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PUBLIC HEARING

PROPOSED CHANGES IN THE REGULATIONS OF THE
DEPARTMENT OF REVENUE

Tuesday, August 13, 2013
9:05 a.m.

Held at:
Regulatory Commission of Alaska
East Hearing Room
701 West 8th Avenue, Suite 300
Anchorage, Alaska

Reported by: Leslie J. Knisley
Shorthand Reporter

1 P-R-O-C-E-E-D-I-N-G-S

2 HEARING OFFICER LARSEN: Good
3 morning. It's 9:05. Hopefully we have
4 everybody here that's going to be joining us
5 today.

6 Good morning, and welcome to
7 today's public hearing on proposed regulation
8 changes to Title 15, Chapter 55 of the Alaska
9 Administrative Code concerning the Alaska oil
10 and gas production tax for proposed
11 amendments required by the enactment of SB 21
12 during the first session of the 28th
13 Legislature.

14 My name is John Larsen, and I'm
15 an audit master with the Department of
16 Revenue. For the record, today's proceedings
17 are being held in the East Hearing Room of
18 the Regulatory Commission of Alaska at 701
19 West 8th Avenue, Suite 300, Tuesday,
20 August 13th, 2013. The time is now 9:07.

21 Before we proceed with the formal
22 hearing and begin accepting testimony into
23 the public record, I would like to review
24 some safety and procedural matters. First,
25 in the event of a fire or emergency, please

1 proceed to the exit nearest the lobby, down
2 the stairs and away from the building.

3 Please turn off all electronic devices or
4 turn them to silent so as not to interrupt
5 the proceedings or anyone's testimony.

6 If you're listening in or
7 attending by teleconference, please turn any
8 electronic devices to mute to prevent any
9 feedback interruptions, and remember that you
10 must reactivate your device prior to entering
11 comments into the record.

12 For anyone needing Internet
13 access, the RCA has wireless Internet
14 available with the password posted on the
15 wall in the center of the hearing room right
16 there on the right-hand side of the room.

17 If you must take a call or engage
18 in a sidebar conversation, I'd request that
19 you please go to the lobby near the elevators
20 for your phone call or conversations to keep
21 the interruptions to the proceedings and the
22 RCA staff to a minimum. Please note that
23 we're guests here today of the RCA and
24 appreciate the use of their facilities for
25 the taking of public comments. Neither the

1 RCA nor the staff is associated with the
2 hearing, so please do not interrupt their
3 staff.

4 The Department of Revenue has
5 several people here today to help you to the
6 extent that they can, and that would be Jim
7 Fletcher -- Jim, raise your hand -- thanks.
8 And Bonnie.

9 Public restrooms are to the right
10 as you exit, in the first hallway to the
11 right. If you haven't done so already,
12 please remember to sign into the proceedings,
13 and if you haven't, then please do so when
14 you leave.

15 Note the front two rows of tables
16 have been reserved for interested people
17 providing public testimony and entering
18 comments into the record. The microphones
19 must be activated by using the switch at the
20 bottom of the microphone stand in order that
21 everyone both here and via teleconference may
22 hear and also have your comments correctly
23 entered into the record.

24 If you missed them on the way in,
25 there are copies of the agenda, Public Notice

1 and proposed regulations on the wall just
2 outside the hearing room. Although the
3 hearing has been scheduled for 9:00 to 11:00,
4 we'll stay as long as we need today to make
5 sure that those interested in submitting
6 comments are provided an opportunity to do
7 so.

8 I have a list of people here with
9 us today that intend on providing testimony.
10 And at this point I'd like to pause for just
11 a moment and ask if there are people on the
12 teleconference lines that would like to
13 provide testimony here today and, if so,
14 please identify yourselves. Hearing none,
15 we'll move on, and I will provide additional
16 opportunities for people on the
17 teleconference lines if you missed that one
18 there.

19 Please note that the period for
20 submitting written comments will close at
21 4:30 p.m. on Monday, August 26th, 2013.
22 Comments, whether oral or written, that have
23 been submitted prior to this date will be
24 accepted and considered by the Department in
25 the development of the final regulations.

1 Written comments can be made by, one,
2 e-mailing to me at John dot Larsen, J-o-h-n
3 dot L-a-r-s-e-n at Alaska dot gov; by U.S.
4 mail to me at the Alaska Department of
5 Revenue, Tax Division, 550 West 7th Avenue,
6 Suite 500, Anchorage, Alaska 99501; or by fax
7 to me at area code 907-269-6644.

8 Please note that written comments
9 received are public records and subject to
10 public inspection. I'll repeat these numbers
11 and contact information prior to the
12 conclusion of today's hearing.

