

30 ENHANCED OIL RECOVERY PROJECT TAX INCENTIVE

30.A. General

Applications for qualification of enhanced oil recovery projects or expansions of existing enhanced oil recovery projects for the recovered oil tax rate pursuant to the New Mexico "Enhanced Oil Recovery Act" (Sections 7-29A-1 through 7-29A-5, NMSA 1978) will be accepted by the Division after March 6, 1992.

30.B. Applicability

These rules apply to:

- (1) enhanced oil recovery (EOR) projects;
- (2) expansions of existing EOR projects;
- (3) the expanded use of enhanced oil recovery technology in existing EOR projects; and
- (4) the change from a secondary recovery project to a tertiary recovery project.

30.C. Definitions

- (1) ^{check} "Crude oil" means oil and other liquid hydrocarbons removed from natural gas at or near the wellhead.
- (2) "Division" means the Oil Conservation Division of the Energy, Minerals and Natural Resources Department.
- (3) "Enhanced Oil Recovery (EOR) Project" means the use or the expanded use of any process for the displacement of crude oil from an oil well or Division-designated pool other than a primary recovery process, including but not limited to the use of a pressure maintenance process, a waterflooding process, an immiscible, miscible, chemical, thermal or biological process or any other related process.
- (4) "Expansion or Expanded Use" means a significant change or modification as determined by the Division in (a) the technology or process used for the displacement of crude oil from an oil well or Division-designated pool; or (b) the expansion, extension or increase in size of the geologic area or adjacent geologic area that could reasonably be determined to represent a new or unique area of activity.

- (5) "Operator" means the person responsible for the actual physical operation of an enhanced recovery project.
- (6) "Positive Production Response" means that the rate of oil production from the wells or pools affected by an enhanced recovery project is greater than the rate that would have occurred without the project.
- (7) "Primary Recovery" means the displacement of crude oil from an oil well or Division-designated pool into the well bore by means of the natural pressure of the oil well or pool, including but not limited to artificial lift.
- (8) "Recovered Oil Tax Rate" means the tax rate set forth in Section 7-29-4, NMSA 1978, on crude oil produced from an enhanced recovery project.
- (9) "Secondary Recovery Project" means an enhanced recovery project that:
 - (a) occurs subsequent to the completion of primary recovery and is not a tertiary recovery project;
 - (b) involves the application, in accordance with sound engineering principles of carbon dioxide miscible fluid displacement, pressure maintenance, waterflooding or any other secondary recovery method accepted and approved by the Division that can reasonably be expected to result in an increase, determined in light of all facts and circumstances, in the amount of crude oil that may ultimately be recovered; and
 - (c) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.
- (10) "Termination" means the discontinuance of an enhanced recovery project by the operator.
- (11) "Tertiary Recovery Project" means an enhanced recovery project that:
 - (a) occurs subsequent to the completion of a secondary recovery project;
 - (b) involves the application, in accordance with sound engineering principles, of carbon dioxide miscible fluid displacement, pressure maintenance, water flooding or any other tertiary recovery method accepted and approved by the Division that can reasonably be expected to result in an increase, determined in light of all facts and circumstances, in the amount of crude oil that may ultimately be recovered; and
 - (c) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.

30.D. Procedure

- (1) The Division's general rules of procedure shall apply unless altered or amended by these rules.

- (2) To be eligible for the tax rate the operator must apply for and receive Division approval. No project or expansion approved by the Division prior to March 6, 1992 shall qualify.
- (3) All applications shall be filed in triplicate with the Division's Santa Fe office. One copy of the application and all attachments shall also be filed with the appropriate Division district office.
- (4) All applications shall be executed and certified by the operator or its authorized representative having knowledge of the facts therein and shall contain:
 - (a) operator's name and address;
 - (b) description of the project area including:
 - (i) a plat outlining the project area;
 - (ii) description of the project area by section, township and range;
 - (iii) total acres; and
 - (iv) name of the subject pool and formation;
 - (c) status of operations in the project area:
 - (i) if unitized, the name of the unit and the date and number of the Division order approving the unit plan of operation;
 - (ii) if an application for approval of a unit plan has been made, the date the application was filed with the Division; and
 - (iii) if not unitized, identify each lease in the project area by lessor, lessee and legal description;
 - (d) method of recovery to be used:
 - (i) identify fluids to be injected;
 - (ii) if the Division has approved the project, provide the date and number of the Division order; and
 - (iii) if the project has not been approved by the Division, provide the date the application for approval was filed with the Division on Form C-108;

