

**CHAPTER 45. GROSS PRODUCTION,  
PETROLEUM EXCISE, AND  
CONSERVATION EXCISE**

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[**Authority:** 68 O.S. §§203, 1001(D)(7), (M)(1) and (Q), 1001.1, 1013]

[**Source:** Codified 12-30-91]

# CHAPTER 45. GROSS PRODUCTION, PETROLEUM EXCISE, AND CONSERVATION EXCISE

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# CHAPTER 45. GROSS PRODUCTION, PETROLEUM EXCISE, AND CONSERVATION EXCISE

## SUBCHAPTER 1. GENERAL PROVISIONS

### 710:45-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to Gross Production, Petroleum Excise, and Conservation Excise Taxes.

### 710:45-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"First purchaser"** means any person who purchases or is entitled to purchase any product subject to the Oklahoma Gross Production Tax from the producer or operator of a lease located in this state.

**"Gross value of the production"** means the gross proceeds realized from the first sale of such production, including the actual cash value and all premiums otherwise given to or reserved for the producer and all interest owners of such production, without any deduction for costs whatsoever.

**"Month"** means calendar month, the period from the first day of the month to the last day, according to the established order of the division of time into years, months, weeks and days commonly recognized in the United States.

**"Person"** means any person, firm, association, corporation or other legal entity. [See: 68 O.S. §1001]

### 710:45-1-3. Security required

(a) **Bond required generally.** As a condition for assignment of a gross production tax purchaser reporting number and/or as a condition for approval to remit gross production taxes, a tax remitter must post a bond in an amount equal to an estimated three months' tax liability.

(b) **Adjustment of bond in applicable cases.** At the end of one year, the tax remitter may reduce its bond to an amount equal to one month's tax liability, based upon a monthly average of the prior year's tax liability, provided that a reduction in the bond amount will be permitted only if the tax remitter has had no tax deficiencies or delinquencies in the prior year. The bond amount may be adjusted annually thereafter, depending upon fluctuations in the yearly tax liability of the tax remitter.

(c) **Adjustment of bond for estimated payment.** A tax remitter who has paid the one-time estimated gross production tax payment required by 68 O.S. § 1010a, will be permitted, upon request, to reduce the amount of surety bond required by the amount of the estimated payment.

(d) **When bond is not required.** Taxpayers who have an estimated liability of One Thousand Dollars (\$1,000.00) or less per year are not required to post a bond.

(e) **Applicability.** This Section does not apply to bond requirements for reclaimers and transporters which are governed by separate rules in this Chapter.

[Source: Added at 12 Ok Reg 2995, eff 6-12-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98, Amended at 22 Ok Reg 1531, eff 6-11-05]

### **SUBCHAPTER 3. PAYMENT; REMITTANCE; REFUNDS**

#### **710:45-3-1. Due dates for timely payment or remittance of taxes**

(a) The Gross Production Tax is due on the first day of each calendar month, and, if the tax is not paid on or before the twenty-fifth (25th) day of the second month following production, the tax becomes delinquent.

(b) Any payment or remittance of Gross Production Tax mailed and postmarked by the United States Postal Service on or prior to the twenty-fifth (25th) day of the second month following production shall be considered "paid or remitted" only if also received by the Commission on or prior to that date. [See: 68 O.S. §1009]

(c) If the twenty-fifth (25th) day of the second month following production is a Saturday, Sunday or a holiday recognized by the Executive Department of this State, then the payment shall be considered timely if received the next official working day for the Oklahoma Tax Commission following the Saturday, Sunday or holiday.

[Source: Amended at 22 Ok Reg 1532, eff 6-11-05]

#### **710:45-3-2. Allocated percentages [REVOKED]**

[Source: Revoked at 20 Ok Reg 2160, eff 6-26-03]

#### **710:45-3-3. Interest on delinquent gross production tax**

If any amount of the Gross Production Tax is not paid or remitted before the same becomes delinquent, as set out in 710:45-3-1, interest, at the rate of one and one-fourth percent (1 ¼ %) per month until payment or remittance, shall be calculated and collected as part of the delinquent tax.

[See: 68 O.S. §217(a)]

#### **710:45-3-4. Penalty on delinquent gross production tax**

If any amount of the Gross Production Tax is not paid or remitted within thirty (30) calendar days after the tax becomes delinquent, as set out in 710:45-3-1, a penalty, at the rate of ten percent (10%) of the total amount of the delinquent Gross Production Tax, shall be calculated and collected as part of the delinquent tax. [See: 68 O.S. §217(c)]

#### **710:45-3-5. Issuance and release of order to stop payment**

(a) The Director of the Audit Division of the Oklahoma Tax Commission, or a designee, is delegated the duty and authority to issue orders to withhold payment for production and orders releasing payment for production to purchasers of oil and gas produced in Oklahoma.

(b) Orders to withhold payment for production shall be issued if and when the required reports and/or forms have not been filed or when the Gross Production Tax penalty and interest on any production are unreported, unpaid or delinquent. Orders releasing payment for production shall be issued if and when all required reports have been filed and all tax, penalty and interest accrued have been paid.

(c) Orders to withhold payment for production and orders to release payment for production shall

be upon forms approved by the Commission and shall be issued under facsimile signatures of the Commissioners, attested with the official seal of the Oklahoma Tax Commission affixed thereto. [See: 68 O.S. §1007]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96]

**710:45-3-6. [RESERVED]**

**710:45-3-7. [RESERVED]**

**710:45-3-8. [RESERVED]**

**710:45-3-9. [RESERVED]**

**710:45-3-10. [RESERVED]**

**710:45-3-11. Minimum requirements for making claims for rebates, refunds, or credits**

(a) **General provisions.** Adjustments to Gross Production Taxes previously paid may be made by filing a claim for refund or by claiming credit on a subsequent return. In either case, the claim must include the information and conform to the procedures described in this Section. All claims for refund or credits taken remain subject to audit.

(b) **Rebates.** Claims for rebates, authorized by 68 O.S. Sections 1001(E) through (J), and from Section 1001.3, must be filed following the specific procedures applicable to each statutory incentive and be supported by the documentation required by statute and the applicable Tax Commission rules set out in Subchapter 9, Parts 5 through 19 of this Chapter.

(1) For claims related to horizontally drilled wells, see Part 5 of Subchapter 9.

(2) For claims related to incremental production from production enhancement projects, see Part 9 of Subchapter 9.

(3) For claims related to reestablished production from an inactive well, see Part 11 of Subchapter 9.

(4) For claims related to deep wells, see Part 13 of Subchapter 9.

(5) For claims related to new discovery wells, see Part 15 of Subchapter 9.

(6) For claims related to economically at-risk oil leases, see Part 17 of Subchapter 9.

(7) For claims related to three-dimensional seismic shoots, see Part 19 of Subchapter 9.

(c) **Frac oil exclusion.** Procedures to be followed in computing, documenting, and claiming the exclusion for frac oil used in qualified well completions may be found in Part 3 of Subchapter 9 of this Chapter.

(d) **Claims for refund.** Claims for refunds of Gross Production Tax must include the information and conform to the procedures described in this subsection.

(1) **Claims filed within twelve months of production.** Claims for refund of gross production tax which are filed within the twelve-month period immediately following the month of production to which the claim pertains, must include:

(A) A letter stating the reason for the request, amount requested, by Gross Production Tax and Petroleum Excise Tax, the period of time covered, and the Oklahoma Tax Commission's assigned production unit numbers; and,

(B) Amended reports (Type 3) for each month, county, and product code. The amended

report must note the "**As Paid**" volumes, values, and taxes; followed by entries reflecting "**Should Have Paid**" volumes, values, and taxes; and page totals must accurately support the amount of the refund request.

(2) **Claims not filed within twelve months of production.** Claims for refund of gross production tax **not** postmarked within the twelve-month period immediately following the month of production to which the claim pertains, must include:

(A) A letter stating the reason for the request, amount requested, by Gross Production Tax and Petroleum Excise Tax, the period of time covered, and the Oklahoma Tax Commission's assigned production unit numbers;

(B) Original source documents, provided to the operator, which may include, but not be limited to: run, settlement, purchase, sales, or metered volume statements, frac affidavits, frac invoices, check stubs, worksheets, pricing bulletins, and any information necessary to verify an exemption, such as BLM lease numbers. Original and all correcting statements pursuant to the claim for refund must be submitted;

(C) Amended reports (Type 3) for each month, county, and product code, reversing the "**As Paid**" volumes, values, and taxes, then entering the "**Should Have Paid**" volumes, values, and taxes. Page totals must reflect the amount of the refund request; and,

(D) All supporting documentation required by statute or Commission rules.

(e) **Claims for credit.** For claims pertaining to production months July 2002 and later, credits may be applied to the current month's tax liability, provided that:

(1) Amended reports (Type 3) for each month, county and product code are filed. The amended reports must note the "**As Paid**" volumes, values, and taxes; followed by entries reflecting "**Should Have Paid**" volumes, values and taxes; and page totals must accurately support the amount of the credit requested. The amended reports must be submitted along with the current production month's Gross Production Tax Report.

(2) The prior month's adjustments do not exceed the current production month's liability;

(3) Magnetic media submissions conform to established magnetic media guidelines; and,

(4) Supporting documents are retained and available for submission upon request of the Oklahoma Tax Commission.

(f) **Exceptions and limitations.** Neither the refund procedures described subsection (d), nor the expedited filing procedures for claiming a credit described in subsection (e) may be used for claiming an abatement or frac oil exclusion, nor for any claims for refund submitted by a non-remitting party.