13 Today's public hearing follows
14 and builds upon the public workshop that was
15 held by the Department on June 5th, 2013. At
16 the June 5 workshop all interested parties
17 were invited and encouraged to make and
18 submit comments with concerns and issues to
19 be addressed by the Department and the
20 regulations packet to be proposed in regards
21 to SB 21.

22 Although the Administrative
23 Procedures Act does not require an oral
24 hearing, the Department is providing this
25 opportunity today to make oral presentations

1 and have those comments entered into the
2 public record. For those that have attended
3 public hearings in the past that have been
4 held by the Department, you may recall that
5 the public hearing is primarily a listening
6 exercise for the Department.

7 As previously stated and
8 described in the Public Notice, we're here
9 today to accept public testimony on proposed
10 changes in regulations to the Department of
11 Revenue as described in the Public Notice and
12 Proposed Regulations that were distributed by
13 the Department on July 19th, 2013. These
14 proposed regulations are intended to amend
15 Title 15, Chapter 55 of the Alaska
16 Administrative Code in order to implement
17 necessary changes required by SB 21.

18 Before we begin the public
19 testimony, I just have a few additional
20 comments. For a given topic or section,
21 we'll first begin accepting public testimony
22 from those present in the RCA hearing room
23 and then move to the teleconference lines.
24 You'll see the first two rows of tables have
25 been reserved for those making public

1 testimony. In order that all may hear your
2 testimony, please remember to activate your
3 microphone before speaking.

4 I had perhaps anticipated a few
5 more people making public comment today, but
6 I'm sure that those here will do a fine job
7 for us. Prior to beginning your testimony, I
8 ask that you state your name and who you are
9 representing. However, if anyone wishes to
10 make comments anonymously, they are free to
11 do so.

12 An agenda for the public hearing
13 was distributed Friday, August 9th that
14 parsed the proposed regulations into five
15 different categories for public comment. The
16 intent of the Department was to organize and
17 consolidate comments on similar portions of
18 the proposed regulations into corresponding
19 sections. However, interested persons are
20 not restricted to this format, so please note
21 that the very last item on the agenda has
22 been reserved as an open-item comment period
23 to include any and all portions of the
24 proposed regulations.

25 Essentially, the Department saw

1 the proposed regulations impacting five main
2 areas described in the agenda that were
3 broken down into Subsection A, which is those
4 related to production tax values, lease
5 expenditures and a definition for lease or
6 property. Under Subsection B, tax credits,
7 particularly those pertaining to the new tax
8 credits under AS 43.55.024(i) and (j).

9 Subsection C deals primarily with
10 installment payments of estimated tax and
11 monthly filings. Subsection D is a tax on
12 production tax value and the monthly tax
13 amounts. Then, Subsection E was the gross
14 value reductions under AS 43.55.160(f) and
15 (g).

16 I know that during the
17 legislative hearing that the term a lot of
18 times used was the GRE, the gross revenue
19 exclusion; however, the statutes themselves
20 use the gross value reduction, and so that's
21 why I've used the GVR here.

22 So at this time I'd like to open
23 the record for public comment and begin with
24 production tax values, lease expenditures and
25 lease or property under proposed 15 AAC

1 55.206, 55.215, 55.224 and 55.815.

2 Marie, you were the first person
3 here to sign up today, so, if you don't mind,
4 we'll go ahead and let you start if you have
5 any comments regarding that first subsection
6 there.

7 MARIE EVANS: Okay. So, for the
8 record, my name is Marie Evans, and I am
9 representing ConocoPhillips as their tax
10 counsel. I have a few -- I do have some
11 specific comments by subsection under that
12 first heading that you have on the agenda.

13 I will preface all of my comments
14 with my preferred method that we would
15 actually have a workshop where we talk back
16 and forth on this, because this is very
17 difficult to have you doing a listening
18 exercise and me doing a talking exercise for
19 a one-hour period. I know you know that
20 because I've advocated loudly in your ear
21 over the last month for it.

22 I realize you're pressed for
23 time, but this is -- the regulations are not
24 easy to read or interpret, and especially
25 when we get into the latter sections on the

1 metering. I just think it would have been
2 more productive if we could have facilitated
3 one session at least where we talked with
4 this draft in front of us.

5 I am making my comments, all of
6 them, from the premise or the assumption that
7 the regulations are going to implement the
8 Governor's rules that were stated during the
9 SB 21 process. If that is not the assumption
10 that I should be making, then I should be
11 told that from the get-go because it won't
12 help either of us.

