

15 AAC 55.245 is amended to read:

15 AAC 55.245. Lease expenditures under operating agreements. (a) In approving or requiring use of an operating agreement under AS 43.55.165(c) or (d), **as those provisions read on June 30, 2007,** the department will impose conditions or requirements it considers necessary to ensure that the purposes of AS 43.55.160 – AS 43.55.170 are met. Those conditions or requirements may include

(1) exclusion of particular billable or billed items from lease expenditures in addition to items excluded under AS 43.55.165(e);

(2) remedies for inadequate review or auditing of operator bills by a producer and for other noncompliance;

(3) an expiration date for the department's approval;

(4) requirements for reporting by operators or producers; those requirements may include submission to the department of audit workpapers and other documents relating to audits of operator bills by a producer;

(5) requirements for auditing by producers, those requirements may include submission of an audit plan to the department for approval; this paragraph applies only to the department's approving use of an operating agreement and not to the department's requiring use of an operating agreement; and

(6) a prohibition against agreements or transactions under which, in exchange for other consideration, a producer agrees to an amount billed by the operator or a billing practice by the operator, or agrees not to challenge that amount or practice.

(b) If the department has approved or required use of an operating agreement under AS 43.55.165(c) or (d), **as those provisions read on June 30, 2007**, the operator shall notify the department in writing within 30 days after any change in the

(1) operating agreement;

(2) identity of the operator or any of the parties to the operating agreement; or

(3) ownership of the working interests in the lease or property to which the operating agreement applies.

(c) For lease expenditures for calendar year 2006 or **for the first six months of 2007**,

(1) the department may retroactively approve or require use of an operating agreement under AS 43.55.165(c) or (d), **as those provisions read on June 30, 2007**;

(2) a producer may request the department to approve use of an operating agreement under AS 43.55.165(c) or (d), **as those provisions read on June 30, 2007**, by filing the request in or with the statement described in AS 43.55.030(a) for the calendar year in question.

(d) This section applies to expenditures incurred before July 1, 2007. (Eff. 5/3/2007, Register 182; am ___/___/____, Register _____

Authority: AS 43.05.080 AS 43.55.160 AS 43.55.170
AS 43.55.110 AS 43.55.165

15 AAC 55 is amended by adding a new section to read:

15 AAC 55.250. Standards for lease expenditures other than overhead.

(a) Unless the department has approved or required use of an operating agreement under AS 43.55.165(c) or (d), as those provisions read on June 30, 2007, costs incurred before July 1, 2007, other than an allowance for overhead expenses under 15 AAC 55.270, are ordinary and necessary costs upstream of the point of production of oil and gas and direct costs of exploring for, developing, or producing oil or gas deposits, under AS 43.55.165(a), as that provision read on June 30, 2007, only if they are

(1) direct charges under 15 AAC 55.260 incurred for the activities and purposes described in (c) of this section; and

(2) not excluded under AS 43.55.165(e), as amended by sec. 60, ch. 1, SSSLA 2007, to the extent made retroactive to April 1, 2006, by sec. 74(b), ch. 1, SSSLA 2007.

(b) Costs incurred after June 30, 2007, satisfy the requirements established in AS 43.55.165(a)(1)(B), as enacted by sec. 58, ch. 1, SSSLA 2007, only if they are

(1) direct charges under 15 AAC 55.260 incurred for the activities or purposes described in (c) of this section; and

(2) not excluded under AS 43.55.165(e), as amended by sec. 60, ch. 1, SSSLA 2007.