[Source: Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 17 Ok Reg 2668, eff 6-25-00; Amended at 19 Ok Reg 2838, eff 6-21-02, (emergency); Amended at 20 Ok Reg 2160, eff 6-26-03]

## SUBCHAPTER 5. REQUIRED RETURNS AND REPORTS

### 710:45-5-1. Minimum requirements of monthly production report

All producers or purchasers of asphalt or ores bearing lead, zinc, jack, gold, silver or copper or petroleum oil, mineral oil, other crude oil, condensate, reclaimed oil, gas, natural gas, casinghead gas, or liquid hydrocarbons from oil or gas produced in this state shall report volume and value of such production monthly on OTC Form 300, or any other form as may be prescribed and required by the Oklahoma Tax Commission. A separate monthly report shall be filed for each county wherein

production is reported. Each monthly report shall include the following information:

- (1) Commission assigned purchaser reporting number;
- (2) Commission assigned producer reporting number;
- (3) Commission assigned production unit number, subnumber, and merge number for each lease from which production is reported;
- (4) Assigned product code number for the product reported;
- (5) Gross amount of the product reported from each lease from which production is reported;
- (6) Zero gross amount shall be reported for each product code listed on OTC Form 320 or any amended Form 320, if no sale or purchase of such product occurs during a report period from a lease which has an assigned production unit number, subnumber and merge number;
- (7) Total value of the product reported from each lease from which production is reported; and, the Gross Production Tax and the Petroleum Excise Tax for said lease;
- (8) If zero gross amount is reported as set out in subparagraph six (6) above, zero total value shall be reported for each product code from each lease;
- (9) Social security number or, if applicable, the federal employer identification number (FEI).
- (10) Oklahoma Tax Commission disposition code of product reported;
- (11) All producers or purchasers of gas shall also include the following information in each monthly report:
  - (A) BTU content per MCF of product reported;
  - (B) Price category as certified under the National Gas Policy Act, if applicable, or Oklahoma Tax Commission Code 1 if price of product reported is determined by a contract;
  - (C) Oklahoma Tax Commission gas code for destination of product reported; and
- (12) All producers or purchasers of oil shall also include the following information in each monthly report:
  - (A) Gravity of product reported;
  - (B) Oil classification of product reported. [See: 68 O.S. §1010]
- (13) Check number or tracer number associated with the Gross Production Tax monthly report.

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 14 Ok Reg 2696, eff 6-26-97]

**710:45-5-2. Incomplete monthly production report forms filed shall constitute no report**

- (a) Any Monthly Production Report form filed with the Oklahoma Tax Commission shall include the minimum information specified in 68 O.S. §1010 and in 710:45-5-1. Any such required monthly report form that does not include these minimum requirements shall not constitute the mandatory report required by statute.
- (b) Any Gross Production, Petroleum Excise or Conservation Excise Taxes remitted with an incomplete report form shall be accepted as payment of taxes due, and upon receipt of a proper report, the tax payment shall be apportioned.
- (c) Upon receipt of a Monthly Production Report form, which has been approved by the Commission, from a person required to report monthly, which does not include the required information, the Director of the Audit Division of the Oklahoma Tax Commission, or a designee, shall notify the reporting taxpayer that:
  - (1) The monthly report form filed with the Commission does not contain the minimum information required by 68 O.S. §1010 and 710:45-5-1 and such form does not constitute a valid Monthly Production Report;
  - (2) Pursuant to this Section, the person has failed to file a Monthly Production Report;

- (3) The amount of penalties accrued; and,
- (4) Any remittance or payment made therewith has been accepted and will be apportioned by the Commission in accordance with the applicable statute. [See: 68 O.S. §1010]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96]

#### **710:45-5-3. Timely filing monthly production reports**

- (a) The Monthly Production Reports required by law shall become delinquent if not submitted to the Oklahoma Tax Commission on or before the twenty-fifth (25th) day of the second month immediately following the month in which the product, subject to Gross Production Tax, was produced.
- (b) If the due date is a Saturday, Sunday or a holiday recognized by the Executive Department of this State, then the date shall be the next official working day for the Oklahoma Tax Commission following the Saturday, Sunday or holiday.
- (c) Any report mailed in and postmarked by the United States Postal Service on or prior to the delinquency date shall be considered timely submitted. [See: 68 O.S. §1010; OAC 710:45-5-1]

[Source: Amended at 15 Ok Reg 2416, eff 6-11-98, Amended at 22 Ok Reg 1532, eff 6-11-05]

#### **710:45-5-4. Penalty for delinquent reports**

If any monthly production report is not submitted to the Oklahoma Tax Commission in accordance with Section 710:45-5-3; or if any amended report or answer to written demand for information is not timely submitted to the Commission, penalties shall be calculated, declared and collected.

#### **710:45-5-5. Waiver of penalty**

- (a) The Oklahoma Tax Commission, or a designee, may waive penalties assessed by statute for failure to timely file certain required reports, or respond to demands for information. The penalties are assessed at the rate of Five Dollars (\$5.00) per day but may be waived by the Commission if the following criteria are met:
  - (1) All taxes due on products subject to the Gross Production Tax were timely paid, if the penalty is being waived for failure to file Monthly Production Reports or amended reports; and,
  - (2) The delinquent filing of the Monthly Production Reports or amended reports did not prevent timely apportionment of the tax revenues paid or remitted without such report; and,
  - (3) The tax reporter made written request for waiver of the penalty; and,
  - (4) The tax reporter showed good cause for the delinquent filing of the report, amended report, or answer to written demand for information.
- (b) Waiver of the penalties in (a) of this Section shall be in writing and shall include a statement of the reasons therefor. [See: 68 O.S. §1010]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98]

## **SUBCHAPTER 7. SPECIAL REPORTING REQUIREMENTS**

#### **710:45-7-1. Reporting requirements of nonoperating interest owners**

Whenever a nonoperating interest owner in a lease has entered into an agreement for the sale of

casinghead or natural gas, the nonoperating interest owner must file a properly completed OTC Form 320C, which includes among other required information, the operator's name and reporting number, as well as the name of the nonoperating interest owner. [See: 68 O.S. §1009(e)]

**710:45-7-2. Retroactive crude oil price increase adjustments; timely filing and payment**

(a) Amended Monthly Production Reports and additional taxes due thereon for any retroactive increase adjustments in the posted price of crude oil shall be due and must be filed and paid or remitted to the Commission within forty (40) days from the actual date the total price of crude oil, including any retroactive increase adjustments in the posted field price, is established. Any such amended report submitted to the Commission must be accompanied with proof of the date such price was established.

(b) Amended Monthly Production Reports and additional tax due thereon for any retroactive increase adjustments in the posted price of crude oil, which are not filed within forty (40) days from the actual date the total price of such crude oil, including the retroactive increase adjustment in the posted field price, is established, shall be delinquent.

(c) Any interest or penalties ordinarily accruing on delinquent reports or payment or remittance of tax under this Section shall not be waived. [See: 68 O.S. §§217, 1010]

**710:45-7-3. Retroactive gas price increase adjustments; timely filing and payment**

(a) Amended monthly purchaser's reports and additional taxes due thereon for any retroactive increase adjustments in the price of natural or casinghead gas pursuant to an order issued by the Federal Energy Regulatory Commission, its predecessor or successor, in accordance with the Natural Gas Policy Act, 15 U.S.C.A. 3301, shall be due and must be filed and paid or remitted to the Commission within forty (40) days from the actual date the total price of the gas, including any such retroactive increase adjustments, is established. Any such amended report submitted to the Commission must be accompanied with proof of the date such price was established.

(b) Amended Monthly Production Reports and additional taxes due thereon for any retroactive increase adjustments in the price of natural gas or casinghead gas pursuant to a court order, out-of-court settlement agreement, or contract buy-out agreement shall be due and must be filed and paid to the Commission within forty (40) days from the date of the court order or settlement agreement. Such amended reports must be accompanied with proof of the date the price was established.

(c) Amended Monthly Purchaser's Reports and additional tax due thereon for any retroactive increase adjustments in the price of gas which are not filed within forty (40) days from the actual date the total price of such gas, including the retroactive increase adjustment, is established shall be delinquent. [See: 68 O.S. §§217, 1010]

## **SUBCHAPTER 9. EXEMPTIONS AND EXCLUSIONS**

### **PART 1. GENERAL PROVISIONS**

**710:45-9-1. Exemptions; decimal equivalents**

The Commission will verify decimal equivalents of exempt interests with the appropriate agency. The decimal equivalent supplied by the agency will generally stand as the correct deduction for tax purposes. However, inflation of the decimal equivalent may be allowed for purposes of accurately computing the allowable exemption for Gross Production Tax purposes. The producer or take-in-

kind owner shall provide a written explanation to the Tax Commission supporting the necessity for making the adjustment. [See: 68 O.S. § 1008]

[Source: Amended at 20 Ok Reg 2160, eff 6-26-03]

#### **710:45-9-2. Election of exemptions**

(a) **Election of exemptions generally.** Persons entitled to exemption based upon production from qualifying oil, gas, or oil and gas wells shall be entitled only to the exemption granted pursuant to:

- (1) Incremental production from enhanced recovery projects, as authorized by 68 O.S.Supp.2000, § 1001(D) and Part 7 of this Subchapter; **or**,
- (2) Horizontally drilled production wells, as authorized by 68 O.S.Supp.2000, § 1001(E) and Part 5 of this Subchapter; **or**,
- (3) Reestablished production from inactive wells, as authorized by 68 O.S.Supp.2000, § 1001(F) and Part 11 of this Subchapter; **or**,
- (4) Production enhancement projects, as authorized by 68 O.S.Supp.2000, § 1001(G) and Part 9 of this Subchapter; **or**,
- (5) Production from deep wells, as authorized by 68 O.S.Supp.2000, § 1001(H) and Part 13 of this Subchapter; **or**,
- (6) Production from new discovery wells, as authorized by 68 O.S.Supp.2000, § 1001(I) and Part 15 of this Subchapter.
- (7) Production from wells located within the boundaries of three-dimensional seismic shoot, as authorized by 68 O.S. § 1001(J) and Part 19 of this Subchapter.

(b) **Special provision.** Expiration of an exemption available for production from a qualifying well pursuant to one of Subsections (a)(2) through (a)(6) of this Section does not prohibit any person from qualifying for the exemption provided for in Subsection (a)(1).

