

Chapter 43.55. OIL AND GAS PRODUCTION TAXES AND OIL SURCHARGE

Article 01. OIL AND GAS PROPERTIES PRODUCTION TAXES

Sec. 43.55.010. Gross production tax. [Repealed, Sec. 9 ch 136 SLA 1977].

Repealed or Renumbered

Sec. 43.55.011. Oil production tax.

(a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 12.25 percent of the gross value at the point of production of taxable oil produced on or before June 30, 1981, from the lease or property and 15 percent of the gross value at the point of production of taxable oil produced from the lease or property after June 30, 1981; except that for a lease or property coming into commercial oil production after June 30, 1981, the percentage-of-value amount equals 12.25 percent of the gross value at the point of production of taxable oil produced from the lease or property in the first five years after the start of commercial oil production and equals 15 percent of the gross value at the point of production of taxable oil produced thereafter from the lease or property.

(c) The cents-per-barrel amount equals \$0.60 per barrel of taxable old crude oil produced from the lease or property, and \$0.80 per barrel for all other taxable oil produced from the lease or property, both as adjusted by AS 43.55.012.

(d) *[Repealed, Sec. 18 ch 116 SLA 1981].*

Sec. 43.55.012. Adjustment in tax rates.

(a) *[Repealed, Sec. 18 ch 116 SLA 1981].*

(b) The cents-per-barrel amount set out in AS 43.55.011(c) applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by \$.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by \$.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. Economic limit factor.

(a) *[Repealed, Sec. 18 ch 116 SLA 1981].*

(b) The economic limit factor for oil production of a lease or property shall be computed according to the following formula:

$(1 - [\text{PEL}/\text{TP}]) \exp ([150,000/(\text{TP}/\text{Days})] \exp [(460 \times \text{WD})/\text{PEL}])$

where:

PEL = the monthly production rate at the economic limit;

TP = the total production during the month for which the tax is to be paid;

WD = the total number of well days in the month for which the tax is to be paid;

Days = the number of days in the month for which the tax is to be paid; and

exp = exponent.

(c) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(d) The monthly production rate at the economic limit for a lease or property is 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid.

(e) *[Repealed, Sec. 3 ch 25 SLA 1989].*

(f) *[Repealed, Sec. 3 ch 25 SLA 1989].*

(g) The monthly production at the economic limit for a lease or property is presumed to be 3,000 Mcf times the number of well days for the lease or property during that month for which the tax is to be paid. The taxpayer may rebut this presumption by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of gas production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (i) of this section into the average monthly direct operating cost determined under (h) of this section.

(h) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty actually and currently paid, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(i) For the purpose of calculating the economic limit, the value at the point of production of gas produced from the lease or property shall be determined on the basis of the volume weighted average price paid for gas of like quality and pressure in the same field.

(j) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to AS 43.55.011 or

AS 43.55.016, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under AS 43.55.011 or AS 43.55.016, when two or more economically independent oil or gas production operations are being conducted on it, or when old crude oil is produced from the same lease or property as other oil.

(k) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production.

Sec. 43.55.015. Tax per barrel of oil. [Repealed, Sec. 9 ch 136 SLA 1977].

Repealed or Renumbered

Sec. 43.55.016. Gas production tax.

(a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 percent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals \$.064 per 1,000 cubic feet of taxable gas produced from the lease or property.

Sec. 43.55.017. Relation to other taxes.

(a) Except as provided in this chapter, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

- (1) producing oil or gas leases;
- (2) oil or gas produced or extracted in the state;
- (3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by income taxes, franchise taxes, or taxes upon the retail sale of oil or gas products.

Sec. 43.55.018. Credit against tax. [Repealed, Sec. 18 ch 116 SLA 1981].

Repealed or Renumbered

Sec. 43.55.019. Oil or gas producer education credit.

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a producer of oil or gas is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(b) *[Repealed, Sec. 12 ch 71 SLA 1991].*

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

(e) The department may, by regulation, establish procedures by which a taxpayer may allocate a pro rata share of a credit claimed under this section against monthly tax payments made during the tax year.

