

Chapter 4

IMPLEMENTATION

| | |
|---|----|
| Introduction | 1 |
| Land Selections and Land Exchanges | 1 |
| Entitlement Overview | 1 |
| Selection Priority System | 3 |
| Selection Priorities | 4 |
| Relinquishments of Selections | 4 |
| Overlapping Land Selections | 4 |
| Land Exchanges | 5 |
| Plan Coordination and Implementation | 5 |
| Cooperative Management Agreements | 5 |
| Coordination with Federal Land Management | 5 |
| Coastal Management Coordination | 5 |
| Municipal Entitlements. | 6 |
| Land-Use Classifications. | 6 |
| Mineral orders. | 8 |
| Legislative Designations. | 8 |
| Sum maries. | 9 |
| Periodic Review | 9 |
| Changes to the Plan | 9 |
| FDiscretion Within Guidelines | 11 |

Chapter 4

IMPLEMENTATION

Introduction

This chapter presents the actions necessary to implement the land use policies proposed by this plan. Included are land selections and relinquishments, land exchanges and ownership issues, coastal management coordination, land use classifications, proposals for legislative designations, and procedures for plan modification and amendment.

This chapter includes information for both volumes of the Prince of Wales Island Area Plans: Volume I, Prince of Wales Island Area Plan (POWIAP); and Volume II, Southwest Prince of Wales Island Area Plan (SWPOWI). See Chapter 1 for more information concerning the location and boundary of the lands covered in the two volumes.

Land Selections and Exchanges

The Prince of Wales Island Area Plan identifies land the state should acquire under the National Forest Community Grant land entitlement within the planning area of this plan and the Southwest Prince of Wales Island Plan. This section provides an overview of the state's National Forest Community Grant land entitlement. It describes the selection priority system used, and presents the remaining prioritized nominations.

The original Prince of Wales Island Plan included numerous nominations under the National Forest Community Grant. Most of the selections have since been conveyed to the state. At the time of the plan's original adoption in 1989, about 27,400 acres were conveyed or tentatively approved for conveyance to the state. Since then, an additional 31,855 acres have been conveyed, for a total of 59,255 acres either under patent or Tentative Approval to the state. An additional 4,860 acres have been selected within the planning area in this revision of the plan, and an additional 4,997 acres have been nominated within the SWPOWIAP planning area.

This plan serves as the basis for the identification and ranking of state land selections in both the Prince of Wales Island and Southwest Prince of Wales Island planning areas. This section also identifies National Forest selections that will be relinquished. Descriptions of individual selections are given at the beginning of the appropriate management unit in Chapter 3 of this plan and in Appendix E in SWPOWI, Vol. II.

Entitlement Overview

Section 6(a) of the Alaska Statehood Act entitles the state to select 400,000 acres of vacant, unappropriated land from the national forests (Tongass and Chugach). The national forest selections are commonly referred to as National Forest Community Grant lands (NFCG).

After making few selections between Statehood and 1977, the state made three large sets of applications to the Forest Service, in 1977, 1983 and 1994. These sets of selections followed an elaborate process that included public meetings in communities throughout the two national forests. Of the

400,000-acre NFCG entitlement, 340,076 acres have been conveyed or tentatively approved for conveyance to the state. Of these lands, 233,636 acres are within the Tongass National Forest, with the remainder (106,440) in Chugach National Forest. An additional acreage has been selected (71,985 acres) up to the total allowed under the Act, but has yet to be conveyed to the state. Table 4-1 identifies the tracts of land conveyed or tentatively approved for conveyance to the state on Prince of Wales Island.

**Table 4-1: Land Conveyed or Pending Conveyance to the State -
Tentatively Approved and Patented Acreage - Prince of Wales Island**

