

Alaska Oil and Gas Association



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VIA EMAIL: john.larsen@alaska.gov

Mr. John Larsen, Audit Master
Tax Division, Alaska Dept. of Revenue
550 West 7th Avenue, Suite 500
Anchorage, AK 99501

Re: Questions re Proposed Regulations (September 23, 2021 Public Notice)

Dear Mr. Larsen:

The Alaska Oil and Gas Association (“AOGA”) appreciates the opportunity to submit questions concerning the Department of Revenue’s (“DOR”) proposed changes to certain regulations in Title 15 pursuant to the public notice dated September 23, 2021.

1. **15 AAC 55.206(b)**

The last sentence of the subsection adds the reference “and AS 43.55.160(e).” Since AS 43.55.165(a)(3) already states the lease expenditures must have “met the requirements of AS 43.55.160(e) in the year in which the lease expenditures were incurred,” the reference to AS 43.55.160(e) appears to be redundant. Is there is a specific reason for inserting “and AS 43.55.160(e)?”

2. **15 AAC 55.206(c)(3) and (c)(4)**

Subsection (c)(3) sets forth the segments for oil produced for the calculation of production tax value (PTV). The introductory language provides that it is “for oil, or oil and gas produced.” This is unusual language compared to other sections in the regulations — the reference to “oil and gas produced” also covers oil, without the need to separately reference oil. Is there a particular reason why oil is mentioned separately (and apparently redundantly) in the introductory language? And presumably, the reference to “gas” is only intended to capture the premise that lease expenditures for gas will be used in the calculation of PTV for oil starting in 2022, but please confirm.

As for subsection (c)(4), the first part of the introductory sentence seems to conflict with the second part of the sentence. The regulation states, “[f]or oil and gas produced,” and then states,

“if a producer or explorer does not produce any oil.” In addition, does (c)(4) apply only to a gas producer, or only to an explorer with no production, or both? Further, this regulation provides for two segments: north and south of 68 degrees North latitude. One can assume that this relates to the fact that lease expenditures for oil and gas are allocated to oil starting in 2022 and to clarify that lease expenditures for explorers or producers that are not producing oil are split between the two segments for purposes of calculating losses. Please confirm, as that rationale seems to gloss over the fact that although losses are available for expenditures incurred for activities south of 68 degrees, they are not available for expenditures incurred for activities in the Cook Inlet sedimentary basin.

3. 15 AAC 55.213(e)

The first sentence states, “[a] methodology must provide for excluding any gas produced before 2022 that is used in state and any gas produced after 2021.” This is also reiterated at the end of the subsection. While we do not have a specific question on this, it may be clearer to have one sentence for gas used in the state and a separate sentence for gas produced after 2021. For example, leave .213(e) as-is and add a sentence or a new subsection that states “[a] methodology must provide for excluding any gas produced on and after January 1, 2022.”

4. 15 AAC 55.215(b)

In addressing the applicability of lease expenditures, prior to the proposed amendments, 15 AAC 55.215(b) addressed the allocation of lease expenditures for Cook Inlet oil and Cook Inlet gas for tax years prior to 2022. The proposed amendment moves the previously existing regulation to .215(b)(1).

The new language at .215(b)(2) clarifies that lease expenditures for oil and gas are applied to the production tax value for oil. However, the new language divides lease expenditures between North Slope and everywhere else. This language raises similar questions to those raised above concerning 15 AAC 55.206(c)(3) and (c)(4), and we would appreciate clarification of DOR’s intent.

5. 15 AAC 55.215(d)

This subsection addresses the applicability of lease expenditures for leases or properties outside the Cook Inlet sedimentary basin, other than non-North Slope leases or properties that avail of the tax ceiling in AS 43.55.011(p). Subsection (d)(1) concerns the allocation of lease expenditures to gas used in the state before 2022. The proposed subsection (d)(2) addresses lease expenditures incurred on and after January 1, 2022, “or” carried-forward annual losses regardless of when the cost was incurred, and provides that either may apply to the production tax value of oil beginning in 2022 (excluding leases or properties subject to AS 43.55.011(p)). Please confirm whether this is the correct reading of the proposed language.

6. **Example 1.B**

It appears the first step in this example, to determine if the taxpayer has adjusted lease expenditures that exceeded the North Slope gross value at the point of production, was assumed (or skipped), such that the test at 15 AAC 55.217(b)(3)(D) would occur. The math in this example would have \$4,340 in adjusted lease expenditures for this step. Is this observation correct? If so, we recommend either (i) stating that the example assumes that adjusted lease expenditures exceeded the gross value at the point of production for the North Slope, or (ii) adding the step with the math.

Subsection (3) appears to have inadvertently stated “including gas used in the state” rather than “excluding gas used in state,” since gas used in state will not have a production tax value on or after January 1, 2022. Please confirm whether that observation is correct.

7. **Example 2**

The new language at the end of the example uses the word “neither” which may be read to tie the carried forward annual loss for Property D and the unrelated “seismic exploration on the North Slope” together. We presume that was not DOR’s intention, but please confirm.

Sincerely,

ALASKA OIL AND GAS ASSOCIATION

A handwritten signature in cursive script that reads "Kara Moriarty".

Kara Moriarty
President/CEO