Sec. 43.55.020. Payment of tax.

(a) The production tax on oil or gas shall be paid monthly. The tax is due on the 20th day of each calendar month on oil or gas produced from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

(b) The production tax on oil or gas shall be paid by or on behalf of the producer.

(c) *[Repealed, Sec. 7 ch 101 SLA 1972].*

(d) In making settlement with the royalty owner the producer may deduct the amount of the tax paid on royalty oil or gas, or may deduct royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid.

(e) Gas produced in excess of that needed for safety purposes, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of AS 43.55.011 - 43.55.150 and in the amount used, as gas produced from a lease or property. Gas flared beyond the amount authorized for safety by the Alaska Oil and Gas Conservation Commission under AS 31.05 is considered as gas produced, except that it is subject to a penalty equal to the tax computed under AS 43.55.016 per 1,000 cubic feet of gas for the month in which the gas was flared.

(f) If oil or gas is sold under circumstances where the sale price does not represent the prevailing value for oil or gas of like kind, character, or quality in the field or area from which the product is produced, the department may require the tax to be paid upon the basis of the value of oil or gas of the same kind, quality, and character prevailing during the calendar month of production for that field or area.

Sec. 43.55.021. Alaska veterans' memorial endowment fund contribution credit. [Repealed, Sec. 25 ch 46 SLA 2002].

Repealed or Renumbered

Sec. 43.55.025. Tax credit for oil and gas exploration or gas only exploration.

(a) Subject to the terms and conditions of this section, on oil and gas produced on or after July 1, 2004, from an oil and gas lease, or on gas produced from a gas only lease, a credit against the production tax due under this chapter is allowed for exploration expenditures that qualify under (b) of this section in an amount equal to one of the following:

(1) 20 percent of the total exploration expenditures that qualify only under (b) and (c) of this section;

(2) 20 percent of the total exploration expenditures for work performed before July 1, 2007, and that qualify only under (b) and (d) of this section;

(3) 40 percent of the total exploration expenditures that qualify under (b), (c), and (d) of this section;
or

(4) 40 percent of the total exploration expenditures that qualify only under (b) and (e) of this section.

(b) To qualify for the production tax credit under (a) of this section, an exploration expenditure must be incurred for work performed on or after July 1, 2003, and before July 1, 2007, except that an exploration expenditure for a Cook Inlet prospect must be incurred for work performed on or after July 1, 2005, and before July 1, 2010, and except that an exploration expenditure, in whole or in part, south of 68 degrees, 15 minutes, North latitude, and not part of a Cook Inlet prospect must be incurred for work performed on or after July 1, 2003, and before July 1, 2010, and

(1) may be for seismic or geophysical exploration costs not connected with a specific well;

(2) if for an exploration well,

(A) must be incurred by an explorer that holds an interest in the exploration well for which the production tax credit is claimed;

(B) may be for either an oil or gas discovery well or a dry hole; and

(C) must be for goods, services, or rentals of personal property reasonably required for the surface preparation, drilling, casing, cementing, and logging of an exploration well, and, in the case of a dry hole, for the expenses required for abandonment if the well is abandoned within 18 months after the date the well was spudded;

(3) may not be for testing, stimulation, or completion costs; administration, supervision, engineering, or lease operating costs; geological or management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; or other costs that are generally recognized as indirect costs or financing costs; and

(4) may not be incurred for an exploration well or seismic exploration that is included in a plan of exploration or a plan of development for any unit on May 13, 2003.