- (e) description of the project:
 - (i) a list of producing wells;
 - (ii) a list of injection wells;
 - (iii) capital costs of additional facilities;
 - (iv) total project cost;
 - (v) estimated total value of the additional production that will be recovered as a result of the project;
 - (vi) anticipated date for commencement of injection;
 - (vii) the type of fluid to be injected and the anticipated volumes; and
 - (viii) if application is made for an expansion of an existing project, explain what changes in technology will be used or what additional geographic area will be added to the project area;
- (f) production data: Provide graphs, charts and other supporting data to show the production history and production forecast of oil, gas, casinghead gas and water from the project area.

30.E. Approval and Certification

- (1) Project Approval: An EOR project will be approved and the project area designated for the recovered oil tax rate when the operator proves that:
 - (a) the application of the proposed enhanced recovery techniques to the reservoir should result in an increase in the amount of crude oil that may be ultimately recovered;
 - (b) the project area has been so depleted that it is prudent to apply enhanced recovery techniques to maximize the ultimate recovery of crude oil; and
 - (c) the application is economically and technically reasonable and has not been prematurely filed.
- (2) Positive Production Response Certification:

- (a) for the recovered oil tax rate to apply to oil produced from an approved qualified EOR project, the operator must demonstrate a positive production response to the Division. Applications for certification of a positive production response shall be filed with the Division's Santa Fe office and shall include:
 - (i) a copy of the Division's approval of the enhanced recovery project or expansion;
 - (ii) a plat of the affected area showing all injection and producing wells with completion dates; and
 - (iii) production graphs and supporting data demonstrating a positive production response and showing the volumes of water or other substances that have been injected on the lease or unit since initiation of the enhanced recovery project;
- (b) the Division Director shall have authority to administratively approve an application and certify a positive production response or, at the Director's discretion or at the request of the applicant, may set the application for hearing.
- (c) the Division shall certify that a positive production response occurred and notify the Secretary of Taxation and Revenue. This certification and notice shall set forth the date the certification was made and the date the positive production response occurred provided however:
 - (i) for a secondary recovery project, the application for certification of a positive production response must occur not later than five (5) years from the date the Division issued the certification of approval for the enhanced oil recovery project or expansion; and
 - (ii) for a tertiary recovery project, the application for certification of a positive production response must occur not later than seven (7) years from the date the Division issues the certification of approval for the enhanced recovery project or expansion.

30.F. Reporting Requirements

- (1) The operator of an approved EOR project shall report annually on the status of the project and confirm that the project is still a viable EOR

project as approved. The report will be for the year ending May 31 and shall be filed with the Division's Santa Fe office. The report shall contain:

- (a) the date and number of the Division's certification order for the project;
 - (b) production graphs showing oil, gas and water production;
 - (c) a graph showing the volumes of fluid injected and the average injection pressures; and
 - (d) any additional data the Director deems necessary for continued approval;
- (2) the Director may set for hearing the continued approval of any EOR project.

30.G. Termination

When active operation of an approved enhanced recovery project or expansion is terminated, the operator shall notify the Division and the Secretary of Taxation and Revenue in writing not later than the thirtieth (30) day after the termination of the enhanced recovery project or expansion.

