

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION
POST OFFICE BOX 2088
SANTA FE, NEW MEXICO 87504

~~PROPOSED~~ RULES AND PROCEDURES
FOR QUALIFICATIONS OF
ENHANCED OIL RECOVERY
PROJECTS AND CERTIFICATION FOR
THE RECOVERED OIL TAX RATE

A. General

Applications for qualification of enhanced oil recovery projects or expansions of existing enhanced oil recovery projects for the recovered oil tax rate pursuant to the New Mexico "Enhanced Oil Recovery Act" (Laws 1992, Chapter 138, Sections 1 through 5) shall be accepted by the Oil Conservation Division after March 6, 1992.

B. Applicability

These rules apply to:

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

C. Definitions

1. "Crude oil" means oil and other liquid hydrocarbons removed from natural gas at or near the wellhead.
2. "Division" means the Oil Conservation Division of the Energy, Minerals and Natural Resources Department.
3. "Enhanced Oil Recovery (EOR) Project" means the use or the expanded use

of any process for the displacement of crude oil from an oil well or 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 or any other related process.

4. "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; or (b) the expansion, extension or increase in size of the geologic area or adjacent geologic area that could reasonably be determined to represent a new or unique area of activity.
5. "Operator" means the person responsible for the actual physical operation of an enhanced recovery project.
6. "Positive Production Response" means that the rate of oil production from the wells or pools affected by an enhanced recovery project is greater than the rate that would have occurred without the project.
7. "Primary Recovery" means the displacement of crude oil from an oil well or pool classified by the Division into the well bore by means of the natural pressure of the oil well or pool, including but not limited to artificial lift.
8. "Recovered Oil Tax Rate" means the tax rate, as set forth in Paragraph (3) of Subsection A of Section 7-29-4 NMSA 1978, on crude oil produced from an enhanced recovery project.
9. "Secondary Recovery Project" means an enhanced recovery project that: (a) occurs subsequent to the completion of primary recovery and is not a tertiary recovery project; (b) involves the application, in accordance with sound engineering principles of carbon dioxide miscible fluid displacement, pressure maintenance, waterflooding or any other secondary recovery method accepted and approved by the Division that can reasonably be expected to result in an increase, determined in light of all facts and circumstances, in the amount of crude oil that may ultimately be recovered; and (c) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.
10. "Termination" means the discontinuance of an enhanced recovery project by the operator.
11. "Tertiary Recovery Project" means an enhanced recovery project that: (a)

occurs subsequent to the completion of a secondary recovery project; (b) involves the application, in accordance with sound engineering principles, of carbon dioxide miscible fluid displacement, pressure maintenance, water flooding or any other tertiary recovery method accepted and approved by the Division that can reasonably be expected to result in an increase, determined in light of all facts and circumstances, in the amount of crude oil that may ultimately be recovered; and (c) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.

D. Procedure

1. The Division's general rules of procedure shall apply to applications for qualifications of EOR projects unless altered or amended by these rules.
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 pursuant to the applicable rules and regulations of the Division. No project or expansion approved by the Division prior to March 6, 1992 shall qualify for the recovered tax rate.
3. All applications for approval of EOR projects or the expansion of EOR projects shall be filed in triplicate with the Division at its Santa Fe office. One copy of the application and all attachments shall also be filed with the appropriate Division's district office.
4. All applications shall be executed and certified by the operator or its authorized representative having knowledge of the facts therein and shall contain:
 - a. Operators name and address;
 - b. Description of the project area including:
 - (1) a plat outlining the project area;
 - (2) description of the project area by section, township and range;
 - (3) total acres; and
 - (4) name of the subject pool and formation.

- c. Status of operations in the project area:
 - (1) if unitized, the name of the unit and the date and number of the Division Order approving the unit plan of operation;
 - (2) if an application for approval of a unit plan has been made, the date the application was filed with the Division; and
 - (3) if not unitized, identify each lease in the project area by lessor, lessee and legal description.

- d. Method of recovery to be used:
 - (1) identify fluids to be injected;
 - (2) if the Division has approved the project, provide the date and number of the Division Order; and
 - (3) if the project has not been approved by the Division, provide the date the application for approval was filed with the Division on Form C-108.

- e. Description of the ~~projection~~ :
 - (1) A list of producing wells;
 - (2) A list of injection wells;
 - (3) capital cost of additional facilities;
 - (4) total project cost;
 - (5) the estimated total value of the additional production that will be recovered as a result of this project;
 - (6) anticipated date for commencement of injection;
 - (7) the type of fluid to be injected and the anticipated volumes; and
 - (8) if application is made for an expansion of an existing project, explain what changes in technology will be used or what additional geographic area will be added to the project area.

- f. Production data: Provide graphs, charts and other supporting data to show the production history and production forecast of oil, gas, casinghead gas, water from the project area.

~~5. The Division Director shall have the authority to administratively approve an application, or at his discretion or the request of the applicant, may set the application for hearing.~~

E. Approval - Certification

1. Project Approval: An EOR project will be approved and the project area designated for the recovered oil tax rate when the operator proves that:

- a. the application of the proposed enhanced recovery techniques to the reservoir should result in an increase in the amount of crude oil that may be ultimately recovered therefrom;
- b. the project area has been so depleted that it is prudent to apply enhanced recovery techniques to maximize the ultimate recovery of crude oil; and
- c. the application is economically and technically reasonable and has not been prematurely filed.

2. Positive Production Response Certification:

- a. For the recovered oil tax rate to apply, to oil produced from an approved qualified EOR project, the operator must demonstrate a positive production response to the Division. Applications for certification of a positive production response shall be filed with the Division at its Santa Fe office and shall include:
 - (1) a copy of the Division's approval of the enhanced recovery project or expansion;
 - (2) a plat of the affected area showing all injection and producing wells with completion dates;
 - (3) production graphs and supporting data demonstrating a positive

production response and showing the volumes of water or other substances that have been injected on the lease or unit since initiation of the enhanced recovery project.

- b. The Division Director shall have authority to administratively approve an application and certify a positive production response, or at his discretion or at the request of the applicant, may set the application for hearing.
- c. The Division shall certify that a positive production response has occurred and notify the Secretary of the Taxation and Revenue Department. This certification and notice shall set forth the date the certification was made and the date the positive production response occurred provided however:
 - (1) for a secondary recovery project, the application for certification of a positive production response must occur not later than five (5) years from the date the Division issued the certification of approval of the enhanced oil recovery project or expansion; and
 - (2) for a tertiary recovery project, the application for certification of a positive production response must occur not later than seven (7) years from the date the Division issues the certification of approval for the enhanced recovery project or expansion.

F. Reporting Requirements

- 1. The operator of an approved EOR project shall report annually on the status of the project and confirm that the project is still a viable EOR project as approved. The report will be for the year ending May 31 and shall be filed with the Division at its Santa Fe office. The report shall contain:
 - a. The date and number of the Division's certification order for the project.
 - b. Production graphs showing oil, gas and water production.
 - c. A graph showing the volumes of fluid injected and the average injection pressures.
 - d. Any additional data the Director deems necessary for continued approval.

2. The Director may set any such confirmation for hearing would it appear necessary. ~~necessary~~ ^{necessary}

G. Termination

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