

Register 196, January 2011

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15 AAC 55.245(a) is repealed:

(a) Repealed 12 / 4 / 2010

15 AAC 55.245(b) is repealed:

(b) Repealed 12 / 4 / 2010

15 AAC 55.245(c) is repealed:

(c) Repealed 12 / 4 / 2010

15 AAC 55.245 is amended by adding a new subsection to read:

(d) The department will not approve or require use of operating agreements under former AS 43.55.165(c) or (d). (Eff. 5/3/2007, Register 182; am 12 / 4 / 2010, Register 196)

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

The lead-in language of 15 AAC 55.250(a) is amended to read:

(a) **Costs** [UNLESS THE DEPARTMENT HAS APPROVED OR REQUIRED USE OF AN OPERATING AGREEMENT UNDER AS 43.55.165(c) OR (d), AS THOSE PROVISIONS READ ON JUNE 30, 2007, COSTS] incurred before July 1, 2007, other than an allowance for overhead expenses under 15 AAC 55.270, are ordinary and necessary costs upstream of the point of production of oil and gas and direct costs of exploring for, developing, or producing oil or gas deposits, under AS 43.55.165(a), as that provision read on June 30, 2007, only if they are

...

15 AAC 55.250(c)(9) is amended to read:

(9) designing, constructing, acquiring, transporting, installing, operating, repairing, or maintaining a [AN OIL OR GAS PRODUCTION] facility or equipment, **other than a well, if the facility or equipment is**

(A) used in oil or gas production operations and handles produced fluids upstream of the point of production or fluids injected in a reservoir for reservoir pressure maintenance, repressuring, or enhanced recovery purposes; and

(B) not a refinery, crude oil topping plant, or other manufacturing facility; for purposes of this subparagraph, "manufacturing facility" does not include a gas processing plant;

(Eff. 2/27/2010, Register 193; am 12/4/2010 Register 196)

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

15 AAC 55.260(e) is amended to read:

(e) A fee or other consideration paid to, or for the benefit of, a producer in connection with the use of a facility in which that producer has an ownership interest **or in connection with the producer's management of a facility** is not a direct charge under this section to the extent that the fee or other consideration

(1) compensates that producer for the deferral or loss of that producer's oil or gas

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production resulting from the payer's use of the facility; or

(2) reimburses that producer for the producer's additional tax liability resulting from the receipt of **a fee** [FEES] or other consideration in connection with the payer's use of the facility **or in connection with the producer's management of the facility.**

(Eff. 2/27/2010, Register 193; am 12/4/2010 Register 196)

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

15 AAC 55.270(b) is repealed:

(b) Repealed 12/4/2010

15 AAC 55.270(c) is repealed:

(c) Repealed 12/4/2010

(Eff. 5/3/2007, Register 182; am 2/27/2010, Register 193; am 12/4/2010, Register 196)

Authority: AS 43.55.080 AS 43.55.110 AS 43.55.165

15 AAC 55.280 is repealed and readopted to read:

15 AAC 55.280. Adjustments to lease expenditures. (a) In adjusting a producer's or explorer's lease expenditures for the receipt of a payment or credit for the sale or other transfer of an asset under AS 43.55.170(a)(3)(A), if the acquisition cost of the asset was incurred during a calendar year for which a portion of the producer's or explorer's expenditures was excluded under AS 43.55.165(e)(18) and 15 AAC 55.275, the amount required to be subtracted from the

producer's or explorer's lease expenditures under AS 43.55.170(a) is reduced by a fraction of the payment or credit received for the sale or transfer of the asset as provided in this section. That fraction is equal to the quotient of (1) the total of the excluded portions of the producer's or explorer's expenditures described in this section for all segments in the state under 15 AAC 55.205 or 15 AAC 55.206 as applicable, divided by (2) the sum of the (A) producer's or explorer's qualified capital expenditures incurred with respect to all segments in the state during the calendar year or portion of the calendar year for which that excluded portion was excluded, plus (B) the amount described in (1) of this subsection.