(c) The activities or purposes referred to in (a) and (b) of this section are

(1) geological and geophysical exploration for oil or gas;

(2) geological, geophysical, geotechnical and geochemical examinations or investigations for oil or gas exploration or production operations, or for reservoir management;

(3) processing and interpretation of data derived from activities described in (1) and (2) of this subsection to support exploration, development, or production of oil or gas;

(4) surveying, preparing, constructing, operating, and maintaining a drill site for a well to explore for or produce oil or gas or to support oil or gas production, including injection and disposal wells;

(5) transportation, mobilization, and demobilization of a rig, coil tubing unit, or similar equipment to and on a drill site to drill or perform down-hole operations on a well described in (4) of this subsection; demobilization does not include transportation out of the state;

(6) drilling, testing, logging, completing, recompleting, operating, maintaining, or performing other work on a well described in (4) of this subsection;

(7) plugging and abandoning an exploration well drilled to explore for oil or gas, but excluding restoration of the drill site;

(8) plugging and abandoning a well used to produce oil or gas or to support oil or gas production if the plugging and abandonment operations are part of ongoing field operations, but excluding restoration of the well site;

(9) designing, constructing, acquiring, transporting, installing, operating, repairing, and maintaining oil or gas production equipment and facilities;

(10) designing, constructing, acquiring, transporting, installing, operating, repairing, and maintaining communications systems for communications between the

site of oil or gas exploration, development, or production operations, and the operator's headquarters in the state, and that are required for field operations;

(11) designing, constructing, acquiring, transporting, installing, operating, repairing, and maintaining field automation systems dedicated to and unique to a unit or a lease or property and necessary for oil or gas production operations of the unit or the lease or property;

(12) preparing and submitting applications, data, and reports required by law, regulation, or lease to obtain and maintain permits and other approvals directly required for oil or gas exploration, development, or production operations;

(13) performing archaeological, geophysical, or environmental surveys or preparing environmental impact statements required by law, regulation, or lease for oil or gas exploration, development, or production operations;

(14) preparing and maintaining oil or hazardous substance cleanup contingency plans, fire response plans, and disaster recovery plans required for safe operation or by law, regulation, or lease, for oil or gas exploration, development, or production; training personnel and performing practice drills, monitoring, and inspection under those plans; and obtaining and maintaining equipment and supplies required under those plans to be routinely kept on hand;

(15) monitoring and maintaining the safety of personnel at the site, or in the vicinity, of oil or gas exploration, development, or production operations and complying with environmental requirements imposed by law, regulation, or lease for those operations;

(16) designing, constructing, acquiring, transporting, installing, operating, repairing, and maintaining facilities and infrastructure that are located in the vicinity of and that directly support oil or gas exploration, development, or production operations, including camps; operations centers; laboratories; staging pads, roads, bridges, docks,

helipads, landing areas, and similar transportation structures; medical facilities; emergency response facilities; storage facilities, security facilities; and repair and maintenance shops.

(d) A cost incurred for both an activity or purpose described in (c) of this section and an activity or purpose not described in (c) of this section must be allocated between the activity or purpose described in (c) of this section and the other activity or purpose using an appropriate allocation methodology approved by the department.

(e) A cost incurred to explore for, develop, or produce oil or gas deposits located within a lease or property or other land is not a lease expenditure under AS 43.55.165 if the person incurring the cost does not have the right to conduct on that land the exploration, development, or production operation for which the cost is incurred. (Eff. ___/___/____, Register _____)

Authority:	AS 43.05.080	AS 43.55.160	AS 43.55.170
	AS 43.55.110	AS 43.55.165	

15 AAC 55 is amended by adding a new section to read:

15 AAC 55.260. Direct charges.

(a) Except as limited by (c) of this section, direct charges for purposes of 15 AAC 55.250(a) and (b) are:

(1) costs paid to real property owners to acquire surface rights in real property located in the vicinity of oil or gas exploration, development or production operations, and used in support of those operations;

(2) net profit shares required to be paid to the state under leases issued under AS 38.05.180(f)(3)(B), (D), or (E) and paid after June 30, 2007;

(3) labor costs, not including work on tax, legal, purchasing, or accounting matters, or matters involving a dispute before a government agency, in the form of salaries and wages of employees of the operator, producer, or explorer

(A) when directly employed in or in support of, and assigned to, oil or gas exploration, development or production operations and either (i) on the site or in the vicinity of those operations, or (ii) while in transit to or from those operations, including earned or compensatory time off; and

