

Chapter 4

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Chapter 4

Implementation and Recommendations

Introduction

This chapter includes information and recommendations necessary to implement plan goals, management intent, and guidelines. Information is included on the following:

- State Land Classification
- Relationship of Land Use Designations in the Plan to State Land Classifications
- Leasing of State Land
- Classification Order
- Applicability of Plan Designations/Classifications to State Lands not Identified in the Plan Text or Plan Maps
- State Land Selections
- Mineral and Leasehold Location Orders
- Legislatively Designated Areas
- Generally Allowed Uses
- Types of Plan Changes

State Land Classification

To implement the plan on state lands, DNR must “classify” state lands to reflect the intent of “land use designations” made by this plan. State law requires that land classification precede most conveyance or leasing of state uplands or tidelands. According to state statute, classification means, “. . . the designation of lands according to their apparent best use.” It “. . . identifies the primary use for which the land will be managed . . .” but “. . . all other uses are initially presumed as compatible with the primary use.” For this reason, all plan classifications are intended for multiple uses. In this plan, most management units are assigned a single designation.

In some instances, more than one designation is identified; these are termed “co-designations” and indicate that two (or more) uses are considered to be compatible within a specific management unit of state land. The Resource Management (Rm) designation is used in this plan, typically applying to the large management units where two or more resource values exist but none is of sufficiently high value to merit designation as a primary use and

uses are judged to be compatible within specific portions of the management unit. Compatibility of uses should be able to be achieved through separation, or siting and design techniques that should reduce or preclude the undesirable effects of a particular use.

Following is a list of land classifications, and their associated definitions in Alaska regulations (the Alaska Administrative Code – AAC), which will apply to state lands in the planning area as a result of plan adoption. DNR will manage state lands and resources consistent with these classifications, with the management directions given in Chapter 3 for specific management units of state land, and with the Chapter 2 area-wide guidelines.

11 AAC 55.120. Material Land. Land classified material is land that is suitable for the extraction of common varieties of sand, gravel, stone, peat, clay, and other similar materials.

11 AAC 55.130. Mineral Land. Land classified mineral is land where known mineral resources exist and where development is occurring or is reasonably likely to occur, or where there is reason to believe that commercial quantities of minerals exist.

11 AAC 55.160. Public Recreation Land. Land classified public recreation is land that is suitable for recreation uses, waysides, parks, campsites, scenic overlooks, hunting, fishing or boating access sites, trail corridors, or greenbelts along bodies of water or roadways.

11 AAC 55.170. Reserved Use Land.

(a) Land classified reserved use is land that:

- 1) is reserved for transfer to another governmental or non-governmental agency that is performing a public service;
- 2) is reserved for transfer through land exchanges; or
- 3) has been designated for a public facility.

(b) Nothing in this section requires classification of land identified for a future land exchange under AS 38.50.

11 AAC 55.200. Resource Management Land. Land classified resource management is either:

- 1) land that might have a number of important resources, but for which a specific resource allocation decision is not possible because of a lack of adequate resource, economic, or other relevant information; or for which a decision is not necessary because the land is presently inaccessible and remote and development is not likely to occur within the next 10 years; or
- 2) land that contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use.

11 AAC 55.202. Settlement Land. An upland area classified settlement is land that is, by reason of its physical qualities and location, suitable for year-round or seasonal residential or private recreational use or for commercial or industrial development.

11 AAC 55.205. Transportation Corridor Land. Land classified transportation corridor is land that is identified for the location of easements and rights-of-way under AS 38.04.065(f), including transportation, pipeline, or utility corridor purposes, or is under consideration for a right-of-way lease.

11 AAC 55.215. Waterfront Development Land. Land classified waterfront development is tideland, submerged land, or shoreland that is suitable to be used for commercial or industrial activities such as fish processing, aquatic farming, mineral and log transfer facilities, or commercial recreation.

11 AAC 55.222. Water Resources Land. Land classified water resources is land encompassing watersheds or portions of watersheds and is suitable for such uses as water supply, watershed protection, or hydropower sites.

11 AAC 55.230. Wildlife Habitat Land. Land classified wildlife habitat is land which is primarily valuable for:

- 1) fish and wildlife resource production, whether existing or through habitat manipulation, to supply sufficient numbers or diversity of species to support commercial, recreational, or traditional uses on an optimum sustained yield basis; or
- 2) a unique or rare assemblage of a single or multiple species of regional, state, or national significance.

Relationship of Land Use Designations in the Plan to State Land Classifications

The classifications contain no specific land management directives; those directives are expressed through the use of land use designations in the plan and described in detail for individual regions and management units in Chapter 3. However, the designations used in the area plan must be converted into land classifications outlined in state regulation (11 AAC 55) that reflect the intent of the plan.

