

ALASKA STATUTES

Article 04. OIL AND GAS COMPETITIVENESS REVIEW BOARD

Sec. 43.98.040. Oil and Gas Competitiveness Review Board.

- (a) The Oil and Gas Competitiveness Review Board is established in the department.
- (b) The board shall consist of 11 members as follows:
 - (1) two members nominated by the two leading nonprofit trade associations representing the oil and gas industry in the state and appointed by the governor, with one member nominated by each association;
 - (2) the chair of the Alaska Oil and Gas Conservation Commission or the chair's designee;
 - (3) three members of the public appointed by the governor, including one member who is a petroleum engineer, one member who is a geologist, and one member who is a financial analyst;
 - (4) the commissioner of environmental conservation or the commissioner's designee;
 - (5) the commissioner of natural resources or the commissioner's designee;
 - (6) the commissioner of revenue or the commissioner's designee;
 - (7) two members of the public who do not represent the oil and gas industry, appointed by the governor.
- (c) The governor shall, every two years, designate one of the members as chair.
- (d) Members of the board appointed under (b)(1), (3), and (7) of this section serve for four years. An individual who has served on the board may be reappointed.
- (e) A vacancy on the board shall be filled in the manner of the original appointment.
- (f) A member of the board may be removed and replaced at the discretion of the governor.
- (g) The members of the board appointed under (b)(1), (3), and (7) of this section serve without compensation but shall receive per diem and travel expenses authorized for boards and commissions under [AS 39.20.180](#).
- (h) The board may enter into contracts for professional services. The department shall provide staff for administrative support for the board.
- (i) The board shall meet at least once in a calendar year.

Sec. 43.98.050. Duties. The duties of the board include the following:

- (1) establish and maintain a salient collection of information related to oil and gas exploration, development, and production in the state and related to tax structures, rates, and credits in other regions with oil and gas resources;
- (2) review historical, current, and potential levels of investment in the state's oil and gas sector;
- (3) identify factors that affect investment in oil and gas exploration, development, and production in the state, including tax structure, rates, and credits; royalty requirements; infrastructure; workforce availability; and regulatory requirements;
- (4) review the competitive position of the state to attract and maintain investment in the oil and gas sector in the state as compared to the competitive position of other regions with oil and gas resources;
- (5) in order to facilitate the work of the board, establish procedures to accept and keep confidential information that is beneficial to the work of the board, including the creation of a secure data room and confidentiality agreements to be signed by individuals having access to confidential information;

- (6) make written findings and recommendations to the Alaska State Legislature before
- (A) January 31, 2015, or as soon thereafter as practicable, regarding
 - (i) changes to the state's regulatory environment and permitting structure that would be conducive to encouraging increased investment while protecting the interests of the people of the state and the environment;
 - (ii) the status of the oil and gas industry labor pool in the state and the effectiveness of workforce development efforts by the state;
 - (iii) the status of the oil-and-gas-related infrastructure of the state, including a description of infrastructure deficiencies; and
 - (iv) the competitiveness of the state's fiscal oil and gas tax regime when compared to other regions of the world;
 - (B) January 15, 2017, regarding
 - (i) the state's tax structure and rates on oil and gas produced south of 68 degrees North latitude;
 - (ii) a tax structure that takes into account the unique economic circumstances for each oil and gas producing area south of 68 degrees North latitude;
 - (iii) a reduction in the gross value at the point of production for oil and gas produced south of 68 degrees North latitude that is similar to the reduction in gross value at the point of production in [AS 43.55.160](#)(f) and (g);
 - (iv) other incentives for oil and gas production south of 68 degrees North latitude;
 - (C) January 31, 2021, or as soon thereafter as practicable, regarding
 - (i) changes to the state's fiscal regime that would be conducive to increased and ongoing long-term investment in and development of the state's oil and gas resources;
 - (ii) alternative means for increasing the state's ability to attract and maintain investment in and development of the state's oil and gas resources; and
 - (iii) a review of the current effectiveness and future value of any provisions of the state's oil and gas tax laws that are expiring in the next five years.

Sec. 43.98.060. Information to be provided to board. (a) The commissioner of natural resources, the commissioner of revenue, the commissioner of environmental conservation, and other commissioners and state agencies that have responsibility for and maintain information related to oil and gas investment and activity in the state shall, at the request of the board, provide information required by the board to carry out the duties described in [AS 43.98.050](#).

(b) At the request of the board, and except for information that is confidential under [AS 40.25.100](#)(a) or [AS 43.05.230](#) and information required to be held confidential by the Alaska Oil and Gas Conservation Commission, a commissioner may disclose to the board information that is otherwise confidential after each member of the board and each staff member for the board with access to the information signs a confidentiality agreement prepared by the commissioner making the disclosure. Information that is confidential under [AS 43.05.230](#) may not be disclosed to the board.

Sec. 43.98.070. Definition. In [AS 43.98.040](#) - 43.98.070, "board" means the Oil and Gas Competitiveness Review Board.

