

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
- Municipal Entitlement
- State Land Selections
- Mineral and Leasehold Location Orders
- Legislatively Designated Areas
- Transportation Corridors
- Generally Allowed Uses
- Types of Plan Changes

State Land Classification

To implement the plan on state lands, ADNR 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 occasionally 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. ADNR will manage state lands and resources consistent with these classifications and with the management directions given in Chapter 3 for specific management units of state land.

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 55.135. Oil and Gas Land. Land classified oil and gas is land where known oil and gas resources exist and where development is occurring or is reasonably likely to occur, or where there is reason to believe that commercial quantities of oil and gas 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

*Chapter 4: Relationship of
Land Use Designations*

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	1,808,179
Ha/Hv	Habitat/Harvest	213,341
Ha/Hv/Og	Habitat/Harvest/Oil	1,055,049
Ha/Ma	Habitat/Materials	13,466
Ha/Og	Habitat/Oil and Gas	2,388,179
Ha/Pr	Habitat/ Public Facilities-Retain	2,430
Ha/Pr/Rd	Habitat/Public Facilities-Retain/Public Rec-Dispersed	48,954
Ha/Pr/Tc	Habitat/Public Facilities-Retain/Transportation Corridor	1,200
Ha/Rd	Habitat/Public Recreation-Dispersed	615,680
Ha/Rp	Habitat/Public Rec-Public Use Site	2,399
Ha/Tc	Habitat/Transportation Corridor	18,083
Ma	Materials	2,492
Pr	Public Facilities-Retain	8,000
Pr/Tc	Public Facilities-Retain/Transportation Corridor	4,036
Rd	Public Recreation-Dispersed	630
Rd/Ha/Ma	Public Recreation-Dispersed/Habitat/Materials	79,269
Rd/Tc/Ha	Public Recreation-Dispersed/Transportation Corridor/Habitat	930,862
Rm	Resource Management	5,381,021
Se	Settlement	45,125
Wd	Waterfront Development	24,767
Wr	Water Resources	63
Total		12,643,225 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 tideland 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
OG	Oil and Gas	Oil and Gas Land
Pr	Public Facilities-Retain	Reserved Use Land
Rd	Public Recreation-Dispersed	Public Recreation Land
Rm	Resource Management	Resource Management Land
Rp	Public Recreation-Public Use Site	Public Recreation Land
Rs	Reserved Use	Reserved Use Land
Sc	Settlement-Commercial	Settlement Land
Se	Settlement	Settlement Land
Tc	Transportation Corridor	Transportation Corridor Land
Wd	Waterfront Development	Waterfront Development 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 38.04.005, 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-19-001 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-19-001 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)(B) if the proposed authorization would modify the basic management intent for one or more of the subunits 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 revision 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 upland, tidelands, and submerged lands.

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

Classification	Upland Acreage
Material land	2,492
Public Recreation land	630
Reserved Use land	8,000
Reserved Use land/ Transportation Corridor land	4,036
Reserved Use land/Wildlife Habitat land	3,451
Resource Management land	5,381,021
Settlement land	45,125
Waterfront Development land	24,767
Water Resources land	63
Wildlife Habitat land	2,021,520
Wildlife Habitat land/ Material land	13,466
Wildlife Habitat land/Public Recreation land	618,078
Wildlife Habitat land/Public Recreation land/ Material Land	79,269
Wildlife Habitat land/Public Recreation land/ Transportation Corridor land	930,862
Wildlife Habitat land/Oil and Gas land	3,443,229
Wildlife Habitat land/Reserved Use land/ Public Recreation land	48,954
Wildlife Habitat land/Reserved Use land/ Transportation Corridor land	179
Wildlife Habitat land/Transportation Corridor land	18,083
Totals	12,643,225

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

This section deals with those lands that are not designated in the NSAP or classified in the Land Classification Order. Such lands include those state lands inadvertently omitted in the NSAP 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 as long as 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.