| Area Name | Plan Subunit | NFCG | Acres |
|--------------------------|--------------|----------|--------|
| Coffman Cove | 6a | 230 | 3,839 |
| Coffman Cove | 6a | 386 | 920 |
| Coffman Cove Addition | 6a | 345 | 2,200 |
| Control Lake | 11a | 237 | 767 |
| Control Lake | 11a | 387 | 833 |
| Edna Bay | 8b | 129 | 5,961 |
| Edna Bay Addition | 8b | 232 | 160 |
| Edna Bay, North | 8b | 349 | 480 |
| El Capitan Island | 4b | 342 | 865 |
| El Capitan Passage | 4a | 341, 385 | 2,104 |
| Exchange Cove | 1b | 228 | 504 |
| Exchange Cove Road | 5b | 343 | 380 |
| Goose Creek | 11c | 354 | 1,195 |
| Grindall Island | 12c | 152 | 515 |
| Grindall Passage | 12a | 361 | 400 |
| Heceta Island | 10a | 350 | 3,065 |
| Hole-in-the-Wall | 2a | 339 | 675 |
| Hollis | 12b | 147 | 4,463 |
| Hollis Addition | 12b | 243 | 160 |
| Hollis Addition, West | 12b | 360 | 500 |
| Hollis Addition, North | 12b | 359 | 515 |
| Hollis Community Center | 12b | 358 | 140 |
| Jinhi Bay | 7b | 346 | 893 |
| Kitkun Bay | 13b | 248 | 2,100 |
| Menefee Anchorage | 14b | 364 | 570 |
| Merrifield Bay | 3b | 340 | 420 |
| Naukati | 7c | 234 | 3,127 |
| Naukati East | 7c | 348 | 555 |
| Naukati Addition, North | 7c | 347 | 1,837 |
| North Thorne Bay | 11c | 353 | 2,040 |
| Port Dolores | SWPOWIAP | 369 | 1,205 |
| Port Protection | 2b | 145 | 1,240 |
| Port Protection Addition | 2b | 375 | 40 |
| Salmon Bay | 1a | 151 | 170 |
| Salt Lake Bay | 10b | 351 | 917 |
| South Thorne Bay Odd Lot | 11c | 356 | 1,133 |
| Thorne Bay | 11c | 149 | 6,947 |
| Thorne Bay | 11c | 238 | 2,165 |
| Twin Island Lake Road | 5b | 344 | 160 |
| Whale Passage | 5a | 148 | 2,190 |
| Whale Passage Addition | 5b | 229 | 905 |
| | | TOTAL | 59,255 |

Selection Priority System

Selections for Prince of Wales Island must be compared with the selection needs of the state within both the Tongass and Chugach National Forests. For example, an important selection in the Prince of Wales Island planning area may be less important than another area in the Tongass and the former may not be conveyed to the state. Similarly, if the area in the Tongass is less important than an area on Prince of Wales Island, then the Prince of Wales selection might take precedence. All NFCG selections were required to be finalized and submitted by the state in 1994.

Not all of the selections submitted by the state have been adjudicated. Some 10 tracts totaling 9,687 acres remain in selection status. Of this, 4,860 acres are within the POWIAP planning area and the remainder (4,827 acres) within the SWPOWIAP planning area. It is not likely that all of these tracts will be conveyed to the state. Four of the tracts, totaling 3,150 acres, are topfiled by Native selections, and are more likely to be conveyed to the Native corporations.

Since it is unlikely that all of the state selections will be conveyed, DNR established a priority ranking system. The balancing of selection needs within the two National Forests occurred as part of the final nominations in 1994. However, the remaining selection priorities identified by the state may be changed, and it is possible that the most of the selections on Prince of Wales Island that are not topfiled by Native corporations may be conveyed to the state.

DNR can modify the priorities of the tracts that have been selected but not yet adjudicated by BLM. A four-level priority system was used to rank selections based on an assessment of public benefits⁴⁻¹ and potential federal management⁴⁻². The affect of overlapping Native corporation selections was also considered. To rank selections, the state considered public opinion, potential land use conflict, the capability and suitability of the land, the ease of management and of agency enforcement, the size of the selection, and if the selection adjoined current state land or land to be conveyed to the state.

The various priority levels include:

Priority A Areas. Priority A areas are generally those required to implement the land management recommendations of this plan. The activities planned for these areas provide significant public benefits and are consistent with DNR's statewide goals for the management of state land. These areas include settlement areas; areas adjacent to established communities; areas where active parks management is required or those recommended for state parks; areas important for specific economic uses not otherwise allowable in the National Forest; and areas with significant economic value that are important to the development and expansion of communities.

Priority B Areas. Priority B areas focus on tracts that the state needs to hold onto for possible future management needs that may not be immediately apparent.

⁴⁻¹ **Public Benefit Criteria.** Public benefit criteria are defined as a) meeting community expansion or other land use needs for national forest communities; b) an increase in jobs or income to a segment of the public; c) an increase in revenue (or a decrease in fiscal costs) to the state or municipal government; d) feasibility in the management of the tract by DNR; and e) protection for the natural or human environment.

