

Chapter 1

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Chapter 1

Introduction

Introduction and Background

Summary of Purpose of the Plan

The role of state land use plans has been established by state statute (AS 38.04.005). It is the policy of the State of Alaska "...to establish a balanced combination of land available for both public and private purposes. The choice of land best suited for public and private use shall be determined through the inventory, planning, and classification processes...."

The plan determines management intent, land-use designations, and management guidelines that apply to all state lands in the planning area.

Description of the Planning Area

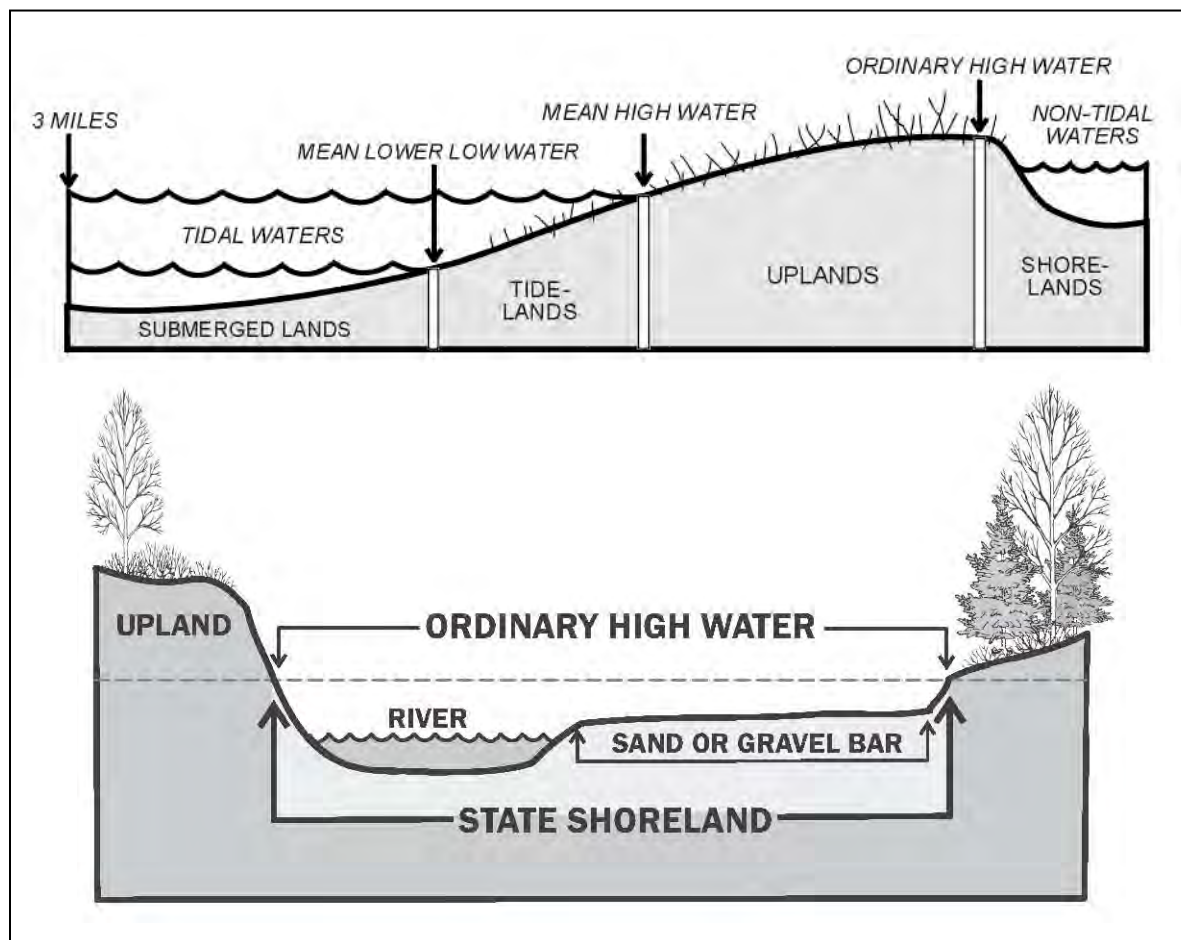
The Bristol Bay Area Plan (BBAP) directs how the Alaska Department of Natural Resources (DNR) will manage state uplands, shorelands, tidelands, and submerged lands within the planning boundary. The following is a summary of the acreage to which the plan will apply:

Land Category	Acres
State-owned uplands	10,330,454
State-selected uplands	1,585,459
State-owned tidelands	7,002,724
Total Acreage	18,918,637

Submerged Lands, Tidelands, Uplands and Shorelands as Described in This Plan

Tidelands span the area from mean high water to mean lower low water; submerged lands reach from mean lower low water to a line three miles seaward from mean lower low water. Shorelands include the lands below ordinary high water in non-tidal areas.

Figure 1.1: Submerged lands, tidelands, uplands, and shorelands as described in this plan



Planning Area

The planning boundary of the Bristol Bay Area Plan includes all state-owned and state-selected uplands, and all tidelands, submerged lands and shorelands within the area depicted in Figure 1.2. This very large planning area (48.8 million acres) extends from the Yukon Delta National Wildlife Refuge (NWR) in the northwest, east to Lake Clark National Park, and south to Akutan Island on the Aleutian Island chain. All of the Alaska Peninsula is included in the planning area except for areas within Katmai National Park and Preserve and the Alaska Peninsula and Becharof NWRs that are part of the Kodiak Area Plan. Within this large area are three boroughs (Bristol Bay, Aleutians East, and Lake and Peninsula), eleven cities, as well as numerous communities. The largest concentrations of state-owned and state-selected land occupy large portions of the Nushagak and Mulchatna River drainages, the

area of Wood-Tikchik State Park, areas near Lake Iliamna, as well as most of the north side of the Alaska Peninsula. Numerous federal conservation system units occur within the planning area, including five National Wildlife Refuges, two National Parks, and one National Monument and Preserve¹. Two state wildlife refuges (Cape Newenham and Izembek) and five state critical habitat areas (Egegik, Pilot Point, Cinder River, Port Heiden, and Port Moller) also occur there. Tide and submerged-lands owned by the state adjoin these federal conservation system units. State shorelands occur within federal conservation units as well as private lands.

How the Plan is Organized

The plan has four chapters:

Chapter 1 includes a summary of the purpose of the plan, description of the planning area, how and why the plan was developed, what the plan covers and does not cover, and a summary of plan actions.

Chapter 2 includes goals of the plan and guidelines that apply throughout the planning area. Guidelines are listed in fourteen resource and land-use categories. Guidelines are specific management statements that will be applied to land and water management decisions as resource use and development occur.

Chapter 3 includes a description of the land use designations used in the plan, the general management intent for state land, the duration and flexibility of the plan, and an explanation of plan organization and structure. In addition, each planning region is described in terms of a regional summary that presents information on land ownership, acreage, physical features, access, resources and uses. This section also provides a summary of management constraints and considerations based on existing plans, legislative designations, and other management constraints that significantly affect resource management, and a description of a tideland resource management zone.

The bulk of this Chapter, however, consists of descriptions of background information on land status, natural resources, and the uses of state land for each of the twenty regions. A management summary is also included that provides an overview of the management direction within each region; this is augmented by a description of specific management considerations that apply to development authorizations. The land use designation and management directions for individual units of state land, called ‘management units’, are also

¹ National Wildlife Refuges: Togiak, Becharof, Alaska Peninsula, Izembek, and Alaska Maritime. National Parks: Katmai National Park and Preserve, Lake Clark National Park and Wilderness. National Monument: Aniakchak National Monument and Preserve.

presented². A Resource Allocation Table exists for each region, which lists all of the upland and tideland management units and identifies the land use designation and management intent for each management unit. The last section of this chapter addresses navigable waters.

Chapter 4 discusses specific actions necessary to implement the plan. These include a description of how land use designations convert into classifications, proposed additions to the state park system, procedures for withdrawn public land orders and top-filed federal lands determined to be conveyable, and a land classification order. Procedures for changing the plan are also discussed.

