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 fee 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, that

(1) defrays the 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, except to the extent the producer treats that fraction of the costs as its lease expenditures;

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

(3) represents a charge for use of capital invested in the production facility before April 1, 2006, if either or both of the following conditions are met:

(A) the other person does not own, and is not affiliated with a person that owns, an interest in the production facility;

(B) the producer receiving the fee, or on whose behalf the fee is received, does not own an interest in the lease or property from which the other person produces oil or gas that is processed in the production facility.

(c) For purposes of this section,

(1) costs to operate and maintain the production facility do not include costs that are treated as capitalized expenditures under 26 U.S.C. (Internal Revenue Code), as amended;

(2) the fraction of the producer's costs incurred during a calendar year that is attributable to the other person's use of the facility must be determined using a methodology that reasonably allocates costs based on the relative quantities of one or more produced fluids processed by the facility and produced by the producer and by the other person, respectively; in the absence of a demonstration that a different methodology meets the requirements of this paragraph, the department will accept a determination of the fraction that does not exceed the following ratio:

OP/(OP + P), where

OP = the quantity, measured in barrels, of the other person's oil and water processed by the facility, if the produced fluids processed by the facility are predominantly from wells that the Alaska Oil and Gas Conservation Commission classifies as oil wells, or the quantity of the other person's gas processed by the facility, if the produced fluids processed by the facility are predominantly from wells that the Alaska Oil and Gas Conservation Commission classifies as gas wells;

P = the quantity, measured in barrels, of the producer's oil and water processed by the facility, if the produced fluids processed by the facility are predominantly from wells that the Alaska Oil and Gas Conservation Commission classifies as oil wells, or the quantity of the producer's gas processed by the facility, if the produced fluids processed by the facility are predominantly from wells that the Alaska Oil and Gas Conservation Commission classifies as gas wells.

(d) For purposes of (b)(3) of this section, the portion of the fee for a given time period that represents a charge for use of capital invested in the production facility before April 1, 2006, is equal to the following:

(F – OM – DC) x (CB/(CB + CA)),

where

F = the entire amount of the fee that would be charged for that given time period if it were calculated on the same per-unit basis that was used to calculate the fee for the (1) last time period beginning before April 1, 2006, for which the other person was charged a fee for use of the facility; or (2) first time period for which the other person was charged a fee for use of the facility, if that first time period began after March 31, 2006 , but in either case not exceeding the amount of the actual fee for the given time period for which the calculation is made;

OM = the portion, if any, of the fee that defrays the 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;

DC = the portion, if any, of the fee that compensates the producer for the deferral or loss of the producer's oil or gas production resulting from the other person's use of the production facility;,

CB = the producer's total undepreciated capital investment, if any, incurred before April 1, 2006, to acquire, construct, or improve the production facility, excluding any contribution to that capital investment described in (e)(2) of this section;

CA = the producer's total undepreciated capital investment, if any, incurred after March 31, 2006, and before the beginning date of the first time period for which the other person was charged a fee for use of the facility, to acquire, construct, or improve the production facility, excluding any contribution to that capital investment described in (e)(2) of this section.

(e) For purposes of AS 43.55.170(a)(1) and this section,

(1) if a producer treats as its lease expenditure a fee that the producer pays or imputes to itself, whether directly or through an operator's billing, for use of a production facility that the producer owns in whole or in part, that fee is considered a payment or credit received by the producer for the use by another person of a production facility in which the producer has an ownership interest;

(2) a person's contribution of a share of the capital investment to acquire, construct, or improve a production facility and that is in lieu of an increase in the fee that would otherwise be charged to the person for use of the facility is not considered a payment or credit received by the producer or by an operator acting for the producer for the use by the person of a production facility in which the producer has an ownership interest, if the producer does not treat any amount of the contribution as the producer's lease expenditure.

(f) AS 43.55.170(a)(2) does not apply to a payment or credit or portion thereof 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.