

Existing Statute

AS 38.04.062 Identification of Submerged Land

" AS 38.04.062. Identification of State Submerged Land.

(a) Except as provided in (f) of this section, the state owns all submerged land underlying navigable water to which title passed to the state at the time the state achieved statehood under the equal footing doctrine or 43 U.S.C. 1301 - 1315 (Submerged Lands Act of 1953).

(b) The commissioner shall compile, maintain, and make public a list and map of all water in the state that the commissioner, the United States Department of the Interior, Bureau of Land Management, or a state or federal court determines was navigable water at the time the state achieved statehood. The submerged land underlying that navigable water shall be included in the inventory of state land prepared under AS [38.04.060](#) .

(c) The commissioner shall also maintain and make public a list of all water in the state that the commissioner determines, in consultation with the commissioner of fish and game, was nonnavigable at the time the state achieved statehood.

(d) Water not included on the lists described in (b) or (c) of this section is not considered either navigable or nonnavigable until the commissioner has made a determination as to its navigability at the time the state achieved statehood. In addition, the commissioner may make corrections and alterations to the lists described in (b) and (c) of this section to maintain the accuracy of each list.

(e) A determination made by the commissioner under this section

(1) does not create an interest in or right of entry onto any real property that does not otherwise exist under state law;

(2) may not be recorded; and

(3) does not constitute final agency action.

(f) Submerged land that the state conveyed under AS [38.05.820](#) and [38.05.825](#) is not subject to the state's assertion of ownership under (a) of this section.

(g) In this section,

(1) "navigable water" means water that, at the time the state achieved statehood, was used, or was susceptible of being used, in its ordinary condition as a highway for commerce over which trade and travel were or could have been conducted in the customary modes of trade and travel on water; the use or potential use does not need to have been without difficulty, extensive, or long and continuous;

(2) "nonnavigable water" means surface water that was not navigable water at the time the state achieved statehood.