13 The one thing I can say is right
14 now when I read these regulations, and I have
15 had significant help from different
16 departments within ConocoPhillips, oftentimes
17 I'm answering, "I don't know what that
18 means." That's not good for the Department
19 of Revenue, and it's not good for
20 ConocoPhillips. It's not going to meet the
21 goals of SB 21 if I'm answering "I don't
22 know."

23 So with that said, I will make a
24 few specific comments on the section -- the
25 first section on the agenda, which is

1 production tax values, lease expenditures and
2 lease or property. So under 15 AAC 55.206,
3 the calculation of PTV for oil and gas
4 produced after June 30th, 2007. If you go to
5 206, subsection little (c, (1), capital B,
6 we're doing a calculation for the PTV. And
7 the new language in this capital B all of a
8 sudden adds in a different thought process,
9 because we're calculating PTV, and now all of
10 a sudden we have for a calendar year before
11 or during the last calendar year under
12 AS 43.55.024(b), which a producer could take
13 a tax credit.

14 So all of a sudden we're, like,
15 segregating out one type of producer. I
16 don't know what the purpose was so much. I
17 understand the 011(p) addition in there, but
18 when we're calculating PTV, all of a sudden
19 whether you're taking a tax credit or not, I
20 don't know why that matters. So that was my
21 first comment.

22 Under 15 AAC 55.206, Sub (f), I
23 will submit a written comment, but my comment
24 returns back to September 2008 time frame
25 where we actually suggested a rewording of

1 this to eliminate some administrative burden,
2 and I really don't think it's worth the
3 5 percent. I'm not convinced that the cost
4 of the 5 percent difference is benefiting
5 either the Department or ConocoPhillips.

6 As for 15 AAC 55.815, lease or
7 property, that's way at the back under Sub
8 (1) of 815. I actually did a little word
9 search of Mineral Lease Act of 1920 as well
10 as the Naval Petroleum Reserves Production
11 Act of 1976, and I think the word
12 "participating" needs to be stricken before
13 area when you're referring to those two laws.
14 I couldn't find the term "participating area"
15 used in there. I found the term area.

16 Under 15 AAC 55.815, Sub (3),
17 which is now describing a single lease or
18 property, when I read it in conjunction with
19 AS 43.55.011(e), it kind of muddies up or at
20 least it becomes less clear what production
21 is within the levy under 011(e). So I think
22 maybe going back and rereading how those --
23 how this regulation's description of single
24 lease or property works with the actual levy
25 of tax may be worth some effort.

1 And those were the specific
2 comments I had on that section.

3 HEARING OFFICER LARSEN: Thank
4 you, Marie.

5 Tom.

6 TOM WILLIAMS: Good morning. For
7 the record, my name is Tom Williams, and I'm
8 appearing before you now in my capacity as
9 chair of the Tax Committee of the Alaska Oil
10 and Gas Association, commonly known as AOGA.

11 AOGA is the professional trade
12 association that represents 15 member
13 companies who account for the majority of oil
14 and gas exploration, development, production,
15 transportation and refining the oil and gas
16 onshore and offshore in Alaska.

17 These comments are made regarding
18 the regulations proposed by the Department of
19 Revenue, the Department, to implement House
20 Committee, substitute Finance Committee,
21 Senate Bill 21 Amended House, or Senate Bill
22 21 for short, which has been signed into law
23 as Chapter 10 SLA 2013. They have been
24 reviewed by all members and were approved
25 unanimously.

1 While we acknowledge the fact
2 that considerable effort has gone into the
3 development of these regulations, we are
4 concerned about how these regulations, if
5 adopted, would be put into a practice for a
6 number of key provisions in SB 21. Among
7 other matters, we are concerned about the
8 determination of eligibility for the volume
9 of production subject to the gross value
10 reduction, GVR, under AS 43.55.160(f) and
11 (g), and about the metering requirements for
12 determining the volume of that eligible
13 production as proposed in 15 AAC 55.211, 212
14 and 213.

15 We were also concerned by the
16 proposed regulations' apparent failure to
17 provide necessary certainty regarding the
18 determination of the stair-step per barrel
19 tax credits under AS 43.55.024(j), which are
20 based on the gross value at the point of
21 production, or GVPP, per barrel. There's a
22 fundamental difference between determining
23 GVPP as an intermediate step in the
24 calculation of the production tax value upon
25 which the tax is levied under AS 43.55.011(e)

1 and determining GVPP per barrel in order to
2 determine the amount of a stair-step credit a
3 producer may take.

4 If the credit is to have its full
5 effect as an incentive to increase oil
6 production, the producers making the
7 investment to increase that production need
8 to know how much that credit is. They cannot
9 wait up to six years for the Department to
10 audit the transportation costs in the
11 producers' netback calculations of their
12 GVPP. They need to know it when they file.
13 The tax credits stand to fail if the
14 regulations do not provide this certainty.