[__-__-99]

31 PRODUCTION RESTORATION PROJECT TAX INCENTIVE

31.A General

Applications for qualification of production restoration projects for the production restoration incentive tax exemption pursuant to the "Natural Gas and Crude Oil Production Incentive Act" (Sections 7-29B-1 through 7-29B-6, NMSA 1978) shall be accepted by the Division after November 9, 1995. [12-30-95, 2-1-96; Rn. _____ - ____-99]

31.B. Applicability

These rules apply to any natural gas or oil well Division records show had thirty (30) days or less production in any period of twenty-four consecutive months beginning on or after January 1, 1993 upon which the operator commenced operations to restore production after June 16, 1995. [12-30-95, 2-1-96; Rn. _____ - ____-99]

31.C. Definitions

- (1) "Department" means the Taxation and Revenue Department;
- (2) "Division" means the Oil Conservation Division of the Energy, Minerals and Natural Resources Department;
- (3) "Natural Gas" means any combustible vapor composed chiefly of hydrocarbons occurring naturally, including casinghead gas;
- (4) "Oil" means any petroleum hydrocarbon produced from a well in the liquid phase and which existed in the liquid phase in the reservoir and liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir;
- (5) "Operator" means the person responsible for the actual physical operation of a natural gas or oil well;
- (6) "Production Restoration Incentive Tax Exemption" means the severance tax exemption for natural gas and/or oil produced from an approved production restoration project found in Section 7-29-4.B, NMSA 1978. (The oil and gas severance tax is imposed under Section 7-29-4 and is three and three fourths percent (3 3/4%) of the taxable value of the product.) This exemption shall apply to natural gas severed and sold, or the crude oil, and other liquid hydrocarbons removed from the natural gas at or near the wellhead from a production restoration project during the first ten years of production following the restoration of production, provided the annual average price of West Texas Intermediate Crude Oil,

determined by the Taxation and Revenue Department, is less than twenty four dollars (\$24.00) per barrel;

- (7) "Production Restoration Project" means returning to production any natural gas or oil well, including but not limited to any injection well which has previously produced, which had no more than (30) days of consecutive or non-consecutive days of production in any period of twenty-four consecutive months beginning on or after January 1, 1993 as approved and certified by the Division;
- (8) "Well" means a wellbore with single or multiple completions, including all horizons and producing formations from the surface to total depth.

[12-30-95, 2-1-96; Rn. _____ - ____-99]

31.D. Procedure

- (1) The Division's general rules of procedure shall apply unless altered or amended by these rules.
[12-30-95, 2-1-96; Rn. _____ - ____-99]
- (2) To be eligible for the exemption, the operator must apply for and receive Division approval. No production restoration project commenced prior to June 16, 1995 shall qualify. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (3) An application must be filed with the Division within twelve (12) months of the production restoration. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (4) Applications shall be filed by the operator on behalf of all interest owners in the project. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (5) Applications shall be filed in triplicate with the Division at its appropriate District office on Division Form C-139 and shall contain:
 - (a) operator's name and address; and
 - (b) description of the production restoration project including:
 - (i) name and footage location of the well;
 - (ii) name of the pool from which the well previously produced;
 - (iii) a description of the process used, or to be used, by the operator for returning the well to production;

- (iv) identification of the Division records which show that the well had thirty (30) days or less production in any period of twenty-four consecutive months beginning on or after January 1, 1993;
- (v) date the project was commenced and date the well was returned to production; and
- (vi) a statement under oath by the operator or its authorized representative having knowledge of the facts contained in the application that:
 - (A) the application is complete and correct;
 - (B) production from the well has been reported to the Division and Division records establish the well had thirty (30) days or less production in any period of twenty-four consecutive months beginning on or after January 1, 1993.

31.E. Approval, Certification, Notification and Hearings

(1) Project Approval and Certification

A project shall be approved and a certification of approval issued to the operator designating the natural gas or oil well as a production restoration project when the operator proves that:

- (a) after June 16, 1995, the operator has commenced any process to return the well to production; and
- (b) division records show the well had thirty (30) days or less of production in any period of twenty-four consecutive months beginning on or after January 1, 1993.

