QUALIFYING TO APPLY FOR, OBTAIN, OR TRANSFER AN INTEREST, PERMIT, OR LEASE RELATING TO OIL AND GAS IN ALASKA

Who Must File

Every individual, association or partnership, corporation, or person authorized to act on behalf of another party must qualify with the Division of Oil and Gas prior to bidding for lease tracts. Qualification also must be obtained prior to applying for, obtaining, or transferring interest in a permit or lease issued under AS 38.05.135 - 38.05.184.

Where to File

Address any required information or inquiries regarding qualifications to State of Alaska, Department of Natural Resources, Division of Oil and Gas, 550 West 7th Avenue, Suite 800, Anchorage, Alaska 99501-3560. Hand-carried material should be delivered to the same address.

How to File

The following is a list of the information and documents required when qualifying under 11 AAC 82.200 - 11 AAC 82.205. Information and documents that have been filed previously and are still current may be sufficient to qualify individuals or other entities.

A. Individuals

11 AAC 82.205(a)(2). Individuals must submit a signed, dated statement that includes the applicant's name, address, and telephone number, preferably notarized, attesting that:

The individual has reached the age of majority (in Alaska the age of majority is 18 years, except for those who are emancipated earlier by marriage or by court order), a citizen of the United States or an alien qualified under AS 38.05.190.

Forms may be obtained from the Division of Oil and Gas upon request, or online at: http://www.dog.dnr.state.ak.us/oil/programs/leasing/leaseadmin/stmnqual_rev04-09.pdf or a statement including the necessary information may be composed and submitted by an individual.

Any legal representative, guardian, or trustee for an individual must submit a certified copy of the court order authorizing the representative to act in that capacity and to fulfill, on behalf of the individual, all obligations arising under the lease or permit. The representative must also submit a signed statement as to the age of the individual and themselves.

Agents for an individual must submit an original or certified copy of a notarized power of attorney instrument authorizing the agent to act on behalf of the individual.

B. Corporations

Corporations must submit:

1) the current name, mailing address, phone and fax numbers of the corporation;

2) a list of the individuals authorized to act on its behalf with respect to oil and gas leasing or permitting;

3) an original or certified copy of a notarized power of attorney authorizing any agent who is not a current officer but who has been authorized by the corporation to act on its behalf with respect to the mineral specified in the permit or lease;

4) a current Certificate of Compliance (Certificate of Good Standing) for those corporations qualified to do business in Alaska;

-or-

5) if filing for the first time, either:

a) a Certificate of Incorporation (Certificate of Organization for an LLC) from those corporations which have been incorporated in the state of Alaska (also known as "domestic" corporations), or

b) a Certificate of Authority (Certificate of Registration for an LLC) from those corporations which have been incorporated outside the state of Alaska (also known as "foreign" corporations).

The required certificates must be requested from the Alaska Department of Commerce, Community and Economic Development (DCCED). Certificates may be purchased online at www.dced.state.ak.us/occ/, e-mail: corporations@alaska.gov.

These documents may also be obtained by mail from:

Alaska Department of Commerce, Community and Economic Development (DCCED)
Attention: Corporations Section
9th Floor, State Office Building
P. O. Box 110808
Juneau, Alaska 99811-0808
(907) 465-2530

-or-

Alaska Department of Commerce and
Economic Development
Attention: Corporations Section
550 W 7th Ave., Suite 1500
Anchorage, Alaska 99501
(907) 269-8173

Inquiries about incorporating in the state of Alaska, or qualifying as a foreign corporation to do business in the state of Alaska should be addressed to personnel at either of the above addresses.

C. Unincorporated Associations

Unincorporated Associations, partnerships or joint ventures must submit:

1) a statement describing the business relationships between members of the association, partnership or joint venture;

2) a statement of qualifications for each member of the association, partnership, or joint venture (outlined in Section A);

-and/or-

if some or all of the members are incorporated entities, all information required for corporations (described in Section B) must also be submitted; and

3) in the case of an agent acting on behalf of an individual, an original or certified copy of a notarized power of attorney defining the agent's authority to sign with respect to the mineral specified in the permit or lease on behalf of the partnership, association or joint venture.

