to the eligible project, as described in the project agreement; and,

- All proposed eligible costs were incurred within the eligible timelines, as established in the project agreement.

Types of Qualified Independent Expert Third Parties

- A licensed Chartered Professional Accountant in good standing with all relevant professional associations and standards, operating at arm's length from the project proponent and all other direct and indirect project partners, for the purpose of assessing eligible costs contained in the agreement and identifying them as either eligible or ineligible.
- A licensed engineer in good standing with the Association of Professional Engineers and Geoscientists (APEGS), operating at arm's length from the project proponent and all direct and indirect project partners, for the purpose of verifying that the eligible costs were directly made for the purpose of expanding productive or value-added capacity at an existing facility.
- An Accredited Appraiser Canadian Institute (AACITM) licensed real estate appraiser, operating at arm's length from the project proponent and all direct and indirect project partners, for the purpose of adjudicating the fair market value of land as an eligible cost.

Amending Eligible Costs in an Agreement

Minor changes to an eligible project's costs are expected to be accommodated through a contingency cost category allocation in an agreement; however, a participant is able to request amendments to the project's signed agreement, for significant eligible cost amendments and/or significant project scope changes, with the Ministry of Energy and Resources at any point prior to the project becoming operational. This significant amendment will only be permitted once per project and the amended project must continue to meet all eligibility requirements.

If the request to amend the eligible costs, as outlined in the agreement, is an increase from the agreed upon total value of eligible costs (and, therefore, an increase in the resulting conditional earned royalty credits), there must be available credits under the program's total royalty credit allocation amount, as determined by Cabinet, to accommodate the request. Additionally, such a request must not result in the maximum amount of eligible royalty credits above the allowable maximum per project.

To propose an amendment to a signed agreement, please e-mail cmpii@gov.sk.ca.

Asset Ownership Transfer

If assets related to the eligible project are transferred before obligations in the agreement are fulfilled (i.e., the project is completed), the Ministry of Energy and Resources must receive

written confirmation from both the participant/applicant (previous owner) and new owner agreeing upon the eligibility of associated costs and distribution of approved royalty credits.

Confidentiality

The Ministry of Energy and Resources complies with *The Freedom of Information and Protection of Privacy Act* (FOIPPA). The protection of commercially sensitive information provided by FOIPPA is indefinite or until the point in time at which the information becomes part of the public record. No project-specific information will be released publicly by the Ministry of Energy and Resources unless companies have provided their consent.

The Government of Saskatchewan's annual *Public Accounts Report* will show aggregated totals, at a company level, for entities that redeem and utilize royalty credits worth \$50,000 or more in a fiscal year. Transfer of royalty credits without utilization will not be recorded in the *Public Accounts Report*.

Expiry of Conditional Approval

An applicant who has not entered into an agreement two years after the day on which that application was conditionally approved must, within 60 days after the two year anniversary of that approval, provide a project update that:

- a. confirms that contracts to begin construction on the eligible project are signed; or,
- b. includes other evidence satisfactory to the minister that the applicant intends to enter into an agreement including but not limited to:
 - (i) Engineering design documents
 - (ii) A signed letter from applicant leadership showing how the project is moving ahead
 - (iii) Evidence that an authorization for expenditure (AFE) for the project has been established and is active

If an applicant fails to provide a project update pursuant to a. or b. above, the conditional approval of the project is deemed expired.

An applicant whose conditional approval is deemed expired may reapply in the future with any necessary modifications to the application.