15 We request, therefore, that the
16 Department take advantage of the opportunity
17 of today's public hearing and discuss with us
18 today its vision and expectations about how
19 these regulations would work. This will not
20 only help us better understand what the
21 Department intends, but it will also enable
22 us to focus our comments on actual concerns
23 and issues instead of ones that are not
24 intended to arise under the regulations.

25 We will, in any event, be

1 submitting the bulk of our formal comments in
2 writing, and individual AOGA member companies
3 may submit written comments of their own. In
4 addition, individual companies may have
5 specific matters that they will present to
6 the Department at today's hearing.

7 Thank you for your consideration.

8 If I may add, that's the end of my prepared
9 remarks. I just would like to note for the
10 record that we developed this consensus
11 approach before we saw the agenda that you
12 had laid out. So it's not formatted in that
13 way, and we mean no disrespect by that.

14 HEARING OFFICER LARSEN: None
15 taken.

16 Is there anyone on the
17 teleconference lines that would like to make
18 some comments on Subsection A of the agenda?
19 Okay.

20 Let me just, if I can for just a
21 moment, back up. I said this will be
22 primarily a listening exercise, and I'll try
23 not to go too far outside of those bounds.
24 But when I can or feel that I am able to
25 respond to some of the questions, I'll try

1 and do that.

2 I guess kind of going backward
3 and starting with your comments, Tom, I think
4 the expectation of the Department is to
5 provide guidance on the qualifications to
6 demonstrate that a given volume of oil meets
7 the requirements of AS 43.55.160(f) and (g).
8 So I would say that's one of our primary
9 goals there.

10 And then just a very brief
11 comment about the metering requirements is
12 that those are not the only methodology that
13 may be used to demonstrate that volumes meet
14 the requirements of the 160(f) or (g), and
15 that there is an alternative methodology
16 provided for in 213 in addition to or aside
17 from the metering. But the metering provides
18 a clear objective standard, and so that was
19 our goal there.

20 And then just one quick comment
21 on the comments from ConocoPhillips. As far
22 as their reference to 55.206.024(b), it may
23 not be of concern to everyone depending on
24 your tax status, but the reference to (b) is
25 primarily intended to recognize that there

1 are some producers that are subject to the
2 tax credits, and those tax credits under 024,
3 commonly referred to as the small producer
4 credits, have various dates that those
5 limitations expire. And so that's why that
6 reference was put in there.

7 So moving on from there, the next
8 section, Subsection B would be for
9 regulations for tax credits as proposed under
10 15 AAC 55.035 and 55.375.

11 Before I open the floor to
12 comments on this section here, I would like
13 to mention that it was brought to our
14 attention that was there a typo in the
15 referencing section there. There is a
16 reference in 15 AAC 55.335(g) to 15 AAC
17 55.212(f), and that is an incorrect
18 reference. That should be to Subsection
19 (g). So the reference there should be to
20 15 AAC 55.212(g). I'm sure most of you are
21 familiar with drafts and redrafts. I think
22 that was just something that we didn't catch
23 as we were going through the regulations
24 there and amending sections and adding
25 sections. So I will send out a note to the

1 interested parties in addition to the people
2 that are here today to make notation of that
3 typographical reference.

4 So, Tom, why don't we go ahead
5 and turn it around. Do you have additional
6 comment that you want to make about the
7 Subsection B agenda, or were your comments
8 comprised in your opening remarks there?

9 TOM WILLIAMS: Unfortunately,
10 that's all I'm prepared to say today and
11 authorized to say.

12 HEARING OFFICER LARSEN: Thanks,
13 Tom. I appreciate it.

14 Marie.

15 MARIE EVANS: I, other than the
16 typo, only have one other comment in this
17 section, which is 15 AAC 55.335, Sub (c), Sub
18 (1). The last phrase following the semicolon
19 doesn't seem to make sense, or I couldn't
20 make sense of it. Let me turn to that.

21 HEARING OFFICER LARSEN: Okay.
22 Excuse me, Marie.

23 Can you give me just a moment to
24 kind of catch up with you here?

25 MARIE EVANS: Sure.

1 HEARING OFFICER LARSEN: Page 34?

2 MARIE EVANS: Yeah. It's on the
3 top of 34.

4 HEARING OFFICER LARSEN: Actually
5 page 33. You said (c)(1), 335(c)(1)?

6 MARIE EVANS: I think that should
7 have been (e)(1). Sorry.

8 HEARING OFFICER LARSEN: (e)(1),
9 okay.

10 MARIE EVANS: Yeah, it should
11 have been. Because when you're reading
12 along, you're calculating the total gross
13 value at the point of production under 011(e)
14 that's produced from the -- during the month
15 from the leases or properties north of 68
16 degrees north latitude and that does not meet
17 any other criteria in AS 43.160(f) or (g).
18 And then we have the semicolon and then it
19 says: The gross value at the point of
20 production is not reduced under (f) or (g).
21 I didn't know why that was there, at least
22 it's not obvious. That was the only comment
23 I had.