If still current, material previously filed with the department satisfying all or part of the requirements of this section may be incorporated in an application by appropriate reference together with a statement as to any material changes or amendments. Qualified parties are responsible for ensuring that any changes in this information is updated with the division.

Sources

11 AAC 82.200

11 AAC 82.205

AS 38.05.020

AS 38.05.145(a)

Further Information

For further information regarding qualifying for Alaska oil and gas leases, please contact the State of Alaska, Department of Natural Resources, Division of Oil and Gas, 550 West 7th Avenue, Suite 800; Anchorage, Alaska 99501-3560; Phone (907) 269-8810 or visit our Web site at http://www.dog.dnr.state.ak.us.

Financial Incentives and Tax Credit Programs

Production Tax Credits

The State assesses a production tax equal to between 25 and 75 percent of a measure of net cash flow. In determining net cash flow, field operating and capital expenditures ("lease expenditures") are deductible. In addition, there are credits that can be used to offset tax liability for the current tax year, carried forward to offset tax liability in a future year, or sold to another taxpayer or, if certain conditions are met, sold back to the State.

Under AS 43.55.023(a) transferable credits are issued by the Alaska Department of Revenue for qualified capital expenditures (QCE credits) including most development-related capital expenditures and any exploration capital expenditures that do not qualify under AS 43.55.025 (see below). On the North Slope and north of 68 degrees north latitude credits are issued for 20 percent of qualified capital expenses paid out over two years.

AS 43.55.023(m) and (n) establishes that, in Cook Inlet and anywhere south of 68 degrees north latitude, credits equal to 40 percent of capital expenses related to wells that qualify under AS 43.55.025 may be taken in the first year after that expense is incurred. Credits for other qualified capital expenses must be split and claimed over a two year period.

To qualify for exploration credits under AS 43.55.023, the producer or explorer must agree to the data submission requirements, limits on confidentiality, and other applicable provisions of AS 43.55.025(f) as summarized below.

Under AS 43.55.023(b) transferable credits are issued by the Alaska Department of Revenue for 25 percent of a carried-forward loss or lease expenditure that is not offset by income (Loss Carry-Forward credit). Loss Carry-Forward credits are paid out over two years unless issued under AS 43.55.023(n).

Under AS 43.55.024(a) nontransferable tax credits are issued by the Alaska Department of Revenue for production south of 68 degrees north latitude and outside of Cook Inlet sedimentary basin (Frontier Basins Production Credit). Credits for any one year shall not exceed $6 million and continue for nine calendar years after first production. To receive the credit first production must occur before May 1 2016.

Under AS 43.55.024(c) nontransferable tax credits are issued by the Alaska Department of Revenue for production by small-volume producers (Small Producer Credit) as follows: $12 million per calendar year for producers with production less than 50,000 barrels of oil equivalent (BOE) per day; the credit amount declines on a straight line sliding scale to zero credit for production greater than 100,000 BOE per day. The credit continues for nine calendar years after first production. To receive the credit first production must occur before May 1 2016.

Exploration Tax Credits Under AS 43.55.025

This statute allows for a production tax credit for certain exploration geophysical survey and drilling activities as an alternative to the QCE credits under AS 43.55.023. Provisions for exploration drilling credits under this statute are different for areas inside of and outside of the Cook Inlet sedimentary basin.

For exploration drilling within the Cook Inlet sedimentary basin, the credit is 30 percent of the cost of an exploratory well if the well target is pre-approved or the bottom-hole location of the exploratory well is at least 10 miles from the boundary of any unit. If an exploratory well satisfies both the pre-approval and 10-mile criteria, it receives a 40 percent credit for exploratory expenses. Well data shall be made publicly available after an initial two-year confidential period with some exceptions.

For exploration drilling outside the Cook Inlet sedimentary basin, the credit is 30 percent of the cost of an exploratory well if well target is pre-approved and the bottom hole location is three or more miles from the bottom hole location of a pre-existing well. The 30 percent credit also applies if the bottom hole location of the exploratory well is at least 25 miles from the boundary of any unit. A preexisting well is a well that has been spud more than a year-and-a-half (540 days) before the spud date of the exploratory well. If a pre-approved exploratory well satisfies both the 3-mile and the 25-mile criteria, it receives a 40 percent credit for exploratory expenses.