[Source: Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01]

### **PART 3. FRAC OIL**

#### **710:45-9-10. Frac oil exclusion**

When load or frac oil is used in well completions (not produced from same lease) by injection into a formation for fracturing purposes, and the Gross Production and Petroleum Excise Taxes have been paid on the injected load or frac oil, each barrel so injected is not considered oil produced from wells where recovered and an exclusion from Gross Production Tax may be claimed for oil so used, as follows:

- (1) The load or frac exclusion for each lease may only be recovered within one year of the date of injection into the same lease.
- (2) Monthly lease load or frac oil exclusions shall not exceed monthly total lease production.
- (3) Load or frac oil exclusion value, for exclusion purposes, is the lesser of the price paid for the load or frac oil or the posted field gravity price of the oil produced on the lease where recovered.
- (4) Recovery of the load or frac oil exclusion must begin with the first production after injection. For any load or frac oil purchased, after date of injection and prior to receipt of

affidavit, OTC Form 317, the taxpayer must file an amended report and request a credit memo or tax refund. After receipt of affidavit, OTC Form 317, taxpayer may show load or frac oil exclusion on his monthly tax report.

(5) The producer must complete the operator's portion of the affidavit and supply the purchaser with the affidavit, OTC Form 317, and supporting invoices.

(6) The purchaser shall complete his portion of the affidavit, OTC Form 317.

(7) A notarized legible copy of the affidavit, OTC Form 317, must accompany each report for refund or credit memo and each monthly report that reflects a claim for load or frac oil exclusion.

(8) All load or frac oil exclusions claimed on future reports which do not comply with the provisions of this Section will be disallowed.

(9) "Lease", as used in this Section, means the Oklahoma Tax Commission Production Unit Number assigned to the particular unit.

## **PART 5. HORIZONTALLY DRILLED PRODUCTION WELLS**

### **710:45-9-20. Scope of Part 5**

Exemption from the levy of Gross Production Tax on horizontally drilled production wells set out in 68 O.S. § 1001(E) shall be determined according to the provisions of Part 5 of this Subchapter, which have been jointly adopted by the Oklahoma Corporation Commission and the Oklahoma Tax Commission pursuant to law. [See: 68 O.S. § 1001(M)(1)]

[Source: Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03]

### **710:45-9-21. Definitions**

In addition to terms defined in 710:45-1-2, the following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

**"Angle of deviation"** means that angle in which a wellbore may deviate from the vertical.

**"Date of completion of an oil well"** means the date that the well first produces into the lease tanks through permanent well head equipment.

**"Date of completion of a gas well"** means the date that gas is capable of being delivered to a pipeline purchaser.

**"Effective date"** means that the first production must have commenced after July 1, 1995 and before July 1, 2009.

**"Horizontal displacement"** means that distance drilled into the pay zone of a formation at an angle exceeding seventy (70) degrees.

**"Horizontally drilled payout"** means the point at which gross working interest revenue from the horizontally drilled well equals the cost of drilling and completing such well.

**"Horizontally drilled well"** means an oil, gas, or oil and gas well drilled or completed in a manner which encounters and subsequently produces from a geological formation at an angle in excess of seventy (70) degrees from the vertical and which laterally penetrates a minimum of one hundred and fifty (150) feet into the pay zone of the formation.

**"True vertical depth"** means that depth measured from the surface perpendicular to the surface.

[Source: Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended

at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

### **710:45-9-22. Qualification procedures [REVOKED]**

[Source: Revoked at 13 Ok Reg 3095, eff 7-11-96]

### **710:45-9-23. Costs allowed in computing horizontally drilled well payout**

Costs allowed in computing horizontally drilled well payout shall include only the costs of drilling and completing the well and shall not include any cost incurred after the completion date. Neither shall it include lease acquisition costs, tank batteries, meters, pipelines or other external equipment.

### **710:45-9-24. Time periods for exemption from gross production tax levied on horizontally drilled producing wells**

(a) **General provisions.** The exemption for horizontally drilled wells qualified pursuant to this Part shall be determined from the project beginning date until project payback is achieved, and are limited in duration to the time periods set out in this Section.

(b) **Twenty-four (24) month exemptions.** For production described in this subsection, duration of the exemption may not exceed a period of twenty-four (24) months commencing with the date of initial production from the horizontally drilled well.

(1) **Production prior to July 1, 1994.** Any incremental production which results from a horizontally drilled well producing prior to July 1, 1994.

(2) **Production prior to July 1, 2002, which commenced after July 1, 1995.** Any horizontally drilled well producing prior to July 1, 2002, which production commenced after July 1, 1995.

(c) **Forty-eight (48) month exemption.** For a horizontally drilled well producing prior to July 1, 2009, which production commenced after July 1, 2002, the duration of the exemption may not exceed a period of forty-eight (48) months commencing with the date of initial production from the horizontally drilled well. [See: 68 O.S.Supp.2002, § 1001(E)(1)]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

### **710:45-9-25. Reporting requirements [REVOKED]**

[Source: Revoked at 13 Ok Reg 3095, eff 7-11-96]

### **710:45-9-26. Audit requirements**

The horizontal drilling and completion costs claimed shall be subject to verification through audit by the Oklahoma Tax Commission.

### **710:45-9-27. Qualification procedure**

The well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall apply for qualification of the production from horizontally drilled wells, at the Oklahoma Corporation Commission on OCC Form 1534.

(1) OCC Form 1534 shall be completed in its entirety, and together with supporting

documentation, shall be submitted to the Technical Services Department of the Conservation Division of the Oklahoma Corporation Commission for review.

- (2) If the Department approves the application, a copy shall be forwarded to the operator.
- (3) If the application is denied or refused, or approval is delayed beyond sixty (60) days, the applicant may seek review by application, notice and hearing.

[Source: Added at 13 Ok Reg 3095, eff 7-11-96, Amended at 23 Ok Reg 2817, eff 6-25-06]

#### **710:45-9-28. Rebates - Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

- (1) A copy of the application approved by the Corporation Commission certifying the well as a horizontally drilled well;
- (2) A copy of an approved OTC Form 320A that shows the date of initial production;
- (3) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and
- (4) If the refund request is filed by any person other than the party named in the application, a notarized affidavit, signed by the party named in the application must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for prior periods.** Approval of a "Horizontal Drilling Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

(1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.

(2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.

(e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.

(f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for

rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.

(g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

[Source: Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2817, eff 6-25-06]

## **PART 7. INCREMENTAL PRODUCTION FROM ENHANCED RECOVERY PROJECTS OR PROPERTIES**

### **710:45-9-30. Scope of Part 7**

Exemption from the levy of Gross Production Tax on incremental production attributable to the working interest owners of oil or other liquid hydrocarbons from enhanced recovery projects and properties set out in 68 O.S. § 1001(D) shall be determined according to the provisions of Part 7 of this Subchapter. [See: 68 O.S. § 1001(D)(7)]

[Source: Amended at 11 Ok Reg 3495, eff 6-26-94; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03]

### **710:45-9-31. Definitions**

In addition to terms defined in 710:45-1-2, the following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

**"Base Production amount"** means the average monthly amount of production for the twelve (12) month period immediately prior to the project beginning date minus the monthly rate of production decline for the project or property for each month beginning one hundred eighty (180) days prior to the project beginning date.

**"Completion date"** means the date a well is first capable of being used for the injection of liquids, gases or other matter, or is capable of producing crude oil or other liquid hydrocarbons through permanent wellhead equipment.

**"Enhanced recovery project costs"** means the incremental project costs that are allowed as payback factors in determining the exemptions from the levy of gross production tax of project incremental production.

**"Existing tertiary enhanced recovery project"** means, for purposes of the exemption described in 68 O.S. § 1001(D)(1), a tertiary enhanced recovery project whose beginning date is prior to October 16, 1987.

**"Incremental production"** means the amount of crude oil or other liquid hydrocarbons which are produced during an approved enhanced oil recovery operation and which are in excess of the base production amount of crude oil or other liquid hydrocarbons.

**"Incremental working interest revenue"** means the gross value of the incremental production, less the royalty interest therein.

**"Monthly rate of production decline"** means a rate equal to the average extrapolated monthly decline rate for the twelve (12) month period immediately prior to the project beginning date as determined by the Commission, based on the production history of the field, its current status, and sound reservoir engineering principles.

**"New enhanced recovery project"** means, for purposes of the exemption described in 68 O.S. §

1001(D)(1), a secondary or tertiary enhanced recovery project whose beginning date is on or after October 16, 1987.

**"Project beginning date"** means the date on which the injection of liquids, gas, or other matter begins on an enhanced recovery operation.

**"Project payback or payout"** means that point at which the incremental working interest revenue from the enhanced recovery project equals the enhanced project costs.

**"Secondary recovery projects"** means secondary recovery projects approved or having an initial project beginning date on or after July 1, 2000 and before July 1, 2009, such that any incremental production attributable to the working interest which results from such secondary recovery property shall be exempt from the gross production tax levied pursuant to 68 O.S. Section 1001 for a period not to exceed five (5) years from the initial project beginning date or for a period ending upon the termination of the secondary recovery process, whichever occurs first.

[Source: Amended at 11 Ok Reg 3495, eff 6-26-94; Amended at 12 Ok Reg 2627, eff 6-26-95; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

### **710:45-9-32. Qualification procedures**

The provisions of this Section establish criteria for determining if an operator of an enhanced recovery project has met the required conditions to qualify the incremental production from such project for the exemption from the Gross Production Tax. [See: 68 O.S. § 1001]

(1) **Administrative approval and determination; order.** An operator, seeking an exemption of incremental production from the gross production tax shall make application to the Oklahoma Corporation Commission, as provided in OAC 165:5-7-14, for a determination that such project qualifies, a determination of the starting date, and of the base production amount.

(A) If the application is approved, a copy shall be forwarded to the operator.