24 HEARING OFFICER LARSEN: Okay.
25 Thanks, Marie. We'll take that under

1 advisement there.

2 Next we'll move to Subsection C,
3 the regulations for installment payment of
4 estimated taxes and monthly filings as
5 proposed under 15 AAC 55.381 and 55.511 and
6 55.520.

7 Marie, it looks like you're
8 standing alone here right now, so go ahead.

9 MARIE EVANS: I actually don't
10 have any comments on this section or the next
11 section.

12 HEARING OFFICER LARSEN: Okay.

13 MARIE EVANS: You may want to
14 check the phone, if there's actually anybody
15 on the phone.

16 HEARING OFFICER LARSEN: Is there
17 anybody on the teleconference lines that
18 would like to make some additional comment at
19 this point?

20 Hearing none, at this point I had
21 proposed to take a short break. I don't know
22 that we've been here long enough to do that.
23 I know everybody's schedules are pretty full.
24 So why don't we go ahead and move forward
25 into the regulations pertaining to the gross

1 value reductions under AS 43.55.160(f) and
2 (g) as proposed under 15 AAC 55.211, 55.212
3 and 55.213.

4 Marie, we'll go ahead and start
5 with you again.

6 MARIE EVANS: Okay. I have a few
7 general comments before I get into the
8 detailed ones, which I would recommend that
9 the best way to provide certainty is to
10 simplify and clarify these regulations.

11 These sections are extremely difficult to
12 read and interpret, and I think in
13 simplifying that it would be very helpful if
14 you started with, like, normal oilfield
15 practices. Some of the standards in here are
16 aspirational, but they're impractical.

17 I also think that it would be
18 very helpful and create certainty if we
19 started from the premise that -- and I don't
20 know that I properly describe this, and I
21 will try and do a better job with written
22 comments -- that what we're demonstrating as
23 a taxpayer is compliance rather than setting
24 forth, like, an enormously daunting burden of
25 proof that we have to overcome to get the

1 gross value reduction because a lot of the
2 standards set forth to meet are not
3 objective. They're purely discretionary.

4 For example, I would refer to the
5 phrase "sufficiently reliable and accurate."
6 And in your eyes maybe we will meet that
7 standard, but in a different administration's
8 eyes, when none of us in this room are here
9 and don't have the history or the background
10 of the regulations, I think it's very
11 difficult. And I think it would provide
12 additional certainty and eliminate arguments
13 if we could start from a different premise
14 rather than we're running uphill with a huge
15 burden of proof and don't exactly know what
16 the standard is because it's kind of in the
17 eye of the beholder.

18 So with that said, I will start
19 with some more specific comments on 15 AAC
20 55.211, which is the gross value reduction
21 section. I did have some help from our land
22 people, and in reviewing 211, sub (b), we
23 would recommend removing the phrase "the
24 lease was not within that unit at or after
25 the time the lease was issued." We thought

1 that when we reread (b)(1) with that phrase
2 excluded, we understood what you were
3 attempting to say. If you intend that that
4 phrase needs to be in there, I think you need
5 to describe a little bit better what you're
6 trying to get at, because I couldn't get
7 there.

8 HEARING OFFICER LARSEN: Excuse
9 me, Marie. That was in Subsection (b)?

10 MARIE EVANS: Yes.

11 HEARING OFFICER LARSEN: Which
12 paragraph?

13 MARIE EVANS: (b)(1).

14 HEARING OFFICER LARSEN: (b)(1),
15 okay.

16 MARIE EVANS: And then in 211(f),
17 which I'm trying to make sure I'm on the
18 right page here, we start talking about the
19 30 percent, which I read the statute to be
20 AS 43.55.160(g) gets the taxpayer who
21 qualifies an additional 10 percent on top of
22 the existing 20 percent. So you would get to
23 30 percent, but I could not figure out why we
24 have 160(f)(1) included there. So if there's
25 a specific reason, I think it needs to be

1 spelled out; otherwise, it just needs to be
2 deleted.

3 The next section, 15 AAC 55.212
4 on procedures relating to the gross value
5 reductions. Under 211, Sub (a) -- did I get
6 that right? Oh, no -- yes, Sub (a), okay.
7 Sorry. So 212, Sub (a), when you have (1,
8 (2) and then (3) underneath it, it would be
9 helpful to have "or" after the (2) before the
10 (3). This happens a couple places in these
11 regs.

