

## **PROPOSED RECOMMENDATION ON REPORTING PRODUCTION TO COMPELLED MINERAL OWNERS**

**Background:** Current North Carolina law requires that gas operators report the following production information to parties from whom they have leased gas and oil rights: “the time period for which the royalty payment is made, the quantity of product sold within that period, and the price received, at a minimum.” (G.S. 113-423(c).) It also provides that “[u]pon written request, the lessor shall be entitled to inspect and copy records of the oil or gas developer or operator related to production and royalty payments associated with the lease.” (G.S. 113-423(c).) Current law makes no provision regarding the reporting requirements to parties who have retained a working interest.

Except for the information provided by the operator of their production unit, mineral rights owners will have no information about the royalty payments and other funds that they are due from the production of their oil and gas. To ensure that they are being properly compensated, mineral rights owners need sufficient information to be able to determine independently that they are receiving the proper payment for the proper share of the production from the proper well.

While current North Carolina law requires in general terms that operators provide some information needed to calculate well royalties, it does not specifically require a number of elements that are essential for confirming proper payment.

Providing such information to mineral rights owners should not burden operators because it is the same information that operators require to calculate an individual mineral rights owner’s payments.

### **Recommendation 1:**

Operators should be required to provide the following information in a clearly written statement accompanying each royalty payment or working interest share payment to (i) each recipient of well production proceeds (“Owner”) who is compelled into a production unit, (ii) each holder of a mortgage lien against the compelled property that has recorded the lien with the county Register of Deeds at the time that the application for a mandatory pooling order is filed, and (iii) each mortgage lien holder against a compelled property that subsequent to a pooling order provides the Operator a copy of a recorded lien against the compelled property:

- Identification Information:
  - Name of oil and gas rights Owner (lessor or working interest owner)
  - Owner’s identification number (account number or payee number utilized by Producer)
  - Lease number (if applicable), property name, API well number, and well name

- Payment Calculation Information:
  - Total volume sold of oil (in barrels); of gas (in MMBtu (1000’s of Btus)); of natural gas liquids (NGL) (in gallons or barrels); and of other products (in relevant units)
  - Price per unit of oil, gas, NGL, and other products sold
  - Month and year of sale (to confirm price)
  - Owner’s interest in sale expressed as a decimal
  - Owner’s share in dollars before deductions and adjustments
  - Each deduction including severance, production, and other taxes, transportation, line loss, compression, processing, treatment, marketing, gathering, third party charges and a key explaining each deduction
  - Owner’s share in dollars after deductions and adjustments
- Contact Information
  - Address, telephone number, and email address where additional information may be obtained and questions answered should be included with every payment

**Recommendation 2:**

The following parties ~~Mineral rights owners (“Owners”)~~ should have the right to audit the records used by ~~an~~ gas ~~Operator~~ that are required to ~~determine the Owners’~~ ensure proper payment of any well production proceeds: (i) each recipient of well production proceeds (“Owner”) who is compelled into a production unit, (ii) each holder of a mortgage lien against the compelled property that has recorded the lien with the county Register of Deeds at the time that the application for a mandatory pooling order is filed, and (iii) each mortgage lien holder against a compelled property that subsequent to a pooling order provides the Operator a copy of a recorded lien against the compelled property. Records subject to review include records containing the source of information identified in Recommendation #1 and including at minimum the following information needed to verify those records: third party evidence of pricing (e.g., purchase contract), well head charts, master meter readings, and meter calibration reports.

**Recommendation 3:**

The Compulsory Pooling Study Group recommends to the Mining and Energy Commission that it study and consider a regulation or statutory requirement ~~that~~ applying Recommendations 1 and 2 ~~be required of~~ to all ~~Operators~~ with respect to royalty payments and other well proceeds owed to any mineral rights owners.

TITLE 3. OIL AND GAS

SUBTITLE B. CONSERVATION AND REGULATION OF OIL AND GAS

CHAPTER 91. PROVISIONS GENERALLY APPLICABLE

SUBCHAPTER L. ROYALTY REPORTING STANDARDS

Sec. 91.5001. DEFINITION. In this subchapter, "payor" has the meaning assigned by Section 91.401.

Added by Acts 2001, 77th Leg., ch. 824, Sec. 1, eff. Jan. 1, 2002.

Sec. 91.501. INFORMATION REQUIRED. If payment is made to a royalty interest owner from the proceeds derived from the sale of oil or gas production pursuant to a division order, lease, servitude, or other agreement, the payor shall include the information required by Section 91.502 on the check stub, an attachment to the payment form, or another remittance advice.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Sept. 1, 2002.