⁴⁻² **Federal Management Intent Criteria.** If a use will occur if the land is left in federal ownership, there may not be reason for the state to select it. Therefore, the state gives high priority to selecting land where a use will not occur if the land remains federal and a low priority to those that are being routinely accommodated under federal management.

Selection Priorities

The results of this process for both planning areas, and the ranking of the tracts by priority, are shown in Table 4-2. This table identifies the selection nominations and whether the nomination is priority A or B.

**Table 4-2. Land Selected For Conveyance from the National Forest:
Ranking of Nominations, Prince of Wales Island**

| "A" List | NFCG | Reason for Selection | Acreage |
|---------------------------|------|-----------------------|---------|
| Ingraham Bay | 365 | Prospective Community | 1,345 |
| Hook Arm | 370 | Prospective Community | 1,027 |
| Edna Bay Admin. Site | 384 | Community Expansion | 40 |
| Thorne Bay Odd Lot, North | 355 | Community Expansion | 1,805 |
| Kasaan Bay | 362 | Prospective Community | 970 |
| Trocadero Bay | 368 | Prospective Community | 1,840* |
| | | Subtotal | 7,027 |

| "B" List | NFCG | Reason for Selection | Acreage |
|-----------------------|------|-----------------------|--------------|
| Mabel Bay | 373 | Prospective Community | 1,350 |
| Saltery Cove | 244 | Prospective Community | 350* |
| Saltery Cove Addition | 363 | Prospective Community | 350* |
| Dunbar Inlet | 373 | Prospective Community | 610* |
| | | Subtotal | 2,660 |
| | | TOTAL | 9,687 |

*Affected by Native corporation selections

Relinquishments of Selections

The tract in the following table is to be relinquished. Commercial development is preferred at Hollis, the terminus of the Klawock-Hollis Road and the ferry terminal, five miles from the proposed selection.

| Subunit | NFCG | Acreage |
|-----------------------|------|---------|
| Harris River Junction | 242 | 320 |

Overlapping Land Selections

Four state selections have also been selected by Native corporations under the Alaska Native Claims Settlement Act (ANCSA). Sealaska Corporation is the regional Native corporation formed under ANCSA in the planning area. The regional corporation and six village Native corporations own land on Prince of Wales Island. The village corporations are Haida Corporation, Kavilco Inc., Kootznoowoo Inc., Klawock-Heenya Corporation, Klukwan Inc., and Shaan-Seet, Inc.

The three areas where state and Native corporation selections overlap include: all of the Saltery Cove and Saltery Cove Addition selections in Unit 12f (Vol. I - POWIAP); part of Trocadero Bay selection with Sealaska Corporation (Unit 11, Vol. II - SWPOWI); and all of the Dunbar Inlet selection with Sealaska Corporation (Unit 21, Vol. II, - SWPOWI). Some of these selections will be conveyed to the Native corporations and some may become state owned. Overlapping state-Native selections are adjudicated by the federal Bureau of Land Management. The plan specifies how these lands will be managed if they are conveyed to the state.

Land Exchanges

Land or interests in land may be transferred by exchange. Under state law, DNR may trade state land for other land of equal appraised value when it is in the state's best interest to do so. Any exchange would require extensive negotiations, approval of both parties and public review. Any exchange of unequal value requires legislative approval. Land exchanges with the USFS may be considered if the state receives title to any selection and then adjacent USFS land is designated by Congress for a wilderness or another designation incompatible with the state selection's management intent. Such an exchange will not require a plan amendment.

Plan Coordination and Implementation

Cooperative Management Agreements

In many cases cooperative management agreements can achieve purposes similar to land exchanges. They can ensure compatible land management among various owners, or create efficiencies that increase the cost effectiveness of state management.

The need for one cooperative agreement has been identified. The Division of Parks and Outdoor Recreation should negotiate a cooperative management agreement with the U.S. Forest Service to establish and manage a joint State-Federal Alaska Marine Recreation and Park System. Initial discussions about this concept took place in 1982 with a high level of interest by both parties. Cooperative management of state marine parks and Forest Service marine recreation sites will decrease costs for both agencies, enhance recreation services available to the public, and coordinate recreation management. This proposal is not a mandate for agreement; any cooperative agreement would require additional negotiations between the state and the USFS.