(B) To obtain the tax exemption, the operator shall forward a copy of the approved application to the Oklahoma Tax Commission, together with any other data required by that agency.

(2) **Tax Commission approval of exemption.** An operator desiring an exemption from the gross production tax shall make application by letter to the Audit Division, Oklahoma Tax Commission. Such application shall be accompanied by:

(A) A copy of the approved application by the Corporation Commission containing a determination of the project beginning date, base production amount and project payback;

(B) The ratio of working interest/royalty interest in the well. Only the incremental production attributable to the working interest owners shall be exempted from the gross production tax. For purposes of this exemption, overriding royalty shall be included in working interest;

(C) A schedule of production, by month, of the gross amounts of crude oil or other liquid hydrocarbons produced, and the gross values thereof, from the project beginning date until the date application is made to the Tax Commission; and,

(D) OTC Form 320A, 320C, and 320U, as are necessary, to set up the OTC Production Units, to request merge numbers, and to show the entity who will remit taxes.

[Source: Amended at 11 Ok Reg 3495, eff 6-26-94; Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 23 Ok Reg 2818, eff 6-25-

06; Amended at 24 Ok Reg 2668, eff 7-12-2007]

**710:45-9-32.1. Recovery of costs allowed as payback factors**

(a) **Enhanced recovery projects with beginning date between October 17, 1987, and June 30, 1990.** For enhanced recovery projects whose beginning dates are October 17, 1987, through June 30, 1990, **allowable enhanced recovery project costs** shall include only incremental capital costs and incremental operating expenses associated with the enhanced recovery project.

(b) **Enhanced recovery project with beginning date between July 1, 1990, and June 30, 1993.** For any enhanced recovery project whose beginning date was July 1, 1990, through June 30, 1993, **allowable enhanced recovery project costs** shall be limited to the incremental capital costs of project start up, including the cost of completing any well necessary to the project and of converting any existing well to handle secondary or tertiary injection of liquids, gas or other matter. No expenditure after the completion date of such wells shall be included.

(c) **Secondary enhanced recovery project with beginning date on or after July 1, 1993, and before July 1, 2000.** For any secondary enhanced recovery project with a project beginning date on or after July 1, 1993, and before July 1, 2000, **allowable enhanced recovery project costs** shall include only incremental capital costs and fifty percent (50%) of incremental operating expenses, provided however, that the period for project payback shall not exceed a period of ten (10) years from the project beginning date.

(d) **Tertiary enhanced recovery project with beginning date on or after July 1, 1993, and before July 1, 2009.** For any tertiary enhanced recovery project with a project beginning date on or after July 1, 1993, and before July 1, 2009, **allowable enhanced recovery project costs** shall include only incremental capital costs and incremental operating expenses, excluding administrative expenses and the capital expense of pipelines constructed to transport carbon dioxide to a tertiary recovery project, provided such payback shall not exceed a period of ten (10) years from the project beginning date.

(e) **Excluded costs.** The cost of tank batteries, meters, pipelines or other external equipment shall not be included in allowable enhanced recovery project costs. Allowable costs shall be determined using generally accepted accounting principles such as outlined in the "**Council of Petroleum Accountants Society (COPAS) - Accounting Procedure Form for Joint Operations**" and "**COPAS Bulletin No. 16**", or subsequent revisions thereto.

[Source: Added at 11 Ok Reg 3495, eff 6-26-94; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

**710:45-9-33. Responsibility for filing and payment of taxes**

(a) **Responsibility for reporting; reporting; forms required.** The operator of a qualifying project will have primary responsibility for filing OTC Form 300-R-7-81, Gross Production Tax Monthly Tax Report, and for remitting gross production and petroleum excise taxes on project production controlled by the operator. Working interest owners who take-in-kind will be responsible for filing Gross production Monthly Tax Reports, unless the take-in-kind owner has made an agreement with his purchaser or the operator to report and remit on his behalf. A take-in-kind interest owner must submit, through the project operator, a Form 320, showing the disposition of his share of production. Purchasers may report taxes on project production with the approval of the Tax Commission, provided whenever there are multiple purchasers from a project, each

reporting purchaser must report his allocated share of production, incremental production, and any exempt interest. All persons remitting taxes must comply with Tax Commission security requirements.

(b) **Valuation of incremental production.** When an operator or a single purchaser files the gross production tax reports and remits taxes, the incremental production will be valued at the volume-weighted average price per barrel of all crude oil or other liquid hydrocarbons produced from the project during the month. When multiple purchasers file the gross production tax reports and remit taxes, the incremental production will be valued at the volume-weighted average price per barrel purchased for the month, by each purchaser individually.

(c) **Method of computing production, base production amount and incremental production.**

- (1) Frac oil recovered must be excluded as a Code 07 exemption. Frac oil will not be counted as part of the project base production amount, nor as incremental production.
- (2) Incremental production will be deducted next as a Code 11 exemption.
- (3) Exempt interests will be deducted next, in order of exemption code, as a decimal equivalent of the amount and value of production remaining after subtraction of the frac oil and incremental production.

#### **710:45-9-34. Summary reports; due dates; final project report**

(a) For secondary recovery projects approved prior to July 1, 2000, and tertiary recovery projects approved prior to July 1, 2009, operators of exempt projects will submit to the Oklahoma Tax Commission annual summaries of project operations, on each anniversary of the project's beginning date, showing:

- (1) Original capital investment in the enhanced recovery project;
- (2) Additional investments in the enhanced recovery project;
- (3) Enhanced recovery project operating expense for previous years, when applicable;
- (4) Enhanced recovery project operating expense for the current year, when applicable;
- (5) Schedule of project production (volume and value) by year of operation;
- (6) Royalty payments, by year; and.
- (7) Computation of revenue applied to project payback.

(b) The annual summary is to be filed with the Oklahoma Tax Commission on or before the sixtieth (60th) day following each anniversary of the project's beginning date.

(c) A final project report must be filed within sixty (60) days of achieving project payback.

[Source: Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

#### **710:45-9-35. Expiration of exemption for incremental production**

For secondary recovery projects approved prior to July 1, 2000, and tertiary recovery projects approved prior to July 1, 2009, once the gross working interest revenue equals the enhanced recovery project cost, the exemption of incremental production shall end and the Oklahoma Tax Commission shall resume collection of the Gross Production Tax thereon.

[Source: Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

#### **710:45-9-36. Limitation of exemption [REVOKED]**

[Source: Revoked at 13 Ok Reg 3095, eff 7-11-96]

## PART 9. PRODUCTION ENHANCEMENT PROJECTS

### 710:45-9-40. Scope of Part 9

Exemption from the levy of gross production tax on the incremental production which results from a production enhancement project with a project beginning date on or after July 1, 1994, and prior to July 1, 2009, set out in 68 O.S. § 1001(G) shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and Oklahoma Tax Commission pursuant to 68 O.S. § 1001(M)(1).

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

### 710:45-9-41. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

**"Base production"** means the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project or the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project less the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the commencement of the project. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the commencement of the project based on the production history of the well. If the well or wells covered by the application had production for less than the full twelve-month period prior to the filing of the application for the production enhancement project, the base production shall be the average monthly production for the months during that period that the well or wells produced.

**"Effective date"** means the project beginning date for the production enhancement project.

**"Exemption period"** means a period of twenty-eight (28) months from the date of first sale after completion of the production enhancement project.

**"Incremental production"** means the amount of crude oil, natural gas or other hydrocarbons which are produced as a result of the production enhancement project in excess of the base production.

**"Production enhancement project"** means:

(A) For production enhancement projects having a project beginning date prior to July 1, 1997, any workover or recompletion, as those terms are defined in this Section, or fracturing of a producing well.

(B) For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2009, any workover or recompletion, as those terms are defined in this Section, any reentry of plugged and abandoned wellbores, or addition of well or field compression.

**"Recompletion"** means:

(A) For production enhancement projects having a project beginning date prior to July 1,

1997, any downhole operation in an existing oil well or gas well that is conducted to establish production of oil or gas from any geological interval not currently completed or producing in such existing oil or gas well.

(B) For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2009, any downhole operation in an existing oil well or gas well that is conducted to establish production of oil or gas from any geologic interval not currently completed or producing in such existing oil or gas well within the same or a different geologic formation.

**"Workover"** means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery in a geologic interval currently completed or producing in said existing oil or gas well. For production enhancement projects having a project beginning date prior to July 1, 1997, **"workover"** includes, but is not limited to, acidizing, reperforating, fracture treating, sand/paraffin removal, casing repair, squeeze cementing, or setting bridge plugs to isolate water productive zones from oil or gas productive zones, or any combination thereof. For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2009, **"workover"** includes, but is not limited to, acidizing; reperforating; fracture treating; sand, paraffin, or scale removal or other wellbore cleanouts; casing repair; squeeze cementing; installation of compression on a well or group of wells or artificial lifts on oil, gas, or oil and gas, wells, including plunger lifts, rod pumps, submersible pumps and coiled tubing velocity strings; downsizing existing tubing to reduce well loading; downhole commingling; bacteria treatments; upgrading the size of pumping unit equipment; setting bridge plugs to isolate water production zones; or any combination thereof. **"Workover"** shall not mean the routine maintenance, routine repair, or like-for-like replacement of downhole equipment such as rods, pumps, tubing, packers, or other mechanical devices.

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 14 Ok Reg 2696, eff 6-26-97; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

#### **710:45-9-42. Qualification procedure**

The well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall apply for qualification of the production enhancement project and incremental production, at the Oklahoma Corporation Commission on OCC Form 1534.

- (1) OCC Form 1534 shall be completed in its entirety, and together with supporting documentation, shall be submitted to the Technical Services Department of the Conservation Division of the Oklahoma Corporation Commission for review.
- (2) If the Department approves the application, a copy of the approved application shall be forwarded to the operator.
- (3) If the application is denied or refused, or approval is delayed beyond sixty (60) days, the applicant may seek review by application, notice and hearing.

