

32 WELL WORKOVER PROJECT TAX INCENTIVE

32.A. General

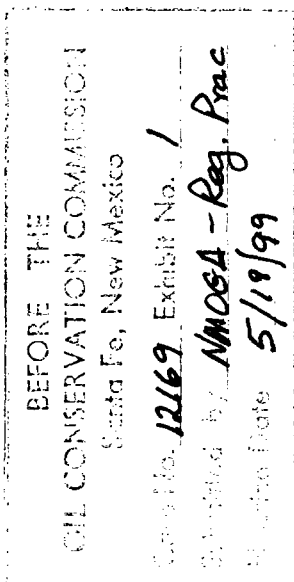
Applications for qualification of well workover projects for the well workover incentive tax rate pursuant to the "Natural Gas and Crude Oil Production Incentive Act" (Sections 7-29B-1 through 7-29B-6 NMSA 1978) shall be accepted by the Division after November 9, 1995. [12-30-95,2-1-96; Rn. _____ - ____-99]

32.B. Applicability

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

32.C. Definitions

- (1) "Operator" means the person responsible for the actual physical operation of a natural gas or oil well;
- (2) "Routine Maintenance" means repair or like-for-like replacement of downhole equipment or any other procedure performed by an operator to maintain the well's current production;
- (2) "Well" means a wellbore with single or multiple completions, including all horizons and producing formations from the surface to total depth.
- (4) "Well Workover Incentive Tax Rate" means the tax rate imposed by Section 7-29-4 NMSA 1978 on natural gas and/or oil produced from a well workover project;
- (5) "Well Workover Project" means any procedure undertaken by the operator of a natural gas or oil well that is intended to increase production from the well and that has been approved and certified by the Division;
- (6) "Workover" means any procedure undertaken by the operator of the well intended to increase production but is not routine maintenance and includes, but is not limited to:
 - (a) re-entry into the well to drill deeper, to sidetrack to a different location, to recomplete for production or to restore production from a zone which has been temporarily abandoned;
 - (b) recompletion by re-perforation of a zone from which natural gas or oil has been produced or by perforation of a different zone;



- (c) repair or replacement of faulty or damaged casing or related downhole equipment;
- (d) fracturing, acidizing or installing compression equipment; and
- (e) squeezing, cementing or installing equipment necessary for removal of excessive water, brine or condensate from the well bore in order to establish, continue or increase production from the well.

32.D. Procedure

- (1) The Division's general rules of procedure shall apply unless altered or amended by these rules. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (2) To be eligible for the incentive tax rate, the operator must apply for and receive Division approval. No well workover project commenced by the operator prior to June 16, 1995 shall qualify. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (3) Applications must be filed with the Division within twelve (12) months of completion of the workover. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (4) An application shall be filed by the operator on behalf of all interest owners in the project. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (5) The data utilized in the application shall be retained by the operator in its files during the period of time the well qualifies for and receives the well workover incentive tax rate and for such time thereafter as the Department requires. [12-30-95, 2-1-96; Rn. _____ - ____-99]
- (6) Applications shall be filed in triplicate with the Division at its appropriate District office on Division Form C-140 and shall contain:
 - (a) operator's name and address; and
 - (b) description of well workover project including:
 - (i) name and footage location of the well;
 - (ii) name of the pool from which the well previously produced;
 - (iii) the dates workover procedures commenced and were completed;

- (iv) a description of the procedures undertaken by operator of the well intended to increase production;
- (v) evidence of a positive production increase over the production rate of the well prior to the workover. The operator must submit a production curve or data tabulation made up of at least twelve months' production prior to the workover and at least three months' production following the workover that reflects a positive production increase;
- (vi) other documentation the applicant determines may be applicable to this filing, such as Division forms or Division orders; and
- (vii) a statement under oath by the operator or its authorized representative having knowledge of the facts contained in the application that he/she has made or caused to be made a diligent search of all production records which are reasonably available and contain information relevant to the production history of the well.

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

32.E. Approval, Certification, Notification and Hearing

(1) Project Approval and Certification

- (a) A workover shall be approved and a certification of approval issued to the operator designating the natural gas or oil well as a well workover project when the operator proves that:
 - (i) approved workover procedures have been undertaken on the well which are intended to increase production; and
 - (ii) the production curve or data tabulation from production data reflects a positive production increase from the workover.
- (b) The incentive tax rate will apply beginning the first day of the month following the date the workover was completed as certified by the Division. [12-30-95, 2-1-96; Rn. _____ - ____-99]

(2) Notification to the Secretary of Taxation and Revenue

The Division shall notify the Secretary of Taxation and Revenue of the approval by identifying the natural gas or oil well as a well workover project and certifying the date the project was completed. [12-30-95, 2-1-96; Rn. _____ - ____-99]

(3) Hearings and Requests for Additional Information

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

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

32.F. Certifications Prior to July 1, 1999

Well workover projects certified prior to July 1, 1999 shall be deemed to be approved and certified in accordance with the provisions of the 1999 act and natural gas or oil produced from those projects shall be eligible for the well workover incentive tax rate *that becomes* effective ~~beginning~~ July 1, 1999. [6-15-99]

COMMENT: *It was the intent of the authors of the bill and the Legislators that any benefit not yet received would be recovered utilizing the new rate applied to the 100% production. The above wording change makes it clear that the tax rate to be applied to production for which the benefit has not been realized will be the tax rate that becomes effective after 7-1-99.*

33 STRIPPER WELL TAX INCENTIVE

33.A. General

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

33.B. Applicability

These rules apply to any property that the Division certifies as a stripper well property after June 30, 1999.

