

## Considerations Regarding Proposed Changes to 15 AAC 55.245

Referred to in Public Notice Dated July 23, 2010

The considerations the Department has taken into account in proposing to decline to approve or require use of operating agreements under former AS 43.55.165(c) or (d) are as follows. First, since the legislature repealed former AS 43.55.615(c) and (d) as of July 1, 2007, any potential advantages of using operating agreements under those provisions would be short-lived, while the Department would still have to invest the same amount of administrative resources in individually evaluating operating agreements as if the provisions had not been repealed. Second, use of operating agreements would require the Department to implement multiple auditing standards: one for each approved or required operating agreement, and another (the lease expenditure regulations) for situations not covered by an approved or required operating agreement. Again, the Department's investment in this regard would be useful for only a short period of time. Third, were operating agreements to be used, allowance or disallowance of costs in some instances would depend on the outcome of internal unit audits, which often involve lengthy delays and the results of which (e.g., in the case of compromises) may not be transparent with regard to the treatment of particular cost items. Fourth, the use of operating agreements would necessarily involve inconsistent treatment of taxpayers, depending on which operating agreement applied or on whether the allowance or disallowance of particular costs were governed by an operating agreement or by the lease expenditure regulations. The Department considers such inconsistent treatment to be another disadvantage weighing against approving or requiring use of operating agreements under former AS 43.55.165(c) or (d).