

Taxation and Revenue Department
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NATURAL GAS AND CRUDE OIL PRODUCTION ACT
Sections 7-29B-1 to 7-29B-6

(3.18 NMAC)

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7-29B-1. SHORT TITLE.--Sections 1 through 6 [7-29B-1 to 7-29B-6 NMSA 1978] of this act may be cited as the "Natural Gas and Crude Oil Production Incentive Act".

7-29B-2. DEFINITIONS.--As used in the Natural Gas and Crude Oil Production Incentive Act [7-29B-1 to 7-29B-6 NMSA 1978]:

A. "average annual taxable value" means the average of the taxable value per barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all oil produced in New Mexico for the specified calendar year as determined by the department;

B. "average daily production" means, for any crude oil or natural gas property assigned a single production number by the department, the number derived by dividing the total volume of crude oil or natural gas production from the 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;

C. "department" means the taxation and revenue department;

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

E. "eligible well" means a crude oil or natural gas well that produces or an injection well that injects and is integral to production for any period of time during the preceding calendar year;

F. "natural gas" means any combustible vapor composed chiefly of hydrocarbons occurring naturally;

G. "operator" means the person responsible for the actual physical operation of a natural gas or oil well;

H. "person" means any individual or other legal entity, including any group or combination of individuals or other legal entities acting as a unit;

I. "production restoration incentive tax exemption" means the tax exemption set forth in Subsection B of Section 7-29-4 NMSA 1978 for natural gas or oil produced from a production restoration project;

J. "production restoration project" means the use of any process for returning to production a natural gas or oil well that had thirty days or less of production in any period of twenty-four consecutive months beginning on or after January 1, 1993 as approved and certified by the division;

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

L. "stripper well property" means a crude oil or natural gas producing property that is assigned a single production unit number by the department and:

(1) if a crude oil producing property, produced an average daily production of less than ten barrels of oil per eligible well per day for the preceding calendar year;

(2) if a natural gas producing property, produced an average daily production of less than sixty thousand cubic feet of natural gas per eligible well per day during the preceding calendar year; or

(3) if a property with wells that produce both crude oil and natural gas, produced an average daily production 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;

M. "stripper well incentive tax rates" means the tax rates set forth in Paragraphs (6) through (9) of Subsection A of Section 7-29-4 NMSA 1978 and in Paragraphs (4) through (7) of Subsection A of Section 7-31-4 NMSA 1978 for natural gas or oil produced from a well within a stripper well property;

N. "well workover incentive tax rate" means the tax rate set forth in Paragraphs (4) and (5) of Subsection A of Section 7-29-4 NMSA 1978 on the natural gas or oil produced from a well workover project; and

O. "well workover project" means any procedure undertaken by the operator of a natural gas or oil well that is intended to increase the production from the well and that has been approved and certified by the division.

7-29B-3. APPROVAL OF PRODUCTION RESTORATION PROJECTS, WELL WORKOVER PROJECTS AND STRIPPER WELL PROPERTIES.--

A. A natural gas or oil well shall be approved by the division as a production restoration project if:

(1) the operator of the well makes application to the division in accordance with the provisions of the Natural Gas and Crude Oil Production Incentive Act and rules adopted pursuant to that act for approval of a production restoration project and the application is made within twelve months of the completion of the production restoration project; and

(2) the division records show that the well had thirty days or less of production in any period of twenty-four consecutive months beginning on or after January 1, 1993.

B. A natural gas or oil well shall be approved by the division as a well workover project if:

(1) the operator of the well makes application to the division in accordance with the provisions of the Natural Gas and Crude Oil Production Incentive Act and rules adopted pursuant to that act for approval of a well workover project;

(2) the division determines that the procedure performed by the operator of the well is a procedure to increase the production from the well, but is not routine maintenance performed by a prudent operator to maintain the well in operation. Such procedures may include, but are not limited to:

(a) re-entry into the well to drill deeper, to sidetrack to a different location or to recomplate for production;

(b)recompletion by reperforation 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; or

(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; and

(3) the operator of the well submits to the division 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 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 from the workover. The production curve or tabulation must be certified by the operator as that of the well on which a workover was performed.

C. A natural gas or crude oil producing property shall be approved and certified by the division as a stripper well property if the division records show

that the property is assigned a single production unit number by the department and:

(1) if a crude oil producing property, produced an average daily production of less than ten barrels of oil per eligible well per day for the preceding calendar year;

(2) if a natural gas producing property, produced an average daily production of less than sixty thousand cubic feet of natural gas per eligible well per day during the preceding calendar year; or

(3) if a property with wells that produce both crude oil and natural gas, produced an average daily production 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.

7-29B-4. APPLICATION PROCEDURES; CERTIFICATION OF APPROVAL; RULES; ADMINISTRATION.--

A. The operator of a proposed production restoration project or well workover project shall apply to the division for approval of a production restoration project or a well workover project in the form and manner prescribed by the division and shall provide any relevant material and information the division requires for that approval.