Appendices include a glossary and a land classification order.

Why This Plan was Developed and Why the Plan was Revised

The planning area is rich in natural resources. There are many different ideas about how these resources should be used or protected. Although some proposed uses might be in conflict with each other, many different uses can occur throughout the planning area while protecting vital resources, providing the uses are properly managed.

This plan establishes the land use designation for state lands and describes their intended uses. The plan directs which state lands will be retained by the state and which should be sold to private citizens, used for public recreation, or used for other purposes. It also identifies general management guidelines for major resources and land uses within the planning area as well as more specific guidelines for the development and use of resources for specific management units.

Once an area plan has been adopted, state permit review processes become more efficient for the government and the public. The area plan guides DNR decisions for leases, sales, and permits that authorize use of state lands. Preparation of land use plans for state lands (except for State Park System lands) is required under Title 38 of Alaska Statutes. DNR's actions will be based on the area plan.

The original Bristol Bay Area Plan, developed during the early 1980's, focused on the issues and reflected the values and attitudes of the people of the planning area at that time. The decision to revise the initial plan resulted from a number of different factors. These included the fact that the original plan was more than 20 years old (and the Department tries to revise its plans every 15 to 20 years), and the need to address the outstanding municipal entitlements of the three boroughs within the planning area (Bristol Bay, Lake and Peninsula, and

² State land in this area plan is divided into spatial units called 'management units'. These may either be tidelands or uplands and may consist both of small areas of state land, like a lot or tract within a state subdivision, as well as very large areas that have common locational, access, use, or resource characteristics. There are 222 upland management units and 46 tideland management units. Each management unit has a unique identification number that is used in the plan maps and resource allocation tables.

Aleutians East). It was also necessary to revise the Bristol Bay tideland designations and create new tideland designations on the southeast side of the Alaska Peninsula, and address regional economic changes and changing land use patterns. The original plan was ultimately revised and this version was adopted in 2005.³

The BBAP was substantially revised, again, in 2013. Litigation against the 2005 BBAP was initiated in 2008 and was primarily focused on the perceived loss of protection provided to important habitat and recreation areas when much of the plan area was re-designated for General Use. The latter is a multiple use land use designation that often is applied where there are large tracts of land where development is limited by access, there is little economic demand for land, or where a number of complementary uses may occur without adversely affecting each other. In units designated for General Use important resources and values are protected through the use of management intent statements. DNR undertook to revise the 2005 BBAP in response to an agreement with the plaintiffs in Nondalton Tribal Council et al. v. State of Alaska, which dismissed the litigation in exchange for DNR's agreement to address the issues raised in the lawsuit through the existing administrative process for amending area land use plans and reclassifying land. DNR went through an extensive public and agency review process in 2013, which resulted in significant changes to the 2005 BBAP. These changes are reflected in this document.

The Mandate

The state is responsible for the management of those lands it owns and the Department of Natural Resources (DNR) is that agency specifically responsible for this management. There are over 10.5 million acres of state-owned uplands within the planning boundary and approximately 7.0 million acres of tidelands and submerged lands. Alaska Statute (AS) 38.04.065 requires that the Commissioner of the Department of Natural Resources “adopt, maintain, and, when appropriate, revise regional land use plans that provide for the use and management of state-owned land.” To ensure that these lands are properly managed, the Department of Natural Resources has developed this plan for all state lands – uplands, shorelands, tide and submerged lands – in the planning area.

The planning process provides a means of openly reviewing resource information and public concerns before making long-term decisions about public land management. The planning process resolves conflicting ideas on land use and informs the public about what choices were made and why. Decisions are made on a comprehensive basis, rather than case-by-case, providing consistency and consideration of the wide diversity of resources and uses within the planning area. This process provides for more efficient use and protection of the area's resources.

³ Referred to as the 2005 Bristol Bay Area Plan or 2005 BBAP.

