

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

~~IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION TO
CONSIDER THE APPLICATION OF:~~

CASE NO.

APPLICATION OF

ON ITS OWN MOTION

**THE OIL CONSERVATION DIVISION, FOR
AN ORDER ADOPTING RULES TO IMPLEMENT THE
ENHANCED OIL RECOVERY ACT.**

The New Mexico Oil Conservation Division seeks an order adopting rules setting forth the procedures to implement the provisions of the Enhanced Oil Recovery Act (Laws of 1992, Chapter 38) providing for the qualification of projects and the certification for the "Recovered Oil Tax Rate".

Mid-Continent Region
Production United States



**Marathon
Oil Company**

P.O. Box 552
Midland, Texas 79702
Telephone 915/682-1626

*Copy Larry
and put in Dave
file*
June 3, 1992

Mr. William J. LeMay
Director Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87504

RECEIVED

JUN 04 1992

OIL CONSERVATION DIVISION

Case 10492

RE: Comments House Bill 23: Proposed Rules and Regulations

Dear Mr. LeMay,

Marathon Oil Company commends the Legislature and Oil Conservation Division for their efforts to provide severance tax relief for those producers who invest funds implementing enhanced oil recovery (EOR) projects in the State of New Mexico. These incentives, provided by House Bill 23, will encourage producers to initiate additional EOR projects that may not have otherwise been pursued. Such actions will benefit both the State and the producers.

Attached are comments submitted by Marathon regarding changes to the proposed rules and regulations for the Enhanced Oil Recovery Act. These modifications are offered so that operators and the Oil Conservation Division will have a mutual understanding as to the intent and application of the rules and regulations governing the act. These comments have also been forwarded to the New Mexico Oil and Gas Association (NMOGA), who are in the process of preparing an industry summary. Because of our strong convictions concerning key points outlined in the attachment, we feel compelled to share our position with the OCD prior to the scheduled hearing. I plan to call you later this week to setup a meeting with your staff for further discussions.

If you, or any member of your staff would like to discuss Marathon's proposals, please contact Dave Petro or myself at (915) 682-1626.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'R. F. Unger'.

R. F. Unger
Production Manager
Midland Operations

DRP/179.274/sk

A subsidiary of USX Corporation

An Equal Opportunity Employer

MARATHON OIL COMPANY
COMMENTS ON PROPOSED RULES AND REGULATIONS
HOUSE BILL 23 - "ENHANCED OIL RECOVERY ACT"

Marathon has reviewed the rules and regulations for EOR project certification, as proposed by the Oil Conservation Division, and believes that additional clarification is needed in several areas. These modifications are offered so that operators and the Oil Conservation Division will have a mutual understanding as to the intent and application of the rules and regulations governing the "Enhanced Oil Recovery Act".

Several definitions listed in Section C should be expanded. The first is the definition of "Enhanced Oil Recovery (EOR) Project". Marathon supports the specific recovery processes listed; however, vertical/areal conformance treatments and cyclic injection projects utilizing steam, CO₂, and natural gas (huff 'n' puff projects) should also qualify for severance tax relief, if used in a systematic plan.

Any EOR project is optimized when high volumetric sweep efficiencies are obtained by the injected fluid. Each reservoir has unique rock and fluid properties which determine the effectiveness of hydrocarbon displacement from the reservoir. Reservoir heterogeneities such as layers or zones of different

permeability, channels of high permeability, or existence of naturally occurring fractures establish natural flow paths for the fluids. Effectively managing any displacement process often requires small volumes of high viscosity fluids to be injected into a reservoir thereby diverting the fluids into areas of the reservoir not previously swept. Processes such as these improve recovery by enabling the injected fluids to contact a larger portion of the reservoir.

Some small oil reservoirs with only a few wells are not amenable to "classical" improved oil recovery technology. It may be cost prohibitive to drill injection wells to implement a fluid drive process such as waterflooding. However, in some of these situations, cyclic processes including steam, CO₂, and natural gas (huff 'n' puff projects) may recover significant incremental oil. In these processes, the production well is temporarily converted to an injection well, shut in for a soak period, and then returned to production. Cyclic processes may be the only EOR technology which can be applied in these small fields and the oil from these projects should qualify for the severance tax relief when they have demonstrated "positive production response".

In summary, Marathon recommends that the definition of "Enhanced Oil Recovery (EOR) Project" be amended to read as follows (under scored material is new):

"Enhanced Oil Recovery (EOR) Project" means the use or the expanded use of any process for displacement of crude oil from an oil well or pool classified by the Division 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, a vertical/areal conformance process, a cyclic injection process, or any other related process, whether the process is applied on a single well or multiple well basis.

Under the definition for "Expansion or Expanded Use", Marathon believes that the rules should specifically address the addition of injection and producing wells or the change of injection patterns within existing enhanced oil recovery projects that will result in the recovery of oil that would not otherwise be produced.

Areal continuity in a reservoir is extremely important for successful EOR projects. In many cases, reduced well and pattern spacing will minimize the effects of reservoir heterogeneities by more efficiently propagating frontal advance. New injection points in the reservoir will allow injectants to contact previously unswept areas resulting in improved oil recoveries.

The modified definition of "Expansion or Expanded Use" as recommended by Marathon is as follows (underscored material is new):

"Expansion or Expanded Use" means a significant change or modification as determined by the Oil Conservation Division in (a) the technology or process used for the displacement of crude oil from an oil well or pool classified by the Division; including, but not limited to, the addition of infill injection and producing wells, and

the change of injection patterns; 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.

The definition of "Termination" requires additional clarification. Many EOR processes involve the injection of a slug of chemical, polymer, CO₂, gas, etc., followed by drive fluid (usually water). The drive fluid displaces the slug through the reservoir optimizing oil recovery. It is important that this definition not be misconstrued to mean that the project is terminated when the "slug" injection is converted to water or gas injection. Suggested modification of this definition is as follows (underscored material is new):

"Termination" means the discontinuance of an enhanced recovery project by the operator. The method of determining the termination date of an approved enhanced oil recovery project shall be set out in the Division's certification of approval of the project.

Finally, Marathon believes that Section D , Paragraph 2 of the proposed regulations should be amended to include the key date January 1, 1994 and its significance. Proposed revisions are as follows (underscored material is new):

2. To be eligible for the recovered oil tax rate the operator must apply for and be granted Division approval of a new EOR project or the expansion of an existing EOR project prior to the commencement of actual injection of fluids into the reservoir, provided, however, no project or expansion approved by the Division prior to March 6, 1992 shall qualify for the recovered tax rate. Non-carbon dioxide EOR projects may be approved by the Division between March 6, 1992 and January 1, 1994 even though, such projects will not be eligible for the recovered oil tax rate until January 1, 1994.

In summary, Marathon believes these clarifications to the proposed regulations are important for implementing House Bill 23. It is imperative that the State and its agencies continue to work with industry so that all may benefit from this Enhanced Oil Recovery Program.

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
WILLIAM P. SLATTERY

PATRICIA A. MATTHEWS
MICHAEL H. FELDEWERT

JACK M. CAMPBELL
OF COUNSEL

JEFFERSON PLACE
SUITE 1 - 110 NORTH GUADALUPE
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE (505) 988-4421
TELECOPIER (505) 983-6043

July 7, 1992

HAND-DELIVERED

William J. LeMay, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
State Land Office Building
Santa Fe, New Mexico 87503

RECEIVED

JUL 07 1992

OIL CONSERVATION DIVISION

Dear Mr. LeMay:

The Members of the New Mexico Oil & Gas Association appreciate the opportunity to provide additional comments concerning the proposed rules and procedures for qualifications of enhanced oil recovery projects and certification for the recovered oil tax rate.

At the June 18, 1992 hearing, we presented certain proposals which we believe would clarify the proposed rules and address certain concerns expressed by Association members. Specifically, the questions which we hope will be clarified by the Division's rules are:

1. All crude oil produced from an approved Enhanced Oil Recovery Project following certification of a positive production response will receive the tax rate -- not just the portion of this production attributable to the application of the enhanced oil recovery process;
2. A proposed pilot project may be approved even if on a stand alone basis it is not economical if an applicant can show that the economics of implementation of a full scale project should be economically reasonable; and
3. That the incentive tax rate will apply from the 1st day of the month following the date a positive production response is achieved -- not from the first day of the month following Oil Conservation Division's certification of a positive production response.

William J. LeMay, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
July 7, 1992
Page 2

We believe that the term "completion" should be defined. It should be clarified that for the purposes of these rules, "completion" of any production phase occurs when it is supplemented or replaced by additional recovery enhancement operations.

We recognize that the Division will be required to make certain economic comparisons in reviewing proposed projects. However, due to the many variables involved in calculating these numbers, only estimates of project and reserve economics should be required by Division rules. Nothing more can realistically be provided by applicants. Accordingly, we recommend that Section D4e (3), (4) and (5) be deleted and a new subsection D4e (3) be added which requires submission of "projected project costs and the estimated value of additional production that will be recovered as a result of this project."

Since the Director of the Oil Conservation Division under current statute has authority to set any matter for hearing, we think the provision which sets all matters for hearing is unnecessary, redundant and could result in unnecessary delays and expense to operators seeking to qualify for the incentive tax rate.

Your consideration of these comments is appreciated.

Very truly yours,



WILLIAM F. CARR

WFC:mlh



STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



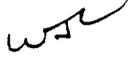
BRUCE KING
GOVERNOR

ANITA LOCKWOOD
CABINET SECRETARY

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87504
(505) 827-5800

MEMORANDUM

TO: OIL OPERATORS AND INTERESTED PARTIES

FROM: WILLIAM J. LEMAY, Director 
Oil Conservation Division

**SUBJECT: PROPOSED RULES AND REGULATIONS FOR ENHANCED OIL
RECOVERY PROJECT CERTIFICATION FOR SEVERANCE TAX
RELIEF**

DATE: MAY 14, 1992

House Bill 23, commonly referred to as the "Enhanced Oil Recovery Act", was passed by the New Mexico Legislature this year and signed into law by Governor King. This legislation requires the Oil Conservation Division to establish rules and regulations to qualify certain projects for severance tax relief. In accordance with the implementation of this legislation, enclosed are proposed rules and procedures for your evaluation and comment. The Oil Conservation Commission will take testimony on rules and regulations to implement the Enhanced Oil Recovery Act at their June 18, 1992 hearing. We invite your participation in this rulemaking process.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

**IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION TO
CONSIDER THE APPLICATION OF:**

CASE NO.

**THE OIL CONSERVATION DIVISION FOR
AN ORDER ADOPTING RULES TO IMPLEMENT THE
ENHANCED OIL RECOVERY ACT**

The New Mexico Oil Conservation Division seeks an order adopting rules setting forth the procedures to implement the provisions of the Enhanced Oil Recovery Act (Laws of 1992, Chapter 38) providing for the qualification of projects and the certification for the "Recovered Oil Tax Rate".

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
WILLIAM P. SLATTERY
PATRICIA A. MATTHEWS
MICHAEL H. FELDEWERT
JACK M. CAMPBELL
OF COUNSEL

JEFFERSON PLACE
SUITE 1 - 110 NORTH GUADALUPE
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

March 13, 1992

Case 10492

HAND-DELIVERED

RECEIVED

MAR 13 1992

Mr. Larry Van Ryan
Chief Petroleum Engineer
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
State Land Office Building
Santa Fe, New Mexico 87503

Re: Proposed Rules Implementing the New Mexico Enhanced Oil Recovery Act

Dear Larry:

Enclosed is a draft of proposed rules implementing the Enhanced Oil Recovery Act. As we have previously discussed, this draft is based on the rules adopted by the Texas Railroad Commission implementing their Enhanced Oil Recovery statute as well as conversations I had a year ago with Jim Morrow. Although Texas uses application forms, this draft does not do so. Instead it places requirements for applications in the text of the rules.

Also enclosed for your information are the following:

- (1) Enrolled and engrossed copy of House Bill 23;
- (2) Texas Railroad Commission Enhanced Oil Recovery Rules;
- (3) Texas Railroad Commission Enhanced Oil Recovery forms; and
- (4) a recent Emergency Order from the Railroad Commission to provide incentives for the expansion of enhanced oil recovery projects.

Mr. Larry Van Ryan
Chief Petroleum Engineer
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
March 13, 1992
Page Two

If I can be of assistance to you in preparing the proposed rules for the Division, please advise.

Best regards.

Very truly yours,



WILLIAM F. CARR

WFC:mlh

cc w/enc.: William J. LeMay, Director
Robert E. Stovall



The Legislature
of the
State of New Mexico

40th Legislature, 2nd Session

LAWS 1992

CHAPTER 38

HOUSE BILL 23, as amended

with emergency clause, and Certificate of Correction

Introduced by

REPRESENTATIVES DONALD L. WHITAKER, E. KELLY MORA, DAVID G. MARTINEZ,
ANGIE VIGIL PEREZ, ROBERT P. WALLACH, GARY D. ROBBINS, HENRY KIKI SAAVEDRA,
H. JOHN UNDERWOOD, MICHAEL OLGUIN, CISCO McSORLEY, EARLENE ROBERTS,
RICHARD P. CHENEY, LINN J. TYTLER, MARIANO (MARIO) TORREZ, BEN LUJAN,
RAYMOND G. SANCHEZ, RICHARD E. OLSON, ROBERT S. LIGHT,
MAX COLL, PAUL W. HARRINGTON, JERRY W. SANDEL,
JOE M. STELL, RAMON HUERTA, PAUL D. BARBER,
KIP W. NICELY, LUCIANO "LUCKY" VARELA,
GEORGE D. BUFFETT AND FREDERICK A. PERALTA



FOR THE ENERGY, NATURAL RESOURCES AND
ENVIRONMENT COMMITTEE AND

THE REVENUE STABILIZATION AND TAX
POLICY REVIEW COMMITTEE

EMERGENCY CLAUSE

State of New Mexico
House of Representatives

OFFICE of the CHIEF CLERK

Santa Fe

STEPHEN RAY ARIAS

FORTIETH LEGISLATURE

CHIEF CLERK 1983

SECOND SESSION, 1992

C E R T I F I C A T E O F C O R R E C T I O N

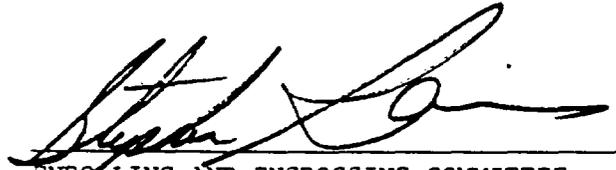
The following error was found in

HOUSE BILL 23, as amended, with emergency clause

and has been corrected in enrolling and engrossing:

1. On page 11, line 11 of printed bill, the period has been deleted and replaced with the punctuation and word "; and", and appears on page 11, line 9 of the enrolled and engrossed bill.

Respectfully submitted,



ENROLLING AND ENGROSSING COMMITTEE
CHAIRMAN
HOUSE OF REPRESENTATIVES

CHAPTER 38

AN ACT

1 RELATING TO TAXATION; ENACTING THE ENHANCED OIL RECOVERY ACT;
2 AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978; DECLARING
3 AN EMERGENCY.
4

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. SHORT TITLE.--Sections 1 through 5 of this act may
8 be cited as the "Enhanced Oil Recovery Act".