Coordination With Federal Land Management

Most uplands in the planning area are within the Tongass National Forest and are managed by the U.S. Forest Service. The Prince of Wales Island Area Plan makes decisions only for state lands. The plan does not direct the use of federal, Native, University of Alaska, Mental Health Trust or private land. However, DNR coordinated state management with that of the USFS.

The USFS policies for management of federal land in Tongass National Forest are given in the Tongass Land and Resource Use Management Plan (TLRMP). The TLRMP was recently revised (1999), although the plan is now under appeal by a number of groups and individuals.

State lands are surrounded in many instances by the National Forest, and coordination with the U.S. Forest Service is desirable in order to achieve improved land and resource management. State land use designations were reviewed against the recommendations of the TLRMP, and were modified in some instances to achieve a better match in desired land uses.

Coastal Management Coordination

Most of the Prince of Wales Island planning area is within the coastal zone. State actions within the coastal zone, including implementation of the POWIAP, must be consistent with the provisions of the Alaska Coastal Management Plan (ACMP) and local district coastal zone management plans. Within district boundaries all uses and activities affected must be consistent with district "enforceable policies". All uses and activities outside district boundaries must adhere to the statewide ACMP standards. Craig, Klawock, Thorne Bay, and Hydaburg have approved local district plans. Since only Thorne Bay lies within the planning boundary, district policies are of limited applicability.

**Table 4-3. Coastal Management Plan and Areas Meriting Special Attention
(All areas within Vol. II SWPOWI)**

| Coastal District | AMSAs |
|------------------------------|--|
| Craig (Unit 3, Craig) | None |
| Klawock (Unit 3, Craig) | None |
| Hydaburg (Unit 17, Hydaburg) | Meares Passage—Arenha Cove (Unit 17, Hydaburg) McFarland Is.—Dunbar Inlet (Unit 14, Meares Passage) Jackson Island—(Unit 14, Meares Passage) Hydaburg River—(Unit 21, South Sukkwan) Saltery Point—Crab Trap Cove (Unit 20, Blanket Island) Hetta Cove—Eek Inlet (Unit 18, Hetta Inlet) |

Municipal Entitlements

The Municipal Entitlement Act (AS29.65) establishes the state land classification categories that determine a municipality's general grant land entitlement. It also defines what lands are available for transfer to a municipality. The term "municipality" includes both incorporated communities and organized boroughs. Under existing law, the size of a municipality's entitlement is 10 per cent of the vacant, unappropriated, unreserved (VUU) state uplands in the municipal boundaries, not to exceed 20 acres per capita. Tidelands and submerged lands are not VUU lands.

Within the planning area, Kasaan, Coffman Cove, and Thorne Bay are municipalities that are eligible to receive land from the state under this Act. There are no VUU lands within Kasaan. The municipal entitlements of both Coffman Cove and Thorne Bay have been fulfilled. At this time an organized borough does not exist for Prince of Wales Island. Should a borough be formed, it will be eligible for 10 per cent of state VUU land within its boundaries. Any new incorporated community would also be eligible for 10 percent of the VUU land.

The plan classifies state land, and therefore establishes whether such lands are available for selection under the VUU definition. This plan classifies most state uplands as Settlement, Recreation, or General Use. These categories allow for the selection of state land, assuming the land is otherwise vacant, available, and unreserved. Consequently, classifications in this plan have little effect on the amount of land that is available to the municipalities. Because the boundaries of a borough are likely to encompass most of the island, the amount of available, appropriate land is likely to be quite large. However, whether a municipality is able to acquire land will depend greatly on its availability. Because of previous land settlements with the University and the Mental Health Trust, most state lands within corporate boundaries were conveyed to these entities and there is little land available for selection.

Land-Use Classifications

The plan establishes primary and secondary land-use designations for state lands within the Prince of Wales Island area. To implement the plan, DNR must classify state land into categories outlined in state regulations (11AAC 55) that reflect the intent of the plan. In addition, state law requires that classification precede the leasing or disposal of state lands. This plan is also the final finding for land classifications in the Prince of Wales Island planning area. See Appendix D, Land Classification Order.

A land classification is the formal record of the primary uses for each parcel of state land. All classifications are multiple-use classifications. The classification regulations allow up to three classifications to be made for any parcel where there is no single, dominant use.