B. Upon a determination that the project complies with the provisions of the Natural Gas and Crude Oil Production Incentive Act [7-29B-1 to 7-29B-6 NMSA 1978] and rules adopted pursuant to that act, the division shall approve the application and shall issue a certification of approval to the operator and designate the natural gas or oil well as a production restoration project or well workover project, as applicable.

C. In addition to the powers enumerated in Section 70-2-12 NMSA 1978, the division shall adopt, promulgate and enforce rules to carry out the provisions of the Natural Gas and Crude Oil Production Incentive Act.

D. The division shall consider and approve applications for approval of a production restoration project or well workover project without holding hearings on the applications. If the division denies approval of an application pursuant to such a process, the division, upon the request of the applicant, shall set a hearing of the application before an examiner appointed by the division to conduct the hearing. The hearing shall be conducted in accordance with the provisions of the Oil and Gas Act for such hearings.

7-29B-5. NOTICE TO SECRETARY OF TAXATION AND REVENUE.--The division shall notify immediately the secretary of taxation and revenue upon:

A. adoption of rules pursuant to the provisions of the Natural Gas and Crude Oil Production Incentive Act [7-29B-1 to 7-29B-6 NMSA 1978];

B. certification of the date that production has been restored on a production restoration project;

C. certification of the date that a well workover project has been completed; and

D. certification of the stripper well properties for the fiscal year.

7-29B-6. QUALIFICATION FOR PRODUCTION RESTORATION INCENTIVE TAX EXEMPTION AND WELL WORKOVER AND STRIPPER WELL PROPERTY INCENTIVE TAX RATE; SECRETARY OF TAXATION AND REVENUE APPROVAL; REFUND. –

A. The person responsible for paying the oil and gas severance tax on natural gas or oil produced from a production restoration project shall qualify to receive a ten-year production restoration incentive tax exemption upon:

(1) application to the department in the form and manner prescribed by the department for approval for the ten-year production restoration incentive tax exemption;

(2) submission of the certification of approval from the division and designation of the natural gas or oil well as a production restoration project; and

(3) submission of any other relevant material that the secretary of taxation and revenue deems necessary to administer the applicable provisions of the Natural Gas and Crude Oil Production Incentive Act [7-29B-1 to 7-29B-6 NMSA 1978].

B. The person responsible for payment of the oil and gas severance tax on natural gas or oil produced from a well workover project shall qualify for the well workover incentive tax rate on all the natural gas or oil produced by that project upon:

(1) application to the department in the form and manner prescribed by the department for approval to apply the well workover incentive tax rate to the natural gas or oil produced from a well workover project;

(2) submission for the certification from the division of approval and designation of the natural gas or oil well as a well workover project; and

(3) any other relevant material that the department considers necessary to administer the applicable provisions of the Natural Gas and Crude Oil Production Incentive Act.

C. The person responsible for paying the oil and gas severance tax and the oil gas emergency school tax on natural gas and crude oil produced from a stripper well property shall qualify to receive the stripper well property incentive tax rate for the fiscal year following certification by the division in the form and manner agreed to by the division and the department designating the property as a stripper well property. 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.

D. The production restoration incentive tax exemption shall apply to natural gas or oil produced from a production restoration project beginning the first day of the month following the date the division certifies that production has been restored and ending the last day the tenth year of production following that date. The well workover incentive tax rate applies to

the natural gas or oil produced from a well workover project beginning the first day of the month following the date the division certifies that the well workover project has been completed. The stripper well property incentive tax rates apply to the natural gas or oil produced from stripper well property in the twelve months beginning May 1 prior to July 1 of the first fiscal year to which the certification of the property as a stripper well property applies.

E. The person responsible for payment of the oil and gas severance tax on natural gas or oil production from an approved well workover project may file a claim for credit against current tax liability or for refund in accordance with Section 7-1-26 NMSA 1978 for taxes paid in excess of the amount due using the well workover incentive tax rate. Notwithstanding the provisions of Subsection E of Section 7-1-26 NMSA 1978, any such refund granted shall be made in the form of a credit against any future oil and gas severance tax liabilities incurred by the taxpayer.

F. Well workover projects certified prior to July 1, 1999 shall be deemed to be approved and certified in accordance with the provisions of this 1999 act and natural gas or oil produced from those projects shall be eligible for the well workover incentive tax rate effective beginning July 1, 1999.

G. The secretary of taxation and revenue may adopt and promulgate rules to enforce the provisions of this section.

(Laws 1999, Chapter 256, Section 7)

3.18.3.8 - PRODUCTION RESTORATION TAX INCENTIVE EXEMPTION REQUIREMENTS

To qualify a well for the production restoration incentive tax exemption, the oil conservation division of the energy, minerals and natural resources department must certify both the process used to restore the well to production and that the well produced for thirty or fewer days within a 24-month period beginning on or after January 1, 1993. To obtain the exemption, the person responsible for paying the oil and gas severance tax must apply on form RPD 41170, completed in accordance with instructions of the department. Application for the exemption must be made within 6 months after the date the oil conservation division certifies that production has been restored.