(b) A fee or other consideration received by a producer or by an operator acting for the producer in connection with a person's use of a production facility in which the producer has an ownership interest or in connection with the producer's management of a production facility does not constitute a payment or credit for the use or management of the production facility under AS 43.55.170(a)(1) or a reimbursement or similar payment that offsets the producer's lease expenditures under AS 43.55.170(a)(2), to the extent that the fee or other consideration

(1) reimburses the producer for the share of the producer's costs to operate or maintain the production facility that is attributable to another person's use of the facility, except to the extent the producer treats that share of the costs as the producer's lease expenditure;

(2) compensates the producer for the deferral or loss of the producer's oil or gas production resulting from another person's use of the production facility;

(3) reimburses the producer for the producer's additional tax liability resulting from the receipt of a fee or other consideration in connection with another person's use of the production facility or in connection with the producer's management of the production facility; or

(4) in the case of a production facility in which the producer has an ownership interest,

(A) consists of a contribution of a share of new capital investment to acquire, construct, or improve the production facility, and is in lieu of an increase in the fee that would otherwise be charged to the person making the contribution in connection with that person's use of the facility, except to the extent the producer treats that person's share of the capital investment as the producer's lease expenditure; or

(B) constitutes a charge, as determined under (d) of this section, for use of capital invested in the production facility before April 1, 2006.

(c) For purposes of (b)(1) of this section,

(1) costs to operate or maintain the production facility do not include costs that are treated as capitalized expenditures under 26 U.S.C. (Internal Revenue Code), as amended;

(2) except as otherwise provided in (3) of this subsection, if the facility use agreement or management agreement between the person using the facility and the producer provides for an identifiable amount of a fee that represents the person's share of the costs to operate or maintain the production facility, that amount will be considered the share of the producer's costs to operate or maintain the production facility that is attributable to the person's use of the facility;

(3) if the facility use agreement or management agreement between the person using the facility and the producer does not provide for an identifiable amount of a fee representing the person's share of the costs to operate or maintain the production facility, or if the department determines that, under a facility use agreement or management agreement executed

after December 31, 2009, or under an amendment executed after December 31, 2009, to a facility use agreement or management agreement, the identifiable amount of a fee purporting to represent the person's share of the costs to operate or maintain the production facility (A) overstates those costs; or (B) fails to reasonably reflect the relative quantities of produced fluids processed by the facility and differences in other characteristics, if any, of the produced fluids that materially affect the costs to operate or maintain the facility, the department will determine the share of the producer's costs to operate or maintain the production facility that is attributable to the person's use of the facility, using a method of allocation that is based on relative quantities of produced fluids processed by the facility and differences in other characteristics, if any, of the produced fluids that materially affect the costs to operate or maintain the facility.

(d) For purposes of (b)(4)(B) of this section, the extent of a fee or other consideration in connection with a person's use of a production facility for a given time period that constitutes a charge for use of capital invested in the production facility before April 1, 2006, is equal to the following:

$$F \times (CB / (CB + CA)),$$

where

(1) F equals the total amount of the fee or other consideration, excluding amounts described in (b)(1), (2), (3), or (4)(A) of this section, regardless of whether treated as a lease expenditure, that would be charged for that given time period in connection with the person's use of the facility if the total were calculated on the same per-unit basis that was used to calculate the total fee or other consideration for the

(A) last time period beginning before April 1, 2006, for which the person was charged a fee or other consideration in connection with the person's use of the facility, but not exceeding the amount of the actual total fee or other consideration for the given time period for which the calculation is made; or

(B) first time period for which the person was charged a fee or other consideration for use of the facility, if that first time period began after March 31, 2006, but not exceeding the amount of the actual total fee or other consideration for the given time period for which the calculation is made;

(2) CB equals the producer's total capital investment, if any, incurred before April 1, 2006, to acquire, construct, or improve the production facility, without deduction of depreciation; the producer's capital investment excludes any contribution described in (b)(4)(A) of this section, regardless of whether treated as a lease expenditure; and

(3) CA equals the producer's total capital investment, if any, incurred after March 31, 2006, and before the beginning date of the first time period for which the person was charged a fee in connection with the person's use of the facility, to acquire, construct, or improve the production facility, without deduction of depreciation; the producer's capital investment excludes any contribution described in (b)(4)(A) of this section, regardless of whether treated as a lease expenditure.

