

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

**15 AAC 55.140. Processing cost deduction for a downstream gas plant.** (a) For gas processed in a downstream gas plant under an arm's length contract, the processing cost deduction under 15 AAC 55.151(b)(2)(B) is the actual cost incurred by the producer under the contract for processing the taxable gas, except as otherwise provided under (c) of this section.

(b) For gas processed in a downstream gas plant other than under an arm's length contract, except as otherwise provided under (c) of this section, the processing cost deduction under 15 AAC 55.151(b)(2)(B)

(1) will be calculated by the department as a volume-weighted average of processing costs under arm's length contracts for comparable processing in the area where the downstream gas plant is located, if the department determines that sufficient arm's length contracts for comparable processing exist and are available to the department to provide a reliable basis for the processing cost deduction;

(2) otherwise is calculated using the methodology under 15 AAC 55.141.

(c) Allowable processing costs do not include

(1) a cost not directly related to processing of taxable gas;

(2) a cost for processing gas downstream of the point where destination value is determined under 15 AAC 55.151(b)(1);

(3) a cost greater than the consideration transferred, either directly or indirectly, from the producer to the processor, regardless of the cost or fee identified in a processing contract;

(4) a cost incidental to marketing.

(d) On or after January 1 of a calendar year during which a producer produces gas from leases or properties in the state that is processed in a downstream gas plant other than under an arm's length contract, the producer may request in writing the department's determination whether the processing cost deduction for the calendar year for that gas will be calculated under (b)(1) of this section or 15 AAC 55.141. No later than 90 days after receiving the request, the department will notify the producer of the department's determination. If the department determines that the processing cost deduction will be calculated under (b)(1) of this section, the department will provide the department's calculation to the producer no later than the later of July 1 of the calendar year or 150 days after the department receives the producer's request.

(e) If a producer's gas produced from leases or properties in the state is processed during a month in a downstream gas plant in an area where the producer's other gas is also processed during the month,

(1) for each downstream gas plant in that area in which the producer's gas from whatever source is processed, the percentage of the producer's gas processed in that plant during the month that is considered to be gas produced from leases or properties in the state is equal to the percentage that the producer's gas produced from leases or properties in the state constitutes of the producer's total amount of gas processed in downstream gas plants in that area during the month;

(2) if the producer has gas processed during the month under multiple contracts in a given downstream gas plant, the percentage of the producer's gas processed under each of those contracts during the month that is considered to be gas produced from leases or properties in the state is equal to the percentage that the producer's gas produced from leases or properties

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in the state constitutes of the producer's total amount of gas processed under those contracts during the month. (Eff. 4/30/2010, Register 194)

**Authority:** AS 43.05.080 AS 43.55.110 AS 43.55.900

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

**15 AAC 55.141. Methodology for calculating certain gas processing cost deductions.**

(a) For gas processed in a downstream gas plant for which the processing cost deduction is calculated under this section, the applicable processing cost deduction is based on the downstream gas plant's actual and reasonable, directly allocable and attributable processing costs in the form of operating and maintenance expense, overhead, depreciation, and a return on undepreciated capital investment as provided in (c) of this section. Allowable capital costs are the original costs for depreciable fixed assets, including costs of delivery and installation of capital equipment that is an integral part of the plant.

(b) To compute depreciation for the purposes of this section, the producer shall use straight-line depreciation based on the economic life of the downstream gas plant. A change in ownership of a plant does not alter the depreciation schedule established by the original processor or producer for purposes of calculating a processing cost deduction under this section. Notwithstanding a change in ownership, a downstream gas plant may only be depreciated once. Equipment may not be depreciated below a reasonable, positive salvage value.

(c) Each February, the department will determine and publish the prevailing yield during the preceding January on corporate bonds whose relevant characteristics are comparable to those for which Moody's Investor Services, Inc., published its Moody's Seasoned Baa Corporate Bond

Yield - All Industries for January 2010. The prevailing yield published by the department is the rate of return for purposes of calculating the return for that calendar year on undepreciated capital investment under (a) of this section.

(d) For a new downstream gas plant, the producer shall include in its initial processing cost deduction estimates of the directly allocable gas processing costs allowed under (a) of this section for the applicable period. The producer shall base cost estimates upon the most recently available operations data for the plant; if these data are not available, the producer shall base cost estimates upon industry data for similar downstream gas plants. To the extent a processing cost deduction is based on estimates, the deduction must be revised after actual costs are known.

(e) The billing determinant to be used in calculating a processing cost deduction under this section is throughput for the downstream gas plant.

(f) A reasonable share of overhead directly allocable and attributable to the operation and maintenance of a downstream gas plant is an allowable operating expense for purposes of this section.

(g) A producer may not include the following capital costs in determining a processing cost deduction under this section:

(1) a cost for a capital improvement or equipment that is not an integral part of the downstream processing plant;

(2) nondepreciable property, including land and a pipeline right-of-way;

(3) a facility used to store, deliver, or otherwise dispose of residue gas or gas plant products after extraction.

(h) A producer may not include the following non-capital costs in calculating a

processing cost deduction under this section:

- (1) operating and maintenance cost not directly related to processing;
- (2) a cost associated with a capital improvement or equipment if the cost of the capital improvement or equipment is disallowed under (g) of this section;
- (3) federal, state, or other income taxes;
- (4) production or severance taxes;
- (5) royalty payments. (Eff. 4/30/2010, Register 194)

**Authority:** AS 43.05.080 AS 43.55.110 AS 43.55.900

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<http://www.federalreserve.gov/econresdata/releases/statisticsdata.htm>

15 AAC 55.151(b) is amended to read:

(b) The gross value at the point of production for a producer's oil or gas must be calculated as follows:

- (1) a destination value must be determined for the oil or gas; the destination value

is the sales price under 15 AAC 55.161 unless (c) or (d) of this section applies, in which case the destination value is the prevailing value under 15 AAC 55.171 or 15 AAC 55.173, as applicable;

(2) **for oil and gas produced**

**(A) before July 1, 2007**, the producer's reasonable costs of transportation under 15 AAC 55.180 and 15 AAC 55.191 must be subtracted from the destination value determined under (1) of this subsection; reasonable costs of transportation are calculated from the point of production of the oil or gas to its sales delivery point, or if different, to a point where prevailing value is calculated under 15 AAC 55.171 or 15 AAC 55.173;

**(B) after June 30, 2007, the producer's costs of transportation under AS 43.55.150 and 15 AAC 55.193 and, if applicable, the producer's processing cost deduction under 15 AAC 55.140 or 15 AAC 55.141 must be subtracted from the destination value determined under (1) of this subsection; costs of transportation are calculated from the point of production of the oil or gas to its sales delivery point or, if the destination value determined under (1) of this subsection is the prevailing value, to the point where prevailing value is determined under 15 AAC 55.171 or 15 AAC 55.173;**

(3) if oils of different qualities are commingled, the value calculated under (2) of this subsection must be adjusted for **the cash value of the full** [ANY] consideration paid or received for quality differentials, regardless of whether prescribed by a filed tariff;

**(4) if gas of different qualities is commingled, the value calculated under (2) of this subsection must be adjusted for the cash value of the full consideration paid or received for quality differentials, regardless of whether prescribed by a filed tariff, and**

**including the value of any volumetric allocations or adjustments made on the basis of the relative BTU content, NGL content, or any other characteristic of the gas.**

15 AAC 55.151(c) is amended to read:

(c) The prevailing value under 15 AAC 55.171 or 15 AAC 55.173 must be used in determining the gross value at the point of production for a producer's oil or gas if

(1) the producer's oil or gas is refined, used as fuel or petrochemical feedstock, or otherwise consumed at a refinery or plant owned by the producer, or the oil or gas is transferred from the producer in other than an **arm's length** [ARM'S-LENGTH], third party transaction;

(2) the prevailing value for the producer's gas under 15 AAC 55.173, **plus the total of the actual or reasonable costs of transportation, as applicable, incurred to transport the gas from the point where prevailing value is calculated to the sales delivery point and, if the gas has been processed in a downstream gas plant, the gas processing cost deduction under 15 AAC 55.140 or 15 AAC 55.141, exceed** [EXCEEDS] the sales price for that gas under 15 AAC 55.161 **by more than one percent of the sales price**; or

(3) the prevailing value for the producer's oil under 15 AAC 55.171, plus the actual **or reasonable costs of transportation, as applicable**, incurred to transport the oil from the point where prevailing value is calculated to the sales delivery point, **exceed** [EXCEEDS] the sales price under 15 AAC 55.161 by more than \$.15 per barrel.

(Eff. 1/1/95, Register 132; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 5/3/2007, Register 182; am 4/30/2010, Register 194)

**Authority:** AS 43.05.080 AS 43.55.110 AS 43.55.900

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AS 43.55.020

AS 43.55.150

15 AAC 55.161(a) is amended to read:

(a) For purposes of this chapter, the sales price for oil or gas is the cash value of the full consideration being given in receipt for oil or gas transferred from a producer in an **arm's length** [ARM'S-LENGTH], third party transaction. **For gas that has been processed in a downstream gas plant, the sales price is the total of the cash value of the full consideration being given in receipt for the residue gas and gas plant products transferred from a producer in an arm's length, third party transaction.**

(Eff. 1/1/95, Register 132; am 1/1/200, Register 152; am 1/1/2003, Register 164; am

4/30/2010, Register 194)

**Authority:** AS 43.05.080

AS 43.55.110

AS 43.55.150

AS 43.55.020

15 AAC 55.171(k) is amended to read:

(k) The prevailing value for oil produced in the state and delivered to a location other than those specified in (a) or (f) - (j) of this section is the value of comparable crudes delivered to the same **regional** market, as adjusted for quality and location and measured by indices of current market value.