(c) To be eligible for the 20 percent production tax credit authorized by (a)(1) of this section or the 40 percent production tax credit authorized by (a)(3) of this section, exploration expenditures must

(1) qualify under (b) of this section; and

(2) be for an exploration well, subject to the following:

(A) for an exploration well other than a well that is described in (B) of this paragraph, the well must be located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of a preexisting suspended, completed, or abandoned oil or gas well; in this subparagraph, "preexisting" means a well that was spudded more than 150 days but less than 35 years before the exploration well was spudded;

(B) for an exploration well that explores a Cook Inlet prospect, the well must be located at least three miles from any other well drilled for oil and gas with all distances measured as the horizontal distance between exploration targets, except that the exploration well that is located within three miles of a well drilled for oil and gas qualifies for the tax credit authorized by this subsection if the exploration well tests potential hydrocarbon traps that the commissioner of natural resources determines, after analyzing evidence submitted by the explorer and from other information that the commissioner of natural resources determines relevant, constitute a distinctly separate exploration target.

(d) To be eligible for the 20 percent production tax credit authorized by (a)(2) of this section or the 40 percent production tax credit authorized by (a)(3) of this section, an exploration expenditure must

(1) qualify under (b) of this section; and

(2) be for an exploration well that is located not less than 25 miles outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development, except that for an exploration well for a Cook Inlet prospect to qualify under this paragraph, the exploration well must be located not less than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development.

(e) To be eligible for the 40 percent production tax credit authorized by (a)(4) of this section, the exploration expenditure must

(1) qualify under (b) of this section;

(2) be for seismic exploration; and

(3) have been conducted outside the boundaries of a production unit or an exploration unit; however, the amount of the expenditure that is otherwise eligible under this subsection is reduced proportionately by the portion of the seismic exploration activity that crossed into a production unit or an exploration unit.

(f) For a production tax credit under this section,

(1) an explorer shall, in a form prescribed by the department and within six months of the completion of the exploration activity, claim the credit and submit information sufficient to demonstrate to the department's satisfaction that the claimed exploration expenditures qualify under this section;

(2) an explorer shall agree, in writing,

(A) to notify the Department of Natural Resources, within 30 days after completion of seismic or geophysical data processing, completion of a well, or filing of a claim for credit, whichever is the latest, for which exploration costs are claimed, of the date of completion and submit a report to that department describing the processing sequence and providing a list of data sets available; if, under (c)(2)(B) of this section, an explorer submits a claim for a credit for expenditures for an exploration well that is located

within three miles of a well already drilled for oil and gas, in addition to the submissions required under (1) of this subsection, the explorer shall submit the information necessary for the commissioner of natural resources to evaluate the validity of the explorer's claim that the well is directed at a distinctly separate exploration target, and the commissioner of natural resources shall, upon receipt of all evidence sufficient for the commissioner to evaluate the explorer's claim, make that determination within 60 days;

(B) to provide to the Department of Natural Resources, within 30 days after the date of a request, specific data sets, ancillary data, and reports identified in (A) of this paragraph;

(C) that, notwithstanding any provision of AS 38, information provided under this paragraph will be held confidential by the Department of Natural Resources for 10 years following the completion date, at which time that department will release the information after 30 days' public notice;

(3) if more than one explorer holds an interest in a well or seismic exploration, each explorer may claim an amount of credit that is proportional to the explorer's cost incurred;

(4) the department may exercise the full extent of its powers as though the explorer were a taxpayer under this title, in order to verify that the claimed expenditures are qualified exploration expenditures under this section; and

(5) if the department is satisfied that the explorer's claimed expenditures are qualified under this section, the department shall issue to the explorer a production tax credit certificate for the amount of credit to be allowed against production taxes due under this chapter; however, notwithstanding any other provision of this section, the department may not issue to an explorer a production tax credit certificate if the total of production tax credits submitted for Cook Inlet production, based on exploration expenditures for work performed during the period described in (b) of this section for that production, that have been approved by the department exceeds \$20,000,000.

(g) An explorer may transfer, convey, or sell its production tax credit certificate to any person, and any person who receives a production tax credit certificate may also transfer, convey, or sell the certificate.

(h) A producer that purchases a production tax credit certificate may apply the credits against its production tax liability under this chapter. Regardless of the price the producer paid for the certificate, the producer may receive a credit against its production tax liability for the full amount of the credit, but for not more than the amount for which the certificate is issued. A production tax credit allowed under this section may not be applied more than once.