The classifications contain no specific land management directives: those directives are within this plan. Classifications are recorded on state land-status plats, and the plats refer to this plan for management direction. Applicants wanting to use state land should refer to this plan to determine whether the proposed use will be allowed and to find applicable management policies and guidelines.

The land-use designations in the plan are intended to communicate the allowable uses. Upland classifications will correspond to the appropriate designation. For example, upland areas designated Settlement will be classified Settlement Land; those designated Public Recreation will be classified Public Recreation Land.

Unfortunately, translating the terms used for tideland designations into classifications is more difficult because classification terms were written to fit upland rather than tideland situations. For example, on tidelands the term "forestry" designates log transfer and other timber harvest support facilities as the intended use; however, in the classification regulations "forestry" is defined as forested land. Consequently, on tidelands, "settlement land" rather than "forested land" is the classification category in the plan that corresponds to the tideland forestry land use designation.

Table 4-4. Conversion of Upland Designations to Classifications

| Map Symbol* | | Designation | Classification |
|-------------|--------|-------------------------------|--------------------------|
| POWIAP | SWPOWI | | |
| C | | Cultural resources | Heritage resources land |
| F | | Forestry | Forest land |
| f | | Forestry - personal use | Forest land |
| Gu | Gu | General Use | Resource management land |
| Ha | Ha | Crucial habitat | Wildlife habitat land |
| P | | Public facilities | Reserved use land |
| Rc | | Commercial recreation | Settlement |
| Rd | | Public recreation - developed | Public recreation land |
| Ru | | Public rec. - undeveloped | Public recreation land |
| S | S | Settlement | Settlement land |
| Sc | | Settlement - commercial | Settlement land |
| W | | Water resources | Water resources land |

*These symbols are used on the management unit maps in Chapter 3.

Table 4-5. Conversion of Tideland Designations to Classifications

| Map Symbol* | | | |
|--------------|--------|---|--------------------------|
| POWIAP | SWPOWI | Designation | Classification |
| B | | Floathome area | Settlement land |
| B2 | | Floathome area/secondary use | Settlement land |
| | D | Shoreline development | Settlement land |
| D | | Shoreline development - commercial/industrial | Settlement land |
| d | | Shoreline development - personal use | Settlement land |
| | F | Forestry - except A-frame | Settlement land |
| F | | Forestry - development | Settlement land |
| | f | Forestry - A-frame | Settlement land |
| Gu | | General Use | Resource management land |
| | RM | Resource management | Resource management land |
| | Hc | Important habitat | Wildlife habitat land |
| | Hd | Range Habitat | Wildlife habitat land |
| Ha | Ha | Cruciol habitat | Wildlife habitat land |
| Ha, Ci,Cy,Sf | | Crucial habitat/intensive harvest | Wildlife habitot land |
| Hb | Hb | Prime habitot | Wildlife habitat land |
| Hb, Ci,Cy,Sf | | Prime habitat/intensive harvest | Wildlife habitat land |
| m | m | Mining-access/exploration | Settlement land |
| | M | Mining-transfer/development | Settlement land |
| P | | Public facilities | Reserved use land |
| | R | Recreation/access or anchorage | Public recreation land |
| Ra | | Recreation/anchorage | Public recreation land |
| r | r | Recreation - dispersed | Public recreation land |
| Rc | | Commercial recreation | Settlement |
| Rd | | Public recreation - developed | Public recreation land |
| Ru | | Public recreation - undeveloped | Public recreation land |

* These symbols are used on the management unit maps in Chapter 3.

Mineral Orders

The plan identifies mineral entry status on state lands within the planning boundary. The revision recommends opening approximately 6,000 acres to mineral entry at locations where development is not anticipated, and recommends closing to mineral entry approximately 2,000 acres where recreation or settlement uses make mining activity inconsistent.

Legislative Designations

Existing Marine Parks. Joe Mace Island near Paint Baker in Management Subunit 2b is designated as a State Marine Park by the legislature under AS 41.21.300. The lands in the Marine Park are administered by the Division of Parks and Outdoor Recreation.