The exemption will apply beginning the first day of the month following the date the well was returned to production as certified by the Division. [12-30-95, 2-1-96; Rn. _____
 ____-____-99]

(2) Notification to the Secretary of Taxation and Revenue

The Division shall immediately notify the Secretary of Taxation and Revenue of the approval. This notice shall identify the natural gas or oil well as a production restoration project and certify the date production was restored. [12-30-95, 2-1-96; Rn. _____
 ____-____-99]

(3) Hearings

The Division shall consider applications without a hearing. If the Division District office denies an application, the Division upon the applicant's request shall set the application for hearing. Any application not acted upon by the Division District office within thirty (30) days from the date it is filed shall be deemed denied. [12-30-95, 2-1-96; Rn. _____ - ____-99]

32 WELL WORKOVER PROJECT TAX INCENTIVE

32.A. General

Applications for qualification of well workover projects for the well workover incentive tax rate pursuant to the "Natural Gas and Crude Oil Production Incentive Act" (Sections 7-29B-1 through 7-29B-6, NMSA 1978) shall be accepted by the Division after November 9, 1995. [12-30-95,2-1-96; Rn. _____ - ____-99]

32.B. Applicability

These rules apply to any natural gas or oil well upon which the operator has commenced a workover after June 16, 1995 that is intended to increase production from the well. [12-30-95,2,1,96; Rn. _____ - ____-99]

32.C. Definitions

- (1) "Department" means the Taxation and Revenue Department;
- (2) "Division" means the Oil Conservation Division of the Energy, Minerals and Natural Resources Department;
- (3) "Natural Gas" means any combustible vapor composed chiefly of hydrocarbons occurring naturally, including casinghead gas;
- (4) "Oil" means any petroleum hydrocarbon produced from a well in the liquid phase and which existed in the liquid phase in the reservoir and liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir;
- (5) "Operator" means the person responsible for the actual physical operation of a natural gas or oil well;
- (6) "Production Projection" (for workover projects certified prior to July 1, 1999) means the estimate of the productive capacity (both oil and/or gas) of a natural gas or oil well certified by the Division as the future rate of production from the well based on well performance prior to performing a workover;
- (7) "Routine Maintenance" means repair or like-for-like replacement of downhole equipment or any other procedure performed by an operator to maintain the well's current production;
- (8) "Well" means a wellbore with single or multiple completions, including all horizons and producing formations from the surface to total depth.

- (9) "Well Workover Incentive Tax Rate" means the tax rate imposed by Section 7-29-4.1 NMSA 1978 on natural gas and/or oil produced from a well workover project. Prior to July 1, 1999, it means the tax rate imposed by Section 7-29-4.1 NMSA 1978 on production in excess of the Production Projection.
- (10) "Well Workover Project" means any procedure undertaken by the operator of a natural gas or oil well intended to increase production from the well that has been approved and certified by the Division;
- (11) "Workover" means any procedure undertaken by the operator of the well intended to increase production but is not routine maintenance. "Workover" includes, but is not limited to:
 - (a) re-entry into the well to drill deeper, to sidetrack to a different location, to recompleate for production or to restore production from a zone which has been temporarily abandoned;
 - (b) recompletion by re-perforation of a zone from which natural gas or oil has been produced or by perforation of a different zone;
 - (c) repair or replacement of faulty or damaged casing or related downhole equipment;
 - (d) fracturing, acidizing or installing compression equipment; and
 - (e) squeezing, cementing or installing equipment necessary for removal of excessive water, brine or condensate from the well bore in order to establish, continue or increase production from the well.