(i) For a production tax credit under this section,

(1) the amount of the credit that may be applied against the production tax for each tax month may not exceed the total production tax liability of the taxpayer applying the credit for the same month; and

(2) an amount of the production tax credit that is greater than the total tax liability of the taxpayer applying the credit for a tax month may be carried forward and applied against the taxpayer's production tax liability in one or more immediately following months.

(j) Notwithstanding any other provision of this title, of AS 31.05, or of AS 40.25.100, the department shall provide to the Department of Natural Resources information submitted with a claim under this section to support the eligibility of an exploration expenditure, including seismic exploration data and well data, and any information described in (f)(2) of this section received by the department.

(k) In this section,

(1) "Cook Inlet production" means oil or gas production from the Cook Inlet sedimentary basin, as that term is defined by regulation adopted to implement AS 38.05.180 (f)(4);

(2) "Cook Inlet prospect" means a location within the Cook Inlet sedimentary basin, as that term is defined by regulation adopted to implement AS 38.05.180 (f)(4);

(3) "explorer" means a person who, in exploring for new oil or gas reserves, incurs expenditures.

Sec. 43.55.030. Filing of statements.

(a) The tax shall be paid to the department and the person paying the tax shall file with the department at the time the tax is required to be paid a statement, under oath, on forms prescribed by or acceptable to the department, giving with other information required, the following:

(1) a description of the lease or property from which the oil or gas was produced, by name, legal description, lease number or by accounting code numbers assigned by the department;

(2) the names of the producer and the person paying the tax;

(3) the gross amount of oil or gas produced from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

(4) the total value of the oil or gas produced from the lease or property owned by each producer for whom the tax is paid; and

(5) the name of the first purchaser and the price received for the oil or gas if sold in the state.

(b) *[Repealed, Sec. 11 ch 101 SLA 1972].*

(c) *[Repealed, Sec. 11 ch 101 SLA 1972].*

(d) Reports by or on behalf of the producer are delinquent the first day following the day the tax is due. Each producer is subject to a penalty of \$25 a day for each lease or property upon which the report is not filed. The penalty for failure to file a report is in addition to the penalty for delinquent taxes, and is a lien against the assets of the producer.

Sec. 43.55.040. Powers of Department of Revenue.

Except as provided in AS 43.05.405 - 43.05.499, the department may

(1) require a person engaged in production and the agent or employee of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil or gas to furnish additional information that is considered by the department as necessary to compute the amount of the tax;

(2) examine the books, records, and files of such a person;

(3) conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and

(4) make an investigation or hold an inquiry that is considered necessary to a disclosure of the facts as to

(A) the amount of production from any oil or gas location, or of a company or other producer of oil or gas; and

(B) the rendition of the oil and gas for taxing purposes.

Sec. 43.55.050. Incorrect returns.

The department may determine whether or not a return required by this chapter to be filed with it is correct. If a person makes an untrue or incorrect return of the gross production or the value of it, or fails or refuses to make a return, the department shall, under regulations adopted by it, determine the correct amount of gross production or the value of it, and compute the tax.

Sec. 43.55.060. Delinquency.

When the tax provided for in this chapter becomes delinquent, it bears interest as provided in AS 43.05.225 (1). If any person fails to make a report required by this chapter, within the time prescribed by law for the report, the department shall examine the books, records and files of the person to determine the amount and value of the production to compute the tax, and the department shall add to the tax the cost of the examination, together with any penalties accrued.

Sec. 43.55.070. Lien for tax. [Repealed, Sec. 4 ch 94 SLA 1976. For current law, see AS 43.10.035].

Repealed or Renumbered

Sec. 43.55.080. Collection and deposit of revenue.

The department shall deposit in the general fund the money collected by it under AS 43.55.011 - 43.55.150.

Sec. 43.55.090. Refunds.