Since plan designations are central to the management of state land in this area plan, knowledge of the amount of area associated with each designation is important and allows for a comparison between the designated uses. Table 4-1 identifies the acreage associated with the designations recommended in this plan. Descriptions of each of the following designations are also provided at the beginning of Chapter 3. Note: Acreages associated with plan classifications are given in Table 4-3.

Table 4-1: Acreages Associated with Land Use Designations

Symbol	Designation	Acreage
Ha	Habitat	979,527
Ha/Hv	Habitat/Harvest	633,499
Ha/Tc/Rd	Habitat/Transportation Corridor/Public Rec-Dispersed	911,031
Pr	Public Facilities-Retain	3,899
Mi	Minerals	167,570
Ha/Rd	Habitat/Public Recreation-Dispersed	13,867
Sc/Tc	Settlement - Commercial/Transportation Corridor	6,334
Ha/Hv/Rd	Habitat/Harvest/Public Recreation-Dispersed	603,110
Ma/Ha	Materials/Habitat	4,936
Mi/Ha	Minerals/Habitat	274,216
F	Forestry	20,959
Rd	Public Recreation-Dispersed	23,013
Sc	Settlement - Commercial	378
Ha/Rd/Wr	Habitat/ Public Recreation-Dispersed /Water Resources	66,207
Rm	Resource Management	1,479,725
Se	Settlement	70,176
Total		5,258,447 acres

The conversion of land use designations used by this plan into state land classifications is indicated in the table below. These are intended to identify the allowable uses of a state upland or shoreland area, consistent with the definitions described previously and with any management intent given in Chapter 3.

Table 4-2: Land Designations – Conversion to Classifications

Symbol	Designation	Classification
Ha	Habitat	Wildlife Habitat Land
Hv	Harvest	Wildlife Habitat Land
Ma	Materials	Material Land
F	Forestry	Forest Land
Pr	Public Facilities-Retain	Reserved Use Land
Rd	Public Recreation-Dispersed	Public Recreation Land
Rm	Resource Management	Resource Management Land
Mi	Mineral	Mineral Land
Sc	Settlement-Commercial	Settlement Land
Se	Settlement	Settlement Land
Tc	Transportation Corridor	Transportation Corridor Land
Wr	Water Resources	Water Resources Land

Leasing of State Land

Under the authority of AS 38.05 and 11 AAC 58.300-.340, state land within the planning area is available for surface leasing, provided that the project is consistent with the land's classification and with the management intent set forth in this area plan. This plan does not change or supersede existing terms or conditions of contracts or leases. Applications for uses of state land within the planning area will be considered by the Regional Manager for the Department of Natural Resources, Division of Mining, Land and Water, Northern Region, Fairbanks, Alaska.

Under the authority of AS 38.35 and 11 AAC 80, the State reserves the right to lease any state-owned land for pipeline construction, transmission, or operation within its boundaries as defined by the Right-of-Way Leasing Act. Applications for uses of state land within the planning area will be considered by the State Pipeline Coordinator for the Department of Natural Resources, Division of Oil & Gas, Anchorage, Alaska.

Classification Order

State land is classified under the authority of AS 38.04, AS 38.05.300, and 11 AAC 55.010 - .280 according to the management intent set forth in this area plan.

Land Classification Order (LCO) NC-24-001 classifies all state land within the plan area. See Appendix B.

The potential for the reclassification of state land in the future is authorized under 11 AAC 55.240, but this action will require the revision of LCO NC-24-001 and may require, in some cases, the revision of this area plan. An amendment to the area plan is required under 11 AAC 55.030(f)(1)(A) if the proposed authorization would modify the basic management intent for one or more of the units or if the authorization would conflict with the plan's allowed or prohibited uses, policies, or guidelines. Also refer to the following section: *Applicability of Plan Designations/Classifications to State Lands not identified in the Plan Text or Plan Maps*. This section describes how lands inadvertently omitted in the area plan or acquired by the State subsequent to this area plan are to be treated in terms of plan designation and classification.

Table 4-3 provides estimates of the acreage by classification and co-classification for uplands and shorelands.