(Eff. 1/1/95, Register 132; am 1/1/2000, Register 152; am 11/1/2000, Register 156; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 1/1/2004, Register 168; am 5/3/2007, Register 182; am 4/30/2010, Register 194)

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**Authority:** AS 43.05.080

AS 43.55.020

AS 43.55.110

15 AAC 55.173(a) is amended to read:

(a) For gas delivered in the Alaska North Slope area, the prevailing value [PER MCF] is,

(1) for **each Mcf of** gas produced before October 1, 2008, 10 percent of the prevailing value per barrel that would be determined under 15 AAC 55.171(g) for oil that is produced from the lease or property from which the gas is produced and that is sold at the entrance to the [PUBLICLY] regulated oil pipeline serving that lease or property; if during the month that the gas is delivered oil is not produced from that lease or property and delivered into a [PUBLICLY] regulated oil pipeline serving that lease or property, the prevailing value calculation must be made with respect to the nearest lease or property from which oil is produced and delivered that month into a [PUBLICLY] regulated oil pipeline;

(2) for gas produced on or after October 1, 2008 **and before the commencement of commercial operation of a regulated pipeline facility that delivers gas outside of the Alaska North Slope area**, the weighted average sales price of sales from producers of gas to [PUBLICLY] regulated utilities in the **Alaska** North Slope area for the three-month period ending one month before the end of the previous calendar quarter; in the absence of sales from producers to [PUBLICLY] regulated utilities in the **Alaska** North Slope area, the department will determine the prevailing value on another reasonable basis under AS 43.55.020(f); the department will publish on the 15th day of each calendar quarter the prevailing value for that quarter;

**(3) for gas produced after the commencement of commercial operation of a**

**regulated pipeline facility that delivers gas outside of the Alaska North Slope area, the prevailing value determined under (j) of this section, adjusted for differences, if any, in location, quality, or composition between unprocessed gas delivered into the pipeline facility and gas delivered in the Alaska North Slope area.**

15 AAC 55.173(c) is repealed and readopted to read:

(c) For gas delivered by pipeline to a market in Canada or the Lower 48, the prevailing value for the month of production of that gas is determined as follows:

(1) except as provided in (3) of this subsection, for unprocessed gas delivered in, or downstream of, a first destination market with reasonable liquidity, the prevailing value is the total value of the component residue gas and component gas plant products, based on market price indices for residue gas and gas plant products determined by the department under (n) of this section, as adjusted for quality or location, for the first destination market with reasonable liquidity, after deduction of a downstream gas processing cost allowance;

(2) except as provided in (3) of this subsection, if gas has been processed in a downstream gas plant and delivered in, or downstream of, a first destination market with reasonable liquidity, the prevailing value is the total value of the residue gas and the gas plant products, based on market price indices for residue gas and gas plant products determined by the department under (n) of this section, for the first destination market with reasonable liquidity, after deduction of a downstream gas processing cost allowance;

(3) if unprocessed gas, residue gas, or gas plant products are not delivered in, or downstream of, a first destination market with reasonable liquidity and are not subject to (k) of

this section, or if the department determines that a methodology set out in (1) and (2) of this subsection cannot practicably be applied, the department will determine the prevailing value using one of the following methods:

(A) the weighted average sales price of all gas produced in the state and sold in arm's length, third party transactions in the month of delivery in the same destination market;

(B) the weighted average sales price of all gas produced in the state and sold in arm's length, third party transactions in the month of delivery in the same regional market;

(C) the value of comparable gas delivered to the same regional market, as adjusted for quality and location and based on applicable reference prices published by government entities in Canada or the United States, or any other source of market price information identified by the department as reasonably reliable for purposes of determining the value of the gas.

15 AAC 55.173(d) is repealed and readopted to read:

(d) For gas delivered in the United States outside the state or in a foreign market by means of an LNG transportation facility, the prevailing value for the month of production of that gas is determined as follows:

(1) except as provided in (2) of this subsection, for LNG delivered in or downstream of a first destination market with reasonable liquidity, prevailing value is the higher of

(A) the total value of the LNG based on the market price index determined by the department under (n) of this section for LNG of like kind, quality, and condition for that market;

(B) the total value of the LNG based on the market price index determined by the department under (n) of this section for regasified LNG or the market price indices determined by the department under (n) of this section for residue gas and gas plant products, after deduction of a regasification cost allowance and, if applicable, a downstream gas processing cost allowance, and after applying any location or quality differentials determined by the department;

(2) if the LNG or regasified LNG is not delivered in, or downstream of, a first destination market with reasonable liquidity, or if the department determines that the methodology set out in (1) of this subsection cannot practicably be applied, the department will determine the prevailing value using one of the following methods:

(A) the weighted average sales price of all gas produced in the state and sold in arm's length, third party transactions in the month of delivery in the same destination market;

(B) the weighted average sales price of all gas produced in the state and sold in arm's length, third party transactions in the month of delivery in the same regional market;

(C) the value of comparable gas delivered to the same regional market, as adjusted for quality and location, based on applicable reference prices published by government entities in the foreign market or the United States, or any other source of

market price information identified by the department as reasonably reliable for purposes of determining the value of LNG, regasified LNG, residue gas, or gas plant products for that same regional market.

15 AAC 55.173 is amended by adding new subsections to read:

(j) For gas sold at the inlet to a gas treatment plant or at the inlet to a regulated gas pipeline facility capable of transporting gas to areas of the state outside of the Alaska North Slope area, the prevailing value for the month of production of that gas is the prevailing value determined in (c) of this section for the first destination market with reasonable liquidity for residue gas and gas plant products, or if there is more than one first destination market with reasonable liquidity, the weighted average of the prevailing values determined under (c) of this section, minus the volume-weighted average of all applicable filed pipeline tariff rates for gas produced from the lease or property and transported to the destination market and, if applicable, minus the cost of gas treatment at the gas treatment plant. In calculating a volume-weighted average of pipeline tariff rates under this subsection, the department may use data from an appropriate prior tax period as necessary to allow for a more contemporaneous determination of prevailing value. For purposes of this subsection, the cost of gas treatment is

(1) if the gas treatment plant is regulated, the applicable tariff rate for the gas treatment plant or, if there is more than one applicable filed tariff rate, the weighted average of all of those rates;

(2) if the gas treatment plant is not regulated, the cost determined by the department using the methodology under 15 AAC 55.197 for current or prior tax periods.

(k) For North Slope gas delivered at an offtake point or other point downstream from the inlet to a regulated gas pipeline facility in an area of the state outside of the Alaska North Slope area or in Canada or the Lower 48 but upstream from a first destination market with reasonable liquidity, the prevailing value for the month of production of that gas is the prevailing value determined in (c) of this section for the first destination market with reasonable liquidity for residue gas and gas plant products, or if there is more than one first destination market with reasonable liquidity, the weighted average of the prevailing values determined under (c) of this section, minus the volume-weighted average of all applicable filed pipeline tariff rates for gas transported from that offtake or other point to the first destination market. In calculating a volume-weighted average of pipeline tariff rates under this subsection, the department may use data from an appropriate prior tax period as necessary to allow for a more contemporaneous determination of prevailing value.

(l) For North Slope gas delivered to and sold at the inlet to the liquefaction plant of an LNG transportation facility located in or near Valdez, Alaska, by use of a pipeline facility that does not also deliver gas to Canada or the Lower 48, the prevailing value is the prevailing value determined by the department in (d) of this section for LNG deliveries to the destination market or if there is more than one destination market, the weighted average of the prevailing values determined under (d) of this section, minus the volume-weighted average costs of transportation, determined under 15 AAC 55.193, between the inlet of the liquefaction facility and the destination markets. In calculating a volume-weighted average cost of transportation under this subsection, the department may use data from an appropriate prior tax period as necessary to allow for a more contemporaneous determination of prevailing value.

(m) For gas delivered by pipeline to any location outside of the Alaska North Slope area other than those locations provided for in (c), (d), (k), and (l) of this section, the prevailing value of the gas is the higher of

(1) the prevailing value determined under (k) of this section at the applicable offtake point from the pipeline facility originating in the Alaska North Slope area, plus the volume-weighted average of all applicable filed pipeline tariff rates, if any, between the offtake point and the sales delivery point; or

(2) the weighted average sales price of all gas produced in the state and sold in arm's length, third party transactions in the month of delivery in the same regional market.

(n) For purposes of determining prevailing value under this section,

(1) a first destination market with reasonable liquidity is a destination market that the department determines satisfies the following criteria:

(A) for residue gas,

(i) the average daily volume of residue gas sold in arm's length transactions exceeds 100,000 MMBTUs; and

(ii) there is sufficient market price information reasonably available in that market for the department to establish a market price index under

(2) of this subsection and, if applicable, an adjustment under (3) of this subsection for residue gas for that market;

(B) for LNG,

(i) the average daily volume of LNG or regasified LNG sold in arm's length transactions is substantial; and

(ii) there is sufficient market price information reasonably available in that market for the department to establish a market price index under (2) of this subsection and, if applicable, an adjustment under (3) of this subsection for LNG for that market;

(C) for gas plant products,

(i) gas plant products are either extracted or fractionated in the market for purposes of sale;

(ii) the market is designated as a first destination market for residue gas under (A) of this paragraph; and

(iii) there is sufficient market price information reasonably available either in that destination market or in another market for gas plant products connected by pipeline to that destination market for the department to establish a market price index under (2) of this subsection and, if applicable, an adjustment under (3) of this subsection for gas plant products for that market;

(2) for residue gas, LNG, or gas plant products, the department will determine a market price index, if appropriate, based on information published on a regular basis in reliable and widely available industry trade publications, applicable reference prices published by government entities in Canada or the United States, or any other source of market price information identified by the department as reasonably reliable for purposes of determining a value of residue gas, LNG, or gas plant products for that location or area, as adjusted for quality and location differentials, and if applicable, any adjustment under (3) of this subsection;

(3) for residue gas, LNG, or gas plant products, the department may determine an

appropriate adjustment between component residue gas and component gas plant products, and among actual or potential component gas plant products, based on BTU content, NGL content, or any other characteristic of the producer's gas that is required to determine a prevailing value under this section.

