

1. 15 AAC 05.250(a). Use of confidential information in enforcement proceedings

What types of confidential tax information does the Department intend to be covered by this regulation?

DOR RESPONSE: The regulation implements AS 43.55.040 and therefore pertains to enforcement of tax in AS 43.55. The intent of the proposed change is to clarify the procedures under AS 43.55.040. It would apply, for example, during an audit of a taxpayer, the sharing of operator information related to lease expenditures that are paid by, and commonly known to, the working interest owners of a lease or property. The department believes this will help streamline audit timelines and lead to a more efficient audit process for both taxpayers and the department.

2. 15 AAC 55.151 Gross value of oil or gas at the point of production

Is DOR aware of the fact that all oil run through North Slope topping plants is capable of being returned to the commingled stream, at least based on current operations? If so, is the intent of DOR to tax all oil run through a North Slope topping plant at 120%?

DOR RESPONSE: Yes, the department is aware that oil run through North Slope crude oil topping plants (COTP) is capable of being returned to the comingled stream. The short answer is, no, the department does not intend to tax all oil run through a North Slope topping plant at 120%. The proposed amendments intend to give meaning to the statute by clarifying that it is the feedstock of oil supplied into the COTP and consumed in lease operations that is not subject to tax as provided in AS 43.55.020(e). Oil supplying the feedstock for products of the COTP that are used in lease operations and subsequently reproduced, such as load diesel, are not subject to tax until such time as they are produced and sold.

3. 15 AAC 55.171(m) Prevailing value for oil

Based on review of ARGUS, two prices are available: ANS Delivered and ANS Delivered Concurrent. It is currently unclear as written which of these two prices would be applicable. Is DOR intending to apply a specific price?

DOR RESPONSE: Based on current discussions within the department the DOR believes the use of the "ANS Delivered" [ANS USWC month 1 (PA0000008)] price as reported by Argus is the appropriate price to use for prevailing value calculations. In the enclosure included with the AOGA comments, dated January 26, 2021, this would be represented by the "ANS del" under the heading of "US west coast waterborne." Since 15 AAC 55.171(m) provides that "In this subsection, a monthly average assessment for a month is the average of the midpoints between a reporting service's high and low closing assessments," the midpoint price for the example included in the enclosure provided by AOGA would be \$43.61. The inclusion of the "PA0000008" in the department's previous response was intended to indicate the reference found in the Argus online data system.

4. 15 AAC 55.171(o) Prevailing value for oil

Does DOR intend for the applicable tariff to be the intrastate versus interstate tariff depending on whether the oil is destined for intrastate versus interstate commerce?

DOR RESPONSE: The department does not do barrel tracking and the ultimate destination of a barrel of oil may not be known at the time of sale. For purposes of determining prevailing value the department relies on the sales delivery point as the point at which the tax levied in AS 43.55.011(e) is assessed on the producer of the oil. The proposed regulation, regarding 15 AAC 55.171(g) and (h), refers to the "carrier ownership-weighted average of all applicable publicly filed pipeline tariffs" on file for all carriers at the sales delivery point by the producer of the oil or gas. The proposed regulation intends to clarify, when determining prevailing value, that "all applicable publicly filed pipeline tariffs" includes both the FERC or RCA tariff for each individual carrier. And, that the lower of either the FERC or RCA tariff will be used in determining the "carrier ownership-weighted average." This methodology provides a single prevailing value calculation for each sales delivery point inside the state as opposed to what might otherwise be required if the department were to engage in barrel tracking for all sales of North Slope crude. The prevailing value is then compared to each sales transaction for that month and if the prevailing value is more than \$.15 greater than the reported value, the prevailing value will be used for purposes of calculating the amount of tax due.

"sales delivery point" is defined in 15 AAC 55.900(a)(7):

- (7) "sales delivery point" means

(A) for a producer's oil or gas sold in a bona fide, arm's-length sale to a third party, the point of delivery specified under the terms of the contract or agreement for that sale, except as otherwise provided by 15 AAC 55.151(g) or 15 AAC 55.191(i);

(B) for a producer's oil to which (A) of this paragraph does not apply, *the point where prevailing value is calculated under 15 AAC 55.171*; and [Emphasis supplied.]

(C) for a producer's gas to which (A) of this paragraph does not apply, the point where prevailing value is calculated under 15 AAC 55.173."