9 Section 2. DEFINITIONS.--As used in the Enhanced Oil Recovery
10 Act:

11 A. "crude oil" means oil and other liquid hydrocarbons
12 removed from natural gas at or near the wellhead;

13 B. "division" means the oil conservation division of the
14 energy, minerals and natural resources department;

15 C. "enhanced recovery project" means the use or the
16 expanded use of any process for the displacement of crude oil from
17 an oil well or pool classified by the division pursuant to Paragraph
18 (11) of Subsection B of Section 70-2-12 NMSA 1978 other than a
19 primary recovery process, including but not limited to the use of a
20 pressure maintenance process, a water flooding process, an immisci-
21 ble, miscible, chemical, thermal or biological process or any other
22 related process;

23 D. "expansion or expanded use" means a significant change
24 or modification, as determined by the oil conservation division in:

25 (1) the technology or process used for the

1 displacement of crude oil from an oil well or pool classified by the
2 division pursuant to Paragraph (11) of Subsection B of Section
3 70-2-12 NMSA 1978; or

4 (2) the expansion, extension or increase in size of
5 the geologic area or adjacent geologic area that could reasonably be
6 determined to represent a new or unique area of activity;

7 E. "operator" means the person responsible for the actual
8 physical operation of an enhanced recovery project;

9 F. "person" means any individual, estate, trust, re-
10 ceiver, business trust, corporation, firm, copartnership, coopera-
11 tive, joint venture, association or other group or combination
12 acting as a unit, and the plural as well as the singular number;

13 G. "positive production response" means that the rate of
14 oil production from the wells or pools affected by an enhanced
15 recovery project is greater than the rate that would have occurred
16 without the project;

17 H. "primary recovery" means the displacement of crude oil
18 from an oil well or pool classified by the division pursuant to
19 Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978 into the
20 well bore by means of the natural pressure of the oil well or pool,
21 including but not limited to artificial lift;

22 I. "recovered oil tax rate" means that tax rate, as set
23 forth in Paragraph (3) of Subsection A of Section 7-29-4 NMSA 1978,
24 on crude oil produced from an enhanced recovery project;

25 J. "secondary recovery project" means an enhanced

1 recovery project that:

2 (1) occurs subsequent to the completion of primary
3 recovery and is not a tertiary recovery project;

4 (2) involves the application, in accordance with
5 sound engineering principles, of carbon dioxide miscible fluid
6 displacement, pressure maintenance, water flooding or any other
7 secondary recovery method accepted and approved by the division
8 pursuant to the provisions of Paragraph (14) of Subsection B of
9 Section 70-2-12 NMSA 1978 that can reasonably be expected to result
10 in an increase, determined in light of all facts and circumstances,
11 in the amount of crude oil that may ultimately be recovered; and

12 (3) encompasses a pool or portion of a pool the
13 boundaries of which can be adequately defined and controlled;

14 K. "severance" means the taking from the soil of any
15 product in any manner whatsoever;

16 L. "termination" means the discontinuance of an enhanced
17 recovery project by the operator; and

18 M. "tertiary recovery project" means an enhanced recovery
19 project that:

20 (1) occurs subsequent to the completion of a second-
21 ary recovery project;

22 (2) involves the application, in accordance with
23 sound engineering principles, of carbon dioxide miscible fluid
24 displacement, pressure maintenance, water flooding or any other
25 tertiary recovery method accepted and approved by the division

1 pursuant to the provisions of Paragraph (14) of Subsection B of
2 Section 70-2-12 NMSA 1978 that can reasonably be expected to result
3 in an increase, determined in light of all facts and circumstances,
4 in the amount of crude oil that may ultimately be recovered; and

5 (3) encompasses a pool or portion of a pool the
6 boundaries of which can be adequately defined and controlled.

7 Section 3. PROCEDURES FOR QUALIFYING FOR THE RECOVERED OIL TAX
8 RATE.--

9 A. Crude oil severed and sold from an enhanced recovery
10 project or the expansion of an existing project shall qualify for
11 the recovered oil tax rate if, before the enhanced recovery project
12 or expansion begins operation, the division approves the project or
13 expansion and designates the area to be affected by the project or
14 expansion, but no project or expansion approved by the division
15 prior to the effective date of the Enhanced Oil Recovery Act shall
16 qualify for the recovered oil tax rate.

17 B. The operator of a proposed enhanced recovery project
18 or expansion shall apply to the division for approval of the pro-
19 posed enhanced recovery project or expansion and shall provide the
20 division with any relevant information the division requires for
21 that approval.

22 C. If approval by the division of a unitization agreement
23 as set forth in Chapter 70, Article 7 NMSA 1978 is required for
24 purposes of carrying out the enhanced recovery project or expansion,
25 the division shall not approve the enhanced recovery project or

1 expansion unless it approves the unitization agreement.

2 D. An operator may apply for approval of a proposed
3 enhanced recovery project or expansion concurrently with an applica-
4 tion for approval of a unitization agreement as set forth in Chapter
5 70, Article 7 NMSA 1978 for the purposes of carrying out the pro-
6 posed enhanced recovery project or expansion.

7 E. The division shall only approve a proposed enhanced
8 recovery project or expansion if it determines that the application
9 for approval has not been prematurely filed either for economic or
10 technical reasons and that the area to be affected by the enhanced
11 recovery project or expansion has been so depleted that it is
12 prudent to apply enhanced recovery techniques to maximize the
13 ultimate recovery of crude oil from the well or pool.

14 F. Upon the approval of the application for an enhanced
15 recovery project or expansion, the division shall issue a certifica-
16 tion of approval to the operator and designate the area to be
17 affected by the enhanced recovery project or expansion.

18 G. The recovered oil tax rate shall apply only to the
19 crude oil produced from the area the division certifies to be
20 affected by the enhanced recovery project or expansion.

21 H. The operator shall file an application for certifica-
22 tion of a positive production response with the division to be
23 eligible to receive the recovered oil tax rate.

24 I. The recovered oil tax rate shall only apply to crude
25 oil produced from an enhanced recovery project or the expansion of

1 an existing project beginning the first day of the month following
2 the date the division certifies that a positive production response
3 has occurred and if the application for certification of positive
4 production response is filed:

5 (1) not later than five years from the date the
6 division issues the certification of approval of the enhanced
7 recovery project or expansion if the enhanced recovery project or
8 expansion is designated a secondary recovery project; or

9 (2) not later than seven years from the date the
10 division issues the certification of approval of the enhanced
11 recovery project or expansion if the enhanced recovery project or
12 expansion is designated a tertiary recovery project.

13 J. Qualification for the recovered oil tax rate ends on
14 the first day of the first calendar month that begins on or after
15 the ninety-first day following the termination of the enhanced
16 recovery project or expansion.

17 K. If the active operation of an approved enhanced
18 recovery project or expansion is terminated, the operator shall
19 notify the division and the secretary of taxation and revenue in
20 writing, not later than the thirtieth day after the termination of
21 the enhanced recovery project or expansion.

22 L. In addition to the powers enumerated in Section
23 70-2-12 NMSA 1978, the division shall adopt, promulgate and enforce
24 rules and regulations concerning the approval of the applications,
25 the designation of the affected areas and the operation, expansion

1 and termination of the enhanced recovery projects as provided for in
2 the Enhanced Oil Recovery Act.

3 Section 4. NOTIFICATION TO THE SECRETARY OF TAXATION AND
4 REVENUE--DUTIES OF THE SECRETARY.--

5 A. The division shall immediately notify the secretary of
6 taxation and revenue upon:

7 (1) certifying that a positive production response
8 has occurred for an enhanced oil recovery project, in which case the
9 notice shall contain the date certification was made and the date
10 positive production response occurred;

11 (2) receiving notification of termination of an
12 enhanced recovery project, in which case the notice shall contain
13 the date of termination; and

14 (3) adopting and promulgating rules and regulations
15 pursuant to the provisions of the Enhanced Oil Recovery Act.

16 B. The secretary of taxation and revenue shall adopt and
17 promulgate rules and regulations to enforce the provisions of the
18 Enhanced Oil Recovery Act.

19 Section 5. SECRETARY OF TAXATION AND REVENUE APPROVAL--
20 REFUND.--

21 A. The person responsible for paying the oil and gas
22 severance tax on production from the enhanced recovery project shall
23 not qualify to receive the recovered oil tax rate unless that
24 person:

25 (1) applies to the secretary of taxation and revenue

1 in the form and manner prescribed by the secretary for approval to
2 pay the oil and gas severance tax on crude oil severed and saved
3 from the enhanced recovery project at the recovered oil tax rate;

4 (2) includes the certifications from the division of
5 approval and designation of the affected areas of the enhanced
6 recovery project and of a positive production response from the
7 enhanced recovery project; and

8 (3) provides all relevant material that the secre-
9 tary of taxation and revenue considers necessary to administer the
10 applicable provisions of the Enhanced Oil Recovery Act.

11 B. An approval of the secretary of taxation and revenue
12 in accordance with Subsection A of this section shall be applicable
13 to crude oil severed and sold from the enhanced recovery project on
14 and after the first day of the month following the month in which
15 the division certifies that a positive production response with
16 respect to the enhanced recovery project has occurred. If the oil
17 and gas severance tax is paid at a rate imposed in Paragraph (2) of
18 Subsection A of Section 7-29-4 NMSA 1978 on crude oil severed and
19 saved from the enhanced recovery project after the month in which
20 the division certifies that a positive production response with
21 respect to the enhanced recovery project has occurred, a claim for
22 refund may be filed in accordance with Section 7-1-26 NMSA 1978 for
23 the excess in tax over the amount due using the recovered oil tax
24 rate. Notwithstanding the provisions of Subsection E of Section
25 7-1-26 NMSA 1978 any such refund granted shall be made in the form

of a credit against future oil and gas severance tax liabilities.

Section 6. Section 7-29-2 NMSA 1978 (being Laws 1959, Chapter 52, Section 2, as amended) is amended to read:

"7-29-2. DEFINITIONS.--As used in the Oil and Gas Severance Tax Act:

A. "commission", "department", "division" or "oil and gas accounting division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "production unit" means a unit of property designated by the department from which products of common ownership are severed;

C. "severance" means the taking from the soil any product in any manner whatsoever;

D. "value" means the actual price received for products at the production unit, except as otherwise provided in the Oil and Gas Severance Tax Act;

E. "product" or "products" means oil, natural gas or liquid hydrocarbon, individually or any combination thereof, or carbon dioxide;

F. "operator" means any person:

(1) engaged in the severance of products from a production unit; or

(2) owning an interest in any product at the time of

1 severance who receives a portion or all of such product for his
2 interest;

3 G. "primary recovery" means the displacement of oil and
4 of other liquid hydrocarbons removed from natural gas at or near the
5 wellhead from an oil well or pool as classified by the oil conserva-
6 tion division of the energy, minerals and natural resources depart-
7 ment pursuant to Paragraph (11) of Subsection B of Section 70-2-12
8 NMSA 1978 into the well bore by means of the natural pressure of the
9 oil well or pool, including but not limited to artificial lift;

10 H. "purchaser" means a person who is the first purchaser
11 of a product after severance from a production unit, except as
12 otherwise provided in the Oil and Gas Severance Tax Act;

13 I. "person" means any individual, estate, trust, re-
14 ceiver, business trust, corporation, firm, copartnership, coopera-
15 tive, joint venture, association or other group or combination
16 acting as a unit, and the plural as well as the singular number;

17 J. "interest owner" means a person owning an entire or
18 fractional interest of whatsoever kind or nature in the products at
19 the time of severance from a production unit, or who has a right to
20 a monetary payment that is determined by the value of such products;

21 K. "new production natural gas well" means a producing
22 crude oil or natural gas well proration unit that begins its initial
23 natural gas production on or after May 1, 1987 as determined by the
24 oil conservation division of the energy, minerals and natural
25 resources department;

1 L. "qualified enhanced recovery project", prior to
2 January 1, 1994, means the use or the expanded use of carbon dioxide
3 when approved by the oil conservation division of the energy,
4 minerals and natural resources department pursuant to the Enhanced
5 Oil Recovery Act for the displacement of oil and of other liquid
6 hydrocarbons removed from natural gas at or near the wellhead from
7 an oil well or pool classified by the oil conservation division
8 pursuant to Paragraph (11) of Subsection B of Section 70-2-12 NMSA
9 1978; and

10 M. "qualified enhanced recovery project", on and after
11 January 1, 1994, means the use or the expanded use of any process
12 approved by the oil conservation division of the energy, minerals
13 and natural resources department pursuant to the Enhanced Oil
14 Recovery Act for the displacement of oil and of other liquid hydro-
15 carbons removed from natural gas at or near the wellhead from an oil
16 well or pool classified by the oil conservation division pursuant to
17 Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978, other
18 than a primary recovery process; the term includes but is not
19 limited to the use of a pressure maintenance process, a water
20 flooding process, and immiscible, miscible, chemical, thermal or
21 biological process or any other related process."

22 Section 7. Section 7-29-4 NMSA 1978 (being Laws 1980, Chapter
23 62, Section 5, as amended) is amended to read:

24 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--COLLECTION--
25 INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

1 A. There is imposed and shall be collected by the depart-
2 ment a tax on all products that are severed and sold. The measure
3 of the tax and the rates are:

4 (1) on natural gas severed and sold:

5 (a) except as provided in Subparagraph (b) of
6 this paragraph, whichever of the following rates produces the
7 greater tax: 1) three and three-fourths percent of the value of
8 products; or 2) using a pressure base of 15.025 pounds per square
9 inch absolute and at a temperature of sixty degrees fahrenheit, a
10 tax per one thousand cubic feet (mcf) of sixteen and three-tenths
11 cents (\$.163) until June 30, 1990, after which the rate of three and
12 three-fourths percent of the taxable value determined under Section
13 7-29-4.1 NMSA 1978 of products shall be used; and

14 (b) from a new production natural gas well,
15 three and three-fourths percent of the taxable value determined
16 under Section 7-29-4.1 NMSA 1978;

17 (2) on oil and on other liquid hydrocarbons removed
18 from natural gas at or near the wellhead, except as provided in
19 Paragraph (3) of this subsection, three and three-fourths percent of
20 taxable value determined under Section 7-29-4.1 NMSA 1978;

21 (3) on oil and on other liquid hydrocarbons removed
22 from natural gas at or near the wellhead produced from a qualified
23 enhanced recovery project, one and seven-eighths percent of the
24 taxable value determined under Section 7-29-4.1 NMSA 1978, provided
25 that the annual average price of west Texas intermediate crude oil,

1 determined by the department by averaging the posted prices in
2 effect on the last day of each month of the twelve-month period
3 ending on May 31 prior to the fiscal year in which the tax rate is
4 to be imposed, was less than twenty-eight dollars (\$28.00) per
5 barrel; and

6 (4) on carbon dioxide, three and three-fourths
7 percent of the taxable value determined under Section 7-29-4.1 NMSA
8 1978.

9 B. Every interest owner shall be liable for this tax to
10 the extent of his interest in such products. Any Indian tribe,
11 Indian pueblo or Indian shall be liable for this tax to the extent
12 authorized or permitted by law.

13 C. The tax imposed by this section may be referred to as
14 the "oil and gas severance tax".

15 Section 8. EMERGENCY.--It is necessary for the public peace,
16 health and safety that this act take effect immediately. _____

S/ RAYMOND G. SANCHEZ
RAYMOND G. SANCHEZ, SPEAKER
HOUSE OF REPRESENTATIVES

S/ STEPHEN R. ARIAS
STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES

S/ CASEY LUNA
CASEY LUNA, PRESIDENT
SENATE

S/ MARGARET LARRAGOITE
MARGARET LARRAGOITE, CHIEF CLERK
SENATE

Approved by me this 6th day of March, 1992

15
BRUCE KING, GOVERNOR
STATE OF NEW MEXICO

§ 3.50. RULE 50. ENHANCED OIL RECOVERY PROJECTS--APPROVAL AND CERTIFICATION FOR TAX INCENTIVE.

(a) **Purpose.** The purpose of this section is to provide a procedure by which an operator can obtain Railroad Commission approval and certification of enhanced oil recovery projects pursuant to the Tax Code, Title 2, Chapter 202, Subchapter B, § 202.052 and § 202.054.

(b) **Applicability.**

(1) This section applies to:

(A) enhanced oil recovery (EOR) projects; and

(B) the change from secondary EOR projects to tertiary projects which qualify as new projects, and which begin active operation on or after September 1, 1989.

(2) This section will not apply to the following types of EOR projects unless the operator is able to demonstrate by filings or in a hearing, that the project qualifies as a new and distinct EOR project:

(A) an expansion of a project in active operation prior to September 1, 1989;

(B) a change from one method of secondary recovery process to a different method of secondary recovery process;

(C) a change from one method of tertiary recovery process to a different method of tertiary recovery process; or

(D) a pressure maintenance process.

(c) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Active operation**--commencement and continuation of fluid injection programs for secondary or tertiary recovery projects for enhancing the displacement process in the reservoir. Applying for permits and moving equipment into the field alone are not considered active operations.

(2) **Commission**--The Railroad Commission of Texas.

(3) **Director**--The Director of the Oil and Gas Division or the director's delegate.

(4) **Enhanced oil recovery project (EOR)**--The use of any process for the displacement of oil from the reservoir other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.

(5) **Expansion**--The enlargement of an EOR project. Production from projects or areas in which active operation was started prior to September 1, 1989, will not qualify for the recovered oil tax rate unless approved pursuant to subsection (b)(2) of this section.

(6) **Fluid injection**--Injection through an injection well of a fluid (liquid or gaseous) into a producing formation as part of an EOR project.