(o) The department will determine a reasonable downstream gas processing cost allowance, or in the case of LNG, a reasonable regasification cost allowance to be used in the calculation of prevailing value under this section, using one of the following methods as applicable:

(1) downstream gas processing costs or regasification costs published by an industry trade journal, a governmental entity, or any other reliable source of this information, adjusted for quality, location, and any service charges embedded in the published cost and not directly related to processing or regasification; for purposes of this paragraph, service charges include marketing allowances;

(2) for a gas processing cost allowance, a weighted average of downstream gas processing cost deductions determined by the department under 15 AAC 55.140(b)(2) and 15 AAC 55.141, for current or prior tax periods, as adjusted for quality or location;

(3) for a regasification cost allowance, a weighted average of actual transportation costs for regasification facilities determined under 15 AAC 55.193(b)(4)(B) and 15 AAC 55.196 for current or prior tax periods, as adjusted for quality or location;

(4) a weighted average of arm's length downstream gas processing costs or regasification costs for current or prior tax periods, as adjusted for quality or location.

(p) In this section,

(1) "Alaska North Slope area" means that part of the state that lies north of 68 degrees North latitude;

(2) "offtake point" means a point of delivery along the length of a long-distance integrated pipeline facility that is capable of providing connections to other lateral pipelines for delivery to markets separate from the mainline or to local gas distribution lines for residential or commercial use, or to both;

(3) "unprocessed gas" means gas that has not been subject to downstream gas processing. (Eff. 1/1/95, Register 132; am 1/1/2000, Register 152; am 1/1/2003, Register 164; am 5/3/2007, Register 182; am 10/1/2008, Register 187; am 4/30/2010, Register 194)

**Authority:** AS 43.05.080            AS 43.55.030            AS 43.55.110  
AS 43.55.020            AS 43.55.040

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

**15 AAC 55.177. Publication of information related to prevailing value**

**determinations for gas.** (a) For purposes of determining the prevailing value for gas under 15 AAC 55.173, the department will publish the information described in (b) of this section as follows:

(1) for the period that (A) begins with the date of commencement of commercial operation of a regulated pipeline that delivers gas to Canada, to the Lower 48, or to an LNG transportation facility located in or near Valdez, Alaska; and (B) ends on the last day of the same tax year, the department will publish the information at least 60 days before the date of commencement of commercial operation;

(2) for each tax year later than the tax year described in (1) of this subsection, the department will publish the information on or before December 1 of the immediately preceding year.

(b) The information to be published by the department under (a) of this section is

(1) the identification of each market that the department has determined to be a first destination market with reasonable liquidity for residue gas, for gas plant products, or for LNG;

(2) for each first destination market with reasonable liquidity,

(A) the name of the publication or other source of the market price index for residue gas, for gas plant products, or for LNG;

(B) a description of the specific price information that can be referenced;

and

(C) the manner in which that price information must be applied, including a description of any location or quality differential that the department determines to be appropriate to adjust the market price index in a given market;

(3) the method the department has selected to determine a downstream gas processing cost allowance or a regasification cost allowance under 15 AAC 55.173(o) for each first destination market with reasonable liquidity;

(4) to the extent practicable, the destination markets and the alternative prevailing value methods the department may apply under 15 AAC 55.173(c)(3) and (d)(2) in those markets; and

(5) to the extent practicable, any other information relating to the determination

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of prevailing value under 15 AAC 55.173.

(c) To the extent practicable, for each first destination market with reasonable liquidity identified by the department under (b) of this section, the department will publish on a monthly or other periodic basis the market price index determined by the department under 15 AAC 55.173(n), and any other information the department has determined can be reasonably provided related to the calculation of prevailing value for gas under 15 AAC 55.173.

(d) In this section, "Alaska North Slope area" means that part of the state that lies north of 68 degrees North latitude. (Eff. 4/30/2010, Register 194)

**Authority:** AS 43.05.080 AS 43.55.030 AS 43.55.110  
AS 43.55.020 AS 43.55.040

The section heading of 15 AAC 55.180 is changed:

**15 AAC 55.180. Choice of methods for determining reasonable cost of transportation for oil and gas produced before July 1, 2007.**

15 AAC 55.180 is amended by adding a new subsection to read:

(c) This section applies to oil and gas produced before July 1, 2007. (Eff. 1/6/80, Register 73; am 1/1/95, Register 132; am 1/1/2000, Register 152; am 4/30/2010, Register 194)

**Authority:** AS 43.05.080 AS 43.55.110 AS 43.55.150  
AS 43.55.020

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

**15 AAC 55.181. Comparison of actual and reasonable costs of transportation for oil and gas produced after June 30, 2007.** (a) Except as otherwise provided under (b) of this section, for purposes of determining the lower of actual costs of transportation or reasonable costs of transportation under AS 43.55.150(b), if the department finds under AS 43.55.150(b) that a condition in

(1) AS 43.55.150(a)(1) or (2) is present, the actual costs of transporting the producer's oil or gas from the point where the oil or gas is tendered into the transportation facility to the point where the oil or gas is delivered from the facility are compared to the reasonable costs of transporting the producer's oil or gas from the point where the oil or gas is tendered into the transportation facility to the point where the oil or gas is delivered from the facility;

(2) AS 43.55.150(a)(3) is present, the actual costs of transporting the producer's oil or gas by the method or under the terms the department finds to be not reasonable are compared to the reasonable costs of transporting the producer's oil or gas for that portion of the transportation of the oil or gas as to which the department finds the method or terms of the actual transportation used are not reasonable.

(b) If different filed tariff rates for intrastate transportation and for interstate transportation apply to the transportation of oil or gas from a given point where that oil or gas is tendered into a regulated transportation facility to a given point where it is delivered from the facility, the comparison of actual costs of transportation and reasonable costs of transportation under (a) of this section is made separately for the intrastate transportation and the interstate transportation of the oil or gas.

(c) For purposes of determining the lower of actual costs of transportation or reasonable costs of transportation under AS 43.55.150(b) in the case of transportation for which actual costs of transportation are determined under 15 AAC 55.193(b)(1) or (5), if the tariff rate has a materially different rate structure or capital recovery profile than the reasonable costs of transportation determined under 15 AAC 55.193(c)(5), the department may allow or require the comparison of actual costs and reasonable costs to be made using comparable rate structures and capital recovery profiles.

(d) For purposes of AS 43.55.150 and this section, a physical pipeline is a single transportation facility regardless of whether multiple carriers own interests in the pipeline, file separate tariffs for transporting oil or gas in the pipeline, or enter into separate contracts with shippers to transport oil or gas in the pipeline.

(e) On or after January 1 of a calendar year during which a producer expects to produce oil or gas for which the producer may be required under AS 43.55.150(b) to calculate the gross value at the point of production of oil or gas using the lower of the actual costs of transportation or the reasonable costs of transportation of the oil or gas, if the reasonable costs of transportation are determined under 15 AAC 55.193(c)(5) or (e) - (j), the producer may request in writing the department's determination of the reasonable costs of transportation. The department will provide the department's determination to the producer no later than the later of July 1 of the calendar year or 180 days after the department receives the producer's request. Regardless of whether the department receives a request under this subsection, the department may at any time determine the reasonable costs of transportation of oil or gas under AS 43.55.150(b).

(f) This section applies to oil and gas produced after June 30, 2007. (Eff.

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**Authority:** AS 43.05.080 AS 43.55.110 AS 43.55.150  
AS 43.55.020

15 AAC 55.191(a) is amended to read:

**15 AAC 55.191. Calculation of reasonable costs of transportation for oil or gas produced before July 1, 2007.** (a) Reasonable costs of transportation are the ordinary and necessary costs incurred to transport the oil or gas from the point of production to the sales delivery point or, if gas **produced before April 1, 2006** has been run through a gas processing plant, from the plant to the sales delivery point.

15 AAC 55.191 is amended by adding a new subsection to read:

(w) This section applies to oil and gas produced before July 1, 2007. (Eff. 1/1/95, Register 132; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 5/3/2007, Register 182; am 4/30/2010, Register 194)

**Authority:** AS 43.05.080 AS 43.55.040 AS 43.55.150  
AS 43.55.020 AS 43.55.110 AS 43.55.900  
AS 43.55.030

15 AAC 55.192 is amended to read:

**15 AAC 55.192. Monthly share of annual transportation costs.** (a) For purposes of AS 43.55.160(c), a producer shall determine the appropriate monthly share of the producer's

costs of transportation for a calendar year using an acceptable method under this section that the producer chooses for this purpose and applying that method consistently for all months of the calendar year. An acceptable method is

(1) a method that the producer used consistently in calculating its tax under AS 43.55 during calendar year 2005;

(2) any of the following methods as applicable:

(A) for [COSTS OF] transportation **described in** [SUBJECT TO] 15 AAC 55.191(b)(1), (2), (4)(A), or (5) **or 15 AAC 55.193(b)(1), (2), (4)(A), or (5)**,

(i) use of the actual **or reasonable** costs of transportation, **as applicable, of** [THAT ARE INCURRED FOR] the oil and gas produced or shipped during the month in question and that are allowable under the applicable provision of **15 AAC 55.191 or 15 AAC 55.193** [15 AAC 55.191(b)]; or

(ii) use of the per barrel, [OR] per Mcf, **or per MMBTU** annual average of the actual **or reasonable** costs of transportation, **as applicable,** [THAT ARE INCURRED] for the oil or gas [, RESPECTIVELY,] produced or shipped during the calendar year and that are allowable under the applicable provision of **15 AAC 55.191 or 15 AAC 55.193** [15 AAC 55.191(b)];

(B) for [COSTS OF] transportation **described in** [SUBJECT TO] 15 AAC 55.191(b)(3), (4)(B), or (8) **or 15 AAC 55.193(b)(3), (4)(B), or (6)**, use of the per barrel, [OR] per Mcf, **or per MMBTU** annual average of the actual **or reasonable** costs of transportation, **as applicable, of** [THAT ARE INCURRED FOR] the oil or gas [, RESPECTIVELY,] produced or shipped during the calendar year and that are allowable

under the applicable provision of 15 AAC 55.191 or 15 AAC 55.193 [15 AAC 55.191(b)]; or

(3) another method that is approved by the department as fairly representing the appropriate monthly share of the producer's transportation costs for a calendar year.