The program also offers seismic exploration tax credits of 40 percent of eligible costs for those portions of activities outside of a unit.

Data submission requirements and confidentiality provisions for this program are the same throughout Alaska, as specified in 43.55.025(f)(2). The explorer must agree to notify DNR within 30 days of project completion or filing of a claim for credit, whichever is the latest, of the date of project completion and submit a report describing the processing sequence and a list of data sets available. Well data requested by and submitted to DNR will be made publicly available after expiration of the well's 24-month confidentiality period, followed by 30 days public notice. Seismic or other geophysical data will be made publicly available after 10 years followed by 30 days public notice.

Well data include all analyses conducted on physical material and well logs collected from the well, results and copies of data collected and data analyses for the well, including well logs; sample analyses; testing geophysical and velocity data including seismic profiles and check shot surveys; testing data and analyses; age data; geochemical analyses; and tangible material.

Seismic or other geophysical data sets include the data for an entire survey, irrespective of whether the survey area covers non-state land in addition to state land or land in a unit in addition to land outside a unit. Geophysical data include navigation/location data, field data, final output volumes, a report addressing acquisition and processing with processing flow and list of final products, and in the case of seismic data, final gathers and final stacking and migration velocities.

This exploration tax credit program expires on July 1, 2016. The expenses that qualify for credits under this tax program cannot be the basis of for the 20 percent qualified capital expenditure credit under AS 43.55.023(a) or for the 25% qualified capital expenditure credit under AS 43.20.043. However, the exploratory expenses are still deductible as a lease expenditure when calculating production tax liability under AS 43.55.011(e), and can be the basis of a loss carry-forward credit under AS 43.55.023(b) if the explorer lacks production income against which to deduct the exploration expenses. In addition, certain post-exploratory expenses that are ineligible for a credit under AS 43.55.025 can be the basis for a 20% qualified capital expenditure credit under AS 43.55.023(a). Credits under 43.55.025 and 43.55.023 can be either carried forward or transferred to other taxpayers. If a producer is unable to use the credit to offset current tax liability, and is small (produces less than 50,000 barrels of oil equivalent per day), the company can be directly reimbursed by the State for the credit rather than have to sell the credit to another taxpayer or offset future tax liability with the credit.

For the period between July 1, 2008 and June 30, 2009

(Fiscal Year 2009) around $550 million of these transferrable credits were claimed, with $193 million paid out directly by the State and another $350 million used by taxpayers to directly offset liability.

Cook Inlet Jack-Up Tax Credit

Under AS 43.55.025(a)(5) and (m), passed by the Alaska Legislature in 2010, the state of Alaska offers tax credits for exploration expenses of 100, 90 and 80 percent respectively for drilling the first, second and third exploration wells by a jack-up drilling rig, prescribed as follows: 100 percent of the first well up to $25 million, 90 percent of the second well up to $22.5 million, and 80 percent of the third well up to $20 million. Only the first jack-up rig in Cook Inlet receives this credit. Qualifying expenses shall only be for the drilling of wells from a jack-up rig and that test pre-Tertiary strata. All three wells must be drilled by unaffiliated parties. If production results from the drilling of a well that receives this credit, the operator shall repay 50% of credit over ten years following production start-up. This credit shall be taken in lieu of other credits under AS 43.55.023 and AS 43.55.025. This credit shall not apply to any wells drilled outside the Cook Inlet sedimentary basin.

Exploration Incentives Under AS 38.05.180(i)

This statute authorizes the commissioner of the Department of Natural Resources to establish an exploration incentive credit (EIC) system. Credits may be made available for both drilling and geophysical survey costs. This EIC must be designated by the commissioner as a lease sale term for state-owned lands only and is not allowed for exploration costs on unleased, Federal-, or private-owned lands.

For drilling, credits may provide up to 50 percent of costs incurred, depending on well depth and location. Well data shall be made publicly available after an initial two-year confidential period. If demonstrated by the lessee as necessary, confidentiality may be extended.

