

Conceptual
AMENDMENT
#32

OFFERED IN THE HOUSE

BY REPRESENTATIVE HAWKER

TO: HCS CS SB 21 (RES) Work Draft K

1 Page 25, following line 20

2 Insert new subsections to read:

3 * **Sec. 34.** AS 43.55.165 (a) is repealed and reenacted to read:

4 (a) Except as provided under (c) - (e) of this section, for the purposes of AS
5 43.55.160, a producer's lease expenditures for a calendar year are the ordinary and
6 necessary costs upstream of the point of production of oil and gas that are incurred during
7 the calendar year by the producer after March 31, 2006, and that are direct costs of
8 exploring for, developing, or producing oil or gas deposits located within the producer's
9 leases or properties in the state or, in the case of land in which the producer does not own
10 a working interest, that are direct costs of exploring for oil or gas deposits located within
11 other land in the state. In determining whether costs are lease expenditures, the
12 department shall consider, among other factors,

13 (1) the typical industry practices and standards in the state that determine the
14 costs, other than items listed in (e) of this section, that an operator is allowed to bill a
15 working interest owner that is not the operator, under unit operating agreements or
16 similar operating agreements that were in effect before December 2, 2005, and were
17 subject to negotiation with at least one working interest owner with substantial
18 bargaining power, other than the operator; and

19 (2) the standards adopted by the Department of Natural Resources that
20 determine the costs, other than items listed in (e) of this section, that a lessee is
21 allowed to deduct from revenue in calculating net profits under a lease issued under
22 AS 38.05.180(f)(3)(B), (D), or (E).

23
24 * **Sec. 35.** AS 43.55.165 (b) is repealed and reenacted to read:

25 (b) For purposes of (a) of this section,

26 (1) direct costs include

1 (A) an expenditure, when incurred, to acquire an item if the acquisition
2 cost is otherwise a direct cost, notwithstanding that the expenditure may be
3 required to be capitalized rather than treated as an expense for financial
4 accounting or federal income tax purposes;

5 (B) payments of or in lieu of property taxes, sales and use taxes, motor
6 fuel taxes, and excise taxes;

7 (C) a reasonable allowance, as determined under regulations adopted
8 by the department, for overhead expenses directly related to exploring for,
9 developing, and producing oil or gas deposits located within leases or
10 properties or other land in the state;

11 (2) an activity does not need to be physically located on, near, or within the
12 premises of the lease or property within which an oil or gas deposit being explored
13 for, developed, or produced is located in order for the cost of the activity to be a cost
14 upstream of the point of production of the oil or gas.

15
16 * **Sec. 36.** AS 43.55.165 (c) is repealed and reenacted to read:

17 (c) Subject to (g) and (h) of this section, if the department finds that the pertinent
18 provisions of a unit operating agreement or similar operating agreement are substantially
19 consistent with the department's determinations and standards under (a) of this section
20 concerning whether costs are lease expenditures, the department may authorize or require
21 a producer, subject to conditions prescribed under regulations adopted by the department,
22 to treat as that portion of its lease expenditures for a calendar year applicable to oil and
23 gas produced from a lease or property in the state only

24 (1) the costs, other than items listed in (e) of this section, that are incurred
25 by the operator during the calendar year and that

26 (A) are billable to the producer by the operator in accordance with
27 the terms of the agreement to which that lease or property is subject;

28 (B) for a producer that is the operator, would be billable to the
29 producer by the operator in accordance with the terms of the agreement to
30 which that lease or property is subject if the producer were not the
31 operator;

1 (C) would be billable to the producer by the operator in accordance
2 with the terms of the agreement if that lease or property were subject to
3 the agreement; or

4 (D) for a producer that is the operator, would be billable to the
5 producer by the operator in accordance with the terms of the agreement if
6 that lease or property were subject to the agreement and if the producer
7 were not the operator; and

8 (2) a reasonable percentage, as determined under regulations adopted by
9 the department, of the costs that are billable under (1) of this subsection as an
10 allowance for overhead expenses directly related to exploring for, developing, and
11 producing oil or gas deposits located within the lease or property, to the extent
12 those expenses are not billable under the agreement.
13

14 * **Sec. 37.** AS 43.55.165 (d) is repealed and reenacted to read:

15 (d) Subject to (g) and (h) of this section, if the department makes the finding
16 described in (c) of this section with respect to a unit operating agreement or similar
17 operating agreement and, in addition, finds that at least one working interest owner party
18 to the agreement, other than the operator, with substantial incentive and ability to
19 effectively audit billings under the agreement in fact is effectively auditing billings under
20 the agreement, the department may authorize or require a producer, subject to conditions
21 prescribed under regulations adopted by the department, to treat as that portion of its
22 lease expenditures for a calendar year applicable to oil and gas produced from a lease or
23 property in the state only

24 (1) the costs, other than items listed in (e) of this section, that are incurred
25 by the operator during the calendar year and that

26 (A) are billed to the producer by the operator under the agreement
27 to which that lease or property is subject and are either not disputed by a
28 working interest owner party to the agreement or are finally determined to
29 be properly billable as a result of dispute resolution; or

30 (B) for a producer that is the operator, would be billable to the
31 producer by the operator in accordance with the terms of the agreement to