(7) **Oil recovery from an enhanced recovery project**--The oil produced from the designated area the Commission certifies to be affected by the project.

(8) **Operator**--The person recognized by the Commission as being responsible for the actual physical operation of an EOR project and the wells associated with the EOR project.

(9) **Positive production response**--Occurs when the rate of oil production from wells within the designated area affected by an enhanced recovery project is greater than the rate that would have occurred without the project.

(10) **Pressure maintenance**--The injection of fluid into the reservoir for the purpose of maintaining the reservoir pressure at or near the bubble point or other critical pressure.

(11) **Primary recovery**--The displacement of oil from the reservoir into the well bores by means of the natural pressure of the oil reservoir, including artificial lift.

(12) **Recovered oil tax rate**--The tax rate provided by the Tax Code, § 202.052(b).

(13) **Secondary recovery project**--An enhanced recovery project that is not a tertiary recovery project.

(14) **Termination**--Occurs when the approved fluid injection program associated with an EOR project stops or is discontinued.

(15) **Tertiary recovery project**--An enhanced recovery project using a tertiary recovery method (as defined in the Federal June 1979 Energy Regulations referred to in the Internal Revenue Code of 1986, § 4993, or approved by the United States Secretary of the Treasury for purposes of administering the Internal Revenue Code of 1986, 4993, without regard to whether that section remains in effect) including those listed as follows.

(A) **Alkaline (or caustic) flooding**--An augmented waterflooding technique in which

the water is made chemically basic as a result of the addition of alkali metals.

(B) Carbon dioxide augmented waterflooding--Injection of carbonated water, or water and carbon dioxide, to increase waterflood efficiency.

(C) Cyclic steam injection--The alternating injection of steam and production of oil with condensed steam from the same well or wells.

(D) Immiscible carbon dioxide displacement--Injection of carbon dioxide into an oil reservoir to effect oil displacement under conditions in which miscibility with reservoir oil is not obtained.

(E) In situ combustion--Combustion of oil in the reservoir, sustained by continuous air injection, to displace unburned oil toward producing wells.

(F) Microemulsion, or micellar/emulsion, flooding--An augmented waterflooding technique in which a surfactant system is injected in order to enhance oil displacement toward producing wells. A surfactant system normally includes a surfactant, hydrocarbon, cosurfactant, an electrolyte and water, and polymers for mobility control.

(G) Miscible fluid displacement--An oil displacement process in which gas or alcohol is injected into an oil reservoir, at pressure levels such that the injected gas or alcohol and reservoir oil are miscible. The process may include the concurrent, alternating, or subsequent injection of water. The injected gas may be natural gas, enriched natural gas, a liquefied petroleum gas slug driven by natural gas, carbon dioxide, nitrogen, or flue gas. Gas cycling, i.e., gas injection into gas condensate reservoirs, is not a miscible fluid displacement technique nor a tertiary enhanced recovery technique within the meaning of this section.

(H) Polymer augmented waterflooding--Augmented waterflooding in which organic polymers are injected with the water to improve a real and vertical sweep efficiency.

(I) Steam drive injection--The continuous injection of steam into one set of wells (injection wells) or other injection source to effect oil displacement toward and production from a second set of wells (production wells).

(d) Application requirements. To qualify for the recovered oil tax rate the operator must:

(1) submit an application for approval on the appropriate form on or after September 1, 1989, and before January 1, 1994. An application may be filed on or after September 1, 1989, even if a separate application for approval of the project has already been filed prior to that date. All applications must be filed in Austin. One copy of the form and the plats shall also be filed with the appropriate District Office. The form shall be

executed and certified by a person having knowledge of the facts entered on the form. If an application is already on file under the Natural Resources Code, Chapter 101, Subchapter B, or for approval as a tertiary recovery project for purposes of the Internal Revenue Code of 1986, § 4993, the operator may file a new application if the active operation of the project does not begin before the application under this section is approved by the Commission;

(2) submit all necessary forms to the Oil and Gas Division and provide the Commission with any relevant information required to administer this section, such as: area plats showing the proposed project area and all injection and producing wells within the area, production history, planned enhanced oil recovery procedures, and any other pertinent data;

(3) obtain a unitization agreement if required for purposes of carrying out the project under the Natural Resources Code, Chapter 101, Subchapter B. The Commission may not approve the project unless the unitization is approved; and

(4) submit an application on the appropriate form and obtain permits to conduct fluid injection operations pursuant to § 3.46 of this title (relating to Fluid Injection into Productive Reservoirs) (Statewide Rule 46), if such permits have not already been obtained.

(e) **Concurrent applications.** The operator may apply concurrently or separately for:

(1) approval of a proposed enhanced oil recovery project under this section;

(2) approval of an unitization agreement for purposes of carrying out the enhanced oil recovery project under the Natural Resources Code, § 101.001 et seq.; and

(3) approval of an application for certification of the project as a tertiary recovery project.

(f) **Opportunity for hearing.** The Director may administratively approve the application. If the Director denies administrative approval, the applicant shall have the right to a hearing upon request. After hearing, the examiner shall recommend final action by the Commission.

(g) **Approval and certification.**

(1) **Project approval.** In order to be eligible for the recovered oil tax rate as provided in the Tax Code, § 202.052(b), the operator must apply for and be granted Commission approval of an enhanced oil recovery project, prior to commencing operation of the project. For a project to be approved the operator must:

- (A) prove that the project will begin active operation on or after September 1, 1989;
- (B) prove that it qualifies as an EOR project;
- (C) designate the area to be affected by the project and obtain Commission approval of the designation; and
- (D) if production from the wells within the project area is reported with production from wells not in the project area, designate the method to account for and report production from the project area.

(2) Positive production response certificate.

(A) The operator of an EOR project that meets the requirements of this section must demonstrate to the Commission a positive oil production response before the operator can receive Commission certification of such a positive production response. The certification date may be any date desired by the operator, subject to Commission approval, following the date on which a positive oil production response first occurred. The operator must apply for a positive production response certificate within three years of project approval for secondary projects, and within five years of project approval for tertiary projects, to qualify for the recovered oil tax rate. The oil produced from the designated area after the date of certification of a positive production response is eligible for the recovered oil tax rate. The operator must apply to the Comptroller pursuant to the Tax Code, § 202.052 and § 202.054, to qualify for the recovered oil tax rate.

(B) The application for positive response certification shall include:

(i) production graphs and data illustrating a positive production response and volumes of water or other substances that have been injected on the lease or unit since the initiation of the enhanced recovery project;

(ii) a plat of the affected area showing all injection and producing wells, with completion dates; and

(iii) any other data requested by the Oil and Gas Division.

(C) The application for the positive production response certificate will be processed administratively. If the Director denies administrative approval, the applicant shall have the right to a hearing upon request. After hearing, the examiner shall recommend final action by the Commission.

(h) Annual reporting.

(1) The operator must file a project report on the appropriate form, with the Oil and Gas Division each year within 30 days after the annual monitoring reports for the project's injection wells are due, except as provided herein.

(2) If the project is carried out under a unitization/secondary recovery order, the operator may make a written declaration to the Director of the Oil and Gas Division that filing of the annual report required under this subsection replaces the annual report required in the unitization/secondary recovery order. In its declaration the operator shall select one of the following due dates:

(A) 30 days after the individual wells' annual monitoring reports are due; or

(B) the due date stated in the unitization/secondary recovery order.

(3) The operator shall adhere to the due date selected until the recovered oil tax rate expires or the project is terminated, whichever occurs first. If the recovered oil tax rate expires prior to termination of the project, the annual report requirements of the unitization/secondary recovery order shall apply.

(4) The report must contain the following:

(A) date injection started;

(B) monthly volume(s) of injected fluid(s);

(C) number of well(s) used for injecting;

(D) injection pressures;

(E) monthly production of oil, gas and water;

(F) number of active producing wells; and

(G) any other relevant information requested by the Oil and Gas Division.

(i) **Reduced or expanded areas.** The operator may apply for reduced or expanded project area certification if:

(1) the original application for project approval is received no later than January 1, 1994; and

(2) the application for reduction or expansion is received no later than three years after the original approval of a secondary recovery project or five years after the original approval of a tertiary recovery project.

(j) **Termination and penalty.** Upon approval by the Commission and the Comptroller, the recovered oil tax rate continues for a maximum of 10 years, unless the project is sooner terminated. If the project is terminated prior to the 10-year period, the operator must notify the Commission and the Comptroller in writing within 30 days after the last day of active operations. Failure to so notify may result in civil penalties, interest, and the tax due. If the Commission determines a project has been terminated or there is action that affects the tax rate, it will notify the Comptroller immediately in writing.

READ INSTRUCTIONS ON BACK

1. OPERATOR NAME, exactly as shown on P-5 Organization Report		2. OPERATOR P-5 NO.	3. RRC DISTRICT NO. AND COUNTY
4. MAILING ADDRESS, including city, state, and zip code		5. METHOD OF RECOVERY TO BE USED <input type="checkbox"/> waterflood <input type="checkbox"/> alkaline (caustic) flooding <input type="checkbox"/> cyclic steam injection <input type="checkbox"/> in situ combustion <input type="checkbox"/> miscible fluid displacement <input type="checkbox"/> other (specify) _____ <input type="checkbox"/> microemulsion, or micellar/emulsion, flooding <input type="checkbox"/> carbon dioxide augmented waterflooding <input type="checkbox"/> polymer augmented waterflooding <input type="checkbox"/> immiscible carbon dioxide displacement <input type="checkbox"/> steam drive injection <input type="checkbox"/> gas injection	
6A. TYPE OF ENHANCED RECOVERY PROJECT (NEW) See Inst. 3 <input type="checkbox"/> initial enhanced recovery project - secondary <input type="checkbox"/> tertiary operation superceding secondary project <input type="checkbox"/> initial enhanced recovery project - tertiary			
6B. TYPE OF ENHANCED RECOVERY PROJECT (EXPANDED) <input type="checkbox"/> different secondary method for existing secondary project <input type="checkbox"/> different tertiary method for existing tertiary project <input type="checkbox"/> expansion of secondary project <input type="checkbox"/> expansion of tertiary project			
7. If this project is to be a change from a. previous method an existing process, give the following: _____ b. previous fluid injected _____			
8. FLUID TO BE INJECTED <input type="checkbox"/> seawater <input type="checkbox"/> brackish water <input type="checkbox"/> fresh water <input type="checkbox"/> natural gas <input type="checkbox"/> polymer <input type="checkbox"/> air <input type="checkbox"/> LPG <input type="checkbox"/> nitrogen <input type="checkbox"/> CO ₂ <input type="checkbox"/> other (specify) _____			
9. Estimated average volume(s) of the fluid(s) to be injected in the project (MCF/day or BBL/day). See Inst. 4(d)			10. Estimated average injection pressure (psig)
12. Estimated total value of additional production that will be recovered as a result of this project		a. oil \$ _____	b. gas \$ _____
13. Estimated costs of implementing this project		a. machinery \$ _____	b. project total \$ _____
14. Anticipated date for injection to begin		15. Will the project contain more than one lease? YES <input type="checkbox"/> NO <input type="checkbox"/> If YES, attach sheet(s) covering No. 17-22 below in same format for other lease(s)	
16. Total anticipated for project _____ leases		17. Total anticipated producing _____ wells	
16. Total anticipated injection _____ wells		19. LEASE NO. _____	
17. FIELD NAME, exactly as shown on Proration Schedule		18. LEASE OR UNIT NAME, exactly as shown on Proration Schedule	
20. Has a unitization agreement for this property been approved by the RRC? YES <input type="checkbox"/> NO <input type="checkbox"/> If YES, give order no. and date _____ If NO, is unitization needed? YES <input type="checkbox"/> NO <input type="checkbox"/> If YES, see Instr. 7			
21. INJECTION AUTHORITY (Complete one or more of the following) a. has already been granted under project no. <u>F-</u> with an initial authority date of _____ for the following wells on above lease or unit: _____ b. has been applied under project no. <u>F-</u> but has not yet been granted for the following wells on above lease or unit: for (date) _____ (if available) _____ _____ c. has not yet been applied for but is anticipated for the following wells on above lease or unit: _____			
22. LEASE PRODUCTION AND INJECTION HISTORY. For the above lease or unit, attach graphs and supporting data that will show monthly performance data, for EACH of the preceding 5 years, the following: oil, casinghead gas, and water production; number of producing wells; and, if applicable, number of injection wells, and volume(s) of fluid(s) injected. (see Inst. 5 for additional data necessary for expanded projects)			
23. PROJECT PLAT. Attach to this application a plat of the entire project according to Inst. 4(a)			
I declare under penalties prescribed in Sec. 91.143, Texas Natural Resources Code, that I am authorized to make this application, that it was prepared by me or under my supervision and direction, and that the data and facts stated herein are true, correct, and complete to the best of my knowledge.			
Signature _____		Title _____	
Name (Print or type) _____		Date _____ Phone (____) _____	
RRC USE ONLY		APPLICATION: Technical Examiner: _____ <input type="checkbox"/> approved <input type="checkbox"/> denied Action Date: _____	

INSTRUCTIONS

**Form H-12: New or Expanded Enhanced Oil Recovery
Project and Area Designation Approval Application
Reference: Statewide Rule 50**

1. This application must be filed with and approved by the Railroad Commission prior to active operation before consideration can be given for enhanced oil recovery severance tax rate eligibility. Applications must be filed before January 1, 1994.
2. File the H-12 and attachments with

The Railroad Commission of Texas
P. O. Box 12967-Capitol Station
Austin, Texas 78711-2967
3. A project may be considered only as a new (No. 6A on front) or an expanded (No. 6B on front) enhanced recovery project, not both.
4. Application attachments.
 - a. A certified plat with the project outlined. For the project, show and clearly identify:
 - lease name, number and boundaries,
 - northerly direction and scale,Include well numbers and API numbers for the following:
 - all active producing wells,
 - all proposed injection wells,
 - all permitted injection wells,
 - all other unplugged wells (include status such as shut-in, 14(b)(2) extension, etc.).
 - b. Data sheets for additional leases. See No. 15 on front.
 - c. Lease production and injection history graphs and supporting data sheets. See No. 22 on front.
 - d. If you anticipate slugs will be injected, attach a sheet giving appropriate injection data (sequence of injections of specified fluids with volumes), and leave No. 9 blank.
5. Additional application attachments for expanded enhanced recovery projects.
 - a. Description of existing enhanced recovery project.
 - b. Description of the changes to the existing enhanced recovery project which may include a change of process or pattern, infill drilling of injectors and producers, vertical expansions, or other operating changes which will result in the recovery of oil which would not otherwise be recovered.
 - c. The monthly oil production data must include the specific production decline rate established over the entire data set and the method used to determine the decline rate.
6. Additional data may be required for some applications. You will be notified if this is required.
7. If unitization agreement approval is necessary for the project, it must be granted in order for the H-12 application to be approved. You may submit your H-12 application at the hearing required for unitization agreement approval.
8. If your H-12 application is approved, you will be issued a Project and Area Designation Approval.
9. If additional injection wells are permitted in the approved project area after H-12 approval, you will be required to list them on the Form H-13, Positive Production Response Certification Application.
10. If the project demonstrates a sustained positive production response, file a Form H-13, Positive Production Response Certification Application according to the instructions on that form. A positive production response is a rate of response that is greater than the rate that would have occurred without the project. To be considered for the enhanced oil recovery tax rate, Form H-13 must be filed within 3 years of H-12 approval for secondary projects or 5 years for tertiary projects.
11. If this application cannot be approved administratively, a hearing may be requested.