In case of overpayment, duplicate payment or payment made in error, the department may refund the amount of the overpayment under AS 43.10.210.

Sec. 43.55.100. Acceptance of deductions. [Repealed, Sec. 15 ch 101 SLA 1972].

Repealed or Renumbered

Sec. 43.55.110. Administration.

(a) The department may adopt regulations for the purpose of making and filing reports required by this chapter and otherwise necessary to the enforcement of this chapter.

(b) The department may require a sufficient bond from every person charged with the making and filing of reports and the payment of the tax. The bond shall run to the state and shall be conditioned upon the making and filing of reports as required by law, upon compliance with the regulations of the department, and for the prompt payment, by the principal on the bond, of all taxes due the state by virtue of this chapter.

(c) If reports required have not been filed, or are insufficient to furnish the information required by the department, the department shall institute, in the name of the state upon relation of the department, the necessary action or proceedings to enjoin the person from continuing operations until the reports are filed.

(d) Upon showing that the state is in danger of losing its claims or the property is being mismanaged, dissipated or concealed, a receiver shall be appointed at the suit of the state.

Sec. 43.55.120. - 43.55.130 Noncompliance and false reports. [Repealed, Sec. 46 ch 113 SLA 1980. For criminal penalties, see AS 43.05.290].

Repealed or Renumbered

Sec. 43.55.135. Measurement.

For the purposes of AS 43.55.011 - 43.55.150, oil shall be measured in terms of a "barrel of oil" and gas shall be measured in terms of a "cubic foot of gas."

Sec. 43.55.140. [Renumbered as AS 43.55.900].

Repealed or Renumbered

Sec. 43.55.150. Determination of gross value.

(a) For the purposes of AS 43.55.011 - 43.55.150, the gross value shall be calculated using the reasonable costs of transportation of the oil or gas. The reasonable costs of transportation shall be the actual costs, except

(1) when the parties to the transportation of oil or gas are affiliated;

(2) when the contract for the transportation of oil or gas is not an arm's length transaction or is not representative of the market value of that transportation;

(3) when the method of transportation of oil or gas is not reasonable in view of existing alternative methods of transportation.

(b) If the department finds that the conditions in (a)(1), (2), and (3) of this section are present, the department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or other reasonable methods. Transportation costs fixed by tariff rates properly on file with the Regulatory Commission of Alaska or other regulatory agency shall be considered prima facie reasonable.

(c) In determining the gross value of oil under (a) of this section, the department may not allow as reasonable costs of transportation

(1) the amount of loss of or damage to, or of expense incurred due to the loss of or damage to, a vessel used to transport oil if the loss, damage, or expense is incurred in connection with a catastrophic oil discharge from the vessel into the marine or inland waters of the state;

(2) the incremental costs of transportation of the oil that are attributable to temporary use of or chartered or substituted service provided by another vessel due to the loss of or damage to a vessel regularly used to transport oil and that are incurred in connection with a catastrophic oil discharge into the marine or inland waters of the state; and

(3) the costs incurred to charter, contract, or hire vessels and equipment used to contain or clean up a catastrophic oil discharge.

Article 02. CONSERVATION SURCHARGE ON OIL

Sec. 43.55.200. Surcharge levied. [Repealed, Sec. 43 ch 128 SLA 1994].

Repealed or Renumbered

Sec. 43.55.201. Surcharge levied.

(a) Every producer of oil shall pay a surcharge of \$.02 per barrel of oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation.

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011 - 43.55.150; and is in addition to the surcharge imposed by AS 43.55.300 - 43.55.310.

(c) A producer of oil shall make reports of production in the same manner and under the same penalties as required under AS 43.55.011 - 43.55.150.

Sec. 43.55.210. Disposition of proceeds of surcharge. [Repealed, Sec. 43 ch 128 SLA 1994].

Repealed or Renumbered

Sec. 43.55.211. Use of revenue derived from surcharge.