2013 Plan Amendment and Determination of Classification

With DNR's agreement to reevaluate the 2005 BBAP, the agency initiated a Determination of Reclassification and Plan Amendment process in 2012, as described in 11 AAC 55.270. Under this process, DNR assesses the reasonability of the requested change in classification (in this instance the majority of requested change was from Resource Management Land (General Use designation) to Wildlife Habitat and Public Recreation Land). If determined to be appropriate, DNR then amends the plan through a Plan Amendment whereas if determined to be not appropriate, no action is taken. Applying this process, DNR determined that some of the requested changes were warranted while others were not. This evaluation⁴ resulted in moderate increases to the Habitat and Dispersed Recreation designations as well as other changes of significance, including agreeing to designate all stream affected by Mineral Closing Order 393 as Habitat⁵.

The Determination of Reclassification and its associated Plan Amendment were then subject to public review, which involved the submission of written comments and public meetings held by DNR throughout much of the planning area in early 2013. In large part, the public thought that the changes made by DNR to the 2005 BBAP did not go far enough in protecting sensitive habitats and fisheries. Over 500 public comments were received and certain of the commenters developed what was termed the 'Citizens Alternative', the purpose of which was to provide an alternative to then proposed amendments to the 2005 BBAP. These comments and recommended changes were subsequently evaluated in an Issue Response Summary prepared by DNR in September, 2013. This review determined that additional areas of state land were appropriate for designation as Habitat, Dispersed Recreation, or Water Resources, with corresponding decreases in the General Use, Settlement, and Minerals designations. The revisions made to the 2005 BBAP, which are incorporated herein, include both the recommendations of the January Determination of Reclassification and Plan Amendment as well as those contained in the Issue Response Summary, issued in September 2013. The Commissioner approved these changes on September 5, 2013. The effect of these changes has been to increase the amount of state land designated Habitat or Dispersed Recreation by nearly 3.6 million acres from that in the 2005 BBAP. Most of this increase came from areas previously designated General Use.

What the Plan Will Do

The plan will help ensure that state resource management takes into account the sustained yield of renewable resources, that development is balanced with environmental concerns, and that public access to state land is provided. The plan encourages cooperation with other

⁴ Public Review Draft Determination of Reclassification and Plan Amendment – 2005 Bristol Bay Area Plan (January 2013).

⁵ MCO 393 affects the stream, stream bed, and 100' of riparian area measured 100' from Ordinary High Water on either side of a stream. In some instances the width may be greater than 100'.

landowners to better address conflicts caused by checkerboard land ownership patterns. Finally, the plan documents the state's intent for land management so that both public and private interests know how the state plans to manage lands over the long term.

How This Plan is Used

This plan is intended to manage state lands and resources within the planning area, and is the expression of how DNR will pursue this management. Most activities governed by the plan are implemented by the Division of Mining, Land, and Water when it adjudicates authorizations or makes other decisions affected by the plan. Adjudicators use this plan when reviewing and making decisions on authorizations for use of state land, including permits, leases, sales, conveyances, and rights-of-way. The DNR Division of Forestry and Division of Parks and Outdoor Recreation also use this plan in the administration of certain aspects of their programs and activities.

Public Participation as Related to the Planning Process

This revision of the 2005 Bristol Bay Area Plan was the product of a two year planning process conducted by the Division of Mining, Land, and Water (DMLW) of the Department of Natural Resources; other divisions within DNR; state and federal agencies (primarily the Alaska Department of Fish & Game (ADF&G)); Native corporations and tribal groups; local government (cities and boroughs); interest groups; and the public. Public meetings were held in Anchorage, Naknek, King Salmon, Cold Bay, Sandpoint, Dillingham, New Stuyahok, and Newhalen. The first round of public meetings dealt with explaining the state's planning process and identifying local and regional concerns including both land use and resource management issues. In addition, a variety of meetings took place with local governments, Native corporations, state and federal agencies, and economic interests. The second round focused on the Public Review Draft of the plan and solicited public comment. The final plan reflects changes made to the Public Review Draft as a result of comments received from the public and agencies. It was presented as an "Intent to Adopt" version which consisted of the PRD and recommended changes as put forth in the Issue Response Summary.