READ INSTRUCTIONS ON BACK

1. OPERATOR NAME, exactly as shown on P-5, Organization Report		2. OPERATOR P-5 NO.	3. RRC DISTRICT NO.
4. OPERATOR ADDRESS, including city, state, and zip code		5. TYPE OF PROJECT <input type="checkbox"/> Secondary <input type="checkbox"/> Tertiary	6. RRC PROJECT NO.
8. DATE(S) OF RRC PROJECT AND AREA DESIGNATION APPROVAL	7. METHOD OF RECOVERY BEING USED		
9. DATE ACTIVE OPERATION (INJECTION) BEGAN	<input type="checkbox"/> waterflood <input type="checkbox"/> in situ combustion <input type="checkbox"/> alkaline (caustic) flooding <input type="checkbox"/> gas injection <input type="checkbox"/> cyclic steam injection <input type="checkbox"/> CO₂ augmented waterflooding <input type="checkbox"/> immiscible CO ₂ displacement <input type="checkbox"/> microemulsion, or micellar/emulsion, flooding <input type="checkbox"/> polymer augmented waterflooding <input type="checkbox"/> miscible fluid displacement <input type="checkbox"/> other (specify) <input type="checkbox"/> steam drive injection		
10. DATE POSITIVE PRODUCTION RESPONSE FIRST OCCURRED	12. FLUID(S) BEING INJECTED		
11. DATE REQUESTED AS CERTIFICATION DATE (see Inst. No. 3)	<input type="checkbox"/> brackish water <input type="checkbox"/> saltwater <input type="checkbox"/> air <input type="checkbox"/> fresh water <input type="checkbox"/> natural gas <input type="checkbox"/> LPG <input type="checkbox"/> polymer <input type="checkbox"/> nitrogen <input type="checkbox"/> CO ₂ <input type="checkbox"/> other (specify)		
13. TOTAL NO. OF ACRES IN PROJECT	14. TOTAL NO. OF LEASES IN PROJECT		
15. FIELD NAME, exactly as on Proration Schedule			

16. LEASE INFORMATION				Does any well on lease have downhole commingling exception? If YES, list well no., date of exception, and fields commingled.
LEASE NAME, exactly as on Proration Schedule	RRC LEASE NO.	NO. OF ACTIVE WELLS		
		INJECTION	PRODUCING	
				<input type="checkbox"/> NO <input type="checkbox"/> YES
				<input type="checkbox"/> NO <input type="checkbox"/> YES
				<input type="checkbox"/> NO <input type="checkbox"/> YES
				<input type="checkbox"/> NO <input type="checkbox"/> YES
				<input type="checkbox"/> NO <input type="checkbox"/> YES

17. ATTACHMENTS CHECKLIST project and lease production and injection graphs with supporting data. See Inst. No. 2b project plat See Inst. No. 2a others as necessary See Inst. No 2c,d

I declare under penalties prescribed in Sec. 91.143, Texas Natural Resources Code, that I am authorized to make this application, that it was prepared by me or under my supervision and direction, and that the data and facts stated herein are true, correct, and complete to the best of my knowledge.

Signature _____ Title _____
 Name (print or type) _____ Date _____ Phone (____) _____

RRC USE ONLY

CERTIFICATION APPLICATION

APPROVED WITH CERTIFICATION DATE OF _____

DENIED LACKING

HEARING REQUIRED

TECHNICAL EXAMINER: _____

ACTION DATE: _____

INSTRUCTIONS
Form H-13: EOR Positive Production
Response Certification Application

Reference: Statewide Rule 50

1. The following steps are necessary for the project to be considered for the new enhanced oil recovery project severance tax rate:
 - a. File Railroad Commission Form H-12, Enhanced Oil Recovery Project and Area Designation Approval Application, and receive project and area designation approval **prior** to active operation of the project. A new H-12 must be filed and approval granted if the project area changes; this is to be done **before** submitting Form H-13.
 - b. File Railroad Commission Form H-13, EOR Positive Production Response Certification Application, and receive response certification. The application is filed after the project demonstrates a positive production response for a period of time sufficient to determine that the response is caused by the EOR project. A positive production response means the rate of production is greater than the rate that would have occurred without the project. For secondary projects, the application must be filed **within 3 years** of the initial project and area designation approval; for tertiary projects, H-13 filing must be within **5 years**.
 - c. File Railroad Commission Form H-14, EOR Reduced Tax Annual Report, each year the project remains eligible for the reduced severance tax rate.
 - d. File with the Comptroller of Public Accounts according to the requirements of that agency.

2. Send the H-13 and attachments to

THE RAILROAD COMMISSION OF TEXAS
 OIL AND GAS DIVISION, TECHNICAL HEARINGS
 P. O. DRAWER 12967-CAPITOL STATION
 AUSTIN, TX 78711-2967

A copy of the H-13 and attachments is to be filed with the appropriate district office at the same time.

Application attachments:

- a. A plat of the approved project area, with that area clearly designated. The plat is to be certified by an independent surveying firm or by someone in the company with knowledge of the facts signing on the plat the statement, "All information on this plat is true to the best of my belief and knowledge." For the project, show and clearly identify:

- lease name(s), number(s) and boundaries
- northerly direction and scale

Include well numbers and API numbers for the following:

- all active producing wells with completion dates*
- all permitted injection wells with completion dates*
- all proposed injection wells
- all other unplugged wells (include status such as shut-in, 14(b)(2) extension, etc.)
- all wells with Statewide Rule 10 (downhole commingling) exceptions

* indicate any new completions since H-12 approval date

- b. Lease and project production and injection data. In both graphic and tabular form, attach the following data on a monthly basis for each lease in the project and, for multi-lease projects, for the project as a whole. The period to be covered is from the five years preceding project and area designation (Form H-12) approval through to the present. If any data is unavailable, attach a note of explanation.

- oil production
- gas production
- water production
- volumes and type(s) of fluid(s) injected
- number of producing wells
- number of injection wells

- c. Additional lease information sheet for additional leases, if necessary, or for Statewide Rule 10 downhole commingling exceptions. See No. 16, on front.

- d. If injection is not continuous or if there is a variation in the types of fluid injected, attach a sheet giving appropriate injection data (sequence of injections of specified fluids with volumes).

Additional data may be required for some applications. You will be notified if this is required.

3. In No. 11, on front, use any date from the time the positive production response occurred through the date of this application.

The Railroad Commission of Texas adopts on an emergency basis amendments to 16 T.A.C. § 3.50, to be effective September 1, 1991, concerning requirements for approval and certification of expanded enhanced oil recovery ("EOR") projects to receive a tax incentive pursuant to the Texas Tax Code, Title 2, Chapter 202, Subchapter B, § 202.052 and § 202.054. The Railroad Commission is adopting these new amendments on an emergency basis to advance the public welfare. The decline in the oil and gas industry in Texas has had a grave impact on the Texas economy and the public welfare of citizens. These amendments should encourage increased oil and natural gas production, increase jobs, and increase severance tax revenue in the future. On June 15, 1991, Senate Bill No. 1105 (relating to a Reduced Oil Production Tax Rate) of the 72nd Legislature, was signed into law, to become effective on September 1, 1991. Senate Bill No. 1105 provides a reduced oil production tax rate for the incremental increase in oil produced from expanded EOR projects approved and certified by the Railroad Commission of Texas. The amendments to 16 T.A.C. § 3.50 provide the procedure for approval and certification of expanded EOR projects qualifying for the reduced tax rate provided in the Tax Code, § 202.052 and § 202.054, as amended by Senate Bill No. 1105. The amendments define terms and set the standard for qualification, approval and certification for the severance tax incentive. The Railroad Commission has not fully analyzed the potential severance tax

implications. The former 16 T.A.C. § 3.50 was adopted by the Railroad Commission effective February 20, 1990, and was published in the February 6, 1990 issue of the Texas Register (15 TexReg 652).

This emergency rule is adopted under the Texas Natural Resources Code §§ 81.052, 85.046, 85.202 and the Texas Tax Code § 202.052 and § 202.054 which provides the Railroad Commission of Texas with the authority to adopt rules for the following purposes: to govern and regulate persons and their operations under the jurisdiction of the Railroad Commission; to prevent the waste of oil in producing operations; to approve EOR projects; to designate the area to be affected by EOR projects; to certify positive production response; and to terminate EOR projects.

§ 3.50. Rule 50. Enhanced Oil Recovery Projects - Approval and
Certification for Tax Incentive.

(a) Purpose. The purpose of this section is to provide a procedure by which an operator can obtain Railroad Commission approval and certification of enhanced oil recovery ("EOR") projects pursuant to the Tax Code, Title 2, Chapter 202, Subchapter B, § 202.052 and § 202.054.

(b) Applicability.

(1) This section applies to:

(A) new EOR [enhanced oil recovery (EOR)] projects [;] and [(B)] the change from secondary EOR projects to tertiary projects which qualify as new EOR projects, and which begin active operation on or after September 1, 1989.

~~(B) expansions of existing EOR projects.~~

(2) An EOR project may not qualify as an expansion if the project has qualified as a new EOR project under this section. [This section will not apply to the following types of EOR projects unless the operator is able to demonstrate by filings or in a hearing, that the project qualifies as a new and distinct EOR project:

(A) an expansion of a project in active operation prior to September 1, 1989;

(B) a change from one method of secondary recovery process to a different method of secondary

recovery process;

(C) a change from one method of tertiary recovery process to a different method of tertiary recovery process; or

(D) a pressure maintenance process.]

(c) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Active operation - The start [commencement] and continuation of a fluid injection program [programs] for a secondary or tertiary recovery project to enhance [projects for enhancing] the displacement process in the reservoir. Applying for permits and moving equipment into the field alone are not considered active operations.

(2) Commission - The Railroad Commission of Texas.

(3) Commission's representative - A commission employee authorized to act for the commission. Any authority given to a commission representative is also retained by the commission. Any action taken by the commission's representative is subject to review by the commission. [Director - The Director of the Oil and Gas Division or the director's delegate.]

(4) Comptroller - The Comptroller of Public Accounts.

(5) [(4)] Enhanced oil recovery project (EOR) - The use of any process for the displacement of oil from the

reservoir other than primary recovery and ~~includes the use~~
~~of an immiscible, miscible, chemical, thermal, or biological~~
~~process.~~

(6) [(5)] Existing enhanced recovery project - An EOR project that began active operations before September 1, 1989, or began active operation between September 1, 1989 and September 1, 1991 but was not approved as a new EOR project. [Expansion--The enlargement of an EOR project. Production from projects or areas in which active operation was started prior to September 1, 1989, will not qualify for the recovered oil tax rate unless approved pursuant to subsection (b)(2) of this section.]

(7) [(6)] Expanded enhanced recovery project or expansion - The addition of injection and producing wells, the change of injection pattern, or other operating changes to an existing enhanced oil recovery project that will result in the recovery of oil that would not otherwise be recovered.

(8) Fluid injection - Injection through an injection well of a fluid (liquid or gaseous) into a producing formation as part of an EOR project.

(9) Incremental Production - The volume of oil produced by an expanded enhanced recovery project in excess of the production decline rate established under conditions before expansion of an existing enhanced recovery project.

(10) [(7)] Oil recovery from an enhanced recovery project - The oil produced from the designated area the commission certifies to be affected by the project.

(11) [(8)] Operator - The person recognized by the commission as being responsible for the actual physical operation of an EOR project and the wells associated with the EOR project.

(12) [(9)] Positive production response - Occurs when the rate of oil production from wells within the designated area affected by an EOR [enhanced recovery] project is greater than the rate that would have occurred without the project.

(13) [(10)] Pressure maintenance - The injection of fluid into the reservoir for the purpose of maintaining the reservoir pressure at or near the bubble point or other critical pressure.

(14) [(11)] Primary recovery - The displacement of oil from the reservoir into the well bore(s) [bores] by means of the natural pressure of the oil reservoir, including artificial lift.

(15) Production decline rate - The projected future oil production from a project area as extrapolated by a method approved by the commission.*

(16) [(12)] Recovered oil tax rate - The tax rate provided by the Tax Code, § 202.052(b).

(17) [(13)] Secondary recovery project - An enhanced recovery project that is not a tertiary recovery project.

(18) [(14)] Termination - Occurs when the approved fluid injection program associated with an EOR project stops or is discontinued.

(19) [(15)] Tertiary recovery project - An EOR [enhanced recovery] project using a tertiary recovery method (as defined in the Federal June 1979 Energy Regulations referred to in the Internal Revenue Code of 1986, § 4993, or approved by the United States Secretary of the Treasury for purposes of administering the Internal Revenue Code of 1986, § 4993, without regard to whether that section remains in effect) including those listed as follows.

(A) - (I) (No change.)

(d) Application requirements. To qualify for the recovered oil tax rate the operator must:

(1) for a new EOR project, submit an application for approval on the appropriate form on or after September 1, 1989, and before January 1, 1994. For an expansion of an existing EOR project, submit an application for approval on the appropriate form on or after September 1, 1991 and before January 1, 1994. An application may be filed on or after the applicable date (September 1, 1989 or September 1, 1991) in this paragraph [September 1, 1989], even if a separate application for approval of the project has already

been filed prior to that date. All applications must be filed in Austin. One copy of the form and the plats shall also be filed with the appropriate District Office. The form shall be executed and certified by a person having knowledge of the facts entered on the form. If an application is already on file under the Natural Resources Code, Chapter 101, Subchapter B, or for approval as a tertiary recovery project for purposes of the Internal Revenue Code of 1986, § 4993, the operator may file a new application if the active operation of the project does not begin before the application under this section is approved by the commission;

(2) - (3) (No change.)

(4) submit an application on the appropriate form and obtain the necessary permits to conduct fluid injection operations pursuant to § 3.46 of this title (relating to Fluid Injection into Productive Reservoirs) (Statewide Rule 46), if such permits have not already been obtained.

(e) Concurrent applications. The operator may apply concurrently or separately for:

(1) approval of a new or expanded EOR [proposed enhanced oil recovery] project under this section;

(2) - (3) (No change.)

(f) Opportunity for hearing. A commission representative [The Director] may administratively approve the application. If

the commission representative [Director] denies administrative approval, the applicant shall have the right to a hearing upon request. After hearing, the examiner shall recommend final action by the commission.

(g) Approval and certification.

(1) Project approval. In order to be eligible for the recovered oil tax rate as provided in the Tax Code, § 202.052(b), the operator must apply for and be granted commission approval of a new EOR [an enhanced oil recovery] project or an expansion of an existing EOR project, prior to commencing active operation of the new project or expanded project. For a project to be approved the operator must:

(A) for a new project prove that the project will begin active operation on or after September 1, 1989 or for the expansion of an existing project prove that the project will begin active operation on or after September 1, 1991;

(B) - (D) (No change.)

(2) Positive production response certificate.

(A) The operator of an EOR project that meets the requirements of this section must demonstrate to the commission a positive oil production response before the operator can receive commission certification of such a positive production response. The certification date may be any date desired by the operator, subject

to commission approval, following the date on which a positive oil production response first occurred. The operator must apply for a positive production response certificate within three years of project approval for secondary projects, and within five years of project approval for tertiary projects, to qualify for the recovered oil tax rate. The oil produced from the designated area of a new EOR project or incremental oil produced from the designated area of an expanded EOR project after the date of certification of a positive production response is eligible for the recovered oil tax rate. The operator must apply to the Comptroller pursuant to the Tax Code, § 202.052 and § 202.054, to qualify for the recovered oil tax rate.

(B) The application for positive response certification shall include:

(i) production graphs and data illustrating a positive production response and volumes of water or other substances that have been injected on the designated area [lease or unit] since the initiation of the new EOR [enhanced recovery] project or the expanded EOR project;

(ii) - (iii) (No change.)

(C) The application for the positive production response certificate will be processed

administratively. If the commission representative [Director] denies administrative approval, the applicant shall have the right to a hearing upon request. After hearing, the examiner shall recommend final action by the commission.

(h) Annual reporting.

(1) (No change.)

(2) If the project is carried out under a unitization/secondary recovery order, the operator may make a written declaration to the commission [Director of the Oil and Gas Division] that filing of the annual report required under this subsection replaces the annual report required in the unitization/secondary recovery order. In its declaration the operator shall select one of the following due dates:

(A) - (B) (No change.)

(3) - (4) (No change.)

(i) Reduced or enlarged [expanded] areas. The operator may apply for reduced or enlarged [expanded] project area certification if:

(1) (No change.)

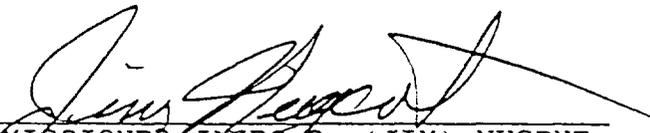
(2) the application for reduction or enlargement [expansion] is received no later than three years after the original approval of a secondary recovery project or five years after the original approval of a tertiary recovery project.

(j) (No change.)

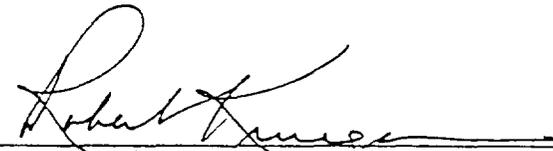
This agency hereby certifies that the section as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas on August 20, 1991.