Table 4-3: Acreages Associated with Land Classifications and Co-classifications

Classification(s)	Acreage
Wildlife Habitat Land	1,613,026
Wildlife Habitat Land/Transportation Corridor Land/Public Recreation Land	911,031
Reserved Use Land	3,899
Mineral Land	167,570
Wildlife Habitat Land/Public Recreation Land	616,977
Settlement Land/Transportation Corridor Land	6,334
Material Land/Wildlife Habitat Land	4,936
Mineral Land/Wildlife Habitat Land	274,216
Forest Land	20,959
Public Recreation Land	23,013
Settlement Land	70,554
Wildlife Habitat Land/Water Resources Land/Public Recreation Land	66,207
Resource Management Land	1,479,725
Totals	5,258,447 acres

Applicability of Plan Designations/Classifications to State Lands not Identified in the Plan Text or Plan Maps

This section deals with those state lands that are not designated in the NEAAP or classified in the Land Classification Order. Such lands include those state lands inadvertently omitted in the NEAAP and those lands that may be acquired by the State in the future but not designated or classified in the area plan. The State has acquired and will continue to acquire isolated parcels of land through foreclosure, escheat, and other methods. The purpose of this section is to give direction to the designation of these lands by the Department when future issues of parcel classification and management arise. If state land is identified after the adoption of this plan (and is not state-selected land identified herein) and the requirements of this section are followed, a formal plan amendment or revision of the Land Classification Order is not required.

The following guidelines of plan designation/classification and potential disposal out of state ownership are to apply:

- Parcels in or near Existing Communities. If the parcel is in, or is immediately adjacent to, an existing community or past state land offering, the designation of Settlement and classification of Settlement Land apply. Such land can be considered for disposal use unless it is appropriate as a site(s) for schools, material sites, roads, parks, or other similar public use. Unsold lots identified for disposal in existing

subdivisions and lots that return to state ownership will be available for lease, sale, or conveyance. Tracts identified for community purposes in existing subdivisions will not be sold but may be conveyed to municipalities or homeowner associations if they are not needed for state purposes and community purposes will be protected.

- Parcels near other State Land. If the parcel adjoins or is surrounded by other state land, the designation of that area(s) applies. It is to be managed according to the management intent and guidelines applicable to the adjacent lands. If there are two different designations of the abutting parcels, the designation of the larger parcel shall apply. Such lands can be considered appropriate for disposal if they are designated Settlement unless it is appropriate as a site(s) for schools, material sites, roads, parks, or other similar public use. They may also be conveyed to a municipality even if it is suitable for these public uses if the proposed uses are for comparable municipal (public) use.
- Parcels not near Other State Land. Parcels not near other state land or that occur within areas designated Resource Management are to be designated and classified Resource Management. These lands are to be managed according to the management intent and guidelines applicable to the adjacent lands. Disposal of these lands to the adjacent landowner may be appropriate but will require reclassification to Settlement Land.
- Newly Acquired State Lands. Lands that were acquired proactively through exchange, purchase, or other methods will be managed and classified consistent with the purposes for which they were acquired. If the purpose of the acquired land cannot be determined with precision, the designation of abutting or surrounding land will apply to the newly acquired parcels of state land. If there are no abutting or surrounding lands, then the designation of Resource Management land will apply.
- Other Lands. If the designation/classification of a parcel of acquired or omitted state land cannot be adequately determined, the parcel is to be designated and classified Resource Management.

State Land Selections

State Land Selections

Under the Statehood Act, Alaska is entitled to approximately 103 million acres of federal land. The selections made by the state in the planning area occurred under the “General Grant” and “Community Grant” programs, and much of the original state selections of federal land have been either conveyed to the state through patent or are in Tentative Approval (TA) status, which gives management authority to the state. However, many state selections must still be adjudicated by the U.S. Bureau of Land Management (BLM), and it is uncertain as to when the adjudication of state selections will occur. Some of these selections are within areas also selected by Native corporations and until BLM adjudication has been completed land ownership patterns in this planning area will remain uncertain. The areas

noted as state-selected lands on the plan maps or in the plan text indicate those areas of federal land selected for eventual conveyance to the state. Areas of state selections on the plan maps include, in addition to state selections proper, ANILCA top-filed selections and areas subject to Public Land Orders.

There may be areas of state selections that this plan has not identified. In these instances, land conveyed to the state is to be considered classified under this plan and land classification order. In those instances where a plan designation has not been specifically assigned to a state selection, classifications are to be assigned according to the standards described in the section, “Applicability of Plan Designations/Classifications to State Lands not Identified in the Plan Text or Plan Maps.” Land designated or classified according to these requirements does not require a formal plan amendment or change to the LCO.

Because the NEAAP plan maps indicate the status of state land and state land selections to a specific date (2024), DNR adjudicators must review the status of state land at the time of an adjudicatory decision. It would be imprudent to rely upon the land status information contained in this plan given the changing character of state land selections. Consult DNR Alaska Mapper for the most recent state selection information.

