§ 592. Determination of unit of production values. 1. (a) The commissioner shall annually develop one or more economic profiles for gas and one or more economic profiles for oil for use in the determination of unit of production values. The establishment of more than one economic profile for either gas or oil shall be based upon common factors such as geologic formation, geographic region, economic and cost characteristics of such profiles and such other criteria as the commissioner may deem appropriate.

(b) At least forty-five days prior to the tentative roll date each year, the commissioner shall establish a tentative unit of production value for each economic profile and shall provide to appropriate local officials and industry representatives notice of the tentative unit of production values. The commissioner shall conduct at least one public hearing to receive comments on the tentative unit of production values. At least fifteen days prior to the tentative roll date, the commissioner shall certify to each assessor appropriate unit of production values for use in the assessment of oil and gas economic units.

(c) Unit of production values shall be based upon the average of typical income, expense and operating data for five consecutive calendar years beginning with the sixth calendar year preceding the year in which the unit of production values are to be certified. In determining unit of production values, the commissioner shall use a discounted net cash flow approach in which gross income shall be reduced by the following: operating expenses; landowner royalty payments, which the commissioner shall deem to be the value of one-eighth of the economic unit's production; and other costs, if any, such as overriding royalty interests not retained by the owners of the working interest, additional capital investment required, depletion and depreciation. In determining the unit of production values, the minimum discount rate or rates applied by the commissioner shall be the sum of (1) the average of the discount rates established by the United States federal reserve board on the first business day of each month for each of the five calendar years upon which the economic profiles are based and that precede the year in which the unit of production values are to be certified, plus (2) a seventeen and one-half percent factor to account for risk, nonliquidity, management, real property taxes, intangible drilling costs and income taxes.

2. For the purpose of developing economic profiles and determining discounted net cash flow, the commissioner may require producers to submit statements of income and expenses related to the economic units for five consecutive calendar years beginning with the sixth calendar year preceding the year in which the unit of production values are to be certified. Such statements of income and expenses shall consist of information usually kept in the ordinary course of business. This subdivision is not applicable to producers of one thousand barrels of oil or two hundred million cubic feet of gas per year or less.

3. The commissioner shall promulgate rules establishing the methodology for determining unit of production values pursuant to subdivision one of this section. Such rules shall include a description of the economic data to be compiled, the method for their compilation and a delineation of the process to be followed in applying the discounted net cash flow methodology. Such rules shall provide that, subject to the availability of suitable economic data, the establishment of unit of production values shall take into account and reflect varying economic and operating conditions and characteristics.