Article 01. OIL AND GAS PRODUCTION TAX

Chapter 43.55 OIL AND GAS PRODUCTION TAX AND OIL SURCHARGE

Sec. 43.55.160. Determination of production tax value of oil and gas. (a) For oil and gas produced before January 1, 2022, except as provided in (b), (f), and (g) of this section, for the purposes of

(1) [AS 43.55.011](#)(e)(1) and (2), the annual production tax value of taxable oil, gas, or oil and gas produced during a calendar year in a category for which a separate annual production tax value is required to be calculated under this paragraph is the gross value at the point of production of that oil, gas, or oil and gas taxable under [AS 43.55.011](#)(e), less the producer's lease expenditures under [AS 43.55.165](#) for the calendar year applicable to the oil, gas, or oil and gas in that category produced by the producer during the calendar year, as adjusted under [AS 43.55.170](#); a separate annual production tax value shall be calculated for

(A) oil and gas produced from leases or properties in the state that include land north of 68 degrees North latitude, other than gas produced before 2022 and used in the state;

(B) oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude and that qualifies for a tax credit under [AS 43.55.024](#)(a) and (b); this subparagraph does not apply to

(i) gas produced before 2022 and used in the state; or

(ii) oil and gas subject to [AS 43.55.011](#)(p);

(C) oil produced before 2022 from each lease or property in the Cook Inlet sedimentary basin;

(D) gas produced before 2022 from each lease or property in the Cook Inlet sedimentary basin;

(E) gas produced before 2022 from each lease or property in the state outside the Cook Inlet sedimentary basin and used in the state, other than gas subject to [AS 43.55.011](#)(p);

(F) oil and gas subject to [AS 43.55.011](#)(p) produced from leases or properties in the state;

(G) oil and gas produced from leases or properties in the state no part of which is north of 68 degrees North latitude, other than oil or gas described in (B), (C), (D), (E), or (F) of this paragraph;

(2) [AS 43.55.011](#)(g), for oil and gas produced before January 1, 2014, the monthly production tax value of the taxable

(A) oil and gas produced during a month from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil and gas taxable under [AS 43.55.011](#)(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under [AS 43.55.165](#) for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under [AS 43.55.170](#); this subparagraph does not apply to gas subject to [AS 43.55.011](#)(o);

(B) oil and gas produced during a month from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil and gas taxable under [AS 43.55.011](#)(e) and produced

by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under [AS 43.55.165](#) for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under [AS 43.55.170](#); this subparagraph does not apply to gas subject to [AS 43.55.011\(o\)](#);

(C) oil produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under [AS 43.55.011\(e\)](#) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under [AS 43.55.165](#) for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under [AS 43.55.170](#);

(D) gas produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under [AS 43.55.011\(e\)](#) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under [AS 43.55.165](#) for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under [AS 43.55.170](#);

(E) gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under [AS 43.55.011\(e\)](#) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under [AS 43.55.165](#) for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under [AS 43.55.170](#).

(b) A production tax value calculated under this section may not be less than zero.

(c) Notwithstanding any contrary provision of [AS 43.55.150](#), for purposes of calculating a monthly production tax value under (a)(2) of this section, the gross value at the point of production of the oil and gas is calculated under regulations adopted by the department that provide for using an appropriate monthly share of the producer's costs of transportation for the calendar year.

(d) Irrespective of whether a producer produces taxable oil or gas during a calendar year or month, the producer is considered to have generated a positive production tax value if a calculation described in (a) of this section yields a positive number because the producer's adjusted lease expenditures for a calendar year under [AS 43.55.165](#) and 43.55.170 are less than zero as a result of the producer's receiving a payment or credit under [AS 43.55.170](#). An explorer that has taken a tax credit under [AS 43.55.023\(b\)](#) or that has obtained a transferable tax credit certificate under [AS 43.55.023\(d\)](#) for the amount of a tax credit under [AS 43.55.023\(b\)](#) is considered a producer, subject to the tax levied under [AS 43.55.011\(e\)](#), to the extent that the explorer generates a positive production tax value as the result of the explorer's receiving a payment or credit under [AS 43.55.170](#).

(e) Any adjusted lease expenditures under [AS 43.55.165](#) and 43.55.170 that would otherwise be deductible by a producer in a calendar year but whose deduction would cause an annual production tax value calculated under (a)(1) or (h) of this section of taxable oil or gas produced during the calendar year to be less than zero may be used to establish a carried-forward annual loss under [AS 43.55.023\(b\)](#). However, the department shall provide by regulation a method to ensure that, for a period for which a producer's tax liability is limited by [AS 43.55.011\(j\)](#), (k), (o), or (p), any adjusted lease expenditures under [AS 43.55.165](#) and 43.55.170 that would otherwise be deductible by a producer for that period but whose deduction would cause a

production tax value calculated under (a)(1)(C), (D), (E), or (F), or (h)(3) of this section to be less than zero are accounted for as though the adjusted lease expenditures had first been used as deductions in calculating the production tax values of oil or gas subject to any of the limitations under [AS 43.55.011](#)(j), (k), (o), or (p) that have positive production tax values so as to reduce the tax liability calculated without regard to the limitation to the maximum amount provided for under the applicable provision of [AS 43.55.011](#)(j), (k), (o), or (p). Only the amount of those adjusted lease expenditures remaining after the accounting provided for under this subsection may be used to establish a carried-forward annual loss under [AS 43.55.023](#)(b). In this subsection, "producer" includes "explorer."