12 So you can't tell when you're
13 reviewing the regulations. Here it's more
14 obvious that it's (1), (2) or (3), but we'll
15 go to a different place where I couldn't tell
16 you if it's (1, (2, (3) and (4) or there's an
17 "or." Here I think it's a little more
18 obvious that it should be an or, but it would
19 be helpful for those of us who have to
20 interpret and apply these.

21 212, Subsection (c), I would
22 suggest amending this to include a statement
23 that the written requests that taxpayers or
24 producers request from the Department will be
25 subject to the taxpayer confidentiality

1 statutes of AS 43.05.230 and 40.25.100.

2 And then under 212, Sub (d), I
3 was going to suggest a simplification maybe
4 to reference AS 43.55.040, Sub (1), because I
5 think you are trying to establish the same
6 standard of notice or the same notice
7 provisions, which I assumed was because
8 things were going to be held taxpayer
9 confidential. But I think that same language
10 is over at AS 43.55.040, Sub (1). So it
11 might simplify it some. And to the extent it
12 differs, it might help keep things clear.

13 And then at 212, Sub (g) -- where
14 is this. Oh, I had a general comment that
15 when I read this, it looks like we are
16 required no matter what to make an
17 application for an accepted method, but the
18 statute doesn't require that. Most likely a
19 producer would always make an application.
20 But it appears there's some conflict between
21 what the statute is requiring and the way the
22 reg is written.

23 HEARING OFFICER LARSEN: I'm
24 sorry, Marie. That was under 213?

25 MARIE EVANS: No, 212(g).

1 HEARING OFFICER LARSEN: 212(g),
2 okay. Thanks.

3 MARIE EVANS: Okay. And then I
4 was going to move on to 213, if I'm not going
5 too fast.

6 HEARING OFFICER LARSEN: No, go
7 ahead.

8 MARIE EVANS: Okay. 15 AAC
9 55.213 methodologies under AS
10 43.55.160(f)(3), again, I have a couple
11 general comments which are, 1, please
12 simplify these. These are extremely
13 difficult to understand and interpret and
14 apply, which it's just not going to help --
15 help us at all.

16 So the first comment is we have
17 (a, (b) and I think or (f), and I think you
18 mentioned this at the beginning; there's a
19 couple different methodologies. So you have
20 methodology (a), you have methodology (b),
21 and then you have methodology (f). And if
22 I'm reading this right, (c), Sub (c) modifies
23 your methodology under (b), and (d) and
24 (e) impact your methodology under (a) and
25 (b). But it would help to lay that out for

1 the reader a little bit clearer, and if I am
2 seeing it wrong, it really needs to be laid
3 out clearer.

4 Under 213(a), we have a standard
5 here that states that for the Department to
6 accept the methodology, that no more than
7 one-tenth of 1 percent of either the oil or
8 the gas metered in accordance with (d) or
9 (e). I don't think there is anything other
10 than a USA track and field course that is
11 measured within one-tenth of 1 percent. I
12 did a little Google search. And when you
13 talk to an engineer, they just think that
14 it's crazy that this standard would be set.

15 Measuring a track course is a lot
16 different than something that's subsurface
17 and fluid, but I realize that I heard you at
18 the beginning say it's an objective standard.
19 But it's more of, like, an objective
20 aspirational standard because we can't do
21 this. I don't know that anybody could. So I
22 think it would be more helpful if we had a
23 standard that was at least possible, even
24 though it would be objective.

25 I may also point out that when

1 you are looking at the one-tenth of 1
2 percent, it's a little inconsistent then to
3 have Sub (d) or (e) and then (e) where we are
4 recognizing that we can't even measure
5 anything within plus or minus 5 percent. So
6 there's some inconsistency within that method
7 itself.

8 I would also encourage you in
9 looking at what standards you're setting out
10 to go back and listen to Bill Barron's
11 testimony on March 28th, 2013, because at
12 that point in time SB 21, whatever version of
13 it was before us, had the phrase "accurately
14 metered and measured", and it was eventually
15 removed because of both DNR's testimony and
16 industry's testimony that it was just really
17 too difficult. When we start talking in
18 one-tenths of 1 percent, I think we're going
19 back to why it was so problematic to have it
20 in the statute, and I don't think it's going
21 to help us to have it in the regulation.

22 Subsection 213(b), we've had
23 several debates on how (a) and (b) differ,
24 and this is where I think it would probably
25 be more helpful if we could discuss this, but

1 we still can't really tell how (a) and
2 (b) differ. I can point out some words and
3 Michael argues back with me about it. So I
4 would suggest that that needs some clarity.