ANILCA Top-filed Lands

There are certain areas that are top-filed by the state under the provisions of Sec. 906 of the Alaska National Interest Lands Conservation Act (ANILCA). These are selections made by the state that become valid when Native regional or village Alaska Native Claims Settlement Act (ANCSA) selections are relinquished. It is uncertain how many of these state selections will become valid during the planning period because the amount of Native selections, in terms of acreage, greatly exceeds that allowed under the corporation’s selection entitlement and the adjudication process of BLM has slowed appreciably. BLM is currently adjudicating all prioritized Native village and regional corporation selections so the corporations and state can receive their land. The category of “State-Selected Land” on region plan maps includes areas of ANILCA top-filed selections in addition to areas of state-selected land.

The same caution in the use of plan maps for state land selections exist as that for ANILCA top-filed lands (see above), and the same procedures for classification are to be followed for areas of top-filed lands that ultimately become state land but were not identified on the plan maps. See ‘State Land Selections’ above.

Public Land Orders

Public Land Orders (PLO) of the U.S. Bureau of Land Management withdraw federally owned land for a specific federal use. PLOs may be rescinded if the specific use no longer occurs or the affected area is no longer needed for a federal purpose. These withdrawals may

be conveyable to the state, depending on a variety of considerations. All major PLOs have been top-filed by the state.

PLO 5150

PLO 5150 was originally established to prevent third-party interests in the utility corridor for the Trans Alaska Pipeline. Title 12 of ANILCA allowed the state to select/top file BLM lands within PLO 5150. The selected lands within this corridor are the highest priority selections for the state. PLO 5150 was lifted which allows the state top file selections to attach for eventual conveyance, and fulfillment of the State's entitlement.

Mineral and Leasehold Location Orders

Alaska Statute 38.05.185 requires the Commissioner of DNR to determine that mineral entry and location is incompatible with significant surface uses in order to close state-owned lands to mineral entry. There are 21 existing mineral orders within the planning boundary. Refer to Appendix D for more information. One mineral closing order is recommended through this plan, MO 1291. See Appendix C for more information.

Legislatively Designated Areas

Existing Legislatively Designated Areas

There are two Legislatively Designated Areas (LDA) within the planning area which encompass approximately 12 million acres: the Dalton Highway Corridor LDA and the Arctic National Wildlife Range State Game Refuge LDA. While the NEAAP establishes land classifications and management intent for state lands within the LDAs, adjudicators shall refer to Alaska Statute 19.40 and 16.20 for the comprehensive law concerning authorizations on and adjacent to the Dalton Highway Corridor and the Arctic National Wildlife Refuge, respectively.

Additions to Legislatively Designated Areas

This plan does not recommend any additions to the Legislatively Designated Areas within the planning area.

Generally Allowed Uses

Under 11 AAC 96.020 there are a variety of uses and activities that are allowed on state land that usually do not require a permit from DNR. These uses are listed in 11 AAC 96.020 and are explained further in a DNR Factsheet on Generally Allowed Uses (GAUs) that may be

obtained from a DNR Public Information Center. In some instances, it may become necessary to limit or preclude certain uses on state land that would otherwise be permitted as a Generally Allowed Use under 11 AAC 96.020. Uses may be limited under the authority of 11 AAC 96.014 when land use or natural resource management requires it, but limits to such uses must be codified in all cases in state administrative code. No such limits to GAUs are recommended to be imposed on state-owned land in this plan.

Types of Plan Changes

The various kinds of changes allowed in 11 AAC 55.030 are:

“A revision to a land use plan is subject to the planning process requirements of AS 38.04.065. For the purposes of this section and AS 38.04.065, a ‘revision’ is an amendment or special exception to a land use plan as follows:

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 changing its allowed or prohibited uses, policies, or guidelines. For example, an amendment might close an area to new mineral entry that the plan designated to be open, allow a land use in an area where the plan prohibited it, or allow land to be opened to homestead entry in an area that the plan designated for retention in public ownership.

A ‘special exception’ does not permanently change the provisions of a land use plan and cannot be used as the basis for a reclassification of the subunit. Instead, it allows a one-time, limited-purpose variance of the plan’s provisions, without changing the plan’s general management intent or guidelines. For example, a special exception might be used to grant an eligible applicant a preference right under AS 38.05.035 to purchase land in a subunit designated for retention in public ownership. A special exception might be made if complying with the plan would be excessively burdensome or impractical or if compliance would be inequitable to a third party, and if the purposes and spirit of the plan can be achieved despite the exception.

A minor change to a land use plan is not considered a revision under AS 38.04.065. A ‘minor change’ is a change that does not modify or add to the plan’s basic intent, and that serves only to clarify the plan, make it consistent, facilitate its implementation, or make technical corrections.”