32.D. Procedure

- (1) The Division's general rules of procedure shall apply unless altered or amended by these rules. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (2) To be eligible for the incentive tax rate, the operator must apply for and receive Division approval. No well workover project commenced by the operator prior to June 16, 1995 shall qualify. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (3) Applications must be filed with the Division within twelve (12) months of the workover. [12-30-95, 2-1-96; Rn. _____ - ____-99]

- (4) Applications shall be filed by the operator on behalf of all interest owners in the project. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (5) The data utilized to: (a) make the Production Projection for wells certified prior to July 1, 1999; or (b) provide evidence of a positive production increase for wells certified after June 30, 1999, shall be retained by the operator in its files during the period of time the well qualifies for and receives the well workover incentive tax rate and for such time thereafter as the Department requires. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (6) Applications shall be filed in triplicate with the Division at its appropriate District office on Division Form C-140 and shall contain:
- (a) operator's name and address; and
 - (b) description of well workover project including:
 - (i) name and footage location of the well;
 - (ii) name of the pool from which the well previously produced;
 - (iii) the dates workover procedures commenced and were completed;
 - (iv) a description of the procedures undertaken by operator of the well intended to increase production;
 - (v) (A) (for wells certified before July 1, 1999) a decline curve, or other acceptable method, specifying the producing interval(s), and a monthly tabulated estimate of the production rate of natural gas and oil from the well, based on at least twelve (12) months of established production, which shows the future rate of production based on well performance prior to performing the workover; or

(B) (for wells certified after June 30, 1999) evidence of a positive production increase over the production rate of the well prior to the workover. The operator must submit a production curve and data tabulation made up of at least twelve months' production prior to the workover and at least three months' production following the workover that reflects a positive production increase;

- (vi) a description of the method used to project the future production rate;
- (vii) other documentation the applicant determines may be applicable to this filing, such as Division forms or Division orders; and
- (viii) a statement under oath by the operator or its authorized representative having knowledge of the facts contained in the application that:
 - (1) he/she has made or caused to be made a diligent search of all production records which are reasonably available and contain information relevant to the production history of the well; and
 - (2) to the best of his/her knowledge, the data in the application and the data used to predict the future production rate of the well are complete and accurate.

[12-30-95, 2-1-96; Rn. _____ - ____-99]

32.E. Approval, Certification, Notification and Hearings

(1) Project Approval and Certification

A workover shall be approved and a certification of approval issued to the operator designating the natural gas or oil well as a well workover project when the operator proves that:

- (a) approved workover procedures have been undertaken on the well which are intended to increase production; and
- (b) the production curve and data tabulation from production data reflects a positive production increase from the workover.

The incentive tax rate will apply beginning the first day of the month following the date the workover was completed as certified by the Division. [12-30-95, 2-1-96; Rn. _____ - ____-99]

(2) Notification to the Secretary of Taxation and Revenue

The Division shall immediately notify the Secretary of Taxation and Revenue of the approval. This notice shall identify the natural gas or oil well as a well workover project, certify the production projection or curve for the well and certify the date the project was completed. [12-30-95, 2-1-96; Rn. _____ - ___-99]

(3) Hearings and Requests for Additional Information

(a) The Division shall consider applications without a hearing. If the Division District office denies an application, the Division upon the applicant's request shall set the application for hearing. Any application not acted upon by the Division District office within thirty (30) days from the date it is filed is deemed denied.

[12-30-95, 2-1-96; Rn. _____ - ___-99]

(c) The Division may request additional information from the operator to support an application. When additional information is requested, the 30-day approval period shall begin to run on the date the requested data is provided. [12-30-95, 2-1-96; Rn. _____ - ___-99]

33 STRIPPER WELL TAX INCENTIVE

33.A. General

Qualification of stripper wells for the stripper well incentive tax rates in Sections 7-29-4 and 7-31-4, NMSA 1978, requires certification by the Division. The Division shall certify stripper well properties for calendar year 1998 no later than June 30, 1999 and no later than June 1 of each succeeding year for the preceding calendar year.

33.B. Applicability

These rules apply to any natural gas or oil well the Division certifies as a stripper well property after June 30, 1999.