5 Subsection 213(d), this is where
6 I refer to it would be helpful to have an
7 "and" or an "or." We have (d)(1), (d)(2),
8 (d)(3), (d)(4). Is it all of them that are
9 required or one of them? Looking at -- what
10 page am I on. So under (d)(1) this says:
11 Under a methodology subject to this
12 subsection, the produced fluids from the
13 wells referred to in (a) or (b) of this
14 section, as applicable, without commingling
15 with produced fluids from other wells, are
16 mechanically separated sufficiently to yield
17 sales quality product.

18 Sales quality product is only
19 going to occur after the CPF is in the
20 processing facility. The produced fluids are
21 going to be commingled prior to entering into
22 the CPF, so this just can't be met. There's
23 no -- we're just not set up to do this.
24 There is, I think, maybe one circumstance,
25 which would be drill site 1H -- sorry --

1 3H that can do this, but otherwise it's
2 impractical.

3 That brings me to Subsection
4 (d)(2), which requires oil and gas from the
5 wells are continuously metered before
6 commingling with oil or gas from other wells
7 by equipment with procedures that are
8 sufficient for custody transfer purposes.

9 This is similar to another
10 requirement that is in (e)(1). From my
11 understanding, this would require multi-phase
12 meters, which we received inconsistent
13 results from. The metering people would love
14 to use them all the time, but they're
15 inconsistent.

16 And so I asked them, well, why
17 are they inconsistent? And it has to do a
18 lot with that the multi-phase meters are not
19 one size fits all. They have a sweet spot,
20 and so the oil/gas/water ratio has to be
21 within the sweet spot, and then they measure
22 pretty well. But wells change over their
23 life, so they have to be constantly checked
24 and changed, if necessary.

25 In addition, there is a

1 significant cost. In trying to get an
2 example for you, the cost of a three-inch
3 meter is about three-quarters of a million
4 dollars, and then you have your capital as
5 well as your O&M. That may prove, depending
6 on the project, just to be too great. The
7 cost/benefit just might not be there.

8 I would also point back to Bill
9 Barron's testimony on this. If you go back
10 to what he testified on, he said it is doable
11 to install multi-phase meters on every well,
12 but it's expensive. So this is recognized
13 that the cost -- the cost could be a problem
14 depending on the economics of each project.

15 Let's see. (d)(3), this is the
16 one that requires the standards and
17 requirements of 20 AAC 25.228. This is just
18 some confusing wording here. You're
19 replacing the term "commission" with the
20 "Department of Revenue", but then it says:
21 Unless the Oil and Gas Conservation
22 Commission regulates the metering under
23 20 AAC 25.228 as the measurement of oil and
24 gas severed from the property or unit.

25 I just can't reconcile the

1 language here. It was my understanding
2 actually that AOGCC didn't permit the use of
3 multi-phased meters for custody transfer, but
4 there's a lot of confusion here when you read
5 this who is ultimately going to decide. I
6 did peruse the AOGCC regulations referenced
7 there, and they happen to refer to a
8 different API standard than the one that is
9 later referenced in here as well, which
10 really isn't going to help us. I think it's
11 going to cause more confusion.

12 Subsection 213(e)(1), this is a
13 subsection that requires multi-phase flow
14 metering systems, accuracy demonstrated
15 within 90 percent or higher of a confidence
16 to be within plus or minus 5 percent. As I
17 mentioned earlier, we would like to use
18 multi-phase meters, but oftentimes they're
19 not going to be within those parameters if
20 it's not within the sweet spot.

21 And I would again reference you
22 back to Bill Barron's testimony where he said
23 that multi-flow, multi-phase meters are
24 fairly common these days and reasonably
25 accurate plus or minus 8 to 9 percent on

1 total fluid. So I think the 5 percent
2 standard should be kind of revisited.

3 There's some discretion, I think,
4 in both (d) and (e) about mechanically
5 separating -- and I can't remember what I was
6 going to say, so I'll have to send you a
7 written comment on that.

8 HEARING OFFICER LARSEN: Marie,
9 that was Subsection (e) you were referring to
10 there?

11 MARIE EVANS: I think it's both
12 (e) and (d) that have the requirement of --
13 let me read here for a minute -- that things
14 are metered before they're commingled and
15 that is sufficient for custody transfer
16 purposes, and we just can't meet that
17 requirement. That was my comment. I think
18 maybe if we put a meter on every well, maybe
19 we could, but I don't think that's practical.

20 213(g), this is also another
21 metering problem because the gas comes from
22 1200 wells, and we're just not going to be
23 able to meet the standards that are set forth
24 in that paragraph.