The revision process that occurred in 2012-2013 involved a lengthy public review (120 days) of the Determination of Reclassification and Plan Amendment and an extensive round of public meetings held in nine of the communities of the Bristol Bay region.

Process of Plan Preparation

This revision⁶ of the Bristol Bay Area Plan builds upon much of the information and many of the recommendations used in the initial preparation of this Area Plan, which was first adopted in 1984. This revision, however, uses new information, applies Geographic Information System technology, and responds to a different set of economic and technological conditions that existed at the time of initial plan preparation. Changes in public attitudes towards development and economic growth were also considered. Much of this type of information was derived from recent discussions with agencies, municipalities, and the public.

DNR develops both entirely new area plans and revises existing area plans using a typical planning process. The components of that process used in the revision of the area plan are listed below.

The following process was used to develop this area plan:

- Identify issues in the planning area;
- map and analyze resources and uses;
- conduct public meetings to identify issues and reactions to preliminary designations;
- prepare an Agency Review Draft based upon the results of public discussions and meetings, information on resources provided by agencies, and is consistent with changes in state statute affecting the planning process since initial plan preparation;
- prepare the Public Review Draft (PRD) based in part on comments previously received from the public and from agencies;
- the public reviews the PRD;
- prepare an Issue/Response summary of all public comments on the PRD;
- based on the results of the Issue/Response Summary, prepare an Intent to Adopt (ITA) version of the plan and circulate for public review;
- prepare the final plan incorporating comments on the ITA; and
- the Commissioner signs the plan and adopts it as DNR's management intent for state lands in the planning area.

⁶ The following section describes the process used to revise the 1984 BBAP that culminated in the 2005 BBAP revision.

Who Developed the Plan?

The DNR planning staff directed the planning process, including land status research, resource collection and analysis, draft plan preparation, response to public and agency comments, and final plan preparation. A number of local, state, and federal agencies reviewed the preliminary draft of the PRD and provided land use and resource recommendations that were valuable in refining initial plan recommendations. The Commissioner of the Department of Natural Resources adopted the plan in April 2005. Revisions to the 2005 BBAP were adopted on September 5, 2013.

Uses and Resources Within the Planning Area

Uses of State Land. The plan outlines management objectives for state land. This includes describing what resources and valid existing uses should be protected, and what uses are most suitable for development or protection on state land during the planning horizon.

State-Selected Land. Some lands have been selected but not conveyed to the state. In some cases these lands may not be conveyed, but in most instances it is likely that they will be owned by the state in the future. In order to forestall the need to expend substantial time and resources to revise the plan at a later time when these conveyances occur, the plan makes decisions for these lands now. Another advantage to this approach is to be able to comprehensively plan for all state lands, both those owned currently and those that are likely to be acquired by the state in the future.

Navigable Waters. The state of Alaska obtained title to all navigable waters, which include shorelands, tidelands, and submerged lands out to a distance of three miles from the coast at the time of statehood under the Equal Footing Doctrine. Certain types of uses necessarily must utilize these waterbodies as part of their operation or function. The plan provides management direction as to what uses are appropriate on these waterbodies; it also identifies certain particularly sensitive areas that will require a high level of protection.

Land Sales. The state has offered land for sale to Alaskan citizens. The planning process reviewed the state land holdings to determine which undeveloped lands are suitable for settlement uses in the future. Certain of the areas designated Settlement were dropped during the 2013 Plan Amendment process.

Land Conveyance. The Lake and Peninsula, Aleutians East, and Bristol Bay boroughs all have remaining entitlements under the Municipal Entitlement Program. Areas designated Public Recreation and Tourism-Dispersed (Rd), Settlement (S), or General Use (Gu) may be considered for conveyance to municipalities under AS 29.65.010(10). In many instances, the Area Plan has made specific recommendations as to whether selections should be conveyed to a municipality. The actual decision as to whether land will be conveyed is the subject of a separate and subsequent DNR process, however.