CHAIRMAN LENA GUERRERO
RAILROAD COMMISSION OF TEXAS



COMMISSIONER JAMES E. (JIM) NUGENT
RAILROAD COMMISSION OF TEXAS



COMMISSIONER ROBERT KRUEGER
RAILROAD COMMISSION OF TEXAS



Secretary

Martha V. Swanger
Hearings Examiner - Legal Division, General Law,
Railroad Commission of Texas

For further information, please call: (512) 463-6941

New Mexico

Statehouse Reporting Service

Published by

R. W. BYRAM & COMPANY OF NEW MEXICO
P. O. DRAWER 1867 AUSTIN, TEXAS 78767

THE INFORMATION CONTAINED IN THIS NEWS-LETTER IS PRIVATE AND CONFIDENTIAL. FOR LIMITED PUBLICATION ONLY. NO PART MAY BE REPRODUCED WITHOUT SPECIFIC PERMISSION. COPYRIGHT 1991.

June 22, 1992
Vol. 29 - No. 8

IMPORTANT NOTICE: An Examiner hearing has tentatively been scheduled for July 23, 1992. Applications for hearings must be filed at least 23 days in advance of hearing date.

COMMISSION HEARING HELD - JUNE 18 - SANTA FE
Commission Chairman William LeMay, Commissioner Bill Weiss
and State Land Commissioner designee Gary Carlson

STATE OF NEW MEXICO

Adoption of Rules to Implement the Enhanced Oil Recovery Act (Case 10492)

The Oil Conservation Division, upon its own motion, called this hearing to consider an order adopting rules setting forth the procedures to implement the provisions of the Enhanced Oil Recovery Act (Laws of 1992, Chapter 38) providing for the qualification of projects and the certification for the "Recovered Oil Tax Rate".

Appearances: Robert G. Stovall, attorney, State Oil Conservation Commission (OCC); Larry Van Ryan, chief petroleum engineer, State Oil Conservation Division (OCD); Perry Pearce (Santa Fe) attorney for New Mexico Oil & Gas Association (NMOGA); William F. Carr (Santa Fe) attorney, witness for NMOGA; Karen Aubrey (Santa Fe) attorney for Marathon Oil Company; Ron Smith (Littleton, CO) manager of oil recovery technology, and Craig Kent (Midland, TX) reservoir engineer, both for Marathon; Margaret Alcott (Santa Fe) attorney for State Department of Taxation & Revenue; Alan W. Bohling (Midland) proration engineer for Chevron U.S.A.; Frank Gray (Midland) regulatory compliance manager for Texaco Inc., and Tom Brown (Artesia, NM) representing Yates Petroleum Corporation.

(The Enhanced Oil Recovery Act (HB 23) allows a 50 percent reduction in the state severance tax (3.75%) assessed on oil produced from a qualified enhanced recovery project, provided that the annual average price of west Texas intermediate crude oil is less than \$28.00 per barrel in the prior year. The law says the Oil Conservation Division shall only approve a proposed enhanced recovery project or expansion if it determines that the area to be affected by the project has been so depleted that it is prudent to apply enhanced recovery techniques to maximize the ultimate recovery of crude oil from the well or pool. To be eligible to receive the tax credit, the operator has to receive Oil Conservation Division approval of his application for certification of "positive production response" -- which means the rate of oil production is greater than the rate that would have occurred without the project. The draft discussed today is entitled "Proposed Rules and Procedures for Qualifications of Enhanced Oil Recovery Projects and Certification for the Recovered Oil Tax Rate.")

Testimony: Van Ryan noted the EOR Act directs the Oil Conservation Division to adopt rules to certify EOR projects and to certify that they are valid projects under law and qualify for the tax credit. He said the purpose of the 1992 law is to encourage oil companies to invest in New Mexico oil recovery. He said the proposed definitions of "secondary recovery project" and "tertiary recovery project" are broad enough to allow the division to consider any qualified, viable project.

Under the section on Definitions, "secondary recovery project" is defined as "an enhanced recovery project that: (a) occurs subsequent to 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." "Tertiary recovery project" is defined as "an enhanced recovery project that: (1) 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.")

Van Ryan defended the proposed rule requiring the applicant to indicate the total project cost and the estimated value of the additional production that will be recovered as a result of the project. Industry witnesses later criticized these requirements as being unnecessary and irrelevant to the law's purpose of trying to increase production. He said the requirements for project description should include a list of intended producing and injection wells, and not just the number of wells as stated in the proposed regulation. He noted that no enhanced recovery project or expansion approved by the Division prior to March 6, 1992 shall qualify for the recovered tax rate.

Van Ryan said there are two parts to certification by the Division. First is the approval of the project itself. However, nothing happens in regard to application of the tax credit until the operator demonstrates a positive production response which is certified by the Oil Conservation Division. The Division Director shall have authority to approve a positive production response application administratively, or may set the application for hearing. The

STATE OF NEW MEXICO

Adoption of Rules to Implement the Enhanced Oil Recovery Act (Case 10492) (Continued)

Division will be looking for bona fide specific response to the project, maybe evidence of two to three months of production, he added. He said there should be an amendment to the rule regarding the timing for certification of a positive production response. The proposed rule [E-2-c-(1)] says "for a secondary recovery project, the positive production response must occur not later than five years from the date the Division issued the certification of approval of the enhanced oil recovery project or expansion..." Van Ryan said it should read that the application for certification of the recovery response has to be made within five years. In regard to item (2) which says that for a tertiary recovery project, the positive production response must occur not later than seven years from the project approval, he said it should say that the application for certification has to be received within seven years. He said that's in the enhanced recovery act.

The operator of a certified EOR project shall report annually that it is still a viable EOR project. Van Ryan suggested that an addition be made to the rule, noting that if there is any question about the continued viability of the project, the director may set a hearing on the application. He also called for deletion of the final paragraph of the proposed Oil Conservation Division rules, which refers to termination of the recovery oil tax rate. He said this was under the discretion of the State Taxation & Revenue Department, which will be issuing its own regulations in regard to the new EOR law. January 1, 1994 is generally the effective date for implementation of the reduced tax rates, except for carbon dioxide projects which may be approved at any time. Other projects may be certified prior to January 1, 1994 but would not qualify for the tax credit until then, Van Ryan said. In response to questioning by Pearce, Van Ryan said no form had been developed yet for application for EOR certification. Pearce suggested it would be helpful to the industry. In response to questioning by Aubrey, Van Ryan said each project would be judged on its own merits; there would be no minimum standards in regard to cost or size of a project. He said a process might qualify even though it was not listed in the proposed regulations.

In his testimony for the New Mexico Oil & Gas Association, Carr said the proposed rules and regulations are consistent with legislative intent. They have been circulated among NMOGA members and their comments have been reviewed for presentation at today's hearing in the form of amendments to the Oil Conservation Division recommendations. He said the Association also endorses the changes which Marathon witnesses would suggest later in the hearing.

Among NMOGA's recommended changes:

--Add wording to the definitions of "Secondary Recovery Project" and "Tertiary Recovery Project" to make it clear that an operator does not have to exhaust primary or secondary recovery efforts before requesting certification for a secondary or tertiary project.

--Delete project description requirements asking for the capital cost of additional facilities, total project costs and total value of the additional production that will be recovered as a result of this project. Carr said value is not important to the intent of the legislation and is subject to various interpretations and may be speculative. Also, some of the requested information may be proprietary. Amount of expected production is more useful to implementation of the law, he added. He said he had no objections to Van Ryan's suggestion that a description of the project include a list of producing wells and injection wells and not just the number of wells.

--Application for expansion of an existing project could include explanation of changes in operation as well as in technology to be used.

--The Division Director should have authority to administratively approve an application or to set the application for hearing.

--An application for approval of a pilot enhanced recovery project would not require the same economic expectations as a full-scale project, as long as an economically reasonable expansion of the project could be expected on completion of the pilot project.

--Clarify that the tax reduction applies to the date the positive production response occurs rather than when the certification is made.

In response to questioning by Stovall, Carr agreed that it might be appropriate for the operator to indicate that he is making an investment in regard to the proposed EOR project, but it would be difficult to state the specific amount to be spent. LeMay noted the Division may need cost estimates to support cost-benefit ratios in reviewing applications for certification. Weiss also noted there is no public reference for average EOR costs as there are for drilling expenditures and overhead.

Before beginning her questioning of Smith, Aubrey said that Marathon supports the NMOGA recommendations. Smith said the Technological Center in Littleton, Colorado, where he works is involved in the development of technology used in EOR projects throughout the world. He said Marathon produces about a third of all the oil produced by chemical EOR in the United States. He said 66 percent of the oil now in place in the U. S. will not be recovered by current methods. He said Marathon doesn't want to be penalized for producing significant amounts with lower direct costs. He noted the company has spent large amounts of money in research, which should be taken into consideration by the Oil Conservation Division when reviewing its applications for certification under the new tax credit law. He said the use of cost effective technology would allow some operators to conduct EOR projects even though they may be able to afford CO₂.

Kent reviewed Marathon's EOR activities in the Oregon Basin of Wyoming, where it is conducting waterflood operations on about 6,000 acres. He cited gel conformance treatments in this field, 39 treatments since 1984 at a cost of \$1.8 million. He said they used about 500,000 barrels of gel to recover 4 million barrels of oil which otherwise would have been left in the reservoir. Marathon wants to add gel conformance treatment to the list of EOR processes listed in the definition section of the proposed enhanced recovery certification regulations, Kent said.

STATE OF NEW MEXICO

Adoption of Rules to Implement the Enhanced Oil Recovery Act (Case 10492) (Continued)

He said vertical/areal conformance treatments and cyclic injection projects utilizing steam, CO2 and natural gas should qualify for severance tax relief if used in a systematic plan. Under the definition for "Expansion or Expanded Use", Marathon believes that the rules should address the addition of infill injection and producing wells of the change of injection patterns within existing enhanced oil recovery projects that will result in the recovery of oil that would not otherwise be produced. Kent said the proposed regulations' definition of "Termination" should not be construed to mean that the project is terminated when the "slug" injection is converted to water or gas injection. he said many EOR processes involve the injection of a slug of chemical, polymer, CO2, gas, etc., followed by drive fluid (usually water). The drive fluid displaces the slug through the reservoir, optimizing oil recovery. He said the termination date should be discussed at the original hearing on an EOR application.

Kent asked that wording be added to the section on deadlines to state that "Non-carbon dioxide EOR projects may be approved by the Division between March 6, 1992 and January 1, 1994 even though such projects will not be eligible for the recovered oil tax rate until January 1, 1994."

In additional statements to the Commissioners, Bohling said Chevron supports NMOGA testimony. Brown said Yates appreciated the fair hearing and the expert testimony given by the witness for NMOGA.

LeMay said the hearing record will be kept open two weeks for additional statements, comments and clarification.

* * * * *

EXAMINER HEARING SET - JUNE 25 - SANTA FE

David R. Catanach or Michael E. Stogner - Examiner

EDDY COUNTY

Unit Agreement (Case 10493)

Maralo, Inc. seeks approval of the Little Bear Unit Agreement for an area comprising 638.72 acres, more or less, of State lands comprising all of Sec. 18, T-24-S, R-25-E, Eddy County, which is approximately 4.5 miles northwest of White City, New Mexico.

LEA COUNTY

Pool Contraction, Pool Creation and Special Pool Rules (Case 10494)

Union Oil Company seeks the contraction of the vertical limits of the Red Hills-Pennsylvanian Gas Pool, which is currently comprised of Secs. 31, 32, and 33, T-25-S, R-33-E, and Secs. 4, 5, and 6, T-26-S, R-33-E, Lea County, to include only the interval from the top of the lower "Atoka lime" to the base of the Morrow formation. Further, the applicant seeks the creation of a new pool for the production of gas from the "Upper Atoka" formation underlying all of Secs. 5, T-26-S, R-33-E, and the promulgation of special pool rules therefor, including provisions for 640-acre spacing and proration units and designated well location requirements. Said area is located approximately 23 miles west by south of Jal, New Mexico.

LEA COUNTY

Compulsory Pooling and a Non-Standard Gas Proration Unit (Case 10323 - Continued from May 14)

Collins & Ware, Inc. seeks an order pooling all mineral interests from the surface to the base of the Morrow formation or to a depth of 15,100 feet, whichever is deeper, underlying Lots 1 through 4 and the E/2 W/2 (W/2 equivalent) of Sec. 31, T-21-S, R-32-E, Lea County, forming a non-standard 334.72-acre gas spacing and proration unit for any and all formations and/or pools within said vertical extent developed on 320-acre spacing, which presently includes but is not necessarily limited to the Undesignated Red Tank-Atoka Gas Pool and Undesignated Bilbrey-Morrow Gas Pool. Said unit is to be dedicated to a well to be drilled at a standard gas well location thereon. Also to be considered will be allocation of well costs, charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling the well. Said unit is located approximately 32.75 miles west of Eunice, New Mexico.

EDDY COUNTY

Compulsory Pooling (Case 10479 - Continued from June 11)

Bird Creek Resources, Inc. seeks an order pooling all mineral interests from the surface to the base of the Delaware formation underlying the NW/4 NE/4 (Unit B) of Sec. 22, T-23-S, R-28-E, Eddy County, forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent which presently includes but is not necessarily limited to the East Loving-Delaware Pool. Said unit is to be dedicated to a well to be drilled at a standard oil well location thereon. Also to be considered will be allocation of well costs, charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling the well. Said area is located approximately 1.75 east-northeast of Loving, New Mexico.

EDDY COUNTY

Amendment of Division Order No. R-9453 to Increase the Injection Pressure Limitation in its Red Lake Unit Penrose Waterflood Project (Case 10495)

Beach Exploration Inc. seeks an order increasing the surface injection limitation pressure to 1500 psi in each of the fourteen existing injection wells located in Secs. 24, 25, 35 and 36, T-16-S, R-28-E, Eddy County. Said project is located approximately 16 miles east-northeast of Artesia, New Mexico.

SAN JUAN COUNTY

Unorthodox Gas Well Location, Downhole Commingling, and to
Amend Division Administrative Order No. NWU-80 (Case 10496)

Southland Royalty Company seeks approval to commingle gas production from the Fulcher Kutz-Pictured Cliffs Pool and the Basin Fruitland Coal (Gas) Pool within the wellbore of its proposed No. 700 Aztec Well to be drilled at an unorthodox well location for both producing horizons 2280 feet from the South line and 1500 feet from the West line (Unit K) of Sec. 14, T-28-N, R-11-W, San Juan County. The S/2 of said Sec. 14 forming a standard 320-acre gas spacing and proration unit for the Basin Fruitland Coal (Gas) Pool is to be dedicated to said well. Further, Division Administrative Order NWU-80, dated May 20, 1955, which authorized a non-standard 160-acre gas spacing and proration unit in the Fulcher Kutz-Pictured Cliffs Pool comprising the W/2 NW/4 and N/2 SW/4 of said Sec. 15 is to be amended to show that the proposed No. 700 Aztec Well is to replace the existing No. 3 Aztec Well located in Unit E as the unit's only producing well. Said area is located approximately 4 miles south by east of Bloomfield, New Mexico.

LEA COUNTY

Compulsory Pooling (Case 10480 - Continued from June 11)

Marathon Oil Company seeks an order pooling all mineral interests in the Undesignated Lea-Wolfcamp Pool underlying the S/2 of Sec. 1, T-20-S, R-35-E, Lea County, forming a standard 320-acre gas spacing and proration unit for said pool. Said unit is to be dedicated to the plugged and abandoned Amoco Production Company No. 1 Selby located at a standard gas well location 660 feet from the South line and 1980 feet from the West line (Unit N) of said Sec. 1. Also to be considered will be allocation of well costs, charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling the well. Said well is located approximately 9 miles west by south of Monument, New Mexico.

SAN JUAN COUNTY

High Angle/Horizontal Directional Drilling Pilot Project, Special Operating Rules
therefor, a Non-Standard Oil Proration Unit, a Special Project Oil Allowable, and
Special Project Oil Allowable, and Special GOR Assignment (Case 10486 - Continued from June 11)

Meridian Oil Inc. seeks to initiate a high angle/horizontal directional drilling pilot project in an area that includes all of Sec. 20, T-20-N, R-15-W, Undesignated Horseshoe-Gallup Oil Pool, San Juan County. Within said area the applicant seeks to dedicate up to 320 acres to a horizontal well to be drilled from an unorthodox surface oil well location in the SE/4 SW/4 (Unit N) of said Sec. 20. Special rules and provisions would be promulgated for the area including the designation of a prescribed area limiting the horizontal displacement of the producing interval of the wellbore, special allowable considerations, and the adoption of a special gas/oil ratio of 4500 to 1. Said pilot project area is located approximately 4.75 miles northwest by north of Fruitland, New Mexico.