(b) A producer may not shift transportation costs between months for the purpose of reducing a tax levied by AS 43.55.011(g), as that provision read on June 30, 2007, or a tax levied by AS 43.55.011(e). (Eff. 5/3/2007, Register 182; am 4/30/2010, Register 194)

**Authority:** AS 43.05.080 AS 43.55.150 AS 43.55.160  
AS 43.55.110

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

**15 AAC 55.193. Calculation of costs of transportation for oil and gas produced after June 30, 2007.** (a) Costs of transportation are the ordinary and necessary costs incurred to transport the oil or gas from the point of production to the sales delivery point.

(b) Actual costs of transportation under AS 43.55.150(a) are

(1) if transportation of oil or gas is by a regulated carrier, the tariff rate that is on file with the Regulatory Commission of Alaska or another regulatory agency having jurisdiction, and that is applicable to and paid for that transportation of the oil or gas, from the point where that oil or gas is tendered into the facility of the carrier to the point where it is delivered from the facility of the carrier; for purposes of this paragraph, "carrier" includes a person providing gas treatment in a regulated gas treatment plant;

(2) if transportation of oil is by a vessel that is not owned or effectively owned, in

whole or in part, by the producer of that oil

(A) for a single voyage charter, the total costs under the charter for that vessel, plus any voyage and port costs as provided in (d) of this section if those voyage and port costs are incurred for that transportation during the term of the charter, are not included in the charter fee, and are borne by the producer, plus the positioning costs, if any, borne by the producer for that vessel;

(B) for a consecutive voyage charter or a time charter, the total costs under the charter for that vessel, plus any voyage and port costs as provided in (d) of this section if those voyage and port costs are incurred for that transportation during the term of the charter, are not included in the charter fee, and are borne by the producer, plus the positioning cost, if any, borne by the producer for that vessel; the positioning cost must be amortized over the lesser of 36 months or the term of the charter in the case of a time charter, and amortized on the basis of the number of voyages in the case of a consecutive voyage charter; or

(C) for a contract of affreightment, the total costs under the contract, plus any voyage and port costs as provided in (d) of this section if those voyage and port costs are incurred for that transportation during the contract of affreightment, are not included in the charter fee, and are borne by the producer, plus any positioning costs not included in that fee that are incurred with respect to that transportation during the contract of affreightment and that are borne by the producer;

(3) if transportation of oil is by a vessel that is owned or effectively owned, in whole or in part, by the producer of that oil, the sum of

(A) voyage and port costs incurred with respect to that transportation, as provided in (e) of this section;

(B) the positioning cost, amortized over 36 months, for that vessel;

(C) depreciation of the vessel as calculated by the producer for financial accounting purposes and used for reporting income and expenses to shareholders and owners, or as provided in 15 AAC 55.195(a), (b), or (c) or 15 AAC 55.196, as applicable; and

(D) an amount that, when added to the amount of depreciation allowed under (C) of this paragraph, will provide a reasonable after-tax return on the acquisition cost, as provided in 15 AAC 55.195(a), of the vessel over its expected useful life as used for financial accounting purposes and used for reporting income and expenses to shareholders and owners, or on the adjusted shipyard cost or invested capital as provided in 15 AAC 55.195(b) or (c) or 15 AAC 55.196, as applicable;

(4) in the case of transportation of gas as liquefied natural gas (LNG) by an LNG transportation facility not subject to tariff regulations of the Federal Energy Regulatory Commission or another federal agency, a state, territory, or possession of the United States, or a foreign nation,

(A) if the producer does not own or effectively own, in whole or in part, the LNG transportation facility, the amount charged to the producer for that LNG transportation;

(B) if the producer owns or effectively owns, in whole or in part, the LNG transportation facility, the sum of

- (i) the direct operating costs of the LNG transportation facility incurred with respect to the producer's gas; for an LNG tanker, direct operating costs consist of the tanker's voyage and port costs as provided in (d) of this section;
- (ii) the positioning cost, amortized over 36 months, in the case of an LNG tanker;
- (iii) depreciation of the LNG transportation facility as calculated by the producer for financial accounting purposes and used for reporting income and expenses to shareholders and owners, or as provided in 15 AAC 55.195(a), (b), (c), or (d) or 15 AAC 55.196, as applicable;
- (iv) an amount that, when added to the amount of depreciation allowed under (iii) of this subparagraph, will provide a reasonable after-tax return on the acquisition cost, as provided in 15 AAC 55.195(a), (b), (c), or (d), as applicable, of the LNG transportation facility over its expected useful life as used for financial accounting purposes and used for reporting income and expenses to shareholders and owners, or on the adjusted shipyard cost or invested capital as provided in 15 AAC 55.195(a), (b), (c), or (d) or 15 AAC 55.196, as applicable;
- (5) if transportation of oil or gas is by a nonregulated pipeline facility or gas treatment plant that is not owned or effectively owned, in whole or in part, by the producer of that oil or gas, the transportation fee specified in the contract;
- (6) if transportation of oil or gas is by a nonregulated pipeline facility or gas treatment plant that is owned or effectively owned, in whole or in part, by the producer of that oil

or gas, the costs calculated using the methodology under 15 AAC 55.197.

(c) Reasonable costs of transportation under AS 43.55.150(b) are determined as follows:

(1) for transportation whose actual costs are calculated under (b)(2) or (4)(A) of this section, reasonable costs of transportation are fair market value; the department will determine the fair market value of the transportation

(A) for shipments of oil, on the basis of third-party charters (that is, time charters in which the producer does not own or effectively own the vessel in whole or in part) of one year or more for like vessels; two vessels will be considered like vessels if the difference between them in tonnage is less than 10,000 dead-weight tons and if they are both

(i) Jones Act vessels (46 U.S.C. 55102 and 57109);

(ii) Construction-Differential Subsidy (CDS) vessels (46 U.S.C. 53101 - 53312);

(iii) Operating-Differential Subsidy (ODS) vessels (46 U.S.C. 53101 - 53517);

(iv) CDS and ODS vessels; or

(v) vessels that do not meet the qualifications of (i) - (iv) of this subparagraph;

(B) for shipments of gas as LNG, on the basis of third party charters or leases (that is, time charters or leases in which the producer does not own or effectively own, in whole or in part, the LNG transportation facility in question) of three years or more for like LNG transportation facilities;

(2) for transportation whose actual costs are calculated under (b)(3) of this section, reasonable costs are the actual costs;

(3) for transportation whose actual costs are calculated under (b)(4)(B) of this section, reasonable costs are the actual costs;

(4) for transportation of gas as LNG by a regulated LNG transportation facility whose actual costs of transportation are calculated under (b)(1) of this section, reasonable costs are determined using the applicable methodology under (b)(4)(B) of this section for calculating actual costs as if the LNG transportation facility were not regulated;

(5) for transportation by a pipeline facility or gas treatment plant, except as otherwise provided under (e) - (j) of this section, reasonable costs are 103 percent of the costs of transportation calculated by the department using the methodology under 15 AAC 55.197.

(d) For purposes of this section, allowable voyage and port costs for a vessel do not include losses, damages, or expenses incurred in connection with an oil discharge except as provided in this subsection, and do not include taxes or fees on the receipt of oil or LNG at a marine terminal from a vessel. Allowable voyage and port costs for a vessel or LNG tanker are costs actually incurred for the following purposes:

(1) fuel for the vessel or LNG tanker while in port and at sea not to exceed the actual cost if purchased from a third party, or if the fuel is not purchased from a third party, the spot market price of comparable fuel as reported in *Platt's Oilgram Price Report* at the time of the fuel purchase for the market nearest the point of refueling, plus related allowable fuel taxes and handling charges;

(2) stores and provisions for the vessel or LNG tanker and its captain and crew;

- (3) wages and benefits of the vessel's or LNG tanker's captain and crew;
- (4) routine maintenance;
- (5) drydocking costs, expensed in the year paid;
- (6) port and dock fees;
- (7) demurrage;
- (8) tug and pilotage fees;
- (9) marine agents' fees in port;
- (10) lightering;
- (11) transshipment charges;
- (12) customs fees and duties;
- (13) taxes incurred due to the ownership and operation of the vessel or LNG tanker, except for income taxes and other taxes (including certain franchise taxes) measured by income;
- (14) regular and customary gratuities that are also legal;
- (15) insurance premiums actually paid to third-party insurers;
- (16) minor cargo losses or measuring differentials not to exceed .0025 of the oil transported, determined on an annual basis for each vessel;
- (17) loading and unloading inspection fees;
- (18) Panama Canal transit fees;
- (19) a reasonable management fee for operating vessels or LNG tankers; this fee is set at six percent of the allowable costs set out in (1) - (3) of this subsection; this set fee covers all general and administrative costs related to vessel operations, including all costs for

accounting services, clerical services, administrative services, secretarial services, data processing services, legal services, corporate and operations management, overhead pass-throughs, facility costs and depreciation, corporate planning, risk management, environmental planning and risk evaluation, public affairs, governmental affairs, political affairs, dues and subscriptions other than dues allowable under (21) of this subsection, long-range scheduling, and long-range planning; additional deductions will not be allowed for these costs;

(20) other costs directly associated with the operation or maintenance of the vessel or LNG tanker, including costs for port services and operations, cargo scheduling and planning, fleet staffing, fleet scheduling, fleet staff training, fleet safety, engineering for repair, engineering for maintenance, engineering for drydocking, quality assurance for vessel operations, communication systems, navigation systems, United States Coast Guard certifications, and utility services; these costs include costs for personnel performing the functions listed and the first level of supervision of these personnel;

(21) costs incurred in transportation of oil to comply with 33 U.S.C. 2701 - 2762 (Oil Pollution Act of 1990), AS 46.04, and applicable laws of this or any other state or political subdivision requiring equipment and personnel to be in place for spill prevention and response to spills from vessels; those costs must have not been incorporated into a pipeline tariff, but must have been incurred as an actual cost in the transportation of oil produced in the state; and

(22) costs of containing and cleaning up cargo lost in a discharge, unless the discharge is a catastrophic oil discharge under AS 46.04.900.