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended 23 Ok Reg 2818, eff 6-25-06]

**710:45-9-43. Rebates - Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

- (1) A copy of the application approved by the Corporation Commission certifying the well as production enhanced;
- (2) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and
- (3) If the refund request is filed by any person other than the party named in the application, a notarized affidavit, signed by the party named in the application must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for prior periods.** Approval of a "Production Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

(1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.

(2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.

(e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.

(f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.

(g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-

13-04; Amended 23 Ok Reg 2818, eff 6-25-06]

## **PART 11. REESTABLISHMENT OF PRODUCTION FROM AN INACTIVE WELL**

### **710:45-9-50. Scope of Part 11**

Exemption from the levy of gross production tax on the reestablishment of production from an inactive well set out in 68 O.S. § 1001(F) shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and Oklahoma Tax Commission pursuant to 68 O.S. § 1001(M)(1).

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03]

### **710:45-9-51. Definitions**

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

**"Effective date"** means the date on which the reestablishment of production has occurred.

**"Exemption period"** means a period of twenty-eight (28) months from the date upon which production from an inactive well is reestablished.

**"Inactive well"** means a well which can be defined pursuant to one of the following:

(A) A well which, after July 1, 1997, experiences mechanical failure or loss of mechanical integrity, as defined by the Corporation Commission, including, but not limited to, casing leaks, collapse of casing, or loss of equipment in a wellbore, or any similar event which causes cessation of production and results in a workover of the well, as evidenced by the use of a workover rig or other mechanical device being placed over the well to repair the well or equipment.

(B) A well on which work to reestablish production commenced on or after July 1, 1994, and on or before June 30, 1997, that has not produced oil, gas, or oil and gas for a period of not less than two (2) years, as evidenced by the appropriate forms on file with the Oklahoma Corporation Commission reflecting the well's status.

(C) A well on which work to reestablish production commenced on or after July 1, 1997, and on or before July 1, 2009, that has not produced oil, gas, or oil and gas for a period of not less than one (1) year, as evidenced by the appropriate forms on file with the Oklahoma Corporation Commission, reflecting the well's status.

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at

### **710:45-9-52. Qualification procedure**

The well operator or one of the working interest owners, on behalf of the well operator and the other owners of the well, shall apply for qualification of the well and production at the Oklahoma Corporation Commission on OCC Form 1534.

- (1) OCC Form 1534 shall be completed in its entirety, and together with supporting documentation, shall be submitted to the Technical Services Department of the Conservation Division of the Oklahoma Corporation Commission for review.
- (2) If the Department approves the application, a copy of the approved application shall be forwarded to the operator.
- (3) If the application is denied or refused, or approval is delayed beyond sixty (60) days, the applicant may seek review by application, notice and hearing.

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended 23 Ok Reg 2819, eff 6-25-06]

### **710:45-9-53. Rebates - Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

- (1) A copy of the application approved by the Corporation Commission certifying the well as an inactive well for which production has been reestablished;
- (2) A copy of an approved OTC Form 320C that shows the date of the reestablishment of production of oil and/or gas;
- (3) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and
- (4) If the refund request is filed by any person other than the party named in the application, a notarized affidavit, signed by the party named in the application must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for prior periods.** Approval of a "Reestablished Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

- (1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.
- (2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund

amounts to the eligible interest owners.

- (e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.
- (f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.
- (g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended 23 Ok Reg 2819, eff 6-25-06]

## PART 13. DEEP WELLS

### 710:45-9-60. Scope of Part 13

- (a) **General provisions.** Exemption from the levy of gross production tax on the production of gas, oil, or gas and oil from wells certified as being "Deep Wells" set out in 68 O.S. § 1001(H) shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and the Oklahoma Tax Commission pursuant to 68 O.S. § 1001(M)(1).
- (b) **Definitions.** For purposes of qualifying for the exemption, "**depth**" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing.
- (c) **Exemption for wells spudded between July 1, 1994, and June 30, 1997, to a depth of fifteen thousand (15,000) feet or greater.** Deep wells spudded between July 1, 1994, and June 30, 1997, and drilled to a depth of fifteen thousand (15,000) feet or greater shall be exempt from the gross production tax, beginning from the date of first sale, for a period of twenty-eight (28) months.
- (d) **Exemption for wells spudded between July 1, 1997, and June 30, 2002, to a depth of twelve thousand five hundred (12,500) feet.** Deep wells spudded between July 1, 1997, and June 30, 2002, and drilled to a depth of twelve thousand five hundred (12,500) feet or greater shall be exempt from the gross production tax, beginning from the date of first sale, for a period of twenty-eight (28) months.
- (e) **Exemption for wells spudded on or after July 1, 2002.** Deep wells spudded on or after July 1, 2002, shall be eligible for an exemption from the gross production tax which shall begin from the date of first sale, and vary as to duration in relation to the depth of the well.
- (1) **12,500 to 14,999 feet and spudded between July 1, 2002 and July 1, 2009.** The duration of the exemption for wells drilled to this depth is twenty-eight (28) months.
  - (2) **15,000 to 17,499 feet and spudded between July 1, 2002 and June 30, 2008.** The duration of the exemption for wells drilled to this depth is forty-eight (48) months.
  - (3) **17,500 feet or greater and spudded between July 1, 2002 and June 30, 2008.** The duration of the exemption for wells drilled to this depth is sixty (60) months.

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13

Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2820, eff 6-25-06; Amended at 24 Ok Reg 2668, eff 7-12-2007]

### **710:45-9-61. Definitions [REVOKED]**

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Revoked at 15 Ok Reg 1145 eff 1-5-98 (emergency); Revoked at 15 Ok Reg 2416, eff 6-11-98]

### **710:45-9-62. Qualification procedure**

The well operator or one of the working interest owners, on behalf of the well operator and the other owners of the well, shall apply for qualification of the well at the Oklahoma Corporation Commission on OCC Form 1534.

- (1) OCC Form 1534 shall be completed in its entirety, and together with supporting documentation, shall be submitted to the Technical Services Department of the Conservation Division of the Oklahoma Corporation Commission for review.
- (2) If the Department approves the application, a copy of the approved application shall be forwarded to the operator.
- (3) If the application is denied or refused, or approval is delayed beyond sixty (60) days, the applicant may seek review by application, notice and hearing.
- (4) When processing applications for qualifications for an exemption for Deep Wells as provided in this Section. The Oklahoma Corporation Commission shall give priority to those applications filed for an exemption pursuant to OAC 165:10-21-45(e)(2) and (3) in order for applicants to comply with the six-month filing period as provided for in Title 68 O.S. § 1001(H)(5).
- (5) Claims for refund for deep wells spud on/or after July 1, 2005 which are completed at a depth of fifteen thousand (15,000) feet or greater and certified by the Oklahoma Corporation Commission must be filed with the Tax Commission no later than six (6) months after the first day of the fiscal year in which the refund is initially available.

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 23 Ok Reg 2820, eff 6-25-06]

### **710:45-9-62.1. Rebates - Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

- (1) A copy of an application approved by the Corporation Commission certifying the well as a well spudded within the applicable time periods and drilled to the prescribed depths provided in OAC 165:10-21-45;
- (2) A copy of an approved OTC Form 320A that shows date of first sale of production;
- (3) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and
- (4) If the refund request is filed by any person other than the party named in the application,

a notarized affidavit, signed by the party named in the application must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for prior periods.** Approval of a "Deep Well Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.

(d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.

(1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.

(2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.

(e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.

(f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available. Claims for refund for deep wells spud on/or after July 1, 2005 which are completed at a depth of fifteen thousand (15,000) feet or greater and certified by the Oklahoma Corporation Commission must be filed with the Tax Commission no later than six (6) months after the first day of the fiscal year in which the refund is initially available.

(g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended 23 Ok Reg 2821, eff 6-25-06]

#### **710:45-9-63. Audit requirements [REVOKED]**

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Revoked at 18 Ok Reg 869, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1330, eff 5-11-01]

#### **710:45-9-64. Limitation on total amount of refunds paid by the Tax Commission**

(a) For all wells spudded after July 1, 2005 which are exempt from gross production tax pursuant to paragraphs (2) and (3) of subsection (e) of Section 710:45-9-60, the amount of refund paid by the Tax Commission shall be limited as follows:

- (1) For the fiscal year ending June 30, 2006, no claims for refund shall be paid,
- (2) For the fiscal year ending June 30, 2007, the total amount of refunds paid shall be equal to or less than \$17,000,000.00.
- (3) For fiscal year ending June 30, 2008, the total amount of refunds paid shall be equal to or less than \$20,000,000.00.
- (4) For fiscal year ending June 30, 2009, and any fiscal year thereafter, the total amount of refunds paid each fiscal year shall be equal to or less than \$25,000,000.00.

(b) In the event the total amount of claims for refund requested within the six month filing period July 1<sup>st</sup> through December 31<sup>st</sup>, for a fiscal year exceeds the total amount of refunds allowed for that fiscal year as provided for in this Section, the Tax Commission will proportionally reduce the amount of each claim so that the total amount of claims equal the total amount allowed for refunds.

(c) In the event the total amount of claims for refund filed within the six month filing period July 1<sup>st</sup> through December 31<sup>st</sup>, is less than the total amount of refunds allowed for that fiscal year, the Tax Commission will pay the claims that have been filed and extend the claims filing period for three additional months immediately following the expiration of the initial six month filing period until March 31<sup>st</sup>. If the total amount of claims for refund filed within the extended three month filing period is greater than the remaining funds, the Tax Commission will proportionally reduce the amount of each claim so that the total amount of claims equals the funds remaining to pay refund claims.

[Source: Added at 23 Ok Reg 2821, eff 6-25-06]

## **PART 15. NEW DISCOVERY WELLS**

### **710:45-9-70. Scope of Part 15**

Exemption from the levy of gross production tax on the production of gas, oil, or gas and oil from wells spudded or reentered between July 1, 1995 and July 1, 2009, which qualify as a new discovery well pursuant to Title 68, Section 1001(I) shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and the Oklahoma Tax Commission pursuant to 68 O.S. § 1001(M)(1).