Proposed State Parks. Because of frequent public use, the need for active management, or exceptional public values, some areas in the Prince of Wales Island area may be considered by the legislature for long-term retention and management as a unit of the State Park System. Balanced against this need is the limited enforcement and management capability of DPOR or the DOL. Where recreation facilities such as recreation cabins exist or are developed, or where state land may warrant active management for recreational purposes but does not possess the unique features necessary to justify its inclusion in the State Park System and does not abut an existing park unit, DNR transfer management authority to the DPOR. Since the tract at Salmon Bay is still in selection status, a marine park designation will only apply on uplands when conveyance occurs. State marine park designation of the Salt Lake Bay and Hole-in-the-Wall tracts would be consistent with the "Ru" (Recreation, undeveloped) designation given these areas.

Table 4-6. Areas Recommended for Legislative Consideration as State Parks

| State Park | Management Unit | Upland Acreage of the Park | ILMA Acreage |
|-------------------------|-----------------|----------------------------|--------------|
| Salmon Bay | 1a | 170 | |
| Grindall Island/Passage | 12c | 915 | 65 |
| Menefee Anchorage | 14b | 450 | |
| | Totals: | 1,535 | 65 |

Procedures For Plan Review, Modification, and Amendment

The land-use designations, policies, implementation actions, and management guidelines of this plan may be changed if conditions warrant. The plan is intended to be reviewed and, if necessary, updated periodically as new data and new technologies become available and as changing social or economic conditions place different demands on state lands or if changing social and economic conditions require a different management strategy. This section discusses three topics concerning plan modification: periodic review, changes to the plan and discretion within guidelines.

Periodic Review

DNR should periodically review the plan to determine if problems, concerns, or changes in social or economic conditions force revisions to the plan or its implementation. The plan will be reviewed approximately once every ten years to determine if revisions are necessary. An interagency team will participate in this review.

Changes to the Plan

There are three types of changes to a plan: amendments, special exceptions, and minor changes. Amendments and special exceptions are plan revisions subject to the planning process requirements of AS 38.04.065; minor changes are not. The Director of the Division of Land determines what constitutes an amendment, special exception, or a minor change. Changes to the plan may be proposed by agencies, municipalities, or members of the public. Requests for changes should be submitted to the Southeast Regional Office of the Division of Land, Alaska Department of Natural Resources. Definitions and procedures for plan modification and amendment are set forth in regulations 11 AAC 55.030 and explained in greater detail below.

1. Plan Amendment

An amendment permanently changes the land use plan by adding to or modifying the basic management intent for one or more of the plan's subunits or by making changes to allowed or prohibited uses, policies, or guidelines; all such changes require a plan amendment.

There are two levels of plan amendment: 1) Revision of the plan's basic intent involving a major, significant revision of the whole plan. This type of revision effects most of the subunits in a plan in terms of allowed and prohibited uses, policies, and guidelines. This plan revision (1998) is an example of such an amendment. 2) Amendments to the allowed and prohibited uses, guidelines, policies, or implementation recommendations that effect one or more subunits also constitute amendments.^{4,3} However, they do not have the same fundamental effect as a general plan review. The scale is diminished and the effects, therefore, are confined to specific subunits.

Amendments must be approved by the commissioner DNR. DNR will convene an interagency planning team as needed to review and make advisory recommendations on plan amendments. Management plans developed by the Department of Natural Resources may amend this plan.

Procedures for Plan Amendments

A. Taking into account the requirements of AS 38.04.065(b), the Commissioner will prepare a written decision that specifies:

- the reasons for amendment such as changed social or economic conditions;
- the alternative course of action (what the plan is being changed to); and
- why the plan amendment is in the best public interest.

B. Where practical, the decision should be part of or circulated with a finding required by AS 38.05.035(3).

C. Before making the final decision, the Commissioner will request comments and give public notice consistent with AS 38.04.065(b)(8) and AS 38.05.945 to affected local governments, state and federal agencies, adjacent landowners, and the general public. This notification will include the points described in "A and may be combined with the public notice required by the applicable permitting procedure. If warranted by the degree of controversy, the commissioner may hold a public meeting before making a decision.

2. Special Exceptions

A special exception does not permanently change the provisions of the plan. Instead, it allows a one-time limited-purpose variance of the plan's provisions, without changing the plan's general management intent or guidelines. Special exceptions may be made if complying with the plan is excessively burdensome, impractical, or inequitable to a third party; and if the purposes and spirit of the plan can be achieved despite the exception. Special exceptions may also occur when the proposed activity requires only a small part of a management subunit, does not change or modify the general management intent, and serves to clarify or facilitate the implementation of the plan. A special exception cannot be used to reclassify an area. Special exceptions may apply to prohibited uses or guidelines.