(e) Except as otherwise provided in this subsection and in (i) of this section, if a tariff rate for pipeline transportation of oil or gas or gas treatment has been adjudicated as just and

reasonable by the Regulatory Commission of Alaska or another regulatory agency having jurisdiction, the tariff rate establishes the reasonable costs of the pipeline transportation or gas treatment to which the tariff rate applies, for periods for which the tariff rate is in effect, including periods for which the tariff rate is given retroactive effect. However, the tariff rate does not establish those reasonable costs for any period later than five years after the end of the test period on which the tariff rate is based. If a complaint challenging the tariff rate has been filed with and accepted for investigation by the Regulatory Commission of Alaska or other regulatory agency, the reasonable costs of the pipeline transportation or gas treatment are 103 percent of the costs of transportation calculated by the department using the methodology under 15 AAC 55.197, for the period

(1) that begins on the date the complaint is accepted for investigation and ends the day before the date, if any, that the complaint proceeding is resolved by

(A) the adjudication of an applicable tariff rate as just and reasonable; or

(B) the acceptance by the Regulatory Commission of Alaska or other regulatory agency of a settlement to which the state is a party and that provides for a tariff rate that the department determines uses a cost-based tariff settlement methodology; and

(2) for which a tariff rate described in (1)(A) or (B) of this subsection is not given retroactive effect.

(f) Except as otherwise provided in this subsection and in (i) of this section, if a tariff rate for pipeline transportation of gas or gas treatment has been approved by the Federal Energy Regulatory Commission in connection with issuance of a certificate of public convenience and

necessity for the pipeline facility or gas treatment plant, respectively, the tariff rate establishes the reasonable costs of the pipeline transportation or gas treatment to which the tariff rate applies, for periods for which the tariff rate is in effect. However, the tariff rate does not establish those reasonable costs for any period later than three years after the later of the date the tariff rate is approved or the date commercial operation commences. For purposes of this subsection, the date a tariff rate is approved is the date when the Federal Energy Regulatory Commission's final order issuing the certificate of public convenience and necessity becomes effective, regardless of whether the order is subject to judicial review. If a complaint challenging the tariff rate has been filed with and accepted for investigation by the Federal Energy Regulatory Commission, the reasonable costs of the pipeline transportation or gas treatment are 103 percent of the costs of transportation calculated by the department using the methodology under 15 AAC 55.197, for the period

(1) that begins on the date the complaint is accepted for investigation and ends the day before the date, if any, that the complaint proceeding is resolved by

(A) the adjudication of an applicable tariff rate as just and reasonable; or

(B) the Federal Energy Regulatory Commission's acceptance of a settlement to which the state is a party and that provides for a tariff rate that the department determines uses a cost-based tariff settlement methodology; and

(2) for which no rate referred to in (1)(A) or (B) of this subsection is given retroactive effect.

(g) Except as otherwise provided in this subsection and in (h) and (i) of this section, if the department determines that a tariff rate for pipeline transportation of oil or gas or gas

treatment on file with the Regulatory Commission of Alaska or another regulatory agency having jurisdiction uses a cost-based tariff settlement methodology, and if the tariff rate is the result of a settlement that is accepted by the Regulatory Commission of Alaska or other regulatory agency and to which the state is a party, the tariff rate establishes the reasonable costs of the pipeline transportation or gas treatment to which the tariff rate applies, for periods for which the tariff rate is in effect, including periods for which the tariff rate is given retroactive effect. However, the tariff rate does not establish those reasonable costs for any period later than the latest of the following dates:

- (1) December 31, 2013;
- (2) five years after the date the settlement is accepted by the regulatory agency;
- (3) three years after the last date that under the settlement the state has the right,

beginning no later than five years after the date the settlement is accepted by the regulatory agency and recurring at least once every three years, to require renegotiation or arbitration of material terms of the settlement in response to a material change in rate determination methodologies approved by the regulatory agency, in the economic life of the pipeline facility or gas treatment plant, in capital structure, or in the cost of capital.

(h) Except as otherwise provided in (i) of this section, if a protest or complaint has been filed with and accepted for investigation by the Regulatory Commission of Alaska or another regulatory agency challenging a tariff rate that would otherwise establish the reasonable costs of pipeline transportation or gas treatment under (g) of this section, the reasonable costs of the pipeline transportation or gas treatment are 103 percent of the costs of transportation calculated by the department using the methodology under 15 AAC 55.197, for the period

(1) that begins on the date the protest or complaint is accepted for investigation and ends the day before the date, if any, that the protest or complaint proceeding is resolved by

(A) the adjudication of an applicable tariff rate as just and reasonable; or

(B) the acceptance by the Regulatory Commission of Alaska or other regulatory agency of a settlement to which the state is a party and that provides for a tariff rate that the department determines uses a cost-based tariff settlement methodology; and

(2) for which a tariff rate described in (1)(A) or (B) of this subsection is not given retroactive effect.

(i) If two or more tariff rates for the same category of service for pipeline transportation of oil or gas from a given point of receipt to a given point of delivery are in effect for a calendar year or portion of a calendar year for which each rate would otherwise establish the reasonable costs of the pipeline transportation under (e) - (h) of this section, the reasonable costs of the pipeline transportation for that category of service are equal to the average of all those tariff rates, weighted according to the respective amounts of throughput or, in the case of tariff rates for firm transportation on a gas pipeline facility, the respective amounts of contracted pipeline capacity subject to each of those tariff rates during the calendar year or portion of the calendar year, as applicable.

(j) In the case of an oil or gas pipeline facility as to which the difference between the tariff rate and the reasonable costs of transportation if determined under (c)(5) of this section would not be expected to have a material effect on the production tax liability of producers shipping oil or gas in the pipeline, due to the low volume of oil or gas transported in the pipeline

or the low tariff rate, the department may determine that the reasonable costs of transportation equal the tariff rate.

(k) A payment for unused pipeline capacity under a contractual obligation to pay for pipeline capacity whether or not used does not constitute a cost of transportation of oil or gas.

(l) If a producer sells its oil or gas to a third party in what would otherwise be a bona fide, arm's length sale but at the time of the sale expects to repurchase that oil or gas at a subsequent time and place, that sale to the third party and the repurchase from the third party, when it occurs, must be disregarded and the oil or gas subject to that sale must be regarded as if it had remained the producer's own oil or gas throughout the time between that sale and repurchase. In determining the value at the point of production of the oil or gas, the cost of transportation between the point of sale for that sale and the point of repurchase must be determined as if the producer were the shipper. This subsection does not apply if the producer's expected repurchase does not in fact occur.

(m) The producer's actual or reasonable marine transportation cost, as otherwise determined under this section, for a producer that transports oil or gas produced in the state through a charter, contract of affreightment, sublease, or other arrangement on behalf of a person not affiliated with the producer, in addition to the producer's own oil or gas produced in the state, includes the cost of transporting that non-affiliated person's oil or gas produced in the state and is reduced by the revenue received for providing that transportation.

(n) Costs that are reimbursed or otherwise offset by payments or credits are not allowable as actual or reasonable costs of transportation. Gas pipeline facility revenues for interruptible transportation, authorized overrun service, or park-and-loan service that the facility

does not credit to shippers are considered as credited to the shippers that are affiliated with a person that owns an interest in the facility and that have made firm transportation commitments for the facility; the revenues considered as credited are allocated to these shippers in proportion to the amounts of contracted pipeline capacity under their respective firm transportation commitments. A producer shall report to the department any reimbursements or other payments or credits that offset transportation costs.

(o) The following are not allowable costs of transportation:

(1) a fee or other cost incurred for storage, except for storage

(A) for no more than 30 days if the storage is required under the applicable transportation services agreement with a pipeline facility and is necessary for pipeline operations;

(B) as part of LNG transportation, if the fee or cost is allowed under (b)(4)(B) of this section;

(2) an intra-hub transfer fee paid to a gas pipeline hub operator for administrative services, including accounting for the sale of gas within a hub and title transfer tracking;

(3) a fee paid to a scheduling service provider;

(4) internal costs to schedule, nominate, and account for the sale or movement of oil or gas, if incurred by an entity other than the provider of the transportation services; those costs include salaries and related costs, rent and space costs, office equipment costs, and legal fees;

(5) an aggregator or marketer fee, including a fee a producer pays its affiliate or another person to market, purchase, or resell oil or gas, or find or maintain a market for oil or

gas;

(6) a fee paid to a broker, including a fee paid to a person that arranges marketing or transportation;

(7) a penalty incurred as a shipper, including

(A) an over-delivery cash-out penalty, including the difference between the price a pipeline pays for over-delivered volumes outside the tolerances and the price received for over-delivered volumes within the tolerances;

(B) a scheduling penalty, including a penalty incurred for differences between daily volumes delivered into a pipeline and volumes scheduled or nominated at a receipt or delivery point;

(C) an imbalance penalty, including a penalty incurred for differences between volumes delivered into a pipeline and volumes scheduled or nominated at a receipt or delivery point;

(D) an operational penalty, including a fee incurred for violation of a pipeline's curtailment or operational orders issued to protect the operational integrity of the pipeline;

(8) a transportation factor listed as reducing the sales price or posted price for a component of gas;

(9) costs of arbitration, litigation, or other dispute resolution activity that involves the state or concerns the rights or obligations

(A) among carriers or owners of a transportation facility; or

(B) between a carrier or owner of a transportation facility and a shipper;

(10) if the producer is affiliated with the carrier or owner of the transportation facility or if the transportation contract otherwise is not at arm's length,

(A) a payment, either volumetric or in value, for actual or theoretical losses of oil or gas;

(B) costs of a surety.