SAN JUAN COUNTY

High Angle/Horizontal Directional Drilling Pilot Project, Special Operating Rules
therefor, a Non-Standard Oil Proration Unit, a Special Project Oil Allowable, and
Special Project Oil Allowable, and Special GOR Assignment (Case 10487 - Continued from June 11)

Meridian Oil Inc. seeks to initiate a high angle/horizontal directional drilling pilot project in an area that includes the N/2 and SW/4 of Sec. 17, and Lots 1 and 2, E/2, and E/2 NW/4 of Sec. 18, both in T-30-N, R-15-W, designated and Undesignated Horseshoe-Gallup Oil Pool, San Juan County. Within said area the applicant seeks to dedicate up to 320 acres to a horizontal well to be drilled from an unorthodox surface oil well location in the NW/4 NW/4 (Unit D) of said Sec. 17. Special rules and provisions would be promulgated for the area including the designation of a prescribed area limiting the horizontal displacement of the producing interval of the wellbore, special allowable considerations, and the adoption of a special gas/oil ratio of 4500 to 1. Said pilot project area is located approximately 6 miles northwest by north of Fruitland, New Mexico.

SAN JUAN COUNTY

High Angle/Horizontal Directional Drilling Pilot Project, Special Operating Rules
therefor, a Non-Standard Oil Proration Unit, a Special Project Oil Allowable, and
Special Project Oil Allowable, and Special GOR Assignment (Case 10488 - Continued from June 11)

Meridian Oil Inc. seeks the formation of a 160-acre non-standard oil spacing and proration unit in the Gallup formation comprising the SW/4 of Sec. 24, T-32-N, R-13-W, San Juan County, for the purpose of initiating a high angle/horizontal directional drilling pilot project. The applicant proposes to utilize its existing No. 2 USA Well located 930 feet from the South line and 1050 feet from the West line (Unit M) of said Sec. 24, by sidetracking and drilling a lateral borehole within said project area. Applicant further seeks special rules and provisions within the pilot project area including the designation of a prescribed area limiting the horizontal displacement of the wellbore such that its producing interval be no closer than 330 feet from the subject area. Also to be considered will be special allowable provisions for a spacing unit larger than the statewide accepted 40-acre oil proration unit. The project is located approximately 3.25 miles northeast by north of La Plata, New Mexico.

EDDY COUNTY

Compulsory Pooling (Case 10485) (Readvertised)

Mewbourne Oil Company seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described area in Sec. 15, T-18-S, R-28-E, Eddy County, and in the following manner: the W/2 forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre gas spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated Empire-Pennsylvanian Gas Pool, Undesignated Palmillo Draw-Atoka Gas Pool, and North Illinois Camp-Morrow Gas Pool; the NW/4 forming a standard 160-acre gas spacing and proration unit for any and all formations developed on 160-acre spacing within said vertical extent; either the W/2 NW/4 of S/2

WALTER J. HICKEL, GOVERNOR

OIL CONSERVATION DIVISION
RECEIVED

**ALASKA OIL AND GAS
CONSERVATION COMMISSION**

3001 PORCUPINE DRIVE
ANCHORAGE, ALASKA 99501-3192
PHONE: (907) 279-1433
TELECOPY: (907) 276-7542

8 AM 5/11

June 3, 1992

William J. LeMay
State of New Mexico
Oil Conservation Division
P O Box 2088
Santa Fe, NM 87504-2088

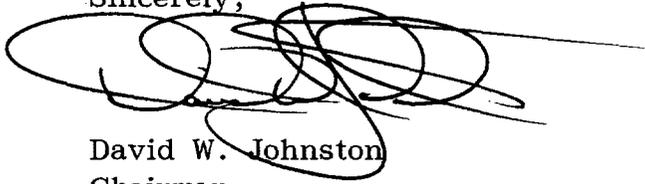
Case 10492

Dear Bill,

Please send me a copy of the Enhanced Oil Recovery Act tax legislation signed by Governor King. I read the announcement in the "Improved Recovery Week" issue of May 25.

Thanking you in advance and I look forward to seeing you in Wichita.

Sincerely,



David W. Johnston
Chairman

Done
6/8
Send him
2 copies?
6/11

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

GARREY CARRUTHERS
GOVERNOR

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87504
(505) 827-5800

M E M O R A N D U M

**TO: MEMBERS OF THE GOVERNOR'S OIL AND GAS ECONOMIC
DEVELOPMENT TASK FORCE**

FROM: WILLIAM J. LEMAY, Director *WJL*
Oil Conservation Division

**SUBJECT: LEGISLATIVE RELIEF FROM OIL AND GAS STATE SEVERANCE
TAXES**

DATE: MAY 31, 1990

Enclosed is a summary of state laws which have been passed since 1986 reducing severance taxes and royalties on different classes of oil and gas production together with state comparisons of severance taxes. Most of this information was obtained through the Interstate Oil Compact Commission who surveyed member states. Recently legislation in Texas provides for a 50% severance tax reduction for secondary projects over a three year period and a 50% reduction for tertiary projects over a 5 year period. This applies to all of the oil produced from qualifying projects. In contrast, Oklahoma law exempts the incremental production only from enhanced recovery projects until payout is attained or 36 months, whichever is lesser. Other states such as Wyoming, Louisiana, Mississippi, and Montana provide some tax relief for tertiary and secondary projects. Many of these laws have sunset provisions such as the Wyoming law which will terminate in June of 1990 unless extended by legislative action.

Any legislation which would reduce or eliminate New Mexico severance tax on oil and gas should address the following questions:

1. What category or categories of oil and gas would be eligible for the tax reduction? - - Tertiary projects? - - Secondary projects? - - Incremental oil? -- All project oil?
2. Who would certify the category(ies)? - - OCD? - - Operator?
3. For what period of time would the tax relief be in effect? - - Payout? - - Three years? - - Life of the project?
4. What would be the effective date? - - Date of enactment? - - Past date? - - Future date.

- 5. Will the tax relief have a sunset provision?**
- 6. What financial impact will enactment have on state revenues?**
- 7. How much additional estimated oil/gas will be produced because of the tax relief?**
- 8. How does this proposed legislation compare with what other states are doing?**

These are some of the major questions which should be addressed prior to submitting tax relief legislation.

WJL/si

Summary of State Oil and Gas Production Tax Changes: Post-1985

	Nature of Change		New Production				Enhanced Recovery				
	Abatement	Exemption	Applicable to all production	Exploration only	All drilling	Limited drilling window	Limited abatement period	Stripper oil	New Projects	All Projects	Oil Price Limit
Alabama	X			X							
Arkansas	X				X						
Kansas		X					X				
Louisiana		X		X	X	X					X
Mississippi		X		X	X	X					X
Montana		X		X	X	X	X				X
New Mexico	X			X							
North Dakota	X	X		X		X		X			X
Oklahoma		X							X		
Texas	X							X			
West Virginia	X		X								
Wyoming	X			X	X	X					

SEVERANCE TAXES: A 50 STATE COMPARISON

Prepared by
Office of Legislative Research and General Counsel
December 11, 1989

SEVERANCE TAXES:
A 50 STATE COMPARISON OF 1981 AND 1989 SEVERANCE TAX LAWS

INTRODUCTION

On September 21, 1981, the Office of Legislative Research prepared a summary of severance tax provisions in the 50 states. The comparison was published in Severance Tax: A Report to the 44th Legislature of the State of Utah, January 1982. Severance Taxes: A 50 State Comparison of 1981 and 1989 Severance Tax Laws is an update of the 1981 study and, like the earlier study, is based on data reported in Commerce Clearing House's State Tax Guide. The data in this report is current as of November 6, 1989.

On the following pages, each state is listed in the first column followed by its severance tax provisions for (1) oil and gas, (2) coal, and (3) other minerals. Provisions in effect in 1981 are shown in regular print. Provisions eliminated since 1981 are shown in [brackets]. Provisions enacted since 1981 are **bolded**. A guide to the abbreviations used in the report is included on the following page.

AN OVERVIEW

The data reported on the following pages suggest several conclusions:

- (1) During the 1980s one additional state--Florida--has tied its severance tax rates to specialized price indexes (in 1981, Colorado, Minnesota, New Mexico, and North Dakota already had similar provisions).
- (2) Since 1981, eight states--Louisiana, Mississippi, Montana, North Dakota, Texas, Utah, West Virginia, and Wyoming--have enacted exemptions for oil or gas from wells drilled or producing as of a certain date (for example, in Montana production from wells beginning production between April, 1987 and June, 1991 is exempt for two years or until West Texas intermediate crude oil reaches \$25 per barrel).

LIMITATIONS

The effective rate of any tax is a function of not only the nominal rate, but also the base to which it is applied and the applicable exemptions and credits. Comparing effective severance tax rates among states is beyond the scope of this report; nevertheless, the information in this report allows several useful comparisons:

- (1) The changes since 1981 in each state's rates (and bases in some cases);
- (2) The changes since 1981 in some of the more prominent exemption provisions (only major provisions are included); and
- (3) The variety among states in the (a) the types of minerals taxed, (b) the types of bases used, (c) some of the major exemptions and credits allowed, and (d) amount of change since 1981.

ABBREVIATIONS

adp Average daily production
bpd Barrels per day
cf Cubic feet
CSP Contract sales price
GCMV Gross cash market value
GP Gross proceeds
GR Gross receipts
GV Gross value
GVM Gross value merchantable/marketable
GY Gross yield
MAX Maximum
MV Market value
NP Net profits
NV Net value
POP Point of production
POS Point of severance
PPI Producers' price index
SP Sales price
TP Total production
TV Taxable value
VGP Value of gross product

ATE OIL & GAS

COAL

OTHER MINERALS

Oil & Gas

[6%] 8% GV/POP, wells started since 1988
 6% wells prior to 1988
 4% wells less than [40] 25 bpd

State
 20¢/ton + 13.5¢/ton

State
 3¢/ton iron ore

4% wells less than [40] 25 bpd

County
 DeKalb 50¢/ton
 Jackson 50¢/ton
 Etowah 50¢/ton

County
 5¢/ton (Bibb) stone
 1¢/ton (Elmore) clay, sand, gravel

Oil

[12.25%] 15% GV/POP or 60¢/barrel taxable None
 old crude oil and 80¢/barrel all other
 taxable oil, whichever is greater,
 multiplied by an "economic limit factor".

None

+ [1/8¢] 5¢/barrel

Gas

10% GV/POP or 6.4¢/1000 cu. ft. of
 taxable gas produced, whichever is
 greater, multiplied by an "economic limit
 factor".

Z None

None

2-1/2% of net severance base, which is
 the greater of (a) the weighted
 mineral value (mining costs divided by
 production costs and multiplied by
 GDP) or (b) the AZ value (50% of the
 difference between the GDP and the
 out-of-state processing costs).
 Applies to metalliferous only.

Oil

5% MV POS (4% for less than 10 bpd)

[2¢] 10¢/ton

[1¢] 4¢/ton crushed stone
 1.5¢/ton gypsum
 2¢/ton iron ore
 15¢/ton other ores
 5% MV precious stones,
 salt, all other
 nat. resources
 except gypsum

+ 2¢/barrel

+ 5 mills/barrel

+ 20 mills/barrel

[5% GV]
 17.1¢/mcf (rate is adjusted yearly based
 on the gas fuel's producer price
 index; 1990 rate is 11¢/mcf)

Sulfur
 \$2.71/long ton
 (rate is adjusted yearly based
 on the sulfur producer price
 index; 1990 rate is \$2.40/lt)

price index; 1989
 rate, \$1.32)
 heavy metals
 84¢/ton
 (adjusted annually
 based on producer
 price index for
 titanium dioxide;
 1989 rate, \$1.37)

[(20% of ad valorem
 taxes may be
 credited against up
 to 10% of the tax)]

GA	Oil [5 mills/barrel]	None	\$1/ton	phosphate rock
HI	None	None	None	
ID	Oil 2% MV/SOP + 5 mills/barrel (maximum)	None	2% NV	all ores
IL	Gas 2% MV/SOP + 5 mills/50,000 cf (maximum)		4% of sales price	timber
IN	None	None	None	
IA	1% value POS	None	None	
KS	Oil 8% GV + [0.1¢ per barrel (for pollution)] +	None	rate unknown	salt
			\$1/ton +	
			10¢/ton (maximum; 3¢ minimum)	

50 lbs psi 3¢/1,000 cf
 250,000 cf/day 13¢/1,000 cf
 +
 7¢/cf when no previous severance or
 production tax has been paid (a tax
 credit is allowed to manufacturers who
 use more than 25,000 cf)

ME Mine excise tax Mine excise tax

MD Gas [7%] wholesale MV (11/150 of 1¢/cf
 minimum) for Allegany County only
State 9¢/ton open pit, strip method
County 6¢/ton open pit, strip method
 + 30¢/ton surface mined coal in
 Garrett and any code
 county

MI Oil 6.6% GCMV TP POS
 (4.0% GCMV TP for stripper well crude oil
 & crude oil from marginal
 properties)
 + 1.0% GCMV of all oil produced previous
 year (maximum)
Gas 5.0% GCMV TP POS
 + 1/0% GCMV of all gas produced previous
 year (maximum)

MN State [15.5%] 14¢ value Iron ore, taconite
 at surface less concentrates
 allowable costs
 repealed 12/31/89
 [6.2% credit for
 underground mining]
 (credit for costs
 exceeding ore value)

[3 mills] ~~6%~~ POP/1,000 cf

+ [4/5] 2 mills/1,000 cf (maximum) CONS
(current rate = 2 mills)

2 year exemption for wells drilled 3/87
through 6/90

MO

9/88 through 9/93, a maximum one-time assessment of \$125,000 for permittees filing full-cost bonds. CONS

9/88 through 9/93, an assessment of 45¢/ton for first 50,000 ton and 30¢/ton for next 50,000 tons for permittees filing phase I reclamation bonds; Rate decreases 9/93 and 9/98. Payment of assessment depends upon balance in Coal Mine Land Reclamation Fund.

The first 20,000 tons of coal produced/year are exempt. The first 50,000 tons of coal produced/year are exempt if the annual production does not exceed 50,000 tons.

3.0% GV on over 5 bpd from stripper wells during 4/1/87 through 3/31/91 or until price of West Texas intermediate crude reaches \$30/barrel

2/10% MV (maximum) crude petroleum CONS

Gas
[5%] 2.65% GV [(6% as of 4/1/83)]

+
2/10% MV/10,000 cf CONS

For wells producing 60,000 cf or less of gas/day during prior calendar year:
1st 30,000 cf adp is exempt;
over 30,000 cf: 1.59% GV

Oil & Gas

New production for wells beginning production 4/87 through 6/91 exempt for two years or until West Texas intermediate crude oil reaches \$25/barrel

Local

Oil

8.4% GV except:
4.2% GV tertiary recovery projects
4.2% GV on over 5 bpd from stripper wells during 4/1/87 through 3/31/91

Gas

15.25% GV

For wells producing 60,000 cf or less of gas/day during prior calendar year:
1st 30,000 cf adp is exempt;
over 30,000 cf: 7.625% Gv

Interim and new production are exempt

0.5% GV over
\$5,000 + \$25,
except talc:
4% GV + \$25

5¢/ton
[27¢] 22¢/ton
5¢/ton

All minerals except
(metals and semi-
precious stones
and gems

Micaceous minerals
Cement
Plaster, gypsum,
or gypsum products

NH	<u>Refined Petroleum</u> 1/10 of 1% of NP	None	None
NJ	None	None	None
NM	<u>Oil & Liquid Hydrocarbon</u> 3.75% value + [0.0255% value] + 3.15% value + 0.19% value MAX CONS + Ad valorem tax: property tax rate applied to an adjusted value of the product <u>Gas</u> Greater of: 3.75% value or [11.1¢/1,000 cf] 16.3¢/mcf (3.75% value as of 7/1/90) (After 7/1/90, transportation costs and royalty payments will be deducted from value) + [0.0255% value] + 0.45% value	57¢/ton surface 1. [2% - 12.5% + 1.5%] 55¢/ton underground + [surtax based on changes in the CPI] 60¢/ton surface surtax* 58¢ ton underground surtax Beginning 7/1/93, surtax is adjusted annually based on CPI, 1991 base year + 0.19% MAX CONS + * 1981 surtax not known	1. [2% - 12.5% + 1.5%] 3.5% TV + 0.75% + 0.19% MAX CONS Uranium 2. [2.00%] 0.5% + 0.75% Copper 3. [0.375%] 0.125% Molybdenum 4. [3.125%] 0.5% + 2.5% Potash 5. [1.625%] 0.125% + 0.75% [gold & silver) zinc ; manganese, rare earth, fluorspar, pumice, clay, gravel, gypsum, sand, and other metals and [non metals]. 6. 6.020% + 0.75% gold, silver 7. 3.75% TV Carbon dioxide + 3.15% + 0.19% MAX CONS + Ad valorem tax: property tax rate applied to an adjusted value of the product.