[3.18.3.8 NMAC - N, 12/29/00]

3.18.3.9 - WELL WORKOVER INCENTIVE TAX RATE REQUIREMENTS

A. Laws 1999, Chapter 256 amended the provisions of Sections 7-29B-2 and 7-29B-3 NMSA 1978, effective June 18, 1999. The first returns due after that date are the returns for May 1999. Consequently the changes made by Laws 1999, Chapter 256 apply only to the May 1999 and subsequent production months.

B. Any application, or an amendment to any application, for the well workover incentive tax rate for any production period prior to May 1999 must be filed in accordance with the provisions of the Oil and Gas Severance Tax Act and the Natural Gas and Crude Oil Production Incentive Act in effect on June 17, 1999. The information required by Paragraph

7-29B-3B(3) NMSA 1978, as that section was in effect on June 17, 1999, must accompany the application.

C. To obtain the well workover incentive tax rate, the person responsible for paying the oil and gas severance tax must apply for it on form RPD 41171, completed in accordance with instructions of the department. Application must be made within 6 months after the date the oil conservation division certifies that the project has been completed.

[3.18.3.9 NMAC - N, 12/29/00]

7-30-10. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL INFORMATION.--Each operator shall, in the form and manner required by the department, make a return to the department showing the total value, volume and kind of products sold from each production unit for each calendar month. All taxes due or to be remitted by the operator shall accompany this return. The return shall be filed on or before the twenty-fifth day of the second month after the calendar month for which the return is required. A uranium or a coal return shall be filed on or before the twenty-fifth day of the month following the month in which the taxable event occurs pursuant to Section 7-26-6 or 7-26-7 NMSA 1978. Any additional report or information the department may deem necessary for the proper administration of the Oil and Gas Conservation Tax Act may be required. (Laws 2005, Chapter 130, Section 6)

7-31-27. JICARILLA APACHE TRIBAL CAPITAL IMPROVEMENTS TAX CREDIT.-

A. A person who is liable for the payment of the oil and gas emergency school tax imposed on products severed from Jicarilla Apache tribal land or imposed on the privilege of severing products from Jicarilla Apache tribal land shall be entitled to a credit to be computed pursuant to this section and to be deducted from the payment of those taxes with respect to products from qualifying wells. The credit provided by this section may be referred to as the "Jicarilla Apache tribal capital improvements tax credit".

B. As used in this section:

(1) "Jicarilla Apache tribal land" means land within the state of New Mexico that on March 1, 2002 was within the exterior boundaries of a Jicarilla Apache reservation or was held in trust by the United States for the Jicarilla Apache Nation;

(2) "product" means oil, natural gas or liquid hydrocarbon, individually or in combination, or carbon dioxide;

(3) "qualifying well" means a well on Jicarilla Apache tribal land; and

(4) "Jicarilla Apache tribal capital improvements tax" means a tax imposed after the effective date of this section by the Jicarilla Apache Nation that is exclusively dedicated to fund capital improvement projects on Jicarilla Apache tribal land and that is not available to finance the construction of buildings used for commercial activity.

C. The Jicarilla Apache tribal capital improvements tax credit shall be determined separately for each calendar month and shall be equal to the lesser of:

(1) the amount of the Jicarilla Apache tribal capital improvements tax imposed by the Jicarilla Apache Nation upon the products severed from qualifying wells or upon the privilege of severing products from qualifying wells; or

(2) seven-tenths of one percent of the taxable value of the products severed from qualifying wells as determined by applicable state law.

D. A credit pursuant to this section shall be allowed by the taxation and revenue department only if the Jicarilla Apache Nation has entered into a cooperative agreement with the secretary of taxation and revenue for the exchange of information necessary for the administration of the Jicarilla Apache tribal capital improvements tax credit.

E. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed shall be applied against the amount of the oil and gas emergency school tax due with respect to the products or severance of products taxed.

F. The credit provided by this section shall be in addition to any credit claimed by the taxpayer or allowed by the taxation and revenue department

pursuant to Section 7-29C-1 NMSA 1978 with respect to the same products or the severance of the same products. A Jicarilla Apache tribal capital improvements tax that qualifies for the credit provided by this section shall constitute an increase in tribal taxes for purposes of Subsection F of Section 7-29C-1 NMSA 1978 only to the extent that it exceeds the amount identified in Paragraph (2) of Subsection C of this section.

G. The taxation and revenue department shall administer and interpret the provisions of this section in accordance with the provisions of the Tax Administration Act.

H. The burden of showing entitlement to a credit authorized by this section is on the taxpayer claiming it, and the taxpayer shall furnish to the appropriate tax collecting agency, in a manner determined by the taxation and revenue department, proof of payment of the Jicarilla Apache tribal capital improvements tax on which the credit is based.

(Laws 2002, Chapter 15, Section 1)