(p) Only costs incurred in the transportation of taxable oil or gas produced from a lease or property in the state are allowable costs. Costs incurred in connection with the transportation of any other oil or gas are not allowable costs.

(q) A producer for which the gross value at the point of production of oil or gas is calculated using the lower of actual costs of transportation or reasonable costs of transportation under AS 43.55.150 shall provide to the department, upon request, information available to the producer that the department considers as necessary to determine the reasonable costs of transportation under this section.

(r) For purposes of AS 43.55.150(b) and this section, a tariff rate has been adjudicated when the regulatory agency has issued its final order in the adjudication and that order has become effective, regardless of whether the order is subject to judicial review.

(s) For purposes of this section,

(1) a settlement has been accepted by a regulatory agency when the regulatory agency has issued its final order accepting the settlement and that order has become effective, regardless of whether the order is subject to judicial review;

(2) a tariff rate is given retroactive effect for a period beginning on a past date if the regulatory agency having jurisdiction provides that the tariff rate is effective beginning on

that date, regardless of the extent, if any, to which the agency orders refunds with respect to transportation charges paid by shippers during the period;

(3) a cost-based tariff settlement methodology is a methodology

(A) for determining the charge for pipeline transportation of oil or gas or for gas treatment;

(B) that is substantially similar to an adjudicatory methodology used by the Regulatory Commission of Alaska or another regulatory agency having jurisdiction over one or more pipeline tariffs for an oil or gas pipeline in the state;

(C) that provides for periodic true-up of forecast costs with known costs actually incurred; and

(D) that provides for a charge per unit of oil or gas transported or gas treated based solely on recovery of the sum of no more than the following elements of cost:

(i) a return on capital investment calculated by multiplying a specified percentage rate times the amount of capital investment in the transportation facility net of prior accumulated depreciation;

(ii) depreciation of the capital investment in the transportation facility;

(iii) identified elements of operating and maintenance costs and ad valorem taxes incurred, or identified elements of operating and maintenance costs and ad valorem taxes forecast to be incurred;

(iv) income taxes;

(v) an allowance for the cost of dismantlement and removal of the pipeline facility and of restoration after removal of the pipeline facility, if the tariff specifically identifies and provides for the allowance to be included in the applicable recourse rate, in the case of a regulated gas pipeline facility, or the applicable rate, in the case of a regulated oil pipeline facility;

(4) a producer effectively owns a vessel, LNG transportation facility, nonregulated gas treatment plant, or nonregulated pipeline facility if the vessel, LNG transportation facility, nonregulated gas treatment plant, or nonregulated pipeline facility

(A) is owned by another person comprising part of a consolidated business in which the producer is also a part;

(B) is the subject of a lease that qualifies as a capital lease under generally accepted accounting principles, in which the producer or another person comprising part of a consolidated business in which the producer is also a part, is the lessee;

(C) was built to the account of the producer, or of another person comprising part of a consolidated business in which the producer is also a part, was sold and was chartered or leased back by the producer, or by another person comprising part of a consolidated business in which the producer is also a part, all in a simultaneous transaction, and is on a term charter or lease for a period of 15 years or longer to the producer, or to another person comprising part of a consolidated business in which the producer is also a part; or

(D) in the case of a vessel or LNG transportation facility for which a cost of capital allowance is allowed under 15 AAC 55.196, is treated as owned by the

producer, or by another person comprising part of a consolidated business in which the producer is also a part, in a federal income tax return filed by or on behalf of the producer, or by or on behalf of another person comprising part of a consolidated business in which the producer is also a part;

(5) "expected useful life" means the period of time used to calculate depreciation under (b)(3)(C) or (4)(B)(iii) of this section;

(6) "positioning cost" for a vessel or LNG tanker includes the costs borne by the producer for placing that vessel or LNG tanker into position before the vessel's or LNG tanker's first voyage in service for that producer;

(7) transportation of gas includes gas treatment.

(t) This section applies to oil and gas produced after June 30, 2007. (Eff.

4/30/2010, Register 194)

<b>Authority:</b>	AS 43.05.080	AS 43.55.040	AS 43.55.150
	AS 43.55.020	AS 43.55.110	AS 43.55.900
	AS 43.55.030		

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The section heading of 15 AAC 55.195 is changed:

**15 AAC 55.195. Return on investment or cost of capital allowance to be used in calculation of [REASONABLE] costs of transportation for oil or gas, other than certain**

**LNG or vessel transportation costs for oil or gas produced on or after January 1, 2003.**

The lead-in language of 15 AAC 55.195(a) is amended to read:

(a) For a vessel, LNG transportation facility, or capitalized improvement placed in service before January 1, 1995, by the producer or by a person from whom, directly or through an intermediate transaction of the same nature, the producer later acquired the vessel as part of a larger transfer of both marine and non-marine assets associated with a business merger or acquisition transaction, a reasonable return including depreciation under 15 AAC 55.191(b)(3)(C) and (D), [OR] 15 AAC 55.191(b)(4)(B)(iii) and (iv), **15 AAC 55.193(b)(3)(C) and (D), or 15 AAC 55.193(b)(4)(B)(iii) and (iv)** is an amount that yields a return on the acquisition cost of the vessel, LNG transportation facility, or capitalized improvement, after federal income tax, of two percent plus the average annual national inflation rate, measured by the compound root of the GNP deflator, during the period between the time the commitment was made to construct or initially acquire the vessel, LNG transportation facility, or capitalized improvement for the purpose of placing it in service and the time when the vessel, LNG transportation facility, or capitalized improvement had been received or delivered and was ready to be placed into service, or if that period fell entirely within a calendar year, during that entire calendar year, except that if the department replaced that rate of return with a different rate of return for a vessel, LNG transportation facility, or capitalized improvement under former 15 AAC 55.190(i), that different rate of return is allowed instead. The allowance for the reasonable return on the acquisition cost is a level annual amount, determined in the year of initial acquisition for the purpose of placement in service, considering the marginal federal

corporate income tax rate in effect that year and the contemporaneous and projected federal income tax benefits. If, in subsequent years, the federal tax rate changes, or other events occur that change the available federal income tax benefits, a revised level annual allowance must be calculated to yield the same after-tax return. For purposes of this subsection,

...

15 AAC 55.195(c)(1) is amended to read:

(1) a reasonable return including depreciation under 15 AAC 55.191(b)(3)(C) and (D), [OR] 15 AAC 55.191(b)(4)(B)(iii) and (iv), **15 AAC 55.193(b)(3)(C) and (D), or 15 AAC 55.193(b)(4)(B)(iii) and (iv)** is \$158,000 per year for 10 years for each \$1,000,000 of adjusted shipyard cost as defined in (b) of this section, for oil or gas produced before January 1, 2002, and on or after January 1, 2003; and

The lead-in language of 15 AAC 55.195(d) is amended to read:

(d) For an LNG transportation facility [OR CAPITALIZED IMPROVEMENT TO THAT FACILITY] first placed in service by the producer on or after January 1, 1995, **and before January 1, 2011, or a capitalized improvement to that facility,** a cost of capital allowance that consists of depreciation and a return on acquisition cost will be allowed for oil or gas produced on or after January 1, 2002. The cost of capital allowance under this subsection is also available for a pipeline facility under 15 AAC 55.191(b)(8), or for a capitalized improvement that is made to that facility. However, an improvement to an LNG transportation or pipeline facility that the producer treats as an expense under 26 U.S.C. 179 may not receive a

cost of capital allowance under this subsection. The cost of capital allowance under this subsection is an amount to be calculated annually for a calendar year as follows:

...

15 AAC 55.195(d)(18)(B)(i) is amended to read:

(i) except as provided in (ii) of this subparagraph, is the cost of capital, as reasonably determined by the department, for the category of business described for Standard Industrial Classification (SIC) Industry No. 4924, in the Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual, as revised as of 1987; as described in this subparagraph, SIC Industry No. 4924 is adopted by reference; in determining a cost of capital for a calendar year under this sub-subparagraph, the department will presume, in the absence of facts to the contrary, that the cost of capital is accurately represented by the weighted average cost of capital using the capital asset pricing model (CAPM), ordinary least squares (OLS) for the industrial composite for SIC code number 4924, as reported in **Morningstar, Inc.**, [IBBOTSON ASSOCIATES] *The Cost of Capital Yearbook* published during the previous calendar year, plus, for LNG transportation facilities, 0.2 percent after December 31, 2001; and

(Eff. 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 5/3/2007, Register 182; am 4/30/2010, Register 194)

**Authority:** AS 43.05.080 AS 43.55.030 AS 43.55.110

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AS 43.55.020

AS 43.55.040

AS 43.55.150

**Editor's note:** The material adopted by reference in 15 AAC 55.195(d), (f), and (h) from the Standard Industrial Classification Manual may be viewed at or obtained from the Department of Revenue, Tax Division, 550 W. 7th Avenue, Suite 500, Anchorage, AK 99501. *The Cost of Capital Yearbook* is published by **Morningstar, Inc.** [IBBOTSON ASSOCIATES], 225 North Michigan Avenue, Suite 700, Chicago, Illinois 60601.