33.C. Definitions

- (1) "Operator" means the person responsible for the actual physical operation of a natural gas or oil well;
- (2) "Average daily production" means the number derived by dividing the total volume of crude oil or natural gas production from the stripper well property reported to the Division during a calendar year by the sum of the number of days each eligible well within the property produced or injected during that calendar year;
- (3) "Eligible well" means a crude oil or natural gas well that produces, or an injection well that injects *or disposes* and is integral to production, for any period of time during the preceding calendar year;

COMMENT: A disposal well is often integral to the economics of the lease. The disposal of produced water is necessary to operate marginal leases. The statutes is unclear and needs to be clarified as to intent.

- (4) "Stripper well property" means a crude oil or natural gas producing property that is assigned a single production unit number (***PUN***) by the Taxation and Revenue Department and:
 - (a) (if a crude oil producing property) produced a daily average of less than ten barrels of oil per eligible well per day for the preceding calendar year;
 - (b) (if a natural gas producing property) produced a daily average of less than sixty thousand cubic feet of natural gas per eligible well per day during the preceding calendar year; or

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

33.D. Certification, Notification and Hearing

- (1) The Division shall determine which wells qualify as stripper well properties.
- (2) Upon certification of properties as stripper well properties, the Division shall notify the operator and the Secretary of Taxation and Revenue of that certification.
- (3) The operator shall notify all the interest owners of the certification of the property as a stripper well property.
- (4) An operator may make a written request that the Division reevaluate a property for stripper well status.
- (5) If the Division denies stripper well certification to a property, the Division upon the operator’s request shall set the matter for hearing.

COMMENT: *Bulleted numbers (4), (5), and (6) need to be changed to (3), (4) and (5).*

[__-__-99]

QUESTION: *How will NMOCD determine the stripper property qualification when ONGARD reports OGRID & Property Code numbers which do not tie to the Production Unit Number (PUN) set by TRD? Also, the ONGARD reporting does not reflect injection days.*

34 NEW WELL TAX INCENTIVE

34.A. General

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

34.B. Applicability

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

34.C. Definitions

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

34.D. Procedure

- (1) The Division's general rules of procedure shall apply unless altered or amended by these rules.
- (2) The operator must apply for and be granted Division approval of the "new well". A new well shall qualify if the Division certifies that:
 - (a) the operator applying for the tax credit commenced drilling the new well after January 1, 1999 and before July 1, 2000;
 - (b) the new well was completed as a producer; and
 - (c) the application is for one of the first six hundred new wells commenced after January 1, 1999 and before July 1, 2000.
- (3) An application must be filed with the Division: (a) within sixty (60) days of completion of the well as a producer, or (b) by Oct 1, 1999 for a well commenced after January 1, 1999 and before July 1, 1999.
- (4) All applications shall be filed in triplicate with the Division's Santa Fe office on Form C-142 and shall contain:
 - (a) operator's name and address;

- (b) description of the well:
 - (i) name and footage location;
 - (ii) date and time spudded; and
 - (iii) completion date and production test test results;
- (c) copies of Division Form C-103 *or Federal Form 3160-5* showing spud date and time, and Form C-105 *or Federal Form 3160-4* showing the well was completed as a ~~producing well~~ *producer*; and

COMMENT: There are wells completed on Federal Lands which do not submit Forms C-103 or C-105.

- (d) a statement under oath by the operator or its authorized representative having knowledge of the facts contained in the application that:
 - (i) the application is complete and correct; and
 - (ii) the well is ~~producing~~ *capable of production*.

COMMENT: A well may be waiting on a pipeline or production facilities to be constructed; therefore, it may not be producing and should not be penalized.

34.E. Certification, Notification and Hearing

- (1) Upon approval of the application, the Division shall certify that approval by sending a copy of the approved application to the operator and the Secretary of Taxation and Revenue.
- (2) The Division shall consider applications without a hearing. The Division may request additional information from an operator to support the application. If the Division denies an application, the Division upon the applicant's request shall set the application for hearing. Any application not acted upon by the Division within thirty (30) days from the date it is filed is deemed denied.
- (3) The operator shall notify all *working* interest owners of the approval and certification of the well as a new well.

COMMENT: This is not a tax relief but a job creation effort that is not supported by royalty owners. The producers should realize the full benefit from its investment.

[__-__-99]