25 I think that brings me to the end

1 of my comments, at least the specific ones.
2 Oh, yeah, there was Sub (j), which also
3 requires mechanical separation process.
4 There's no mechanical separation in a
5 three-phase meter. I don't think we can do
6 that either.

7 So, just in closing, these
8 regulations are really difficult. They
9 create a lot of uncertainty, and I don't
10 think (a) or (b) methodologies are feasible.
11 Maybe we can do something under (f), but as
12 they're written, (a) and (b) are not
13 practical.

14 That was all I had for today.

15 HEARING OFFICER LARSEN: Thank
16 you, Marie.

17 Is there anybody on the phone
18 lines that would like to make any comments on
19 Subsection (g) or Subsection (e) in the
20 agenda, regulations pertaining to the gross
21 value reductions? Okay.

22 Hearing none, what I would like
23 to do at this point is just adjourn briefly
24 for ten minutes here prior to concluding.

25 It's 9:55. So let's meet back

1 here at 10:05. Thanks.

2 (Break taken.)

3 HEARING OFFICER LARSEN: Thank
4 you. We're back on the record. The time is
5 10:08. Before we continue, I'll first ask if
6 there's anybody else in the room that would
7 like to provide any additional testimony, or
8 on the teleconference lines. Okay.

9 Hearing none, what I would say,
10 just as a general matter for everyone here
11 today, both those entering comments into the
12 record and those that have not, that when you
13 make your written recommendations, that when
14 you can that you provide examples of what you
15 believe would be a reasonable standard. For
16 example, with the variance for the
17 multi-phase flow metering, what would you
18 propose is a -- you or your company or who
19 you're representing propose as a reasonable
20 industry standard in that situation.

21 And then, also, one question I
22 was not quite certain on, Marie, in your
23 comments was how 815 was impacting the
24 011E calculation. Maybe either now or in
25 your written comments if you could just

1 clarify that it seems like it's adding
2 segments that shouldn't be taxed. It's
3 taxing segments -- or it's not taxing
4 segments that should be. I wasn't exactly
5 clear what your question was there in regards
6 to 011E with the 815 definition.

7 MARIE EVANS: It has to do with
8 when you're looking at the federal versus
9 state, and then you look at where the tax is
10 being levied and what's exempted from levy.
11 It just, I thought, muddled it up or made it
12 less clear as to what is -- I'll try and
13 articulate it in writing better than I did
14 today. But that's where it was going.

15 HEARING OFFICER LARSEN: Okay.
16 All right.

17 For those here and participating
18 by teleconference, thank you everyone for
19 your participation and interest in these
20 matters. As a reminder, the deadline for
21 submitting written comments on these proposed
22 regulations is 4:30 p.m., Monday,
23 August 26th, 2013. Today's proceedings have
24 been recorded by Northern Lights Reporters
25 and will be made available to the interested

1 parties as soon as they are received by the
2 Department.

3 Again, as stated in the Public
4 Notice, after the end of the public comment
5 period, the Department of Revenue will either
6 adopt these or other provisions dealing with
7 the same subject without further notice or
8 decide to take no action on them. The
9 language of the final regulations may be
10 different than that of the proposed
11 regulations; therefore, I encourage you to
12 comment or submit additional comments during
13 the time allowed if your interests are
14 affected.

15 As I mentioned earlier, if you
16 can, please be as specific as possible and
17 when you can, provide examples or alternative
18 language that you would perhaps propose that
19 would be more clear. Comments, whether oral
20 or written, that have been submitted prior to
21 the August 26th deadline will be accepted and
22 considered by the Department in the
23 development of the final regulations.

24 Written comments can be made by
25 e-mailing me at John dot Larsen, J-o-h-n dot

1 L-a-r-s-e-n, at Alaska dot gov, via U.S. mail
2 to me at the Alaska Department of Revenue,
3 Tax Division, 550 West 7th Avenue, Suite 500,
4 Anchorage, Alaska 99501, or by fax to me at
5 907-269-6644. Please note that written
6 comments received are public records and
7 subject to public inspection.

8 Seeing that there is no one else
9 that would like to submit additional comments
10 or provide testimony, we're going to close
11 this proceeding. Again, thank you everyone
12 for your comments today and those that we may
13 receive and for your participation here in
14 this process.

15 Today's public hearing is
16 adjourned.

17 (Hearing adjourned at 10:13 a.m.)

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CERTIFICATE

I, LESLIE J. KNISLEY, Notary Public for the State of Alaska, and Shorthand Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to, nor do I have any interest in, the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 16th day of August, 2013.

LESLIE J. KNISLEY
Notary Public, State of Alaska
My commission expires: 06/06/16