For geophysical surveys, credits may provide up to 50 percent of costs incurred, if that work is performed during the two seasons immediately preceding an announced lease sale and is on land included within the sale area. The geophysical information must then be made public after the sale. Credits are granted by the commissioner for a limited period and may be assigned to a third party. Credits may be applied against royalty and rental payments to the state, or taxes payable under AS 43.55. Amounts due the Alaska Permanent Fund (AS 37.13.010) are considered before the application of credits.

Since the state began offering EICs under this program, 22 exploratory wells qualifying for credit have been drilled on state leases. There have been no applications for geophysical EICs. The last claim for this credit was made for a well drilled in 1994.

Natural Gas Exploration Tax Credits Under AS 43.20.043

This program is applicable only to operators and working interest owners engaged in exploration for and development of natural gas resources and reserves south of 68 degrees north latitude. The program allows for a 25 percent tax credit equivalent of qualified capital investments made after December 31, 2009, and 25 percent of the annual cost of activity in the state during each tax year. The total allowable yearly tax credit, which is applicable against corporate income tax only, may not exceed 75 percent of the taxpayer's total tax liability. Unused tax credit may be carried forward for up to five years. Credit is transferable only as part of a conveyance, assignment, or transfer of the taxpayer's business. Credit under this program may be used in conjunction with any other credit authorized by AS 43.20, but not for tax credit or royalty modification provided under any other title. This program expires January 1, 2016.

Nonconventional Natural Gas Rent and Royalty Incentive

Under AS 38.05.180(n)(2), if the lessee under a gas-only lease demonstrates that the potential resources underlying the lease are reasonably estimated to be nonconventional gas, the annual rental payment on the lease will be reduced to $1 per acre and the royalty may be reduced to 6.25 percent.

Gas Storage Incentives

Under AS 43.20.046, passed by the Alaska Legislature in 2010, natural gas storage tax credits are established for any natural gas storage facility commencing operations between December 31, 2010 and January 1, 2016. The credit equals $1.50 per thousand cubic feet of "working gas" storage capacity, up to lesser of $15 million or 25% of the costs incurred to establish gas storage facility. This credit may be used to offset up to 100% of corporate income tax liability, and any excess credit is available for state purchase.

This credit expressly does not apply to gas storage related to gas sales pipeline on the North Slope. To receive the credit under this statute, the facility shall operate as a public utility regulated by the Regulatory Commission of Alaska (RCA) with open access for third parties. The storage capacity shall be determined by the Alaska Oil and Gas Conservation Commission (AOGCC).

Additionally, under AS 38.05.180(u), passed by the Alaska Legislature in 2010, natural gas storage that qualifies for a credit under AS 43.20.046 is exempt from rents, fees and royalties for ten years following startup of commercial operation. Non-native natural gas in injected and stored in the storage reservoir is presumed to be first-out. All credits and exemption from rent, fee and royalty payments shall be passed through to rate payers.

Royalty Modification

Under AS 38.05.180 (f)(4) (Cook Inlet Discovery Royalty) an explorer that discovers a new pool in Cook Inlet and drills a well capable of producing in paying quantities from that pool, pays only a 5% royalty for the first 10 years of production.

Under AS 38.05.180(f)(5) the state automatically grants royalty reduction for certain Cook Inlet fields identified in the statute for the first 10 years of production.

Under AS 38.05.180(f)(6) for certain platforms in the Cook Inlet, if production falls below a certain level (ranging from 750 to 1,200 barrels per day depending on the field) in barrels per day over a calendar quarter, the royalty is reduced to 5%.

Under AS 38.05.180(j) the Department of Natural Resources may reduce royalties to as low as five percent for delineated reservoirs from which production would not otherwise be economically feasible. For a field already in production, the royalty may be reduced to as low as three percent.

Exploration Licensing

The State generally awards leases in area-wide competitive lease sales. However, for frontier basins in Alaska the State has issued exploration licenses under AS 38.05.132. For these licenses, instead of paying a bonus bid, the licensee specifies a work commitment and posts a bond in the amount of the work commitment along with a $1 per acre fee. The licensee must make progress toward completing the work commitment over the term of the license. Later, the licensee has the opportunity to convert the license to a lease.