

# COPAS Accounting Procedures Litigation Perspectives

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## OVERVIEW:

- 1. COPAS Org. and publications**
- 2. Interpreting COPAS**
- 3. “conclusive presumption”**
- 4. “written exception”**
- 5. tolling the presumption**
- 6. Admissibility of MFIs and AG’s**
- 7. Miscellaneous**

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## What/who is COPAS?

- JOA v. Accounting Procedure
- COPAS Organization
- COPAS Model Form
- Other COPAS Publications

## Interpreting COPAS Forms

- General contract interpretation principles
- COPAS AG's and MFI's?
- Sparse case law

# Most COPAS Disputes:

- “conclusive presumption”
- Sufficiency of “written exception”
- Focus:
  - Billings provision
  - Adjustments provision

# Billings and Adjustments Provisions

## 1984 Form:

**Statements and Billings.** Operator shall bill Non-Operators on or before the last day of each month for their proportionate share of the Joint Account for the preceding month. **Such bills will be accompanied by statements which identify the authority for expenditure, lease or facility, and all charges and credits summarized by appropriate classifications of investment and expense** except that items of Controllable Material and unusual charges and credits shall be separately identified and fully described in detail.

**Adjustments.** Payment of any such bills shall not prejudice the right of any Non-Operator to protest or question the correctness thereof; provided, however, **all bills and statements rendered to Non-Operators by Operator during any calendar year shall conclusively be presumed to be true and correct after twenty-four (24) months following the end of any such calendar year, unless within the said twenty-four (24) month period a Non-Operator takes written exception thereto and makes claim on Operator for adjustment.** No adjustment favorable to Operator shall be made unless it is made within the same prescribed period. The provisions of this paragraph shall not prevent adjustments resulting from a physical inventory of Controllable Material as provided for in Section V.

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## Title search: COPAS Accounting Procedures: From a Litigation Perspective

First appeared as part of the conference materials for the  
50<sup>th</sup> Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session  
"COPAS Accounting Procedures: From a Litigation Perspective"