

[add the following language at the beginning of proposed 15 AAC 55.260(b)(12):]

Except as otherwise provided under (d) of this section,

[add the following subsection to proposed 15 AAC 55.260:]

(d) A charge for use of a facility or equipment that the owner of the facility or equipment pays or imputes to itself, whether directly or through an operator's billing, is not a direct charge for purposes of this section if the owner has treated or will treat as a lease expenditure all or part of the cost of constructing, acquiring, or improving the facility or equipment.

[change existing (d) to (e)]

15 AAC 55.280 is proposed to be amended by adding new subsections to read:

(b) AS 43.55.170(a)(1) does not apply to a portion of a payment or credit received by a producer or an operator acting for the producer for the use by another person of a production facility in which the producer has an ownership interest, to the extent that the portion

(1) defrays that fraction of the producer's costs incurred during a calendar year to operate and maintain the production facility that is attributable to the other person's use of the facility, if the producer's oil and gas that the facility is used to produce are produced from a unit with respect to which the producer's lease expenditures for the calendar year are determined under AS 43.55.165(j) and (k);

(2) compensates the producer for the deferral or loss of the producer's oil or gas production resulting from use of the production facility to process the other person's produced fluids, except to the extent that other person treats the payment or credit as its lease expenditure; or

(3) does not exceed the following fraction of the payment or credit after excluding any portions that defray the costs described in (1) of this subsection or compensate the producer as described in (2) of this subsection:

$P/(P + Q)$, where

P = the producer's capital investment incurred before April 1, 2006, to acquire, construct, or improve the production facility;

Q = the producer's capital investment incurred after March 31, 2006, and before the month in which the payment or credit is received, to acquire, construct, or improve the production facility.

(c) For purposes of (b)(1) of this section costs to operate and maintain the production facility do not include costs that are qualified capital expenditures.

(d) AS 43.55.170(a)(2) does not apply to a payment or credit received by or on behalf of a producer or explorer to reimburse the producer or explorer for costs passed through to another producer or explorer, if the reimbursed producer or explorer does not treat those costs as its own lease expenditures.