(stripper wells are exempt. Wells + 2¢/ton drilled and completed after 4/27/87 are exempt for 15 months unless average price of crude between 6/1 and 10/31 is \$33 or more. Workovers exempt for 12 months.

Gas
5% GV POS

OH Oil
[3¢] 10¢/barrel

Gas
[1¢] 2.5¢/1,000 cf

OK Oil
[7.085] 7% GV
+ 0.085% GV

Gas
7¢/1,000 cf
~7% GV
(MAX rate of 33.3% GV)
+ 7% GV
+ 0.085% GV

OR Oil and Gas
6% GV POS

[4¢] 7¢/ton
+
[15¢-40¢/ton depending on sulphur content for coal used to generate steam or electricity
+ 1¢/ton MAX Reclamation
+ 1¢/ton MAX Reclamation
5¢/ton

[1¢] 2¢/ton sand, gravel
[1¢] 2¢/ton limestone, dolomite
1¢/ton clay, sandstone or conglomerate, shale, gypsum, quartzite
salt
4¢/ton
0.75% GV Asphalt, lead, zinc, jack gold, silver, copper
5% GV Uranium

None

None

TX	<u>Oil</u>	None	sulphur
	4.6% MV		cement
	or		
	4.6¢/barrel, whichever is greater (2.3% MV for enhanced recovery projects) + 3/16 of 1¢/barrel)		
	<u>Gas</u>		
	7.5% MV (except sweet and sour gas - at least 121/1, 5000 of 1¢/1,000 cf (High cost gas from well spudded or completed 9/1/89 - 9/1/96 is exempt during period 9/1/91 - 8/31/2001)		
UT	4% of value POS (exempt: \$50,000 GV/well/yr, stripper wells, 1st 6 mos of production if well started after 1983. + 2 mills value POS CONS	None	[1%] 2.4% TV [GV] metals, metalliferous ; minerals (exempt: \$50,000 GV/mine/yr
VT	None	None	None
VA	<u>Local</u>	<u>State</u>	None
	<u>Oil</u>	2-1/2/Ton MAX Reclamation (Amount varies depending on balance in reclamation fund)	
	0.5% GR (until 7/1/92		
		<u>Local</u>	

\$500 credit/yr.
 credit also allowed for investment,
 expansion, revitalization, R&D
 [6%] 3% - [20%] 15% NP metalliferous
 preceeding 3 yrs minerals
 until 1/1/91 for mines
 in operation 11/28/81
 3% - 15% NP for mines
 in operation in 11/28/81

None
 None
 None

Rate is determined
 according to the
 schedule below

Net Proceeds	Rate
\$0.25M - \$ 5M	3%
\$ 5M - \$10M	7%
\$10M - \$15M	10%
\$15M - \$20M	13%
\$20M - \$25M	14%
\$25M+	15%

2% VGP trona, uranium
 + 1.5% VGP (until tax
 on coal, trona and
 uranium produces \$250M (uranium
 until 7/1/89)
 2% VGP
 2% VGP
 all other
 minerals

5% VGP
 + 1.5% VGP until tax on coal, trona,
 and uranium produces \$250M
 + 2% VGP until tax produces \$160M
 (\$160M produced tax expired 1/1/87)
 + [2%] 3.75% VGP on underground coal
 + 2% VGP except underground coal
 + 3% VGP (except underground)

Oil and Gas
 4/5 mill MAX POS CONS
 [(rate drops to 2/5 mill after generating
 \$250,000)]
 +6% VGP
 +2% VGP
 + 1.5% VGP on collection wells if
 extracted prior to 1990

**LAWS AFFECTING STATE SEVERANCE TAX
ENACTED 1987**

ALASKA:

HB 124

WOULD INCREASE FROM .125¢ TO .4¢ PER BARREL THE "OIL AND GAS" CONSERVATION TAX, AND EXTEND THE TAX TO COVER EACH 50 MCF UNIT OF GAS. SIGNED INTO LAW 6-12-87.

KANSAS:

SB 1

PROVIDES SEVERANCE TAX RELIEF BASED ON THE PRICE OF OIL (AS OIL PRICES GO UP OR DOWN, EXEMPTIONS FROM THE SEVERANCE TAX WOULD RISE OR FALL). SIGNED INTO LAW.

MISSISSIPPI:

SB 2111

PROVIDES FOR AN EXEMPTION FROM OIL AND GAS SEVERANCE TAX ON CERTAIN PRODUCTION FROM NEW WELLS. SIGNED INTO LAW.

MONTANA:

HB 776

EXEMPTS STRIPPER WELLS AND, FOR THE FIRST 2 YEARS OF PRODUCTION, ALL OTHER WELLS PRODUCING PETROLEUM, NATURAL GAS, OR OTHER MINERAL OR CRUDE OIL FROM SEVERANCE TAXES AND LOWERS THE SEVERANCE TAX RATE TO 3 PERCENT FOR CERTAIN STRIPPER WELLS. SIGNED INTO LAW.

SB 066

REDEFINES "NEW PRODUCTION" OF NATURAL GAS, PETROLEUM OR OTHER CRUDE OR MINERAL OIL FOR PURPOSES OF DETERMINING THE NET PROCEEDS TAX. SIGNED INTO LAW.

SB 383

PROVIDES A PERMANENT HOLIDAY FROM THE NET PROCEEDS TAX ON THE FIRST 12 MONTHS OF PRODUCTION FROM NEW OIL OR GAS WELLS. SIGNED INTO LAW.

NEW MEXICO:

CS/HB 360

REDUCES NATURAL GAS SEVERANCE TAX FROM CURRENT 16.3 CENTS AN MCF TO 14 CENTS DURING NEXT FISCAL YEAR (STARTING JULY 1); 12 CENTS FOLLOWING YEAR; 10 CENTS THE YEAR AFTER THAT, AND 3.75% OF VALUE AFTER THE END OF THAT FISCAL YEAR (JUNE 30, 1990). ALSO, 3.75% ON PRODUCTION FROM WELLS WHICH BEGIN PRODUCING GAS AFTER MAY 1, 1987. SIGNED INTO LAW.

NORTH DAKOTA:

SB 2078

PROVIDES A TWO-YEAR EXEMPTION FROM THE 6.5% EXTRACTION TAX FOR ANY WELL STARTED AFTER MARCH 31, 1987 AND COMPLETED PRIOR TO JULY 1, 1989. SIGNED INTO LAW.

SB 2079

PROVIDES FOR A STRIPPER WELL DEFINITION BASED ON YIELD AND WELL DEPTH; PROVIDES FOR A 15-MONTH MORATORIUM FROM THE 6.5% EXTRACTION TAX ON ALL NEW WELLS; PROVIDES A 2.5% REDUCTION IN THE 6.5% EXTRACTION TAX FOR ALL NEW OIL AFTER THE EXPIRATION OF THE MORATORIUM PERIOD, AS WELL AS FOR NEW QUALIFYING SECONDARY AND TERTIARY RECOVERY PROJECTS; AND TIE ALL OF THE EXTRACTION TAX REDUCTIONS EXCEPT THE STRIPPER WELL REDEFINITION TO A TRIGGER PRICE OF \$33 WEST TEXAS INTERMEDIATE (WTI) CRUDE OIL. WHEN WTI CRUDE OIL IS PRICED AT \$33 OR MORE FOR THE BASE PERIOD, THE FULL 6.5% EXTRACTION TAX WILL AGAIN APPLY. SIGNED INTO LAW.

OKLAHOMA:

HB 1139

EXEMPTS FROM THE GROSS PRODUCTION TAX THE OIL PRODUCTION FROM ENHANCED RECOVERY PROJECTS UNTIL PROJECT PAYBACK IS ACHIEVED OR FOR 36 MONTHS FOR TERTIARY PROJECTS. SIGNED INTO LAW.

WYOMING:

HB 55

PROVIDES FOR A FOUR-YEAR, 4% SEVERANCE TAX EXEMPTION FOR ANY OIL OR GAS WELL DRILLED IN 1987 AND 1988. SIGNED INTO LAW.

HB 275

ALLOWS SEVERANCE TAXES ON CARBON DIOXIDE TO BE A DIRECT CREDIT AGAINST SEVERANCE TAXES ON OIL PRODUCED BY INJECTION OF THE GAS. SIGNED INTO LAW.

HB 347

EXEMPTS FROM TAXATION SPECIFIED FLARED OR VENTED GAS, REINJECTED GAS AND GAS CONSUMED ON LEASE WITHOUT SALE. SIGNED INTO LAW.

ATTACHMENT I

LOUISIANA SEVERANCE TAX EXEMPTION PROGRAM (STEP) AND LOUISIANA ECONOMIC ACCELERATION PROGRAM (LEAP)

\$29.50 per barrel, whichever occurs first. Also exempt would be a subsequent "developmental well" in the same field during the same time period referenced above.

A wildcat well is drilled in search of oil or natural gas accumulations located in a non-productive area, away from a known productive geological structure. Upon successful completion, the wildcat well is then recognized as a discovery well. A "developmental well" must be drilled and completed to a pool previously discovered by a wildcat well.

The exemption does not include a well drilled in a contiguous fault segment of a sand that was either producing or capable of producing prior to July 1, 1986; or to a well subsequently recompleted in a sand previously penetrated from a well that was drilled, completed, and/or produced prior to July 1, 1986.

The certification process for a LEAP Well includes a public hearing where an application is filed by the producer. The application must include:

1. Identification of the potential production zone, its depth, location, geology, and engineering data. Such data must show that the production reservoir is geologically separated (structurally, and/or stratigraphically) from the nearest reservoir that has produced, or is known to have been capable of producing hydrocarbons.
2. Geological and engineering evidence - including electric logs, structure maps, isopachs, bottom hole pressure and production history - supporting classification as a geologically separated reservoir.
3. Certification that, to the maximum extent possible, Louisiana residents were employed during the exploration and production activities undertaken in connection with the well.
4. Certification that, to the maximum extent possible, at least 10% of the operator's service contracts related to the well were made available to minority owned businesses.

ATTACHMENT II

MISSISSIPPI SEVERANCE TAX INCENTIVES

Oil: Any well for which drilling is commenced after March 15, 1987, and before July 1, 1988, and for which qualification has been obtained from the Mississippi State Tax Commission, shall be exempt from the 6% severance tax to the following extent: The exemption shall apply to the first 50 barrels of oil removed from the ground each day for wells drilled to a depth of 12,000 feet or less and shall apply to the first 100 barrels of oil removed from the ground each day for wells drilled to a depth greater than 12,000 feet below the surface. This exemption will last until June 30, 1990, but does not apply during any month that the average value of oil, as determined by the State Tax Commission, exceeds \$25.00 per barrel.

Enhanced Recovery Production: Oil production from an enhanced recovery project where carbon dioxide (CO₂) is used will be taxed at a reduced rate of 3% provided that such CO₂ is transported by pipeline to the oil well site. Gas, including CO₂, used in an enhanced oil recovery method is exempt from severance tax.

Natural Gas and Condensate: Any well for which drilling is commenced after March 15, 1987, and before July 1, 1988, and for which qualification has been obtained from the Mississippi State Tax Commission, shall be exempt from the 6% severance tax for a period of two years beginning on the date of first sale of production from such well.

ATTACHMENT III

MONTANA TAX INCENTIVES

Severance Tax Exemptions

Oil:

New Production: New production is exempt for 2 years following notification made to the Department of Revenue after March 31, 1987 and before July 1, 1991. New production is defined as coming from any well that has not produced during the 5 years immediately preceding the first month of qualified new production; and on which notification was made after March 31, 1987. The exemption terminates when it is certified that the price of WTI crude oil has reached \$25 per barrel.

Stripper: The first 5 barrels of average daily production from a stripper are exempt from severance tax. Production after the first 5 barrels is taxed at a reduced rate of 3% for production from April 1, 1987 through March 31, 1989. A stripper is defined as any well that produces less than 10 barrels per day determined by dividing the amount of production from a lease or unitized area for the year prior to the current calendar year by the number of producing wells and by dividing the resulting quotient by 365. The exemption and the reduced rate will terminate when it is certified that the price of WTI has reached \$30 per barrel.

The tax on other petroleum and mineral or crude oil production continues to be taxed at 5%, except production from a tertiary recovery project which is taxed at 2.5%.

Gas:

Low Production: The first 30,000 cubic feet of average daily production of natural gas from a well that has produced 60,000 cubic feet or less of natural gas per day for the calendar year prior to the current tax year is exempt from tax, and the remainder of natural gas produced from such well is taxed at 1.59%. The prior year production calculation is determined by dividing the prior calendar year production by the number of producing wells and by dividing the resulting quotient by 365.

All other natural gas is taxed at 2.65% of total gross value.

Net Proceeds Exemptions

New Production: New production of natural gas, petroleum, or other crude or mineral oil is exempt from the oil and gas net proceeds tax for the first 12 months of production. New production is defined as the production of natural gas, petroleum, or other crude or mineral oil from any well:

ATTACHMENT III

MONTANA TAX INCENTIVES

New Production: (Cont'd.)

- that has not produced during the 5 years immediately preceding the first month of qualified new production; and
- on which proper notification has been given.
- effective after 1986 per s.b. 66.

Qualified Gas: Natural gas produced from a well 5,000 feet deep or deeper, for which drilling was completed after December 31, 1976 but before April 1, 1987 is exempt from 1/2 of net proceeds tax for 3 years if the gas produced from the well is:

- placed into a natural gas distribution system for delivery to consumers after diligent completion of the well; and
- distributed by a natural gas distribution system serving only natural gas consumers a majority of which are within Montana or at least 10,000 natural gas consumers within Montana.

The 3 year exemption period begins when natural gas from a qualifying well is first placed into a natural gas distribution system.

ATTACHMENT IV

NORTH DAKOTA OIL EXTRACTION TAX INCENTIVES

New Well: Any well that is drilled and completed after April 27, 1987 and is qualified by the North Dakota Industrial Commission, will be exempt from the 6.5% OET for a period of 15 months from the well completion date. This exemption applies both to new wells spudded and to existing wells that are deepened provided that each well is completed to a separate and distinct reservoir. After the 15 month period, new wells will be taxed at a reduced rate of 4%.

Qualified Waterflood: To qualify for the reduced OET rate of 4%, a well must be certified by the North Dakota Industrial Commission and be located on a secondary recovery project which meets the following specifications set forth by the state:

1. It must have been unitized after April 27, 1987;
2. It must employ waterflooding; and
3. It must have achieved an average production level of at least 25% above the normal recovery level for a period of six consecutive months.

Qualified Tertiary: To be eligible for the reduced OET rate of 4%, a well must be certified by the North Dakota Industrial Commission, must be located on a qualifying tertiary recovery project, and must have achieved a production level of at least 15% above the normal recovery level for a period of no less than one month.

Qualified Stripper: In order to qualify for the Stripper Well Exemption, a property must be certified by the North Dakota Industrial Commission and average daily production (based on calendar days) for any consecutive 12-month period after December 31, 1972:

1. Cannot exceed ten barrels per day for wells a depth of 6,000 feet or less; or
2. Cannot exceed fifteen barrels per day for wells a depth of more than 6,000 feet but not more than 10,000 feet; or
3. Cannot exceed twenty barrels per day for wells a depth of more than 10,000 feet.

The Stripper Well incentive will continue indefinitely. The other incentives, however, will continue until the average price of West Texas Intermediate Cushing Oil is thirty-three dollars or more between June 1st and October 31st of any given year. At such time, the 15 month exemption will be eliminated effective November 1st. All qualified new wells, waterflood wells, and tertiary wells will be taxed at 4% for the remaining two months of that year, and effective January 1st of the following year will be taxed at 6.5%.