(B) in the following categories, but only as to that portion of the salaries and wages attributable to the time actually devoted to the relevant operations, including earned or compensatory time off, as supported by an approved time sheet or other time writing document:

(i) technical employees directly employed in and assigned to oil or gas exploration, development or production operations, having special and specific engineering, geological, or other technical skills, such as engineers, geologists, geophysicists, environmental specialists, and other technical personnel whose primary function in the operations is the handling of specific problems and operating conditions occurring at the site of those operations, or the application for and management of permits and other approvals or the conduct of surveys required for those operations; or who are directly employed in and assigned to the design, construction, repair, or maintenance of a facility, equipment, system, or infrastructure described in 15 AAC 55.250(c)(9) – (11) or 15 AAC 55.250(16);

(ii) employees engaged in operating, maintaining, or developing field automation systems dedicated to and unique to a unit or

a lease or property and necessary for oil or gas production operations of the unit or the lease or property;

(iii) employees engaged in developing or modifying computer applications unique to a unit or a lease or property and necessary for oil or gas development or production operations of the unit or the lease or property;

(4) costs of employee training that directly relates to the job duties of the employees described in (3) of this subsection; the costs of professional memberships, dues, periodicals, or education or training to achieve or maintain professional credentials are not direct charges;

(5) expenditures or contributions made under assessments imposed by governmental authority that are applicable to the operator's, explorer's, or producer's labor costs described in (3) of this subsection; costs of claims against a self-insured employer are not direct charges;

(6) reasonable expenses incurred directly by or reimbursed by the employer of those employees described in (3) of this subsection for travel to and from the site of oil or gas exploration, development, or production operations, and for associated living quarters and meals; a reasonable per diem allowance, if paid by the employer in lieu of reimbursement of actual expenses, may be substituted for actual expenses for living quarters and meals;

(7) the employer's share of contributions to established plans for employee group life, disability and medical insurance, pension, retirement, stock purchase, thrift, bonus, and other similar benefit plans, applicable to the operator's, explorer's, or producer's labor costs described in (3) of this subsection, if

(A) the plans are available to all employees of the explorer, producer, or operator directly working in the exploration, development or

production operations, other than employees excluded from a plan's coverage because of participation under a collective bargaining agreement; and

(B) those costs do not exceed the following percentage, as applicable, of the costs under (3) of this subsection incurred for employees covered by the plans:

(i) 33 percent for calendar year 2007;

(ii) 36 percent for calendar years after 2007;

(8) contributions to plans described in (7) of this subsection available to employees under a collective bargaining agreement;

(9) costs paid to vendors to purchase and transport materials, supplies, and equipment used in oil or gas exploration, development, or production operations;

(10) costs paid to vendors to purchase and transport materials, supplies, and equipment used for or in the facilities and infrastructure described in 15 AAC 55.250(c)(9), (10), (11), and (16);

(11) costs paid to third parties for contract services, utilities, and use of equipment and facilities provided by third-parties used in oil or gas exploration, development, or production operations, or used in support of those operations; contract services exclude work in tax, legal or accounting matters, or matters involving a dispute before a government agency, and are limited to the categories of labor described in (3) of this subsection, support equipment and facilities are limited to the categories described in 15 AAC 55.250(c)(9) - (11), and (16);

(12) costs charged to a unit or other joint operation involving multiple explorers or producers for use in oil or gas exploration, development, or production operations of non-unit or non-joint operation equipment or facilities that are owned

wholly or partly by a producer or explorer with an interest in the unit or joint operation;

(13) premiums paid to third-party insurers covering oil or gas exploration, development, or production operations;

(14) standby costs paid to third parties incurred while operations are deferred, suspended, or curtailed by reason of force majeure or other causes beyond the reasonable control of the operator, or incurred to secure a rig for drilling;