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

### **710:45-9-71. Definitions**

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

**"New discovery"** means production of oil, gas, or oil and gas from:

- (A) A well, spudded or reentered on or after July 1, 1997, which discovers crude oil in paying quantities, and is located more than one (1) mile from the nearest oil well producing from the same producing formation.

(B) A well, spudded or reentered on or after July 1, 1997, and prior to July 1, 2009, which discovers crude oil in paying quantities, and is located more than one (1) mile from the nearest oil well producing from the same producing interval of the same formation.

(C) A well, spudded or reentered prior to July 1, 1997, which discovers crude oil in paying quantities beneath current production in a deeper producing formation, located more than one (1) mile from the nearest oil well producing from the same deeper producing formation.

(D) A well, spudded or reentered on or after July 1, 1997, and prior to July 1, 2009, which discovers crude oil in paying quantities beneath current production in a deeper producing interval, located more than one (1) mile from the nearest oil well producing from the same deeper producing interval.

(E) A well, spudded or reentered prior to July 1, 1997, which discovers natural gas in paying quantities, and is located more than two (2) miles from the nearest gas well producing from the same producing formation.

(F) A well, spudded or reentered on or after July 1, 1997, and prior to July 1, 2009, which discovers natural gas in paying quantities, and is located more than two (2) miles from the nearest gas well producing from the same producing interval.

(G) A well, spudded or reentered prior to July 1, 1997, which discovers natural gas in paying quantities beneath current production in a deeper producing formation, that is more than two (2) miles from the nearest gas well producing from the same deeper producing formation.

(H) A well, spudded or reentered on or after July 1, 1997, and prior to July 1, 2009, which discovers natural gas in paying quantities beneath current production in a deeper producing interval, that is more than two (2) miles from the nearest gas well producing from the same deeper producing interval.

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

#### **. 710:45-9-72. Qualification procedure**

The well operator or one of the working interest owners, on behalf of the well operator and the other owners of the well, shall apply for qualification of the well at the Oklahoma Corporation Commission on OCC Form 1534.

(1) OCC Form 1534 shall be completed in its entirety and together with supporting documentation, shall be submitted to the Technical Services Department of the Oklahoma Corporation Commission for review.

(2) If the Department approves the application, an approved copy shall be forwarded to the operator.

(3) If the application is denied or refused, or approval is delayed beyond sixty (60) days, the applicant may seek review by application, notice and hearing.

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 23 Ok Reg 2822, eff 6-25-06]

#### **710:45-9-73. Rebates - Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation

Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

- (1) A copy of the application approved by the Corporation Commission certifying the well as a new discovery well spudded or re-entered between July 1, 1995 and July 1, 2009;
  - (2) A copy of an approved OTC Form 320A that shows date of first sale of production;
  - (3) A properly completed OTC Form 328 Gross Production 841/495 Refund Report; and
  - (4) If the refund request is filed by any person other than the party named in the application, a notarized affidavit, signed by the party named in the application must be filed, authorizing the applicant to apply for the refund.
- (b) **No time limitation on rebate for prior periods.** Approval of a "New Discovery Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.
- (c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.
- (d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.
- (1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.
  - (2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.
- (e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.
- (f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.
- (g) **Method of appeal.** If the refund is denied the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2822, eff-6-25-06; Amended at 24 Ok Reg 2668, eff 7-12-2007]

**710:45-9-74. Audit requirements [REVOKED]**

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Revoked at 18 Ok Reg 869, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1330, eff 5-11-01]

**PART 17. ECONOMICALLY AT-RISK LEASES****710:45-9-80. Scope of Part 17**

Exemption from the levy of Gross Production Tax on economically at risk leases set out in 68 O.S.Supp.1999, Section 1001.3 shall be determined according to the provisions of this Part. [See: 68 O.S.Supp.1999, Section 1001.3(F)]

[Source: Added at 14 Ok Reg 2696, eff 6-26-97; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 23 Ok Reg 2822, 6-25-06]

**710:45-9-81. Definitions**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Economically at risk oil lease**" means any lease operated at a net loss or a net profit which is less than the total gross production tax remitted for such lease during the previous tax reporting year.

"**Lease**" means a spaced unit, a separately metered formation within the spaced unit, or each tract within a Corporation Commission approved unitization, or a lease which, for tax reporting purposes, has been assigned a production unit number. A lease may contain one or more wells which have identical interest and payout.

"**Oil lease**" means a lease containing one or more wells which have identical interest and payout and which are either:

(A) Classified by the Oklahoma Corporation Commission as an oil well, OR

(B) The ratio of gas to oil produced from the lease is equal to or less than fifteen thousand (15,000) cubic feet of gas for each one (1) barrel of oil produced.

Note: The economically at risk rebate applicable to calendar years 1997 and 1998 only pertains to a qualified oil lease. The economically at risk rebate applicable to calendar years 2005, 2006 and 2007 pertains to both qualified oil and gas leases.

[Source: Added at 14 Ok Reg 2656, eff 6-26-97; Amended at 15 Ok Reg 2156, eff 4-22-98 through 7-14-99 (emergency); Amended at 17 Ok Reg 2668, eff 6-25-00; Amended at 23 Ok Reg 2822, eff 6-25-06]

**710:45-9-82. Exemption period**

The exemption for economically at risk oil leases is limited to calendar years 1997 and 1998. The exemption for economically at risk oil and gas leases is limited to calendar years 2005, 2006 and 2007.

[Source: Added at 14 Ok Reg 2696, eff 6-26-97; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 17 Ok Reg 2668, eff 6-25-00; Amended at 23 Ok Reg 2823, eff 6-25-06]

**710:45-9-83. Certification**

(a) **General provisions.** This Section establishes criteria for determining whether an operator of an economically at risk oil lease has met the required conditions to apply for an exemption from

gross production tax levied on such and establishes a procedure for the issuance of the refund.

(b) **Application to Oklahoma Tax Commission; determination; approval.** Any operator who desires to make application to have a lease certified as being economically at risk shall complete the appropriate OTC Form in its entirety and file it with the Commission. The application must be notarized and properly signed by the operator.

(c) **Formula used to determine if lease is economically at risk.** The application sets out the formula used to determine if a lease is economically at risk. This entails subtracting from the gross revenue from each lease for the previous calendar year, any severance taxes, royalty payments, and lease operating expenses, including expendable workover and recompletion costs for the previous calendar year, and overhead costs up to the maximum overhead percentage allowed by the Council of Petroleum Accountants Societies (COPAS). For purposes of this calculation, depreciation, depletion, and intangible drilling costs shall **not** be included in lease operating expenses.

(d) **Commission may require additional information.** For audit purposes, the Commission may require additional information, such as copies of the operators Federal Income Tax Return, joint interest billings, or other documentation regarding lease production or expenses.

(e) **Letter of determination issued by Commission.** Within sixty days from the date the application is filed, the Commission shall make its determination and shall issue, either an approval letter or denial letter, to the lease operator. If the exemption is denied, an explanation for the denial will be provided. The applicant may file an appeal under provisions of 68 O.S. §227, 228 and the Rules of this Commission.

[Source: Added at 14 Ok Reg 2696, eff 6-26-97; Amended at 23 Ok Reg 2823, eff 6-25-06]

#### **710:45-9-84. Refund procedure**

(a) **Issuance of refund.** Upon certification by the Commission, a refund of the gross production taxes paid in the previous calendar year for the lease shall be issued after July 1 of the subsequent year, to the well operator or a designee.

(b) **Assignment of a designee.** If the refund is to be issued to a party other than the recognized operator, a notarized affidavit, signed by the be operator must be submitted to the Commission authorizing the designee to receive the refund.

(c) **No time limitation on rebate for qualifying wells.** Approval of an "Economically at-Risk Oil Lease" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

[Source: Added at 14 Ok Reg 2696, eff 6-26-97; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 23 Ok Reg 2823, eff 6-25-06]

## **PART 19. PRODUCTION USING THREE DIMENSIONAL SEISMIC SHOOT**

#### **710:45-9-90. Scope of Part 19**

Exemption from the levy of gross production tax on the production of oil, gas or oil and gas from a well, drilling of which is commenced after July 1, 2000, and prior to July 1, 2009, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, as set out in 68 O.S. § 1001(J), shall be determined according to the provisions of this Part. [See: 68 O.S. § 1001(M)(1); Amended at 21 Ok Reg 1128, eff 5-13-04]

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

#### **710:45-9-91. Definitions**

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

**"Three-dimensional seismic shoot"** means any three-dimensional geophysical or seismic exploration activity conducted and finished in the field for the purpose of drilling for, and producing oil, gas, or oil and gas from geological formations, intervals, and/or common sources of supply.

**"Three-dimensional seismic technology"** means any three-dimensional geophysical or seismic equipment or instruments, data processing equipment, and/or data utilized to evaluate geological formations, intervals and/or common sources of supply in connection with a three-dimensional seismic shoot.

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01]

#### **710:45-9-92. Qualification procedure**

(a) **General provisions.** The provisions of this Section establish criteria for determining if an operator producing oil, gas or oil and gas from a well, drilling of which is commenced after July 1, 2000, and prior to July 1, 2009, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, has met the required conditions to qualify the production from such a well for the exemption from the Gross Production Tax. [See: 68 O.S. § 1001(J)]

(b) **Administrative approval and determination.** An operator seeking an exemption of the gross production tax on production from a well located within the boundaries of a three-dimensional seismic shoot and drilled based on such technology, shall make application to the Oklahoma Corporation Commission on a Form 1534 for a determination that the well qualifies for such exemption, as provided in 68 O.S.Supp.2000, § 1001(J).

(1) If the application is administratively approved, a copy shall be forwarded to the operator.