Municipal Entitlement

The Municipal Entitlement Act (AS 29.65) determines a municipal general grant land entitlement and identifies what lands are available for transfer to a qualifying municipality. The term “municipality” includes both incorporated cities and organized boroughs. The size of a municipality’s entitlement is generally 10 percent of the vacant, unappropriated, unreserved (VUU) state general grant land within the municipal boundaries. State general grant lands that meet the criteria of VUU land as defined in AS 29.65.130 (i.e., classified as Agricultural, Grazing, Material, Public Recreation, Settlement, Resource Management, or unclassified land) may be appropriate for conveyance to municipalities with a remaining general grant land entitlement under AS 29.65.

There is one municipal entity that is entitled to receive state land within the planning area. The North Slope Borough is entitled to 89,850 acres of state land under the Municipal Entitlement program. At this time, the NSB has received approximately 13,020 acres of their entitlement and 76,830 acres remain outstanding. Should another borough be formed in the future, selections are to come from those areas designated Agriculture, Settlement, and, potentially, Materials and Public Recreation-Dispersed. However, those areas designated Settlement are intended to be retained by the state for the support of the state land disposal program, while those areas designated Materials are also intended to be retained by the state. See the description of designations in the first section of this chapter for additional guidance as to which designations are to be retained or may be potentially conveyed by the state.

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, there remains a large number of state selections that must 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. Many of these selections are within areas also selected by the 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 indicates 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 NSAP plan maps indicate the status of state land and state land selections to a specific date (2020), ADNDR 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 ADNDR 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 the 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 ANILCA top filed lands as for state land selections exist (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, depending on a variety of considerations, be conveyable to the state. All major PLOs have been top filed by the state. Since the plan has a 20-year planning horizon, it would be premature to develop specific land use recommendations (including classifications) for these areas in this plan. In the unusual event that such land is conveyed to the state during the planning period, these areas are designated and classified Resource Management. However, this designation may need to be changed if this land is, in fact, conveyed. Should this occur, a more detailed, step-down management plan should be prepared for the conveyed areas, which will establish specific land use designations and management intent at a detailed scale.

PLO 5150

PLO 5150 was originally established to prevent third-party interests in the utility corridor. 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.

This plan recommends that PLO 5150 be lifted which will allow the state top file selections on the highest priority lands 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 ADNR 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 eight existing mineral orders (MCO 67A01, MCO 728, MCO 740, MCO 743, MCO 790, MO 1126, MO 1147, MO 1162A01) within the planning boundary and no mineral closing orders are recommended through this plan. A leasehold location order is also not recommended through this plan.

Legislatively Designated Areas

Existing Legislatively Designated Areas

There is one Legislatively Designated Area (LDA) within the planning area which encompasses approximately 1 million acres: the Dalton Highway Corridor LDA. While the NSAP establishes land classifications and management intent for these lands, adjudicators shall refer to Alaska Statute 19.40.015-19.59.001 for the comprehensive law concerning authorizations on and adjacent to the Dalton Highway Corridor.

Additions to Legislatively Designated Areas

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

Transportation Corridors

There is one transportation corridor, the James Dalton Highway, within the planning area. This transportation corridor was established in 1998 and no changes are recommended through this plan. The development of an efficient regional transportation system is key to resource development and can be a major determinant of land use patterns. In this plan, no attempt is made to identify actual routes. Actual routes will be determined through siting analyses conducted through design analyses and the results of environmental impact statement reviews and subsequent Records of Decision. However, it is important to note that this plan recognizes the importance of access to the development of state land within the plan area and that transportation corridors (i.e. road, transmission facilities, pipelines) may cross state general domain land in any plan designation.

The Arctic Strategic Transportation and Resources (ASTAR) project has identified 4 possible transportation corridors within the planning boundary. The management intent and guidelines for units where these transportation corridors exist can be found in Chapter 3.

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 ADNR. These uses are listed in 11 AAC 96.020 and are explained further in a ADNR Factsheet on Generally Allowed Uses (GAUs) that may be obtained from a ADNR 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 on state land 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 on general domain land in state administrative code. However, 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:

Chapter 4: Types of Plan Changes

“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 to new mineral entry an area 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.”