Sec. 91.502. TYPES OF INFORMATION PROVIDED. Each check stub, attachment to a payment form, or other remittance advice must include:

(1) the lease, property, or well name, any lease, property, or well identification number used to identify the lease, property, or well, and a county and state in which the lease, property, or well is located;

(2) the month and year during which the sales occurred for which payment is being made;

(3) the total number of barrels of oil or the total amount of gas sold;

(4) the price per barrel or per MCF of oil or gas sold;

(5) the total amount of state severance and other production taxes paid;

(6) the windfall profit tax paid on the owner's interest;

(7) any other deductions or adjustments;

(8) the net value of total sales after deductions;

(9) the owner's interest in sales from the lease, property, or well expressed as a decimal;

(10) the owner's share of the total value of sales before any tax deductions;

(11) the owner's share of the sales value less deductions; and

(12) an address and telephone number at which additional information regarding the payment may be obtained and questions may be answered.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Sept. 1, 2002.

Sec. 91.503. LEASE, PROPERTY, OR WELL DESCRIPTION. If a division order is not provided that includes the information required by Section 91.402(c)(1)(B), the payor must, at a minimum, provide prior to or with the first payment to which this subchapter applies the information required by Section 91.402(c)(1)(B) for the lease, property, or well for which payment of proceeds is being reported.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Jan. 1, 2002.

Sec. 91.504. PROVIDING INFORMATION ABOUT PAYMENT DEDUCTIONS AND ADJUSTMENTS, HEATING VALUE, OR LEASE IDENTIFICATION. (a) If the payor does not explain on the check stub, attachment to the payment form, or other remittance advice, or by a separate mailing, deductions from or adjustments to payments, the payor must provide an explanation by certified mail not later than the 60th day after the date the payor receives a request from the royalty interest owner. The royalty interest owner must send the request by certified mail.

(b) If a royalty interest owner requests information by certified mail concerning the heating value of the gas produced or sold from the lease, property, or well in which the owner has an interest, the payor must, not later than the 60th day after the date the payor receives the request, provide by certified mail:

(1) a copy of the Form G-1 filed with the commission; or

(2) a check stub or separate statement that includes the information.

(c) A royalty interest owner who received a payment from a payor during the preceding calendar year may request in writing by certified mail that the payor provide a report listing the following information for the preceding year:

(1) each lease, property, or well identification number;

(2) each lease, property, or well name;

(3) the field name;

(4) the county and state in which the property is located; and

(5) the commission lease identification number or commingling permit number or any other identification number under which the production for the lease, property, or well is being reported to the state.

(d) A payor who receives a request for information under Subsection (c) shall provide the information by certified mail not later than the 60th day after the date the payor receives the request.

(e) At least once every 12 months, a payor shall provide the following statement to each royalty interest owner to whom the payor makes a payment:

Section 91.504, Texas Natural Resources Code, gives an owner of a royalty interest in oil or gas produced in Texas the right to request from a payor information about itemized deductions, the heating value of the gas, and the Railroad Commission of Texas identification number for the lease, property, or well that may not have been provided to the royalty interest owner. The request must be in writing and must be made by certified mail. A payor must respond to a request regarding itemized deductions, the heating value of the gas, or the Railroad Commission of Texas identification number by certified mail not later than the 60th day after the date the request is received. An owner of a royalty interest in oil or gas may obtain information regarding production that has been reported to the Railroad Commission of Texas by contacting the oil and gas division of the commission or accessing the commission's website and providing the identification number of the lease and the county in which the lease is located.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Sept. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. [1037](#), Sec. 1, eff. September 1, 2005.

Sec. 91.505. PROVIDING OTHER INFORMATION. If a royalty interest owner requests information or answers to questions concerning a payment made pursuant to this subchapter, other than information requested under Section 91.504, and the request is made by certified mail, the payor must respond to the request by certified mail not later than 30 days after the request is received.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Jan. 1, 2002.

Sec. 91.506. EXEMPTION. If the information required by Section 91.502 is provided in some other manner on a monthly basis, the payor is not required to

include the information on the check stub, attachment to the payment form, or other remittance advice.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Sept. 1, 2002.

Sec. 91.507. ENFORCEMENT. (a) A royalty interest owner who does not receive the information required to be provided under Section 91.502 or 91.503 in a timely manner may send a written request for the information to the payor by certified mail.

(b) Not later than the 60th day after the date the payor receives the written request for information under this section, the payor shall provide the requested information by certified mail.

(c) If a payor fails to provide the requested information within the period specified by Subsection (b), either party may request mediation.

(d) If the royalty interest owner makes a written request for information under Section 91.504 or this section and the payor does not provide the information within the 60-day period, the royalty interest owner may bring a civil action against the payor to enforce the provisions of Section 91.504 or this section, as applicable. The prevailing party is entitled to recover reasonable court costs and attorney's fees.

Added by Acts 2001, 77th Leg., ch. 824, Sec. 3, eff. Sept. 1, 2002.