(e) For purposes of AS 43.55.170(a)(1), if a producer treats as the producer's lease expenditure a fee or other consideration that the producer pays or imputes to or on behalf of itself, whether directly or through an operator's billing, in connection with the producer's use of a production facility that the producer owns in whole or in part or that the producer manages, that

fee or other consideration constitutes a payment or credit received by the producer for the use by another person of a production facility in which the producer has an ownership interest or for the management by the producer of a production facility under a management agreement providing for the producer to receive a management fee.

(f) For purposes of AS 43.55.170(a)(2), a payment, credit, or portion of a payment or credit received by or on behalf of a producer to reimburse the producer for a cost passed through to another person does not constitute a reimbursement or similar payment that offsets the producer's lease expenditures if the reimbursed producer does not treat that cost as the producer's lease expenditure.

(g) For purposes of AS 43.55.170(a)(3), a fee or other consideration received by or on behalf of a producer in connection with another person's use of a production facility in which the producer has an ownership interest does not constitute a payment or credit for the sale or transfer of an asset,

(1) if the fee or other consideration

(A) consists of a contribution of a share of new capital investment to acquire, construct, or improve the production facility and is in lieu of an increase in the fee that would otherwise be charged in connection with use of the facility; or

(B) represents a charge for use of capital invested in the production facility; and

(2) unless legal title or a similar ownership interest in the facility is transferred from the producer. (Eff. 5/3/2007, Register 182; am 10/21/2009, Register 192; am

12/4/2010 Register 196)

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Authority: AS 43.05.080 AS 43.55.110 AS 43.55.170
AS 43.55.023 AS 43.55.165

15 AAC 55.800(a) is amended to read:

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

(1) 15 AAC 55.192;

(2) 15 AAC 55.205;

(3) 15 AAC 55.215;

(4) 15 AAC 55.223;

(5) 15 AAC 55.245, as amended effective {effective date of these regulation changes};

(6) 15 AAC 55.270, as amended effective {effective date of these regulation changes}, except 15 AAC 55.270(a)(2)(C) and (e), which apply retroactively to July 1, 2007;

(7) 15 AAC 55.275;

(8) 15 AAC 55.280, as repealed and readopted effective {effective date of these regulation changes};

(9) 15 AAC 55.290 - 15 AAC 55.315 [15 AAC 55.275 – 15 AAC 55.315];

(10) [(8)] 15 AAC 55.330 [,] - 15 AAC 55.340;

(11) [(9)] 15 AAC 55.345 - 15 AAC 55.355;

(12) [(10)] 15 AAC 55.370 - 15 AAC 55.380;

(13) [(11)] 15 AAC 55.410;

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(14) [(12)] 15 AAC 55.420;

(15) [(13)] 15 AAC 55.430;

(16) [(14)] 15 AAC 55.440;

(17) [(15)] 15 AAC 55.510;

(18) [(16)] 15 AAC 55.810;

(19) [(17)] 15 AAC 55.850;

(20) [(18)] 15 AAC 55.900(a)(21) - (26) and (b)(21) - (25).

15 AAC 55.800(i) is amended to read:

(i) The provisions of 15 AAC 55.250 and 15 AAC 55.260, **as amended effective** **{effective date of these regulation changes}**, apply retroactively to April 1, 2006 with respect to costs incurred before July 1, 2007, and otherwise apply retroactively to July 1, 2007.

(Eff. 5/3/2007, Register 182; am 10/21/2009, Register 192; am 2/27/2010, Register 193, am 4/30/2010, Register 194; am 12/4/2010, Register 196)

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)(25) is repealed:

(25) repealed 12/4/2010

(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; am 12/4/2010, Register 196)

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Authority:	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