33. 715.C. Definitions

- (1) "Department" means the Taxation and Revenue Department;
- (2) "Division" means the Oil Conservation Division of the Energy, Minerals and Natural Resources Department;
- (3) "Natural Gas" means any combustible vapor composed chiefly of hydrocarbons occurring naturally, including casinghead gas;
- (4) "Oil" means any petroleum hydrocarbon produced from a well in the liquid phase and which existed in the liquid phase in the reservoir and liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir;
- (4) "Operator" means the person responsible for the actual physical operation of a natural gas or oil well;
- (5) "Average daily production" means the number derived by dividing the total volume of crude oil or natural gas production from the stripper well property reported to the Division during a calendar year by the sum of the number of days each eligible well within the property produced or injected during that calendar year;
- (6) "Eligible well" means a crude oil or natural gas well that produces, or an injection well that injects and is integral to production, for any period of time during the preceding calendar year;
- (7) "Stripper well property" means a crude oil or natural gas producing property that is assigned a single production unit number by the Taxation and Revenue Department and:

- (a) (if a crude oil producing property) produced a daily average of less than ten barrels of oil per eligible well per day for the preceding calendar year;
 - (b) (if a natural gas producing property) produced a daily average of less than sixty thousand cubic feet of natural gas per eligible well per day during the preceding calendar year; or
 - (c) (if a property with wells that produce both crude oil and natural gas) produced a daily average of less than ten barrels of oil per eligible well per day for the preceding calendar year, as determined by converting the volume of natural gas produced by the well to barrels of oil by using a ratio of six thousand cubic feet to one barrel of oil; and
- (8) "Stripper well incentive tax rates" means the tax rates set for stripper well properties by Sections 7-29-4 and 7-31-4, NMSA 1978, NMSA 1978.

33.D. Certification and Notification

- (1) The Division's data processing section shall determine which wells qualify as stripper well properties.
- (2) Upon certification of wells as stripper well properties, the Division shall immediately notify the operator and the Secretary of Taxation and Revenue of that certification.

34 NEW WELL TAX INCENTIVE

34.A. General

The operator of a new crude oil or natural gas well may, upon completion of the new producing well, apply for and receive a one time credit of fifteen thousand dollars (\$15,000) per new well bore against the operator's liability for the Oil and Gas Emergency School Tax.

34.B. Applicability

These rules apply to any natural gas well or oil well for which drilling commenced after January 1, 1999 and prior to July 1, 2000.

~~34.~~ 34.C. Definitions

- (1) "New well" means a crude oil or natural gas producing well for which drilling commenced after January 1, 1999 and before July 1, 2000, or a horizontal crude oil or natural gas well that was recompleted from a vertical well by drilling operations that commenced after January 1, 1999 and before July 1, 2000, that has been approved and certified as such by the Division.

~~34.~~ 34.D. Procedure

- (1) The Division's general rules of procedure shall apply unless altered or amended by these rules.
- (2) The operator must apply for and be granted Division approval of the "new well". A new well shall qualify if the Division certifies that:
 - (a) the operator applying for the tax credit commenced drilling the new well after January 1, 1999 or prior to July 1, 2000;
 - (b) the new well was completed as a producer; and
 - (c) the new well is one of the first six hundred new wells drilled and completed between January 1, 1999 and July 1, 2000.
- (3) An application must be filed with the Division: (a) within ninety (90) days of completion of the well as a producer, or (b) by Oct 1, 1999 for a well completed between January 1, 1999 and July 1, 1999.
- (4) All applications shall be filed in triplicate with the Division's Santa Fe office on form C-142 and shall contain:
 - (a) operator's name and address;

- (b) description of the well:
 - (i) name and footage location;
 - (ii) date and time spudded; and
 - (iii) completion date and production test test results;
- (c) copies of Division Form C-103 showing spud date and time and Division Form C-105 showing the well was completed as a producing well; and
- (d) a statement under oath by the operator or its authorized representative having knowledge of the facts contained in the application that:
 - (i) the application is complete and correct; and
 - (ii) production from the well has been reported to the Division.

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~~X~~6.E. Certification and Notification

- (1) Upon approval of the application, the Division shall immediately send a copy of the approved application to the operator and the Secretary of Taxation and Revenue.
- (2) The Division may request additional information from an operator to support the application. If the Division denies an application, the Division upon the applicant's request shall set the application for hearing.