(2) To obtain the tax exemption, the operator shall forward a copy of the approved application to the Oklahoma Tax Commission, together with any other data required by that agency pursuant to OAC 165:10-21-88.

(3) Any data, maps and other information submitted with the OCC Form 1534 for determination that a well qualifies for the exemption provided in this paragraph shall be held as confidential information by the Conservation Division and/or Commission, and shall be returned to the applicant or destroyed upon approval of the application.

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2823, eff 6-25-06; Amended at 24 Ok Reg 2668, eff 7-12-2007]

#### **710:45-9-93. Rebates - Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state

the reason for refund and the amount claimed and must be accompanied by the following:

- (1) Corporation Commission order approving such application and containing a determination that the well meets the criteria of the statute insofar that its drilling was commenced after July 1, 2000, and prior to July 1, 2009; that it is located within the boundaries of a three-dimensional seismic shoot and was drilled based on such technology; and indicating whether the seismic shoot was shot either prior to, or after July 1, 2000.
  - (2) A schedule of production, by month, of the gross amounts of oil, gas, or oil and gas produced, and the gross values thereof, from the date of first sale until the date application is made to the Tax Commission.
  - (3) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.
- (b) **No time limitation on rebate for prior periods.** Approval of a "Three-Dimensional Incentive" for production periods prior to July 1, 2003, shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.
- (c) **Documentation of required investment.** For production periods beginning on or after July 1, 2003, no refund shall be paid unless the person authorized to make the claim for refund on behalf of the aggregate owners and operator provides a written statement demonstrating that an amount has been invested which is equal to, or greater than the amount of the refund. The required investment in the exploration for, or production of, oil or natural gas in this state may be made by any individual or combination of aggregate owners and operators, but may not be based upon amounts invested prior to three years from the date of the claim. Any investment used to qualify for a rebate/refund pursuant to this Section shall not be used to qualify for any other refund/rebate.
- (d) **Refund limited to interest owners of record and operators at time of qualifying act.** Only the operator and interest owners of record at the time of the qualifying act are eligible for the rebate of gross production tax attributable to their interest in the project.
- (1) In the case of a change in the operator of a qualified project, it is permissible for the new operator to file the claim for refund on behalf of all participating interest owners for the prior and the current periods, although the new operator would not be eligible for any share in the refund.
  - (2) A former operator or interest owner may also file the claim for the periods in which the owner or operator actively participated in the project and distribute the appropriate refund amounts to the eligible interest owners.
- (e) **Notice of changes in operator and interest owners.** Effective July 1, 2004, the person filing a claim for refund pursuant to this Section shall provide written notice of any changes in the operator or interest owners that have occurred in the project. Refunds shall be based solely upon the interest owners and operators in place at the time of the qualifying act.
- (f) **Claim limitation.** For production periods beginning on or after July 1, 2003, no claim for rebate pursuant to 68 O.S. § 1001(L) shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is initially available.
- (g) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-2007]

#### **710:45-9-94. Applicable time periods**

The exemption from gross production tax levied on oil, gas or oil and gas production from a well qualified pursuant to this Part shall be applied as follows:

- (1) **Eighteen (18) month exemption.** For a well where the seismic shoot was shot prior to July 1, 2000, the well shall be exempt from the gross production tax levied from the date of first sales for a period of eighteen (18) months.
- (2) **Twenty-eight (28) month exemption.** For a well where the seismic shoot was shot on or after July 1, 2000, the well shall be exempt from the gross production tax levied from the date of first sales for a period of twenty-eight (28) months.

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03]

## SUBCHAPTER 11. TRANSPORTERS

### 710:45-11-1. Definitions

In addition to terms defined in 710:45-1-2, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Load Ticket"** means a document or bill of lading describing the source, contents and destination of any load of petroleum tank bottoms, BS&W or other liquid hydrocarbon, salt water or any combination of these products. A valid load ticket must contain the following information:

- (A) the name and address of the company owning or leasing the transporting vehicle,
- (B) the Gross Production Vehicle Permit number of the vehicle,
- (C) the date of transport,
- (D) the name of the company or person owning the lease or storage facility from which the product is being removed, or if different, the name of the company or person owning the product before its removal,
- (E) the OTC assigned production unit number of the lease or a precise description of the location of non-lease storage from which the product is removed,
- (F) a description of the product being transported,
- (G) the approximate number of barrels being transported,
- (H) the name and address of the person or firm who will receive or store the load and (I) the driver's signature.

**"Petroleum transporter"** means any person or firm owning, leasing or otherwise controlling any vehicle or conveyance, other than railroad tank cars or pipelines, used in the transportation of measurable amounts of any product subject to Gross Production Tax. One percent (1%) or more by volume shall be a measurable amount.

**"Tank bottoms"** means the mixture of oil and BS&W (basic sediment and water) that collects or settles in the bottom portion of lease or other oil storage tanks. Tank bottoms may be called BS&W. Salt water from salt water storage tanks shall not be shown on load tickets as tank bottoms or BS&W unless it contains one percent (1%) or more oil content by volume. [See: 68 O.S. § 1013]

### 710:45-11-2. Transporter license and permits

The Director of the Registration Division of the Oklahoma Tax Commission, or a designee, is authorized to issue and renew non-transferrable licenses and vehicle permits, upon license and permit forms approved by the Commission, to transporters, other than railroad or pipeline transporters, of any product subject to the Oklahoma Gross Production Tax, upon receipt of the

following:

- (1) A properly completed Application for Transporters License upon a form approved by the Oklahoma Tax Commission;
- (2) Completed and duly executed Gross Production Tax Bond or cash bond in the amount of One Thousand Dollars (\$1,000.00), which has been approved by the Commission; and
- (3) Payment of a fee in the amount of One Hundred Fifty Dollars (\$150.00) for each license issued, renewed or reinstated and the first vehicle permit, and Five Dollars (\$5.00) for each additional vehicle permit. [See: 68 O.S. § 1013]

[Source: Amended at 12 Ok Reg 2627, eff 6-26-95; Amended at 13 Ok Reg 3095, eff 7-11-96]

### **710:45-11-3. Operation without license and permit prohibited**

No person or firm shall engage in transportation of any product subject to Gross Production Tax prior to securing from the Tax Commission a License to Transport Petroleum Liquid Hydrocarbons and a Gross Production Vehicle Permit for each truck or other conveyance used in the transportation of such products.

### **710:45-11-4. Expiration and renewal**

Licenses to Transport Petroleum Liquid Hydrocarbons shall be issued for periods of three (3) years and shall become invalid unless renewed on or before the anniversary of their issuance. Gross Production Vehicle Permits shall expire on the same date as the licenses under which they are issued. No license or permit issued hereunder may be leased, sold or otherwise transferred to any other person or firm.

[Source: Amended at 12 Ok Reg 2627, eff 6-26-95]

### **710:45-11-5. Security required**

The security required by law to be posted by petroleum transporters shall run to the State of Oklahoma and shall be for the purpose of guaranteeing payment of all taxes and penalties and interest thereon, any amount due under 68 O.S. §1003, and any penalties imposed by the Commission under 68 O.S. §1010, for failure or refusal to file any report required by statute or regulation, or for late filing thereof or for failure or refusal to provide any information demanded by the Commission. [See: 68 O.S. §1013]

### **710:45-11-6. Display of license and permit; strict compliance; employer liability**

- (a) The petroleum transporter license issued pursuant to this Subchapter shall be posted in the office of the licensee's place of business and the vehicle permits shall be displayed in the cabs of the vehicles for which they are issued. The licensee shall maintain a file in his office of the duplicates of the vehicle permits. Licensees shall promptly notify the Registration Division of the sale or discontinuance of the use of any vehicle and surrender the permit therefor. They shall apply for a Gross Production Vehicle Permit for any additional vehicle before it is placed into use. Permits may not be exchanged from one vehicle to another. Licensees shall have painted or affixed by decalomania process, in four-inch letters and numbers on the door of each vehicle, their company name and the Gross Production Vehicle Permit number, which shall be preceded by the initials "O.T.C.."
- (b) Every person or firm required to be licensed hereunder shall be responsible for seeing that the

driver of any vehicle or conveyance owned or leased by the licensee and used in the transportation of any substance covered herein has read this regulation and complies with its requirements. The licensees of such vehicles shall be strictly accountable for the actions of their employees.

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96]

**710:45-11-7. Load ticket or invoice required**

- (a) No petroleum transporter licensee or employee thereof shall enter upon any oil or gas lease or other place where products covered by the provisions of this Subchapter are stored, remove any product or substance from any oil or gas lease or other place of storage, without the express consent of the lease operator or owner or an agent or employee of that operator or owner.
- (b) Petroleum transporters shall not remove from any oil or gas lease or other place of storage within this state any product covered by 68 O.S. §1013 unless prior to removal, such transporter shall prepare, in triplicate, an invoice or load ticket covering the product removed and leave a copy of that load ticket or invoice at the place from which it is removed. It shall be the duty of every lease operator to provide a receptacle on each lease to receive such load tickets or invoices.
- (c) The driver of the truck or other conveyance used to remove any substance covered herein from any lease or other place of storage shall keep a copy of the load ticket in his possession at all times while the load is in transit and upon delivery of the load shall furnish a copy to the person or firm buying or receiving the load. After delivery, he shall give his copy to the person or firm licensed to operate the transporting vehicle.
- (d) Every person or firm required to receive a copy of the load ticket or invoice shall keep such copies for not less than three years after the date of transportation.

**710:45-11-8. Required transporter reports**

- (a) Every person or firm who transports any oil, gas or other liquid hydrocarbon or any deleterious substance as defined by 52 O.S. §139 shall maintain a log on OTC Form 323A of all loads transported and shall keep such log for a period of three years from the date of transportation. Each person or firm required to be licensed hereunder shall file with the Tax Commission, each month under oath, OTC Form 323A listing each load of products regulated by 68 O.S. §1013 transported during the preceding month. Such report shall be due the first day of the month following the month of business being reported and shall be delinquent if not filed on or before the 10th day of the month following the month it becomes due.
- (b) Transporters who transport lease purchase oil where the transporter is the tax remitter of record with the Tax Commission shall report the transportation of that oil on OTC Form 300R-7-81.