(15) payments described in AS 43.55.165(b)(1)(B) if incurred with respect to the acquisition, ownership, or use of an item the cost of which is a lease expenditure under AS 43.55.165, or would be a lease expenditure if incurred during the period for which the payment is made;

(16) regulatory cost charges under AS 31.05.093;

(17) fees charged by government agencies for regulatory permits and licenses required for oil or gas exploration, development, or production operations;

(18) costs paid to third parties to purchase and transport substances used for reservoir pressure maintenance, repressuring, or enhanced recovery purposes;

(19) after June 30, 2007, the amount allowed as a lease expenditure by AS 43.55.165(e)(20);

(20) costs paid to third parties to acquire geological or geophysical data used in oil or gas exploration, development, or production operations.

(b) In the absence of evidence to the contrary, a charge under (a)(12) of this section is presumed to be not more than fair market value for purposes of AS 43.55.165(e)(12) if the charge does not exceed the cost calculated on the basis of the net book value of the equipment or facility multiplied by the number of hours,

days, miles, or throughput volumes for which the equipment or facility is used in the exploration, development, or production operations, divided by the number of hours, days, miles, or throughput volumes, as applicable, of estimated remaining useful life of the equipment or facility, or calculated using another method approved by the department. For purposes of this subsection, “net book value” means the dollar amount the owner of an asset records in its financial statements, consistent with generally accepted accounting principles, as the historical cost of the asset, excluding capitalized interest and net of accumulated depreciation or amortization, if the historical cost does not exceed the fair market value of the asset at the time it was acquired by the owner.

(c) Except for payment by a producer of a cost described in (a)(2) or (a)(13) of this section, a cost that would otherwise constitute a direct charge under this section and that is incurred to explore for, develop, or produce oil or gas deposits under a unit operating agreement or similar agreement that provides for an operator to carry out exploration, development, or production operations on behalf of itself and other producers is not a direct charge unless the cost is (1) actually billed to the producers under the agreement and (2) paid, as to the producer’s share, by the producer to whom that share is billed. For purposes of this subsection, a unit operating agreement or similar agreement includes an instrument or arrangement among the parties to the agreement that modifies a party’s rights or obligations under the agreement.

(d) Direct charges under this section are net of any credits, refunds, reimbursements, purchase discounts, and cost recoveries. For purposes of this subsection, “credits” do not include tax credits under AS 38.05, AS 43.20, or AS 43.55. (Eff. ___/___/____, Register _____)

Authority: AS 43.05.080 AS 43.55.160 AS 43.55.170
AS 43.55.110 AS 43.55.165

The section heading of 15 AAC 55.270 is changed:

15 AAC 55.270. Overhead before July 1, 2007.

15 AAC 55.270(a) is repealed and readopted to read:

(a) This subsection applies only to determining allowable overhead expenses under AS 43.55.165(a) and (b), as those provisions read on June 30, 2007, except as otherwise provided under AS 43.55.165(j) and (k), as enacted by sec. 62, ch. 1, SSSLA 2007. For purposes of AS 43.55.165(b)(1)(C), as that provision read on June 30, 2007, a reasonable allowance for a producer's or explorer's overhead expenses directly related to exploring for, developing, and producing oil or gas deposits located within a lease or property or other land in the state is 4.5 percent of the producer's or explorer's lease expenditures incurred during the calendar year that are allowed as direct charges under 15 AAC 55.260 other than

(1) payments of or in lieu of taxes, except payroll taxes under 15 AAC 55.260(a)(3);

(2) that portion of a charge paid by the producer or explorer to an affiliate that represents the affiliate's overhead, depreciation, or return on investment.