Roads, Trails, and Access. The plan considers access across state lands, including existing and proposed roads, trails, easements, and rights-of-way.

Additions to State Park System. The recently revised Wood-Tikchik State Park Management Plan (2002) recommended the addition of state land to the state park. This includes large areas along the northwestern boundary of the park as well as a small area of state land west of the Agulowak River adjoining the park's southwestern boundary. These additions are included in the area plan. No other additions to the state park or marine park systems are recommended.

Waterfront Development. There are a number of areas that have been considered in the past for development on state tidelands or that encompass current residential, commercial and industrial uses. There are also pending applications for development on tidelands. The planning process reviewed these areas to see whether waterfront developments will be compatible with existing resources and uses, and designated certain areas within the various communities throughout the planning area appropriate for the various types of waterfront use. The designation of Waterfront Development (Wd) was used for tidelands adjacent to uplands with current or expected commercial or industrial development.

Minerals. The state generally owns the surface and subsurface (mineral) estate of its lands. In places where the state has disposed of (sold) the surface it commonly retains ownership of the subsurface estate. The plan reviews the mineral potential within the planning area, designates certain lands as Mineral Lands⁷, and describes the statutory authorities that affect mining use. Mineral Closing Orders (MCO) and Leasehold Location Orders (LLO) established during the initial Bristol Bay Area Plan (1984) are not affected by this revision⁸. These MCOs closed a large number of anadromous streams distributed throughout the planning area as well as areas of actual or potential settlement.⁹ The LLO affects the process of mineral development in large parts of the eastern and northeastern parts of the planning area (Regions 7, 8, and 9). This revision does not recommend additional MCOs or LLOs. Except for areas affected by the existing MCOs, all state-owned lands are open to mineral entry.

Oil and Gas Exploration and Development. The original Bristol Bay Area Plan (1984) included Oil and Gas as a primary land use co-designation on the vast majority of state-owned land on the Alaska Peninsula – Regions 12 through 21¹⁰. Although this land is still

⁷ The 2013 Plan Amendment process also co-designated certain mineral areas as Minerals and Habitat, to reflect the presence of important habitat areas within mineralized areas.

⁸ A number of Mineral Closing Orders were also adopted within the planning area subsequent to the adoption of the original BBAP. These MCOs are also retained and unaffected by this plan revision.

⁹ Not all of the streams designated Habitat in the original BBAP were retained in the 2005 BBAP. The 2013 revision clarified that all streams impacted by this MCO are designated Habitat.

¹⁰ Most of the land was designated "Fish and Wildlife/Recreation/Oil and Gas" while tracts in Regions 19 and 21 were designated "Fish and Wildlife/Minerals/Oil and Gas/Transportation" and "Fish and Wildlife/Oil and Gas", respectively.

considered to have high oil and gas development potential, the revised plan does not provide land use designations for oil and gas. AS 38.04.065 was amended in 1987 to recognize that oil and gas lease sales undergo a separate planning process.

Recreation. Recreation is a popular use of state land. The plan proposes designations to manage lands for recreation. Both uplands and tidelands are affected by recreation designations. In the case of uplands, this designation is used for popular public use sites and the upland corridors of the Nushagak and Mulchatna Rivers affected by the Nushagak & Mulchatna Rivers Recreation Management Plan (2005). Applied to tidelands, it is used as a co-designation with Habitat in the Tideland Resource Management Zone adjoining federal conservation units in the planning area.

Fish and Wildlife Habitat and Harvest. The plan documents fish and wildlife habitat and harvest areas and provides management intent and guidelines for these resources and uses.

Water Resources. The Division of Mining, Land and Water in DNR is responsible for allocating water resources on all lands within the State of Alaska. The plan designates areas to be managed for watershed values that include current and future community drinking water sources and describes management guidelines for instream flow reservations.

What the Plan Won't Do

The Bristol Bay Area Plan is not the only way in which land management goals are implemented. The area plan is coordinated with a variety of other programs and projects implemented by the Department of Natural Resources and other state agencies. There are some important issues that are not addressed in this plan:

Non-DNR Lands. This plan does not apply to federal, municipal, private, University of Alaska, Alaska Department of Transportation and Public Facilities, or Mental Health Trust lands.