The legislature may appropriate the annual estimated balance of the account maintained under AS 37.05.142 for deposits into the general fund of the proceeds of the surcharge levied under AS 43.55.201 to the response account in the oil and hazardous substance release prevention and response fund established by AS 46.08.010.

Sec. 43.55.220. Use of revenue derived from surcharge. [Repealed, Sec. 43 ch 128 SLA 1994].

Repealed or Renumbered

Sec. 43.55.221. Suspension and reimposition of the surcharge.

(a) Not later than 30 days after the end of each calendar quarter, the commissioner of administration shall determine, as of the end of that quarter, the fiscal year's

(1) unreserved and unobligated balance in the response account of the oil and hazardous substance release prevention and response fund established in AS 46.08.010; for purposes of this paragraph, the "unreserved and unobligated balance in the response account" means the cash balance of the account less the sum of

(A) reserves for outstanding appropriations from the account;

(B) encumbrances of money in the account; and

(C) other liabilities of the account;

(2) balance of the account maintained under AS 37.05.142 that accounts for the proceeds of the surcharge that are deposited in the general fund;

(3) the balance of the response mitigation account established by AS 46.08.025(b) that originated from the sources described in AS 46.08.025(a)(3) and that is available for appropriation to the response account of the fund established in AS 46.08.010.

(b) Within 15 days after making the determinations required by (a) of this section, the commissioner of administration shall

(1) add the amounts determined under (a)(1) - (3) of this section; and

(2) report the sum calculated under (1) of this subsection to the commissioner of revenue.

(c) In making the determination required by (a) of this section, the commissioner of administration may not consider money described in (a) of this section that is subject to a dedication imposed by law that restricts the use of the money to a specific purpose for which the response account of the oil and hazardous substance release prevention and response fund established in AS 46.08.010 may not be lawfully expended.

(d) If the commissioner of administration reports that the sum reported under (b) of this section equals or exceeds \$50,000,000, the commissioner of revenue shall suspend imposition and collection of the surcharge levied and collected under AS 43.55.201. Suspension of the imposition and collection of the surcharge begins on the first day of the calendar quarter next following the commissioner's receipt of the commissioner of administration's report under (b) of this section. Before the first day of a suspension authorized by this subsection, the commissioner shall make a reasonable effort to notify all persons who are known to the department to be paying the surcharge under AS 43.55.201 that the surcharge will be suspended.

(e) Except as provided in AS 43.55.231, if the commissioner of administration reports that the sum reported under (b) of this section is less than \$50,000,000, the commissioner of revenue shall require imposition and collection of the surcharge authorized under AS 43.55.201. If the surcharge is not in effect, reimposition of the surcharge begins on the first day of the calendar quarter next following the commissioner's receipt of the commissioner of administration's report under (b) of this section. Before the first day of reimposition of the surcharge authorized by this subsection, the commissioner shall make a reasonable effort to notify all persons who are known to the department to be required to pay the surcharge under AS 43.55.201 that the surcharge will be reimposed.

Sec. 43.55.230. Suspension and reimposition of the surcharge. [Repealed, Sec. 43 ch 128 SLA 1994].

Repealed or Renumbered

Sec. 43.55.231. Surcharge not imposed.

(a) The surcharge authorized by AS 43.55.201 is not levied during any fiscal year for which

(1) the legislature does not, during the regular or a special legislative session preceding the first day of the fiscal year, appropriate at least an amount equal to the amount determined under (b) of this section from the general fund to the response account in the oil and hazardous substance release prevention and response fund; or

(2) the legislature, during the regular or a special legislative session preceding the first day of the fiscal year, appropriates at least the amount of money equal to the amount determined under (b) of this section from the general fund to the response account in the oil and hazardous substance release prevention and response fund and that appropriation is vetoed or reduced by the governor.

(b) The amount of money required to be appropriated from the general fund to the response account in the oil and hazardous substance release prevention and response fund by (a) of this section is the amount, determined for the last day of the preceding fiscal year, that is the sum of the actual or estimated balance of

(1) the account maintained under AS 37.05.142 to account for all proceeds of the surcharge that are deposited into the general fund; and

(2) the portion of the balance of the response mitigation account established by AS 46.08.025 (b) that originated from the recovery of money described in AS 46.08.025 (a)(3).