15 AAC 55.270(b) is amended to read:

(b) This subsection applies only to determining the allowance for overhead expenses under AS 43.55.165(c)(2) and (d)(2), **as those provisions read on June 30, 2007, except as otherwise provided under AS 43.55.165(j) and (k), as enacted by sec. 62, ch. 1, SSSLA 2007.** For a producer that is not an operator of the lease or property

subject to an operating agreement, this allowance is in addition to allowable overhead expenses included in the costs that are billable or billed, as applicable, under an operating agreement subject to AS 43.55.165(c)(1) or (d)(1), **as those provisions read on June 30, 2007.** For purposes of AS 43.55.165(c)(2) and (d)(2), **as those provisions read on June 30, 2007,** the reasonable percentage allowed is 0.4 percent for a producer that is not the operator of the lease or property. The percentage may not be applied to items that are excluded under AS 43.55.165(e) or to payments of or in lieu of taxes. An overhead allowance under AS 43.55.165(c)(2) or (d)(2), **as those provisions read on June 30, 2007,** is not allowed for the operator of the lease or property.

15 AAC 55.270(c) is amended to read:

(c) The provisions of (a) and (b) of this section do not apply to determining allowable overhead expenses included in the costs that are billable or billed, as applicable, under an operating agreement subject to AS 43.55.165(c)(1) or (d)(1), **as those provisions read on June 30, 2007.**

15 AAC 55.270 is amended by adding a new subsection to read:

(e) This section applies to expenditures incurred before July 1, 2007. (Eff. 5/3/2007, Register 182; am ___/___/_____, Register ____)

Authority: AS 43.05.080 AS 43.55.110 AS 43.55.165

15 AAC 55 is amended by adding a new section to read:

15 AAC 55.271. Overhead allowance after June 30, 2007.

(a) For purposes of AS 43.55.165(a)(2), as repealed and reenacted by sec. 58, ch. 1, SSSLA 2007, a reasonable allowance for the calendar year for a producer's or explorer's overhead expenses directly related to exploring for, developing, and producing oil or gas deposits located within a lease or property or other land in the state is 4.5 percent of the producer's or explorer's lease expenditures incurred during the calendar year that are allowed as direct charges under 15 AAC 55.260 other than

(1) payments of or in lieu of taxes, except payroll taxes under 15 AAC 55.260(a)(3);

(2) net profit share payments under 15 AAC 55.260(a)(2);

(3) that portion of a charge paid by the producer or explorer to an affiliate that represents the affiliate's overhead, depreciation, or return on investment.

(b) An allowance for overhead expenses is not a qualified capital expenditure.

(c) This section applies to expenditures incurred after June 30, 2007. (Eff.

___/___/___, Register ___)

Authority: AS 43.05.080 AS 43.55.110 AS 43.55.165

15 AAC 55.800(a) is amended to read:

(a) The following provisions apply retroactively to April 1, 2006, to oil and gas produced after March 31, 2006:

(1) 15 AAC 55.192;

(2) 15 AAC 55.205;

- (3) 15 AAC 55.215;
- (4) 15 AAC 55.223;
- (5) **15 AAC 55.245 – 15 AAC 55.260;**
- (6) **15 AAC 55.270;**
- (7) **15 AAC.275;**
- (8) **15 AAC 55.280;**
- (9) **15 AAC 55.290;**
- (10) **15 AAC 55.305;**
- (11) **15 AAC 55.310;**
- (12) **15 AAC 55.315** [15 AAC 55.245 - 15 AAC 55.315];
- (13) [6] 15 AAC 55.325 – 15 AAC 55.355;
- (14) [(7)] 15 AAC 55.370 - 15 AAC 55.440;
- (15) [(8)] 15 AAC 55.510;
- (16) [(9)] 15 AAC 55.810;
- (17) [(10)] 15 AAC 55.820;
- (18) [(11)] 15 AAC 55.850;
- (19) [(12)] 15 AAC 55.900(a)(21) - (22) and (b)(21) - (24).

15 AAC 55.800 is amended by adding a new subsection to read:

(f) The provisions of 15 AAC 55.271 apply retroactively to July 1, 2007.

(Eff. 5/3/2007, Register 182; am ___/___/_____, Register ____)

Authority; AS 43.05.080 Sec. 37, ch. 2, TSSLA 2006 **Sec. 72, ch. 1, SSSLA 2007**

_____AS 43.55.110