Before 1/1/2000, Register 152, the substance of 15 AAC 55.195(a), (b), and (c) was in 15 AAC 55.191(d), (f), and (g). The history note for 15 AAC 55.195 does not reflect the earlier history of the provisions currently set out at 15 AAC 55.195(a), (b), and (c).

15 AAC 55.196(a) is amended to read:

**15 AAC 55.196. Cost of capital allowance to be used in calculation of [REASONABLE] costs of vessel transportation for oil or gas produced on or after January 1, 2003, other than certain costs pertaining to vessels placed in service before January 1, 1995, and in calculation of transportation costs for gas by an LNG transportation facility placed in service after December 31, 2010.** (a) Except if 15 AAC 55.195(a) applies, for oil or gas produced on or after January 1, 2003, a cost of capital allowance that consists of depreciation and a return on invested capital will be allowed under this section, **as provided in 15 AAC 55.191 or 15 AAC 55.193, as applicable,** for a **(1)** vessel, or an improvement completed on or after January 1, 2002 to a vessel, owned or effectively owned by the producer; **or (2) LNG transportation facility owned or effectively owned by the producer and placed**

**in service after December 31, 2010, or an improvement to that facility** [, AS PROVIDED IN 15 AAC 55.191]. However, a producer may elect to expense the first \$1,000,000 in costs incurred with respect to improvements during a calendar year.

15 AAC 55.196(b) is amended to read:

(b) A cost of capital allowance under this section **for a vessel** will be allowed only for days when the vessel is in allowable service, in allowable lay up, or in allowable dry dock.

15 AAC 55.196(d) is amended to read:

(d) **With the exceptions set out in this subsection for an LNG transportation facility,** **a** [A] cost of capital allowance under this section must be calculated using the methodology set out in the department's publication *Computation of a Cost-of-Capital Allowance under 15 AAC 55.196, Incorporating Depreciation and Return on Invested Capital for Marine Vessels and Improvements*, Second Edition, dated September 19, 2003 and adopted by reference. **In the case of an LNG transportation facility,**

**(1) the methodology is applied as if the term "vessel" read "LNG transportation facility";**

**(2) the useful life for purposes of the methodology is 30 years;**

**(3) the weighted average cost of capital is 0.2 percentage point greater than that otherwise calculated under the methodology.**

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15 AAC 55.196 is amended by adding a new subsection to read:

(f) In (b), (c), and (e) of this section, "vessel" includes LNG tanker. (Eff. 1/1/2003,

Register 164; am 1/1/2004, Register 168; am 4/30/2010 Register 194)

**Authority:** AS 43.05.080 AS 43.55.030 AS 43.55.110

AS 43.55.020 AS 43.55.040 AS 43.55.150

15 AAC 55 is amended by adding a new section to Article 1 to read:

**15 AAC 55.197. Methodology to determine certain transportation costs for pipelines and gas treatment plants.** (a) For transportation of oil or gas for which costs are determined under this section, the applicable costs of transportation are determined for a calendar year by calculating the total amount for the year for the following items and allocating that total, as provided under this section, to the specific quantity of oil or gas transported:

(1) an allowance for operating and maintenance expenses of the facility;

(2) annual depreciation on capital investment in the facility at original cost;

except as otherwise provided under (k) of this section, depreciation is calculated using straight-line depreciation over the allowed economic life of the facility;

(3) a return on capital investment in the facility at original cost net of depreciation accumulated before the year of calculation, with the undepreciated capital investment adjusted to account for accumulated deferred income taxes;

(4) income tax on the equity portion of the return under (3) of this subsection as determined under (e) and (f) of this section;

(5) ad valorem taxes on the facility;

(6) an allowance for the cost of dismantlement and removal of the pipeline facility and of restoration after removal of the pipeline facility, if the tariff specifically identifies and provides for the allowance to be included in the applicable recourse rate, in the case of a regulated gas pipeline facility, or the applicable rate, in the case of a regulated oil pipeline facility.

(b) For purposes of (a)(1) of this section, the allowance for operating and maintenance expenses is the amount of expenses actually incurred that

(1) are direct costs of operating and maintaining the facility or are overhead costs directly related to operation and maintenance of the facility; and

(2) in the case of

(A) a gas pipeline facility, are properly reportable as operation and maintenance expenses on the Federal Energy Regulatory Commission's *FERC Financial Report, FERC Form No. 2: Annual Report of Major Natural Gas Companies*, as revised as of March 26, 2010 and adopted by reference (FERC Form 2), or, for a gas pipeline facility not subject to FERC regulation, would be properly reportable as operation and maintenance expenses on FERC Form 2 if the facility were subject to FERC regulation;

(B) an oil pipeline facility, are properly reportable as operation and maintenance expenses on the Federal Energy Regulatory Commission's *FERC Financial Report, FERC Form No. 6: Annual Report of Oil Pipeline Companies*, as revised as of March 26, 2010 and adopted by reference (FERC Form 6), or, for an oil pipeline facility not subject to FERC regulation, would be properly reportable as operation and maintenance expenses on FERC Form 6 if the facility were subject to FERC regulation.

(c) For purposes of (a)(2) and (3) of this section, capital investment in the facility includes an allowance for funds used during construction.

(d) For purposes of calculating annual depreciation under (a)(2) of this section,

(1) the allowed economic life is

(A) in the case of a regulated gas pipeline facility or gas treatment plant, the greater of

(i) the estimated useful life used in calculating the recourse rate in the filed tariff; or

(ii) 25 years;

(B) in the case of a regulated oil pipeline facility, the greater of

(i) the estimated useful life used in calculating the rate in the filed tariff; or

(ii) 25 years;

(C) in the case of a nonregulated pipeline facility or gas treatment plant, the greater of

(i) the estimated useful life used for financial accounting purposes;

or

(ii) 25 years;

(2) a change in ownership of an asset does not alter the depreciation schedule established for the original owner;

(3) a capital investment may be depreciated only once, and may not be depreciated below a reasonable salvage value; if specifically identified and provided for in an

applicable tariff for a regulated pipeline, the salvage value may be negative, unless the calculation of costs under (a) of this section includes an allowance under (a)(6) of this section for dismantlement and removal of the pipeline facility and restoration after removal of the pipeline facility.

(e) For purposes of calculating the return on capital investment under (a)(3) of this section, the percentage of the capital investment treated as financed with long-term debt is the greater of (1) the percentage actually used by the facility owner to finance the facility; or (2) 70 percent for a gas pipeline facility or gas treatment plant, or 55 percent for an oil pipeline facility. The remainder is treated as financed with equity. The return on the portion of the capital investment treated as financed with long-term debt is the actual cost, if any, of the debt or, in the absence of actual cost, the return computed by the department using the weighted average of the cost of long-term debt for the applicable proxy group designated by the department under (f) of this section.

(f) For purposes of the equity portion of the return on capital investment under (a)(3) of this section, an after-tax rate of return on the percentage of the capital investment treated as financed with equity will be determined by the department for a calendar year using a two-stage discounted cash flow model. In implementing that model, the department will give substantial weight to the Federal Energy Regulatory Commission's Policy Statement in *Composition of Proxy Groups for Determining Gas and Oil Pipeline Return on Equity*, Docket No. PL07-2-000, dated April 17, 2008 and adopted by reference for that purpose, subject to the following:

(1) the department will designate the group of proxy companies from companies that meet the following criteria:

- (A) the company is publicly traded;
  - (B) the company is
    - (i) a natural gas pipeline company for purposes of determining the rate of return for a gas pipeline facility or gas treatment plant;
    - (ii) an oil pipeline company for purposes of determining the rate of return for an oil pipeline facility;
  - (C) the company and its shares are recognized and tracked by Value Line or a similar investment information service;
  - (D) pipeline operations constitute a high proportion of the company's business;
  - (E) the company or its predecessor in interest has been in operation for at least three years;
  - (F) there are estimates by Institutional Brokers' Estimate System established by Thomson Reuters, or similar estimates, of five-year earnings growth for the company;
  - (G) the company has a history of paying dividends or distributions and is currently paying a dividend or distribution;
  - (H) the company has not eliminated or announced an intention to eliminate its dividend or distribution;
- (2) in determining whether a company meeting the criteria under (1) of this subsection should be included in the group of proxy companies, the department may consider the following factors:

- (A) the size of the company's market capitalization;
- (B) the company's credit rating;
- (C) whether four or more companies have already been selected for inclusion in the proxy group of companies;

(3) the department will calculate the rate of return for a calendar year based on information about the group of proxy companies for a recent 12-month period selected by the department.

(g) For purposes of (a)(4) of this section, the

(1) combined federal and state income tax rate for the year of calculation must be used for a facility located within the United States;

(2) applicable combined foreign income tax rate for the year of calculation must be used for a facility located in another country.

(h) The amounts described in (a)(1) and (4) - (6) of this section must be calculated for every calendar year on the same basis, which may be either

(1) the amounts incurred during, or applicable to, the calendar year of calculation; or

(2) if the facility was

(A) in operation for at least nine months during the calendar year immediately preceding the calendar year of calculation, the amounts incurred during, or applicable to, that immediately preceding calendar year; the amounts are annualized or prorated if necessary to account, respectively, for the facility's being in operation for less than that entire immediately preceding calendar year or less than the entire calendar year

of calculation;

(B) not in operation for at least nine months during the calendar year immediately preceding the calendar year of calculation, good-faith estimates of the amounts that will be incurred during, or will be applicable to, the calendar year of calculation; an overestimate or underestimate is deducted from or added to, respectively, the amounts used for the next calendar year.

(i) In the calculation of costs of transportation under this section,

(1) a management fee may not be included;

(2) working capital may not be included in capital investment on which depreciation or a return is calculated.