Sec. 43.55.240. Surcharge not imposed. [Repealed, Sec. 43 ch 128 SLA 1994].

Repealed or Renumbered

Sec. 43.55.299. Definitions.

In AS 43.55.201 - 43.55.299,

(1) "response account" means the oil and hazardous substance release response account established in AS 46.08.010 (a)(2);

(2) "response mitigation account" means the oil and hazardous substance release response mitigation account established in AS 46.08.025(b).

Article 03. ADDITIONAL CONSERVATION SURCHARGE ON OIL

Sec. 43.55.300. Surcharge levied.

(a) Every producer of oil shall pay a surcharge of \$.03 per barrel of oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation.

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011 - 43.55.150; and is in addition to the surcharge imposed by AS 43.55.201 - 43.55.231.

(c) A producer of oil shall make reports of production in the same manner and under the same penalties as required under AS 43.55.011 - 43.55.150.

Sec. 43.55.310. Use of revenue derived from surcharge.

The legislature may appropriate the annual estimated balance of the account maintained under AS 37.05.142 for deposits into the general fund of the proceeds of the surcharge levied under AS 43.55.300 to the oil and hazardous substance release prevention account in the oil and hazardous substance release prevention and response fund established by AS 46.08.010.

Article 04. GENERAL PROVISIONS

Sec. 43.55.900. Definitions.

In this chapter,

(1) "API gravity" means the specific gravity of oil measured in degrees on the American Petroleum Institute scale;

(2) "barrel of oil" means 42 United States gallons of oil of 231 cubic inches a gallon computed at a temperature of 60 degrees Fahrenheit;

(3) "catastrophic oil discharge" has the meaning given in AS 46.04.900;

(4) "cubic foot of gas" means the volume of gas contained in one cubic foot of space measured at a pressure base of 14.65 pounds per square inch absolute and a temperature base of 60 degrees Fahrenheit;

(5) *[Repealed, Sec. 38 ch 168 SLA 1990]*.

(6) "gas" means all natural, associated or casinghead gas, all hydrocarbons produced at the wellhead not defined as oil, and all liquid hydrocarbons extracted at a gas processing plant;

(7) "gross value at the point of production" means

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

(B) for gas recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured after separation from the oil; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the premises upon which the oil production operation is conducted; and

(C) for gas not recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured or the value of the gas at the point of sale, if any, on the premises of the lease or property from which the gas is recovered, whichever is the higher value; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the point where it was accurately metered or measured;

(8) "intangible drilling expenses" as defined in 26 U.S.C. 263(c) (Internal Revenue Code) as defined on January 1, 1974;

(9) "lease or property" means any right, title, or interest in or the right to produce or recover oil or gas including:

(A) a mineral interest;

(B) a leasehold interest;

(C) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest, or any other interest in a lease, concession, joint venture, or other agreement for exploration, development, or production of oil and gas or of gas only;

(D) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest or any other interest in an agreement for unitization or pooling under the provisions of 26 U.S.C. 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

(10) "oil" means crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered by separation from gas other than at a gas processing plant;

(11) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil of pipeline quality;

(12) "old crude oil" means crude oil production classified as "old crude oil" in 10 CFR Chapter II Part 212-72 on May 1, 1977, and which is also classified as "old crude oil" on the date of production;

(13) "ownership or right to which is exempt from taxation" means any ownership interest of the federal government or the state;

(14) "pipeline quality" means good and merchantable condition;

(15) "surcharge" means

(A) when used in AS 43.55.201 - 43.55.299, the surcharge levied by AS 43.55.201;

(B) when used in AS 43.55.300 - 43.55.310, the surcharge levied by AS 43.55.300;

(16) "well days" means the number of days in which a well is operating during a month.