The following actions are examples of changes that would be a special exception:

- allowing a prohibited use based on more detailed data in a small area on the edge of a management subunit next to a subunit where it is allowed; or
- a preference right granted under AS 38.05.035(3) where the Director determines such an action is necessary to correct an injustice and will not significantly affect the intent of the plan.

Decisions concerning special exceptions will be made by the Director. The Director's decision may be appealed to the Commissioner. Special exceptions require public notice and, if appropriate, public meetings. The Department of Natural Resources will convene the planning team as needed to make recommendations on special exceptions.

^{4,3} Example of changes of this type of amendment include: a proposal to prohibit a use that is now a designated use, or conversely, to allow a prohibited use; a proposal to close an area to mineral entry; or a new land offering in an area designated for retention.

Special Exceptions to Guidelines Modified by "Will"

Special exceptions to guidelines modified by the phrase "will" may be allowed for individual actions. The decision not to follow a pertinent guideline modified by the term "will" will be consistent with the procedures for special exceptions.

Procedures for Special Exceptions

- A. Taking into account the requirements of AS 38.04.065(b), the Director will prepare a written decision that specifies:
 - the reasons for the special exception (i.e., why a variance of the plan's provisions is needed);
 - the alternative action or course of action to be followed;
 - how the general intent of the plan and management unit will be met by the alternative course of action; and
 - why the special exception is in the best public interest.
- B. Where practical, the decision should be part of or circulated with a finding required by AS 38.05.035(e).
- C. Before making the final decision, the Director will request comments and give public notice consistent with AS 30.04.065(b)(8) and AS 38.05.945 to affected local governments, state and federal agencies, adjacent landowners, and the general public. This notification will include the points described in "A" and may be combined with the public notice required by the applicable permitting procedure. If warranted by the degree of controversy, the Director may hold a public meeting before making a decision.

3. Minor Changes

Minor changes do not modify or change the basic intent of the plan or a management unit. Minor changes may be needed for clarification, to make technical corrections, or to facilitate implementation of the plan. Minor changes may be proposed by agencies or the public.

Minor changes are made at the discretion of the Regional Manager and do not require public review. Affected agencies will be notified and have an opportunity to comment; the comment period may be provided through existing inter-agency review processes for associated actions. The Regional Manager's decision may be appealed to the Director. The Director's decision may be appealed to the Commissioner.

Discretion Within Guidelines

Some policies in the plan, like those modified by the terms "feasible and prudent", "feasible", and "should" are written to allow for exceptions if the conditions described in the policy are met. The definitions of these terms are given in Appendix A. The procedures for allowing exceptions to these guidelines are given in this section. Allowing exceptions following these procedures are neither revisions nor changes to the plan.

A. Guidelines Modified by "Feasible and Prudent" or "Feasible"

Exceptions to guidelines modified by the phrase "feasible and prudent" or "feasible" (see definitions in Appendix A) may be allowed after the steps outlined below have been taken within the time frames of the Alaska Coastal Management Plan consistency review process. The land manager must also ensure that actions do not conflict with the ACMP standards or adopted coastal plans. Special attention should be given to 6 AAC 80.130(d) which outlines the steps that must be followed before exceptions can be made to the ACMP Habitat Standard.

1. The regional manager will prepare a written decision that specifies:
 - the conditions that make compliance with the guideline not feasible or not feasible and prudent;
 - the alternative course of action to be followed; and
 - how the intent of the plan and management unit will be met by the alternative course of action.
2. Where practical, the decision should be part of or circulated with a finding required by AS 38.05.035(e).
3. Before making the final decision, the Director will give notification required by the applicable permitting procedure and request comments on the proposed action. This notification will include the points described in "A".

B. Guidelines Modified by "Should"

Exceptions to guidelines modified by the word "should" can be made by the DNR regional manager, or his designees. The guideline does, however, state an intent of the plan that should be met, using the best managerial practices for the given situation. These exceptions require a written justification in the administrative record. The justification should briefly outline how the action meets the intent of the guideline or why the particular circumstances justify the deviation from the intended action or conditions. In addition, the manager must ensure that any exceptions do not conflict with the ACMP standards including adopted coastal plans.