## **SUBCHAPTER 13. REFINERS AND PROCESSORS**

**710:45-13-1. Refiner or processor license**

- (a) The Director of the Registration Division of the Oklahoma Tax Commission, or a designee, is authorized to issue non-transferrable licenses, upon the license form approved by the Commission, to refiners, or other processors of any product subject to the Oklahoma Gross Production Tax, upon receipt of the following:
  - (1) Completed and duly executed Request for Assignment of Oklahoma Tax Commission Production Unit Number, OTC Form 320, from the applicant; and,

- (2) Completed and duly executed Application for Refiner's License to Process Petroleum Oil or Casinghead Gas, OTC Form 309, in triplicate, from the applicant; and,
  - (3) Completed and duly executed Gross Production Tax Bond from the applicant, which has been approved by the Commission.
- (b) Any refiner-applicant, who has established that it has tangible assets in this state of sufficient value to protect the State against loss of Gross Production, Petroleum Excise or Conservation Excise Taxes, may obtain a refiner's license without bond. [See: 68 O.S. §1015]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96]

## SUBCHAPTER 15. RECLAIMERS AND RECLAIMING OPERATIONS

### 710:45-15-1. Additional definitions

In addition to terms defined in 710:45-1-2 and 710:45-11-1, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Load ticket"** means a document or bill of lading describing the source, contents and destination of any load of petroleum, tank bottoms, BS&W or other liquid hydrocarbons or salt water or any combination of these products. A load ticket shall not be considered valid unless it contains every item required by the definition set out in 710:45-11-1.

**"Petroleum transporter"** means any person or firm owning, leasing or otherwise controlling the operation of any vehicle or conveyance, other than railroad cars or pipelines, used in the transportation of measurable amounts (1% or more by volume) of any product subject to the Gross Production Tax.

**"Reclaimed oil"** means any petroleum, crude oil, mineral oil or other liquid hydrocarbons recovered from tank bottoms, pits, salt water or other source where such oil is not reported to the Tax Commission by either its producer or purchaser of record, as shown by an Oklahoma Tax Commission Form 320A or 320C on file with the Tax Commission, as part of the production of the lease from whence it was produced. Oil or other liquid hydrocarbons blended with reclaimed oil before, during or after the reclaiming process shall be considered reclaimed oil.

**"Reclaimer"** means any person or firm who buys, salvages, reclaims or processes oil from the waste products associated with the production of oil or gas, including but not limited to salt water and the residue from oil storage tanks; any person operating a reclaiming plant, pit or disposal facility where oil or other liquid hydrocarbons are salvaged or recovered.

**"Reclaiming Plant"** means any facility used for the recovery or salvage of oil or other liquid hydrocarbons from oilfield wastes or contaminated stocks by heating, flotation, chemical treatment, or mechanical or other means except lease operations. It shall include any pit or water disposal system where oil is recovered except where such oil is reported to the Tax Commission, and Gross Production Taxes paid thereon, as production from the lease or leases from whence it was actually produced. No pit or disposal well open to the public shall be exempt from the licensing requirements contained herein.

**"Tank bottoms"** means the mixture of oil and BS&W (basic sediment and water) that collects or settles in the bottom portion of lease and other oil storage tanks. Tank bottoms may be called

BS&W. Salt Water from salt water storage tanks shall not be shown on load tickets as tank bottoms or BS&W unless it contains one percent (1%) or more oil content by volume.

**710:45-15-2. Reclaimer licenses**

The Director of the Registration Division of the Oklahoma Tax Commission, or a designee, is authorized to issue and renew non-transferrable licenses, upon license forms approved by the Commission, to reclaimers of products subject to the Oklahoma Gross Production Tax, upon receipt of the following:

- (1) A properly completed Application for Reclaimers License upon a form approved by the Oklahoma Tax Commission.
- (2) A cash deposit, surety bond, or other security approved by the Tax Commission, as guaranty for payment of all taxes, penalties and interest. Security shall be in the amount of Ten Thousand Dollars (\$10,000.00) or three months tax liability, whichever is greater, for each license issued, except when issued for a salt water disposal well. Security for each license issued for a salt water disposal well shall be in the amount of \$2,500 or three months tax liability, whichever is greater. A person or firm having five or more licenses shall be required to post security in the total amount of fifty thousand dollars (\$50,000.00) or three months tax liability, whichever is greater; except that for persons or firms having five or more licenses for salt water disposal facilities, the security requirement shall be a total of ten thousand dollars (\$10,000.00) or three months tax liability, whichever is greater.
- (3) A One Hundred Fifty Dollar (\$150.00) three-year license fee for each new, renewed, or reinstated license. [See: 68 O.S. §1015.1]

[Source: Amended at 12 Ok Reg 2627, eff 6-26-95; Amended at 13 Ok Reg 3095, eff 7-11-96]

**710:45-15-3. License required for each location**

- (a) A separate reclaimers license shall be required for each plant location or salt water disposal facility operated. Licenses shall be valid for use only by the person or firm to whom issued and at the location specified by legal description on the license.
- (b) Security posted shall be required to guarantee payment, to the limit of the amount posted, of the taxpayer's liability under all operations for which he is responsible for Gross Production Taxes and the other liabilities.

**710:45-15-4. License limited; strict source compliance; recordkeeping**

- (a) No person or firm, by reason of being licensed as a reclaimer, shall be authorized to engage in the purchase of oil or other liquid hydrocarbons other than tank bottoms from any oil or gas lease in this state. Any reclaimer purchasing or picking up tank bottoms from any lease shall be required to receive and keep for the inspection by the Tax Commission a copy of the pipeline purchaser's turndown ticket for such load or a signed, dated statement by the lease operator that such load consisted of tank bottoms, as determined by a grind-out test, of less than pipeline quality. Such statement shall show the date of the transportation of the load, the volume, BS&W content and the name and address of the person or firm to whom the load was given or sold.
- (b) No person or firm, by reason of being licensed as a reclaimer, shall purchase or take into his possession, any petroleum or other crude oil, mineral oil or other liquid hydrocarbon except from the following sources:
  - (1) a lease as described in (a) of this Section,

- (2) a petroleum transporter licensed by the Oklahoma Tax Commission,
  - (3) another licensed reclaimer,
  - (4) a purchaser of oil or gas who has been approved and assigned a purchaser reporting number by the Oklahoma Tax Commission, or
  - (5) an out-of-state shipper.
- (c) Every load of such products purchased or taken into the possession or storage of any reclaimer must be entered into his inventory on OTC Form 323A and must be supported by a load ticket or invoice, furnished by the selling or transferring party, that complies with the load ticket requirements set out in 710:45-11-7. Any product found to have been in the possession of any reclaimer that cannot be documented by a valid load ticket as coming from a source authorized herein shall be considered to have come from an unknown source as described in 68 O.S. 1003, and shall be subject to payment to the Commission of the royalty interest as provided by that Section. The operators of salt water disposal facilities shall be required to pay to the Tax Commission the royalty interest of 12 %, as provided by 68 O.S. 1003, on the amount of oil recovered in excess of two percent (2%) of the volume of water handled. Such reclaimers shall receive and maintain load tickets showing the individual loads by volume and lease from which received.

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 19 Ok Reg 2432, eff 6-27-02]

#### **710:45-15-5. Computation of gross production tax by reclaimers**

The Gross Production and Petroleum Excise Taxes shall be computed on the value of the first actual cash sale of reclaimed oil. The gross value of tank bottoms purchased by a reclaimer shall be the price paid the seller before deduction of Gross Production and Petroleum Excise Taxes. The net amount received by the seller shall be considered to have had taxes deducted. The gross value of oil received by a reclaimer for services rendered or oil recovered at a disposal pit or well shall be the amount received by the reclaimer from its sale. Before computing Gross Production and Petroleum Excise Taxes on such oil, the reclaimer may deduct his actual treating cost from the sale price. Cost allowed to be deducted shall be limited to the cost of chemicals and boiler fuel used in treating the oil and the labor used in the actual treating. There shall be no cost deduction allowed for oil upon which no tax is paid or upon which the gross value is the purchase price paid by the reclaimer. [See:68 O.S. §1015.1]

#### **710:45-15-6. Reports and payment; due dates for reclaimers**

The operators of reclaiming plants, including disposal facilities, shall be required to remit the Gross Production and Petroleum Excise Taxes on all oil coming into their possession except where such taxes have previously been paid or when it can be shown that such oil was not subject to tax for reason of being exempt by law or having been produced in another state. Taxes shall be due on oil purchased by a reclaimer on the first day of the month following the month of purchase. Taxes shall be due on oil recovered from water at a disposal facility the first day of the month following the month it was sold by the reclaimer who recovered it. The tax shall become delinquent if not received by the Tax Commission on or before the twenty-fifth (25th) day of the second month in which it became due. Reclaimer's Monthly Gross Production Tax Report, and the Reclaimers and Transporters Monthly Reports of Oil Transported and Stored are due on the same date as the tax and shall be delinquent if not received by the twenty-fifth (25th) day of the second month following the month in which they become due. Reports shall be made on OTC Form 323R-7-81 and OTC Form 323A-7-81.

[Source: Amended at 22 Ok Reg 1532, eff 6-11-05]

**710:45-15-7. Penalties for reclaimers**

Penalties shall apply to all late filing or non-filing of reports required of reclaimers and any failure or refusal to supply any information relative to their operation demanded by the Commission. Any violation of the Gross Production Tax Code may also subject the claimer to prosecution and penalty. The Commission may cancel or refuse to renew or reinstate any license of any claimer found to be in violation of any tax law of the State of Oklahoma or of any rule of the Oklahoma Tax Commission. [See: 68 O.S. §§1010(d), 1017]