(f) On and after January 1, 2014, in the calculation of an annual production tax value of a producer under (a)(1)(A) or (h)(1) of this section, the gross value at the point of production of oil or gas produced from a lease or property north of 68 degrees North latitude meeting one or more of the following criteria is reduced by 20 percent: (1) the oil or gas is produced from a lease or property that does not contain a lease that was within a unit on January 1, 2003; (2) the oil or gas is produced from a participating area established after December 31, 2011, that is within a unit formed under [AS 38.05.180](#)(p) before January 1, 2003, if the participating area does not contain a reservoir that had previously been in a participating area established before December 31, 2011; (3) the oil or gas is produced from acreage that was added to an existing participating area by the Department of Natural Resources on and after January 1, 2014, and the producer demonstrates to the department that the volume of oil or gas produced is from acreage added to an existing participating area. This subsection does not apply to gas produced before 2022 that is used in the state or to gas produced on and after January 1, 2022. A reduction under this subsection may not reduce the gross value at the point of production below zero. In this subsection, "participating area" means a reservoir or portion of a reservoir producing or contributing to production as approved by the Department of Natural Resources.

(g) On and after January 1, 2014, in addition to the reduction under (f) of this section, in the calculation of an annual production tax value of a producer under (a)(1)(A) or (h)(1) of this section, the gross value at the point of production of oil or gas produced from a lease or property north of 68 degrees North latitude that does not contain a lease that was within a unit on January 1, 2003, is reduced by 10 percent if the oil or gas is produced from a unit made up solely of leases that have a royalty share of more than 12.5 percent in amount or value of the production removed or sold from the lease as determined under [AS 38.05.180](#)(f). This subsection does not apply if the royalty obligation for one or more of the leases in the unit has been reduced to 12.5 percent or less under [AS 38.05.180](#)(j) for all or part of the calendar year for which the annual production tax value is calculated. This subsection does not apply to gas produced before 2022 that is used in the state or to gas produced on and after January 1, 2022. A reduction under this subsection may not reduce the gross value at the point of production below zero.

(h) For oil produced on and after January 1, 2022, except as provided in (b), (f), and (g) of this section, for the purposes of [AS 43.55.011](#)(e)(3), the annual production tax value of oil taxable under [AS 43.55.011](#)(e) produced by a producer during a calendar year

(1) from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of that oil, less the producer's lease expenditures under [AS 43.55.165](#) for the calendar year incurred to explore for, develop, or produce oil and gas

deposits located in the state north of 68 degrees North latitude or located in leases or properties in the state that include land north of 68 degrees North latitude, as adjusted under [AS 43.55.170](#);

(2) before or during the last calendar year under [AS 43.55.024](#)(b) for which the producer could take a tax credit under [AS 43.55.024](#)(a), from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, other than leases or properties subject to [AS 43.55.011](#)(p), is the gross value at the point of production of that oil, less the producer's lease expenditures under [AS 43.55.165](#) for the calendar year incurred to explore for, develop, or produce oil and gas deposits located in the state outside the Cook Inlet sedimentary basin and south of 68 degrees North latitude, other than oil and gas deposits located in a lease or property that includes land north of 68 degrees North latitude or that is subject to [AS 43.55.011](#)(p) or, before January 1, 2027, from which commercial production has not begun, as adjusted under [AS 43.55.170](#);

(3) from leases or properties subject to [AS 43.55.011](#)(p) is the gross value at the point of production of that oil, less the producer's lease expenditures under [AS 43.55.165](#) for the calendar year incurred to explore for, develop, or produce oil and gas deposits located in leases or properties subject to [AS 43.55.011](#)(p) or, before January 1, 2027, located in leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude from which commercial production has not begun, as adjusted under [AS 43.55.170](#);

(4) from leases or properties in the state no part of which is north of 68 degrees North latitude, other than leases or properties subject to (2) or (3) of this subsection, is the gross value at the point of production of that oil less the producer's lease expenditures under [AS 43.55.165](#) for the calendar year incurred to explore for, develop, or produce oil and gas deposits located in the state south of 68 degrees North latitude, other than oil and gas deposits located in a lease or property in the state that includes land north of 68 degrees North latitude, and excluding lease expenditures that are deductible under (2) or (3) of this subsection or would be deductible under (2) or (3) of this subsection if not prohibited by (b) of this section, as adjusted under [AS 43.55.170](#).