Fish and Wildlife. Allocation of fish and game stocks and regulating methods and means of harvest are the responsibility of the state boards of Fisheries and Game.

Generally Allowed Uses. The area plan does not regulate activities that do not require a written authorization on state land, such as hiking, camping, boating, hunting, and fishing. Generally allowed uses and applicable conditions are identified in 11 AAC 96. A summary fact sheet can be found on the web at:

http://www.dnr.state.ak.us/mlw/factsht/gen_allow_use.pdf

Legislatively Designated Areas. The plan does not apply to units of the state park system that are legislatively designated. It does apply to state game refuges, game sanctuaries, and critical habitat areas.¹¹

Decisions on Specific Applications. While this plan provides general management intent for state lands, the plan does not make decisions about specific land use authorizations. These decisions are made through the application review process. Land use authorizations must, however, be consistent with the plan, and existing laws and regulations.

Actions by Agencies Other Than DNR. The plan does not provide management intent prescribing actions and policies for agencies and governments other than DNR.

Planning Period

This plan reflects land management decisions and allocations based on the best available information on the demand for use of state land and resources projected over the next 20 years. It is also based on a specific set of social, environmental, economic, and technological assumptions. This plan guides land uses for the next twenty years or until the plan is revised by DNR.

Summary of Plan Actions

Management Intent

The planning area consists of the twenty unique regions, each representing major subparts within the planning area. In turn, each region is divided into upland and tideland management units. The plan presents management intent that explains the department's overall resource management objectives for each region and management unit, and provides resource and use information for land managers. This information is presented in Chapter 3.

Land Use Designations

Each unit identifies one or more designations representing the uses and resources for which the area will be managed. Plan designations are identified and described in the first part of Chapter 3. The Resource Allocation Table in the same Chapter contains the designations specific to individual management units and tideland resource management zones. Changes made by the 2013 Plan Amendment are reflected in this table.

¹¹ The original Bristol Bay Area Plan applied classifications to state game refuges, game sanctuaries, and critical habitat areas. This revision continues this practice; all such areas are designated Habitat.

Management Guidelines

According to the Alaska Constitution, state lands are to be managed for multiple use. When potentially conflicting uses are designated in a management unit, the plan provides guidelines to allow various uses to occur without unacceptable consequences. Management guidelines for specific management units are given in Chapter 3. Guidelines that apply to the entire planning area are identified in Chapter 2. Changes made by the 2013 Plan Amendment are reflected in this table.

Classifications

All state lands in the planning area will be classified consistent with the land use designations in this plan. Classifications made by the plan will be noted to the state's land status plats. A table that shows how designations convert to classifications is located in Chapter 4. The Land Classification Order (LCO) that was adopted with the 2005 BBAP is included as Appendix B. The revisions to the 2005 Land Classification Order are part of a LCO, SC-04-002A02. A LCO actually enacts and imposes the classifications that are identified as designations in the area plan. The 2013 LCO only supersedes the classifications of those management units that are affected by the 2013 Plan Amendment. All other classifications established under LCO SC-04-002 remain in effect.

Summary of Plan Implementation and Modification

The plan is implemented through administrative actions such as leases, permits, land conveyances, classification orders, and mineral orders. Chapter 4 presents the details of plan implementation recommendations and procedures.

Economic and social conditions in Alaska and the planning area are sure to change and the plan must be flexible enough to change with them. The plan will be reviewed regularly to monitor progress in implementing the plan and to identify problems that may require amendment or modification.

Specific modifications may be made whenever conditions warrant them, though a request for these changes must follow certain procedures. The DNR Commissioner, following the review of public comments and consultation with appropriate agencies, may amend the plan after approval. Special exceptions and minor changes must follow certain procedures. See *Chapter 4* for a more detailed description of procedures for plan modifications, amendments, special exceptions, and minor changes.

Figure 1.2 Bristol Bay Area Plan - General Land Status