ATTACHMENT V

OKLAHOMA SEVERANCE TAX INCENTIVES

Enhanced Recovery: Any incremental production which results from an enhanced recovery project shall be exempt from gross production tax from the project beginning date until project payback is achieved for new enhanced recovery projects or until project payback is achieved but not to exceed a period of 36 months for tertiary enhanced recovery projects existing on the effective date of this act. (Effective July 1, 1988.)

ATTACHMENT VI

WYOMING SEVERANCE TAX INCENTIVE

Wildcat Well: Oil and gas produced from a wildcat well drilled and completed after January 1, 1987 and on or before December 31, 1989, is exempt from severance taxes for 4 years commencing the date of first production from the well. A wildcat well is any well so designated by the Wyoming Oil and Gas Conservation Commission. Such wildcat wells must be well outside of known fields or new well which are determined by the commission to have discovered oil or gas in a pool not previously proven productive. (Effective 3-17-87.)



Alaska State Legislature

SENATE

Office of the President

P.O. Box 1
State Capitol
Juneau, Alaska 99811

ECONOMIC INCENTIVES

SEVERANCE TAX EXEMPTIONS AND ROYALTY HOLIDAYS: Encourage development of new reserves by offering limited time severance tax exemptions and royalty holidays for new wells drilled during a specified time period. Such a program could be designed so that the exemption would be reduced if oil prices rise above a predetermined level.

DISCOVERY ROYALTY: Could be structured much the same as the state's previous discovery royalty statutes which were repealed by the Legislature in 1969. Would allow a limited time reduction in the royalty rate for a producer who discovers and produces oil and gas from a state lease within a specific timeframe.

EXPLORATION INCENTIVE CREDITS: AS 38.05.180(i) allows the Commissioner of the Department of Natural Resources to utilize exploration incentive credits. Expanded use of exploration credit incentives to include additional qualifying leases could be extremely effective in stimulating new drilling activity.

ENHANCED OIL RECOVERY: Enhanced recovery projects are more capital and labor intensive than primary operations, and the multiplier effect on overall economic activity is much greater. Enhanced recovery projects could be exempted from severance taxes for limited time periods. In addition, the current gas plant investment tax credit could be expanded to a broader based investment tax credit system that could enhance the attractiveness of large projects such as enhanced oil recovery.

Handwritten marks and scribbles in the top right corner.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL

39TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1990

INTRODUCED BY

AN ACT

RELATING TO TAXATION; CREATING THE ENHANCED OIL RECOVERY ACT; AMENDING SECTIONS 7-29-2 AND 7-29-4 NMSA 1978 (BEING LAWS 1959, CHAPTER 52, SECTION 2 AND LAWS 1980, CHAPTER 62, SECTION 5, AS AMENDED).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Enhanced Oil Recovery Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the Enhanced Oil Recovery Act:

A. "division" means the oil conservation division of the energy, minerals and natural resources department;

B. "enhanced recovery project" means the use of any process, including pressure maintenance, for the displacement of oil and other liquid hydrocarbons removed from natural gas at or near the wellhead from an oil reservoir as classified by the oil conservation division of

underscored material = new
[bracketed material] = deletion

underscored material = new
[bracketed material] = deletion

1 the energy, minerals and natural resources department, pursuant to Sec-
2 tion 70-2-6 NMSA 1978, other than primary recovery, and includes the
3 use of an immiscible, miscible, chemical, thermal or biological pro-
4 cess;

5 C. "interest owner" means a person owning an entire or frac-
6 tional interest of any kind in the products at the time of severance
7 from a production unit, or who has a right to a monetary payment that
8 is determined by the value of these products;

9 D. "operator" means the person responsible for the actual
10 physical operation of an enhanced recovery project;

11 E. "person" means any individual, estate, trust, receiver,
12 business trust, corporation, firm, copartnership, cooperative, joint
13 venture, association or other group or combination acting as a unit,
14 and the plural as well as the singular number;

15 F. "positive production response" means that the rate of oil
16 production from the wells affected by an enhanced recovery project is
17 greater than the rate that would have occurred without the project;

18 G. "primary recovery" means the displacement of oil and
19 other liquid hydrocarbons from natural gas at or near the wellhead,
20 from an oil reservoir classified by the oil conservation division of
21 the energy, minerals and natural resources department pursuant to Sec-
22 tion 70-2-6 NMSA 1978 into the well bore by means of the natural pres-
23 sure of the oil reservoir, including artificial lift;

24 H. "recovered oil tax rate" means that tax rate, as set
25 forth in Paragraph (3) of Subsection A of Section 7-29-4 NMSA 1978, on

1 oil and other liquid hydrocarbons removed from natural gas at or near
2 the wellhead produced from an enhanced recovery project;

3 I. "secondary recovery project" means an enhanced recovery
4 project that is not a tertiary recovery project; and

5 J. "tertiary recovery project" means an enhanced crude oil
6 recovery project that:

7 (1) involves the application, in accordance with sound
8 engineering principles, of carbon dioxide miscible fluid displacement
9 or any other tertiary recovery method, accepted and approved by the
10 division pursuant to the provisions of Paragraph (21) of Subsection B
11 of Section 70-2-12 NMSA 1978, that can reasonably be expected to result
12 in an increase, determined in light of all facts and circumstances, in
13 the amount of crude oil that may ultimately be recovered;

14 (2) encompasses a pool or portion of a pool the bound-
15 aries of which can be adequately defined and controlled; and

16 (3) involves the application of carbon dioxide, all of
17 which is produced in New Mexico.

18 Section 3. [NEW MATERIAL] PROCEDURES FOR QUALIFYING FOR THE RE-
19 COVERED OIL TAX RATE.--

20 A. Oil and other liquid hydrocarbons removed from natural
21 gas at or near the wellhead produced from an enhanced recovery project
22 shall qualify for the recovered oil tax rate, if before the project
23 begins operation the division approves the project and designates the
24 area to be affected by the project.

25 B. The operator of a proposed enhanced recovery project

underscored material = new
~~[bracketed material] = deletion~~

1 shall apply to the division for approval of the proposed project and
2 shall provide the division with any relevant information the division
3 requires for that approval.

4 C. If approval by the division of a unitization agreement as
5 set forth in Chapter 70, Article 7 NMSA 1978 is required for purposes
6 of carrying out the enhanced recovery project, the division shall not
7 approve the project unless it approves the unitization agreement.

8 D. A person may apply for approval of a proposed enhanced
9 recovery project concurrently with an application for approval of a
10 unitization agreement, as set forth in Chapter 70, Article 7 NMSA 1978,
11 for the purposes of carrying out the proposed enhanced recovery proj-
12 ect.

13 E. Upon the division approving the application for an en-
14 hanced recovery project, it shall issue a certification of approval for
15 the approved project to the operator and designate the area to be af-
16 fected by the project.

17 F. The recovered oil tax rate shall apply only to the oil
18 and other liquid hydrocarbons removed from natural gas at or near the
19 wellhead produced from the area the division certifies to be affected
20 by the enhanced recovery project.

21 G. The operator must file an application for certification
22 of a positive production response with the division to be eligible to
23 receive the recovered oil tax rate.

24 H. The recovered oil tax rate shall only apply to oil and
25 other liquid hydrocarbons removed at or near the wellhead produced from

underscored material = new
[bracketed material] = deletion

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

an enhanced recovery project beginning the first day of the month following the date the division certifies that a positive production response has occurred and if the application for certification of positive production response is filed:

(1) not later than three years from the date the division issues the certification of approval of the project if the project is designated a secondary recovery project; or

(2) not later than five years from the date the division issues the certification of approval of the project if the project is designated a tertiary recovery project.

I. Qualification for the recovered oil tax rate ends on the first day of the first calendar month that begins on or after the ninety-first day following the termination of the active operation of the enhanced recovery project.

J. If the active operation of an approved enhanced recovery project is terminated, the person who is the operator immediately before the termination shall notify the division and the secretary of taxation and revenue in writing, not later than the thirtieth day after the last day of active operation, of the termination of the project.

K. In addition to the powers enumerated in Section 70-2-12 NMSA 1978, the division shall adopt, promulgate and enforce rules and regulations concerning the approval of the applications, the designation of the affected areas, the operation and the termination of the enhanced recovery projects as provided for in the Enhanced Oil Recovery Act.

1 Section 4. [NEW MATERIAL] NOTIFICATION TO THE DEPARTMENT OF TAX-
2 ATION AND REVENUE.--

3 A. The division shall notify the secretary of taxation and
4 revenue upon:

5 (1) certifying that an enhanced recovery project quali-
6 fies to receive the recovered oil tax rate;

7 (2) receiving notification of termination of an en-
8 hanced recovery project; and

9 (3) adopting and promulgating rules and regulations
10 concerning the provisions of the Enhanced Oil Recovery Act.

11 B. The secretary of taxation and revenue shall have the
12 power to adopt and promulgate rules and regulations to enforce the pro-
13 visions of the Enhanced Oil Recovery Act.

14 Section 5. [NEW MATERIAL] TAXATION AND REVENUE DEPARTMENT AP-
15 PROVAL.--The person responsible for paying the taxes on the enhanced
16 recovery project shall not qualify to receive the recovered oil tax
17 rate unless that person:

18 A. applies to the secretary of taxation and revenue in the
19 form and manner prescribed by the secretary;

20 B. includes the certifications from the division of approval
21 and designation of the affected areas of the enhanced recovery project
22 and of a positive production response from the enhanced recovery proj-
23 ect; and

24 C. provides all relevant material that the secretary con-
25 siders necessary to administer the applicable provisions of the En-

underscored material = new
[bracketed material] = deletion

1 hanced Oil Recovery Act.

2 Section 6. [NEW MATERIAL] TAX CREDITS.--

3 A. If the secretary of taxation and revenue receives taxes
4 from an interest owner of an enhanced recovery project, at the rate
5 imposed in Paragraph (2) of Subsection A of Section 7-29-4 NMSA 1978 on
6 the oil and other liquid hydrocarbons removed from natural gas at or
7 near the wellhead produced from that enhanced recovery project that
8 qualifies for the recovered oil tax rate, but before the secretary ap-
9 proves the operator's application for the recovered oil tax rate, and
10 that interest owner subsequently qualifies for the recovered oil tax
11 rate on that enhanced recovery project, then the secretary shall credit
12 to that interest owner the difference between the amount of taxes paid
13 on the oil and other liquid hydrocarbons removed from natural gas at or
14 near the wellhead from an oil reservoir and the taxes due on the oil
15 and other liquid hydrocarbons removed from natural gas at or near the
16 wellhead from an oil reservoir at the recovered oil tax rate.

17 B. The credit shall be allocated to each interest owner ac-
18 cording to the interest owner's proportionate share in the oil and
19 liquid hydrocarbons removed from natural gas at or near the wellhead
20 from an oil reservoir.

21 C. To receive the credit, as provided for in Subsection A of
22 this section, one or more of the interest owners of the enhanced re-
23 covery project must file with the secretary of taxation and revenue for
24 the credit no later than one year from the date the division certified
25 that a positive production response has occurred from that enhanced

underscored material = new
~~[bracketed material]~~ = deletion

1 recovery project.

2 D. If the interest owner demonstrates that he does not have
3 sufficient tax liability under the Enhanced Oil Recovery Act to claim
4 the credit within five years from the date the application for the
5 credit is made, the interest owner is entitled to a refund in the
6 amount of any credit the secretary determines may not be claimed within
7 that five years.

8 Section 7. Section 7-29-2 NMSA 1978 (being Laws 1959, Chapter 52,
9 Section 2, as amended) is amended to read:

10 "7-29-2. DEFINITIONS.--As used in the Oil and Gas Severance Tax
11 Act:

12 A. "commission", "department", "division" or "oil and gas
13 accounting division" means the taxation and revenue department, the
14 secretary of taxation and revenue or any employee of the department
15 exercising authority lawfully delegated to that employee by the secre-
16 tary;

17 B. "enhanced recovery project" means the use of any process,
18 including pressure maintenance, for the displacement of oil and other
19 liquid hydrocarbons removed from natural gas at or near the wellhead
20 from an oil reservoir as classified by the oil conservation division of
21 the energy, minerals and natural resources department, pursuant to Sec-
22 tion 70-2-6 NMSA 1978, other than primary recovery, and includes the
23 use of an immiscible, miscible, chemical, thermal or biological pro-
24 cess;

25 C. "production unit" means a unit of property designated by

underscored material = new
[bracketed material] = deletion

1 the department from which products of common ownership are severed;

2 ~~[D.]~~ D. "severance" means the taking from the soil any
3 product in any manner whatsoever;

4 ~~[D.]~~ E. "value" means the actual price received for products
5 at the production unit, except as otherwise provided in the Oil and Gas
6 Severance Tax Act;

7 ~~[E.]~~ F. "product" or "products" means oil, natural gas or
8 liquid hydrocarbon, individually or any combination thereof, or carbon
9 dioxide;

10 ~~[F.]~~ G. "operator" means any person:

11 (1) engaged in the severance of products from a produc-
12 tion unit; or

13 (2) owning an interest in any product at the time of
14 severance who receives a portion or all of such product for his inter-
15 est;

16 H. "primary recovery" means the displacement of oil and
17 other liquid hydrocarbons removed from natural gas at or near the well-
18 head from an oil reservoir as classified by the oil conservation divi-
19 sion of the energy, minerals and natural resources department pursuant
20 to Section 70-2-6 NMSA 1978 into the well bore by means of the natural
21 pressure of the oil reservoir, including artificial lift;

22 ~~[G.]~~ I. "purchaser" means a person who is the first pur-
23 chaser of a product after severance from a production unit, except as
24 otherwise provided in the Oil and Gas Severance Tax Act;

25 ~~[H.]~~ J. "person" means any individual, estate, trust, re-

underscored material = new
[bracketed material] = deletion

1 ceiver, business trust, corporation, firm, copartnership, cooperative,
2 joint venture, association or other group or combination acting as a
3 unit, and the plural as well as the singular number;

4 ~~[F.]~~ K. "interest owner" means a person owning an entire or
5 fractional interest of whatsoever kind or nature in the products at the
6 time of severance from a production unit, or who has a right to a mone-
7 tary payment which is determined by the value of such products; ~~[and]~~

8 ~~[J.]~~ L. "new production natural gas well" means a producing
9 crude oil or natural gas well proration unit that begins its initial
10 natural gas production on or after May 1, 1987 as determined by the oil
11 conservation division of the energy ~~[and]~~, minerals and natural re-
12 sources department; and

13 M. "tax" means the oil and gas severance tax."

14 Section 8. Section 7-29-4 NMSA 1978 (being Laws 1980, Chapter 62,
15 Section 5, as amended) is amended to read:

16 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--COLLECTION--INTEREST
17 OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

18 A. There is imposed and shall be collected by the department
19 a tax on all products that are severed and sold. The measure of the
20 tax and the rates are:

21 (1) on natural gas severed and sold:

22 (a) except as provided in Subparagraph (b) and (c)
23 of this paragraph, whichever of the following rates produces the
24 greater tax: 1) three and three-fourths percent of the value of pro-
25 ducts; or 2) using a pressure base of 15.025 pounds per square inch

1 absolute and at a temperature of 60 degrees Fahrenheit, a tax per one
2 thousand cubic feet (mcf) of sixteen and three-tenths cents (\$.163)
3 until June 30, 1990, after which the rate of three and three-fourths
4 percent of the taxable value determined under Section 7-29-4.1 NMSA
5 1978 of products shall be used; [~~and~~]

6 (b) from a new production natural gas well, three
7 and three-fourths percent of the taxable value determined under Section
8 7-29-4.1 NMSA 1978; and

9 (c) on high-cost natural gas one and seven-eighths
10 percent of the taxable value determined under Section 7-29-4.1 NMSA
11 1978;

12 (2) on oil and on other liquid hydrocarbons removed
13 from natural gas at or near the wellhead, except as provided in Para-
14 graph (3) of this subsection, three and three-fourths percent of tax-
15 able value determined under Section 7-29-4.1 NMSA 1978; [~~and~~]

16 (3) on oil and other liquid hydrocarbons removed from
17 natural gas at or near the wellhead produced from an enhanced recovery
18 project, one and seven-eighths percent of the taxable value determined
19 under Section 7-29-4.1 NMSA 1978; and

20 (4) on carbon dioxide, three and three-fourths percent
21 of the taxable value determined under Section 7-29-4.1 NMSA 1978.

22 B. Every interest owner shall be liable for this tax to the
23 extent of his interest in such products. Any Indian tribe, Indian
24 pueblo or Indian shall be liable for this tax to the extent authorized
25 or permitted by law."