(j) In the allocation of the total amount calculated under (a) of this section to a specific quantity of oil or gas,

(1) for a regulated gas pipeline facility or regulated gas treatment plant, per-unit transportation costs are based on 100 percent load factor of certificated capacity;

(2) for an oil pipeline facility or nonregulated gas treatment plant, per-unit transportation costs are based on throughput;

(3) for a nonregulated gas pipeline facility, per-unit transportation costs are based on

(A) 100 percent load factor of contracted capacity, if the pipeline provides firm transportation service or firm and interruptible service;

(B) throughput, if the pipeline does not provide firm transportation service or firm and interruptible service;

(4) the costs of different categories of pipeline transportation services or gas treatment plant services bear the same relationship to one another as under the recourse rates in the applicable tariff, in the case of a regulated gas pipeline facility or regulated gas treatment plant, or as under the rates in the applicable tariff in the case of a regulated oil pipeline facility, unless the department determines that relationship is unreasonable; if the department determines that relationship is unreasonable or for an unregulated pipeline facility or gas treatment plant, the department will reasonably allocate costs among different categories of pipeline transportation services or gas treatment plant services;

(5) the costs of pipeline transportation between different pairs of receipt and delivery points bear the same relationship to one another as under the recourse rates in the applicable tariff, in the case of a regulated gas pipeline facility, or as under the rates in the applicable tariff in the case of a regulated oil pipeline facility, unless the department determines that relationship is unreasonable; if the department determines that relationship is unreasonable or for an unregulated pipeline facility, the department will reasonably allocate costs to pipeline transportation between different pairs of receipt and delivery points.

(k) If the tariff rates of a regulated pipeline facility or gas treatment plant have a levelized rate structure, the reasonable costs otherwise calculated under this section will also be calculated using a comparable levelized rate structure.

(l) For purposes of the department's determination of reasonable costs of transportation under 15 AAC 55.193(c)(5) and this section, to the extent the department is unable to obtain sufficient information to calculate an item in (a)(1) - (6) of this section, the department may make and use a reasonable estimate.

(m) On or after January 1 of a calendar year during which a producer expects to produce oil or gas the actual costs of transportation of which are required by 15 AAC 55.193(b)(6) to be calculated using the methodology under this section, the producer may request in writing the department's determination of the applicable after-tax rate of return under (f) of this section. The department will provide the department's determination to the producer no later than the later of July 1 of the calendar year or 90 days after the department receives the producer's request.

(n) In this section, "facility" means pipeline facility or gas treatment plant, as applicable.

(Eff. 4/30/2010, Register 194)

<b>Authority:</b>	AS 43.05.080	AS 43.55.040	AS 43.55.150
	AS 43.55.020	AS 43.55.110	AS 43.55.900
	AS 43.55.030		

**Editor's note:** The Policy Statement in *Composition of Proxy Groups for Determining Gas and Oil Pipeline Return on Equity*, Docket No. PL07-2-000, FERC Form 2, and FERC Form 6 may be viewed at the Department of Revenue, Tax Division, 550 W. 7th Avenue, Suite 500, Anchorage, AK 99501, and may be obtained from the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, or on the Federal Energy Regulatory Commission website at [www.ferc.gov](http://www.ferc.gov).

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15 AAC 55 is amended by adding a new section to Article 4 to read:

**15 AAC 55.450. Tax for oil and gas the ownership or right to which constitutes a landowner's royalty interest.** (a) The tax levied by AS 43.55.011(i) for oil is calculated separately for oil produced from each lease or property and may not be less than zero.

(b) The tax levied by AS 43.55.011(i) for gas is calculated separately for gas produced from each lease or property and may not be less than zero. (Eff. 4/30/2010 Register 194)

**Authority:** AS 43.05.080 AS 43.55.011 AS 43.55.110

15 AAC 55.511 is amended by adding a new subsection to read:

(e) For purposes of calculating the installment payment required under AS 43.55.020(a)(3), the amount under

(1) AS 43.55.020(a)(3)(A) is calculated separately for each lease or property and may not be less than zero;

(2) AS 43.55.020(a)(3)(B) is calculated separately for each lease or property and may not be less than zero. (Eff. 10/21/2009, Register 192; am 4/30/2010, Register 194)

**Authority:** AS 43.05.080 AS 43.55.020 AS 43.55.110

AS 43.55.011

15 AAC 55.800(f) is amended to read:

(f) The following provisions apply retroactively to July 1, 2007:

(1) 15 AAC 55.181;

(2) 15 AAC 55.193;

**(3) 15 AAC 55.197;**

**(4) 15 AAC 55.206;**

**(5) [(2)] 15 AAC 55.224;**

**(6) [(3)] 15 AAC 55.341;**

**(7) [(4)] 15 AAC 55.381;**

**(8) [(5)] 15 AAC 55.421;**

**(9) [(6)] 15 AAC 55.431;**

**(10) 15 AAC 55.511(a) - (d);**

**(11) 15 AAC 55.900(b)(26) and (27) [(7) 15 AAC 55.511].**

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

(j) The changes to the following provisions, effective {*effective date of these regulations*}, apply retroactively to July 1, 2007:

(1) 15 AAC 55.151(b);

(2) 15 AAC 55.151(c)(3);

(3) 15 AAC 55.192;

(4) 15 AAC 55.195(a);

(5) 15 AAC 55.195(c)(1). (Eff. 5/3/2007, Register 182; am 10/21/2009, Register

192; am 2/27/2010, Register 193; am 4/30/2010 Register 194)

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

AS 43.55.110

15 AAC 55.900(a)(4) is amended to read:

(4) "LNG transportation facility" means one [ANY] or more [ALL] of the following:

**(A)** the LNG liquefaction plant;

**(B)** [,] gathering lines to **the liquefaction** [THAT] plant;

**(C)** **the LNG regasification plant;**

**(D)** [,] loading and unloading facilities for LNG tankers;

**(E)** [, OR] LNG tankers;

The lead-in language of 15 AAC 55.900(a)(8) is amended to read:

(8) "same **regional** market" means

...

15 AAC 55.900(a)(8)(H) is amended to read:

(H) with respect to a producer's gas **delivered by pipeline and** marketed in **Canada or** the Lower 48, **the Canadian market** or the Lower 48 market, **as applicable, or, if appropriate, any submarkets in either Canada or the Lower 48;**

15 AAC 55.900(a)(8)(I) is amended to read:

(I) with respect to a producer's oil [OR GAS] marketed in a foreign country, the market in that foreign country;

15 AAC 55.900(a)(8) is amended by adding new subparagraphs to read:

(J) with respect to a producer's gas delivered by an LNG transportation facility and marketed in a foreign country, the market in that foreign country;

(K) with respect to a producer's gas delivered by LNG transportation facility and marketed in the United States outside of the state, the West Coast market for LNG or the Hawaii market for LNG, as appropriate;

15 AAC 55.900(a) is amended by adding new paragraphs to read:

(27) "destination market" means a location or area where gas produced from leases or properties in the state, or any one of its components, is or can be physically bought, sold, transported, processed, or, in the case of LNG, regasified in the market;

(28) "downstream gas plant" means a facility that extracts and recovers liquid hydrocarbons from gas by gas processing downstream of the point of production of the gas;

(29) "downstream gas processing" means gas processing that occurs in a downstream gas plant;

(30) "downstream gas processing cost allowance" means an allowance for the cost of downstream gas processing determined by the department under 15 AAC 55.173(o);

(31) "FERC" means Federal Energy Regulatory Commission;

(32) "first destination market with reasonable liquidity" means a destination market that the department has determined meets the criteria established in 15 AAC 55.173(n);

(33) "gas plant products"

(A) means separate marketable elements, compounds, or mixtures,

whether in liquid, gaseous, or solid form, that can be derived by downstream gas processing of gas;

(B) includes

(i) propane;

(ii) butane;

(iii) isobutane;

(iv) pentane;

(v) ethane;

(vi) any NGL mix; in this sub-subparagraph, "NGL mix" means a mixture containing two or more NGLs;

(vii) condensate;

(viii) carbon dioxide or other non-hydrocarbon gases;

(C) does not include residue gas;

(34) "gas processing" has the meaning given in AS 43.55.900;

(35) "gas treatment" has the meaning given in AS 43.55.900;

(36) "gas treatment plant" means a facility that performs gas treatment;

(37) "Lower 48" means the 48 contiguous states and the District of Columbia;

(38) "MMBTU" means one million British thermal units;

(39) "NGL" means a liquid hydrocarbon that is extracted and recovered from gas by downstream gas processing;

(40) "producer" has the meaning given in AS 43.55.900;

(41) "regasification cost allowance" means an allowance for the cost of

regasification of LNG delivered outside the state determined by the department in 15 AAC 55.173(o);

(42) "residue gas" means hydrocarbon gas that consists principally of methane after extraction of liquid hydrocarbons in a downstream gas plant.

15 AAC 55.900(b)(3) is repealed:

(3) repealed 4/30/2010;

15 AAC 55.900(b) is amended by adding new paragraphs to read:

(26) "affiliated" means, with respect to two or more persons, occupying a relationship in which one person controls another, is controlled by another, or is under common control with another, and includes the relationship between a person and a division of the person that operates as a functional unit;

(27) "control" has the meaning given in AS 43.90.900.

15 AAC 55.900 is amended by adding a new subsection to read:

(d) As used in the definition of "producer" in AS 43.55.900, "owner" includes

- (1) a proprietorship;
- (2) a partnership;
- (3) a joint venture;
- (4) a limited liability company;
- (5) a corporation; and

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(6) any entity that is affiliated with the owner. (Eff. 1/1/95, Register 132; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 1/1/2004, Register 168; am 5/3/2007, Register 182; am 10/21/2009, Register 192; am 2/27/2010, Register 193; am 4/30/2010, Register 194)

<b>Authority:</b>	AS 43.05.080	AS 43.55.024	AS 43.55.160
	AS 43.55.011	AS 43.55.025	AS 43.55.165
	AS 43.55.020	AS 43.55.110	AS 43.55.170
	AS 43.55.023	AS 43.55.150	AS 43.55.900